# ENGAGEMENT REPORT

Section 73(7) of the *Planning, Development and Infrastructure Act 2016*

# Assessment Improvements Code Amendment

By the State Planning Commission

Prepared by the Designated Entity:



_____ (Signature)

Craig Holden
CHAIR, STATE PLANNING COMMISSION

Date: 02/07/2025

STATE PLANNING COMMISSION

Government of South Australia
Department for Housing and Urban Development

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# 1 Executive Summary

The South Australian Government is proposing a series of technical amendments to South Australia's Planning and Design Code (the Code). The amendments are an opportunity to improve the Code's general performance, interpretation and consistency.

The key areas of focus in the draft Assessment Improvements Code Amendment were:

- improvements to the rules of interpretation in response to recent case law
- improvements to land use and administrative definitions
- review of heritage referrals
- review of demolition policy in Local Heritage Place Overlay
- review of language and policy consistency
- ensuring policies are reasonable and practical
- review of car parking for major open spaces.

The amendments have been informed by feedback provided by local council, planning industry professionals and other users of the Code, and implements some of the Expert Panel recommendations from the Planning System Implementation Review supported by the state government.

The changes build upon the Miscellaneous Technical Enhancement Code Amendment, which came into operation on 1 June 2023, and are similarly focused on addressing technical and operational elements within the Code, as opposed to changing policy intent or outcomes.

Feedback was invited on the draft Code Amendment over 13 weeks, from Tuesday 10 December 2024 to Tuesday 11 March 2025.

A total of 138 submissions were received from the community, councils, industry and government agencies.

These submissions have been reviewed and the feedback and comments received cover a wide range of areas of the Code Amendment.

The most frequently commented on matters were:

- proposed changes to the Code's Rules of Interpretation aimed at clarifying the circumstances under which cadastre updates and overlay spatial amendments can be made under section 71(e) of the Planning, Development and Infrastructure Act 2016 (PDI Act)
- proposed changes to the Code's Rules of Interpretation aimed at clarifying how Technical and Numeric Variations (TNVs) are to be interpreted when undertaking performance assessments
- circumstances under which a Code policy may be amended to reflect an Australian Standard taking account of the level of community consultation that is undertaken in relation to the creation and / or updating of Australian Standards
- amendments to administrative terms and land use definitions, with further requests for additional definitions to be included in the Code
- the proposed removal of the requirement for a covered car parking space in association with a new dwelling
- proposed policy amendments relating to noise mitigation measures for swimming pool filtration systems, with comments suggesting a definition be added for 'solid acoustic structure'

- strengthened policies aimed at preventing neglect leading to the deterioration of local heritage places
- car parking rates for open spaces, with some suggesting the need for a Practice Direction to provide additional guidance and other comments noting that car parks shouldn't be provided at the expense of open space.

The feedback received in these areas included a mix of support for the change, support with suggested edits, requests for further clarification and some were against the proposed change.

Areas of concern/issues identified from the feedback received includes:

- proposed changes to Rules of Interpretation regarding application of relevant policies to performance assessed classes of development is at odds with case law and suggestion that further improvements are needed to make sure all relevant policy is identified
- support for further guidance regarding the assessment of Community Title land divisions
- the impact of removing the Water Resources Overlay exclusion on assessments of developments within 20 metres of a water course.

Eighty-two submissions out of 138 raised specific concerns about small-lot rural land division within the Barossa and McLaren Vale character preservation districts.

The engagement process met the requirements of the Community Engagement Charter principles and demonstrated the engagement activities were effective in reaching stakeholders, with 138 submissions received from representatives across all groups identified in the Engagement Plan.

The engagement evaluation survey demonstrated the process met the key principle of the Community Engagement Charter with 15 evaluation surveys returned and the majority agreeing:

- the engagement **genuinely soug**ht their input to help shape the proposed Code Amendment
- they were given an adequate **opportunity to be heard**
- they were given **sufficient information** so that they could take an informed view
- they were **informed** about why they were being asked for their view, and the way it would be considered.

Survey responses to the question, 'I am confident my views were heard during the engagement', suggest some respondents were uncertain whether their views were heard, with 40% agreeing, 40% neither agreeing nor disagreeing and 20% disagreeing. It's important to flag that several comments in survey responses suggest uncertainty in general on the weight public feedback holds in planning decisions and raised matters outside of the scope of this draft Code Amendment.

To further comply with the Community Engagement Charter, additional engagement activities were added to the original Engagement Plan, providing stakeholders with more opportunities to receive information and provide any feedback. (See section 5.2 Evaluation against the Charter principles.)

As a result of the feedback received several adjustments are recommended to the draft Code Amendment across a range of areas.

See sections 'Response and recommendations', and 'Summary of recommended changes' of this report for amendments proposed.

# 2 Purpose

This report has been prepared by the State Planning Commission, the Designated Entity, for consideration by the Minister for Planning in adopting the Assessment Improvements Code Amendment.

The report details the engagement that has been undertaken, the outcomes of the engagement including a summary of the feedback made, the response to the feedback and the proposed changes to the Code Amendment.

In addition, the report evaluates the effectiveness of the engagement and whether the principles of the Community Engagement Charter have been achieved. Any changes to the Engagement Plan during the process are also outlined.

# 3 Introduction

In 2022 the Government established the Planning System Implementation Review Expert Panel (the Expert Panel) to undertake a review of the planning legislation (the PDI Act) and the Planning and Design Code (the Code) as part of an ongoing process of continuous improvement and to ensure a contemporary and effective planning system in South Australia.

The scope of the Expert Panel's work included a review of the Code and statutory instruments as it related to matters such as residential infill policy, trees, character, heritage, and car parking. These issues were a particular focus of the Expert Panel's review and the submissions it received from the community and other stakeholders (including councils) during consultation.

The Assessment Improvements Code Amendment (the Code Amendment) was initiated by the Commission on 15 August 2024. The Code Amendment will assist in the delivery of some of the recommendations outlined in the Final Report of the Expert Panel (released by the Minister for Planning in April 2023) including:

- **Covered Car Parking Spaces:** Refine car parking policy for dwellings to remove the requirement to provide undercover car parking, but with provision of space for a covered car park to still be made available behind the face of the dwelling (Recommendation 51).
- **Heritage:** Refine Performance Outcome 6.1 in the Local Heritage Place Overlay to exclude deterioration due to neglect as a supporting factor for demolition, as in State Heritage Place Overlay (Recommendation 72.13).
- **Development to State Heritage Places:** should not attract a referral in certain circumstances (Recommendation 72.2).
- **Language and Consistency:** Planning and Land Use Services undertake a language and consistency check of the Planning and Design Code to ensure the same terms and expressions are used throughout (Recommendation 72.16).
- **Definitions:** Definitions within the PDI Act and Code should be reviewed and additional definitions included (Recommendation 72.1).
- **Policy Applicability:** The Code should be reviewed to ensure requirements are reasonable and practical (Recommendation 72.19).
- **Car Parking Requirements:** Investigate the application of specified car parking rates for major open space (Recommendation 72.18)

The Assessment Improvements Code Amendment builds on the Commission's earlier Miscellaneous Technical Enhancements Code Amendment (December 2021 – June 2023), which represented the first of what will continue to be a regular review and 'tune-up' of any technical or operational aspects of the Code.

It provides another opportunity to further enhance the general performance, interpretation, and consistency of the Code and is informed by submissions received through the Expert Panel review process, the experiences of planning practitioners and other users, as well as the deliberations of the Environment, Resources and Development Court on development assessment matters.

Policy amendments resulting from this Code Amendment are generally of a technical or interpretive nature, other than those specific to an Expert Panel recommendation that seek a targeted policy amendment.

Lager topic-based issues identified by the Expert Panel like tree and heritage protection will be addressed though separate Code Amendments or via other statutory means.

## 3.1 Prior Engagement

Some of the amendments proposed in the draft Assessment Improvements Code Amendment have been influenced by feedback received from planning practitioners through user experience.

Stakeholders, including practitioners, also had the opportunity to view and provide feedback on the recommendations of the Expert Panel's System Implementation Review, some of which are included in this Code Amendment.

# 4 Engagement Approach

The process for amending a designated instrument (including the process to amend the Planning and Design Code) is set out in the PDI Act. The PDI Act requires public engagement to take place in accordance with the Community Engagement Charter.

The Designated Entity prepared an Engagement Plan to apply the principles of the Charter. The purpose of this engagement was to inform planning practitioners and other key stakeholders of the proposed amendments to South Australia's Planning and Design Code, provide opportunities to contribute feedback to influence the Code Amendment and inform stakeholders of outcomes.

Engagement on the draft Code Amendment also sought to:

- provide opportunities for practitioners to ask questions, provide feedback and ideas, to influence the wording of the proposed changes for greater clarity and improved outcomes
- clearly communicate how feedback will be considered in the final Code Amendment
- build on stakeholder relationships and trust in South Australia's planning system
- demonstrate the State Planning Commission's and the state government's commitment to responding to feedback and the continuous improvement of the state's planning system
- encourage practitioners to continue to provide feedback on their experience in applying the Code to support continuous improvement
- keep stakeholders informed about the progress of the Code Amendment, the final decision and timeline
- meet the requirements of the Community Engagement Charter under the PDI Act.

The engagement period for the Code Amendment ran for 13 weeks from Tuesday 10 December 2024 to Tuesday 11 March 2025.

## 4.1 Engagement Activities

The engagement activities undertaken are summarised in Table 1 below:

| Activity | Description/objectives | Stakeholder | Outcomes |
|---|---|---|---|
| Letter sent by email at launch of Code Amendment | Inform key stakeholders of the Code Amendment, provide information and avenues to provide feedback (see copies of letters in Appendix A) | All local councils and MPs, Local Government Association, industry[1], state government agencies[2], federal government agencies[3] | **155 letters sent** via mail or email<br><br>(See Appendix A for a copy of the letter) |
| Online information sessions | 3 online information sessions delivered: Thursday 12 December 2024 (10 to 11 am), Wednesday 22 Jan 2025 (10 to 11 am) and Tuesday 11 February (2 to 3 pm), promoted on | Sessions were aimed at planning practitioners and other users of the Planning and Design Code, but anyone could attend | **58 people attended across 3 sessions.** Attendees included representatives from local councils, planning industry and state government agencies |

| | | | |
|---|---|---|---|
| | PlanSA, via email to industry and on PlanSA Facebook. Registration via Eventbrite. | | |
| [1] Industry: Housing Industry Association, Master Builders Association of South Australia, Planning Institute of Australia, Property Council of Australia, Urban Development Institute of Australia – SA Division, Association of Architects, Australian Institute of Landscape Architects and Adelaide Airport Limited.<br><br>[2]State government agencies: Renewal SA, Department for Infrastructure and Transport, SA Water, SA Housing Trust (Housing SA) - Affordable Housing Unit, Environment Protection Authority, Department for Environment and Water.<br><br>[3]Federal government agencies: Department of Defence - Land Planning and Regulation Directorate, Air Services Australia and Civil Aviation Safety Authority. | | | |
| PlanSA website:<br>• consultation page<br>• news story | The Code Amendment consultation page provided detailed information about the draft Code Amendment, including all consultation documents, frequently asked questions, registration for online information sessions, how to make a submission and contact details for questions and further information.<br><br>The news story in the PlanSA news section of the website helped to promote the consultation to users of PlanSA. | All stakeholders, planning practitioners and other users of the Planning and Design Code | **The news story received 349 views**<br><br>(See Appendix A for a copy of the news article) |
| Emails | Emails sent in the lead up to the close of consultation to invite any final feedback on the Code Amendment.<br><br>Emails sent to communicate the extension of consultation by 1 week, due to short-term issue with the Code Amendment page nearing the end of the consultation. | This email was sent to those who registered/participated in information sessions.<br><br>This email was sent to all stakeholders who received the letter at the launch of the Code Amendment. | **57 emails sent to** those who registered/participated in information sessions.<br><br>**155 emails sent to** all stakeholders who received the letter at the launch of the Code Amendment.<br><br>(See Appendix A for copies of these emails) |

| | | | |
|---|---|---|---|
| Planning forum | Information about the draft Code Amendment and consultation was delivered at PlanSA online Policy Planning Forums held in December 2024 and February and March 2025, attended by planning practitioners across industry and government. | Planning practitioners across industry and government. | **76 people attended** in December 2024<br><br>**81 people attended** in February 2025<br><br>**90 people attended** in March 2025<br><br>(See Appendix A for copies of information presented) |
| Frequently Asked Questions (FAQS) | Written in plain-English, and published on PlanSA and YourSAy. | All stakeholders | The FAQS were **downloaded from YourSAy 130 times**<br><br>(refer to Appendix A for a copy of FAQs) |
| YourSAy consultation | Inform the community of the Code Amendment and provide relevant information, including a copy of the draft Code Amendment, FAQs and how to ask questions and make a submission. | General public | The YourSAy page received **1,400 total visits**, **650 documents were downloaded** (FAQs, the draft Code Amendment and attachments).<br><br>**3 people made a submission via the questions tool and 12 submitted a survey**.<br><br>Copies of survey submissions and questions can be viewed in Appendix A. |
| enews – Planning Ahead and YourSAy | Stories promoting the Code Amendment and participation in the consultation. | Planning Ahead enews is aimed at planning practitioners and those with an interest in planning matters.<br><br>YourSAy enews is aimed at the South Australian community. | The December 2024 edition of Planning Ahead was **sent to 2705 people** and **opened by 1839 (68%)**, with **23 clicks** on the story on the Code Amendment.<br><br>**YourSAy enews was sent to 72,687 registered users**, was **opened by 33,329,** with **506 clicks** on the link to the YourSAy consultation page. |
| Phone and email contacts | The PlanSA general enquiries phone number and email was provided across letters, | All stakeholders | **123 submissions were received** via the PlanSA email address and submissions inbox or form. |

| | | | |
|---|---|---|---|
| | the PlanSA and YourSAy webpages, direct letters and emails. | | There were no email or phone enquiries. |
| Postal address and hard copy of Code Amendment available | A postal address was provided for hard copy submissions and a hard copy of the Code Amendment was available on Level 9, 83 Pirie Street, Adelaide. | All stakeholders, especially those unable to access digital channels, or preferring to access or submit information in hard copy | There were no submissions by post. |
| Social media and video from Craig Holden, Chair of the State Planning Commission (SPC)<br><br>(See Appendix A for copies of social media posts, including those featuring the video) | To promote the Code Amendment on PlanSA, State Planning Commission and YourSAy social media channels.<br><br>3 posts were published on PlanSA's Facebook, 4 on SPC LinkedIn and 1 on YourSAy's Facebook. The Chair of the State Planning Commission's LinkedIn also posted on his account, which has over 2,000 followers and 500+ connections. | All stakeholders | **PlanSA Facebook total:**<br>Reach: 581 accounts<br>Views: 738<br>Clicks: 7<br>Interactions (likes, shares, comments, saves): 7<br><br>**YourSAy Facebook total:**<br>Reach: 5495 accounts<br>Clicks: 115<br>Interactions: 441<br><br>**SPC LinkedIn total:**<br>Reach: 1519 accounts<br>Impressions: 2798 accounts<br>Clicks: 180<br>Engagements: 58<br>Video views: 845 |
| Feedback acknowledgement | Sent to confirmation the receipt of a submission. | Sent to all who provided a submission via email or completed an online survey. | N/A |
| What we heard summary and evaluation survey<br><br>(See Appendix B and D) | Emailed to consultation participants to provide a summary of the feedback received during the consultation and to seek feedback on the engagement process. | Sent to all those who made a submission or registered for an information session. | What we heard summary and engagement evaluation survey **sent to 182 participants** in the consultation.<br><br>Survey was open from 23 April to 9 May 2025, and **15 responses** were received including 9 from the public, 2 from council, 2 from industry, 1 from a state agency and 1 from an advocacy organisation. |

## 4.2 Mandatory Requirements

The following mandatory engagement requirements have been met:

**Notice and consultation with councils**

The Charter requires that a council or councils must be directly notified and consulted on a proposed design standard or Code Amendment, where the proposed design standard or Code Amendment is specifically relevant to a particular council or councils (and where the council did not initiate the proposed Code Amendment).

The Code Amendment is relevant to all councils and therefore all councils were notified of the Code Amendment via letter and consulted with.

**Notice and consultation with the Local Government Association**

The Charter requires that the Local Government Association be notified in writing and consulted, where the proposed Code Amendment is generally relevant to councils.

The Local Government Association was notified of the Code Amendment via letter and consulted with.

**Notice and consultation with owners and occupiers of land**

Under section 73(6)(d) of the PDI Act, where a Code Amendment will have a specific impact on one or more pieces of land in a particular zone or subzone (rather than more generally), the Designated Entity must take reasonable steps to provide notice to owners or occupiers of the land (and each piece of adjacent land) as prescribed by the regulations.

The Code Amendment does not impact one or more pieces of land and therefore there was no requirement to send owner or occupier notifications.

**Notice of proposal to include local heritage listing to owner of land**

The Charter requires that where a Code Amendment proposes to include a heritage character or preservation policy that is similar in intent or effect to a local heritage listing, the owner of the land on which the places reside must be directly notified in writing of the proposal and consulted for a minimum period of four weeks.

The Code Amendment does not have a specific impact on one or more pieces of land and therefore there was no requirement to send owner or occupier notifications.

## 4.3 Compliance with the Engagement Plan

All engagement activities described in the Engagement Plan were carried out; however, the consultation period was extended by one week, to Tuesday 11 March 2025, due to a technical issue that affected the PlanSA website Code Amendment pages. This error meant the webpage for the Assessment Improvements Code Amendment was down from mid-Thursday 27 February to mid-Friday 28 February 2025. The issue was resolved, and the webpage was fully operational after this period.

There was also an issue with the PlanSA online submissions form from mid-Thursday 27 February, where some people were unable to submit feedback using the form. Persons affected by the error were notified if the form wasn't submitted and information has been added to the page where the form is located to advise of alternative submission methods while the form was fixed.

All stakeholders were notified of these errors via email and the 1-week extension for submissions, including alternative methods to submit feedback:

- via email to: dhud.plansasubmissions@sa.gov.au
- submitting a YourSAy survey
- posting a submission to: Attention: State Planning Commission, GPO Box 1815, Adelaide SA 5001.

Additional activities were undertaken to encourage key stakeholders to engage in the consultation.

This includes sending a direct invitation by email to attendees of monthly PlanSA planning policy forums to attend the final online information session for the Code Amendment. This was undertaken to increase participation by this key stakeholder group who are a key stakeholder in the Code Amendment. This action significantly increased attendee numbers, with the final session attracting 47 attendees compared to session 1 with 4 attendees and session 2 with 7.

A reminder email was sent to those who had engaged in the consultation to remind them to submit any final feedback before the close of the consultation period. This activity was added to remind stakeholders about the consultation end date and to submit any feedback they have.

# 5 Evaluation of Engagement

To ensure the principles of the Community Engagement Charter (the Charter) are met, an evaluation of the engagement process for the Code Amendment has occurred.

## 5.1 Performance Indicators for Evaluation

In line with the Charter, the mandatory performance indicators have been used to evaluate engagement on the Code Amendment. These measures help to gauge how successful the engagement has been in meeting the Charter's principles for good engagement.

**Evaluation of engagement by community members**

The following performance indicators required an evaluation of responses from stakeholders on the engagement. This includes an evaluation of whether (or to what extent) stakeholders felt:

1. that the engagement genuinely sought their input to help shape the proposed Code Amendment
2. confident their views were heard during the engagement
3. they were given an adequate opportunity to be heard
4. they were given sufficient information so that they could take an informed view
5. informed about why they were being asked for their view, and the way it would be considered.

The evaluation was undertaken through an online survey provided by email to those who lodged a submission or registered to attend an information session. Overall, the link to the survey was distributed to 183 email addresses.

In total, 15 evaluation survey responses were received (see Appendix B), including from: the public (9), councils (2), industry (2), state agency (1), advocacy organisation (1).

**Evaluation of engagement by the designated entity**

In addition, the Designated Entity collected survey responses on the following performance indicators on whether (or to what extent) the engagement:

- occurred early enough for feedback to genuinely influence the planning policy, strategy or scheme
- contributed to the substance of the final draft Code Amendment
- reached those identified as communities or stakeholders of interest
- provided feedback to community about outcomes of engagement
- was reviewed throughout the process and improvements put in place or recommended for further engagement.

The evaluation of the engagement was undertaken by Communications and Engagement Specialist Kelly Brown, within the Department for Housing and Urban Development on behalf of the Designated Entity. The results of the evaluation survey can be found in the Appendix B.

## 5.2 Evaluation Against the Charter Principles

The following is a summary of the evaluation of the engagement against the five principles of the Charter. The full results of the evaluation can be found in Appendix B of this Engagement Report.

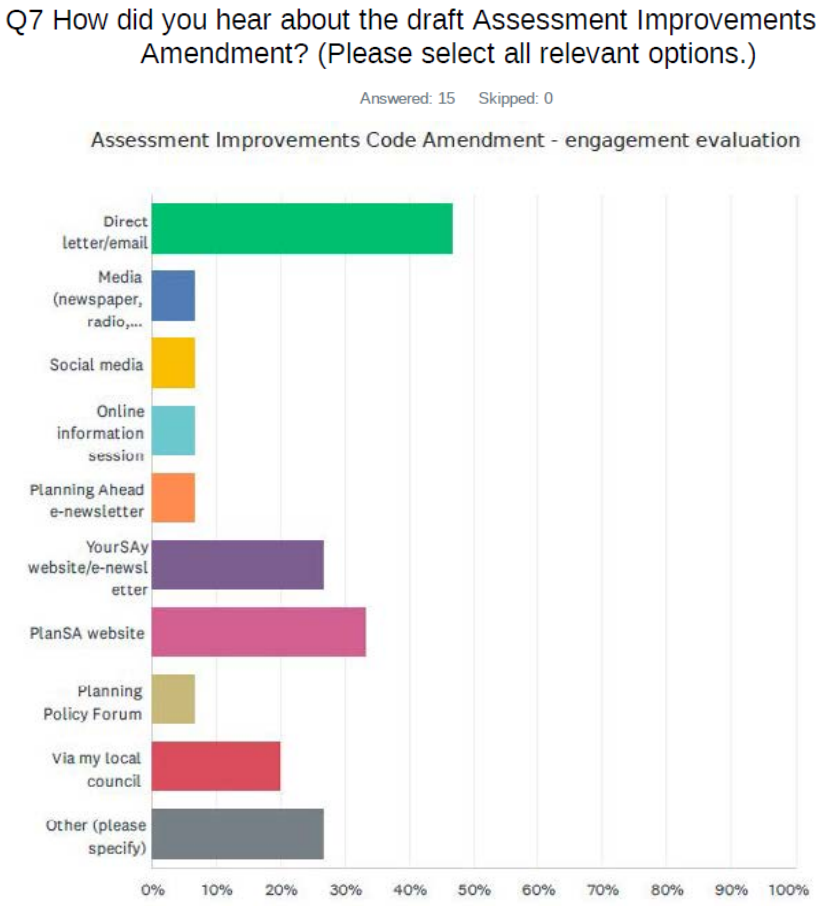
### (1) Engagement is genuine

*People had faith and confidence in the engagement process.*

Consultation on the draft Code Amendment was open for 13 weeks, from 10 December 2024 to 10 March 2025. This longer consultation period provided enough time for people to receive information, ask questions and submit feedback, taking into account the Christmas and New Year holiday period.

Key stakeholders, including local councils, the Local Government Association, local MPs, industry and state and federal government agencies, were directly notified by a letter emailed on the day consultation opened to ensure they received information early enough to influence the outcome of the Code Amendment.

A variety of communication activities were used to reach all stakeholders identified in the Engagement Plan. The engagement evaluation results demonstrate that people heard about the Code Amendment from a wide variety of sources, including direct letter/email, social media, online information sessions, enews, PlanSA website, YourSAy, Planning policy forum, local council, word of mouth and their Local MP. (See graph below.)




In response to feedback received during the consultation a number of changes have been recommended, which demonstrates that engagement was genuine, and stakeholder feedback was able to influence the outcome of the Code Amendment. Changes are outlined in Section 6.2 Response and Recommendations of this report.

**Responses to the engagement evaluation survey showed 53% agreed** that the engagement genuinely sought their input to help shape the proposal.

| Evaluation statement | Strongly disagree | Disagree | Neither agree nor disagree | Agree | Strongly agree |
|---|---|---|---|---|---|
| I feel the engagement genuinely sought my input to help shape the proposal (Principle 1) | **0%** | **13%** | **33%** | **53%** | **0%** |

### (2) Engagement is inclusive and respectful

*Affected and interested people had the opportunity to participate and be heard*

A variety of stakeholders were considered in engagement planning. While the technical changes to the Code Amendment are most relevant to those who regularly use and apply the Code, such as practitioners in planning and building, within local government, industry and government agencies, the Engagement Plan included the public as a stakeholder to avoid the assumption the community wouldn't be interested in the changes.

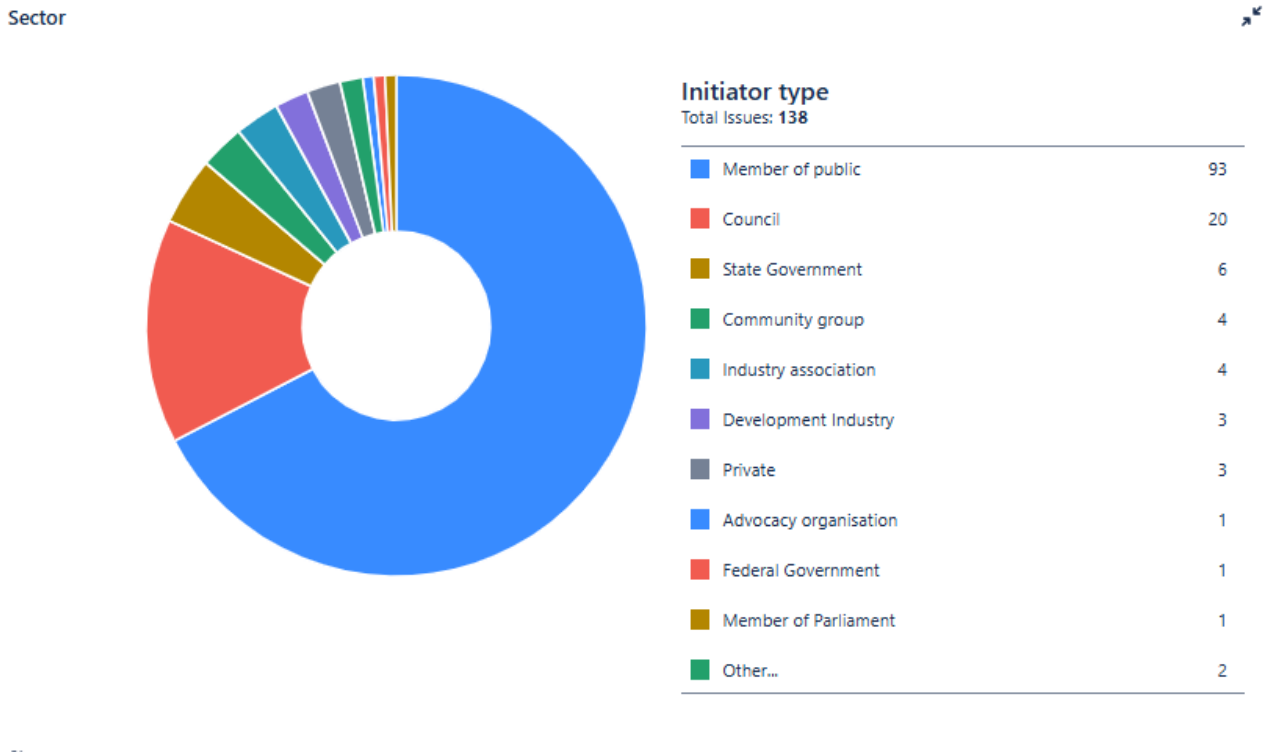
Engagement activities therefore included direct communications, including letters and emails, Planning policy forums and online information sessions, to key stakeholders, including local councils, MPs and the Local Government Association, planning industry groups and organisations, and state and federal government agencies. These communications were complemented by indirect communications, including the PlanSA website, Planning Ahead enews, social media posts on the State Planning Commission's LinkedIn and PlanSA Facebook. The Chair of the State Planning Commission also posted information on his LinkedIn account, which has 2,189 followers and 500+ connections.

Engagement activities also included communications for the public with an interest in planning, including the YourSAy website and enews, social media posts on PlanSA, Planning Ahead enews and a frequently asked questions document.

All engagement materials, including a frequently asked questions document, YourSAy and PlanSA websites, and enews stories, were written in plain English, and included explanatory information such as how the Code Amendment came about, who contributed to it and why it is important, as well as general information about the Code Amendment, the process, how to ask questions and contribute feedback.

Submissions were received from stakeholders across all groups identified in the Engagement Plan, which also demonstrates that affected and interested people were reached and had opportunity to participate and be heard. (See graph below.)

**Submissions Received by Sector**




All feedback was acknowledged and considered, and a high-level what we heard summary was provided directly to those who engaged in the consultation and published on PlanSA and YourSAy websites.

The **evaluation results demonstrate 40% of survey respondents agreed** they were confident their views were heard during the engagement, with **40% neither agreeing or disagreeing and 20% disagreeing**. It's important to flag that several comments made in the survey indicate uncertainty in general on the weight of public opinion in government decision making and raise matters outside the scope of the draft Code Amendment.

| Evaluation statement | Strongly disagree | Disagree | Neither agree nor disagree | Agree | Strongly agree |
|---|---|---|---|---|---|
| I am confident my views were heard during the engagement | **0%** | **20%** | **40%** | **40%** | **0%** |

### (3) Engagement is fit for purpose

*People were effectively engaged and satisfied with the process*

*People were clear about the proposed change and how it would affect them*

Stakeholders were informed of the Code Amendment via communication channels and formats relevant to each stakeholder group as follows:

- Key stakeholders, including local government, industry and state and federal agencies, were directly notified by letter, provided information via PlanSA, invited to online information sessions and provided information at planning policy forums.
- The public were informed via state government public consultation tool, YourSAy, and had access to frequently asked questions written in plain English.
- Messaging was amplified to key stakeholders and the public via social media and included video content, known to increase rates of engagement. The Chair of the State Planning Commission also posted information on his LinkedIn account, which has over 2,000 followers and 500+ connections. A story also appeared in YourSAy and Planning Ahead enews and the PlanSA website.

Submissions were received right across the stakeholder groups identified, which demonstrates the channels of communication were effective in reaching all stakeholders.

Information sessions, aimed at local government and industry but anyone could attend, were held throughout the consultation (one in Dec, Jan and Mar), on different days of the week in the morning and afternoon.

People were provided with a number of methods to provide feedback and the responses received indicate use of the different methods, including email to the PlanSA form, to the submission's inbox, via YourSAy survey and via the YourSAy question and answer tool.

The **engagement survey evaluation results** demonstrate **67% of respondents agreed** they were given adequate opportunity to be heard and were given sufficient information to take an informed view of the Code Amendment.

| Evaluation statement | Strongly disagree | Disagree | Neither agree nor disagree | Agree | Strongly agree |
|---|---|---|---|---|---|
| I was given an adequate opportunity to be heard | **0%** | **13%** | **20%** | **67%** | **0%** |
| I was given sufficient information so that I could take an informed view | **0%** | **7%** | **27%** | **67%** | **0%** |

**(4) Engagement is informed and transparent**

*All relevant information was made available and people could access it*

*People understood how their views were considered, the reasons for the outcomes and the final decision that was made*

All engagement materials were written in plain English, including frequently asked questions with information on why the Code Amendment was being initiated, what is proposed, the process and where further information could be found and how feedback would be considered. A copy of the Code Amendment and attachments were available via the PlanSA website and YourSAy and in hard copy at 83 Pirie Street, Adelaide.

Stakeholders had access to the planners involved in developing the Code Amendment via email and phone through PlanSA and YourSAy, and during online information sessions hosted by the planners.

All submissions were acknowledged, and engagement participants received a 'what we heard' document providing a high-level summary of feedback received and the next steps and the engagement evaluation survey.

A copy of all submissions received is included in this Engagement Report. If the Code Amendment is approved by the Minister for Planning, the Engagement Report, including copies of submissions will be made available on the PlanSA website.

Letters will be sent to key stakeholders to inform them of the Minister's decision on the Code Amendment. YourSAy will be updated with details of the decision and the outcome will also be published in Planning Ahead enews and on social media.

The engagement evaluation survey demonstrates the majority of respondents (60%) agree they felt informed about why they were being asked for their view and the way it would be considered.

| Evaluation statement | Strongly disagree | Disagree | Neither agree nor disagree | Agree | Strongly agree |
|---|---|---|---|---|---|
| I felt informed about why I was being asked for my view, and the way it would be considered. | **0%** | **0%** | **40%** | **60%** | **0%** |

### (5) Engagement processes are reviewed and improved

*The engagement was reviewed and improvements recommended*

All engagement activities described in the Engagement Plan were carried out. However, the consultation period was extended by 1-week, to Tuesday 11 March 2025, due to a technical issue that temporarily affected the PlanSA website Code Amendment pages. This meant the webpage for the Assessment Improvements Code Amendment was down from mid-Thursday 27 February to mid-Friday 28 February 2025. The issue was fully resolved, and the webpage was fully operational after this period.

There was also an issue with the PlanSA online submissions form from mid-Thursday 27 February, where some people were unable to submit feedback using the form. Persons affected by the error were notified if the form wasn't submitted. Other methods of making a submission were available during this time, including email to the submission's inbox, postal submission and via YourSAy survey.

All stakeholders were notified via email of the 1-week extension for submissions and the alternative methods to make a submission.

To increase participation by planning practitioners in the online information sessions, as an additional tactic added to the engagement plan, a direct invitation to the 3rd and final online information session was sent via email to attendees of monthly industry planning policy forums. This significantly increased participation numbers, with the final session attracting 47 attendees, compared to 4 attendees for session one and 7 attendees at session 2.

Reminder emails to key stakeholders in the lead up to the consultation closing and close of the engagement evaluation survey was an additional activity undertaken. The number of submissions and evaluation surveys returned increased following these emails, which suggests they had a positive effect, although there is no direct evidence to link the increase in responses to these activities.

It is recommended that future engagement plans that involve similar key stakeholders include direct invitations to information sessions to planning policy forum attendees, and reminder emails to be sent in the lead up to the close date of the consultation and engagement evaluation surveys.

It is also recommended that future engagement plans provide more information about how people's feedback will be considered and what indicators could help people have greater certainty that their views will be heard, to increase confidence in the consultation process.

# 6 Engagement Outcomes

## 6.1 Feedback Received

A total of 138 submissions were received during the consultation period. The majority of feedback received was submitted by members of the general public (94), followed by councils (20), industry (7) and state government agencies (6). Submissions were also received from community groups (4), the private sector (3), advocacy groups (1), Federal Government agency (1) Members of Parliament (1) and non-government organisation (1).

Stakeholders and the general public submitted their feedback via multiple methods, with:

- 122 responses submitted via email
- 12 responses submitted via the survey on the YourSAy website
- 3 responses submitted via the questions tool on the YourSAy website
- 1 response was submitted via the PlanSA submission form.

**The most frequently commented on areas were:**

- proposed changes to the Code's Rules of Interpretation aimed at clarifying the circumstances under which cadastre updates and overlay spatial amendments can be made under section 71(e) of the PDI Act
- proposed changes to the Code's Rules of Interpretation aimed at clarifying how Technical and Numeric Variations (TNVs) are to be interpreted when undertaking performance assessments
- circumstances under which a Code policy may be amended to reflect an Australian Standard taking account of the level of community consultation that is undertaken in relation to the creation and / or updating of Australian Standards
- amendments to administrative terms and land use definitions, with Local
- the proposed removal of the requirement for a covered car parking space in association with a new dwelling
- proposed policy amendments relating to noise mitigation measures for swimming pool filtration systems, with comments suggesting a definition be added for 'solid acoustic structure'
- strengthened policies aimed at preventing neglect leading to the deterioration of local heritage places
- car parking rates for open spaces, with some suggesting the need for a Practice Direction to provide additional guidance and other comments noting that car parks shouldn't be provided at the expense of open space.

**Areas of concern/issues identified from the feedback received included:**

- proposed changes to Rules of Interpretation regarding application of relevant policies to performance assessed classes of development is at odds with case law and suggestion that further improvements are needed to make sure all relevant policy is identified
- the impact of removing the Water Resources Overlay exclusion on assessments of developments within 20 metres of a water course.

There was also request for further guidance material regarding the assessment of Community Title land divisions.

Whilst not part of the draft Code Amendment released for community engagement, 82 submissions out of 138 raised specific concerns about small-lot rural land division within the Barossa and McLaren Vale character preservation districts. Most of these submissions suggested that amendments to the Code were necessary to better align guidance for the division of rural land with the objectives of the respective character preservation acts.

## 6.2 Response and Recommendations

The following section provides a summary of the submissions received and the Commission's responses and recommendations in relation to the final Code Amendment for approval.

### Rules of Interpretation (4.1)

*Performance Assessed Development – Relevant Policy Considerations (4.1.1)*

The amendment proposed changes to Part 1 - Rules of Interpretation to clarify that for all development classes listed in Table 3 (for every zone), only those polices identified are relevant to the assessment and that other Code policies can be only used for contextual, interpretation purposes.

**Feedback:**

The proposed change received mixed feedback, with some submissions indicating support for it and its intent and others expressing concern that it may limit the application of a policy provision which had been omitted during a portal enquiry for a performance assessed development. Some feedback opposed the proposed change, suggesting that any policy provision which a Relevant Authority considers to be relevant to an application should be applied to an assessment regardless of whether it has been identified in Table 3 of a Zone. Specific feedback included:

- it was suggested that the proposed words do not appear to achieve the objective described in the Code Amendment investigations, and that support was given ERD Court's position that all relevant policies within the Code should guide a proper assessment of a development
- concern was expressed that consideration for the purposes of 'contextual or interpretation' will create confusion, or that the proposed change may be misinterpreted to mean that Code provisions not directly applicable to a development proposal can be used as grounds for refusal of a development proposal
- a suggestion that relevant authorities be provided an ability to apply a 'missed' policy provision where it has a clear and direct relationship to the proposal (i.e., corner site policy where a proposal is located on a street corner)
- support for this amendment was provided by some respondents whilst raising concerns regarding the generation of the relevant policy framework for all developments, with it being suggested that there may be circumstances where certain assessments do not produce all the necessary policies, hindering the ability to conduct a comprehensive evaluation for specific performance-based developments, particularly where these provisions are relevant to context but not listed within Table 3 of a Zone
- some respondents note that the proposed change confirms the position that planning staff already had regarding the relevant policies applicable for performance assessed development and that the change provides further clarification following recent decisions in the Environment, Resources and Development Court.

**Response:**

The Commission notes feedback suggesting the proposed change does not reflect Case law largely relate to comments made by Blue J at paragraph 123 of Geber Super Pty Ltd v The Barossa Assessment Panel [2023] SASC 154:

> *[123] 'It would be a bizarre result if a panel or other relevant authority were precluded from having regard to a provision of the Code that was objectively relevant merely because the computer had not produced that provision on an enquiry of the planning database.'*

Within the context of Geber Super Pty Ltd v The Barossa Assessment Panel [2023] SASC 154, several provisions of the Tourism Development Zone were given regard to provide context surrounding the nature of the proposed development within the Rural Zone, and how it compared to similar tourism development located on land within the Tourism Development Zone. The first respondent contended that this should not have been the case, as the documents generated for the purposes of assessment via the online Code Line of Enquiry functionality did not contain those provisions of the Tourism Development Zone.

At [78], Blue J noted that the proposed development was located within the Rural Zone and is governed by the provisions of Part 2 appearing under the heading 'Rural Zone'. At [81](5), Blue J noted that Zones contain a table (Table 3—Applicable Policies for Performance Assessed Development) identifying policies applicable to the assessment of the identified classes of development contained in the table. The operation of the Rules of Interpretation, or the fact of Table 3 identifying policies applicable to the identified performance assessed classes of development within a given Zone was not objected at [123].

Rather, [123] suggests that other provisions of the Code may be *given regard* even though they may not be present in a document generated by the Code's Line of Enquiry functionality, which in this particular case and as noted at [119], contained *'only the Rural Zone from Part 2. It does not include provisions relating to the Tourist Development Zone or any other zone or sub zone contained within Part 2. It contains Part 3 and Part 4. It does not contain Part 1 Rules of Interpretation or Part 7 Land Use Definitions.'*

The Commission considers that the proposed change aligns with the determination of Geber Super Pty Ltd v The Barossa Assessment Panel [2023] SASC 154, by making clear that a Relevant Authority may give regard to any relevant provision of the Code as a means of assisting in the interpretation of those policies which the development must satisfy per Table 3 of the relevant zone. No further changes to the proposed change are consequently recommended in response to the feedback provided.

Where it can be clearly demonstrated that a policy provision has been 'missed' within an assessment table in error, e.g., where detached dwelling policy within a Zone is not linked to detached dwellings in an Assessment Table for that Zone, Section 76 of the PDI Act allows for this to be corrected as a minor or operational amendment. The Commission will continue to monitor the use of Code policy and seek to make improvements to policy applicability in assessment tables to ensure any requirements imposed by policy are reasonable and practical.

Further enhancements to the portal and Line of Enquiry search functionality in terms of different search methods or options to manually 'tick' which of the policies returned via a search are applicable to a given proposal would need to be considered via a separate process. Enhancements of this nature relate to the functionality of the online system rather than the content of the Code itself.

**Recommendation:**

No changes recommended.

*Performance Assessed Development – TNV Policy Weight (4.1.2)*

The amendment proposed changes to the rules of interpretation to clarify that a numeric value forming part of a DPF serves to guide a relevant authority and is not a mandatory requirement in the case of a performance assessed development.

**Feedback:**

The proposed changes were generally supported, with many respondents acknowledging the intent of the Rules of Interpretation that a numeric value forming part of a DPF serves to guide a relevant authority and is not a mandatory requirement in the case of a performance assessed development. One Council submission highlighted that the proposed changes confirm the position that Council already had regarding the role of a DPF and provide further clarification following recent decisions in the Environment, Resources and Development Court.

Other feedback suggested that there is a need for further work on some performance outcomes and DTS/DPF provisions to see these provide more precise parameters that enable both applicants and relevant authorities to effectively conduct a merit-based assessment.

It was also suggested that there may be a need to clarify that a DPF may serve different functions, including the setting of thresholds for development, which is generally acceptable, or to serve as a trigger for whether an agency referral may be required.

Further feedback was received in relation to the following:

- it was suggested that the Rules of Interpretation be amended to clarify that, in some cases, meeting of a DPF does not guarantee the a PO will be considered to be met in every circumstance, for example where minimum site area for a land division expressed by a DPF is achieved, however the land division pattern is at odds with the 'prevailing development pattern' as expressed by the PO
- conversely to the point above, some argued that satisfaction of a DPF ought to confirm satisfaction of the corresponding PO and to allow otherwise would defeat the purpose of DPFs
- clearer direction on handling numeric deviations is needed and that establishing well-defined thresholds for acceptable variations would improve consistency and provide greater certainty in assessments.

**Response:**

The Commission considers it important to note that the proposed changes seek only to clarify the Rules of Interpretation rather than to change their intent.

The current wording in Part 1 speaks to the Designated Performance Feature (DPF) serving as a guide for the assessment of a proposed development against a relevant Performance Outcome (PO) and does not distinguish between those DPFs which do or do not contain a numeric value. The proposed change aims to clarify the current position that a DTS/DPF serves as a guide in a performance assessment even where a numeric value is provided, and that it is at the discretion of the relevant authority to determine whether the PO can be satisfied in another way.

The Commission acknowledges that depending on the nature of the DTS/DPF provision and the proposed development in question, there may be instances where a relevant authority places greater weight on the TNV contained within the DTS/DPF provision.

The Commission will continue to review DTS/DPF provisions to ensure that policy requirements for development are reasonable and practical.

**Recommendation:**

No changes recommended.

*Spatial Mapping Updates – Minister's Determination (s71(e)) (4.1.3)*

The amendment proposed changes to Part 1 – Rules of Interpretation [Ministerial Determinations] to expand and enhance the list of Overlays which may be amended in accordance with this section of the PDI Act and the circumstances under which they may be amended under this section.

**Feedback:**

Submissions indicated a general level of support for the proposed amendments, with several edits suggested as follows:

Aviation Overlays

- suggested edits from Adelaide Airport Limited and the Department of Defence to align wording of triggers with processes under federal aviation legislation
- concern expressed that Aviation overlays have the potential to impact development opportunity and cost for landowners and that consultation processes under aviation legislation do not offer the same level of engagement for communities as the Engagement Charter.

Transport Overlays

- suggested edits to the Future Local Road Widening Overlay to address a reduction in the road widening requirement of a road, in addition to the removal of a road widening requirement
- suggested edits to triggers for the Tunnel Protection Overlay to provide greater flexibility in allowing the Overlay to be applied to other existing tunnels including, but not limited to the Heysen, O-Bahn, and Belair Rail tunnels.

Heritage Overlays

- the State Heritage Place Overlay should be included to allow swift changes to apply the State Heritage Place Overlay to include properties newly identified as a State Heritage Place under the *Heritage Places Act 1993* within days.

General Comments

- the extent and nature of changes should also be demonstrated in the interest of transparency and for users to understand the 'before' and 'after' of such a change
- it was recommended that Local Government be directly informed of any changes to the spatial application of Overlays.

**Response:**

State Heritage Places

The streamlined spatial updates proposed to be enabled under Section 71(e) of the PDI Act primarily relate to Overlays which do not otherwise have relevant update mechanisms within the PDI Act. However, pursuant to section 76(3) of the PDI Act, the Minister may, by notice published in the Gazette, make updates to the Code in order to include or remove of a State Heritage Place.

The Miscellaneous Technical Enhancements Code Amendment made the following amendment to Part 11 of the Code to provide clarity in relation to the application of a State Heritage Place in circumstances where a Place has been declared in accordance with the HP Act:

> 'State Heritage Places
>
> *State heritage places listed in Part 11 are a point in time reference to places that are registered (or provisionally listed) as State Heritage Places under the Heritage Places Act 1993. As the Heritage Places Act 1993 operates separately to the Planning, Development and Infrastructure Act 2016 and the Planning and Design Code, reference to the Register established under the Heritage Places Act 1993 (the South Australian Heritage Register) will be made to determine if a State Heritage Place exists on land forming part of a development application and the extent to which it applies. If there is any inconsistency between the Register and the State Heritage Places listed in Part 11 of the Planning and Design Code, an entry in the Register will prevail to the extent of any inconsistency.'*

Given the above, the Commission considers that the changes made by the Miscellaneous Technical Enhancements Code Amendment, along with the existing mechanisms under section 76 of the PDI Act, are appropriate for the making of updates to the State Heritage Place Overlay.

Transport Overlays

It is considered reasonable to amend the triggers for the Future Local Road Widening Overlay to recognise a reduction in road widening requirements. It is considered appropriate to amend the trigger for the Tunnel Protection Overlay to include other tunnel infrastructure where appropriate, including existing tunnels for both road and rail infrastructure.

General Comments

With regard to informing Councils of changes, notification of spatial updates will be provided on the PlanSA Portal in accordance with subclause 2 of this section. The Commission does not consider it necessary to directly notify Councils of changes to cadastre in SAPPA via this process given that information relevant to a development application is generated at the time of lodgement and would not benefit from prior knowledge in the same way as a change to policy through a Code Amendment. This is the same process currently used for amendments undertaken in accordance with section 76 of the PDI Act, whereby notice is given via publication of a gazette notice.

New Issue – Further Investigations - Concept Plans

Further investigations undertaken as a result of engagement have highlighted the opportunity for Concept Plans contained within Part 12 of the Code to be updated in response to changes on ground, such as the delivery of basic or essential infrastructure, including through an infrastructure delivery scheme under section 167 of the PDI Act, and to reflect development which has been granted development approval and which has been substantially commenced. It is considered that such a change would provide similar benefit to the updating of Overlays already addressed by this policy mechanism, particularly with regard to the provision of infrastructure within the area affected by a Concept Plan.

**Recommendation:**

**AMEND** Ministerial Determinations Table as follows:

Aircraft Noise Exposure Overlay

**REPLACE:**

- reference to 'airport master plan' with 'Australian Noise Exposure Forecast (ANEF)'
- reference to *Airports Act 1996* with *Air Services Act 1995*
- reference to *Defence Act 1903* with 'Department of Defence'.

Airport Building Heights (Regulated) Overlay

**REPLACE** references to 'airport master plan' and 'exemption approved under the *Airports Act 1996*' with 'building height requirements approved by the Civil Aviation Safety Authority (CASA)'.

Future Local Road Widening Overlay

**INCLUDE** references to 'reduction of a road widening requirements of a road'.

Tunnel Protection Overlay

**INCLUDE** references to 'busway, railway and other essential infrastructure developed by the Crown'.

Concept Plans

**INCLUDE** additional criteria related to the updating of a Concept Plan within Part 12 of the Code to reflect:

- the alteration of an infrastructure delivery scheme under section 167 of the PDI Act
- development granted development authorisation under the PDI Act and which has been substantially commenced
- the construction of essential infrastructure which has been substantially commenced.

### *Spatial Mapping Updates – Spatial Improvements (4.1.4)*

The amendment proposed to change Part 1 – Rules of Interpretation to clarify the circumstances under which the boundaries of the Code's spatial layers may be aligned with cadastre.

**Feedback:**

The proposed amendments were supported. It was noted however, that the amendment instructions contained an incomplete sentence. Support was given for councils being directly informed of changes undertaken in accordance with this rule.

**Response:**

Feedback regarding the incomplete sentence is noted. Regarding informing councils of changes, notification of spatial updates will be provided on the PlanSA Portal in accordance with subclause 2 of this section. It is not considered necessary to directly notify councils of changes to cadastre in SAPPA via this process given that information relevant to a development application is generated at the time of lodgement and would not benefit from prior knowledge in the same way as a change to policy through a Code Amendment. This is the same process currently used for amendments undertaken in accordance with section 76 of the PDI Act, whereby notice is given via publication of a gazette notice.

**Recommendation:**

**AMEND** Part 1 – Rules of Interpretation – Cadastral Updates, subclause 1 to include the highlighted words as follows:

> *'[…] if the Minister is satisfied that the alteration will preserve or restore the intended spatial relationship between the cadastre and the boundary of the Zone, Subzone or Overlay'.*

### *Policy Updates – Australian Standards (4.1.5)*

The amendment proposed to change Part 1 – Rules of Interpretation to clarify the circumstances under which a Code policy may be amended under section 71(e) of the PDI Act to reflect the requirements of an Australian Standard.

**Feedback:**

The proposed amendments were broadly supported, however specific comments were raised in relation to the following:

- community engagement for changes to Australian Standards may not be as comprehensive and transparent as the community engagement process for a Code Amendment
- updates relating to an Australian Standard should only be applicable where the Standard is the primary policy guiding the DTS/DPF and DTS/DPFs that intentionally depart from an Australian Standard should not be automatically affected by a change in the Australian Standard without specific review.
- request that any change to an Australian Standard which is likely to impact the preservation of street trees be subject to review
- where a policy relates to an Australian Standard, the provision should be updated to specifically mention the Standard
- councils should be notified of any pending changes to create awareness
- concerns about access to Australian Standards and the potential costs for councils.

**Response:**

The proposed change is not intended to result in changes to DTS/DPF provisions which are not already directly informed by an Australian Standard, or which intentionally differ from an Australian Standard, such as the case for changes to minimum garage dimensions proposed via the draft *Planning, Development and Infrastructure (Vehicle Parking) Amendment Bill 2025*.

At present, the only DTS/DPF provisions within the Code which directly reference an Australian Standard, being Design DTS/DPF 19.5, Design in Urban Areas DTS/DPF 23.5 and Housing Renewal DTS/DPF 17.3, include both the relevant quantitative requirement to be achieved in addition to the title of the relevant standard:

> *Driveways are designed and sited so that:*
>
> 1. *the gradient of the driveway does not exceed a grade of 1 in 4 and includes transitions to ensure a maximum grade change of 12.5% (1 in 8) for summit changes, and 15% (1 in 6.7) for sag changes, in accordance with AS 2890.1:2004 to prevent vehicles bottoming or scraping*

It is considered appropriate for any new policy content created via a Code Amendment process which directly relates to an Australian Standard to include mention of the Standard in addition to any relevant quantitative requirements of the Standard. This will provide clarity regarding which policies are informed by the Standards, as well as the relevant criteria which may be changed to reflect an update to an Australian Standard. This will also avoid issues related to equity of access to Australian Standards in seeking to understand a DTS/DPF provision contained within the Code.

**Recommendation:**

**ESTABLISH** a new drafting principle to ensure that where a DTS/DPF provision is related to an Australian Standard, the provision includes reference to the relevant Australian Standard in addition to the relevant requirement of the Standard.

## Language, Consistency and Policy Applicability (4.2)

*Use of 'And' and 'Or' in Policy (4.2.1)*

The draft amendment proposed to change a range of DTS/DPF provisions throughout Part 2 – Zones and Sub Zones, Part 3 – Overlays, and Part 4 – General Development Policies in order to ensure the same terms and expressions are used throughout, particularly with regard to the use of 'and' / 'or' within DTS/DPF provisions containing lists of criteria.

**Feedback:**

The proposed changes were generally supported, with specific feedback related to the following matters:

- support improvements to policy language, particularly in relation to 'and'/'or' policy as there are many examples of policies where it is unclear how the different criteria should be applied
- consideration should be given to whether performance outcomes also need to be reviewed with a similar lens as the DTS/DPF criteria
- undertake a comprehensive review of the Code to ensure that policy intent is not impeded by language or editorial inconsistency and that such a review should be undertaken by a technical practitioner who understands the impacts of language on policy interpretation
- the proposed change appears to have missed Stormwater Management Overlay DTS 1.1 which would also benefit from 'and' 'or' separation between clauses
- agree that the Code lacks clarity in this area, but do not agree that the proposed amendments in Attachment A1 resolve this.
- this change targets DPFs however there should be a review of POs as well.

**Response:**

The suggested policy enhancements are noted as is the call to undertake a review of all policy provisions. It is intended that this will be undertaken over time as similar technical Code Amendments such as this are progressed. As other policy-type Code Amendments are progressed, these principles will be adopted as required. The suggestion to consider POs in a similar manner is acknowledged and may be undertaken as part of a future technical Code Amendment process.

**Recommendation:**

In Part 3 – Overlays within the Assessment Provisions of the Stormwater Management Overlay DTS/DPF 1.1 **INSERT** 'OR' between list items (a) and (b).

In Part 4 – General Development Policies within the Assessment Provisions of the Advertisements – Appearance DTS/DPF 1.1 **INSERT** the following words after the words 'two-storey building' in list item (c)(ii): <u>all of the following are satisfied.</u>

In Part 4 – General Development Policies within the Assessment Provisions of the Design – Carparking, access and manoeuvrability DTS/DPF 24.3 **REMOVE** 'OR' between list items (a) and (b).

In Part 4 – General Development Policies within the Assessment Provisions of the Design in Urban Areas – Carparking Appearance DTS/DPF 7.5 **INSERT** 'AND' between list items (a) and (b).

### *Rural Zones – Detached Dwelling – Second Dwelling Policy Linkages (4.2.2)*

The draft amendment proposed to change Table 3 of the Rural Zone to ensure that PO and DTS/DPF 5.2 are applied to performance assessed detached dwellings.

**Feedback:**

The proposed change was generally supported, however one submission suggested that there remains a lack of clarity around what constitutes ageing in place and what level of investigation the relevant authority should be undertaking to gain an awareness of a proponent's connection to the owner of the land and intent around future management of the farm.

It was further suggested that second dwellings should be permitted on rural allotments where the other matters listed in the PO and DTS/DPF are met, following the way of the recent changes to granny flats/ ancillary accommodation to remove 'arbitrary restrictions'.

**Response:**

The Commission considers that further changes to policy concerning second dwellings on rural allotments - beyond linking existing policy provisions to dwellings – should be considered through future Code Amendment processes (potentially those targeting policy related to housing diversity and affordability). This will ensure that these matters can be more adequately considered within the context of the wider Code library and that appropriate engagement on these matters can be undertaken.

**Recommendation:**

No changes recommended.

### *Rural Horticulture Zone – Ancillary Accommodation – Deemed-to-Satisfy Pathway (4.2.3)*

The draft Amendment proposed changes to Table 2 – Deemed-to-Satisfy Development Classification of the Rural Horticulture Zone to include ancillary accommodation as a listed class of development, and to apply the same policies as those applied in Table 2 of the Rural / Productive Rural Landscape Zone to ensure consistency between these Zones. The proposal also sought to amend Table 5 of the Rural Horticulture Zone remove the requirement to publicly notify ancillary accommodation.

**Feedback:**

The proposed changes were generally supported, with a range of feedback and suggested edits being proposed as follows:

- inclusion of DTS/DPF 12.1 from the Infrastructure and Renewable Energy Facilities General Development Policies in the 'General Policy' column of Table 2 is recommended to ensure that ancillary accommodation is connected to an approved wastewater disposal system
- the overall impact is considered limited, as the Rural Horticulture Zone typically falls within Bushfire Overlays, which would preclude a Deemed-to-Satisfy (DTS) pathway
- concerns have been raised regarding the application of Bushfire Overlays and the critical importance of fire safety in areas where human habitation is proposed
- suggested that Ancillary Accommodation be listed under DTS/DPF 1.1 of the Rural Horticulture Zone, particularly if it is intended to proceed via a DTS pathway and not require public notification.

**Response:**

The proposed changes aim to provide greater consistency across the Rural, Productive Rural Landscape, and Rural Horticulture Zones by aligning policy settings, Overlay exceptions, and the application of Table 2 – Deemed-to-Satisfy (DTS) Development Classification.

The Commission acknowledge that the Rural Horticulture Zone typically sits within bushfire affected areas, preventing (at present) proposals for ancillary accommodation to trip out of Deemed-to-Satisfy assessment pathways, however it is considered appropriate to maintain consistency across these Zones to provide clarity in circumstances where Deemed-to-Satisfy assessment pathway is available, whilst ensuring that Bushfire Overlay policy is considered as part of an assessment where appropriate.

Regarding suggestions to list ancillary accommodation within DTS/DPF 1.1, the Commission considers this to be unnecessary given that ancillary accommodation is not a primary land use in the Rural Horticulture Zone, and already has assessment pathways defined by the assessment tables of the Zone.

Regarding the suggestion to apply PO 12.1 and DTS/DPF 12.1 of the Infrastructure and Renewable Energy Facilities General Development Policies to the Assessment pathways for Ancillary Accommodation classes of development within all applicable Zones, the Commission consider this to be appropriate. It is considered that the suggested amendment will ensure proper consideration of wastewater disposal for ancillary accommodation.

**Recommendation:**

In Part 2 – Zones and Sub Zones, wherever class of development 'Ancillary accommodation' appears in Table 2 Deemed-to-Satisfy Development Classification, **INSERT** Infrastructure and Renewable Energy Facilities [Wastewater Services] DTS/DPF 12.1, DTS/DPF 12.2 as applicable Deemed-to-Satisfy Classification Criteria for this class of development.

In Part 2 – Zones and Sub Zones, wherever class of development 'Ancillary accommodation' appears in Table 3 – Applicable Policies for Performance Assessed Development, **INSERT** Infrastructure and Renewable Energy Facilities [Wastewater Services] PO 12.1, PO 12.2 as applicable General Development Policy for this class of development.

### *Rural Type Zones – Workers' Accommodation – Performance Assessed Linkages (4.2.4)*

The draft Amendment proposed to:

- change Table 3 of the Productive Rural Landscape Zone by applying Significant Interface Overlay PO 1.1 as applicable overlay policy to performance assessed workers' accommodation
- insert new workers accommodation policy in the Rural Zone and link it to performance assessed workers' accommodation in Table 3 of that zone
- change Table 3 of the Rural Zone by removing zone PO 5.2, 5.3 and 5.4 as applicable zone policies for performance assessed workers' accommodation.

**Feedback:**

The proposed amendment was generally supported, with specific feedback related to the following matters:

- the proposed 250m² total floor space, allowing just 12.5m² per person, is considered inadequate for workers' accommodation
- workers' accommodation by definition is not a dwelling but rather temporary accommodation and therefore it is considered inappropriate to link workers' accommodation in the way suggested.

**Response:**

The proposed Amendment aims for a consistent approach to the assessment of workers' accommodation across the three Zones.

While it is noted that Significant Interface Overlay PO1.1 and DTS/DPF1.1 apply to dwellings rather than temporary uses, the definition of sensitive use in the Code—referencing the *Environment Protection Act 1993*—includes 'use for residential purposes.' Even if workers' accommodation is seasonal or temporary, workers do reside there for a period of time. Additionally, a 'Dwelling' is defined as 'a building or part of a building used as a self-contained residence,' and using a dwelling for seasonal or temporary accommodation does not change its status as a self-contained residence. Therefore, applying these policies to workers' accommodation is considered appropriate given its residential nature.

The 250m² floor space limit is not under review for change at this time. It is considered that such a review would require a separate process in order to consider potential implications more thoroughly.

**Recommendation:**

No changes recommended.

### *Shop, Office and Consulting Room – Inconsistent Policy Linkages (4.2.5)*

The draft Amendment proposed changes to realise consistent application of Zone policies to proposals for shops, offices and consulting rooms, as well as those policies related to a change of use to one of these development types in all relevant Zones.

**Feedback:**

The proposed amendment was supported.

**Response:**

N/A

**Recommendation:**

No changes recommended.

### *Swimming Pool Pumps – Acoustic Enclosure Policy (4.2.6)*

The draft Amendment proposed a change to policies related to swimming pool filtration systems in Accepted Development Tables (Zone Table 1) and General Development Policies to ensure consistency in wording. Additionally, it proposed to delete from the General Development Policies – Design PO and DTS/DPF 13.3, as well as Design in Design in Urban Areas - PO and DTS/DPF 19.3 given that these provisions duplicate PO and DTS/DPF 4.3 of the Interface between Land Uses General Development Policies.

**Feedback:**

These changes were generally supported, subject to definition of the proposed term 'solid acoustic structure' and further clarification on the generally accepted noise reduction requirements that such a structure would need to achieve.

Feedback supported the basis for a change in language, however suggested:

- the policy provide greater flexibility in approach to recognise that there may be several ways to reduce noise associated with a pool pump or filtration system
- concern about enclosing heat pumps, which require adequate clearance to ventilate air
- specifying a minimum setback distance may not be necessary particularly where using low-noise equipment, or in the case of smaller allotment sizes which may not enable a 5m setback from a neighbouring dwelling.

One submission expressed concern that the proposal to remove Design PO and DTS/DPF 13.3 and Design in Urban Areas - PO and DTS/DPF 19.3 may result in policy being inadvertently omitted in an assessment, suggesting that there is a perception by some Code users that 'Interface between Land Uses' policies apply where adjoining land uses are different (i.e. residential and commercial), rather than the same land uses.

**Response:**

Unlike the former Environment Protection (Noise) Policy 2007, which specified a requirement for fixed domestic machine noise to not exceed 52 dB(A) between 7 am and 10 pm and 45 dB(A) between 10 pm and 7 am, the current *Local Nuisance and Litter Control Act 2016* which is used to manage local noise issues does not specify suitable noise thresholds for domestic equipment, but rather gives Council the power to investigate local nuisance.

Given this, the Commission acknowledge feedback highlighting a need for greater clarification as to what constitutes a 'solid acoustic enclosure'. However, depending on the nature of the pump and / or filtration system being enclosed and the anticipated noise levels expected from the equipment, the design and construction of the acoustic structure may vary. It is therefore proposed not to define 'solid acoustic enclosure' at this juncture. The Commission will continue to monitor the use of policy related to pool pump/filtration systems and will seek to investigate further improvements to noise policy via a separate Code Amendment, if necessary.

The Commission also understands that some relevant authorities are treating heat pumps in a similar manner to pool pumps and filtration systems and are subjecting them to the setback and acoustic enclosure requirements of the Code.

Heat pumps work by extracting heat from the surrounding air and transferring it to the pool or spa water. They are a more energy efficient option when it comes to heating a pool or spa when compared to electric elements or gas heating systems. They work in a similar way to air conditioning units and generally operate at comparable noise levels, that would typically be anticipated in a residential environment. Like air conditioning units, heat pumps require adequate ventilation and rely on the free flow of air. Enclosing them is not recommended as it can significantly reduce their efficiency and potentially cause damage.

The Commission contends that heat pumps are not something that falls for consideration against the policies of the Code as they do not, in the Commission's view, meet the definition of 'development' under the PDI Act. Additionally, there are mechanisms available under the *Local Nuisance and Litter Control Act 2016* to address situations where domestic equipment (whether it be an air conditioner, heat pump, or other similar source) is not meeting acceptable noise standards.

To clarify this in the Code, the Commission is of the view that current pool pump and filtration policy be amended to exclude heat pumps. In doing so, it is also proposed to amend DTS/DPF 4.3 of the Interface between Land Uses General Development Policy to improve expression and alignment with the comparable accepted development criteria for swimming pools and spas.

Finally, Desired Outcome DO 1 of the Interface Between Land Uses General Development Policies reads 'Development is located and designed to mitigate adverse effects on or from *neighbouring and proximate land uses*'. It should not be inferred that the Interface Between Land Uses General Development Policy

would preclude assessment against the policies between similar / like uses, where both uses constitute a sensitive receiver i.e., adjacent residential uses.

**Recommendation:**

**AMEND** the accepted development classification criteria relating to the location of 'filtration systems' for swimming pools and spas to instead reference 'pumps and/or filtration systems'.

**AMEND** DTS/DPF 4.3 of the Interface Between Land Uses General Development Policy to improve expression and to make reference to 'pumps and/or filtration systems'.

**INSERT** new administrative definition for 'pumps and/or filtration systems' to clarify that heat pumps are excluded from that term.

### *Capital City Zone – Service Lanes v Lane Activation Policy (4.2.7)*

The draft Amendment proposes change to laneway policy in the Capital City Zone to recognise that development along laneways should be appropriate to local context and that the desire for active frontages needs to be balanced against the requirements of other policies that guide design away from utilising primary frontages for vehicle access and other service utilities. Specifically, the proposed change looked to enable a more nuanced application of laneway policy by exempting areas required for servicing from the calculation if they cannot feasibly be active frontages.

**Feedback:**

Limited feedback was received in relation to this topic. Feedback opposed to the amendment was as follows:

- it is inappropriate for service lanes to become active frontages and whether a laneway could successfully facilitate a shop or similar would be circumstantial and context dependent and may also depend on dimensions and accessibility, including whether pedestrian or vehicle access is contemplated
- the Amendment ought to be revised to give priority to the land use and design notions that underpin the policy.

**Response:**

The draft Amendment proposed to make the following changes to laneway policy in the Capital City Zone:

PO 3.11

Development ~~along~~ with frontage to minor streets and laneways is informed by its local context ~~to maintain the prevailing built form pattern and structure~~, recognising that built form outcomes may need to strike a balance between: ~~and~~

(a) design~~ed to~~ that provide~~s~~ a sense of enclosure, ~~and~~ enable~~s~~ fine-grain uses at street level ~~to~~ and create~~s~~ an intimate, active, inclusive and walkable public realm;
and
(b) the need for vehicular access to service development, including for access to car parking and for refuse collection.

PO 4.2(b)(vi)

(vi) at least 75% of the ground floor street fronts of the building (except where required to accommodate servicing such as waste collection by heavy vehicles, deliveries, and/or passenger drop-off and pick-up areas) are active frontages

The intent of the change is to recognise that some laneways provide an important service function for abutting premises, keeping utilities such as refuse bin storage and vehicle access to car parking away from the primary frontage.

The Commission is supportive of activating laneways and notes the success of doing so around the East End and Hindley Street precincts. However, this should not be to the detriment of functioning service laneways.

Imposing a requirement that 75% of ground floor street fronts of a building which faces a laneway that primarily holds a service function is considered unreasonable. The Commission is therefore of the view that the change as proposed be made.

**Recommendation:**

No changes recommended.

*Accepted Development – Building Alterations – Loss of Carparking (4.2.8)*

The draft Amendment proposed a change to the Accepted Development pathway for building alterations in all relevant Zones to clarify that a building alteration cannot result in less vehicle parking than required by the Transport Access and Parking / Affordable housing Overlay.

**Feedback:**

The proposed amendments were largely supported subject to edits to recognise that an approval may have been granted for a development with a lesser requirement for parking spaces than contained within Transport, Access and Parking Table 1 - General Off-Street Car Parking Requirements or Table 2 - Off-Street Car Parking Requirements in Designated Areas. It was suggested that the Amendment should instead refer to a decrease in the number of existing on-site parking spaces, or the number of lawfully approved parking spaces.

One submission expressed concern that building alterations should not be able to proceed through the Accepted or Deemed to Satisfy assessment pathways unless the alterations are internal or are not visible from the street.

**Response:**

The Commission considers it appropriate to alter the proposed change to recognise that approval may have been given for a development with a different parking rate than that prescribed by the Transport, Access and Parking General Development Policies.

With regard to visual appearance form the street, building alterations are excluded from the Accepted Development pathway where located within the Local Heritage Place Overlay, State Heritage Place Overlay and State Heritage Area Overlay. Where located within the Historic Area Overlay building alterations can only proceed through the Accepted Development pathway where there will be no external alterations to the external appearance of the building where visible from the public realm. The Commission does not consider it appropriate to further limit building alterations to performance assessed pathways outside of these Overlays.

**Recommendation:**

In Part 2 – Zones and Sub Zones, within all zones, for class of development 'Building alterations', **AMEND** Table 1 – Accepted Development Classification subclause (f) to read: *(f) decrease the number of lawfully approved car or bicycle parking spaces'.*

*Conservation Zone – Restricted Development Ambiguity (4.2.9)*

The draft Amendment proposed changes to address issues that have been raised with the restricted development triggers that are resulting in dwelling replacements (where the dwelling has already been demolished) and minor boundary realignment proposals falling into the restricted development pathway.

**Feedback:**

Limited feedback was received in relation to this amendment. Practitioners that did comment were supportive of the changes on the basis they aligned with practical development requirements without compromising policy objectives.

There was concern that the proposed changes may support the creation of additional allotments for public road reserves and vehicle access points.

It was also suggested that similar changes be made in relation to local and state heritage places to make development restricted, including demolition and development adjacent to local / stage heritage places.

Some called for further consideration being given to land division where part of an allotment is within the Conservation Zone but most of it is in another (e.g. rural) zone. It was proposed that the restricted trigger could exclude '*land division that does not enable more intensive use of land in the conservation zone*'.

**Response:**

Excluding land division for the creation of public roads / public reserves from restricted classification is longstanding planning policy that has been carried over from Development Plans into the Code. It is important to retain this exclusion to facilitate access that is needed to manage the natural environment and allow the creation of allotments over land that is of environment significance or set aside as an environment off-set.

The Commission notes the suggestion to amend the restricted triggers in the Conservation Zone to cover off on land division proposals that straddle two or more zones. Since the first quarter of 2022, 18 restricted development applications of this nature have been assessed involving the Conservation Zone, which averages to less than 5 applications per year. Given the limited number of applications, the Commission proposes to monitor the issue for consideration in a future Assessment Improvements Code Amendment.

Introducing restricted development triggers for development involving / or adjacent to local and state heritage places is not supported by the Commission. The Code contains sufficient policies to guide the assessment of development that affects local heritage and state heritage places at the performance assessed level.

The Expert Panel, as part of its review into the implementation of the planning system, considered in detail matters relating to conservation and heritage. Instead of elevating this kind of assessment to 'restricted', the recommendations of the Expert Panel were towards broader reform such as moving local heritage out of the PDI Act; creation of design guidelines for character and historic areas; ensuring local heritage places are not demolished due to neglect; and developing new policy in the Code that will facilitate the adaptive reuse of heritage buildings.

**Recommendation:**

No changes recommended.

*River Murray Tributaries Protection Area Overlay – Exclusions (4.2.10)*

The amendment proposed to remove the River Murray Tributaries Protection Area Overlay as an exclusion for:

- fence and retaining wall structure – Accepted development pathway

- ancillary accommodation and dwellings – Deemed-to-satisfy pathway.

**Feedback:**

Limited feedback was received in relation to these proposed changes.

One submission opposed the proposed change to allow dwellings and buildings to be built on flood plains and suggested the implementation of a 50m buffer on either side of a watercourse.

Another submission suggested that the removal of exclusions from zones to which the Overlay does not spatially apply was appropriate, however there may be instances within the Master Planned Zones (i.e. Mount Barker) where the construction of a retaining wall within the Overlay could be taken to constitute the 'erection, construction, modification, enlargement or removal of a dam, wall or other structure that will collect and/or divert water flowing over land or in a watercourse' – a water affecting activity that would otherwise require referral.

**Response:**

Schedule 6(a) of the PDI Regulations provides an Accepted Development assessment pathway for dwellings within the Master Planned Neighbourhood and Master Planned Township Zones, other than where the construction of the dwelling would involve (among other things) excavation exceeding a vertical height of 1m, filling exceeding a vertical height of 1m, or a total combined excavation and filling vertical height of 2m or more. The accepted development pathways provided for dwellings via the Regulations and Table 1 of the Master Planned Zones do not preclude such development from occurring within the River Murray Tributaries Protection Area Overlay. Similarly, the regulations do not preclude the construction of a retaining wall up to 1m in height within the River Murray Tributaries Protection Area Overlay as the Overlay is not a *designated flood Overlay* for the purposes of schedule 4 of the Regulations – Exclusions from the definition of development.

The Commission considers that given dwellings are already provided an Accepted pathway where they involve a maximum combined height of 2m for excavation and filling, it is appropriate to enable a similar pathway for retaining wall structures which retain earthworks undertaken through the construction of a dwelling in appropriate circumstances. As such, the Commission considers it appropriate to insert an additional clause within the Accepted Development criteria within Table 1 of relevant Zones, as well as a new DTS/DPF provision within the River Murray Tributaries Protection Area Overlay to ensure that retaining walls do not adversely impact watercourses within the Overlay through the collection or diversion of surface water.

Similarly, the Commission note that where the height requirements for a retaining wall within the Accepted Development tables of the Master Planned Zones are exceeded, the proposal would default to a performance assessed class of development, and as such, consider it appropriate to apply PO 1.1 of the River Murray Tributaries Protection Area Overlay to performance assessed retaining walls within Table 3 of the Master Planned Neighbourhood and Master Planned Township Zones to enable appropriate referral advice to be provided for larger retaining wall structures.

**Recommendation:**

**AMEND** Table 1 – Accepted Development in all relevant zones for 'fence and retaining wall' and 'retaining wall' classes of development to insert an additional clause requiring that retaining walls are not designed to collect or divert surface water flowing over land.

**INSERT** a new DTS/DPF 1.1 within the River Murray Tributaries Protection Area Overlay to require that retaining walls are not designed to collect or divert surface water flowing over land.

**APPLY** PO1.1 of the River Murray Tributaries Protection Area Overlay to performance assessed 'retaining wall' class of development within Table 3 – Applicable Policies for Performance Assessed Development Zones where this class of development is listed.

*Water Resources Overlay – Exclusions (4.2.11)*

The draft Amendment proposed to remove the Water Resources Overlay exclusion from Deemed-to-Satisfy dwellings in all zones and apply relevant Overlay policy in its place to enable Deemed-to-Satisfy Assessment pathways where the Overlay applies.

**Feedback:**

The proposed change received mixed feedback, with similar levels of support and opposition being expressed by respondents.

Support for the proposed change acknowledged the intent to ensure that Deemed-to-Satisfy dwellings are assessed against relevant Overlay policy, noting that the Overlay works in conjunction with other flood Overlays. Other feedback supporting the proposal highlighted a need for the approach to also be applied to Deemed-to-Satisfy dwelling additions, for which the provisions of the Overlay do not currently apply, even though they are applied to other ancillary development including ancillary accommodation, outbuildings, etc.

Feedback opposing the proposed change considered that the 20m buffer from the top of the existing banks of a watercourse was insufficient, and that no Deemed-to-Satisfy development should occur within the Overlay in any Zone.

Other feedback included the suggestion of a definition and diagram for 'top of bank' in Part 8 – Administrative Terms and Definitions, and that a new Overlay be created to address land stability near watercourses, though it was acknowledged that the creation of a new Overlay would need to be explored through a separate Code Amendment.

**Response:**

The approach proposed by the changes to apply DTS/DPF 1.5 of the Overlay in lieu of an exclusion from the Deemed-to-Satisfy pathway is already in place for all Deemed-to-Satisfy dwelling types, as well as ancillary accommodation in all Zones other than those identified for the purposes of the amendment instructions. As such it is considered that the proposed changes would ensure consistency with the approach already taken throughout the Code. The Commission considers that no further action is required in this regard.

The Commission considers the suggestion to apply DTS/DPF 1.5 of the Water Resources Overlay to Deemed-to-Satisfy dwelling additions a logical application of the policy which would ensure consistency with other development types of a similar scale across the Code.

**Recommendation:**

**INSERT** Water Resources Overlay [Water Catchment] DTS/DPF 1.5 in Table 2 - Deemed-to-Satisfy Development Classification Criteria in Column 5 – Overlay for 'dwelling addition' class of development, in all relevant Zones.

*Stormwater Management Overlay – Connection to Hot Water Service (4.2.12)*

The draft Amendment proposed to remove references to a hot water service from Stormwater Management Overlay DTS/DPF 1.1.

**Feedback:**

The proposed amendment was generally supported, with specific feedback related to the following matters:

- consideration should be given to requiring connection of tanks to all toilets within the associated dwelling and include additional wording to allow connection to 'irrigation systems'
- further opportunities to strengthen the stormwater management provisions in the Code by linking them to Australian Standards and Engineering best practices
- suggestions to require all stormwater to be managed on site or conveyed to a legal point of discharge as deemed appropriate by the relevant authority
- request that requirement for the roof area of dwellings to comprise not less than 80% of the impervious area on the site in Stormwater Management Overlay DTS/DPF 1.1(b) be removed in its entirety
- requests for defined site areas for water tank requirements of group dwellings or residential flat buildings,
- feedback also suggested that the provision be amended to consider the use of 'and' or 'or' as appropriate in the term, in line with the changes proposed in Section 4.2.1, to ensure clarity.

**Response:**

The suggested policy enhancements are noted. The Commission considers it appropriate to investigate matters related to percentage of a site's impervious area, connection to irrigation systems as well as bespoke rainwater retention/detention rates for group dwellings and residential flat buildings through a future Code Amendment. This will ensure that these matters can be more adequately considered within the context of the wider Code library and that appropriate engagement on these matters can be undertaken. It is considered appropriate to align DTS/DPF 1.1 to align with the changes proposed in Section 4.2.1.

**Recommendation:**

In Part 3 – Overlays, within the Assessment Provisions of the Stormwater Management Overlay, **AMEND** DTS/DPF 1.1 to incorporate use of 'and' or 'or' in line with the changes proposed in Section 4.2.1.

### *Educational Establishment Policy – Marking of Accessible Car Parking (4.2.13)*

The draft Amendment proposed to clarify the meaning of 'clearly marked accessible parking place' within Transport, Access and Parking PO 5.1.

**Feedback:**

The proposed changes were supported, however it was requested that clarification of the term 'accessible parking spaces' be undertaken via definition under Part 8 – Administrative Terms and Definitions.

Further comments highlighted opportunities to encourage universal design outcomes, consistent with the State Planning Policies.

**Response:**

The Commission consider it appropriate to create a definition for 'accessible car parking places' within Part 8 – Administrative Terms and Definitions in place of a note contained within PO5.1 of the Transport,

Access and Parking General Module. This will provide clarity as to the meaning of this term in the case that it is used within any new policy content as part of a future Code Amendment.

Regarding opportunities to review policies to further encourage universal design outcomes, whilst it is acknowledged there may be benefit in specific policy related to universal design, it is not considered within the scope of this Code Amendment. A separate Code Amendment process which can address the subject of universal design and the implications of such policy more holistically would be required.

**Recommendation:**

**CREATE** a definition for 'accessible car parking places' within Part 8 – Administrative Terms and Definitions.

*Advertisements – General Policy – Third Party Advertising (4.2.14)*

The draft Amendment proposed changes to PO 3.1 of the Advertisements General Development Policies to avoid policy duplication with PO 2.1 to 2.3 of the same module.

**Feedback:**

The proposed changes received mixed feedback, with similar levels of support and opposition being expressed.

For those submissions which expressed support, little other feedback was provided.

Conversely feedback opposing the proposed changes considered that both provisions are necessary, arguing that PO 3.1 deals with the display of multiple signs on a single sign structure (particularly relating to third party advertisements and/or digital displays) whereas POs 2.1 – 2.3 deal with the number of sign structures / physical signs are located on a property.

Another submission highlighted that within the Code Amendment document, DTS/DPF 3.1 was not shown as containing any changes, however the words 'or proposed' were omitted from the current DPF. It was suggested that these words be retained as advertisements regularly come with proposed land use applications.

Other feedback suggested a need for greater clarity as to the circumstances where third party advertising is anticipated, particularly in instances where the advertisement relates to products sold on site but may also constitute third party advertising (e.g. a café displaying the brand of coffee used). It was also suggested that given the Regulations exempt a change in content of an advertisement from the definition of development, third party advertising should not be precluded by Code policy.

**Response:**

The Commission acknowledges feedback calling for greater clarification of the context and circumstances under which third-party advertising may be anticipated and considers the high level of feedback and divergent views on this matter reason to maintain the current policy framework within the Code. The Commission considers there may be a need to further investigate policy related to advertisements more broadly through a separate amendment process.

**Recommendation:**

**MAINTAIN** the current PO 3.1 of the Advertisements General Development Policies.

## Referrals (4.3)

*State Heritage Overlays (4.3.1)*

The draft Amendment explored, in consultation with the Heritage Branch, opportunities to reduce and improve their referrals noting that they currently receive the third highest number of referrals out of all referral bodies. The investigations of the Code Amendment informed changes being proposed to referrals in relation to the following Overlays:

- Heritage Adjacency Overlay
- State Heritage Area Overlay
- Historic Shipwrecks Overlay.

**Feedback:**

Heritage Adjacency Overlay

Basing the referral trigger on 'visual context' rather than just 'context' was questioned in several submissions. There was apprehension that land divisions would no longer be captured, but subsequent built form on the new allotments may have a substantial impact on the visual context of a State Heritage Place. It was felt that there would be limited opportunities to mitigate this once the allotments are created. Other examples included structural impacts on a heritage place from excavation on adjacent land or tree root damage on state heritage listed trees. Feedback recommended that the word 'visual' be removed from the amended referral trigger.

Others considered that the term 'substantially affects the visual context' does not provide any greater clarity than the term 'materially affects' and will still be open to interpretation, given its subjective nature.

State Heritage Area Overlay

As per the Heritage Adjacency Overlay, similar comments were received in relation to removing the 'visual dominant' trigger from the State Heritage Area referral trigger. There was concern that its removal would not cater for unforeseen development scenarios and could be at odds with Heritage SA's Heritage Standards which are a supplementary assessment tool, linked to the State Heritage Area Overlay in the Code.

It was also questioned whether this change to the referral trigger would still capture development that is visible from a rear laneway (Note: Sometimes these are not public roads but are set-up instead as easements).

Enabling the relevant authority to apply the Heritage Standards in its assessment of any proposal that is not referred to the Heritage Branch was suggested as an alternative solution if referrals were confined to visibility from the public realm.

Another suggestion was to explore opportunities for alternative assessment pathways for some 'minor' development types within the State Heritage Area Overlay. It was felt that this could potentially be achieved by incorporating the Heritage Standards and relevant planning policies in a deemed-to-satisfy assessment pathway. Examples suitable for a 'minor' pathway included fencing, rear verandahs, swimming pools and sheds.

Other Feedback

There was strong support for the development of advisory guides to assist relevant authorities on what should be referred to the Heritage Branch. Suggested matters for inclusion were as follows:

- provide guidance and clarification on 'minor', conservation works and like for like maintenance activities that do not warrant referral
- set out the information the Heritage Branch requires to undertake its referral assessment

- provide guidance on what criteria should be considered when making a decision to refer an application
- preparation of standard conditions for use by relevant authorities.

Other feedback intimated that the Heritage Branch should be appropriately funded to meet the referrals and additional workload and that this should extend to referrals in relation to development that may affect a local heritage place.

**Response:**

The Commission acknowledges the feedback received and agrees that focussing referrals solely on visual context could miss broader considerations, including those that have been mentioned in the submissions. Most heritage-based referrals would have some sort of visual context consideration, and as such the amendment, as originally proposed, would likely have limited return in terms of reducing referrals.

It is also proposed to keep the term 'materially affects' instead of 'substantially affects' in the Heritage Adjacency Overlay referral trigger. On reflection, the Commission believes that 'materially' is the more appropriate term as it implies something that has considerable impact, that is likely to affect the decision-making process.

Keeping the word 'materially' also maintains alignment with the definition of 'development' in the PDI Act which prescribes that works on heritage places, both Local and State, that could 'materially affect' the heritage value of such places, will constitute development.

In respect to the State Heritage Area referral amendments, it is expected that most development applications would be captured by other triggers, e.g., buildings that *'are visible from a public street, road or thoroughfare within the State Heritage Area'*. Buildings that *'are visually dominant within the State Heritage Area'* referral trigger is therefore not one that is likely to be called upon on a regular basis. However, the Commission notes the feedback received and accepts that there may be examples where this trigger is required. An example would be a dominant building that is solely visible from within a public reserve.

Based on the above, it is proposed to make no changes to the Heritage Adjacency Overlay and the State Heritage Area Overlay and therefore maintain the current operational referral triggers (other than the proposed note in Heritage Area Overlay referral trigger about it not applying to Local Heritage Places, which will be retained).

The Commission also notes the feedback on 'advisory material' and assistance that it may provide in interpreting heritage policy and referral triggers. It is understood that such material is being worked on by the Heritage Branch along with the ongoing preparation of additional Heritage Statements for State Heritage Areas. The Commission is supportive of these ongoing initiatives.

**Recommendation:**

**MAINTAIN** the current operational referral triggers for the Heritage Adjacency Overlay and the State Heritage Area Overlay, other than the proposed note in Heritage Adjacency Overlay about the referral not applying to Local Heritage Places.

### *Environment Protection Referrals (4.3.2)*

Prior to the release of the draft Amendment for community engagement the Environment Protection Authority (EPA) identified several areas in which their referrals could be improved to:

- address duplication
- remove items that are problematic and can be addressed at a different stage of development

- better align the triggers with the supporting legislation and policy under which they operate as an authority.

In response, the draft Amendment proposed to:

- delete the land division referral trigger within both of the Mount Lofty Ranges Water Supply Catchment Overlays (Areas 1 and 2)
- align wording, in respect to wastewater generation referral triggers in various overlays, with the terminology used in the South Australian Health On-site Wastewater Systems Code 2013
- remove unnecessary duplication within and between the water protection overlays and Part 9.1 of the Code
- amend the purpose of the referral for all four water protection overlays to remove reference to 'neutral' or 'beneficial' and replace it with 'adverse impact' to align with the *Environment Protection Act 1993*.

**Feedback:**

Limited comments were received on this section of the draft Amendment. Those that did comment supported the proposed changes.

It has been identified that some policy within the following overlays still contains references to 'neutral or beneficial' impact on water quality and should be replaced with 'adverse impact' to maintain consistency with the 'purpose of referral' to the EPA:

- Mount Lofty Ranges Water Supply Catchment (Area 1) Overlay
- Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay
- River Murray Flood Plain Protection Area Overlay.

**Response:**

In its assessment of a development application referred to it, the EPA considers potential adverse impacts/effects on the environment and their degree of impact/effect. In undertaking this assessment, the EPA will consider the Objects of the *Environment Protection Act 1993* and section 57 which requires the EPA to:

> *'have regard to, and seek to further, the objects of this Act and have regard to the general environmental duty, any relevant environment protection policies and the waste strategy for the State adopted under the Green Industries SA Act 2004 (if relevant).'*

Some degree of adverse impact (environmental harm) may still occur and be reasonable and practicable. For these reasons, and to ensure consistency in policy (one of the aims of the Amendment), the Commission agrees it is appropriate to update relevant policies within the three affected overlays to refer to no 'adverse impact' instead of 'neutral or beneficial' impact on water quality.

**Recommendation:**

**AMEND** relevant policies in the following overlays by replacing, as appropriate, the term 'neutral or beneficial' with 'adverse impact':

- Mount Lofty Ranges Water Supply Catchment (Area 1) Overlay
- Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay
- River Murray Flood Plain Protection Area Overlay.

### *Department for Environment and Water Referrals (4.3.3)*

The Department for Environment and Water (DEW) identified several areas where referrals could be removed and better expressed to reflect the items of development that it has an interest. This included:

- removing duplicated referrals between the Murray Darling Basin Overlay and several other water related overlays
- clarifying when, and under what circumstances, outbuildings, in-ground swimming pools, dwelling alterations / additions and excavation / filling of land requires referral in the River Murray Flood Plain Protection Area Overlay.

**Feedback:**

The amendments received limited feedback but were supported.

DEW identified further suggestions for improvement to the boundaries of the Coastal Areas Overlay and River Murray Flood Plain Protection Area Overlay to remove the requirement to refer in certain locations.

**Response:**

The Commission acknowledges the additional suggestions from DEW but considers them to be outside the scope of this Code Amendment. Any spatial mapping changes of this nature would need to occur via separate Code Amendment which could be Agency led subject to agreement from the Minister for Planning.

**Recommendation:**

No changes recommended.

### *Gas Pipelines – Referral Duplication (4.3.4)*

The draft Amendment proposed to change Gas and Liquid Petroleum Pipelines (Facilities) Overlay DTS/DPF 1.1(d) to clarify that a dwelling within the Overlay may be appropriate where the creation of the allotment where the dwelling is being proposed was subject to an assessment by the Department for Energy and Mining through a referral process established under the PDI Act.

**Feedback:**

One comment was received in relation to the proposed amendment, which expressed concern that a referral at the land division stage may not account for future built form or the risks associated with construction near a gas pipeline.

**Response:**

The proposed amendment to the Gas and Liquid Petroleum Pipelines (Facilities) Overlay will ensure that a dwelling will be subject to a referral if the proposal had not been previously referred at the land division stage to the Chief Executive of the Department of the Minister responsible for administering the *Petroleum and Geothermal Energy Act 2000*. Conversely, where a referral has been undertaken at the land division stage, a subsequent referral will not be required during the assessment of built form elements.

In accordance with the *Petroleum and Geothermal Energy Act 2000*, pipeline operators are required to undertake a Safety Management Study (SMS) to assess the change in risk associated with new development and identify controls required to ensure that the risk of the pipeline operation remains as low as reasonably practicable. Part of the process triggered by a referral under the Gas and Liquid Petroleum Pipelines (Facilities) Overlay involves assessing whether a current SMS and any identified safety

measures would be adequate for the purposes of the proposed development. In the case of land division, this process takes into account safety requirements of future development, i.e. whether the safety measures for a pipeline are adequate for a dwelling to be constructed on the divided land parcel.

The matter of having due regard for gas pipelines during construction work is not the purpose of the referral within the Gas and Liquid Petroleum Pipelines (Facilities) Overlay. Rather the referral purpose is for the referral body to consider potential safety issues relating to development or its potential to adversely impact upon the lawful continued operation of strategic infrastructure (gas and liquid petroleum pipelines). In this instance, avoidance of risk to public health and safety relates to exposure to noise impacts from continuous operation of pipeline facilities, as well as occasional noise from high pressure venting. Safety during construction and earthworks within proximity of a pipeline is the responsibility of the person(s) undertaking such work, and should be subject to first locating the position of underground infrastructure assets through one of the following:

- Dial Before You Dig
- Site plans
- Cable or pipe detection
- Carefully executed pilot or test holes

Given the above, the Commission does not consider it necessary to alter the referral as proposed.

**Recommendation:**

No changes recommended.

*Referral Duplication and Minor Development within Overlays (4.3.5)*

Several changes were proposed by the draft Amendment to avoid the unnecessary referral of insignificant forms of development (in the context of the relevant purpose) as well as to reduce referral duplication within overlays.

**Feedback:**

A small amount of feedback was received on this section of the Code Amendment as follows:

Minor Development

- clarification should be provided for what constitutes minor development in the context of different Overlays
- provisions that negate referral triggers for minor development is not considered appropriate for the Airport Building Height (Regulated) Overlay and Future Road Widening Overlay, as legislation for these referrals does not allow minor variation.

Referral Duplication

- wording is too broad and has the potential to result in unintended consequences where different land division applications alter the outcomes of a previously considered land use or vice versa
- expanding the definition of 'excluded land division' to apply more broadly than the Affordable Housing Overlay may result in developments not being referred to the Commissioner of Highways under existing Overlays and is likely to also result in situations where common property or rights of way are not adequately created/addressed at land division stage.

**Response:**

Minor Development

The Commission acknowledges the feedback received in relation the referral of 'minor' development in the context of the Future Road Widening Overlay and the Airport Building Height (Regulated) Overlay. It is understood that under the Metropolitan Adelaide Road Widening Plan (MARWP) all building works must be referred regardless of whether a relevant authority deem it minor in nature, or the development is a like for like replacement. The same applies to referrals required under the Airport Building Height (Regulated) Overlay. It is therefore proposed to not proceed with the minor development clause in both these overlays.

Referral Duplication

An 'excluded land division' can only be one that reflects the site boundaries of an approved development authorisation for residential development. To avoid a second round of referral, the scope is limited for the subsequent land division to be anything different than what has been approved from a residential land use perspective. The comments about factoring in matters that are considered at the land division stage, such as common property/rights of way, are noted. Amendments to the definition of 'excluded land division' are therefore proposed to make sure such matters are addressed.

**Recommendation:**

**MAINTAIN** the current operational referral triggers for the Airport Building Heights (Regulated) Overlay and the Future Road Widening Overlay.

**AMEND** the definition of 'excluded land division' so that the land division that includes easements or rights of way are not captured by the definition.

## Land Use Definitions (4.4)

*Personal or Domestic Services Establishment (4.4.1)*

The Environment, Resources and Development Court (the Court) recently found that a car wash fit within the Code's land use definition of personal or domestic services establishment. Following a review of the Court judgement, changes were proposed to the definition of personal or domestic services establishment so that it is more specific about the nature of activities it includes.

**Feedback:**

The proposed changes received limited feedback but were well supported. The dyeing / colouring of hair and piercing / tattooing were suggested as other activities that could be added to the list of inclusions and non-surgical cosmetic procedures should include examples such as laser procedures and hair replacement.

It was also suggested that the replacement words for the first paragraph of the new definition were more complex than the original and added no value to the solution. It was felt that the third paragraph and reference in Column D achieved the desired effect.

**Response:**

For reference, the draft Amendment proposed to replace the definition as follows:

> ~~Means premises used for the provision of services catering to the personal or domestic needs of customers.~~
>
> Means premises used for the provision of personal or domestic services catering to the needs of customers, which are related to the care and/or appearance of the individual, the cleaning and/or grooming of pets, or the cleaning and/or repair of personal effects:
>
> Examples- The following are examples of services that may be available at a personal ~~and~~ or domestic services establishment~~s~~:

(a) clothing repair and alterations;
(b) cutting, trimming, waxing, shaving and styling hair;
(c) domestic pet grooming;
(d) manicures and pedicures;
(e) non-surgical cosmetic procedures;
(f) personal care procedures;
(g) self-service clothes laundering;
(h) shoe repair;
(i) watch repair.

For the purposes of this definition, 'personal effects' does not include vehicles, boats, caravans, trailers or similar articles.

Adding dyeing / colouring of hair and piercing / tattooing to the examples list is considered a logical enhancement and is supported by the Commission. Hair replacement would generally fit more in the consulting room space and is not proposed to be added to the personal or domestic services establishment definition.

In terms of the first paragraph of the definition, it is there to provide overarching guidance for what is considered to fit within the definitions. Relying solely on the examples would be too limiting and risks an emerging activity not meeting the definition despite having the same or similar characteristics as those in the examples list. The original first paragraph is considered too broad and resulted in activities being captured by the definition despite not fitting the genuine intent of personal or domestic services.

**Recommendation:**

**AMEND** the definition to add dyeing / colouring of hair and piercing / tattooing to examples list.

### *Workers' Accommodation (4.4.2)*

The definition of workers' accommodation is proposed to be expanded to include seasonal hospitality and tourist development in the list of activities that it supports.

**Feedback:**

This proposed change received mixed views. Some felt that the addition to support temporary accommodation for workers involved in tourism and hospitality was positive whilst others were of the view that this type of accommodation required careful consideration of accommodation design, supervision and security.

Two submissions called for the definition being tightened based on the view that there is too much opportunity to convert buildings in rural areas to a second dwelling where a second dwelling is not envisaged by the zone.

It was also suggested that the definition could be made more concise and should include guidance on proximity of the proposed workers' accommodation to the main employment activity.

Another suggested that the definition could be further expanded to include healthcare workers.

**Response:**

For reference, the draft Amendment proposed to change the definition as follows:

Means premises used to accommodate workers on a temporary basis while they carry out employment:
(a) on the same site as the workers' accommodation; or
(b) in mining or petroleum extraction; or
(c) in seasonally intensive rural activities including fruit picking, pruning, animal shearing, meat processing, bulk handling or freight handling; or

(d) in the construction of essential infrastructure

(e) in seasonally intensive hospitality, tourist development or tourist accommodation activities.

The suggestion to include healthcare workers is acknowledged, however activities like hospitals and health care services are typically located within urban areas and townships where housing is supported through residential zoning.

Matters such as timeframes and accommodation distance from the main workplace are considered best left to policy to provide flexibility in circumstances that may warrant off site accommodation.

A typographical error has been identified in the revised definition for workers' accommodation where an 'or' should be placed between parts (d) and (e), consistent with the remainder of the definition.

**Recommendation:**

**AMEND** the definition to include 'or' between parts (d) and (e).

### *Commercial Forestry (4.4.3)*

Changes to the commercial forestry definitions were proposed to address ambiguity in the current definition in relation to commercial forests that are not harvested but are instead used purely for commercial carbon-absorption benefits (carbon plantings).

**Feedback:**

The proposed change received only a small amount of feedback but was well supported. Two submissions suggested that the definition should just simply reference the definition in the *Landscape South Australia Act 2019* (LSA Act). It was noted that land use change to forestry including biodiversity plantings can have significant hydrological implications because the water use is greater than the mostly dryland farming uses that it replaces.

**Response:**

The Commission acknowledges the suggestion to simply referencing the LSA Act definition of commercial forestry instead of the Code providing its own definition. Doing so would create administrative efficiencies should the definition in the LSA Act be amended. However, the Commission is of the view that a cautious approach should be adopted in this instance recognising that:

- wholesale changes to the definition through a separate LSA Act process wouldn't be subject to the community engagement expectations that underpin the PDI Act and Code
- Code policy is written to align with the definitions and it is important that this be considered when making amendments to definitions to identify any consequential policy and development impacts
- planning has a broader role to play in assessment and it often must seek a balance between development and competing issues.

**Recommendation:**

No changes recommended.

*New Definitions (4.4.4)*

The draft Amendment proposed two new land use definitions:

- trade training facility
- emergency services facility.

**Feedback:**

The two new definitions were well supported. Further enhancements were provided such as:

- adjusting the definition of trade training facility so that it does not eliminate a facility that provides training to electricians or solar energy installers
- broadening the trade training facility definition to include training facilities for mining trades and specialised equipment such as trench shoring equipment and giving consideration to including trades more broadly (hair dressing, cooking etc), rather than only construction base trades
- adding CFS station to the inclusions list of the emergency services facility definition, noting that police station is in the list
- excluding evacuation centres and bushfire safer areas from the definition of emergency services facility.

Additional definitions and updates to existing definitions were suggested including:

- training facility
- transport distribution
- supported accommodation (and applicable car parking rates)
- supermarket.

A general comment was also made that all envisaged land uses in a zone should have a definition in Part 7 of the Code.

**Response:**

Trade training facility

The intent of this definition is to recognise trade learning environments that involve the teaching of activities normally carried out at a work site, like:

- the operation of heavy machinery e.g. excavators, backhoes, loaders and bobcats
- moving and lifting processes e.g. forklifts, scissor lifts, crane operation
- cutting and finishing of materials.

These activities are similar in nature to industrial processes and have the potential generate external impacts from noise, fumes, vibration and smell and would generally be expected to locate within employment zones, and to separate them out from ‘educational facility’ which is often envisaged in residential and urban corridor zones. Trench shoring equipment fits within the realm of earthmoving activities and will be added to the definition.

Whilst the suggestion to include additional activities such as electrical trades, hair and beauty, cooking and other technical related training facilities is noted, such activities don’t have the same potential environmental impacts identified above. Given that no assessment pathways are currently programmed

into the Code for trade training facilities of any kind, the Commission is proposing to monitor the definition to see if any further adjustments are warranted following operation.

Emergency services facility

Fire station is already proposed in the 'includes' list for this new definition. This would cover Country Fire Service (CFS) stations.

The definition is provided to support premises used for the administrative, operation and storage requirements of emergency services. This would include applications for activities such as fire, police or ambulance station. It is not considered necessary to exclude areas such as evacuation centres or bushfire safer places from the definition. Such places are usually established / already built and therefore do not need a development application in an emergency situation.

Additional definitions

Additional definition suggestions are noted for considerations as part of a future assessment improvements type Code Amendment. This will enable proper consideration and review and allow a community feedback process to be undertake in accordance with the PDI Act and Community Engagement Charter.

**Recommendation:**

**AMEND** definition of 'trade training facility' to include the operation of trench shoring equipment.

## Administrative Terms and Definitions (4.5)

*Building Height – Measurement Point Clarification (4.5.1)*

The draft Amendment proposed to change the definition for Building Height to clarify measurement points for sloping sites, as well as to include a diagram to assist with interpretation of the definition.

**Feedback:**

The proposed change was generally supported. Some feedback suggested a desire for a practice guideline to be developed containing additional diagrams to illustrate examples involving cut and fill, split-level or elevated buildings on stilts, while others suggested a desire for further simplification of the definition for ease of reading. One submission queried specifically where, horizontally on a site, the newly identified 'reference point' is to be identified. Additional comments include the following:

- concern that the change will affect how building height is interpreted when considering how the built form presents, in particular the roof form and pitch
- welcomes the new definition which will ensure that height is measured in a vertical plane
- the definition should be further amended to exclude lift overruns and stairwell protrusions from the calculation of building height
- the proposed change doesn't appear to understand the consequences as the example provided only appears to have regard to the lowest point of a site and not the whole site
- variation can be extensive, but as proposed the definition will only have regard to the lowest point meaning the proposed change overhauls the outcome and concept resulting in taller buildings, greater visual impacts and less public notification
- the proposed change doesn't appear to understand consequences as the example provided only appears to have regard to the lowest point of a site and not the whole site. For example, the difference of a site adjacent a beach front compared to the level of the site adjacent a road.

**Response:**

Regarding comments that it is unclear where (horizontally) on the site the measurement point is to be taken, or that the definition as proposed only relates to the lowest part of a site, the definition states that building height is the *maximum vertical distance* between the reference point (i.e. the lower of natural or finished ground level) and the highest point directly above this at *any point of a building*. The proposed change does not therefore alter the intent of the definition in this way. Rather, it seeks to clarify that building height is to be measured in a vertical plane from the reference point. The position of the reference point horizontally should be taken to be the position where the vertical distance from this to the highest point of the building directly above is the greatest. Similarly, the diagram provided is not illustrative of height being determined only in relation to the lowest point on the site, but that the vertical plane required to determine height can be taken at any point horizontally on the site in order to determine the location where the distance along a vertical plane will be the greatest.

The Commission is conscious that Practice Guideline 1 – Natural Ground Level provides guidance as to how determine wall or building height measurements related to natural or finished ground level on sites where there is cut/fill, which may assist in the interpretation of the definition. Additionally, the Commission considers that additional diagrams which include a theoretical building as a point of reference may assist with interpretation of the definition.

The Commission considers the suggestion to exclude lift overruns and stairwell protrusions a logical improvement to the definition given that these structures are typically limited in size and provide roof access for maintenance and safety purposes. It is however proposed to limit the exclusion to lift overruns and stairwell protrusions that are only for maintenance purposes. This is so that planning assessment can still be made in relation to spaces that are to be used for open space and overlooking can be considered.

**Recommendation:**

In Part 8 – Administrative Terms and Definitions, **AMEND** the definition for Building Height to exclude lift overruns and stairwell protrusions from the definition, but only where they are used for maintenance purposes, and **INSERT** additional diagrams to assist with interpretation of the definition in relation to sites with cut/fill.

### *Primary Street (4.5.2)*

The draft Amendment seeks to simplify the terms ‘primary street’ and ‘secondary street’ for sites that have multiple frontages. More weight is proposed to be given to building faces for the purpose of determining the primary frontage. New diagrams are proposed in the Code to assist interpretation.

**Feedback:**

The proposed change was generally supported by those that provided comment on this issue. Those in support felt that it added a ‘common sense’ test for determining the primary street frontage and that contextual assessment would enable the facilitation of improved streetscape presentation and greater site efficiency.

For corner sites, it was suggested that the proposed changes could undermine current policy intent where there is a desire for consistency of setbacks to maintain character.

In relation to the proposal to exclude corner cut-offs from the primary street setback measurement, further clarity was sought to ensure that other policies relating to protecting sightlines are not ignored.

Other feedback suggested that consideration should be given to potential impacts on street numbering and whether there is the ability to change the street address of a property.

**Response:**

The Commission acknowledges that there may be some circumstances where development is oriented a different way on corner properties that have been subdivided. This is not uncommon. Street presentation would still need to be assessed against the new primary street frontage and would consider building setbacks on abutting sites. It is not considered that this change would undermine the policy extent in character areas to any dramatic extent.

Maintaining the role of corner cut-offs for the purpose of protecting sightlines is noted. The Commission proposes to add further clarification within the amended definitions for primary street and secondary street to ensure that this intent is maintained when assessing street setbacks.

Street numbering is governed by Section 220 of the *Local Government Act 1999 (LGA Act)* and most local Council's maintain a policy for street numbering. The LGA Act allows a Council to alter or update its numbering system and includes requirements for public notification when doing so. It is not considered that the proposed changes to the primary and secondary street definitions will alter these procedures or make numbering of properties more complicated.

**Recommendation:**

**AMEND** Note 2 of the primary street definition and Note 1 of the secondary street setback definition to add the following words to the end of each note:

> *'other than where the street setback would result in the building being located inside the corner cut-off area.'*

### *Excluded Building (4.5.3)*

The draft Amendment proposed to change the definition of 'excluded building' to make it clear that the requirement to undertake public notification only applies when demolition of the heritage elements that are listed in Part 11 of the Code or in the South Australian Heritage Register is proposed.

**Feedback:**

Feedback on this proposed change ranged from support or conditional support through to opposition on the basis that all development concerning a state or local heritage place should be notified.

Those that offered conditional support were keen to ensure that ancillary buildings in an Historic Area Overlay are not excluded from notification if they form part of a local or state heritage place or if they demonstrate the historic characteristics expressed within the Historic Area.

It was noted that many local heritage place listings are not sufficiently detailed to clearly exclude non-heritage outbuildings or non-original portions and that there is no direction therefore the relevant authority should consider in instances where the listing is unclear. Amendments to allow relevant authority discretion to determine whether something formed part of the fabric of the heritage place was recommended for the purposed of notification.

A review of local and state heritage place listings to ensure clarity regarding what elements on the site are specifically listed was also recommended to aid assessment procedures.

**Response:**

Public sentiment towards the preservation of heritage places resulted in Phase 2 of the Code (operational at 31 July 2020) introducing requirements to publicly notify applications involving the demolition of state and local heritage places.

Following consultation on Phase 3 of the Code and in response to several submissions that suggested that the demolition of heritage places or buildings in the Historic Area Overlay should also be notified, the following amendment was made:

*Phase Three (Urban Areas) recommendations:*

**PT.44** **AMEND** relevant 'Procedural Matters – Notification' tables to prescribe that demolition of buildings (except ancillary buildings) in the Historic Area Overlay is subject to public notification.

Further adjustments were made via the MTE Code Amendment to exclude buildings, structures or landscape features in the Historic Area Overlay that are not of any heritage value (in the opinion of the relevant authority). This was extended to buildings of similar status in the State Heritage Area.

On review, it has become evident that the proposed amendments to the definition of 'excluded building' in the Assessment Improvements Code Amendment have potentially undone some of the original intent of the notification policy as established through the course of developing the Code and subsequent amendments made through the MTE Code Amendment. Specifically, the removal of the following clause from the 'excluded building' definition, would inadvertently exempt from notification the demolition of local and state heritage places that lie in State Heritage Areas or within the Historic Area Overlay.

> ~~*but does not include a building, structure or landscape feature (or part thereof) that is specifically listed in Part 11 of the Code as a Local Heritage Place or a State Heritage Place in the South Australian Heritage Register.*~~

It is therefore proposed that the definition be revisited to ensure that buildings, structures or landscape features of the following nature are not captured (and that their proposed demolition would therefore result in public notification):

- those that are listed as local or state heritage places and clearly form part of the listing
- those that are in a State Heritage Area and contribute to the buildings or features of identified heritage value within the State Heritage Area.

The Commission notes that some ancillary buildings in a Historic Area Overlay may contribute its historic character, however most wont. Requiring public notification on the demolition of sheds and other outbuilding structures of similar nature is considered an unnecessary burden. The relevant authority still retains its ability to assess the historic value of ancillary buildings and can refuse demolition if the buildings are worthy of retention.

**Recommendation:**

**AMEND** the revised definition of 'exempt building' so that it does not capture buildings, structures or landscape features, that:

- are listed as local or state heritage places and clearly form part of the listing
- are in a State Heritage Area and contribute to the buildings or features of identified heritage value within the State Heritage Area.

## Targeted Policy Updates (4.6)

### *Local Heritage Place Overlay – Demolition Policy (4.6.1)*

The draft Code Amendment seeks to amend PO 6.1 of the Local Heritage Place Overlay to address situations where local heritage places are neglected and left to deteriorate to enable ease of their demolition.

This amendment aligns with the Expert Panel's recommendation on this issue and reflects similar policy contained in the State Heritage Overlay.

**Feedback:**

This amendment was well supported. Some suggested further improvements to the policy including:

- referencing both owner and occupier in the policy if the owner claims ignorance of inability to access the property to undertake maintenance or repairs
- adding wording to include actions of past owners if the property is on-sold
- to support the use of section 155(1)(b) of the PDI Act, which enables an authorised officer to carry out building work in response to a threat to a heritage place, additional guidance be provided as to what constitutes a 'threat'
- the proposed words be altered to include *'…unforeseen events beyond the control of the owner and/or occupier'*, to address a possible loophole where a building occupant, depending on contract/lease terms, may be able to allow a building or place to deteriorate
- adding 'make good' orders into the Code to strengthen retention and maintenance of local heritage places
- remove the words 'integrity or' from the PO so that it matches exactly State Heritage Places Overlay PO 6.1.

Others spoke to the following matters:

- preparation of a Practice Direction to provide additional guidance on heritage demolition
- allowing third-party appeal rights
- demolition is not permitted without an application for exemplary replacement built form
- representative items to be included in the Code more fully, including having the same protection from demolition as local heritage places
- adding Recommendation 24 from the Expert Panel to this Code Amendment, which relates to recording of demolitions on the e-Planning portal
- need for a more expansive grants schemes from the State Government to support the upkeep of local heritage places
- further clarity sought in relation to the term 'partial demolition' in the context of public notification.

One submission was concerned that elevating the demolition policy to include the same wording utilised for the demolition of State Heritage items erodes the hierarchy of heritage places to the extent of questioning whether there is a need to distinguish between the two. This submission supported the need to maintain and distinguish the different values of a State and a Local heritage place and to be able to distinguish the criteria and reasons as to when such demolition may be warranted.

**Response:**

The policy change implements the Expert Panel's recommendation on this issue, a recommendation that is supported by the Government. The Commission agrees with the intent of the amendment and notes the importance of preserving local heritage places to tell the story of local communities. Deliberately neglecting a heritage place to facilitate removal is not considered acceptable practice regardless of whether it is of state or local value.

The suggested areas for policy wording amendment are noted, however, to maintain consistency with the wording contained in the State Heritage Place Overlay, no changes are proposed at this juncture other than to match the wording exactly. Instead, the Commission will monitor the application of amended policy PO 6.1, and if necessary, review it through a subsequent policy Code Amendment if evidence points to a need for further adjustment in both Overlays.

In terms of the comment on public notification triggers regarding partial demolitions, the Relevant Authority has the ability, as per the rules of interpretation, to '*determine that a variation to 1 or more corresponding exclusions prescribed in Column B is minor in nature and does not require notification.*' Again, the Commission will continue to monitor this interpretation rule to see if it is being applied correctly.

Suggestions such as third-party appeal rights, additional grant schemes, and updates to the planning portal to include demolitions are noted but fall outside the scope of this Code Amendment.

**Recommendation:**

**AMEND** PO 6.1 by removing the words 'integrity or' so that it matches PO 6.1 of the State Heritage Place Overlay.

### *Covered Car Parks (4.6.2)*

Amendments to the Code are proposed to support the following recommendation from the Expert Panel:

> *'the requirement to provide undercover car parking should be removed from the Planning and Design Code (the Code), but provision of space for a covered car park should still be made available behind the face of the dwelling.'*

**Feedback:**

The consensus from the feedback was that the intent of the change is supported noting the approach provides flexibility and allows homeowners to adapt their properties to changing needs. Additional suggestions to improve the policy included:

- requiring the uncovered space to be set back from the front of the main building (0.5 metres) needs to be expressed in Design in Urban Areas DTS/DPF 23.2 as this is commonly required to minimise the visual dominance of a carport or garage structure, particularly in Character or Historic Areas
- to ensure compliance with on-site parking requirements, the uncovered car parking space should maintain a minimum setback of 5.5m from the front boundary when the second space is located in tandem
- any changes to vehicle parking size requirements proposed in the Vehicle Parking Amendment Bill should be incorporated into the subject dimensions to ensure alignment with updated standards
- sufficient space should be provided to ensure the uncovered space can be easily converted in accordance with other relevant policy. Key to this is Design in Urban Areas DPF 20.1. Allowance for the thickness of a future garage wall should also be considered
- provision of further flexibility and clarity regarding uncovered car parking associated with residential flat buildings. It was noted that locating the space behind the dwelling may deter creative development solutions, such as common undercover parking
- strengthening Design PO 19.2 and Design in Urban Areas PO 23.2 to clarify what is meant by 'appropriately located', e.g., behind building line.
- requiring at least 1 bicycle park per dwelling where a covered car parking space is not provided, noting that bikes are often stored in garages of carports.

The following queries on policy interpretation / application were also raised:

- whether Design in Urban Areas DTS/DPF 23.1 and 23.2 will apply to land divisions where a dwelling is proposed to be retained or applications for ancillary developments, noting that property boundaries and structures such as dwelling additions, swimming pools, garages and decks could potentially be proposed over spaces set aside for uncovered car parking.

- whether the absence of an initial covered parking requirement provides justification for homeowners to maximise site coverage without including a covered space, and then exceed that requirement via a future application for a carport or garage.

**Response:**

Vehicle Parking Amendment Bill and Scheme

The feedback about aligning Code policy with the parking requirements and dimension of the Vehicle Parking Amendment Bill and Scheme are acknowledged. As the Bill is yet to be assented to by Parliament, the Commission is not able to update the Code policy at this stage.

Should the Bill pass Parliament and a Scheme be introduced, appropriate actions will be undertaken to update Code policy where necessary to ensure policy alignment.

Additional Setback and Width

Allowing an additional setback of 0.5 metres for those zones that require it for garages and carports is noted. There are only two zones where this applies – the Established Neighbourhood Zone and the Township Neighbourhood Zone. Being a unique policy requiring a certain built form, the Commission is of the view that the uncovered parking policy should align with this setback requirement to ensure that any future carport or garage in these two zones is consistent with the character being sought for the area.

In terms of allowing additional width to accommodate future garage walls, the Commission is of the view that this can be considered when an application is submitted to cover the vehicle parking space. It may be necessary for the applicant to make some concessions if there is insufficient space to accommodate a walled garage. Instead, the applicant may need to adopt a carport design with post type roof supports to meet the internal dimensions.

Tandem Parking

The Commission acknowledges that a setback of 5.5m from the primary street boundary is currently applied to carports and garages as a mechanism to address streetscape and dwelling appearance. As a side effect, it also allows for an additional uncovered vehicle parking space. To ensure that this space is still catered for when parking is proposed to be provided in tandem format, it is recommended that the 5.5m setback also be applied to the uncovered space (being that space that is required to sit behind the main face of the dwelling).

Site Coverage Calculations

Adding the uncovered parking space into the site coverage calculation may result in unforeseen constraints being imposed on existing dwellings that currently do not have roof covering over their vehicle parking space(s). The Commission feels that it would be inappropriate to impose such a requirement on someone who has no intention to cover that space and would rather use the site coverage allowance for other housing improvements. For these reasons the Commission recommends that no change be made to the site coverage policy arrangements. The role of the imposing a maximum site coverage in the Code is typically to:

- provide space for landscaping, open space and pervious areas
- maintain the character and pattern of building footprints within a neighbourhood

- provide sufficient space around buildings to limit visual impact, provide an attractive outlook and access to light and ventilation.

This is evident in the POs that are attached to the maximum site coverage standard set in DTS/DPF policy. It is the Commissions view that site coverage requirements should continue to be assessed on application-by-application basis for carports and garages, and where the site coverage maximum standard has been exceeded, the relevant authority makes a judgment call on whether the PO has been offended. If the PO is not met then it may be necessary for the applicant to submit alternative designs, which could involve adjustment/removal of other buildings to meet the performance outcome.

Application to Land Division / Ancillary Development

For a development that seeks to create a new site/allotment for a dwelling in conjunction with the retention of an existing dwelling, policy in the Code for the suite of neighbourhood zones (e.g., General Neighbourhood Zone DTS/DPF 2.2) requires that the proposal not contravene the private open space and off-street parking requirements that would otherwise be needed for the existing dwelling. This applies whether the parking space is covered or not.

In terms of ancillary forms of development, the Code typically does not factor in loss of vehicle parking space or maintaining a minimum standard of private open space. This is evident in the accepted development pathway for outbuildings, swimming pools and spas, shade sails, and water tanks. Additionally, there are many similar forms of development that are either excluded from development or planning consent under the PDI Regulations and such exemptions do not factor in loss of functional spaces like off-street parking and private open space. The same allowances existed under the previous Development Act regime and have generally not come up as an assessment issue.

Commission will, however, monitor this situation.

Clarifying 'appropriately located'.

The Commission agrees with the comment on clarifying what 'appropriately located' means in the PO that is relevant to uncovered parking spaces. Instead of defining the term, it is recommended that the POs be reworded to clarify what needs to be considered in the context of any allowances that need to be made if the space is to be covered in the future. Drawing upon existing performance outcomes relating to garages and carports, the outcome typically sought is to ensure that such structures do not dominate the appearance of the associated dwelling when viewed from the street. The same should be reflected in the PO for uncovered spaces.

Car parking for residential flat buildings

Residential flat buildings under the Code would generally be subject to the performance assessed pathway. Subject to the above changes being made, the Commission is of the view that there is adequate flexibility in the PO for uncovered car parking spaces to facilitate alternative design solutions as suggested by the feedback.

**Recommendation:**

**AMEND** the uncovered car parking space DTS/DPF policy to:

(a) account for an additional setback of at least 0.5m from the main face of the dwelling where this requirement is specified by the applicable zone for carports and/or garages

(b) maintain a space of at least 5.5 metres from the street boundary where the car parks are proposed in a tandem arrangement.

**REWORD** the uncovered car parking space PO policy to clarify what needs to be considered in the context of any allowances that need to be made if the space is to be covered in the future and elaborate

on why the allowances are needed, e.g., to ensure that any such future structures can be located in a way that they do not dominate the appearance of the associated dwelling when viewed from the street.

### *Community Title Land Division (4.6.3)*

The proposal sought to insert a new provision into the Land Division General Development Policies to ensure division of land under the *Community Titles Act 1996* is appropriate having regard to the nature of common property established by the relevant scheme, and to apply this provision to performance assessed classes of land division within Table 3 of Zones.

**Feedback:**

The proposal was generally supported, with several submissions suggesting further edits to provide greater clarity to ensure proper interpretation and implementation of the policy. A small number of submissions raised concerns about the need for meaningful shared facilities in Community Title land divisions, as well as the potential for additional workload that this will place on Councils in relation to inspections at the planning consent stage. It was further suggested that a Practice Guideline be created to provide guidance on when it is appropriate to undertake a Community Title land division as opposed to Torrens Title.

A range of additional policy was suggested related to local street design and connectivity, that community land is meaningful, and criteria outlining how ongoing maintenance should be undertaken for the life of the development, as well as requirements for a Land Management Agreement to be in place with waste collection service providers.

One submission requested the removal of *(d) maintenance of any of the above* from the proposed PO, as it was noted that this level of information is typically not requested for other forms of private development, however other submissions highlighted that ongoing maintenance, particularly of common driveways where these are used as a public road or for waste collection services, is commonly an issue for Community Title subdivisions.

**Response:**

The Commission consider it appropriate to amend the proposed PO to include reference to common driveway function to enable consideration of whether the use of a public road would more appropriate where the common driveway seeks to service a large number of dwellings.

Whilst it is acknowledged that the ongoing provision of maintenance itself is not a matter for the assessment of a land division, the Commission consider that this may be an important factor in determining whether Community Title, or Torrens Title land division would be more appropriate for the proposed development, particularly with regard to ongoing maintenance of common driveways within the site where these are intended to function as a private road. As such, it is considered appropriate to retain the proposed part (d).

The Commission consider that it may be appropriate to undertake investigations into additional policy to guide the design of internal street layout within a Community Title land division, as well as any Practice Guideline relating to the appropriateness of Community Title versus Torrens Title land divisions through processes separate to this Code Amendment.

**Recommendation:**

**AMEND** proposed PO 2.9 to include reference to the function and status of a common driveway, as well as provision for waste collection services.

*Car Parking Rates for Major Open Spaces (4.6.4)*

The amendment proposed inclusion of a note within PO 5.1 of the Transport, Access and Parking module that guides applicants and relevant authorities towards defining an appropriate rate of car parking by reference to surveys of similar developments in comparable locations.

**Feedback:**

The proposed amendment was generally supported, with a range of feedback and suggested edits being proposed as follows:

- parking rates should not be calculated at a rate similar to development in comparable locations as that development site referenced may not have sufficient car parking.
- open spaces should not be diminished, enclosed, or made inaccessible to users merely to provide car parking
- defining an appropriate rate of car parking through surveys of similar developments in comparable locations, is an excellent guide and should be more broadly adopted through the Code.
- this practice should be adopted as an interim measure, while investigations are undertaken on suitable car parking rates for the various uses undertaken at major public open space areas, or
- additional uses that are defined and envisaged in Zones in the Code could benefit from having defined car parking rates.
- suggest an additional point (e) should be inserted that speaks the development having accessibility to public transport to support a reduced on-site rate.
- suggest preparation of a Practice Guideline in relation to carparking for major open spaces to address carparking rates and other associated considerations, for example, accessibility via alternative transport modes and pedestrian safety and circulation within the carpark.
- suggest removal of the words 'For the avoidance of doubt' as superfluous.

**Response:**

The Commission do not consider it necessary for the PO to state that where car parking rates at other similar developments are insufficient, the relevant authority may request an increase in car parking provision. PO 5.1 requires that sufficient on-site vehicle parking be provided and if the Relevant Authority is of the opinion that the rate being proposed for a development application is insufficient given the context of the particular proposal, they may determine that the PO is not met, particularly where similar development in comparable locations also has a shortfall in on-site parking spaces. The Commission consider that where a parking rate is proposed based on similar development, that this would need to be supported by way of a transport analysis to determine that the proposed rate is actually appropriate for the particular context of the development.

Regarding comments that open spaces should not be diminished, enclosed, or made inaccessible to users merely to provide car parking, the proposed amendment is not intended to apply retrospectively to existing open spaces, but rather, where a new development is being proposed which is not defined by a parking rate table. Whilst this matter was raised by the Expert Panel primarily in response to parking rates for major open spaces, the proposed amendment will similarly apply to any form of development which does not have a parking rate determined by relevant car parking tables.

The Commission consider that it may be appropriate to undertake investigations into suitable car parking rates for various currently unlisted uses, as well as any Practice Guideline relating to parking requirements for major open spaces through processes separate to this Code Amendment.

The Commission consider the suggestion of an additional point (e), which denotes accessibility to public transport as justification to support a reduced on-site parking rate, a logical improvement which aligns with other Code policy that supports lower parking rates within proximity of high frequency public transport.

**Recommendation:**

**REMOVE** the words 'for the avoidance of doubt' from the proposed note at the end of Transport, Access and Parking PO 5.1.

**INSERT** point (e) at the end of PO 5.1 of the Transport, Access and Parking module relating to 'proximity to high frequency public transport' as support for a reduced parking rate.

### New Issues (4.7)

*New Issue – Small-lot Rural Land Division in Character Preservation Districts*

**Feedback:**

Of the 138 submissions that were received in response to consultation, 82 related to concerns about small-lot rural land division within the Barossa and McLaren Vale Character Preservation Districts (CPDs).

Most of these submissions were from the Mclaren Vale / Willunga Basin District and raised similar comments:

- that the CPD Act prohibits land division below 16ha for residential purposes in the Rural Zone
- under the Code, land use policy is now, in the words of the City of Onkaparinga, 'almost ineffectual to prevent the creation of small allotments'
- technical adjustments to the wording and operation of the Code should be made to give practical effect to the intentions of the CPD Act and to re-assert the prohibition on small-lot land divisions
- notes and supports the City of Onkaparinga's specific changes to the Code to address this problem, including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay.

The City of Onkaparinga provided similar feedback under the context of the TNV Policy Weight topic of the Code Amendment (Section 4.1.2). Council noted that:

- they are experiencing a number of land division applications in their Rural Zone that propose lots well under the TNV of 16 ha
- as a 'performance assessed' development it feels it can't rely on PO 11.1 to refuse such applications (note: PO 11.1 reads as follows: *'land division, including boundary realignments, promotes productive, efficient and sustainable primary production')*
- prior to the Code, the City of Onkaparinga Development Plan Primary Production Zone had a minimum allotment size of 16 hectares and proposed allotments having an area less than this were deemed non-complying (note: no appeal against refusal)
- transition to the Code has weakened the land division policy to such a point it is almost ineffectual to prevent the creation of small allotments.

An alternative view to the above was received in the engagement feedback:

- that the McLaren Vale region is home to a significant number of small- to medium-scale farming enterprises, many of which are struggling to remain viable

- many farmers feel trapped in their current circumstances, which has led to distressing social consequences, aspects which must be given due consideration in planning decisions
- that a balanced approach that provides landowners with viable options to alleviate their financial burdens while still respecting the region's unique character is essential.

**Response:**

Most of the Rural Zone in the City of Onkaparinga region has a TNV which specifies a minimum 16ha requirement for allotments. A portion of Rural Zone to the north-east around Blewitt Springs / Kangarilla doesn't have this TNV and is instead covered by the Limited Land Division Overlay. Under Council's former Development Plan this area was in the Primary Production Zone, Mount Lofty Ranges Policy Area 32, which had a policy of no additional allotments unless:

(a) the proposal is for a minor readjustment of allotment boundaries in order to correct an anomaly in the placement of those boundaries with respect to the location of existing buildings or structures or
(b) the proposal is to alter the boundaries of an allotment in order to improve the management of the land for the purpose of primary production and/or the conservation of natural features.

When the Development Plan was transitioned into the Code the Limited Land Division Overlay was applied to the area around Blewitt Springs / Kangarilla to reflect this policy. The Limited Land Division Overlay was also applied in and around the Aldinga Washpool Lagoon, which had the Open Space Policy Area 33 applying to it under the former Development Plan. Land division creating additional allotments was not supported in Open Space Policy Area 33.

In the areas where the 16ha minimum allotment criteria currently applies, land division was non-complying (no appeal rights) under the former City of Onkaparinga Development Plan, other than where:

(a) all allotments resulting from the division were at least 16 hectares in areas or
(b) no additional allotments were created and the number of resulting allotments of less than 16 hectares was not more than the number that existed prior to rationalisation.

Part (b) above provided flexibility to support the generally accepted practice of amalgamating primary production land into larger single allotments and, in doing so, gave allowances for smaller allotments to be retained. It did so without increasing potential for additional dwellings over and above that which already existed.

This former policy worked in conjunction with the land division controls imposed under the Character Preservation Acts (Barossa and McLaren Vale). It is important to note that the Character Preservation Acts do not set a minimum allotment area for land division, nor do they prohibit land division for rural use. Rather they restrict land division for the purpose of residential use.

Data shows that since July 2021, the City of Onkaparinga has received a total of 51 land division applications in the Rural Zone. Of these 36 were boundary realignments, and 15 being traditional land divisions creating additional allotments. Of the 51 applications lodged, 38 were granted consent of which 33 were boundary realignments. This equates to 1 land division per year being approved which creates an additional allotment. There is no data available in the system on how many of the land divisions resulted in allotments less than 16ha or on how many of the existing allotments were already less than 16ha.

The City of Onkaparinga has suggested that the following amendments be made to PO 11.1 of the Rural Zone to give more weight to the TNV policy in accompanying DTS/DPF 11.1:

*PO 11.1*

*Land division, including boundary realignments promotes productive, efficient and sustainable primary production and is consistent with the dimensions expressed in any relevant Minimum Site Area Technical and Numeric Variation.*

The solution presented by the City of Onkaparinga to adjust PO 11.1 is noted, however it needs to be recognised that the Rural Zone applies further than just the Character Preservation Areas. The additional text also moves away from one of the principal objectives of the new planning system, that is to create an assessment approach for development that is performance based.

Consideration should also be given to whether similar adjustments should be made to the land division policies of other 'rural type' zones in the Code to maintain consistency in assessment, along with any land division allowances made for more intensive forms of rural development and value adding.

The following table summarises the land division policies of the three main rural type zones in the Code:

| Rural Zone | Rural Horticulture | Productive Rural Landscape Zone |
|---|---|---|
| • Land division, including boundary realignments, promotes productive, efficient and sustainable primary production.<br>• Land division, including boundary realignments, which facilitates the more intensive use of the land should occur only where:<br>– the allotments are of a size and configuration to support the existing and proposed land uses<br>– water of sufficient quality and quantity is available to sustain the proposed use<br>– the use will be compatible with adjacent or nearby uses of land.<br>• Has TNVs | • Land division, including boundary realignments, promotes productive, efficient and sustainable horticulture.<br>• Has TNVs | • Land division creating additional allotments is not supported other than where located in The Cedars Subzone to support tourist development.<br>• No TNV as no additional allotments supported |

The Rural and Rural Horticulture Zones have a similar policy framework for land division and both have TNV functionality. The only difference being that the Rural Zone has the additional land division policy that is there to support more intensive land uses. By its very nature the Rural Horticulture Zone already supports intensive land uses through its policy framework. The Productive Rural Landscape Zone is set up differently and has a clear policy on no additional allotments being created.

Considering the above, the Commission is of the view that further investigations are necessary to support the amendment proposed by the City of Onkaparinga and that these investigations should occur in discussion with key stakeholders, including affected Councils, primary producers and their associated industry organisations, and the Department of Primary Industries and Regions South Australia (PIRSA).

The Commission's work schedule for 2026/27 includes the preparation of a Character Preservation District Code Amendment, the intent of which is to investigate amendments and additions to the current policy in recognition of the fact that the Overlay currently applies to two distinct regions, with different character values. This will be done in partnership with affected councils and could be expanded to investigate current land division policies and their effectiveness in more detail.

Early discussions between DHUD and PIRSA have also commenced on a suite of rural matters coming out of the recently released Greater Adelaide Regional Plan, such as how development policy should address the rural interface, value adding opportunities in rural areas, the protection of valuable agricultural land, and intergenerational housing for farming families. It is anticipated that this work will help inform future policy changes within the rural suite of zones and their application in Character Preservation Areas.

In the meantime, and as part of the Amendment, the Commission is prepared to support minor adjustments to PO 11.1 to give more context around the role of allotment dimensions and area as follows:

PO 11.1

Land division, including boundary realignments promotes productive, efficient and sustainable primary production by establishing allotments that are of sufficient dimension and area to support these outcomes and the intended use of the land for primary production.

It is recommended that a similar amendment be made to PO 12.1 of the Rural Horticulture Zone. The TNVs expressed in the accompanying DTS/DPFs will continue to provide guidance around what is suitable from an allotment area perspective.

With respect to the suggestion of applying the Limited Land Division Overlay to the entirety of the Rural Zone in Character Preservation Areas, the Commission is of the view that this is not possible as a post consultation update to the Amendment. Land division for rural purposes, provided that it sits within the realm of the site area TNV expressed for any given area, is something that the Commission believes should however be contemplated. If a council considers that the minimum site area TNV applying within an area of the Rural Zone or the Rural Horticulture Zone is outdated and doesn't provide appropriate guidance then this can be addressed through a council-led Code Amendment with supporting investigations.

**Recommendation:**

**AMEND** PO 11.1 of the Rural Zone as follows:

PO 11.1

Land division, including boundary realignments promotes productive, efficient and sustainable primary production by establishing allotments that are of sufficient dimension and area to support these outcomes and the intended use of the land for primary production.

**AMEND** PO 12.1 of the Rural Horticulture Zone as follows:

PO 12.1

Land division, including boundary realignments, promotes productive, efficient and sustainable horticulture by establishing allotments that are of sufficient dimension and area to support these outcomes and the intended use of the land for primary production.

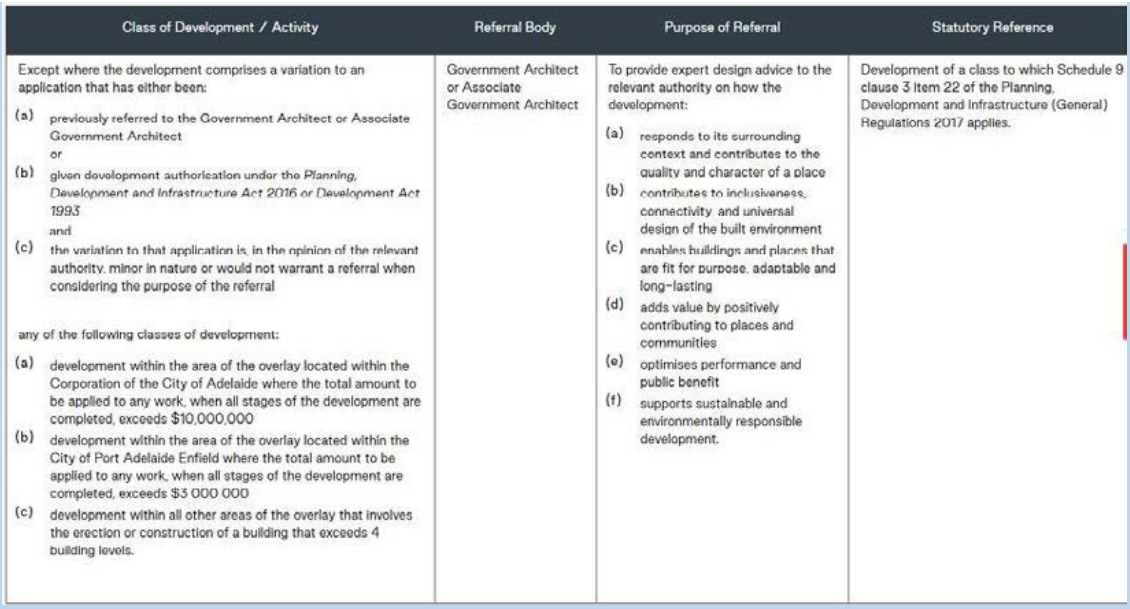
*New Issue - Design Overlay*

**Feedback:**

Feedback on referrals identified an issue with the wording of the referral trigger in the Design Overlay. It was considered that referral was not clear on when a variation to an application required referral to the Government Architect.

**Response:**

For context, the current Design Overlay referral is as follows:



| Class of Development / Activity | Referral Body | Purpose of Referral | Statutory Reference |
|---|---|---|---|
| Except where the development comprises a variation to an application that has either been:<br>(a) previously referred to the Government Architect or Associate Government Architect<br>or<br>(b) given development authorisation under the *Planning, Development and Infrastructure Act 2016* or *Development Act 1993*<br>and<br>(c) the variation to that application is, in the opinion of the relevant authority, minor in nature or would not warrant a referral when considering the purpose of the referral<br><br>any of the following classes of development:<br>(a) development within the area of the overlay located within the Corporation of the City of Adelaide where the total amount to be applied to any work, when all stages of the development are completed, exceeds $10,000,000<br>(b) development within the area of the overlay located within the City of Port Adelaide Enfield where the total amount to be applied to any work, when all stages of the development are completed, exceeds $3 000 000<br>(c) development within all other areas of the overlay that involves the erection or construction of a building that exceeds 4 building levels. | Government Architect or Associate Government Architect | To provide expert design advice to the relevant authority on how the development:<br>(a) responds to its surrounding context and contributes to the quality and character of a place<br>(b) contributes to inclusiveness, connectivity and universal design of the built environment<br>(c) enables buildings and places that are fit for purpose, adaptable and long-lasting<br>(d) adds value by positively contributing to places and communities<br>(e) optimises performance and public benefit<br>(f) supports sustainable and environmentally responsible development. | Development of a class to which Schedule 9 clause 3 item 22 of the Planning, Development and Infrastructure (General) Regulations 2017 applies. |

The Commission agrees that the wording is ambiguous in terms of what types of variations it is trying to capture and under what circumstances e.g., whether it is something that has previously been referred to the Government Architect versus an application that already has development authorisation and is minor, or both.

The Commission is of this view that the referral exemption for the Design Overlay should simplified. To do this, the Commission recommends that it should only exclude variations to applications (approved or otherwise) that, in the opinion of the relevant authority, are minor in nature or would not warrant a referral when considering the purpose of the referral. This would make it consistent with other Overlays.

**Recommendation:**

**AMEND** the referral trigger in the Design Overlay so that the referral exclusion only relates to *'variations to applications (approved or otherwise) that, in the opinion of the relevant authority, are minor in nature or would not warrant a referral when considering the purpose of the referral'.*

### *New Issue – Balcony Policy*

**Feedback:**

PlanSA submitted a request for a minor change to the accepted and DTS criteria relating to balcony setbacks to assist with the delivery of the automated assessment project.

The Master Planned Neighbourhood Zone and Master Planned Township Zone accepted pathway clause 7(a) for class of development 'detached dwelling' states:

7. *If the dwelling exceeds 1 building level, any balconies satisfy one of the following:*

   *(a) The longest side of the balcony or terrace will face a public road, public road reserve or public reserve that is at least 15 metres in all places faced by the balcony or terrace*

The intent of this criteria is to ensure that balconies are separated from other residential land by at least 15 metres to protect privacy.

The pilot program has tested several development applications against these policies and found circumstances where balconies are separated from residential land by 15 metres where that distance includes both a public reserve and a public road. This criteria implies that the 15 metre measurement can

only be one of the public road, public road reserve or public reserve. In practical terms, it does not matter whether this would be achieved using a combination of a public road, road reserve of balcony. That is, if a balcony faced a 10 metre wide reserve and then a 12.5 metre wide road reserve, the intent of the policy would be met.

It is therefore requested that this criteria be amended to the following:

7. *If the dwelling exceeds 1 building level, any balconies satisfy one of the following:*

   (a) *The longest side of the balcony or terrace will face a public road, public road reserve or public reserve (or combination of) that is at least 15 metres in all places faced by the balcony or terrace*

**Response:**

This Code Amendment aims to implement several recommendations made by the Expert Panel.

One of the Expert Panel's recommendations (Recommendation 63) was to investigate the implementation of automatic assessment for Deemed-to-Satisfy development applications.

This was further supported by the State's Housing Roadmap which outlined that the ePlanning system will be updated to enable immediate, automated development approvals for simple 'accepted' and 'deemed to satisfy' applications where prescriptive criteria is met.

In support of this initiative, PlanSA is completing a proof-of-concept pilot project for automated assessment for accepted and deemed to satisfy detached dwellings in the Master Planned Neighbourhood and Master Planned Township Zones.

The Commission is of the view that the amendment suggested by PlanSA is one of a minor nature that provides clarity around the intent of balcony setbacks to public spaces. As long as the 15m setback is achieved, it should not matter if this is made up from a combination of public reserves, public road reserves or public roads. The outcome would be the same.

PlanSA has noted that the same policy also exists in the following General Development Policies of the Code:

- Design DTS/DPF 10.2(a)
- Design in Urban Areas DTS/DPF 10.2(a)
- Housing Renewal DTS/DPF 11.2(a).

**Recommendation:**

**AMEND** the following policies in the Code to allow for a combination of public reserves, public road reserves or public roads to be acceptable regarding balcony setbacks:

- Master Planned Neighbourhood Zone – Accepted Development Criteria 7(a) for Class of Development Detached Dwelling
- Master Planned Township Zone – Accepted Development Criteria 7(a) for Class of Development Detached Dwelling
- General Development Policies - Design DTS/DPF 10.2(a)
- General Development Policies - Design in Urban Areas DTS/DPF 10.2(a)
- General Development Policies - Housing Renewal DTS/DPF 11.2(a).

# 7 Summary of Recommended Changes

The Amendment primarily focuses on the policies and wording within:

- Part 1 – Rules of Interpretation
- Part 2 – Zones and Sub Zones
- Part 3 – Overlays
- Part 4 – General Development Policies
- Part 7 – Land Use Definitions
- Part 8 – Administrative Terms and Definitions
- Part 9 – Referrals

Due to the structure of the Code and the diverse nature of the issues raised, some of these changes may spread across multiple parts of the Code. For example, an issue may result in proposed changes to policies within a zone/s and to the definition of a land use to ensure alignment with the proposed policy change (e.g. a proposed change to policy wording within Part 2 – Zones and Sub Zone and the refinement in the definition within Part 7 – Land Use Definitions). The issues have been identified within the most relevant Part but will also acknowledge any other Part of the Code proposed for change.

To assist in the readability of this Amendment and given the scope of the issues/topics under review, each is addressed in the same manner. The issue/topic is first identified (with background when appropriate) followed by a description of the relevant feedback received during community engagement and the resulting changes proposed to the Code.

To understand the specific detail and structure of the proposed Code change, refer to the amendment instructions accompanying this report. This has been purposefully prepared as an attachment given the very technical nature of some of the proposed changes. All topics within this Code Amendment and the Amendment Instructions contained in Attachment A use the same numbering and topic headings.

# 8 Code Amendment Instructions

The following amendment instructions (at the time of drafting) relate to the Planning and Design Code, version 2025.10 published on 29 May 2025. Where amendments to the Planning and Design Code have been published after this date, consequences changes to the following amendment instructions will be made as necessary to give effect to this Code Amendment.

## Amendment Instructions

Refer to Separate Document – Assessment Improvements Code Amendment – The Amendment

# Appendices

# Appendix A - Communications Material

## Letter to stakeholders

OFFICIAL

STATE PLANNING COMMISSION

83 Pirie Street
Adelaide SA 5000

GPO Box 1815
Adelaide SA 5001

08 7109 7466
saplanningcommission@sa.gov.au

22328015

10 December 2024

«CONTACT_OFFICER»
«POSITION_OF_CONTACT_OFFICER»
«AGENCY»

By email: «Email»

Dear «Title» «Surname»

**Commencement of consultation on the Assessment Improvements Code Amendment**

The State Planning Commission (the Commission) will commence public consultation on the draft Assessment Improvements Code Amendment on 10 December 2024 for 12 weeks, concluding on 4 March 2025.

The draft Code Amendment proposes a number of technical amendments to South Australia's Planning and Design Code, informed through the experience of planning practitioners and other users, to enhance its general performance and operation.

The draft Code Amendment also forms part of the Government's response to the Planning System Implementation Review, implementing some of the recommendations of the Expert Panel supported by government.

The draft Code Amendment will focus on improvements that can be made to assessment processes rather than substantial change in policy position or intent.

Key matters within the scope of the draft Code Amendment include:

- ensuring the Code's Rules of Interpretation are up-to-date and provide clear guidance in line with recent case law
- undertaking a language and consistency check to ensure the same terms and expressions are used throughout.
- ensuring requirements for assessment are reasonable and practical, including agency referrals.
- ensuring definitions within the Code are relevant and up-to-date

Other areas reflected in the proposed amendments concern demolition policy for local heritage places and car parking rates for major open spaces.

Public consultation will be undertaken in accordance with the Community Engagement Charter under the *Planning, Development and Infrastructure Act 2016*. A copy of the Engagement Plan, which outlines how this will occur, is located on the PlanSA consultation page.



OFFICIAL

**Find out more**

Key information, including a copy of the draft Code Amendment, can be found on YourSAy at: yoursay.sa.gov.au/assessment-improvements and PlanSA: plan.sa.gov.au/have_your_say/code-amendments. Hard copies are available to view at the reception desk, located on level 9, 83 Pirie Street, Adelaide.

**Information sessions**

Online information sessions are also available and commence Thursday 12 December 2024. Visit the YourSAy or PlanSA consultation pages to register.

**How to provide feedback**

All written submissions are to be provided no later than **5:00 pm Tuesday 4 March 2025.**

- Feedback, comments and questions can be made through: YourSAy: yoursay.sa.gov.au/assessment-improvements
- The online submission form via the PlanSA website: plan.sa.gov.au/have_your_say/code-amendments
- Email: plansasubmissions@sa.gov.au (subject: Submission – Assessment Improvements Code Amendment)
- Post:

  Code Amendment Team
  Planning and Land Use Services
  Department for Housing and Urban Development
  GPO Box 1815
  ADELAIDE SA 5001.

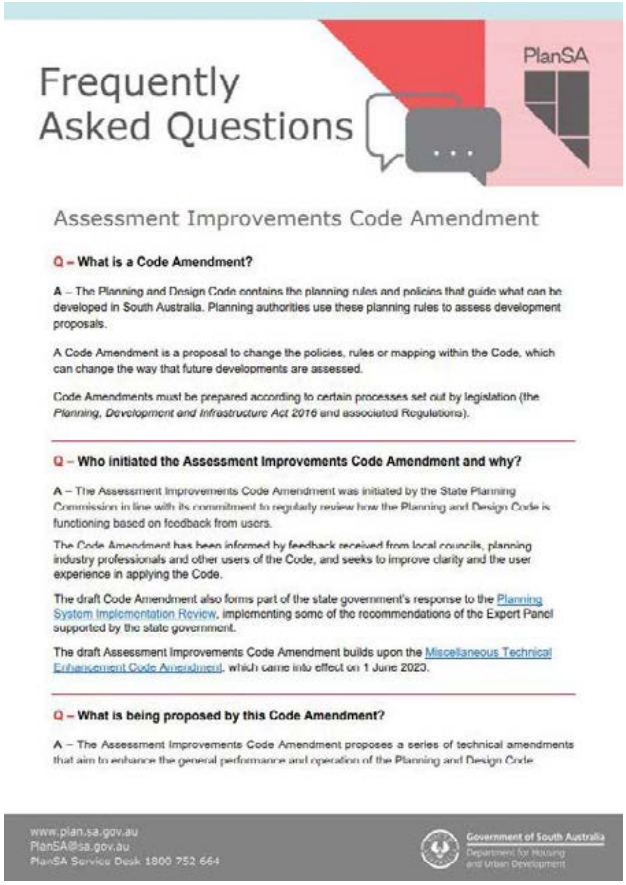
The Commission is committed to working collaboratively with key stakeholders and local government to refine the details of the draft Code Amendment, including the drafting of policy, changes to the spatial application of Code Overlays (where appropriate), and instructions for this Code Amendment.

Should you require further information, please contact PlanSA on 1800 752 664 or via email plansa@sa.gov.au.

Yours sincerely

**Craig Holden**
Chair

## Frequently Asked Questions



# Frequently Asked Questions

PlanSA

## Assessment Improvements Code Amendment

**Q – What is a Code Amendment?**

**A** – The Planning and Design Code contains the planning rules and policies that guide what can be developed in South Australia. Planning authorities use these planning rules to assess development proposals.

A Code Amendment is a proposal to change the policies, rules or mapping within the Code, which can change the way that future developments are assessed.

Code Amendments must be prepared according to certain processes set out by legislation (the *Planning, Development and Infrastructure Act 2016* and associated Regulations).

**Q – Who initiated the Assessment Improvements Code Amendment and why?**

**A** – The Assessment Improvements Code Amendment was initiated by the State Planning Commission in line with its commitment to regularly review how the Planning and Design Code is functioning based on feedback from users.

The Code Amendment has been informed by feedback received from local councils, planning industry professionals and other users of the Code, and seeks to improve clarity and the user experience in applying the Code.

The draft Code Amendment also forms part of the state government's response to the Planning System Implementation Review, implementing some of the recommendations of the Expert Panel supported by the state government.

The draft Assessment Improvements Code Amendment builds upon the Miscellaneous Technical Enhancement Code Amendment, which came into effect on 1 June 2023.

**Q – What is being proposed by this Code Amendment?**

**A** – The Assessment Improvements Code Amendment proposes a series of technical amendments that aim to enhance the general performance and operation of the Planning and Design Code.



The Code Amendment is primarily focused on addressing elements of a technical and operational nature within the Code, as opposed to changing policy intent or outcomes.

The key areas of focus in the Assessment Improvements Code Amendment include:

- improvements to the Rules of Interpretation in response to recent case law
- review of language and policy consistency
- ensuring policies are reasonable and practical
- improvements to Land Use and Administrative Definitions
- review of Referrals to government agencies and industry.

Other areas reflected in the proposed amendments concern demolition policy for local heritage places and car parking rates for major open spaces.

The details of each proposed amendment are listed in the draft Code Amendment document.

**Q – What investigations have taken place in preparing the draft Code Amendment?**

**A** – The draft Code Amendment draws on investigations undertaken to support the recommendations of the Expert Panel in undertaking the Planning System Implementation Review. Planning and Land Use Services has also undertaken investigations on behalf of the Commission to understand and respond to matters raised by Government agencies and practitioners such as policy refinements and reviews of referrals.

**Q – How can I provide feedback on the Assessment Improvements Code Amendment? How will my feedback be used?**

A – We welcome feedback on the draft Assessment Improvements Code Amendment. Feedback is important and will help to shape the final Code Amendment presented to the Minister for Planning for a decision.

Public consultation will run for 12 weeks from 9 am Tuesday 10 December 2024 to 5 pm Tuesday 4 March 2025. All written submissions in response to the Code Amendment are required by the close of consultation.

Feedback, comments and questions can be made via:

- PlanSA online submission form
- Email: PlanSASubmissions@sa.gov.au, subject: Assessment Improvements Code Amendment
- Post: Submission – Assessment Improvements Code Amendment, Code Amendment Team, Planning and Land Use Services Division, Department for Housing and Urban Development, GPO Box 1815, Adelaide SA 5001

**All feedback on the Assessment Improvements Code Amendment is to be submitted by 5 pm Tuesday 4 March 2025.**



All written submissions received will be made publicly available on the PlanSA portal when the Engagement Report is released, following the conclusion of the consultation period. Names and organisations will be included with published submissions but addresses, email addresses and phone numbers will be redacted.

**Q – What happens once consultation closes on the Code Amendment?**

**A –** Once the consultation period for the Code Amendment is closed the next steps are:

- Submissions (feedback on the proposed Code Amendment) are reviewed.
- A 'what we heard' summary is prepared, outlining the key topics of feedback received, and this is provided along with an engagement evaluation survey to those who made a submission on the proposed Code Amendment.
- The State Planning Commission prepares an engagement report.
- The Minister for Planning makes a decision on the proposed Code Amendment.
- If approved, the Minister's decision and the engagement report are published on the PlanSA website.

**Q – I have further questions and/or concerns about this Code Amendment – who can I contact?**

**A –** If you have further questions about this Code Amendment, please contact the PlanSA Service Desk.

Phone: 1800 752 664

Email: plansa@sa.gov.au

## eNews articles

### Planning Ahead enews

# Planning Ahead

Planning and Land Use Services

December 2024

## Have your say on assessment improvements



Consultation is open on the Assessment Improvements Code Amendment, which proposes technical amendments to South Australia's Planning and Design Code.

This code amendment is an opportunity to improve the Code's general performance, interpretation and consistency, which can lead to better planning outcomes for the benefit of all South Australians.

The proposed amendments have been informed by feedback received by local council, planning industry professionals and other users of the Code. It also forms part of the response to the Planning System Implementation Review, implementing recommendations of the Expert Panel supported by the State Government.

Monitoring and reviewing the Code and identifying where adjustments may be required in response to stakeholder feedback is an ongoing activity of the State Planning Commission and the Planning and Land Use Services division of the Department for Housing and Urban Development.

The draft Assessment Improvements Code Amendment builds upon the Miscellaneous Technical Enhancement Code Amendment, which came into effect on 1 June 2023, and similarly focused on addressing technical and operational elements within the Code, as opposed to changing policy intent or outcomes.

Consultation on the draft Assessment Improvements Code Amendment is open until 5:00 pm Tuesday 4 March 2025.

Your feedback is important and will help to shape the final Code Amendment presented to the Minister for Planning for a decision.

Further information on the draft Code Amendment and how to provide feedback is available on the PlanSA and YourSAy websites.

### PlanSA news story

# Assessment Improvements Code Amendment on consultation

Published Tuesday, 10 December 2024



The State Planning Commission is leading the Assessment Improvements Code Amendment, which proposes a number of technical amendments to South Australia's Planning and Design Code.

The amendments have been informed by feedback received by local council, planning industry professionals and other users of the Code, and seek to improve clarity and the user experience in applying the Code.

The key areas of focus in the draft Assessment Improvements Code Amendment include:

- improvements to the Rules of Interpretation in response to recent case law
- review of language and policy consistency
- ensuring policies are reasonable and practical
- improvements to Land Use and Administrative Definitions
- review of Referrals to government agencies and industry.

Other areas reflected in the proposed amendments concern demolition policy for local heritage places and car parking rates for major open spaces.

The draft Code Amendment also forms part of the state government's response to the Planning System Implementation Review, implementing recommendations of the Expert Panel supported by the state government.

Consultation on the draft Assessment Improvements Code Amendment is open for 12 weeks from 9.00 am Tuesday 10 December 2024 to 5.00 pm Tuesday 4 March 2025.

Further information on the draft Code Amendment and how to provide feedback is available on the PlanSA and YourSAy websites.

See all news

### YourSAy enews



## Policy forum Powerpoint slides

December 2024 Forum

### All about the AICA

- Initiated by the State Planning Commission in line with the commitment to regularly review how the Code is functioning based on feedback from users
- The second technical tune-up of the Code following the Miscellaneous Technical Enhancements Code Amendment (MTECA)
- Informed by feedback received from councils, planning industry professionals and other users of the Code
- Implements some of the recommendations of the Expert Panel that were supported by the state government
- Seeks to improve clarity and the user experience in applying the Code




### Key focus areas of the AICA

**Rules of Interpretation**

- Provide additional clarity about performance assessment following the Geber decision
- Expand the section 71 updating mechanism to include additional Overlays
- Clarify the circumstances in which cadastre adjustments / code spatial layer maintenance updates can occur
- Create a mechanism to update Code policy to reflect / align with the requirements of an Australian Standard

**Language, Consistency and Policy Applicability**

- Expert Panel Recommendation 10 highlighted the need for consistency in Code policy language.
- Review of DTS/DPF policy lists to provide greater clarity and consistency in the use of 'and' and 'or'
- Review of various policy linkages to achieve a consistent approach across land uses in comparable zones
- Removal of policy duplication.
- Policy is reasonable and practical.

### Key focus areas of the AICA

**Referrals**

- Respond to Expert Panel recommendation regarding heritage related referrals
- Review of Overlays and Part 9 in consultation with Agencies to remove duplication and unnecessary referrals
- Review Overlays to see which could benefit from exemption clauses for minor types of development
- Add exemption clause where development has already been subject to referral for the same purpose

**Definitions**

- Ongoing review as recommended by Expert Panel
- Respond to recent case law and feedback from community and practitioners
- Recognise emerging uses

**Targeted Policy Updates**

- Local Heritage Place Overlay – remove 'neglection' as a reason for demolition (Expert Panel Recommendation 72.13)
- Removing requirement for covered car parking spaces in conjunction with residential development (Expert Panel Recommendation 51).
- Establish car parking rate for major public open spaces (Expert Panel Recommendation 72.18)

February 2025 Forum

## Assessment Improvements Code Amendment

PlanSA

- A quick reminder to everyone that consultation on the draft Assessment Improvements Code Amendment closes next Tuesday 4 March
- The draft Assessment Improvements Code Amendment proposes technical amendments to enhance the general performance and operation of the Planning and Design Code.
- The proposed amendments have been informed by feedback received by local council and planning professionals and seek to improve clarity and the user experience in applying the code. They also implement some of the recommendations of the Expert Panel for the Planning System Implementation Review supported by the state government.
- Key areas of focus include:
  - improvements to the Rules of Interpretation in response to recent case law
  - review of language and policy consistency
  - ensuring policies are reasonable and practical
  - improvements to Land Use and Administrative Definitions
  - review of Referrals to government agencies and industry.
- As users of the code, you're encouraged to provide your feedback on the draft code amendment before the **close of consultation 5 pm next Tuesday 4 March** via the PlanSA portal or email PlanSASubmissions@sa.gov.au, subject: Assessment Improvements Code Amendment.

March 2025 Forum

# Assessment Improvements

## What we heard

- Support for streamlined processes under s71 for cadastral updates
- Requests for further clarification regarding interpretation of TNVs in a Designated Performance Feature
- Support for inclusion of new definitions and requests for further new definitions
- Concerns about DTS pathways within Water Resources Overlay
- Concerns about land divisions less than specified TNVs within the Character Preservation Districts Overlay



Government of South Australia
Department for Housing and Urban Development

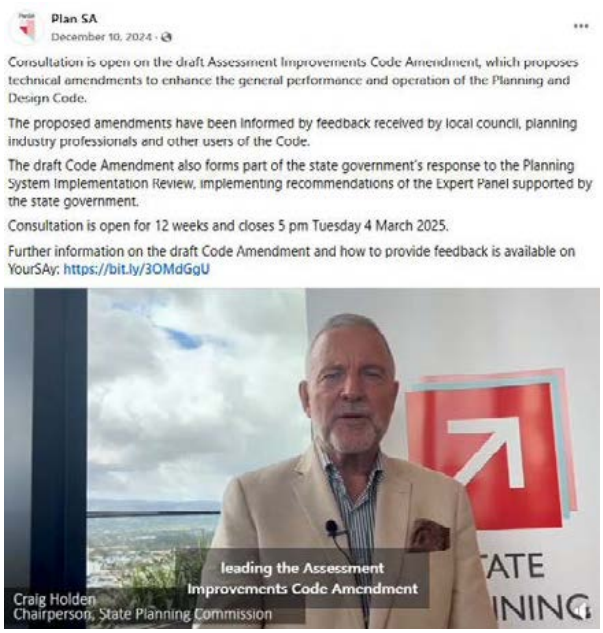
34

## Social media posts

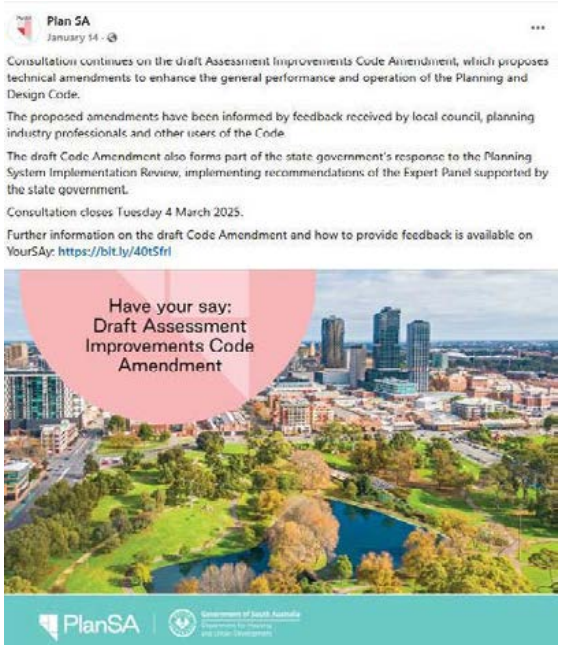
**PlanSA Facebook:** Total reach: 581, Views: 738 Clicks: 7, Interactions (likes, shares, comments, saves): 7

**YourSAy Facebook:** Reach: 5495, Clicks, 115, Interactions: 441

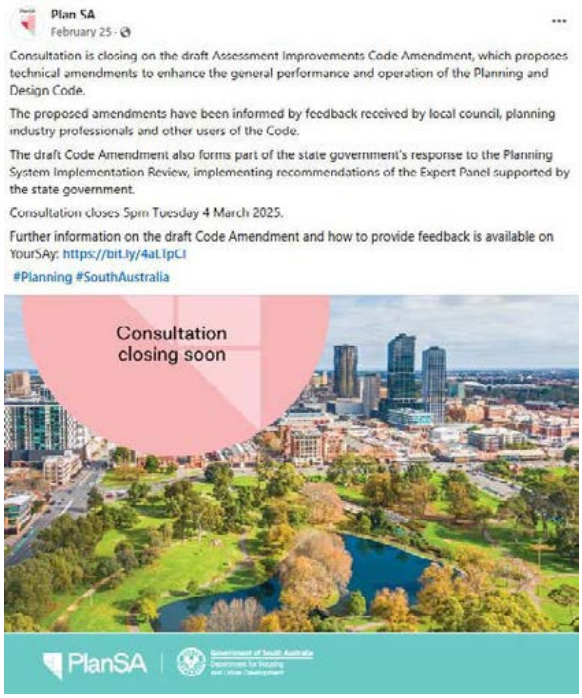
**Facebook post 1:** Reach: 150, Views: 192, Clicks: 3, Interactions: 3

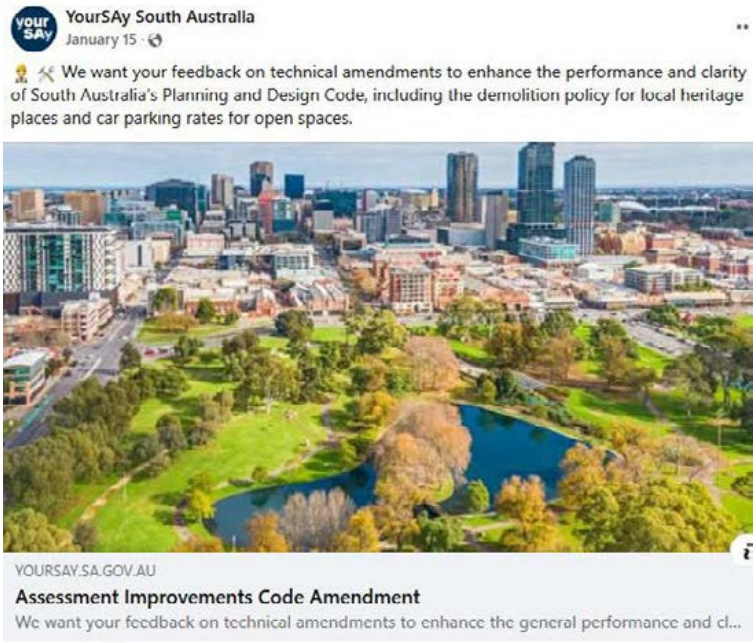



**Facebook post 2:** Reach: 205, Views: 320, Clicks: 0, Interactions 2



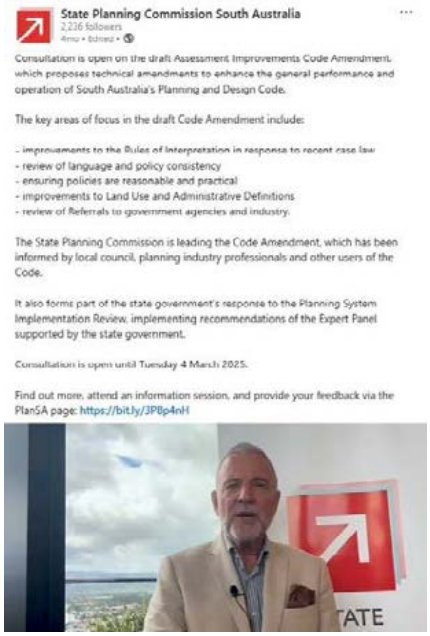

**Facebook post 3:** Reach: 226**,** Views: 226**,** Clicks: 4, Interactions: 2



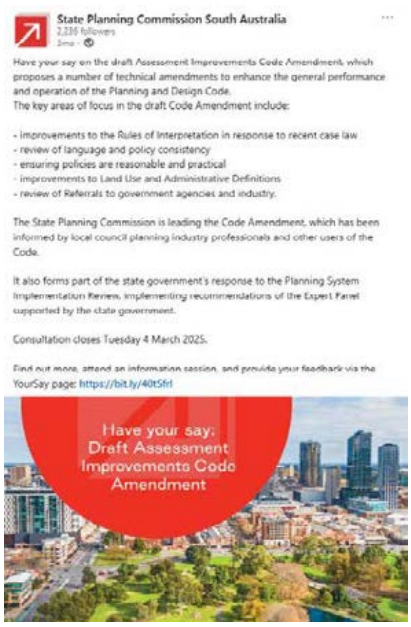



**State Planning Commission LinkedIn:** Total reach: 1519, Impressions: 2798, Clicks: 180, Engagements (reposts, reactions comments): 58, Video views: 845

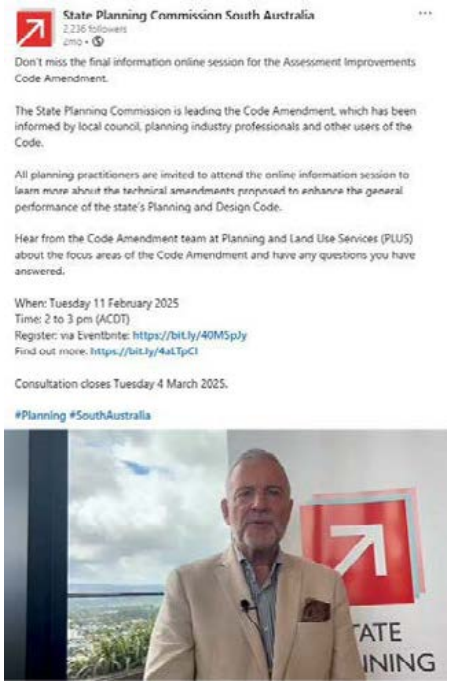
**Post 1:** Reach: 679 Impressions: 1210, Clicks: 86, Engagements: 27, Video views: 505



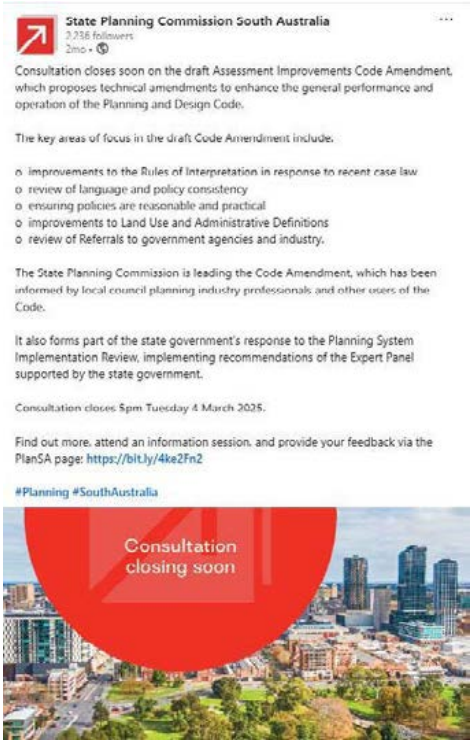

**Post 2:** Reach: 285, Impressions: 487 Clicks: 20, Engagements: 8




**Post 3:** Reach: 412, Impressions: 839 Clicks: 64, Engagements: 16, Video views: 340




**Post 4:** Reach: 143, Impressions: 262, Clicks: 10, Engagements: 7



# Appendix B - Evaluation Survey Responses

Assessment Improvements Code Amendment - engagement evaluation

## #1

COMPLETE

| | |
|---|---|
| **Collector:** | Web Link 1 (Web Link) |
| **Started:** | Wednesday, April 23, 2025 10:57:51 AM |
| **Last Modified:** | Wednesday, April 23, 2025 10:58:42 AM |
| **Time Spent:** | 00:00:50 |
| **IP Address:** | 101.173.5.148 |

Page 1

**Q1**

What is your interest in the draft Assessment Improvements Code Amendment?

**Member of the public**

**Q2**

I feel the engagement genuinely sought my input to help shape the proposal

**Agree**

**Q3**

I am confident my views were heard during the engagement

**Agree**

**Q4**

I was given an adequate opportunity to be heard

**Agree**

**Q5**

I was given sufficient information so that I could take an informed view

**Agree**

**Q6**

I felt informed about why I was being asked for my view, and the way it would be considered

**Neither agree nor disagree**

**Q7**

How did you hear about the draft Assessment Improvements Code Amendment? (Please select all relevant options.)

**Via my local council**

**Q8**

Do you have any other feedback or comments you would like to share on the engagement process?

**Respondent skipped this question**

# #2

COMPLETE

| | |
|---|---|
| **Collector:** | Web Link 1 (Web Link) |
| **Started:** | Wednesday, April 23, 2025 11:02:25 AM |
| **Last Modified:** | Wednesday, April 23, 2025 11:05:28 AM |
| **Time Spent:** | 00:03:02 |
| **IP Address:** | 14.1.95.161 |

Page 1

**Q1**

What is your interest in the draft Assessment Improvements Code Amendment?

**Member of the public**

**Q2**

I feel the engagement genuinely sought my input to help shape the proposal

**Neither agree nor disagree**

**Q3**

I am confident my views were heard during the engagement

**Agree**

**Q4**

I was given an adequate opportunity to be heard

**Agree**

**Q5**

I was given sufficient information so that I could take an informed view

**Agree**

**Q6**

I felt informed about why I was being asked for my view, and the way it would be considered

**Agree**

**Q7**

How did you hear about the draft Assessment Improvements Code Amendment? (Please select all relevant options.)

**Direct letter/email,**

**PlanSA website,**

Other (please specify):

other locals

**Q8**

Do you have any other feedback or comments you would like to share on the engagement process?

**Respondent skipped this question**

# #3

COMPLETE

**Collector:** Web Link 1 (Web Link)
**Started:** Wednesday, April 23, 2025 11:10:47 AM
**Last Modified:** Wednesday, April 23, 2025 11:11:32 AM
**Time Spent:** 00:00:45
**IP Address:** 180.150.112.245

Page 1

**Q1**

What is your interest in the draft Assessment Improvements Code Amendment?

**Development industry**

**Q2**

I feel the engagement genuinely sought my input to help shape the proposal

**Agree**

**Q3**

I am confident my views were heard during the engagement

**Neither agree nor disagree**

**Q4**

I was given an adequate opportunity to be heard

**Agree**

**Q5**

I was given sufficient information so that I could take an informed view

**Agree**

**Q6**

I felt informed about why I was being asked for my view, and the way it would be considered

**Agree**

**Q7**

How did you hear about the draft Assessment Improvements Code Amendment? (Please select all relevant options.)

**Direct letter/email**

**Q8**

Do you have any other feedback or comments you would like to share on the engagement process?

**Respondent skipped this question**

# #4

COMPLETE

| | |
|---|---|
| **Collector:** | Web Link 1 (Web Link) |
| **Started:** | Wednesday, April 23, 2025 12:15:07 PM |
| **Last Modified:** | Wednesday, April 23, 2025 12:20:26 PM |
| **Time Spent:** | 00:05:18 |
| **IP Address:** | 1.147.105.46 |

Page 1

**Q1**

What is your interest in the draft Assessment Improvements Code Amendment?

**Member of the public**

**Q2**

I feel the engagement genuinely sought my input to help shape the proposal

**Disagree**

**Q3**

I am confident my views were heard during the engagement

**Neither agree nor disagree**

**Q4**

I was given an adequate opportunity to be heard

**Agree**

**Q5**

I was given sufficient information so that I could take an informed view

**Neither agree nor disagree**

**Q6**

I felt informed about why I was being asked for my view, and the way it would be considered

**Neither agree nor disagree**

**Q7**

How did you hear about the draft Assessment Improvements Code Amendment? (Please select all relevant options.)

**YourSAy website/e-newsletter,**

**Via my local council**

**Q8**

Do you have any other feedback or comments you would like to share on the engagement process?

I feel continuously with these planning changes that local residents are losing their right to have a say as to what is being built next to them. It still seems to be weighted towards developers and I don't really feel that grass roots residents' opinions are being listened to.

# #5

COMPLETE

| | |
|---|---|
| **Collector:** | Web Link 1 (Web Link) |
| **Started:** | Wednesday, April 23, 2025 12:53:44 PM |
| **Last Modified:** | Wednesday, April 23, 2025 12:56:06 PM |
| **Time Spent:** | 00:02:21 |
| **IP Address:** | 115.131.93.46 |

Page 1

**Q1**

What is your interest in the draft Assessment Improvements Code Amendment?

**Member of the public**

**Q2**

I feel the engagement genuinely sought my input to help shape the proposal

**Neither agree nor disagree**

**Q3**

I am confident my views were heard during the engagement

**Disagree**

**Q4**

I was given an adequate opportunity to be heard

**Neither agree nor disagree**

**Q5**

I was given sufficient information so that I could take an informed view

**Neither agree nor disagree**

**Q6**

I felt informed about why I was being asked for my view, and the way it would be considered

**Neither agree nor disagree**

**Q7**

How did you hear about the draft Assessment Improvements Code Amendment? (Please select all relevant options.)

**Direct letter/email**

**Q8**

Do you have any other feedback or comments you would like to share on the engagement process?

Is it worth the effort? For example, Tower 2  approval adjacent Parliament House, when the people wanted a Greek style open theatre.

# #6

COMPLETE

| | |
|---|---|
| **Collector:** | Web Link 1 (Web Link) |
| **Started:** | Thursday, April 24, 2025 9:46:00 PM |
| **Last Modified:** | Thursday, April 24, 2025 9:54:28 PM |
| **Time Spent:** | 00:08:28 |
| **IP Address:** | 203.26.122.15 |

Page 1

**Q1**

What is your interest in the draft Assessment Improvements Code Amendment?

**Member of the public**

**Q2**

I feel the engagement genuinely sought my input to help shape the proposal

**Disagree**

**Q3**

I am confident my views were heard during the engagement

**Disagree**

**Q4**

I was given an adequate opportunity to be heard

**Neither agree nor disagree**

**Q5**

I was given sufficient information so that I could take an informed view

**Agree**

**Q6**

I felt informed about why I was being asked for my view, and the way it would be considered

**Agree**

**Q7**

How did you hear about the draft Assessment Improvements Code Amendment? (Please select all relevant options.)

**YourSAy website/e-newsletter,**

**Via my local council**

**Q8**

Do you have any other feedback or comments you would like to share on the engagement process?

Even though the process is pleasant and polite, I feel a lot of consultation is tokenistic and decisions have already been made by higher ranking bureaucrats.  Vested interests generally trump community concerns, as money wins (and yes I used the term 'trump' quite deliberately - it's very appropriate).

# #7

COMPLETE

| | |
|---|---|
| **Collector:** | Web Link 1 (Web Link) |
| **Started:** | Monday, April 28, 2025 9:42:31 AM |
| **Last Modified:** | Monday, April 28, 2025 9:43:25 AM |
| **Time Spent:** | 00:00:54 |
| **IP Address:** | 203.220.101.42 |

Page 1

**Q1**

What is your interest in the draft Assessment Improvements Code Amendment?

**Advocacy organisation**

**Q2**

I feel the engagement genuinely sought my input to help shape the proposal

**Agree**

**Q3**

I am confident my views were heard during the engagement

**Agree**

**Q4**

I was given an adequate opportunity to be heard

**Disagree**

**Q5**

I was given sufficient information so that I could take an informed view

**Disagree**

**Q6**

I felt informed about why I was being asked for my view, and the way it would be considered

**Agree**

**Q7**

How did you hear about the draft Assessment Improvements Code Amendment? (Please select all relevant options.)

Other (please specify):

Checking YourSAy Website

**Q8**

Do you have any other feedback or comments you would like to share on the engagement process?

**Respondent skipped this question**

# #8

COMPLETE

| | |
|---|---|
| **Collector:** | Web Link 1 (Web Link) |
| **Started:** | Tuesday, April 29, 2025 11:07:56 AM |
| **Last Modified:** | Tuesday, April 29, 2025 11:12:56 AM |
| **Time Spent:** | 00:05:00 |
| **IP Address:** | 203.41.174.82 |

Page 1

**Q1**

What is your interest in the draft Assessment Improvements Code Amendment?

**Council**

**Q2**

I feel the engagement genuinely sought my input to help shape the proposal

**Agree**

**Q3**

I am confident my views were heard during the engagement

**Neither agree nor disagree**

**Q4**

I was given an adequate opportunity to be heard

**Agree**

**Q5**

I was given sufficient information so that I could take an informed view

**Agree**

**Q6**

I felt informed about why I was being asked for my view, and the way it would be considered

**Agree**

**Q7**

How did you hear about the draft Assessment Improvements Code Amendment? (Please select all relevant options.)

**Direct letter/email,**

**Online information session,**

**Planning Ahead e-newsletter,**

**YourSAy website/e-newsletter,**

**PlanSA website**

**Q8**

Do you have any other feedback or comments you would like to share on the engagement process?

**Respondent skipped this question**

# #9

COMPLETE

| | |
|---|---|
| **Collector:** | Web Link 1 (Web Link) |
| **Started:** | Tuesday, April 29, 2025 3:00:38 PM |
| **Last Modified:** | Tuesday, April 29, 2025 3:02:31 PM |
| **Time Spent:** | 00:01:53 |
| **IP Address:** | 14.2.113.26 |

Page 1

**Q1**

What is your interest in the draft Assessment Improvements Code Amendment?

**Member of the public**

**Q2**

I feel the engagement genuinely sought my input to help shape the proposal

**Agree**

**Q3**

I am confident my views were heard during the engagement

**Agree**

**Q4**

I was given an adequate opportunity to be heard

**Agree**

**Q5**

I was given sufficient information so that I could take an informed view

**Neither agree nor disagree**

**Q6**

I felt informed about why I was being asked for my view, and the way it would be considered

**Agree**

**Q7**

How did you hear about the draft Assessment Improvements Code Amendment? (Please select all relevant options.)

**Direct letter/email,**

**Media (newspaper, radio, television),**

**Social media,**

**YourSAy website/e-newsletter**

**Q8**

Do you have any other feedback or comments you would like to share on the engagement process?

**Respondent skipped this question**

# #10

COMPLETE

| | |
|---|---|
| **Collector:** | Web Link 1 (Web Link) |
| **Started:** | Tuesday, May 06, 2025 2:54:25 PM |
| **Last Modified:** | Tuesday, May 06, 2025 2:54:58 PM |
| **Time Spent:** | 00:00:33 |
| **IP Address:** | 27.33.210.34 |

Page 1

**Q1**

What is your interest in the draft Assessment Improvements Code Amendment?

**Council**

**Q2**

I feel the engagement genuinely sought my input to help shape the proposal

**Agree**

**Q3**

I am confident my views were heard during the engagement

**Agree**

**Q4**

I was given an adequate opportunity to be heard

**Agree**

**Q5**

I was given sufficient information so that I could take an informed view

**Agree**

**Q6**

I felt informed about why I was being asked for my view, and the way it would be considered

**Agree**

**Q7**

How did you hear about the draft Assessment Improvements Code Amendment? (Please select all relevant options.)

**Direct letter/email,**

**PlanSA website,**

**Planning Policy Forum**

**Q8**

Do you have any other feedback or comments you would like to share on the engagement process?

**Respondent skipped this question**

# #11

COMPLETE

| | |
|---|---|
| **Collector:** | Web Link 1 (Web Link) |
| **Started:** | Tuesday, May 06, 2025 8:40:12 PM |
| **Last Modified:** | Tuesday, May 06, 2025 8:44:34 PM |
| **Time Spent:** | 00:04:22 |
| **IP Address:** | 59.102.33.183 |

Page 1

**Q1**

What is your interest in the draft Assessment Improvements Code Amendment?

**Member of the public**

**Q2**

I feel the engagement genuinely sought my input to help shape the proposal

**Neither agree nor disagree**

**Q3**

I am confident my views were heard during the engagement

**Disagree**

**Q4**

I was given an adequate opportunity to be heard

**Agree**

**Q5**

I was given sufficient information so that I could take an informed view

**Agree**

**Q6**

I felt informed about why I was being asked for my view, and the way it would be considered

**Agree**

**Q7**

How did you hear about the draft Assessment Improvements Code Amendment? (Please select all relevant options.)

**Direct letter/email**

**Q8**

Do you have any other feedback or comments you would like to share on the engagement process?

Is it of any use? It appears from previous engagements that public interests are dismissed, with favour to vested interests and developers.

# #12

COMPLETE

| | |
|---|---|
| **Collector:** | Web Link 1 (Web Link) |
| **Started:** | Tuesday, May 06, 2025 8:55:16 PM |
| **Last Modified:** | Tuesday, May 06, 2025 8:56:49 PM |
| **Time Spent:** | 00:01:33 |
| **IP Address:** | 124.184.166.28 |

Page 1

**Q1**

What is your interest in the draft Assessment Improvements Code Amendment?

**Member of the public**

**Q2**

I feel the engagement genuinely sought my input to help shape the proposal

**Neither agree nor disagree**

**Q3**

I am confident my views were heard during the engagement

**Neither agree nor disagree**

**Q4**

I was given an adequate opportunity to be heard

**Neither agree nor disagree**

**Q5**

I was given sufficient information so that I could take an informed view

**Agree**

**Q6**

I felt informed about why I was being asked for my view, and the way it would be considered

**Neither agree nor disagree**

**Q7**

How did you hear about the draft Assessment Improvements Code Amendment? (Please select all relevant options.)

**PlanSA website**

**Q8**

Do you have any other feedback or comments you would like to share on the engagement process?

**Respondent skipped this question**

# #13

COMPLETE

**Collector:** Web Link 1 (Web Link)
**Started:** Wednesday, May 07, 2025 9:23:07 AM
**Last Modified:** Wednesday, May 07, 2025 9:26:29 AM
**Time Spent:** 00:03:21
**IP Address:** 180.150.36.242

Page 1

**Q1**

What is your interest in the draft Assessment Improvements Code Amendment?

**Development industry**

**Q2**

I feel the engagement genuinely sought my input to help shape the proposal

**Agree**

**Q3**

I am confident my views were heard during the engagement

**Neither agree nor disagree**

**Q4**

I was given an adequate opportunity to be heard

**Agree**

**Q5**

I was given sufficient information so that I could take an informed view

**Agree**

**Q6**

I felt informed about why I was being asked for my view, and the way it would be considered

**Neither agree nor disagree**

**Q7**

How did you hear about the draft Assessment Improvements Code Amendment? (Please select all relevant options.)

Other (please specify):

Word of mouth

**Q8**

Do you have any other feedback or comments you would like to share on the engagement process?

Re: "I am confident my views were heard during the engagement"
I don't really think you can ask whether we felt heard as you have taken the submissions but not asked any questions of clarification, so we can only assume our input has been considered.

# #14

COMPLETE

| | |
|---|---|
| **Collector:** | Web Link 1 (Web Link) |
| **Started:** | Wednesday, May 07, 2025 10:04:22 AM |
| **Last Modified:** | Wednesday, May 07, 2025 10:15:50 AM |
| **Time Spent:** | 00:11:27 |
| **IP Address:** | 58.174.79.6 |

Page 1

**Q1**

What is your interest in the draft Assessment Improvements Code Amendment?

**Member of the public**

**Q2**

I feel the engagement genuinely sought my input to help shape the proposal

**Neither agree nor disagree**

**Q3**

I am confident my views were heard during the engagement

**Neither agree nor disagree**

**Q4**

I was given an adequate opportunity to be heard

**Disagree**

**Q5**

I was given sufficient information so that I could take an informed view

**Neither agree nor disagree**

**Q6**

I felt informed about why I was being asked for my view, and the way it would be considered

**Neither agree nor disagree**

**Q7**

How did you hear about the draft Assessment Improvements Code Amendment? (Please select all relevant options.)

Other (please specify):

Local MP

**Q8**

Do you have any other feedback or comments you would like to share on the engagement process?

Stop building on the most productive farmland we have left. That includes B&B's for so called tourism which are subdivisions by stealth.

# #15

COMPLETE

| | |
|---|---|
| **Collector:** | Web Link 1 (Web Link) |
| **Started:** | Wednesday, May 07, 2025 11:48:31 AM |
| **Last Modified:** | Wednesday, May 07, 2025 11:49:48 AM |
| **Time Spent:** | 00:01:16 |
| **IP Address:** | 203.26.123.34 |

Page 1

**Q1**

What is your interest in the draft Assessment Improvements Code Amendment?

**State agency**

**Q2**

I feel the engagement genuinely sought my input to help shape the proposal

**Agree**

**Q3**

I am confident my views were heard during the engagement

**Agree**

**Q4**

I was given an adequate opportunity to be heard

**Agree**

**Q5**

I was given sufficient information so that I could take an informed view

**Agree**

**Q6**

I felt informed about why I was being asked for my view, and the way it would be considered

**Agree**

**Q7**

How did you hear about the draft Assessment Improvements Code Amendment? (Please select all relevant options.)

**PlanSA website**

**Q8**

Do you have any other feedback or comments you would like to share on the engagement process?

The options to engage via yourSAY vs PlanSA is confusing and timing of the engagement activities were inconsistent in terms of when the consultation closed.

## Results and evaluation of Designated Entity's engagement

The engagement was evaluated by Kelly Brown, Communications and Engagement Specialist, Planning and Land Use Services within the Department for Housing and Urban Development.

| | **Evaluation statement** | **Response options (*Select answer)*** |
|---|---|---|
| **1** | Engagement **occurred early enough** for feedback to genuinely influence the planning policy, strategy or scheme **(Principle 1)** | ▪ Engaged when there was opportunity for input into scoping.<br>▪ Engaged when there was opportunity for input into first draft.<br>✓ Engaged when there was opportunity for minor edits to final draft.<br>▪ Engaged when there was no real opportunity for input to be considered.<br><br>Key stakeholders were notified of the Code Amendment directly via letter emailed on the first day of the consultation period to provide enough time to make a submission and influence the final draft.<br><br>It's also worth adding that the Code Amendment was informed by feedback on the Planning and Design Code received by stakeholders including local councils, planning practitioners and other users of the code. |
| **2** | Engagement **contributed to the substance** of the Code Amendment **(Principle 1)** | ▪ In a significant way<br>✓ In a moderate way<br>▪ In a minor way<br>▪ Not at all.<br><br>All feedback received was carefully considered and responded to in the engagement report with much of the feedback in support of the proposed rezoning and overlays.<br><br>As a result of the feedback received the Concept Plan has been amended to extend the Landscape Buffer further east onto Lot 62 and change the 'Shared Use Path' to 'Potential Shared Use Path Alignment' in the legend. |
| **3** | The **engagement reached** those identified as the community of interest **(Principle 2)** | ✓ Representatives from most community groups participated in the engagement.<br>▪ Representatives from some community groups participated in the engagement.<br>▪ There was little representation of the community groups in engagement.<br><br>All stakeholders with the exception of the general public identified in the Engagement Plan were directly contacted via letter emailed.<br><br>A wide range of other communications were delivered to reach all stakeholders. The engagement evaluation survey indicated those who |

| | | |
|---|---|---|
| | | responded heard about the Code Amendment from 13 different sources.<br><br>Submissions were received from representatives from all stakeholder groups identified in the Engagement Plan. |
| **4** | Engagement included the **provision of feedback to community about outcomes** of their participation | ✓ Formally (report or public forum).<br>▪ Informally (closing summaries).<br>▪ No feedback provided.<br><br>All submissions were acknowledged upon receipt.<br><br>Everyone who provided feedback on the draft Code Amendment and submitted their contact details was directly emailed a copy of the 'what we heard' report, providing a summary of the engagement process and key themes raised during the consultation as well as information about the next steps in finalising the Code Amendment.<br><br>The engagement report, providing detailed analysis and responses to all feedback and evaluation of the engagement process, will be published on the PlanSA and YourSAy websites and all key stakeholders and people who submitted feedback will be provided with a direct link. |
| **5** | **Engagement was reviewed** throughout the process and improvements put in place, or recommended for future engagement **(Principle 5)** | ▪ Reviewed and recommendations made in a systematic way.<br>✓ Reviewed but no system for making recommendations.<br>▪ Not reviewed.<br><br>Engagement was reviewed throughout the process and improvements implemented to expand the reach of information to relevant groups. Improvements included directly inviting planning practitioners to the final online information and sending reminder emails about the close of consultation and the engagement evaluation survey, to encourage greater participation.<br><br>Recommendations have been made in this report that future engagements involving similar key stakeholders include direct invitations to information sessions for planning/policy forum attendees and reminder emails in the lead up to the close of consultation and engagement evaluation surveys. |
| | Identify key strength of the Charter and Guide | The Charter encourages best practice engagement to ensure stakeholders and community have the opportunity to influence decisions that impact or interest them. |
| | Identify key challenge of the Charter and Guide | Gathering stakeholder and community views to evaluate the engagement process prior to a decision being made and the detailed submissions analysis and response being published (engagement report) makes it difficult for |

| | | |
|---|---|---|
| | | stakeholders and community to evaluate whether they feel their views were heard and genuinely considered. |

# Appendix C - Copy of Public Submissions Received

**From:** Albert Errey-White
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act
**Date:** Thursday, 27 February 2025 5:34:30 PM

You don't often get email from [redacted]. Learn why this is important

To whom it may concern, The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, “almost ineffectual to prevent the creation of small allotments”.

Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions.

I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].

I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

**From:** Alice Barnett
**To:** DHUD:PlanSA Submissions
**Cc:** mawson@parliament.sa.gov.au
**Subject:** McLaren Vale region - Character Preservation Act
**Date:** Thursday, 27 February 2025 8:28:55 PM

---

You don't often get email from [redacted]. Learn why this is important

To whom it may concern

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Kind regards
Alice Barnett

**From:** Andrew Libralato
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act
**Date:** Thursday, 27 February 2025 11:18:05 PM

You don't often get email from [redacted]. Learn why this is important

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Get Outlook for iOS

**From:** Gavin Malone
**To:** DHUD:PlanSA Submissions
**Subject:** Assessment Improvements Code Amendment
**Date:** Tuesday, 4 March 2025 9:41:53 AM

---

You don't often get email from [redacted]. Learn why this is important

Hello

As the owner and land steward of a 16-ha parcel of land undergoing biodiversity regeneration near McLaren Vale I am extremely alarmed to be advised that the full intent of the Character Preservation (McLaren Vale) Act 2012 has not been reflected in the Planning and Design Code.

I am aware of multiple submissions regarding the technical aspects of the Assessments Improvements so therefore wish to draw your attention to another aspect, and that is biodiversity preservation and regeneration in the region.

Since the promulgation of the Character Preservation Act there has been a significant increase in community awareness and action regarding regional (and national) biodiversity preservation and regeneration. I suggest to you that creation of smaller allotment sizes in the region will mitigate against biodiversity. Creation of smaller allotments normally leads to closer development, particularly of the built environment, which rarely provides for biodiversity regeneration.

South Australia's Biodiversity Act, currently under development, reflects both the need for and trend towards biodiversity considerations in all levels of government policy and community outcomes. Creation of smaller allotments is I suggest at odds with the policy intent of the new Biodiversity Act.

I strongly support the full retention of the 16ha minimum allotment subdivision size in the Character Preservation regions.

Kind regards

Dr Gavin Malone

--

***Gavin Malone***

*Visual Artist and Cultural Geographer*

*Co-founder CRED: Cultural Research Education Design*

*Lot 50-Kanyanyapilla: Bi-cultural Ecological and Cultural Regeneration*

gavinmaloneartist.com

credadl.com

lot50kanyanyapilla.com

**From:** [redacted]
**To:** DHUD:PlanSA Submissions
**Subject:** Assessment Improvements Code Amendment
**Date:** Monday, 10 March 2025 1:52:44 PM

Once again, I wish to submit comments on the Assessment improvement Code Amendment.
It is apparent that Local, State and Federal governments do not take into account the effects of their decisions especially when they panic in the case of the shortage of housing, the energy situation and finally health issues.
I will provide an example:

a. Housing shortage creates the implementation of rush subdivision and other methods (row housing)
b. Smaller allotments are created but in many cases the infrastructure isn't in place to support these residential developments.
c. Road widths are reduced, that make it nearly or more expensive to access materials to the sites
d. Roads from one development do not necessarily connect to the next or lead to a main exit of sufficient width to allow for easy access for all types of vehicles such as heavy cement trucks and delivery tricks to the site without running the gauntlet of vehicle parked on either or both sides of the road.
e. Construction on site is hampered by other construction happening on the access road.
f. Because of the lack of understanding there is a lack of understanding on how the expansion of these subdivisions are impacting on existing infrastructure, (over al view by someone with the knowledge of the overall impact
g. Health issues can.t fit workman's toilets on the site and in many cases, they are placed at the front of the allotment development right next to the footpath and in some subdivisions can be connected to sewer or CWWS but in other a bored hole.
h. Dwellings are approved close to adjoining boundaries providing limited access to construction workers , Tradesmen ETC.
i. Requirement for light and ventilation are limited especially on sloping sites. where let's say a 1 metre retaining wall is required by law and the adjoining owners place a 1.8 metre fence on top of the retaining wall creating a 3 metre division that doesn't provide sufficient natural light and ventilation into the room facing this boundary area.
j. Rainwater tanks that are required under legislation to be installed to reduce the need for mains water can't be installed as no room is available to install them. Just look on Market place to see how many are being sold because of this reason.
k. Access to the reduced back yards is limited for repairs to the property by tradesmen, repairmen, ETC.
l. Access to these subdivisions is Hindered for Emergency Vehicle in case of an emergency.
m. The dwellings are so close together that if in a bush fire designated area sparks and

embers would accumulate on the roofs of dwellings and pergolas, that are so close together would allow the spread of fire and prevent access for fire fighters and emergency personal.

n. How can a government push energy efficiency when it produces Dwelling's, Row Dwellings that have to use more energy for the population to live without causing economic hardship
o. Further the Local councils receive more complaints from noisy Air conditioners as they are closer to adjoining owners and in some cases because of the retaining wall fence issue as mentioned reverberates between the house wall and retaining wall fence.
p.

I could keep on going but I feel that the above-mentioned issues will be to hard for Bureaucrats to understand or find too hard to be able to at least start to implement as it appears once again like the Insulation Fiasco it is now to hard to understand the conflicts created to common sense outcomes Health issues are what moved civilization's, countries  forward and now we are ignoring those issues.
If this type of thinking and development keep going Heath issues will rise and the cost to us will not only be enormous in spread of infections and deaths but our living standards will go backwards, as they have started to do already even further.

Kind Regards
Mr. Clarence Fisher
[redacted]
[redacted]
Retired MAIEH, MAIBS, MPIA

[redacted]

**From:** Ben Quinn
**To:** mawson@parliament.sa.gov.au; Bignell, Leon; DHUD:PlanSA Submissions
**Subject:** Assessment Improvement Code Amendment
**Date:** Friday, 28 February 2025 10:26:57 AM
**Attachments:** image001.jpg

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You don't often get email from [redacted]. Learn why this is important

Dear Leon,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions.

I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].

I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you and regards,



---

**Ben Quinn**
*Customer Service Specialist*

---

**M** [redacted]
**T** +61 (0) 8323 0056
**F** +61 (0) 8 8323 7348
PO Box 748 McLaren Vale
South Australia 5171

**winegrapes.com.au**

---

**From:** [redacted]
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Mclaren Vale Character Preservation Act
**Date:** Thursday, 27 February 2025 6:21:31 PM

You don't often get email from [redacted] Learn why this is important

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Feedback for the Assessment Improvements Code Amendment

This relates to the following Overlays along state-maintained roads:

- Key Outback and Rural Routes
- Major Urban Transport Routes
- Urban Transport Routes

When assessing a building in the above Overlays, the Code requires:

- An access depth of at least 6m
- Clear sightlines (distance is specified in the DTS/DPF criteria)
- Clear pedestrian sightlines to satisfy the Australian Standard

This prevents tall fencing or gates around an access point. However, this does not prevent a fence from being constructed afterwards. A fence under 2.1m in height would be exempt from approval apart from on corner blocks.

Suggested changes:

1. Add the above Overlays to Part 5 Table 1 of the Code so a fence requires approval under Schedule 4 Section 4(d)(i)(B) of the Regs – would fit alongside Hills Face Zone and Significant Landscape Protection Overlay
2. Apply policies regarding sightlines and access depth when fence is selected as an element, currently the Code extract will only show the corner cut-off policy

Thank you for your consideration.

Kind regards,

- Callum Hastie

UNOFFICIAL

**From:** Trevor Fairhall
**To:** DHUD:PlanSA Submissions
**Cc:** mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act
**Date:** Monday, 3 March 2025 7:38:23 PM

You don't often get email from [redacted]. Learn why this is important

**Dear Plan SA,**

We live in McLaren Flat, a beautiful rural area surrounded by wineries, rolling hills and stunning beaches. We moved here 5 years ago because of this unique area. *We write with serious concern about the future of our area and we ask that you act to protect it.*

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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We understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem (including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay).

***We respectfully urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.***

We thank you for helping to protect this incredibly special region.

Regards
Trevor and Annette Fairhall

**From:** Annette Fairhall
**To:** DHUD:PlanSA Submissions
**Cc:** mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act
**Date:** Monday, 3 March 2025 7:16:15 PM

You don't often get email from [redacted]. Learn why this is important

Dear Plan SA,

We live in McLaren Flat, a beautiful rural area surrounded by wineries, rolling hills and stunning beaches. We moved here 5 years ago because of this unique area. We write with serious concern about the future of our area and we ask that you act to protect it.

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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We respectfully urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

We thank you for helping to protect this incredibly special region.

Thanks in Advance
Annette and Trevor Fairhall
[redacted]

**From:** Barry Camfield
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson EO
**Subject:** Character Preservation Act
**Date:** Monday, 3 March 2025 11:07:58 AM

---

You don't often get email from [redacted]. Learn why this is important

**Dear Plan SA,**

We live in McLaren Flat, a beautiful rural area surrounded by wineries, rolling hills and stunning beaches. We moved here 13 years ago because of this unique area. *We write with serious concern about the future of our area and we ask that you act to protect it.*

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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***We respectfully urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.***

We thank you for helping to protect this incredibly special region.

**Barry & Ann Camfield**

[redacted]

**From:** Sophie Pfaerhoever
**To:** DHUD:PlanSA Submissions
**Cc:** mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act
**Date:** Monday, 3 March 2025 11:00:18 AM

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You don't often get email from [redacted]. Learn why this is important

To Whom It May Concern,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments". Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions. I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay]. I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions. Thank you for helping protect this incredibly special region.

**From:** Jenny Woodley
**To:** DHUD:PlanSA Submissions
**Subject:** Assessment Improvement Code Amendment
**Date:** Monday, 3 March 2025 9:56:52 AM

You don't often get email from [redacted]. Learn why this is important

To Whom It may Concern

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Jenny Woodley

Resident [redacted]

**From:** Chelsea @ Shadow Creek
**To:** Mawson EO; Bignell, Leon; DHUD:PlanSA Submissions
**Subject:** Assessment Improvement Code Amendment
**Date:** Friday, 28 February 2025 10:37:01 AM

---

You don't often get email from [redacted]. Learn why this is important

Good morning Leon and Plan SA,

I am emailing to support the Character Preservation Act (CPA) and the spirit in which it was originally drafted and implemented. And the amendments needed to strengthen the CPA and the protections that should be afforded the zone to limit subdivisions.

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

I appreciate your time reading my submission.

Many thanks,

Chelsea

Chelsea Boylan
**Shadow Creek McLaren Vale**

[redacted]

**E:** [redacted]
**W:** https://www.shadowcreek.com.au
**Instagram:** @shadowcreek_mclarenvale/

Or simply Book Now

Rifle Range Road McLaren Vale SA 5171
PO Box 813 McLaren Vale SA 5171

**Gongs!!!**

**Winner** Tourism Category McLaren Vale Business & Tourism Association Awards
**Finalist** SA Tourism Awards

**From:** Cherise Vallet
**To:** mawson@parliament.sa.gov.au; Bignell, Leon; DHUD:PlanSA Submissions
**Subject:** FW: Assessment Improvement Code Amendment
**Date:** Friday, 28 February 2025 4:28:26 PM

You don't often get email from [redacted]. Learn why this is important

Dear Leon,
The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Regards,
Cherise Vallet

| | |
|---|---|
| **From:** | Christina Repetti |
| **To:** | DHUD:PlanSA Submissions |
| **Cc:** | Mawson EO |
| **Subject:** | The Character Preservation Act must be upheld and protected |
| **Date:** | Thursday, 27 February 2025 10:57:43 PM |

[You don't often get email from [redacted]. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification ]

To Whom it may concern,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, “almost ineffectual to prevent the creation of small allotments”.

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Thank you for helping protect this incredibly special region.

Kind regards,

Christina Repetti
Gavin Collings
Regional business owners and residents for 15 years.

| | |
|---|---|
| **From:** | Clare Baldwin |
| **To:** | DHUD:PlanSA Submissions |
| **Cc:** | mawson@parliament.sa.gov.au |
| **Subject:** | CPA Mclaren Vale |
| **Date:** | Thursday, 27 February 2025 7:08:29 PM |

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[You don't often get email from [redacted]. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification ]

Dear Sir/Madam,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, “almost ineffectual to prevent the creation of small allotments”.

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Thank you for helping protect this incredibly special region.

Yours sincerely,

Clare Baldwin

**From:** CORRADO CARIDI
**To:** DHUD:PlanSA Submissions
**Subject:** unhappy resident
**Date:** Thursday, 27 February 2025 6:35:34 PM

---

[You don't often get email from [redacted]. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification ]

TO planing S.A I Am very angry that the mclaren preservation has not been met and allowing developers into mclaren flat to destroy our region.Whats more where are the infrastructure here there is already not enough  medical practioners xrays doctors etc..Whats going on here.Laws are meant to be adhered to not finding loopholes to destroy our country life and our vineyards our food basket in this region,, come on government..What next nuclear power in mclaren vale districts..

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, “almost ineffectual to prevent the creation of small allotments”.
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Thank you for helping protect this incredibly special region.

**From:** Corrina
**To:** mawson@parliament.sa.gov.au; Bignell, Leon; DHUD:PlanSA Submissions
**Subject:** Character Preservation Act for McLaren Vale & surrounds
**Date:** Friday, 28 February 2025 10:45:34 AM
**Attachments:** image001.png

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You don't often get email from [redacted] Learn why this is important

Dear Leon,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

I know that you take the preservation of our rural land in our region seriously, and I am the first to admit that I am not across the detail of this recent threat (vintage in the way of anything else taking up brain space at this moment!), but I trust that you will continue to make sure that we are able to keep our rural farming region protected from housing developments.

Regards,

**From:** Corrina
**To:** mawson@parliament.sa.gov.au; Bignell, Leon; DHUD:PlanSA Submissions
**Subject:** Character Preservation Act for McLaren Vale & surrounds
**Date:** Friday, 28 February 2025 10:45:34 AM
**Attachments:** image001.png

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You don't often get email from [redacted]. Learn why this is important

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I know that you take the preservation of our rural land in our region seriously, and I am the first to admit that I am not across the detail of this recent threat (vintage in the way of anything else taking up brain space at this moment!), but I trust that you will continue to make sure that we are able to keep our rural farming region protected from housing developments.

Regards,

**From:** Philip Lovett
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act.
**Date:** Thursday, 27 February 2025 5:16:19 PM

---

You don't often get email from [redacted]. Learn why this is important

Please support the Character Preservation Act from being gutted by rural land owners seeking to circumvent the CPA via a recently identified planning loophole.

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions.

I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].

I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

[redacted]

**From:** Dudley Brown
**To:** DHUD:PlanSA Submissions
**Cc:** Leon Bignell
**Subject:** Assessment Improvement Code Amendment
**Date:** Thursday, 27 February 2025 1:38:29 PM

---

You don't often get email from [redacted]. Learn why this is important

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].

I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Dudley Brown
[redacted]
[redacted]

| | |
|---|---|
| **From:** | elena citron |
| **To:** | DHUD:PlanSA Submissions |
| **Cc:** | Mawson@parliament.sa.gov.au |
| **Subject:** | McLaren Vale Rural Zone residential purpose |
| **Date:** | Thursday, 27 February 2025 5:18:09 PM |

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[Non ricevi spesso messaggi di posta elettronica da [redacted]. Per informazioni sull'importanza di questo fatto, visita https://aka.ms/LearnAboutSenderIdentification.]

Dear,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, “almost ineffectual to prevent the creation of small allotments”.

Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions.

I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].

I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Kind regards

Elena Citron - McLaren Vale Resident

Inviato da iPhone

| | |
|---|---|
| **From:** | Elena Citron |
| **To:** | DHUD:PlanSA Submissions |
| **Cc:** | Mawson@parliament.sa.gov.au |
| **Subject:** | McLaren Vale Rural Zone residential purpose |
| **Date:** | Thursday, 27 February 2025 5:19:47 PM |

---

[You don't often get email from [redacted]. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification ]

> Dear,
>
> The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, “almost ineffectual to prevent the creation of small allotments”.
>
> Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions.
>
> I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].
>
> I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.
>
> Thank you for helping protect this incredibly special region.

McLaren Vale Business
>
> Inviato da iPhone

| | |
|---|---|
| **From:** | Elise Mirabello |
| **To:** | DHUD:PlanSA Submissions |
| **Cc:** | mawson@parliament.sa.gov.au |
| **Subject:** | Character Preservation Act (Mclaren Vale) |
| **Date:** | Thursday, 27 February 2025 5:20:47 PM |

[You don't often get email from [redacted]. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification ]

To whom it may concern,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, “almost ineffectual to prevent the creation of small allotments”.

Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions.

I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].

I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for your time,

Kind Regards,

Elise Mirabello



**From:** Friederike Scheppach
**To:** DHUD:PlanSA Submissions
**Subject:** Character Preservation Act McLaren Vale
**Date:** Friday, 28 February 2025 4:49:30 PM

You don't often get email from [redacted]. Learn why this is important

Hello PlanSA, Josh and Leon,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments". Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re assert the prohibition on small-lot land divisions. I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay]. I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions. Thank you for helping protect this incredibly special region.

Friederike Scheppach
Blewitt Springs

Sent from my iPad

**From:** Geoff Hardy
**To:** mawson@parliament.sa.gov.au; Bignell, Leon; DHUD:PlanSA Submissions
**Subject:** Assessment Improvement Code Amendment - A MUST FIX
**Date:** Friday, 28 February 2025 10:42:01 AM
**Attachments:** image001.jpg

You don't often get email from [redacted] Learn why this is important

Dear Master Bignell

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions.

I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].

I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Cheers,

Geoff

**Geoff Hardy**
*Owner & Vigneron*
[redacted]
P: +61 (0) 8 8388 3700
PO Box 3, Clarendon SA 5157
www.k1wines.com.au

**From:** Georg Gmail
**To:** DHUD:PlanSA Submissions
**Subject:** Character Preservation Act
**Date:** Friday, 28 February 2025 6:47:48 PM

---

You don't often get email from [redacted]. Learn why this is important

Hi there

Dear Leon and PlanSA

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions.

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Kind Regards
Georg Ruebensal
Blewitt Springs

Sent from my iPhone

**From:** Gerlinde Rupp
**To:** DHUD:PlanSA Submissions
**Cc:** MP Leon Bignell at
**Subject:** McLaren Vale
**Date:** Thursday, 27 February 2025 6:23:11 PM

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You don't often get email from [redacted]. Learn why this is important

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].

I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.
Gerlinde Rupp

**From:** Holly Marquis
**To:** mawson@parliament.sa.gov.au; Bignell, Leon; DHUD:PlanSA Submissions
**Subject:** Assessment Improvement Code Amendment
**Date:** Friday, 28 February 2025 10:15:54 AM
**Attachments:** image001.jpg

You don't often get email from [redacted] Learn why this is important

Dear Leon,
The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

signature_3771659563

**From:** [redacted]
**To:** DHUD:PlanSA Submissions
**Subject:** Changes to the Character Preservation Act
**Date:** Thursday, 27 February 2025 9:46:37 PM

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You don't often get email from [redacted]. Learn why this is important

To Plan SA,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Regards

Ian Norman

**From:** Irina Santiago-Brown
**To:** mawson@parliament.sa.gov.au; Bignell, Leon; DHUD:PlanSA Submissions
**Subject:** Assessment Improvement Code Amendment - The Character Preservation Act
**Date:** Friday, 28 February 2025 1:15:34 PM

---

You don't often get email from [redacted]. Learn why this is important

Dear Leon,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Regards,

Irina Santiago-Brow
Inkwell Wines

**From:** jacqueline dawson
**To:** DHUD:PlanSA Submissions; Mawson@parliament.sa.gov.au
**Subject:** Protect our wine region and
**Date:** Thursday, 27 February 2025 7:40:49 PM

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You don't often get email from [redacted]. Learn why this is important

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments". Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions. I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay]. I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions. Thank you for helping protect this incredibly special region.

Regards
Jackie

**From:** Jacquie Young
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act
**Date:** Friday, 28 February 2025 11:05:05 AM

You don't often get email from [redacted]. Learn why this is important

MP Leon Bignell

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Sincerely

Jacquie & Bob Gladwell

**From:** Jen Griffin
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** McLaren Vale rezoning
**Date:** Friday, 28 February 2025 7:33:58 AM

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You don't often get email from [redacted]. Learn why this is important

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments". Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions. I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay]. I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions. Thank you for helping protect this incredibly special region.

Kind regards
Jen Griffin
Resident

**From:** Vic C.
**To:** DHUD:PlanSA Submissions
**Subject:** Subject title - Assessment Improvement Code Ammendment
**Date:** Sunday, 2 March 2025 7:57:26 AM

---

You don't often get email from [redacted]. Learn why this is important

The Character Preservation Act (the Act)
prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga,
"almost ineffectual to prevent the creation of small allotments".

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I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].

I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Regards

Victoria Cornthwaite

**From:** Jock Harvey
**To:** mawson@parliament.sa.gov.au; Bignell, Leon; DHUD:PlanSA Submissions
**Subject:** Assessment Improvement Code Amendment
**Date:** Friday, 28 February 2025 9:57:44 AM
**Attachments:** image001.jpg

You don't often get email from [redacted]. Learn why this is important

Dear Leon,
The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].

I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.
Jock Harvey

Chalk Hill Viticulture
PO Box 205
McLaren Vale SA 5171
Ph: (08) 8557 0700
Website: www.chalkhillvit.com.au

| | |
|---|---|
| **From:** | jodiecarrel |
| **To:** | DHUD:PlanSA Submissions |
| **Subject:** | Mclaren Vale - Character Preservation Act |
| **Date:** | Thursday, 27 February 2025 10:22:54 PM |

[You don't often get email from [redacted]. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification ]

To whom it may concern,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, “almost ineffectual to prevent the creation of small allotments”.

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Kind regards

Jodie Carrel
Sent from my iPhone

**From:** Judy Grindle
**To:** DHUD:PlanSA Submissions
**Cc:** mawson@parliament.sa.gov.au
**Subject:** The Character Preservation Act
**Date:** Thursday, 27 February 2025 8:24:30 PM

You don't often get email from [redacted]. Learn why this is important

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments". Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions. I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay]. I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

**From:** Julie Morgan
**To:** Bignell, Leon; Mawson Electorate; DHUD:PlanSA Submissions
**Subject:** Character Preservation Act
**Date:** Saturday, 1 March 2025 11:49:47 AM

You don't often get email from [redacted]. Learn why this is important

Dear Leon,

This threat has come to my notice, and I agree wholeheartedly with the sentiments below, so see no reason to change them. Please accept them as my view.

> The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".
>
> Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions.
>
> I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].
>
> I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Please do not allow technicalities to destroy what is an essential Act to preserve the integrity and environment of our rural zone.

Warm regards,
Julie

**From:** Julie Richardson
**To:** DHUD:PlanSA Submissions; Mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act
**Date:** Thursday, 27 February 2025 7:37:26 PM

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You don't often get email from [redacted]. Learn why this is important

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments". Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions. I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay]. I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions. Thank you for helping protect this incredibly special region.

Julie Richardson
[redacted]

**From:** Julie Richardson
**To:** DHUD:PlanSA Submissions; Mawson@parliament.sa.gov.au
**Subject:** CPA
**Date:** Thursday, 27 February 2025 8:00:29 PM

You don't often get email from [redacted]. Learn why this is important

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Julie Richardson
McLaren Vale

Get Outlook for iOS

**From:** Kathleen Dowell
**To:** DHUD:PlanSA Submissions
**Cc:** mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act
**Date:** Friday, 28 February 2025 9:28:37 PM

You don't often get email from [redacted]. Learn why this is important

To whom it may concern

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments". Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions. I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay]. I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions. Thank you for helping protect this incredibly special region.

K E Dowell

**From:** Kaya Reeves
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act McLaren Vale
**Date:** Friday, 28 February 2025 5:10:31 PM

You don't often get email from [redacted]. Learn why this is important

To Whom It May Concern:

**The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone.**

Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to reassert the prohibition on small-lot land divisions.

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Regards,

**Kaya Reeves**
[redacted]

**From:** K L
**To:** DHUD:PlanSA Submissions
**Subject:** Assessment Improvement Code Ammendment
**Date:** Thursday, 27 February 2025 9:16:07 PM

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You don't often get email from [redacted]. Learn why this is important

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments". Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions. I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay]. I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions“

Kerri Luks

| | |
|---|---|
| **From:** | kim weatherill |
| **To:** | DHUD:PlanSA Submissions |
| **Cc:** | Mawson@parliament.sa.gov.au |
| **Subject:** | CPA |
| **Date:** | Friday, 28 February 2025 11:55:30 AM |

---

[You don't often get email from [redacted]. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification ]

Good Morning,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, “almost ineffectual to prevent the creation of small allotments”.

Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions.

I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].

I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Regards
Kim weatherill

**From:** Laura Killick
**To:** DHUD:PlanSA Submissions
**Cc:** mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act
**Date:** Thursday, 27 February 2025 8:20:59 PM

---

You don't often get email from [redacted]. Learn why this is important

To whom it may concern,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments". Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions.

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions. Thank you for helping protect this incredibly special region.

Thank you,
Laura

Laura Killick [redacted]

**From:** Laura & Ben Killick
**To:** DHUD:PlanSA Submissions
**Cc:** mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act
**Date:** Thursday, 27 February 2025 8:22:51 PM

---

You don't often get email from [redacted]. Learn why this is important

To whom it may concern,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments". Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions.

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions. Thank you for helping protect this incredibly special region.

Thank you,
Ben & Laura

**Grape Growers**
Walnut Tree Vineyard

**Laura Killick:** [redacted]
**Ben Killick:** [redacted]

---

**Vineyard Address** [redacted]

**Postal** [redacted]

---

**From:** Lesley Winterburn
**To:** DHUD:PlanSA Submissions
**Cc:** mawson@parliament.sa.gov.au
**Subject:** Land division of rural zone
**Date:** Thursday, 27 February 2025 6:53:03 PM

---

You don't often get email from [redacted]. Learn why this is important

Dear Plan SA

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments". Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions. I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay]. I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Lesley Winterburn
McLaren Vale resident

**From:** LG_sciatica60
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** The Character Preservation Act (the Act)
**Date:** Thursday, 27 February 2025 10:36:52 PM
**Attachments:** LG_Signature 2014.JPG

You don't often get email from [redacted]. Learn why this is important

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions.

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Regards,



Luciano Guglielmin

**From:** Luke White
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act
**Date:** Thursday, 27 February 2025 7:20:31 PM

You don't often get email from [redacted]. Learn why this is important

Evening

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Kr
Luke

**From:** [redacted]
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Protect our area
**Date:** Thursday, 27 February 2025 5:36:13 PM

---

You don't often get email from [redacted]. Learn why this is important

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".
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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Regards
Lynn Wallace

**From:** [redacted]
**To:** DHUD:PlanSA Submissions
**Subject:** Changes to the Character Preservation Act
**Date:** Thursday, 27 February 2025 9:50:32 PM

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> You don't often get email from [redacted]. Learn why this is important

To Plan SA,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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Thank you for helping protect this incredibly special region.

Regards

Lynne Norman

| | |
|---|---|
| **From:** | Lynton Pahl |
| **To:** | DHUD:PlanSA Submissions |
| **Cc:** | Mawson@parliament.sa.gov.au |
| **Subject:** | URGENT Rural Land is Rural Land |
| **Date:** | Thursday, 27 February 2025 10:38:25 PM |

[You don't often get email from [redacted]. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification ]

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, “almost ineffectual to prevent the creation of small allotments”.

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.
Yours Sincerely
Lynton Pahl
[redacted]

**From:** Mark Maxwell | Maxwell Wines
**To:** DHUD:PlanSA Submissions
**Subject:** FW: Assessment Improvement Code Amendment
**Date:** Friday, 28 February 2025 12:37:05 PM
**Attachments:** image001.jpg
image002.gif

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You don't often get email from [redacted]. Learn why this is important

Dear People,
The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Kind Regards
Mark Maxwell

Maxwell_Hor_Outline_low

P +61 8 8323 8200
[redacted]
Follow Maxwell on Instagram | Facebook | LinkedIn | YouTube | Website

CELLAR DOOR: Open 7 Days, 10 am to 5 pm
RESTAURANT: Open for lunch Friday to Sunday and dinner Saturday evening

**From:** julienickr
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Mclaren Vale CPA
**Date:** Thursday, 27 February 2025 7:11:58 PM

You don't often get email from [redacted]. Learn why this is important

Dear Planning Commission

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].

I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Yours sincerely
Nick Richardson
Mclaren Vale

**From:** Mark Robinson
**To:** DHUD:PlanSA Submissions; Mawson@parliament.sa.gov.au
**Subject:** Prohibition of land under 16HA
**Date:** Thursday, 27 February 2025 8:11:50 PM

You don't often get email from [redacted]. Learn why this is important

Dear sir/madam

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Yours
Mark Robinson
[redacted]

**From:** Martin Morgan
**To:** DHUD:PlanSA Submissions
**Subject:** Planning Act - McLaren Vale
**Date:** Saturday, 1 March 2025 12:13:47 PM

You don't often get email from [redacted]. Learn why this is important

Dear Sirs,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Regards

Martin Morgan
[redacted]

**From:** Mel Owen
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Character preservation act
**Date:** Thursday, 27 February 2025 5:08:58 PM

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You don't often get email from [redacted]. Learn why this is important

To whom it concerns,

As someone who lives in this area I am greatly concerned for the future and what may happen to our lovely part of the world. I understood that the character preservation act was designed to help preserve our area and not let it turn into suburbia.

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Thanks,

Mel Owen

| | |
|---|---|
| **From:** | Michele McCrea |
| **To:** | DHUD:PlanSA Submissions |
| **Cc:** | Mawson@parliament.sa.gov.au |
| **Subject:** | Character Preservation Act |
| **Date:** | Thursday, 27 February 2025 9:47:56 PM |

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[You don't often get email from [redacted]. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification ]

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, “almost ineffectual to prevent the creation of small allotments”.

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this very special and historic region.

Sincerely,

Michele McCrea
Longtime resident of McLaren Vale region
Currently resident homeowner in Sellicks Beach
Sent from my iPhone

**From:** [redacted]
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Character Preservation MCLAREN VALE
**Date:** Thursday, 27 February 2025 7:12:27 PM

You don't often get email from [redacted]. Learn why this is important

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Kind regards

Michelle Taylor

**From:** Paisley Lowe
**To:** DHUD:PlanSA Submissions
**Cc:** Leon Bignell
**Subject:** Character preservation act
**Date:** Friday, 28 February 2025 7:56:33 AM

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You don't often get email from [redacted]. Learn why this is important

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.
Regards
Mrs Paisley Lowe
McLaren Flat

**From:** Paisley Lowe
**To:** DHUD:PlanSA Submissions
**Cc:** Leon Bignell
**Subject:** Character preservation act
**Date:** Friday, 28 February 2025 7:56:33 AM

---

You don't often get email from [redacted]. Learn why this is important

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Regards
Mrs Paisley Lowe
McLaren Flat

| | |
|---|---|
| **From:** | Pam Baker |
| **To:** | DHUD:PlanSA Submissions |
| **Subject:** | Plan SA |
| **Date:** | Friday, 28 February 2025 5:51:00 AM |

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[You don't often get email from [redacted]. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification ]

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, “almost ineffectual to prevent the creation of small allotments”.

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Sent from my iPhone

**From:** Paula Edwards
**To:** Bignell, Leon; mawson@parliament.sa.gov.au; DHUD:PlanSA Submissions
**Subject:** Assessment Improvement Code Amendment
**Date:** Friday, 28 February 2025 10:16:25 AM
**Attachments:** image001.jpg

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You don't often get email from [redacted]. Learn why this is important

Dear Leon,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Regards

Paula Edwards

**Paula Edwards**
*General Manager*

**M** [redacted]
**T** +61 (0) 8 8323 0056
**F** +61 (0) 8 8323 7348
PO Box 748 McLaren Vale
South Australia 5171

**winegrapes.com.au**

**True partnerships are always fruitful.**

**From:** Peter Hebberman
**To:** DHUD:PlanSA Submissions; Mawson@parliament.sa.gov.au
**Subject:** The Character Preservation Act - McLaren Vale wine and tourism region
**Date:** Friday, 28 February 2025 1:26:32 PM

You don't often get email from [redacted]. Learn why this is important

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region

--

Very Best Regards

Peter J Hebberman
Director
Absolutely Mate Pty Ltd
Email - [redacted]
Phone - [redacted]

| | |
|---|---|
| **From:** | Longwood Wines |
| **To:** | mawson@parliament.sa.gov.au; Bignell, Leon; DHUD:PlanSA Submissions |
| **Subject:** | Assessment Improvement Code Amendment |
| **Date:** | Friday, 28 February 2025 2:10:25 PM |

You don't often get email from sales@longwoodwines.com. Learn why this is important

Dear Leon,
The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, “almost ineffectual to prevent the creation of small allotments”.

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Kind Regards,
Phil & Lauren Christiansen
Longwood Wines
sales@longwoodwines.com
www.longwoodwines.com

**From:** Pikkara Wines
**To:** DHUD:PlanSA Submissions
**Cc:** mawson@parliament.sa.gov.au
**Subject:** RE Preservation Act
**Date:** Monday, 3 March 2025 8:48:34 PM

You don't often get email from pikkarawines@bigpond.com.au. Learn why this is important

Dear Leon,
The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, “almost ineffectual to prevent the creation of small allotments”.

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Ross McMurtrie
Pikkara Wines
McLaren Vale

| | |
|---|---|
| **From:** | Renee Janssen |
| **To:** | DHUD:PlanSA Submissions |
| **Cc:** | Mawson@parliament.sa.gov.au |
| **Subject:** | Character Preservation Act |
| **Date:** | Friday, 28 February 2025 7:31:53 AM |

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[You don't often get email from [redacted]. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification ]

To whom it may concern,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, “almost ineffectual to prevent the creation of small allotments”.

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I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].

I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Yours sincerely,

Renée Janssen

**From:** shaun m
**To:** DHUD:PlanSA Submissions
**Subject:** Assessment Improvements Code Amendment - comment
**Date:** Thursday, 30 January 2025 5:11:42 PM

You don't often get email from [redacted] Learn why this is important

Hi PlanSA,

A minor but important comment -

I think it would be a very important inclusion if in the PDI regs it is explicitly stated that LGA building approval is required when structural repair of an existing dwelling is required.

As the current regs stand, I believe a considerable amount of illegal , potentially dangerous construction is being carried out under the guise of " maintenance " ( a schedule 4 exclusion ) without any approvals or documentation.

examples - fire damaged homes, vehicle & storm damaged residential structures etc etc.

These repairs most definitely require approval.

--
Kind Regards

Shaun M
[redacted]

**From:** dsachs
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act
**Date:** Thursday, 27 February 2025 7:31:14 PM

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You don't often get email from [redacted]. Learn why this is important

Dear Sirs,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Shirley Sachs
WILLUNGA SA

**From:** Stan Bogucki
**To:** DHUD:PlanSA Submissions; Mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act
**Date:** Thursday, 27 February 2025 5:12:43 PM

You don't often get email from [redacted] Learn why this is important

Good morning

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Kind regards
Stan Bogucki

**From:** DHUD:Plan SA
**To:** [redacted]
**Cc:** DHUD:PlanSA Submissions
**Subject:** RE: Character Preservation Act
**Date:** Friday, 28 February 2025 2:04:30 PM
**Attachments:** image001.gif

OFFICIAL

Hi Sybille,

Thank you for your submission regarding the code amendment for the Character Preservation Act.

Your comments have been passed on to the relevant team managing this amendment for their consideration.

Should there be further clarification required regarding your submission, the team may reach out to you.

Once again, we appreciate your engagement and efforts to share your insights.

Please let us know if we can be of any further assistance in the meantime.

Your reference number is: 106384

**PlanSA**
Planning & Land Use Services | Department for Housing and Urban Development

**T** 1800 752 664
**E** PlanSA@sa.gov.au
**W** plan.sa.gov.au

The Department for Housing and Urban Development acknowledges First Nation people as the Traditional Owners of South Australian land and waters and we extend our respect to Elders past, present and emerging. We value and recognise the ongoing cultural heritage, beliefs and relationship First Nations peoples have with these lands and waters and the continuing importance of this today.

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**From:** syb w [redacted]
**Sent:** Thursday, 27 February 2025 5:01 PM
**To:** DHUD:PlanSA Submissions <PlanSAsubmissions@sa.gov.au>
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act

You don't often get email from [redacted]. Learn why this is important

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, “almost ineffectual to prevent the creation of small allotments”.

Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions.

I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].

I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Sybille Wolff
Onkaparinga Council Ratepayer

**From:** Tess Pointer
**To:** DHUD:PlanSA Submissions; mawson@parliament.sa.gov.au
**Subject:** Assessment Improvement Code Amendment
**Date:** Friday, 28 February 2025 6:35:28 PM

You don't often get email from [redacted] Learn why this is important

Dear Leon,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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We urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Yours sincerely

Ruth Wallace

[redacted]

**From:** [redacted]
**To:** mawson@parliament.sa.gov.au; Bignell, Leon; DHUD:PlanSA Submissions
**Subject:** Assessment Improvement Code Amendment
**Date:** Friday, 28 February 2025 1:05:27 PM

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[You don't often get email from [redacted]. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification ]

Dear Leon,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Regards,

Tom Hajdu

**From:** Tim Leitch
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Character preservation act
**Date:** Thursday, 27 February 2025 6:01:37 PM

You don't often get email from [redacted]. Learn why this is important

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Regards

Tim Leitch

**From:** [redacted]
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act
**Date:** Friday, 28 February 2025 5:52:35 PM

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You don't often get email from [redacted]. Learn why this is important

Dear Plan SA,

We are deeply concerned to hear the Character Preservation Act is in danger of being gutted by rural land owners seeking to circumvent the CPA via a recently identified planning loophole

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".
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Thank you for helping protect this incredibly special region.

Toni and Roger Stent
[redacted]

| | |
|---|---|
| **From:** | Trevor Linke |
| **To:** | DHUD:PlanSA Submissions; benjaminwlinke; Charlotte Linke |
| **Subject:** | Submission on the Assessment Improvement Code Amendment – Character Preservation (McLaren Vale) Act 2012 |
| **Date:** | Friday, 28 February 2025 4:45:11 PM |

You don't often get email from [redacted]. Learn why this is important

To: PlanSA Submissions (PlanSAsubmissions@sa.gov.au)
Subject: Submission on the Assessment Improvement Code Amendment – Character Preservation (McLaren Vale) Act 2012

Dear Sir/Madam,

I am writing to provide my input regarding the Assessment Improvement Code Amendment in relation to the Character Preservation (McLaren Vale) Act 2012. There are strong and dynamic forces necessitating amendments to this Act to reflect the evolving challenges faced by the region.

The McLaren Vale region is home to a significant number of small- to medium-scale farming enterprises, many of which are struggling to remain viable. Several critical issues are exacerbating this situation:

- IIigh land and capital values, coupled with relatively low profitability, often result in negative or unsustainable rates of return for farmers.
- Viticulture enterprises, in particular, have been experiencing severe challenges in recent years. Many smaller growers have exited the industry, leading to a substantial degree of consolidation. Global trends, such as decreasing demand for wine, tariffs, and trade restrictions, pose long-term threats to the sector.
- Rising operational costs—including electricity, labor, and chemicals—are placing further financial strain on these businesses.

Many farmers feel trapped in their current circumstances, which has led to distressing social consequences. Mental health issues, including high rates of suicide, are alarmingly prevalent, and this aspect must be given due consideration in planning decisions.

There is an alternative viewpoint, often presented by local lobbyists, who wish to preserve the existing character of the region and resist urban expansion. While the charm of vineyards is undoubtedly valuable, this perspective fails to acknowledge the severe economic and social hardships faced by landowners. Insisting on maintaining the status quo without adaptation is, in my view, an unsympathetic stance that disregards the well-being of those struggling to sustain their livelihoods.

A balanced approach is essential—one that provides landowners with viable options to alleviate their financial burdens while still respecting the region's unique character. Allowing for managed and sustainable development would not only offer relief to struggling farmers but also contribute to addressing broader housing challenges, including improving access to homeownership for younger generations and making housing more affordable.

Thank you for considering my submission. I appreciate the opportunity to provide input on this important issue.

Best regards,

Trevor Linke
Rural Financial Counsellor - Primary Producer
[redacted]

**From:** Vanessa Fleming
**To:** DHUD:PlanSA Submissions
**Cc:** mawson@parliament.sa.gov.au
**Subject:** McLaren Vale region
**Date:** Thursday, 27 February 2025 5:23:32 PM

You don't often get email from [redacted]. Learn why this is important

Good evening

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].

I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Thank you for helping protect this incredibly special region.

Vanessa Fleming
[redacted]

**From:** Virginie Behrendorff
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act
**Date:** Thursday, 27 February 2025 6:16:52 PM

You don't often get email from [redacted]. Learn why this is important

To Whom It May Concern,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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**From:** vbogucki84
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Character Preservation Act
**Date:** Thursday, 27 February 2025 5:08:52 PM

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You don't often get email from [redacted]. Learn why this is important

Good morning

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

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Kind regards
Vicki Bogucki

Sent from my Galaxy

| | |
|---|---|
| **From:** | jane mcmurtrie |
| **To:** | DHUD:PlanSA Submissions |
| **Cc:** | Mawson@parliament.sa.gov.au |
| **Subject:** | The Character Preservation Act |
| **Date:** | Monday, 3 March 2025 8:20:26 PM |

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[You don't often get email from [redacted]. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification ]

To Whom it May Concern

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Thank you for helping protect this incredibly special region.

Jane McMurtrie
Sent from my iPhone

**From:** Ben Fullick
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Protect the Character Preservation Act
**Date:** Sunday, 2 March 2025 6:33:37 PM

---

You don't often get email from [redacted] Learn why this is important

As a local resident, I 100% support the Character Preservation Act remaining in place to prevent the disgusting urban sprawl of cookie cutter housing developments in our most beautiful areas.

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".
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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Kind regards,

**Ben Fullick**
Line Pilot
Mobile: [redacted]
Ph: +61 (0)8235 2222
E-Mail: [redacted]

Helistar Aviation
1 Sir Reginald Ansett Drive
Adelaide Airport
South Australia 5950

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**From:** Ben Fullick
**To:** DHUD:PlanSA Submissions
**Cc:** Mawson@parliament.sa.gov.au
**Subject:** Protect the Character Preservation Act!
**Date:** Sunday, 2 March 2025 6:31:55 PM

You don't often get email from [redacted] Learn why this is important

As a local resident, I 100% support the Character Preservation Act remaining in place to prevent the disgusting urban sprawl of cookie cutter housing developments in our most beautiful areas.

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I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

Kind regards,

Ben Fullick

[redacted]

**Respondent No:** 1
**Login:** Anonymous
**Email:** n/a

**Responded At:** Dec 10, 2024 12:28:13 pm
**Last Seen:** Dec 10, 2024 12:28:13 pm
**IP Address:** n/a

Q1. **Name** Callum Hastie

Q2. **Email address** [redacted]

Q3. **What is your interest in the Code Amendment?** State Agency

Q4. **Would you like to share any feedback regarding the proposed improvements to the Rules of Interpretation?**

not answered

Q5. **Would you like to share any feedback regarding the proposed amendments to language and consistency?**

4.2 - the noise and air emissions overlay is not applied to dwellings constructed by the SA Housing Trust, this should be considered in assessments like all other dwellings. 4.2.9 - There should be consideration of land divisions where part of an allotment is within the conservation zone but most of it is in another (e.g. rural). I have assessed applications where the land division only impacts land in the rural zone, but it still creates a new allotment in the conservation zone and is therefore restricted development. To address this table 4 could exclude "land division which will not enable more intensive use of land in the conservation zone" 4.2.12 - the stormwater management overlay should define site area for group dwellings or residential flat buildings. I think that the overlay should be assessed against the average site area (see design in urban areas DTS/DPF 22.1 as a reference)

Q6. **Would you like to share any feedback regarding the proposed improvements to Land Use and Administrative Definitions?**

4.4.2 - the definition of workers' accomodation should include healthcare workers in regional areas. I have previously assessed an application for temporary accomodation for nurses; since this was excluded from the definition of workers' accom I had to assess it as dwellings instead. It may be neccessary to limit how long a healthcare worker can occupy the building. In the example I worked on, staff would stay on the site for a maximum of 6 months.

Q7. **Would you like to share any feedback regarding proposed changes to Referrals to government agencies and industry?**

not answered

Q8. **Are there any other areas of the draft Code Amendment that you would like to comment on?**

4.6.2 - where a covered parking space is not provided, there should be at least 1 bicycle park per dwelling. Bikes are often stored in garages or carports so there should be an alternative if one is not available

**Respondent No:** 2
**Login:** Anonymous
**Email:** n/a

**Responded At:** Dec 12, 2024 19:05:16 pm
**Last Seen:** Dec 12, 2024 19:05:16 pm
**IP Address:** n/a

Q1. **Name** Graham

Q2. **Email address** [redacted]

Q3. **What is your interest in the Code Amendment?** Member of General Public

Q4. **Would you like to share any feedback regarding the proposed improvements to the Rules of Interpretation?**

not answered

Q5. **Would you like to share any feedback regarding the proposed amendments to language and consistency?**

not answered

Q6. **Would you like to share any feedback regarding the proposed improvements to Land Use and Administrative Definitions?**

not answered

Q7. **Would you like to share any feedback regarding proposed changes to Referrals to government agencies and industry?**

not answered

Q8. **Are there any other areas of the draft Code Amendment that you would like to comment on?**

Adelaide Hills changing the fire zone risk, to enable land to be opened for housing. Things due to climate change have gotten worse not better. Should not be allowed. Will be a bush fire disaster just waiting to happen.

**Respondent No:** 3
**Login:** Anonymous
**Email:** n/a

**Responded At:** Dec 13, 2024 03:52:41 am
**Last Seen:** Dec 13, 2024 03:52:41 am
**IP Address:** n/a

Q1. **Name** Karen

Q2. **Email address** [redacted]

Q3. **What is your interest in the Code Amendment?** Member of General Public

Q4. **Would you like to share any feedback regarding the proposed improvements to the Rules of Interpretation?**

not answered

Q5. **Would you like to share any feedback regarding the proposed amendments to language and consistency?**

not answered

Q6. **Would you like to share any feedback regarding the proposed improvements to Land Use and Administrative Definitions?**

not answered

Q7. **Would you like to share any feedback regarding proposed changes to Referrals to government agencies and industry?**

not answered

Q8. **Are there any other areas of the draft Code Amendment that you would like to comment on?**

Parking should be free

**Respondent No:** 4
**Login:** Anonymous
**Email:** n/a

**Responded At:** Jan 16, 2025 16:31:36 pm
**Last Seen:** Jan 16, 2025 16:31:36 pm
**IP Address:** n/a

Q1. **Name** Trevor Lorenz

Q2. **Email address** [redacted]

Q3. **What is your interest in the Code Amendment?** Member of General Public

Q4. **Would you like to share any feedback regarding the proposed improvements to the Rules of Interpretation?**

No

Q5. **Would you like to share any feedback regarding the proposed amendments to language and consistency?**

No

Q6. **Would you like to share any feedback regarding the proposed improvements to Land Use and Administrative Definitions?**

Not improvements at all. It's more big government interference in our lives.

Q7. **Would you like to share any feedback regarding proposed changes to Referrals to government agencies and industry?**

No

Q8. **Are there any other areas of the draft Code Amendment that you would like to comment on?**

No

**Respondent No:** 5
**Login:** Anonymous
**Email:** n/a

**Responded At:** Jan 16, 2025 18:40:33 pm
**Last Seen:** Jan 16, 2025 18:40:33 pm
**IP Address:** n/a

Q1. **Name** Allen

Q2. **Email address** [redacted]

Q3. **What is your interest in the Code Amendment?** Member of General Public

Q4. **Would you like to share any feedback regarding the proposed improvements to the Rules of Interpretation?**

Where's the NO black roofs to help reduce global warming + Why keep building on good farmland close to the city? Make another satellite city from Mobarto through to Mureay Bridge.

Q5. **Would you like to share any feedback regarding the proposed amendments to language and consistency?**

Keep it simple but accurate and consistent. Schools are dumbing English down (two time winner - instead of dual winner) etc.

Q6. **Would you like to share any feedback regarding the proposed improvements to Land Use and Administrative Definitions?**

Need more corridors for native animals and plants, insects etc.

Q7. **Would you like to share any feedback regarding proposed changes to Referrals to government agencies and industry?**

Stop giving control for divisions to influential real estate agents - Adelaide Hills.

Q8. **Are there any other areas of the draft Code Amendment that you would like to comment on?**

Not at the moment.

**Respondent No:** 6
**Login:** Anonymous
**Email:** n/a

**Responded At:** Jan 20, 2025 17:48:23 pm
**Last Seen:** Jan 20, 2025 17:48:23 pm
**IP Address:** n/a

Q1. **Name** Jennifer Tranter

Q2. **Email address** [redacted]

Q3. **What is your interest in the Code Amendment?** Member of General Public

Q4. **Would you like to share any feedback regarding the proposed improvements to the Rules of Interpretation?**

Process and language must be clear and transparent to all affected parties ie the community, particularly those directly affected.

Q5. **Would you like to share any feedback regarding the proposed amendments to language and consistency?**

It is good that there is an opportunity to respond, but consistent should not mean inflexible.

Q6. **Would you like to share any feedback regarding the proposed improvements to Land Use and Administrative Definitions?**

There should be clear community consultation before plans are developed/enacted. There is too much risk for corruption through conflict of interest - developers have far too loud a voice in these issues. Community health and requirements should be the focus, not developers' profits. For example, Campbeltown Council (and possibly others) have sold off public parks as 'surplus to requirements' without any consultation with surrounding residents.

Q7. **Would you like to share any feedback regarding proposed changes to Referrals to government agencies and industry?**

Local governments should represent and be a voice for all their local community - not just industry/business. State Governments should carefully consult with local governments and represent the next level of government decision making and responsibility.

Q8. **Are there any other areas of the draft Code Amendment that you would like to comment on?**

Keep decision making local. State governments don't know/care about the local community or valued amenities.

**Respondent No:** 7
**Login:** Anonymous
**Email:** n/a

**Responded At:** Jan 27, 2025 14:41:19 pm
**Last Seen:** Jan 27, 2025 14:41:19 pm
**IP Address:** n/a

Q1. **Name** Julie Tilbrook

Q2. **Email address** [redacted]

Q3. **What is your interest in the Code Amendment?** Member of General Public

Q4. **Would you like to share any feedback regarding the proposed improvements to the Rules of Interpretation?**

No comment

Q5. **Would you like to share any feedback regarding the proposed amendments to language and consistency?**

No comment

Q6. **Would you like to share any feedback regarding the proposed improvements to Land Use and Administrative Definitions?**

No comment

Q7. **Would you like to share any feedback regarding proposed changes to Referrals to government agencies and industry?**

No comment

Q8. **Are there any other areas of the draft Code Amendment that you would like to comment on?**

4.6.2 Covered Car Parking. Agree with the amendment to "require the provision of at least one space behind the main face of the building if no covered space is proposed", noting the new minimal dimensions proposed by the government , January 2025, of 6m in length and 3.5m in width for garages. This also refers to an uncovered space that can be covered in the future. These are referred to as planning LAWS, yet many developers do not adhere to these, especially when it comes to providing the prescribed number of car parks relative to the number of bedrooms, eg, Row dwelling with vehicle access from primary street should provide 2 car park spaces for 2 or more bedrooms. Developers being forced to pay a fee for ignoring the rules is a farce, as the damage has already been done, particularly in narrow residential streets where street parking causes congestion problems. They must be required to obey the rules at the planning stage!

**Respondent No:** 8
**Login:** Anonymous
**Email:** n/a

**Responded At:** Feb 27, 2025 00:02:40 am
**Last Seen:** Feb 27, 2025 00:02:40 am
**IP Address:** n/a

Q1. **Name** Vera Branch

Q2. **Email address** [redacted]

Q3. **What is your interest in the Code Amendment?** Member of General Public

Q4. **Would you like to share any feedback regarding the proposed improvements to the Rules of Interpretation?**

Yes I would like to share my feedback. How do I do that?

Q5. **Would you like to share any feedback regarding the proposed amendments to language and consistency?**

See answer to Q4

Q6. **Would you like to share any feedback regarding the proposed improvements to Land Use and Administrative Definitions?**

See answer to Q4

Q7. **Would you like to share any feedback regarding proposed changes to Referrals to government agencies and industry?**

Yes I would. See answer to Q4

Q8. **Are there any other areas of the draft Code Amendment that you would like to comment on?**

Yes see answer to Q4

**Respondent No:** 11
**Login:** Anonymous
**Email:** n/a

**Responded At:** Mar 04, 2025 13:26:11 pm
**Last Seen:** Mar 04, 2025 13:26:11 pm
**IP Address:** n/a

Q1. **Name** Mark Cramond

Q2. **Email address** [redacted]

Q3. **What is your interest in the Code Amendment?** Member of General Public

Q4. **Would you like to share any feedback regarding the proposed improvements to the Rules of Interpretation?**

not answered

Q5. **Would you like to share any feedback regarding the proposed amendments to language and consistency?**

not answered

Q6. **Would you like to share any feedback regarding the proposed improvements to Land Use and Administrative Definitions?**

not answered

Q7. **Would you like to share any feedback regarding proposed changes to Referrals to government agencies and industry?**

not answered

Q8. **Are there any other areas of the draft Code Amendment that you would like to comment on?**

Moves to change zoning areas and/or regulations that would enable 20 storey towers in suburbia are overwhelmingly unpopular. As are earlier changes allowing up to 9 storey towers along Urban Boulevard zones. Refer public opposition to Buckingham Arms development, Glenside 20 storey monstrosity proposal, and AEU development application Greenhill Road. It appears developer's interests are being prioritised over existing residents. Arguments suggesting these high-rise towers are needed to ease the housing crisis are foolish. South Australia can ill-afford to grow by another 670,000 people by 2050 as intended by the Greater Adelaide Regional Plan. Doing so exacerbates the housing crisis, increasing demand for greenfield and high-rise development, threatens our water security and sustainability, and further stresses our strained health system.

**Respondent No:** 12
**Login:** Anonymous
**Email:** n/a

**Responded At:** Mar 04, 2025 17:10:11 pm
**Last Seen:** Mar 04, 2025 17:10:11 pm
**IP Address:** n/a

Q1. **Name** Barbara Ludlow

Q2. **Email address** [redacted]

Q3. **What is your interest in the Code Amendment?** Member of General Public

Q4. **Would you like to share any feedback regarding the proposed improvements to the Rules of Interpretation?**

not answered

Q5. **Would you like to share any feedback regarding the proposed amendments to language and consistency?**

not answered

Q6. **Would you like to share any feedback regarding the proposed improvements to Land Use and Administrative Definitions?**

not answered

Q7. **Would you like to share any feedback regarding proposed changes to Referrals to government agencies and industry?**

not answered

Q8. **Are there any other areas of the draft Code Amendment that you would like to comment on?**

I am a Barossa Resident and the submission from Onkaparinga is so relevant to our Barossa Region as well. The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments". Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions. I understand that, in response to the Assessment Improvement Code Amendment, Onkaparinga Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay]. I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

**Respondent No:** 13
**Login:** Anonymous
**Email:** n/a

**Responded At:** Mar 04, 2025 17:19:22 pm
**Last Seen:** Mar 04, 2025 17:19:22 pm
**IP Address:** n/a

Q1. **Name** Trevor Ryan

Q2. **Email address** [redacted]

Q3. **What is your interest in the Code Amendment?** Member of General Public

Q4. **Would you like to share any feedback regarding the proposed improvements to the Rules of Interpretation?**

not answered

Q5. **Would you like to share any feedback regarding the proposed amendments to language and consistency?**

not answered

Q6. **Would you like to share any feedback regarding the proposed improvements to Land Use and Administrative Definitions?**

not answered

Q7. **Would you like to share any feedback regarding proposed changes to Referrals to government agencies and industry?**

not answered

Q8. **Are there any other areas of the draft Code Amendment that you would like to comment on?**

I am concerned that the Barossa Character Preservation Act was not fully integrated into the Code and has resulted in dwellings (or multiple dwellings) being approved on a lot size that do not meet that overlay - despite the overlay being described as "trumping" other requirements. The currently proposed changes do not address this issue and in fact decreases the land size for development further. It appears that there is an intention to gradually "chip away" at the Character Preservation Act and allow more and more development in this area. What makes the Barossa unique will be lost if the Act is not enforced and indeed strengthened to prevent bypassing the legislation.

**Respondent No:** 14
**Login:** Anonymous
**Email:** n/a

**Responded At:** Mar 04, 2025 17:29:26 pm
**Last Seen:** Mar 04, 2025 17:29:26 pm
**IP Address:** n/a

Q1. **Name** Cathy Wills

Q2. **Email address** [redacted]

Q3. **What is your interest in the Code Amendment?** Member of General Public

Q4. **Would you like to share any feedback regarding the proposed improvements to the Rules of Interpretation?**

I'm a resident of the Barossa, living within the Character Preservation District and also the Vice President of the Barossa Region Residents' Association. I am appreciative of the legislation, which protects the unique character and agriculture land. I am aware that residents within McLaren Vale, and also the Onkaparinga Council, have raised concerns regarding the issue of minimum ha for residential development on Rural Land, as prescribed under the Act. I understand that Onkaparinga Council has submitted concerns, and a specific recommendation to incorporate a reference in PO 11.1 to any relevant Minimum Site Area Technical and Numeric Variation, as well as a recommendation regarding Limited Land Division. I support these recommendations by Onkaparinga Council, and ask that SPC take this amendments and incorporate them into the final draft, ensuring the ongoing protection of rural land in both the Barossa and McLaren Vale.

Q5. **Would you like to share any feedback regarding the proposed amendments to language and consistency?**

not answered

Q6. **Would you like to share any feedback regarding the proposed improvements to Land Use and Administrative Definitions?**

not answered

Q7. **Would you like to share any feedback regarding proposed changes to Referrals to government agencies and industry?**

not answered

Q8. **Are there any other areas of the draft Code Amendment that you would like to comment on?**

not answered

**Project: Assessment Improvements Code Amendment**
**QandA: Questions: Assessment Improvement Code Amendmen**

| No. | Contribution | Author | Posted at |
|---|---|---|---|
| 1 | Provisional planning should involve planning for widening of most used roads for example the housing expansion south of M2 Marion Rd connection and Grand Junction Rd plus others. | Darrell O'brien | 16 Jan 2025, 03:31 PM |

END OF REPORT

**Project: Assessment Improvements Code Amendment**

**QandA: Questions: Assessment Improvement Code Amendmen**

| No. | Contribution | Author | Posted at |
|---|---|---|---|
| 3 | Hi team - the design overlay referral table is confusing and requires rewording. The entry paragraph states 'except where the development comprises a variation... then (a), (b) or (c) applies, however (c) references a variation that is minor. The use of and/or should also be considered. Cheers, love your work DG x2 | Troyzy | 11 Mar 2025, 02:04 PM |

END OF REPORT

**Project: Assessment Improvements Code Amendment**
**QandA: Questions: Assessment Improvement Code Amendmen**

| No. | Contribution | Author | Posted at |
|---|---|---|---|
| 2 | I have not read the amendments. BUT one of my biggest issues is<br>1. Lack of good consultation when something is about to be built in community areas... We basically find out when a decision is made and then we have to argue about it - Eg In Whyalla the Soccer Over next to the caravan park in town has PLANS around it. BUT everyone "Knows Nothing!" Future plans should be discussed<br><br>2. when double and triple storey flats get built beside single storey houses, Sunlight is reduced to the Single storey for drying clothes and solar panel efficiency is also reduced.. BUT these Owners cannot get info on what is being built before hand to comment... the FLATS just get built. " Progress VS Frustration/mental health issues" !! SAD | Clarence | 16 Jan 2025, 04:45 PM |

END OF REPORT




# Leon Bignell MP

**State Member for MAWSON**

*Working hard for our area*

PO Box 1080, Aldinga Beach SA 5173
**Telephone** 8556 5722
**Email** mawson@parliament.sa.gov.au


State Planning Commission
email: PlanSAsubmissions@sa.gov.au

To Whom It May Concern

**Re: Assessment Improvements Code Amendment**

More than a decade ago, I began working with representatives of McLaren Vale and the Barossa, taking inspiration from the Napa Valley, to drive the development of the Character Preservation (McLaren Vale) Act 2012.

This is extremely important legislative protection for our region and my office is being inundated with emails and phone calls from concerned residents who feel threatened by constant development applications that are outside what the legislation was intended to permit.

The Character Preservation Act (the Act) prohibits land division below 16 hectares for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, "almost ineffectual to prevent the creation of small allotments".

Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions.

I understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].

I urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

**The people of our region need to be reassured that the legislation will not be watered down by public servants acting against the will of the Parliament and the will of the people.**

Corruption of an Act specifically designed to save agricultural land can only play into the hands of developers.

We know development companies have bought agricultural land in the hope of cashing in by converting it to housing blocks through subdivision.

Around the world, planning rules have always been the most easily exploited by corrupt bodies. The Character Preservation Acts for McLaren Vale and the Barossa Valley were meant to put a stop to that happening. What we have seen in the past few years, hints at the possibility that these safeguards are at risk of being breached.

The people of my area are exhausted at having to constantly be vigilant against these development applications that are quite clearly not acceptable under the Act.

Many of these applications site the Planning Commission's own erroneous reference to 'anomalies' in the McLaren Vale region. As an architect of the original legislation, those parcels of land were never anomalies they were outside the town boundaries and were deliberately made off-limits to subdivision.

Until the Planning Commission corrects its language in the outcomes of the review into the Character Preservation Act released in 2018 and again in the secretive review of the same parcels of land in the 2021 review into the Environment and Food Production Area, the people in our area will continue to have a lack of faith and trust in the planning system.

***For full transparency: I note that, while I am representing the interests of the electorate and people in the local community, I also own a property within the township of McLaren Vale, which I purchased in June 2014. So I have a personal interest as well as a longstanding community interest in this matter.***

Yours sincerely,

[redacted]

**Hon Leon Bignell MP**
**Member for Mawson**

March 4 2025

*Our ref: PLA037*

City of Burnside

3 March 2025

Mr Craig Holden
Chair, State Planning Commission
GPO Box 1815
ADELAIDE SA 5001
Via email to: PlanSASubmissions@sa.gov.au

Dear Mr Holden,

**SUBMISSION – ASSESSMENT IMPROVEMENTS CODE AMENDMENT**

Thank you for the opportunity to provide comment on the Assessment Improvements Code Amendment proposed by the State Planning Commission.

We understand that this Code Amendment is seeking to make a range of changes to the Planning and Design Code to improve development assessment practice and improve consistency of decision making. The proposed updates affect:

- Rules of Interpretation
- Language, consistency and policy applicability
- Referrals
- Land Use Definitions
- Administrative Terms and Definitions
- Targeted Policy Updates

City of Burnside is supportive of enabling improved assessment decisions within the Planning System as indicated in our previous submissions regarding the Planning System review. We have considered the proposed Code Amendment from the perspective of both strategic policy and development assessment practice.

City of Burnside supports many of the proposed changes proposed in the Assessment Improvements Code Amendment. Those particularly relevant to the City of Burnside are summarised below and documented in more detail in the attached Table 1 – City of Burnside Review of Assessment Improvements Code Amendment. Feedback and comment for your review and consideration is provided under each of the key recommended policy changes.

**Rules of Interpretation**

These amendments have regard to recent Court judgements regarding the interpretation of the Planning and Design Code policy related to performance assessed development and proposes updates to spatial mapping and references to Australian Standards.

**Post** PO Box 9, Glenside SA 5065
**Civic Centre** 401 Greenhill Road, Tusmore SA 5065
**Phone** (08) 8366 4200 **Fax** (08) 8366 4299 **Email** burnside@burnside.sa.gov.au
**www.burnside.sa.gov.au** **ABN** 66 452 640 504

*Council Comments*:

- Council is generally supportive of the proposed changes and requests that updates to spatial mapping are undertaken in a transparent and timely manner.

**Language, consistency and policy applicability**

The proposed changes address recommendations from the Expert Panel and duplications and inconsistencies in policy wording.

*Council Comments*:

- Council is generally supportive of changes which improve clarity and interpretation of code policy. Council has identified a missing link in the Urban Corridor (Living) Zone and highlights the need for caution when amending policy in areas of potential risk (e.g. adjoining watercourses). Furthermore, every opportunity should be taken to incorporate Universal Design principles into Code policy.

**Referrals**

The proposed changes address recommendations from the Expert Panel regarding referrals to the State Heritage Branch.

*Council Comments*:

- Council recommends that the criteria for referrals to the State Heritage Branch be maintained or strengthened to ensure that the rigor of assessments is not compromised

**Land Use Definitions**

The proposed changes reference recent court determinations and recommendations from the Expert Panel regarding the interpretation of definitions for several land uses including personal service establishments and training facilities.

*Council Comments*:

- Council is supportive of these changes that improve code policy interpretation.

**Administrative Terms and Definitions**

The proposed changes reference practitioner and user feedback particularly relating to the interpretation of building height, street frontages and exemptions from notification of the demolition of an 'excluded building' in an Historic Area Overlay or State or Local Heritage Place.

*Council Comments*:

- Council is generally supportive of the proposed changes provided:
    - ancillary buildings in an Historic Area Overlay are not excluded from notification if they form part of a Local Heritage Place or State Heritage Place or if they demonstrate the historic characteristics expressed within the Historic Area Statement and
    - (b)(i) is amended to capture ancillary buildings which **do** meet the characteristics expressed in the Historic Area Statement **are** notified.

**Targeted Policy Updates**

The proposed changes reference recommendations from the Expert Panel and user feedback regarding neglect of local heritage places, provision of covered car parking spaces, the suitability of community title land division and carparking rates for major open spaces.

*Council Comments*:

- Council is generally supportive of the proposed changes particularly:
  - the strengthening of local heritage demolition policy to ensure local heritage places are not being neglected or left dilapidated;
  - amended policy to require sufficient space for the covering of uncovered carparks at a later date;
  - guidance around the provision of parking for land uses with no prescribed parking rate, subject to the removal of superfluous wording.

Please contact Aaron Schroeder, Strategic Projects and Planning Manager [redacted] or Alison Cusack, Coordinator City Policy and Planning [redacted] should you have any queries in relation to this submission.

Yours sincerely,

[redacted]

**Julia Grant**
Chief Executive Officer

att: Table 1 – City of Burnside Review of Assessment Improvements Code Amendment

**TABLE 1 – City of Burnside Feedback to Assessment Improvements Code Amendment – February 2025**

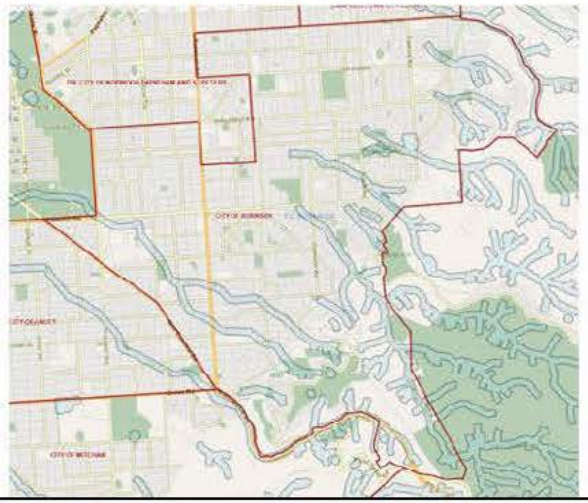
| Topic | Proposed Change | Council Comments |
|---|---|---|
| **RULES OF INTERPRETATION** | | |
| Performance Assessed Development – Relevant Policy Considerations | Amendments to Rules of Interpretation:<br>• Inclusion of guidance that the relevant authority may have consider other similar code provisions for contextual purposes only, but cannot form the reason for consent or refusal of an application.<br><br>• Inclusion of guidance to confirm that all policies apply for the purpose of assessment in the case of "all other Code Assessed development". | Support |
| Performance Assessed Development – TNV Policy Weight | Amendment to Rules of interpretation:<br>• To clarify that a numeric value forming part of a designated performance feature (DPF) serves to guide a relevant authority, and is not a mandatory requirement in the case of a performance assessed development<br><br>Proposed change:<br>**Designated performance features**<br>To assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF, including a Technical and Numeric Variation (TNV) or | Support |

| Topic | Proposed Change | Council Comments |
|---|---|---|
| | other numeric value which forms part of a DPF, provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies. | |
| Spatial Mapping Updates – Minister's Determination | Proposed to expand and enhance the list of overlays which may be amended in accordance with the s71 of the PDI Act i.e. via a Ministerial determination rather than via a Code Amendment.<br><br>Removal of the requirement to publish the date of such a change in the Table of amendments in Part 13.<br><br>Additional overlays which may be amended under this proposed change will include:<br><br>Adelaide Dolphin Sanctuary<br>Aircraft Noise Exposure<br>Airport Building Heights (regulated)<br>Building Near Airfields<br>Defence Aviation Area<br>Gas and Liquid Petroleum Pipelines<br>Gas and Liquid Petroleum Pipelines (Facilities) | Support<br><br>Suggest the extent and nature of the change should also be demonstrated in the interest of transparency.<br><br>It is important for users of the system to easily and quickly understand the "before" and "after" of the extent of any spatial changes to the Overlay, to determine for themselves if such a change is relevant to their work, investigations, or development proposals. Furthermore, all Overlays should be updated quickly to reflect legislative changes to avoid any confusion |

| Topic | Proposed Change | Council Comments |
|---|---|---|
| | Future Road Widening (new inclusion that the overlay may be updated (b) where the update involves the removal of the Overlay from a road which is not a State maintained Road, at the request of Council)<br>Historic Shipwrecks Overlay<br>Tunnel Protection Overlay | during the development assessment process. |
| Spatial Mapping Updates – Spatial Improvements | Amendments to the Rules of Interpretation relating to cadastral updates to clarify the circumstances under which the boundaries of the Code's spatial layers may be updated to align with cadastre. | Support. |
| Policy Updates – Australian Standards | Amendment to enable a process for policies to be updated to reflect changes to Australian Standards without undertaking a s73 Code Amendment process.<br><br>Minister may alter a DTS/DPF provision to reflect an update to a relevant standard published by Standards Australia, and must publish a new DTS/DPF provision, ensure it forms part of the SA planning database and publish notice of this change. | Support. |
| **LANGUAGE, CONSISTENCY AND POLICY APPLICABILITY** | | |
| Use of 'And' and 'Or' in Policy | Amend provisions containing lists to apply consistent drafting methodology. | Support |
| Shop, Office and Consulting Room – Inconsistent Policy Linkages | Amend to include missing policies for shop, office and consulting rooms, including in the following zones which apply within the City of Burnside:<br>• Business Neighbourhood Zone (Office PO 1.3 and Shop PO 1.2 and PO1.3) | Support |

| Topic | Proposed Change | Council Comments |
|---|---|---|
| | • Suburban Business Zone (Consulting Rooms PO 1.4, Shop PO 1.2 and PO 1.4)<br>• Local Activity Centre Zone (Shop, Consulting Room and Office PO 1.5)<br>• Suburban Activity Centre Zone (Consulting Rooms PO 1.6, Office PO 1.6 and Shop PO 1.5, PO 1.6) | |
| Swimming Pool Pumps – Acoustic Enclosure Policy | Proposed changes to address inconsistencies in wording between the Accepted Development tables and General Development Policies.<br><br>Replacement of "solid structure that will have material impact on the transmission of noise" with "solid acoustic structure"<br><br>• Delete Design (Ancillary Development) PO and DTS/DPF 13.3<br>• Delete Design in Urban Areas PO and DTS/DPF 19.3 | Support |
| Accepted Development – Building Alterations – Loss of Carparking | This amendment seeks to ensure that required off-street car parking rates are maintained when undertaking minor building alterations.<br><br>Accepted development pathways do not currently address loss of off-street parking through the conversion of a carport or garage to a room.<br><br>Proposed amendment to Table 1 – Accepted Development for class of development "building alterations" to ensure an "accepted" assessment | Support. |

| Topic | Proposed Change | Council Comments |
|---|---|---|
| | pathway for an alteration does not result in less on site car parking than specified in Transport, Access and Parking Table 1 - General Off-Street Car Parking Requirements or Table 2 – Off Street Car Parking Requirements in Designated Areas. | |
| Conservation Zone – Restricted Development Ambiguity | Amend restricted development exclusions relating to 'dwelling' to clarify that the replacement of an existing lawfully erected dwelling includes one that was demolished within the previous 3 years.<br><br>Amend restricted development exclusions relating to 'land division' by using the word 'satisfies' instead of 'meets' to ensure consistency with other policy.<br><br>Allows for creation of allotments for the purpose of creating a public road or public reserve and correction of anomalies in boundary alignments relating to existing vehicle access points. | Support |
| Water Resources Overlay – Exclusions | Some development types are currently excluded from deemed-to-satisfy assessment pathway when located within the Water Resources Area, despite provisions existing in the Overlay containing provisions which could be applied to a DTS pathway.<br><br>Proposed amendment removes the Water Resources Overlay exclusion from deemed-to-satisfy dwellings in all zones and apply the Overlay policy in its place. | Conditional Support –<br>The proposed change seeks to reinforce the provisions sought by the Overlay and ensures the Water Resources Overlay policies are applied to assessment of Deemed-to-Satisfy dwellings which is supported.<br>The application of this Overlay should be cognisant of any ongoing policy work in the flood hazards |

| Topic | Proposed Change | Council Comments |
|---|---|---|
| | Current extent of Water Resources Overlay in CoB shown below:<br>  | space and not increase the level of flood risk for any development adjoining watercourses, particularly in urban areas.<br>It is also noted that this Overlay works in conjunction with other flood hazard overlays and policies and the City of Burnside reinforces the need for the appropriate assessment of developments in flood prone areas and the maintenance of water quality and natural flow conveyance paths. |
| Stormwater Management Overlay – Connection to Hot Water Service | Removal of requirement to connect rainwater tank storage to hot water service because the Plumbing Code of Australia does not allow direct connection of a rainwater tank to hot water services. | Support. |
| Educational Establishment Policy – Marking of Accessible Car Parking<br><br>(CoB note: this is a universally applicable policy change and not specific to educational establishments, despite this title) | Proposed improvements in wording to clarify that 'clearly marked accessible parking space' relates to "accessibility" in the context of parking spaces for people with disabilities and/or accessibility needs. | Support.<br><br>Opportunity to further encourage universal design outcomes, consistent with the State Planning Policies.<br><br>PO 5.1 could be further amended (or PO 4.1 expanded) to encourage |

| Topic | Proposed Change | Council Comments |
|---|---|---|
| | | more generous sizing and design of non-accessible car parks, particularly those adjacent a wall, for drivers with accessibility needs who might not qualify to use car parks for people with a disability<br><br>e.g.: ...which:<br><br>1. Have regard to principles of universal design for car parking<br>2. Have regard to factors that may support a reduced on-site rate such as:<br>a. (include existing/proposed changes) |
| Advertisements – General Policy – Third Party Advertising | Duplication of wording related to visual clutter and untidiness.<br><br>Proposed amendment removes unnecessary wording from Advertisements module PO 3.1 to avoid duplication with PO 2.1 to 2.3 of the same module. | Support. |
| Other – New Issue Raised by City of Burnside | New topic raised by City of Burnside: | Recommend that missing link to Urban Corridor (Living) Zone PO 2.1/DTS/DPF2.1 is included in Table |

| Topic | Proposed Change | Council Comments |
|---|---|---|
| | • Missing linkage in Urban Corridor (Living) Zone relating to policy for building scale and massing.<br>• Table 3 – Performance Assessed provisions for Residential Flat Buildings should also include Urban Corridor (Living) Zone PO 2.1, DTS/DPF2.1 | 3 – Performance Assessed provisions for Residential Flat Buildings. |
| **REFERRALS** | | |
| State Heritage Referrals | | |
| State Heritage Place Overlay | No policy changes proposed, however new guidelines will be prepared to provide clarity on the referral exemption for minor and like for like development. | Support. |
| Heritage Adjacency Overlay | Change of wording from "materially affects the context" to "substantially affects the visual context" within which the State Heritage Place is situated.<br><br>Introduction of a note highlighting that referral is not required to State Heritage where the Overlay relates to a local heritage place. | Recommend that the word "visual" is removed from the amended policy to say, "*substantially affects the context*". The exclusion of the word 'visual' enables other elements impacting the context to be considered if necessary. |
| State Heritage Area Overlay | Heritage Branch is primarily concerned with visual impacts of development from the public realm (and not from private property).<br><br>Proposed removal of the words "are visually dominant within the State Heritage Area" from the referral trigger. | Recommend that the words "*are visually dominant within the State Heritage Area*" be maintained as a referral trigger for unforeseen development scenarios. The referral procedures provide an option for when a referral is not warranted. |

| Topic | Proposed Change | Council Comments |
|---|---|---|
| **LAND USE DEFINITIONS** | | |
| Personal or domestic services establishment | Amend definition to be more specific about nature of activities it includes, and specifically exclude vehicles, boats etc. from 'personal effects' as a result of a case law finding relating to a car wash that the includes cars etc. | Support. |
| Workers' Accommodation | Amend definition to include seasonal hospitality and tourist development in the list of activities that it supports.<br><br>Note: the accepted development assessment pathway for "temporary accommodation for certain workers" applies outside Metropolitan Adelaide in locations designated by the Minister for the purpose of this clause, and therefore is not relevant in City of Burnside. | Not relevant in City of Burnside. |
| Commercial Forestry | Amend definition to resolve ambiguity with current definition to ensure it also includes commercial forests that are not harvested e.g. for carbon plantings. | Support. |
| Trade training facility | New definition to provide specific land use definition for trade training facility which would otherwise be considered an educational facility. This is due to expectation that trade training would occur within commercial and industrial environments.<br>This would include education, training and operation of heavy machinery, moving or lifting equipment and the cutting and or finishing of materials. | Support. |

| Topic | Proposed Change | Council Comments |
|---|---|---|
| Emergency services facility | This term is not defined however is currently used in several zones and subzones as an envisaged land use. | Support. |
| **ADMINISTRATIVE TERMS AND DEFINITIONS** | | |
| Building height measurement point clarification | Changes to wording of definition, including a diagram to provide clarity. | Support |
| Primary street | Amending the terms primary street and secondary street frontage without changing original intent | Support |
| Excluded building | Part 8 – Administrative Terms and Definitions - Changes to make the intent of "excluded building" clear in relation to exemptions from notification of the demolition of State Heritage Place, Local Heritage Place or building in an Historic Area Overlay. | Conditional Support – subject to ensuring that ancillary buildings in an Historic Area Overlay are not excluded from notification if they form part of a LHP or SHP or if they demonstrate the historic characteristics expressed within the Historic Area Statement (b)(i)<br><br>Propose that (b)(i) is amended to capture ancillary buildings which **do** meet the characteristics expressed in the Historic Area Statement **are** notified. |
| **TARGETED POLICY UPDATES** | | |
| Local Heritage Place Overlay – Demolition Policy | Recommendation of Expert Panel and supported by State Government to update Performance Outcome 6.1 of the Local Heritage Overlay to be consistent with corresponding PO in the State Heritage Overlay to | Support – consistent with Council's submission to Expert Panel and Government Response to Expert Panel submissions. |

| Topic | Proposed Change | Council Comments |
|---|---|---|
| | ensure local heritage places are not being neglected and left dilapidated.<br><br>Proposed amendment:<br><br>(b) the structural integrity or condition of the Local Heritage Place represents an unacceptable risk to public or private safety and ~~is irredeemably beyond repair~~ results from actions and unforeseen events beyond the control of the owner and is irredeemably beyond repair. | |
| Covered Car Parking Spaces | The Expert Panel recommended (and the Government supported) that the requirement to provide undercover car parking should be removed from the Planning & Design Code, but provision of space for a covered car park should still be made available behind the face of the dwelling. | Support, reinforcing the importance of the diagram in PO 19.2, PO 23.2 and PO 14.3 requiring sufficient space allowed either side for future roof supports and to provide clearance from obstructions. |
| Community Title Land Division | Developers are using community title land division possibly because it is cheaper as the internal roads are being built to lower standards as they are not required to be handed to local government to maintain.<br><br>This may disadvantage purchasers and community corporations who will have responsibility for ongoing road maintenance. | Support |

| Topic | Proposed Change | Council Comments |
|---|---|---|
| | The introduction of PO 2.9 in Part 4 – Land Division module to ensure proper consideration of the suitability of Community Title at the land division stage. | |
| Car Parking Rates for Major Open Spaces<br><br>Note: this change relates to all non-specified land uses, despite the title of the amendment | Proposed change to PO 5.1 of the Transport, Access and Parking module to provide guidance for how applicants and relevant authorities may determine appropriate parking rates for land uses where no prescribed car parking rate.<br><br>The following wording is proposed to be included in PO 5.1<br><br>Note: For the avoidance of doubt, in circumstances where a land use is not defined in Table 2- Off Street Vehicle Parking Requirements in Designated Areas or Table 1 – General Off-Street Car Parking Requirements (as applicable), an appropriate car parking rate may be defined by reference to similar development in comparable locations. | Support<br><br>Note: this change relates to all non-specified land uses, not only for Major Open Spaces.<br><br>Suggest removal of the words “For the avoidance of doubt” as superfluous. |

24 February 2025

State Planning Commission
c/- Planning and Land Use Services (PLUS)
Department for Housing and Urban Development
e: PlanSAsubmissions@sa.gov.au

CITY OF MITCHAM

Dear Sir/Madam

**SUBMISSION ON THE DRAFT ASSESSMENT IMPROVEMENTS CODE AMENDMENT**

Thank you for the opportunity to provide feedback on the draft Assessment Improvements Code Amendment ("Code Amendment"). Council acknowledges and supports the Department's efforts and commitment to continuous improvement of the technical and operational aspects of the Planning and Design Code.

Given the breadth of proposed changes, our comments are limited to matters directly affecting the City of Mitcham. We highlight that many of the proposed changes in the Code Amendment are supported, in which case we have not provided comments. We have also included suggestions for additional changes which we consider fit within the scope of the draft Code Amendment.

**RULES OF INTERPRETATION**

**Application of Policies to Performance Assessed Classes of Development**

The Code Amendment proposes changes which purports to reflect case law that states that a relevant authority should be able to have regard to all relevant provisions of the Code, not only those returned by a Portal enquiry. The case law does not limit the use of such provisions to providing context, as is proposed by the draft Code Amendment.

Where a relevant authority relies on provisions not identified in a Portal enquiry to understand the context or policy intent more fully, then it stands to reason that these policies should also form part of the consent (or refusal). While they may not form the basis of the decision, they are a part of the whole and their application should not be limited.

In the case that the Department holds a different view and the change is implemented as proposed, it is imperative to ensure that *all* relevant policies are included in the Portal extract and identified as relevant to the assessment. There have, on occasion, been instances where there is a "missing linkage" and relevant provisions are not returned in a Portal enquiry. In such cases, the proposed change to the Rules of Interpretation may result in unintended consequences.

***Recommendation***

- *Amend the proposed change to the Rules of Interpretation to allow all relevant provisions to be considered in an assessment, irrespective of their omission in a Portal enquiry.*
- *A Departmental project to review:*
  - *(a) Table 3 for each zone to ensure that applicable policy is correctly identified; and*
  - *(b) check linkages within the system to ensure that all relevant policies are being correctly identified and returned via Portal enquiry.*

Street Address:
131 Belair Road
Torrens Park SA 5062

Postal Address:
PO Box 21
Mitcham Shopping Centre
Torrens Park SA 5062

Phone: 1300 133 466
www.mitchamcouncil.sa.gov.au

**TNV Policy Weight in Performance Assessments**

It is acknowledged that the proposed change to the Rules of Interpretation regarding the consideration of numeric values in performance assessments is intended to reflect common practice. The change clarifies that in a performance assessment a proposal need not meet a numeric value to achieve a performance outcome.

While this is not disputed, it is equally true that a proposal will not necessarily meet a performance outcome simply by achieving a numeric value. The Rules of Interpretation should also reflect this.

This proposed change highlights that there would be value in identifying "Designated Performance Features" and "Deemed to Satisfy" as distinct attributes to better identify their role in assessments.

***Recommendation***

- *Amend the Rules of Interpretation to clarify that in a performance assessment a proposal need not meet a numeric value to achieve a performance outcome and that, equally, meeting a numeric value does not automatically achieve a performance outcome.*
- *Alternatively, introduce a Practice Guideline to assist with the application and interpretation of numeric values in DPFs in a performance assessment.*
- *Review opportunities to clearly differentiate DPF and DTS, given their different applications and purposes.*

**LANGUAGE, CONSISTENCY AND POLICY APPLICABILITY**

**Consistency of Language**

The importance of consistent language in the Planning and Design Code cannot be underestimated. The use (or lack) of "and" and "or" at the end of sentences *and* within sentences has a significant impact on how policy is interpreted and applied. Urban Corridor (Living) Zone PO5.1 (Significant Development Sites) is a good example of how important the appropriate use of these terms is – this policy is highly difficult to interpret due to the inconsistent use of "and" or "or".

***Recommendation***

- *Undertake a comprehensive review of the Code to ensure that policy intent is not impeded by language or editorial inconsistency. Such a review should be undertaken by a technical practitioner who understands the impacts of language on policy interpretation.*

**Swimming Pool Equipment – Language**

The proposed change states that pool equipment should be contained within a "solid acoustic structure" however this term is not considered to provide certainty about what type of structure is anticipated or intended and is therefore open to interpretation. A definition may help support the proposed change.

It is important to recognise that heat pumps form part of "swimming pool equipment" and frequently create noise impacts on neighbouring properties. It should be noted that heat pumps cannot be physically enclosed and therefore the proposed change does not necessarily resolve acoustic issues resulting from the installation of swimming pool equipment. A definition of "swimming pool & spa equipment" should be incorporated in the Code that encapsulates *all* equipment associated with swimming pools and spas.

As allotment sizes become smaller, particularly in urban areas, achieving a 12 metre setback from a habitable room for acoustic purposes is sometimes unachievable. In some cases, therefore, it will be impossible to meet current policy criteria intended to manage noise impacts resulting from pool equipment.

It is suggested that consideration should be given to including a specific maximum noise measurement (dBA) from the noise source (ie pool equipment) in the Planning & Design Code. Strengthening policy will avoid reliance on the Local Nuisance & Litter Control Act to manage noise issues pertaining to swimming pools between neighbours.

**Swimming Pool Equipment – Policy Applicability**

The Code Amendment proposes to delete General Development Policies (Design PO & DTS/DPF 13.3 and Design in Urban Areas PO & DTS/DPF 19.3) to avoid duplication, given the inclusion of PO 4.3 in the Interface between Land Uses part of the Code.

While the intent to remove duplication of policy is supported, there is concern that this change may result in the policy being inadvertently omitted in an assessment. Anecdotally, there is a perception by some Code users (practitioners and developers alike) that "Interface between Land Uses" policies apply where adjoining land uses are different (ie residential and commercial), rather than the same land uses.

***Recommendation***

- *Include wording in the Rules of Interpretation (or amend headings in General Development Policies) to clarify that the Interface between Land Uses policies apply where adjoining land uses are the same (eg residential adjacent residential).*

**REFERRALS**

**State Heritage**

State Heritage Place Overlay

We note that the State Heritage Branch intends to prepare advisory information to provide greater clarity and guidance on referral exemptions. We request that the Branch also considers preparation of standard conditions for use by relevant authorities, in conjunction with advisory information.

Heritage Adjacency Overlay

It is considered that the term "substantially affects the visual context" does not provide any greater clarity than the term "materially affects" and will still be open to interpretation, given its subjective nature.

State Heritage Area Overlay

The proposed change to the referral trigger seems to be at odds with the State Heritage Area Overlay Desired Objective that seeks consistency with the Colonel Light Gardens State Heritage Area Heritage Standards, in that the Standards contain principles and acceptable standards which relate to development both visible and not visible from the public realm.

In the case of Colonel Light Gardens, clarification is required as to whether rear laneways throughout the suburb are considered "the public realm" in the context of State Heritage Branch referrals.

If the State Heritage Branch will only accept referrals for development visible from the public realm, there should be a mechanism in the Planning & Design Code to enable the relevant authority to apply the Heritage Standards in its assessment of any proposal that is not referred to the Branch.

We also suggest that there may be value in exploring opportunities for alternative assessment pathways for some "minor" development types within the State Heritage Area Overlay. This could possibly be achieved by incorporating the Heritage Standards and relevant planning policies in a Deemed to Satisfy assessment pathway. Examples of development this could apply to includes fencing, rear verandahs, swimming pools and sheds.

***Recommendation***

- *Preparation of standard State Heritage Conditions for use by relevant authorities.*
- *Further consideration of the terms "materially affects" and "substantially affects the visual context" – both are subjective and neither necessarily provides more clarity than the other.*
- *Clarification of rear laneways as public street/road/thoroughfare for the purpose of referrals to State Heritage Branch.*
- *Mechanism for relevant authorities to use the Heritage Standards in the absence of a referral process.*
- *Explore opportunities for alternative assessment pathways for some "minor" development types within the State Heritage Area Overlay.*

**ADMINISTRATIVE TERMS & DEFINITIONS**

**Building Height**

"Building height" is an important concept within the Planning & Design Code and the interpretation of its meaning is critical to a range of aspects, including public notification. We welcome the effort to provide greater clarity in the Code, however, we consider there may be additional circumstances that require further clarification, particularly in relation to buildings on sloping sites.

The diagram included in the definition is useful, but it is considered that further clarity could be achieved by including a dwelling in the context of the ground level and finished floor level, particularly where cut and/or fill is relevant, or where the dwelling is split level. A Practice Guideline may be a more appropriate approach to depict a variety of circumstances, with diagrams.

***Recommendation***

- *Prepare a Practice Guideline with a variety of circumstances in which building height needs to be measured – eg sloping sites with cut and/or fill, split level dwellings, stilt/pole dwellings.*

**TARGETED POLICY UPDATES**

**Covered Carparking Spaces**

We acknowledge that the proposed change relating to covered carparking spaces is designed to provide flexibility to home builders, however, the policy is likely to create unintended consequences in the future.

It is highly likely that the following scenario will arise because of the proposed change – an uncovered area located behind the main face of the dwelling, purportedly allocated for a future covered carparking space, is developed for another purpose (one that may not require development approval). A subsequent development application lodged for a covered carport will likely require the carport to be located forward of the dwelling.

The relevant authority is then put in a difficult position – either approve a carport forward of a dwelling that is at odds with planning policy intent or require that any work or development undertaken in the area behind the dwelling be removed to allow the carport to be located behind the dwelling face. Such circumstances could be avoided by requiring a covered carport behind the main face of the dwelling to be provided at the outset.

***Recommendation***

- *Maintain the current policy requirement that a covered carparking space is provided behind the main face of the dwelling.*

**Carparking Rates for Major Open Spaces**

The value of including a note (PO 5.1 Transport, Access & Parking Module) that guides applicants and relevant authorities to define an appropriate rate of carparking by reference to similar developments does not provide certainty for applicants, relevant authorities, or local communities – each of whom will likely have different expectations.

It is suggested that a Practice Guideline could provide greater clarity or guidance, rather than a note within the policy, particularly given such major open spaces are frequently unique in their context.

***Recommendation***

- *Prepare a Practice Guideline in relation to carparking for major open spaces to address carparking rates and other associated considerations, for example, accessibility via alternative transport modes and pedestrian safety and circulation within the carpark.*

**ADDITIONAL ITEMS FOR CONSIDERATION WHICH CURRENTLY ARE NOT PROPOSED:**

**Earthworks & Swimming Pools**

Earthworks required to install an inground swimming pool within an area or zone where earthworks are specified as development, such as the Hills Neighbourhood Zone (Clause 1, Schedule 3, PDI Regulations), result in inground swimming pools falling into a Performance Assessment pathway. Most of these assessments are straightforward and do not require the additional rigor of a performance assessment (with the exception of pools requiring large amounts of filling or additional structures).

***Recommendation***

- *Any excavation required, or filling (with filling being a nominated to a reasonable height – potentially up to one metre), that is directly required for the installation of an inground swimming pool only, should form part of the swimming pool Accepted Development assessment pathway.*

**Medium and High Density – Definitions**

The Planning & Design Code refers to "medium density" and "high density" within policy, however these are not terms that are defined within the Code and which are frequently subject to differences in interpretation.

Recent case law (Vikhlyaev v City of West Torrens [2023] SAERDC 1) states that the definitions relating to "net" density contained in the Code are not applicable when interpreting policy that refers to medium density and high density.

***Recommendation***

- *Include definitions of "low density", "medium density" and "high density" in the Code to assist in interpretation of policy intent.*

**Conclusion**

We acknowledge and supports the Department's efforts and commitment to continuous improvement of the technical and operational aspects of the Planning and Design Code and trust that our submission assists in this process. We appreciate the opportunity to participate in the process and welcome future opportunities to work together.

Please note these comments are made by the Administration and have not been endorsed by the Council.

We would be pleased to discuss our feedback further with you or answer any queries you may have arising from our feedback. Please do not hesitate to contact me on [redacted] or by email at [redacted]

Your sincerely,

[redacted]

**GENERAL MANAGER DEVELOPMENT SERVICES AND COMMUNITY SAFETY**

63 Mt Barker Rd
Stirling SA

08 8408 0400

mail@ahc.sa.gov.au

04 March 2025

Code Amendment Team
Planning and Land Use Services Division
Department of Housing and Urban Development
GPO Box 1045
Adelaide SA 5001

*Email: **plansasubmissions@sa.gov.au***

Dear Sir/Madam

**Submission – Assessment Improvements Code Amendment**

Adelaide Hills appreciates the opportunity share its views with the State Planning Commission in the consultation on the Assessment Improvement Code Amendment. This submission first shares observations and general comments of the planning team on the Code Amendment and secondly, provides some examples of policy that based on the experience of the team, would benefit from further improvement as part of the Code Amendment.

**Observations and general comments**

The content of the Assessment Improvements Code Amendment is broadly supported. We wish to raise awareness of the following matters and hope they can be addressed in the refinement of the Code Amendment.

1. **TNV Policy Weight**

The Council support the recommended amendment to the rules of interpretation to clarify that a numeric TNV forming part of a DPF is not a mandatory requirement in the case of performance assessed development. However, we disagree that it is not necessary to further clarify in the rules of interpretation that whilst a quantum departure from the DPF might be justified, the circumstances need to be carefully weighed up in a merits assessment of the proposal against the outcome sought by the PO.

2. **Item 4.2.3 - Rural Horticulture Zone – Ancillary Accommodation – Deemed to Satisfy Pathway**

In the Code Amendment issue outline Adelaide Hills Council wish to highlight there is an erroneous comparison between the Rural Horticulture Zone and the Productive Rural Landscape Zone where it is stated that ancillary accommodation has a deemed-to- satisfy pathway in the Productive Rural Landscape Zone. No such pathway exists for ancillary accommodation.

3. **Item 4.2.4 - Rural Type Zones – Workers' Accommodation – Performance Assessed Policy Linkages**

Adelaide Hills COUNCIL

63 Mt Barker Rd
Stirling SA

08 8408 0400

mail@ahc.sa.gov.au

The Code Amendment proposes to link the Significant Interface Overlay PO1.1 and DTS/DPF1.1 (sensitive uses where replacement dwelling has a total floor area no greater than the existing or previous dwelling) to Workers' accommodation in the Productive Rural Landscape Zone. Workers' accommodation by definition is not a dwelling but rather temporary accommodation and therefore it is considered inappropriate to link workers' accommodation in the way suggested. As mentioned in the Code Amendment Paper worker's accommodation in the Productive Rural Landscape Zone has its own policy.

**4. Tourist Accommodation and Workers' Accommodation**

In the. Productive Rural Landscape Zone DTS/DPF6.3 (c) seeks only "one tourist accommodation facility" on the same allotment. Further clarification is required as to what this refers to. It is clear that multiple buildings can be proposed for tourist accommodation in point (b) of the same DTS/DPF.

Furthermore, in the Productive Rural Landscape Zone, policy in DTS/DPF 9.1 (h) also seeks only one workers' accommodation facility being located on the same allotment. As both workers accommodation and tourist accommodation are forms of temporary accommodation it is suggested that there should be improvement to policy wording to reflect only one form of temporary accommodation being established on the same allotment, regardless of whether it is workers accommodation or tourist accommodation.

<u>Examples of policy and definitions to include for further improvment</u>

**5. Primary Production – request for a new definition**

The Productive Rural Landscape Zone refers to primary production over 40 times and other similar zones also refer to primary production in the Performance Outcomes. Various forms of development such as Tourist Accommodation requiring linkages to primary production without it being clear what primary production is. This makes it difficult for applicants and planners to make an assessment against the Planning and Design Code.

**6. Overlooking**

- The limitation of upper-level windows in design and design in urban area policies in regard to overlooking does not allow for the overlooking that can occur from single storey dwellings on sloping land where benched levels can result in significant overlooking from a ground floor window. Refer to design policies below. It is suggested the windows should be more broadly considered and the policy reworded.

*Design PO 10.1 Development mitigates direct overlooking from upper level windows to habitable rooms and private open spaces of adjoining residential uses.*

*Design in Urban Areas PO10.1 Development mitigates direct overlooking from upper level windows to habitable rooms and private open spaces of adjoining residential uses in neighbourhood-type zones.*

Adelaide Hills COUNCIL

63 Mt Barker Rd
Stirling SA

08 8408 0400

mail@ahc.sa.gov.au

- Furthermore, there is inconsistency in design and design in urban area policy wording in regard to overlooking from balconies, terraces and decks. Design PO 10.2 includes terraces and decks but Design in Urban Areas PO 10.2 only includes balconies. Refer to design policies below. It is suggested that the wording in both modules should be made consistent to allow improved consideration of overlooking in urban areas.

  *Design 10.2 Development mitigates direct overlooking from balconies, terraces and decks to habitable rooms and private open space of adjoining residential uses.*

  *Design in Urban Areas PO10.2 Development mitigates direct overlooking from balconies to habitable rooms and private open space of adjoining residential uses in neighbourhood type zones.*

Thank you for the opportunity to provide feedback and if you have any questions please do not hesitate to contact me.

Yours sincerely

[redacted]

**Deryn Atkinson**
**Assessment Manager**

3 March 2025
Our ref: 6680075

CITY OF ONKAPARINGA

State Planning Commission
Submission – Assessment Improvements Code Amendment
C/- Code Amendment Team
Planning and Land Use Services
Department for Housing and Urban Development

via email PlanSASubmissions@sa.gov.au

Dear Mr Holden

Thank you for the opportunity to provide feedback on the Assessment Improvements Code Amendment. We commend Planning and Land Use Services on undertaking regular reviews for improvements to the Planning and Design Code.

Please note that this is the administration's submission, however, it reflects previous comments and submissions on the matter of the McLaren Vale Character Preservation District made by the Chamber in prior years.

We have reviewed the Amendment and can advise we support the majority of the proposed changes – please note we have not made comment on the amendments we support, and only provide comment against the amendments we have some concern with or seek further clarity on.

McLaren Vale Character Preservation District

We have one substantial area of critical concern – **4.1.2. Performance Assessed Development – TNV Policy Weight** and what in essence is an unacceptable lack of weight of the 16-hectare TNV in the Rural Zone and the impacts this is having on the McLaren Vale Character Preservation District. This is discussed further below and we understand that the issue raised is also a concern for the councils of the Barossa Character Preservation District.

**4.1. Rules of Interpretation**

**4.1.2. Performance Assessed Development – TNV Policy Weight**

We accept the principle of this proposed amendment noting that '*a numeric value which forms part of a DPF is not a mandatory requirement, but rather serves as a guide for a relevant authority when assessing a performance assessed development proposal against the requirements of a Performance Outcome*'.

That said, what this fails to take into consideration is that a TNV needs to be called up in the corresponding Performance Outcome to serve as a guide.

On review of the Code's Zones where a TNV is applied, we note that under Site Dimensions and Land Division, and the corresponding Performance Outcome, many POs do not speak to the creation of allotments to be '*consistent with the density and dimensions expressed in any relevant Minimum Site Area Technical and Numeric Variation and Minimum Frontage Technical and Numeric Variation*' or similar.

In these instances, and concerningly, the TNV policy weight does not even come not effect.



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We are experiencing a number of land division development applications in our Rural Zone that propose lots well under the TN of 16 ha – however as a 'performance assessed' development we can only rely on the PO referencing 'land division, including boundary realignments, promotes productive, efficient and sustainable primary production' - the PO does not call up or reference the TNV.

Prior to the Code, the City of Onkaparinga Development Plan Primary Production Zone had a minimum allotment size of 16 hectares – allotments less than this were deemed non-complying.

The transition to the Code whilst we were ensured of a 'like for like' the reality is the policy framework has weakened the land division policy to such a point it is almost ineffectual to prevent the creation of small allotments – and therefore a significant departure from the policy intent and TNV, and as previously described, critically the intent of the Character Preservation District.

The McLaren Vale Character Preservation District was created with a clear mandate, to protect the unique character and agricultural significance of the region from the pressures of subdivision and overdevelopment.

Given the Rural Zone in Onkaparinga is covered by the Character Preservation District Overlay, created to protect the region's character and viability, there is an urgent need to change the PO under the Rural Zone's subheading Site Dimensions and Land Division.

We strongly request that in the Rural Zone. Land Division PO 11.1 be amended to:

***Land division, including boundary realignments, promotes productive, efficient and sustainable primary production and is consistent with the dimensions expressed in any relevant Minimum Site Area Technical and Numeric Variation.***

In addition, to honour the original policy framework designed to minimise fragmentation, maintain the agricultural qualities of the district, and now to respect the district's preservation in both legislation and practice, we strongly request that the **Limited Land Division Overlay** apply to the entirety of the Rural Zone within the City of Onkaparinga.

**We believe that the above technical amendments must be addressed through the Assessment Improvements Code Amendment to ensure the integrity of the Character Preservation Districts.**

Review of the proposed Assessment Improvements Code Amendment

### 4.1. Rules of Interpretation

#### 4.1.1. Performance Assessed Development – Relevant Policy Considerations

We accept the intent of this proposed amendment noting it works well where there is one single class (or element) of development.

That said, in Part 1 - Rules of Interpretation, Determination of Classes of Development, it notes where more than one class of development is listed, then the particular table is defined by applying the class of development that most closely corresponds to the nature of the development.

To follow this approach would mean that the Applicable Policies for Performance Assessed Development Table, would not apply a relevant policy for the minor or secondary class of development, and it then cannot be considered in the assessment other than for 'context' – this would seem to be incongruent to the purpose of a performance assessment pathway.



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### 4.1.5. Policy Updates – Australian Standards

As stated, various provisions of the Code are based on or otherwise relate to criteria set out by various Australian Standards, and subsequently we further note the impending introduction of 'Growth Area and Greenfield Development Engineering Standards'.

In considering 'standards', we have concern with the application of Part 4 - General Development Policies - Transport, Access and Parking DTS/DPF 3.5 particularly part (b)(ii) that speaks to vehicle access to car parking, and a crossover setback of only 2m or more from the base of the trunk of a street tree.

The above, in conjunction with the change to tree legislation in May 2024, we have noted that more street trees are Regulated - the separation from street trees being 2m is typically not adequate to ensure the tree remains healthy and development occurs outside of the root zone.

There are also other aspects to a development that have potential to cause damage to the street tree being: underground services (trenches for stormwater, sewer, water, gas, electricity, NBNCo, etc.), level differences between street and site requiring retaining walls. We also note the proximity of dwellings with limited front setbacks often require the onsite tree planting within the 'front yard' due to lack of space in the rear and therefore competing and impacting on a street tree's root zone.

Street trees are a council and therefore community asset and they make a substantial contribution to the urban tree canopy cover of Greater Adelaide – we request further review of any 'standard' that applies to street trees to ensure we have the ability to maintain healthy, thriving urban street trees.

### 4.3.1. State Heritage Overlays

We support this amendment in principle however we request that an advisory guide be developed to assist in advising councils what should be referred to State Heritage. The guide should include details on what State Heritage consider 'minor in nature or like for like maintenance and would not warrant a referral'.

In addition, it would be helpful for the guide to specify essential information that is required by State Heritage to undertake assessment of applications that they receive through referral. The intent of the document would be to guide councils of the correct approach to assessment of applications affecting a state heritage place. We suggest it may also be beneficial for such a guide to clarify the referral pathway for common conservation works and maintenance that do not typically require referral.

### 4.4.4. New Definitions

We request that the definition of 'Supported Accommodation' also be updated.

Within the City of Onkaparinga, we are seeing a number of applications for new build supported accommodation that for all intent and purpose, present as a dwelling, and also the conversion of existing dwellings to supported accommodation - we understand that most often, these premises are for housing recipients of NDIS funding.

We note there are various levels of NDIS care provided, however a High Physical Support Housing facility operates 24 hours a day, 7 days a week with a minimum one staff member on site at all times – we further note there is also often 2 to 3 residents per premise.

The main planning concern is simply this regular, ongoing additional car parking demand that comes with supported accommodation, being the carers, visiting health professionals, cleaners, cooks and home maintenance people and the resultant pressure for on-street car parking.



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We have had an increasing number of complaints related to car parking on local roads where supported accommodation occurs - as noted above, depending on the needs there can be a number of carers and/or support staff onsite at any given time.

The issue lies with car parking rates in the Code. The Code prescribes that a dwelling with 2 or more bedrooms (including rooms capable of being used as a bedroom) requires 2 spaces per dwelling whereas supported accommodation requires 0.3 spaces per bed, which is considered inadequate given the level of demand generated.

We ask that the car parking rate for 'supported accommodation' (where in the form of a dwelling) should have a requirement for additional car parking above the current rates to accommodate the anticipated additional visitors to the site and not place additional pressures on the local on-street network.

### 4.5.1. Building Height – Measurement Point Clarification

We support this amendment in principle however we have some concern noting this will change how building height is interpreted when considering how the built form presents, in particular the roof form and pitch.

We also note that the proposed definition may result in fewer notifications where a development may have previously triggered the requirement.

### 4.6.3. Community Title Land Division

We support this amendment, but we consider there is a need for further support, direction and guidance (e.g. a practice guideline) on appropriateness of when a land division should or should not be a community title – without this assistance, it raises the likelihood of dispute, and therefore refusals and appeals which could be potentially avoided.

### 4.6.4. Car Parking Rates for Major Open Spaces

We have no objection to the principle of this amendment however we suggest an additional point (e) should be inserted that speaks the development having accessibility to public transport to support a reduced on-site rate.

We welcome the opportunity to continue the discussion on improvements to the Code, and the wider South Australia planning system.

Should you have any questions or wish to discuss these matters further, please contact Craig Jones, A/Team Leader Development Policy on [redacted] or [redacted].

Yours sincerely

[redacted]

Renée Mitchell
**Acting Chief Executive Officer**

Cc Nick Champion MP, Minister for Planning
Craig Holden, Chair, State Planning Commission



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Version: 7, Version Date: 03/03/2025

Doc ID: 5859324

21 February 2025

State Planning Commission
GPO Box 1815
**ADELAIDE SA 5001**

Dear Sir/Madam

**Re: Council Submission on the draft Assessment Improvements Code Amendment**

Thank you for the opportunity to comment on the draft *Assessment Improvements Code Amendment* (draft Code Amendment). The draft Code Amendment proposes a series of technical amendments that aim to enhance the performance of the Planning and Design Code and ultimately assist relevant authorities with the assessment of development proposals.

Council is generally supportive of the majority of the amendments as they will seek to clarify or resolve assessment errors. There are, however, some proposed amendments which we would like to highlight as areas of concern which have been documented in the attached Table 1.

In addition to comments on the proposed technical amendments outlined by the draft Code Amendment, Council also submits a series of issues outlined in Table 2, relating to emerging planning matters or technical issues encountered during assessment of a development proposal.

Council looks forward to your favourable consideration of the above matters. Please do not hesitate to contact Connie Parisi, Team Leader Planning Policy on 8555 7000 or by email [redacted] if you wish to discuss any of the matters raised in Council's submission.

Yours sincerely

[redacted]

Matt Atkinson
**GROUP MANAGER REGIONAL DEVELOPMENT**

Enc: Table 1: Summary of Council Comments – Draft Assessment Improvements Code Amendment
Table 2: Further Suggested Improvements to the Planning and Design Code

**Alexandrina Council**
11 Cadell Street (PO Box 21) Goolwa SA 5214
ABN 20 785 405 351

(08) 8555 7000
alex@alexandrina.sa.gov.au
alexandrina.sa.gov.au

**Table 1:**

| **Issue and Reference** (as identified in Attachment A – Amendment Instructions) | **Proposed draft Assessment Improvements Code Amendment change** | **Council Comment** |
|---|---|---|
| Rules of Interpretation (Item 4.1.2) | Clarifies that a technical numeric value serves as a 'guide' to a relevant authority, and is not a mandatory requirement (in the case of a performance assessed development) | By including the TNV as a 'guide' may render it challenging when relevant corresponding performance assessed policies do not provide sufficient guidance to achieve a good planning outcome. It is recommended that further road testing on some of the performance outcome policies be undertaken prior to this proposed amendment. |
| Rules of Interpretation (Item 4.1.3) | Alterations to the spatial application of an Overlay due to updates | It is recommended that Local Government be directly informed of any changes to the spatial application of Overlays. |
| Rules of Interpretation (Item 4.1.4) | Alterations to the spatial boundary of a zone, subzone or overlay to align the boundary to cadastre | It is recommended that the Council affected by the changes is directly informed of the change. |
| Rules of Interpretation (Item 4.2.3) | Inserting Deemed to Satisfy pathway for Ancillary Accommodation in the Rural Horticulture Zone and excluding from notification | Ancillary Accommodation should be listed in DTS/DPF 1.1 of the Rural Horticulture Zone, particularly if it is to follow a DTS pathway and will not require public notification.<br><br>In addition, request that **12.1** of the Infrastructure and Renewable Energy Facilities be included in the 'General Policy' Column of Table 2 relating to Ancillary Accommodation, to ensure that the development will be connected to an approved wastewater disposal system. |
| Land Use Definitions (4.4.2) | Workers' Accommodation revision to definition | "Workers' accommodation" definition needs to be further tightened; too much opportunity to convert buildings in rural areas to a |

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| | | second dwelling where a second dwelling is not envisaged by the zone. |
| Car parking Rates for Major Open Spaces<br><br>(Item 4.6.4) | Proposed Policy with change highlighted in green:<br><br>PO 5.1 Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as: (a) availability of on-street car parking (b) shared use of other parking areas (c) in relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site, the provision of vehicle parking may be shared (d) the adaptive reuse of a State or Local Heritage Place.<br><br>Note: For the avoidance of doubt, in circumstances where a land use is not defined in in Table 2 – Off-Street Vehicle Parking Requirements in Designated Areas or Table 1 – General Off-Street Car Parking Requirements (as applicable), an appropriate car parking rate may be defined by reference to similar development in comparable locations. | Where a land use is not defined in Table 2 – Off-Street Vehicle Parking Requirements in Designated Areas or Table 1 – General Off-Street Car parking Requirements (as applicable), an appropriate car parking rate should not be calculated at a rate *similar to development in comparable locations* as that development site referenced may not have sufficient car parking.<br><br>Rather, the relevant planning authority should be able to request a car parking provision report from the applicant which provides an analysis of what car parking rate should be used.<br><br>This practice should be adopted as an interim measure, while investigations are undertaken on suitable car parking rates for the various uses undertaken at major public open space areas. |

**Table 2:**

| Topic | Comment |
|---|---|
| Existing Definitions | • Lack of consistency of definitions between the Planning and Design Code and various Agencies, particularly the EPA (EPA Licence terminology vs Planning and Design Code terminology)<br>• Keeping definitions up-to-date and reflecting current practices and technologies and emerging land uses eg. "Glamping"<br>• Difficulties in determining land use thresholds and what constitutes "small scale" and "low intensity" as it relates to farming and agricultural activities.<br>• *Tourist Accommodation*: a more rigorous definition and tighter control is needed to avoid Tourist Accommodation resulting in, effectively, additional dwellings without the more rigorous requirements associated with a dwelling. |
| Suggested 'New' Definitions | • *Glamping* (as well as policy guidance, and consideration of CFS referrals)<br>• *Tiny house* (as well as policy guidance and consideration of implications of permanency or movable structures, for example, in the context of CFS referrals in High Bushfire Risk areas)<br>• *Transport Depot*<br>• *Special event* |
| Referrals – Landscape Board | Consideration of regular updates of the Code to respond to changes in farming practices/technology.<br><br>For example, free-range chicken farming currently does not trigger a referral as it is not identified as a "water-affecting activity" even though there may be impacts on watercourses/underground water.<br><br>Council Planning Assessment staff would benefit from the specialised advice of the Board.<br><br>There are inconsistencies as to what comprises a "water body" in determining whether or not a referral is required.<br>• lack of clarity as to what requires approval in relation to dams and bores.<br>• detention basins in large land divisions are not being referred – clarity sought on thresholds as to when these should trigger a referral.<br>• "Water affecting activity" – the referral trigger is very broad – does this include a culvert for example? |

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| Referrals – Environment Protection Authority (EPA) | EPA only license poultry farms and operators that grow poultry for meat and where the chickens are '*housed in broiler sheds where the structures exceed 13,500m²*'. Free range poultry farming does not require sheds but potentially has similar implications regarding odour, manure and dead bird disposal, setbacks from sensitive receivers etc. The EPA can offer technical advice in relation to these emerging land uses. |
| Language/Grammar | Need for consistency of language and careful use of grammar ie. the placement of a comma can completely change the intended meaning. |
| Interaction with other legislation<br><br>Interaction with other legislation | • Different terminology in different Acts for the same item eg. EPA and PDI Act for "Petrol Filling Station".<br>• Consistency with the *Native Vegetation Act* 1991 – where does the 10m rule apply with regard to setbacks from neighbouring properties/buildings etc? The declaration is often completed incorrectly and requires review in terms of wording. |
| Practice Guideline | There is little, if any, guidance for the assessment of emerging land uses such as Free-range Chickens and Pigs. Could this issue be addressed by way of a Practice Guideline? Alternatively new Code policy should be developed.<br><br>*It is noted that the Southern Hills & Fleurieu Landscape Board and the EPA have recently made guidelines available for the assessment of Free-range poultry farms.* |
| Overlays | There are some Overlays, for example, for Goolwa Airfield, which appear excessively large and somewhat arbitrary, and result in unforeseen consequences where their application is not merited. |

CITY OF MARION

PO Box 21, Park Holme
South Australia 5043

245 Sturt Road, Sturt
South Australia 5047

T (08) 8375 6600
F (08) 8375 6699
E council@marion.sa.gov.au

The City of Marion acknowledges we are situated on the traditional lands of the Kaurna people and recognises the Kaurna people as the traditional custodians of the land.

- Suggested new and improvements to land use definitions and administrative definitions.
- Improved policy coverage to preventing owner neglect as a reason to support demolition of local heritage places (aligning to that applied to state heritage places).

Notwithstanding this, Council's planning staff have identified a number of matters that require further consideration or refinement.

**4.2.8: Accepted development criteria for building alterations and additions – proposed criteria for the retention of parking**

The wording within the criteria should allow for the retention of existing lawfully approved car parks to address cases where the existing approved site scenario provides less than the ratios identified within Table 1 or Table 2. This is particularly applicable to non-residential development.

Given these are additions and alterations to approved developments, it would be simpler if the criteria wording is adjusted to "maintains the number of lawfully approved parking spaces".

**4.3.1: Heritage Places Adjacency Overlay - Referrals**

The revised wording for the Referral trigger for the Heritage Adjacency Overlay is focussed entirely on the visual impact of development and this is, as currently drafted, too narrow.

The potential impacts on State Heritage Places that require State Heritage Branch assessment and direction extend beyond just visual impacts (and this is reflected in the purpose of referral). Examples include:

- structural impacts on a heritage place from excavation works, or basement structures in proximity (noting that the extent of listing for State Heritage Places often extends to fencing or outbuildings on or near boundaries)
- impacts on root systems of trees and other vegetation which could also form part of the listing (whether they are or are not Regulated Trees).

The narrowing of this referral trigger should be reconsidered, or altered, to address the broader considerations on impacts of State Heritage Places from adjacent development.

**4.6.3: Community and Strata Title Land Division Policy**

The proposed additional policy linking Strata and Community Land Divisions to the recent legislative changes is mostly supported as providing stronger policy support to Council seeking to challenge the use of a particular land division type in inappropriate circumstances

However, the policy could be stronger and provide better direction in relation to particular matters, including

- expanding the common driveway criteria from just design to also include function so as to address whether the use of a public road (and Torrens Title land division format) is more appropriate where the common driveway seeks to service a large number of dwellings. This was a fundamental issue with the Felmeri land division, and should Council have had stronger policy support to address this, then Council could have prevented the issues that arose from this development.

- expanding bin storage to include the accommodation of waste collection services , once again to ensure manageable and cost effective measures are implemented by a community corporation in the long-term.

Council would be happy to further participate in clarifying our submission and resolving the desired policy responses. Please contact David Barone, Senior Strategic and Policy Planner on [redacted] or via email [redacted]

Yours faithfully

[redacted]

Gary Brinkworth
**Manager Development and Regulatory Services**

MOUNT BARKER
DISTRICT COUNCIL

Reference: DOC/25/5037

4 March 2025

Submission: Assessment Improvements Code Amendment
State Planning Commission
Department for Trade and Investment
GPO Box 1815, Adelaide SA 5001

planSAsubmissions@sa.gov.au

Dear Code Amendments Team, Planning and Land Use Services

**RE: Assessment Improvements Code Amendment**

Thank you for the opportunity to provide input to the ongoing review of the Planning and Design Code and its related statutory instruments in the spirit of continuous improvement to the State's planning system.

The Assessment Improvements Code Amendment (the Amendment) presents another opportunity to enhance the general performance, interpretation and consistency of the Code and is welcomed and supported by Mount Barker Council. As given in the consultation document, the detail in the Amendment is largely technical and centred on improving the operation of the Code. Aligning text to increase consistent interpretation, respond to case law, ensure that provisions are reasonable and practical, include definitions that are relevant and contemporary and with processes that function with clarity and efficiency is good practice.

Council's submission generally looks to matters where an improvement is suggested or a contention exists and which are particularly impactful to our district.

**4.2, Language, consistency and policy applicability**

**4.2.2, Rural zones – Detached dwelling/ Second dwelling policy linkages**

There remains a lack of clarity around what constitutes ageing in place and what level of investigation the relevant authority should be undertaking to gain an awareness of a proponent's connection to the owner of the land and intent around future management of the farm. Such a performance objective, although completely warranted in intent, is fraught with vagaries and difficulty in its assessment and interpretation.

A far simpler solution would be to permit a second dwelling on a Rural allotment that met the other matters listed in the PO and DTS/DPF, which admittedly already set a high bar. This would provide an additional income stream to the land owner/ farm manager, with the large lot sizes in question would still clearly retain a rural feel and would follow the way of the recent changes to granny flats/ ancillary accommodation that spoke of removing "arbitrary restrictions".

**4.2.8, Accepted development – Building alterations**

Coupled with the proposed amendment outlined in 4.2.8, which largely talks to changes in presentation to the front of a garage not passing through the planning process, Council has found that building alterations that alter the visual presentation of the building from the public realm are often being determined as accepted or DTS when it is planning's role to review and protect the public realm. A performance assessment should only be avoided if the alterations are internal or to the rear (not visible from the street).

**4.3, Referrals**

**4.3.1, State heritage referrals**

The change to the wording is an improvement but Council is strongly of the opinion that it does not go far enough. There should not be any possibility for ambiguity in referrals.

**4.3.2, Environment protection referrals**

There needs to be an automatic referral to the EPA for proposals in the Significant Interface Management overlay. Council planners are not experts on odour and other technical hazards and should not be in a position where a referral needs to be organised, adding to the cost and timeframe of the assessment process, to an external body to ensure compliance against the desired outcome for the overlay, "to mitigate community exposure to potential adverse hazards and environmental and amenity impacts generated by the lawful operation of proximate significant activities". Council recently had the situation of a dwelling proposed in proximity to a chicken shed, for which a referral to the EPA had to be hastily arranged to undertake a proper assessment of amenity impacts.

**4.4, Land use definitions**

**4.4.2, Workers' accommodation**

Expanding the definition of workers' accommodation to include seasonal hospitality and tourist development in the list of supported activities is a good move. Mount Barker's natural environment and landscapes are a drawcard for the region. The tourism, agriculture and wine growing industries support many jobs in the district and it is important that flexibility to support these key industries is provided.

**4.4.4, New definitions**

The new definitions proposed for 'Trade training facility' and 'Emergency services facility' are logical and supported. The intent behind this should make apparent that all land uses envisaged in a zone should have a definition within Part 7 of the Code that includes a hyperlink Further to this, removing listed uses that are not defined can only assist in avoidance of unintended consequences. In the absence of a listed definition, a proposal can always be assessed as a performance application on its merits.

**4.6, Targeted policy updates**

**4.6.1, Local heritage place overlay – Demolition policy**

Council is supportive of the wording and overall intent here, to protect the integrity of local heritage places, but feels it necessary to use this opportunity to advocate to State Government for more expansive grants schemes as without a supportive framework, it is difficult to see how this will result in improved upkeep of local heritage places.

**4.6.2, Covered car parking spaces**

The amendment as written here is acceptable and addresses a visible issue. Generally, however it would be good to avoid involvement in issues at such a level. The loss of on-site/ off-street car parking for single dwellings is a non-issue that starts to get down to the level of personal behaviour, i.e. it is one thing to have policy that requires the construction of a covered car parking space but it is another to require that it be used for the purposes of parking a car.

This, along with the Premier's announcement on 20 January 2025 for larger covered car parking spaces so as to avoid congestion is welcomed. It should be clear, however that there is a natural limit to the number of cars that can be parked on a street and that busting congestion will only take place with improved public transport, greater local jobs and other commonly accepted planning principles.

**4.6.3, Community title land division**

It is in everyone's interests that all aspects of a community title land division are workable. Council agrees with the proposed addition of a new performance outcome and DTS/DPF provision that would ensure that community title divisions were approved with proper consideration to the nature and extent of that common property, most notably in relation to common driveway design. This should help to alleviate unusual and inconvenient access arrangements and siting of utilities, letterboxes and bins (in addition to landscaping and maintenance). The only concern here is in potential workload on Council in relation to inspections at the planning consent stage.

**4.6.4, Car parking rates for major open spaces**

The Commission must remain conscious of not creating a situation whereby car parking is provided at the expense of precious community open space. The reasons for this are many and well known (e.g. heat island effect, reduced open space, tree cover) and that active modes of transport should be encouraged through greater numbers of bicycle parking, as an example.

Council concedes that some open space areas are of particular value to the wider community and region and that car parking can work to open up the true potential of such spaces. The investigations made in this regard and the PO, to guide applicants and relevant authorities towards defining an appropriate rate of car parking through surveys of similar developments in comparable locations, is an excellent guide and should be more broadly adopted through the Code.

**Notifications and Assessment pathways**

**Master Planned Neighbourhood zone – Notification triggers and Assessment pathways**

Mount Barker Council area has a significant proportion of land in the Master Planned Neighbourhood zone, from which most of its development and population pressures arise. The natural landscape through this part of Mount Barker is also such that there is often significant cut and fill required to enable development. The small lot sizes are such that development type, siting and level of impact can be fairly well predicted but public notification is regularly being triggered for expected types and scales of developments such as single detached dwellings, retaining walls and boundary fences.

The intent behind this zone should be to see the planning process far simplified once the subdivision is in place. Not only should there be far fewer notification triggers, there should be accepted and DTS pathways for dwellings, retaining and fencing in the MPN zone.

Often, a development will want to maximise its northern orientation to take advantage of passive heating and cooling and the highest level of amenity. To do this, it might be necessary to build closer to the western boundary. The Commission needs to be aware that notification presents a risk to proponents and that its avoidance could see unwanted outcomes for the community.

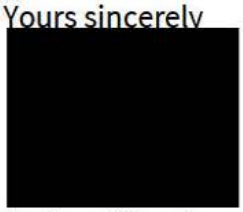
On a related note, Council would like to see more intensive or higher density forms of residential development in the MPN zone to see more diverse housing options and better use of land through these areas. The desired outcome for the MPN zone and PO's 1.1 and 1.2 look to see a diverse range of housing choices that support a range of needs and lifestyles, that is not being provided in a broad sense across the estates.

**Conclusion**

The rate of change through Mount Barker, and related number of queries addressed and applications determined by Mount Barker Council's Development Assessment team has it uniquely placed to provide a proper critique of the workability of the South Australian planning system and intricacies of the Planning and Design Code.

Council commends the work of the Expert Panel and the regular review of the Code and is available to engage with the State Planning Commission as part of its process of continuous improvement.

Yours sincerely



Andrew Stuart
**Chief Executive Officer**
E-mail: [redacted]

CITY OF PROSPECT

Payinthi
128 Prospect Road
PO Box 171
Prospect SA 5082
Telephone (08) 8269 5355
admin@prospect.sa.gov.au
www.prospect.sa.gov.au

31 January 2025

Attention: State Planning Commission
GPO Box 1815, ADELAIDE SA 5001
Via email: plansasubmissions@sa.gov.au

**City of Prospect Submission – Assessment Improvements Code Amendment**

To whom it concerns,

Thank you for the opportunity to provide a submission in relation to the Assessment Improvements Code Amendment. Council's Strategic Planning and Development Policies Committee met on Thursday 30th January 2025 to discuss the Assessment Improvements Code Amendment, and resolved to provide feedback as outlined below.

Council is pleased to see the State Planning Commission continue its practice of regularly reviewing Planning and Design Code policy in response to feedback from users, which includes both policy content and policy drafting. Council observes that policy drafting, including clarity and legibility, plays a significant role in community confidence in the planning system. The inclusion of a number of clarifying illustrations within the Planning and Design Code as a result of this Code Amendment is strongly supported.

Council notes the following key issues it has identified during its review:

- The relationship between Performance Outcomes and Designated Performance Features is in many cases unclear, with the Designated Performance Feature providing little or no useful guidance as to when the adjacent Performance Outcome has been achieved;
- It is disappointing that this Code Amendment does not address the significant period of time that it takes for a new State Heritage Place to be identified within the relevant Overlay, leading to unclear assessment processes;
- It is considered inappropriate that an Accepted form of development can reduce the amount of car parking on a site, noting that an assessment under the relevant Performance Outcome may require more car parking spaces than the minimum in Table 1;
- The Code Amendment would still allow the occupier of a Local Heritage Place to cause its deterioration depending on the lease/contractual arrangements in place between them and the property owner, and this loophole should be closed; and
- The minimum dimensions of covered and uncovered car parking spaces is in urgent need of review across all zones, noting that the minimum dimensions are inappropriate for several of the most popular cars sold in Australia today.

These matters and others are addressed in further detail in an attached table of comments, which reviews each change proposed by the Assessment Improvements Code Amendment of relevance to City of Prospect.

We trust that this submission is useful and express our thanks again to the State Planning Commission for its continuing commitment to improving the Planning and Design Code for the benefit of the community. If any further clarification regarding Council's comments would be of assistance, please do not hesitate to contact Scott McLuskey, Manager Development and Regulatory Services.

Regards,



**Matt Larwood**
Mayor, City of Prospect
*(On behalf of Council's Strategic Planning and Development Policies Committee)*

**Assessment Improvements Code Amendment – Table of Comments**

| Code Amendment Reference Number | ✓ ✗ ? | Comments |
|---|---|---|
| Rules of Interpretation | | |
| 4.1.1 – Performance Assessed Development (Relevant Policy Considerations) (Part 1) | ✗ | The proposed words in paragraph 3 contradict the newly proposed paragraph 4, with paragraph 4 explaining exactly how other policies within the Code should be used in conjunction with Table 3 policies when assessing an application. |
| 4.1.1 (Part 2) | ? | The proposed words do not appear to achieve the objective described in the Code Amendment investigations. Council is supportive of the ERD Court's position that all relevant policies within the Code should guide a proper assessment of a development. |
| 4.1.2 - Performance Assessed Development (TNV Policy Weight) | ✗ | Not necessarily opposed to the proposed words, but note that this paragraph in its original and amended form is simply not accurate. In many cases within the Planning and Design Code the listed DPF has little to no relevance to the corresponding PO.<br><br>It would be more accurate for this paragraph to note that DPFs provide a guide to the relevant authority as to one or more of the following (depending on the policy context):<br>- An intensity measure below which the detailed policy content of a PO need not be assessed; and/or<br>- If an agency referral should/should not occur; and/or<br>- A numerical standard that is generally considered to satisfy the corresponding PO. |
| 4.1.3 – Spatial Mapping Updates (Minister's Determination) | ✗ | State Planning Commission staff advised Council staff in March 2023 that Part 1 of the Code would be reviewed to allow swift changes to apply the State Heritage Place Overlay to properties newly identified as a State Heritage Place under the Heritage Places Act.<br><br>The context for this discussion was a 7 month delay between 5 Fitzroy Terrace Thorngate first being identified as a State Heritage Place (August 2022) and when the Code was updated to apply the Overlay to that property (March 2023). This delay caused unacceptable confusion and cost to Council staff, the applicant, and Council's Assessment Panel.<br><br>Council requests that the State Heritage Place Overlay be added to the Ministerial Determinations table, to provide for the Overlay to be amended swiftly (within days) when an entry in the State Heritage Register occurs. |
| 4.1.4 – Spatial Mapping Updates (Spatial Improvements) | ? | Support the intent of the changes, but note that there is an incomplete sentence towards the end of Clause 1 "... if the Minister is satisfied that the alteration will preserve or restore the intended spatial relationship between *(words missing)*". |
| 4.1.5 – Policy Updates (Australian Standards) | ? | Broadly support the intent of this change, but DPFs that intentionally depart from an Australian Standard should not |

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| | | then be automatically affected by a change in the Australian Standard without specific review.<br><br>It is noted that the announcement made by the Premier on 20 January 2025 regarding minimum garage dimensions is an excellent example of a DPF that is (proposed to be) intentionally offset from the relevant Australian Standard in order to achieve a planning policy outcome. If the relevant Australian Standard changes a small amount, such that it is less than the Government's proposed legislated dimensions, this should not cause the DPF to be automatically updated to follow the Australian Standard. |
| Language, Consistency and Policy Applicability | | |
| 4.2.1 – Use of 'and' and 'or' in Policy | ✗ | Agree that the Code lacks clarity in this area, but do not agree that the proposed amendments in Attachment A1 resolve that lack of clarity. It instead introduces alternative confusion.<br>The Code should simply place an 'and' or an 'or' as relevant between clauses within a PO or DPF. This is both easier to do than the proposed changes and much easier to read and interpret than the proposed changes in Attachment A1.<br><br>If the State Planning Commission is determined to continue without grammar between clauses within the policy itself, it would be preferable that the term 'satisfies at least one of the following' be used in preference to 'satisfies (a), (b) or (c)' (or similar), as the former is much clearer than the latter. |
| 4.2.5 – Shop, Office and Consulting Room (Inconsistent Policy Linkages) | ✓ | Support the proposed changes. |
| 4.2.6 – Swimming Pool Pumps (Acoustic Enclosure Policy) | ? | Support the use of consistent language throughout the Code, but unhelpful if the single term used is undefined and unclear.<br><br>Suggest that the term 'solid acoustic structure' be given an administrative definition in Part 8 of the Code. |
| 4.2.8 – Accepted Development (Building Alterations – Loss of Carparking) | ✗ | Support the direction of the proposed change, but not the outcome. Recommend as an alternative:<br>*(f) decrease the number of existing on-site car or bicycle parking spaces*<br><br>It is noted that achieving the relevant PO in the Transport, Access and Parking policy module may result in a different rate (higher or lower) of car parking than that shown in Table 1. The proposed amendment does not resolve this issue.<br><br>Having a simple trigger that the development is not accepted if it reduces the amount of existing car parking spaces is both clearer and resolves the issue identified above. |

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| 4.2.12 – Stormwater Management Overlay (Connection to Hot Water Service) | ✗ | The absence of grammar in this DPF makes it difficult to read and interpret. 'And' or 'or' should be included as relevant between each clause of this DPF. |
| 4.2.13 – Educational Establishment Policy (Marking of Accessible Car Parking) | ✗ | Understand and broadly support the intent of the proposed changes, but do not support the outcome. Recommend that this clarification should be provided by making 'specifically marked accessible car parking places' a defined administrative term within Part 8 of the Code (consistent with the many other administrative terms that require clarification). |
| 4.2.14 – Advertisements (General Policy – Third Party Advertising) | ✗ | Do not agree that there is a duplication in policy. PO 2.1 deals with multiple physical signs contributing to visual clutter, whereas PO 3.1 deals with multiple digital signs on a single physical display contributing to visual clutter. The objectives of the two policies are distinct, clear and logical.<br><br>By removing the words as proposed the purpose of PO 3.1 becomes less clear to users of the Code, which is the opposite of the outcome desired by this Code Amendment. |
| Referrals | | |
| 4.3.1 – State Heritage Overlays | ✓ | Support the proposed changes to the Heritage Adjacency Overlay. |
| 4.3.5 – Referral Duplication and Minor Development within Overlays | ✓ | Support this proposed amendment, which assists in preventing referrals from being required for minor types of development. |
| Land Use Definitions | | |
| 4.4 - Introduction | | Do not agree with the investigations statement that a land use definition adds no value if no policy in the Code specifically references the term. Land use definition allows Table 3 policy assignment, or consideration of Accepted/Deemed to Satisfy assessment pathways, even where no particular PO or DTS/DPF specifically mentions the land use term. |
| 4.4.1 – Personal or Domestic Services Establishment | ? | The replacement words for the first paragraph of the definition are now considerably more complex while adding no value to the solution to the identified issue. The new third paragraph and reference in Column D are sufficient to achieve the desired effect. Support the overall change, but do not support policy becoming more confusing to read to a layperson where it doesn't add value. |
| 4.4.4 – New Definitions | ✓ | Support the proposed new definitions |
| Administrative Terms and Definitions | | |
| 4.5.1 – Building Height (Measurement Point Clarification) | ✓ | Support the intent of the proposed changes, though note that the words may be improved for assessment authorities but are now harder for a lay person to read. The illustration adds significantly more value to the definition than the new words. |

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| 4.5.2 – Primary Street | ✓ | Support the proposed amendments, which adds a 'common sense' test for determining primary street frontage. Note though that the investigations commentary around corner cut-offs ignores the role of corner cut-offs in relation to road widening activities. Notwithstanding that gap in the investigation, do not consider that changes to the proposed amendments are required. |
| 4.5.3 – Excluded Building | ✓ | Support the intended change. Disagree with the comment in the investigations that this is a perception/interpretation change, this is a material change to the definition having regard to the meaning of 'place' in the Heritage Places Act. |
| Targeted Policy Updates | | |
| 4.6.1 – Local Heritage Place Overlay (Demolition Policy) | ? | Strongly support the strengthening of local heritage demolition policy using the State Heritage Place language, but do think this language has a loophole whereby a building occupant, depending on contract/lease terms, may be able to allow a building or place to deteriorate. Recommend that the proposed words be altered to include '...unforeseen events beyond the control of the owner and/or occupier', in order to address this potential loophole.<br><br>Assuming that the State Planning Commission supports this addition, recommend that it be included in relation to State Heritage Places also. |
| 4.6.2 – Covered Car Parks | ? | Support the intent of this change, don't see that an owner who did not wish to have a covered parking space should be forced to do so as long as the building design is future proofed for other owners. Two concerns are noted below though in relation to the execution of the amendment:<br>- The increasing size of commonly owned cars necessitates a review by the State Planning Commission of the minimum length and width dimensions for both covered and uncovered vehicular parking spaces. The Ford Ranger has been Australia's highest selling vehicle for two years in a row, with dimensions up to 5.39m in length and 2.03m in width. The top five selling vehicles in 2024 include the Toyota HiLux and Isuzu D-Max utes, with the Ford Everest large SUV being the sixth highest selling vehicle. It is evident that the current minimum dimensions are inappropriate for the most popular vehicles in Australia, which is a concerning discrepancy.<br><br>It is noted that the Premier announced on 20 January 2025 that legislation was proposed which would result in a minimum 6m length and 3.5m width for garages, which is supported. It is also noted however that the announcement suggested that this legislation would not apply to apartments or townhouses in Prospect's Urban Corridors. Council has not seen any evidence to suggest that apartment or townhouse residents own a lower percentage of the large vehicles addressed above. |

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| | | Council submits that the changes should apply to all building types, acknowledging however that in larger shared car parking areas a width that is greater than 2.4m (current) and less than 3.5m (proposed) is likely to be appropriate.<br><br>- The uncovered space provided in place of a covered space should be required to be located at least 0.5m behind the main face of the dwelling. This reflects typical setbacks associated with carports or garages, intended to ensure that the carport or garage does not unduly dominate the dwelling to which it relates (and in a Prospect context allows corner quoin-work to remain exposed within the streetscape. |
| 4.6.3 – Community Title Land Division |  | Proposed PO 2.9 does not add any value to the assessment of a land division application. Is it trying to limit community titled divisions in relation to 'large' land division proposals, or in relation to 'small' land division proposals, or both (or neither)? Since the purpose of the policy is unclear, and no guidance is offered through a DPF, it would not affect how our staff assess a community title land division proposal as presently drafted.<br><br>Council is unable to recommend alternative words because neither the amendment instructions nor investigations reveal what purpose/objective this policy is intended to serve. It is recommended that a DPF be included as a benchmark to assist in clarity of the purpose/policy objective. |
| 4.6.4 – Car Parking Rates for Major Open Spaces |  | Support the inclusion of a clarifying note in PO 5.1 that makes plain that it is acceptable to consider similar developments when seeking to understand car parking demand for a land use not described in Table 2. |

Ref: ICORR22980-24

12 February 2025

State Planning Commission
Department for Housing and Urban Development
GPO Box 1815
ADELAIDE SA 5001

Via email: plansasubmissions@sa.gov.au

Dear Sir/Madam,

**Submission – Assessment Improvements Code Amendment**

We appreciate the opportunity to provide feedback on the proposed Assessment Improvements Code Amendment. The Mid Murray Council supports the intent of this Amendment, as it seeks to address anomalies, improve consistency, and align with relevant standards and recent judicial findings. Below is our detailed response:

**General Support for the Code Amendment**

We commend the comprehensive approach undertaken in this Amendment, addressing critical issues and refining the Planning and Design Code to enhance its functionality and alignment with contemporary requirements. The following points summarise our feedback:

**Support for Addressing Inconsistencies and Judicial Findings**

- **Resolution of Anomalies and Inconsistencies:** We are supportive of efforts to resolve existing anomalies within the Code. This aligns with good governance practices and reduces ambiguity for practitioners.

- **Geber Decision and Rules of Interpretation:** The amendments that address findings from the Geber Super Pty Ltd v The Barossa Assessment Panel judgment provide much needed clarity, particularly concerning performance assessed development. The inclusion of clear guidance on policy relevance is a significant improvement.

**Spatial Mapping Updates**

- **Minor Spatial Updates:** We support the proposed minor spatial updates, as they ensure the accuracy and relevance of the Code's spatial layers. This is critical to maintaining integrity in decision making processes.

**Alignment with Australian Standards**

We strongly support the updates to ensure alignment with relevant Australian Standards, as this will enhance safety, consistency, and compliance within the planning system.

**Deemed-to-Satisfy (DTS) Pathways**

- **Increased Housing Forms in Rural Zones:** The refinements enabling more DTS housing forms within Rural Zones are welcomed. These changes support housing supply and diversity, particularly for rural communities.

**Swimming Pool Policies**

- **Accepted Development for Swimming Pool Pumps:** The refinements to acoustic enclosure policies for swimming pool pumps are logical and ensure consistent application across the Code. We support the clarified wording and reduction of unnecessary duplications.

**Restricted Development Table Refinements**

- **Replacement Dwellings and Land Division:** We support the proposed refinements to triggers for replacement dwellings and minor land division applications in zones such as the Conservation Zone. These changes align with practical development requirements without compromising policy objectives.

**Statutory Referral Triggers**

We support the refinements to statutory referral triggers to streamline processes and reduce unnecessary referrals. This approach aligns with the principles of planning reform.

**Land Use and Administrative Definitions**

- **Clarity in Definitions:** The refinements to land use and administrative definitions provide greater clarity, reducing interpretation errors. This ensures consistency and enhances usability for practitioners.

In summary, the Mid Murray Council is supportive of the proposed amendments as they contribute to a more consistent, clear, and user friendly Planning and Design Code. We encourage the adoption of these changes and look forward to their implementation.

Should you have any questions regarding this submission, please contact Council's Manager – Development and Regulation, Jarrod Bielby, on 8569 0100 or via email at postbox@mid-murray.sa.gov.au.

Yours faithfully,

[redacted]

Gary Mavrinac
**Director – Development and Community Services**

CITY OF TEA TREE GULLY 571 Montague Rd, Modbury SA 5092
T (08) 8397 7444 W cttg.sa.gov.au S fb.com/teatreegullycouncil ABN 69 488 562 969

CITY OF
TEA TREE GULLY
*Naturally Better*

Mr Craig Holden
Chair
State Planning Commission
GPO Box 1815
Adelaide SA 5001

27/02/2025
Our ref: 21/1100/14

Via email: PlanSA@sa.gov.au

Dear Mr Holden

**Assessment Improvements Code Amendment – City of Tea Tree Gully submission**

Thank you for the opportunity to provide feedback on the Assessment Improvements Code Amendment released for public consultation from 10 December 2024 to 4 March 2025.

At its meeting on 25 February 2025, Council considered the proposed code amendment. At that meeting Council endorsed the attached submission. This submission provides some recommendations for consideration when finalising the code amendment.

The City of Tea Tree Gully thanks the State Planning Commission for the opportunity to provide a submission during their consultation on the code amendment, and look forward to working collaboratively with the Commission and PLUS to implement the recommendations outlined in this submission.

Should you have any questions regarding the content of Council's submission, please do not hesitate to contact Jessica Lewig, Lead Urban Planning, on [redacted] or via email [redacted]

Yours sincerely

[redacted]

Ryan McMahon
**Chief Executive Officer**

| Assessment Improvements Code Amendment – CTTG Submission | | | |
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| **Ref #** | **Item** | **Comments** | **Recommendations** |
| 1 | Clarity regarding Rules of Interpretation for Performance Assessment | The amended change confirms the position that City of Tea Tree Gully (CTTG) planning staff already had regarding the relevant policies applicable for Performance Assessed development and provides further clarification following recent decisions in the Environment, Resources and Development Court. | Support |
| 2 | Clarify DPF serves as a guide not a mandatory requirement | The amended change confirms the position that CTTGs planning staff already had regarding the role of a Designated Performance Feature (DPF) and provides further clarification following recent decisions in the Environment, Resources and Development Court. | Support |
| 3 | Minor Code updates | Support the ability for minor cadastral changes to be streamlined. | Support |
| 4 | Clarification of use of and/or | Support the intent. | Support, however should be road tested before the Code Amendment goes live to ensure there are no unintended consequences or missed policy linkages |
| 5 | Improved policy linkages | CTTG's submission to the Expert Panel Review identified an urgent need for a review of classification table linkages. Welcome the review as part of this Code Amendment, however note that the scope of the current Code Amendment is limited, and that a broader scale review should be undertaken. | Support, however note the narrow scope of policy linkages within current Code Amendment. Would welcome a commitment to ongoing review of these linkages. |
| 6 | Local heritage Place demolition policy | Support removal of justification of demolition of heritage places due to neglect. | Support |
| 7 | Land use definitions update | Support inclusion of new land use definitions as proposed. | Support |

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| 8 | Administrative definitions update – Excluded buildings | It is noted that the definition of "excluded building" is proposed to be updated to include an element that is on the same site as a State or Local heritage Place but is not included in the relevant listing. Whilst the new policy notes that this is subject to the listing being clear that the elements do not form part of the heritage place, there are many instances where the listing is not clear. There is no clear direction regarding what the relevant authority should consider in the instances where the listing is unclear. | Recommend review of Local and State Heritage Place listings to ensure clarity regarding what elements on the site are specifically listed. |
| 9 | Removal of secondary referral for subsequent applications | Whilst the intent of the removal of a referral for any subsequent application is understood, there are instances where the subsequent application (i.e. dwelling application after a land division application) may have new issues or elements that require consideration by the referral authority. | Do not support - Whilst the principle is understood, there are concerns that there are elements in the subsequent application that may currently trigger a referral that may be missed in the blanket approach proposed by the Code Amendment. Considered that policy should be drafted to allow the subsequent referral to be undertaken at the Relevant Authorities discretion to ensure thorough assessment rather than the blanket removal of the subsequent referral. |
| 10 | Removal of covered carparking space | The removal of the requirement for the provision of a covered carparking space seems counterintuitive to the draft Bill recently announced by the Premier to increase the size of carparking spaces. Further in terms of urban design outcomes, it has the potential future consequence of an increase in garage or carport applications which whilst not forward of the primary façade of the dwelling, may still be visible from the street. | Do not support |

## Table 1: Draft Assessment Improvements Code Amendment Relevant to West Torrens

| Nature of Amendment | Description of Amendment | Issue Identified by State Planning Commission | Position ✓ ✗ ? | Recommendation |
|---|---|---|---|---|
| **Rules of Interpretation** | 4.1.1 - Performance Assessed Development – Relevant Policy Considerations | Recent Court judgements have questioned the role of policies outside of those identified by Table 3 – Applicable Policies for Performance Assessed Development of a Zone in the case of a Performance Assessed Development. | ✗ | The Code Amendment states:<br><br>*Only those polices identified are relevant to the assessment and that other Code policies can be only used for contextual, interpretation purposes.*<br><br>This limitation poses a significant risk, as it may prevent the consideration of relevant Code policies during development assessment, potentially leading to outcomes that do not consider key policy due to links in the Code becoming broken and / or haven't been identified. An example of this is in section 4.2.5 of this Code Amendment of where the links weren't provided.<br><br>Policies may not be worded to achieve their intent, and the only other way to achieve the intended outcome is to draw on other relevant Code policy. Or as the court has stated:<br><br>*'It would be a bizarre result if a panel or other relevant authority were precluded from having regard to a provision of the Code that was objectively relevant merely because the computer had not produced that provision on an enquiry of the planning database.'* |
| | 4.1.2 - Performance Assessed Development – TNV Policy Weight | Recent case law has considered the weight to be afforded to a Technical and Numeric Variation (TNV) which forms part of a Designated Performance Feature (DPF) for the purposes of Performance Assessment. | ✗ | The amendment of the Rules of Interpretation - Designated Performance Features is not supported.<br><br>The role of a TNV contained in a DPF needs to be explained under Rules of Interpretation - Technical and Numeric Variations and remove reference to *or other numeric value*. The request to remove the reference to other numeric value because these are used for many other purposes such as:<br><br>• Referral triggers e.g. Traffic Generating Development Overlay PO/DPF 1.3<br>• Intensity threshold e.g. Aircraft Noise Exposure Overlay PO/DPF 2.1<br>• Access to sunlight e.g. Interface Between Land Uses GDP PO/DPF 3.1<br><br>If the intent to provide role clarity of the TNV relative to the DPF and placed under Rules of Interpretation - Technical and Numeric Variations then this would be supported. |
| | 4.1.3 - Spatial Mapping Updates – Minister's Determination (s71(e)) | The Miscellaneous Technical Enhancements Code Amendment introduced a policy mechanism within Part 1 – Rules of Interpretation [Ministerial Determinations] to enable changes to be made to the Code's spatial layers in specified circumstances without the need for a full Code Amendment under section 73 of the Act for example. | ✓ | The proposed amendment is supported as it facilitates the timely updates to spatial application. A mechanism is sought to notify impacted councils.<br><br>This could be expanded to capture the removal of Representative Buildings and Local Heritage Places in circumstances where the buildings have been demolished and the listing no longer relevant. This would negate the need for unnecessary Code Amendments. |
| | 4.1.4 - Spatial Mapping Updates – Spatial Improvements | Feedback has sought greater clarity about circumstances where updates comprising minor or operational amendments to the spatial layers of the | ✓ | The proposed amendment is supported, the amendment provides greater clarity of the circumstances for minor or operational amendments to spatial mapping. |

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| | | Code contained within the SA planning database can be made in order to maintain a correct relationship between spatial layers and land parcels. | | |
| | 4.1.5 - Policy Updates – Australian Standards | Several provisions of the Code are based on or otherwise relate to criteria set out by various Australian Standards. The Miscellaneous Technical Enhancements Code Amendment made several updates to policy to ensure consistency with Australian Standards. However, there is currently no mechanism within the Code to enable policies to be updated to reflect changes to Australian Standards without the need to undertake a full Code Amendment process under section 73 of the PDI Act, meaning that there may be instances where Code policy is not aligned with the requirements of the Standards. | ✓ | The amendment is supported, it enables for faster change of Code policy to reflect changing Australian Standards, which are not contained in the Code.<br><br>It would be beneficial to the industry at large if PLUS could inform people that new standards (and numerical values) are to be introduced so they can prepare for their introduction. This would allow for planners to provide accurate advice to customers as well as allow for any plans that are being prepared to be updated to reflect the new requirements. |
| **Language, Consistency and Policy Applicability** | 4.2.1 - Use of 'And' and 'Or' in Policy | Minor and Operational Recommendation 16 of the Expert Panel Report called for Code policy to be reviewed to ensure the same terms and expressions are used throughout. Further feedback on this recommendation called for greater clarity and consistency regarding DTS/DPF provisions which contain a list of requirements to be achieved, so that users of the system are more easily able to discern where every item listed in a DTS/DPF provision is required to be met, versus where only one, or a combination of the listed requirements are to be met. | ✓ | Support this amendment.<br><br>There is a need to ensure that Code amendments currently on consultation or have been finalised comply with this amendment e.g. Accommodation Diversity where the definition for co-living accommodation to reflect the use of And /Or. |
| | 4.2.5 - Shop, Office and Consulting Room – Inconsistent Policy Linkages | User feedback has identified an inconsistency in the application of Zone provisions relating to shops, offices and consulting rooms throughout various Zones. It has similarly been found that where a Zone includes provisions relating to a change of use to one or other of these development types, these provisions have only been applied to deemed-to-satisfy assessment pathways and not to the associated Performance Assessed pathways. | ✓ | Support this amendment. |
| | 4.2.6 - Swimming Pool Pumps – Acoustic Enclosure Policy | Feedback has identified inconsistencies between the requirements for the location and provision of noise mitigation measures for swimming pool filtration systems in Accepted Development Tables and General Development Policies. | ? | Support this amendment as it provides a plain English summary of what is required for swimming pool pumps.<br><br>To improve the intent of the amendment it is sought that the term 'solid acoustic structure' be given an administrative definition in Part 8 of the Code. |
| | 4.2.8 - Accepted Development – Building Alterations – Loss of Carparking. | Accepted Development pathways for Building Alterations do not address loss of off-street parking through the conversion of a carport or garage to a room. | ? | Support the direction of the proposed change, but not the outcome. Recommend as an alternative:<br><br>*(f) decrease the number of existing on-site car or bicycle parking spaces*<br><br>It is noted that achieving the relevant PO in the Transport, Access and Parking policy module may result in a different rate (higher or lower) of car parking than that shown in Table 1. The proposed amendment does not resolve this issue.<br><br>Having a simple trigger that the development is not accepted if it reduces the amount of existing car parking spaces is both clearer and resolves the issue identified above. |
| | 4.2.11 - Water Resources Overlay – Exclusions | A number of development types are excluded from Deemed-to-Satisfy Assessment Pathways throughout various Zones where the site is located within the Water Resources Overlay, despite the Overlay containing DTS/DPF provisions which could reasonably be applied to a Deemed-to-Satisfy pathway. | ✗ | We previously identified in the Miscellaneous and Technical Code Amendment that to ensure the integrity of the Overlay the Code should retain the exclusion of DTS assessment pathways within the Overlay for all Zones.<br><br>Overlays should represent the spatial application for the consideration of the policy contained within in it to any development proposed within the Overlay.<br><br>To improve consistency in the application of Code policy as proposed it is requested that top of bank definition and diagram be included in the Administrative Terms. |

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| | 4.2.12 - Stormwater Management Overlay – Connection to Hot Water Service | DTS/DPF 1.1 of the Stormwater Management Overlay requires that residential development comprising detached, semi-detached or row dwellings, or less than 5 group dwellings or dwellings within a residential flat building includes rainwater tank storage that is connected to toilets, laundry cold water outlets or hot water services. The Plumbing Code of Australia does not, however, allow direct connection of a rainwater tank to hot water services | ✓ | Support the change to existing DTS/DPF 1.1 for the Stormwater Management Overlay, to remove reference to connecting to hot water service. The rationale provided by DHUD supports this recommendation and ensures that the Code policy is possible and actionable. |
| | 4.2.13 - Educational Establishment Policy – Marking of Accessible Car Parking | Recent case law has highlighted the need for greater clarification regarding the meaning of 'specifically marked accessible car parking places' within PO 5.1 of the Transport, Access and Parking General Development Policies. | ? | Definition of the term 'specifically marked accessible car parking places' is needed to support the clarification of this amendment. |
| | 4.2.14 - Advertisements – General Policy – Third Party Advertising | The Advertisements general module contains guidance on matters to do with the location and content of advertisements with a view to ensuring that the potential safety and amenity impacts of advertisements are appropriately managed. In line with the Recommendation 19 of the Planning System Implementation Review, the Advertisement General Development Policies have been reviewed to ensure that the policy is reasonable and practical and does not duplicate other policies in the module | ✗ | Do not agree that there is a duplication in policy. PO 2.1 deals with multiple physical signs contributing to visual clutter, whereas PO 3.1 deals with multiple digital signs on a single physical display contributing to visual clutter. The objectives of the two policies are distinct, clear and logical.<br><br>By removing the words as proposed the purpose of PO 3.1 becomes less clear to users of the Code, which is the opposite of the outcome desired by this Code Amendment. |
| **Referrals** | 4.3.1 - State Heritage Overlays | The Heritage Branch currently receives the 3rd highest number of referrals out of all referral bodies, although quite often the matters are not viewed as 'high risk' proportionate to the whole referral regime for the planning system. | ✓ | Support the proposed changes to the Heritage Adjacency Overlay.<br><br>Other proposed changes under this investigation do not impact West Torrens. |
| | 4.3.5 - Referral Duplication and Minor Development within Overlays | Referral duplication within overlays and unnecessary referral of insignificant development has been identified as an issue that requires review. | ✗ | The inclusion of provisions enabling the consideration to 'minor' developments for the purpose of negating referral within the following overlays is not considered appropriate and should be removed:<br><br>▪ Airport Building Heights (Regulated) Overlay<br>▪ Future Road Widening Overlay<br><br>Such provisions undermine the purpose of the referral process and may compromise the integrity of the assessment. This is because there are no instances once the development encroaches the Airport Building Heights (Regulated) Overlay or the Future Road Widening Overlay that it could be considered minor. These referrals circumvent appropriate assessment considerations for development that could have impact on the future operations of our transport systems.<br><br>This policy present both a risk to Councils and other relevant authorities and needs to be further consulted with the appropriate referral bodies including the Adelaide Airport. |
| **Land Use Definitions** | 4.4.1 - Personal or Domestic Services Establishment | The Environment, Resources and Development Court (the Court) recently found that a car wash fit within the Code's land use definition of personal or domestic services establishment. A review of the Court judgement has been undertaken to determine if amendments to the definition are needed considering the activities that are typically expected at a personal or domestic services establishment. | ✓ | Support the changes proposed to the definition of Personal or Domestic Services Establishment |
| | 4.4.2 - Workers' Accommodation | Users of the Code have suggested that the definition of workers' accommodation be expanded to include seasonal hospitality and tourism workers. | ? | The Code Amendment document implies that this is needed to support the regional areas e.g. outside metropolitan Adelaide, however part (e) does not include any indication that this would apply only to the regions. |
| | 4.4.4 - New Definitions<br>• Trade training facility<br>• Emergency services facility | Users of the Code have suggested that definitions for the following terms would benefit the Code:<br>• Trade training facility<br>• Emergency services facility. | ✓ | Support the changes proposed to the definitions. |

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| **Administrative Terms and Definitions** | 4.5.1 - Building Height – Measurement Point Clarification | Feedback has identified a need for clarification on where building height should be measured from on stepped or sloping sites | ✓ | Support the amendment, would benefit from being included in Practice Guideline 1: Natural Ground Level (Practice Guideline 1 - Natural Ground Level) to demonstrate the building height in the same way the wall height has been identified. |
| | 4.5.2 - Primary Street | Users of the Code have identified that the definition for primary street doesn't cover all potential development scenarios. This includes:<br>• sites that have front and rear road frontages where the primary frontage is longer than the rear frontage<br>• corner sites which retain an existing building following land division and the 'secondary frontage' in relation to that building is now shorter than the frontage to which to which the building faces<br>• corner sites where the existing or proposed building faces the longer frontage.<br>There have also been examples where relevant authorities are measuring building setbacks from 'corner cut-offs', which is unnecessarily requiring greater building setbacks. | ✓ | Support the amendment, it seeks to simplify the test for primary frontage for allotments with more than one street frontage.<br><br>Clarity on how to measure the setback on sites with a corner cutoff is welcomed. The proposed amendment does not affect the integrity of the corner cutoff in preserving line of sight for vehicles and pedestrians at intersections.<br><br>West Torrens has current examples where ethe exiting definition has led to some unusual outcomes where a very short property boundary has become a primary frontage contrary to the built form. This proposal will address those issues. |
| | 4.5.3 - Excluded Building | The requirement to undertake public notification is defined in respect of particular activities in Table 5 of the Zones within Part 2 of the Code. Put simply, demolition as an activity does not require public notification except in relation to State or Local Heritage places or buildings within a Historic Area Overlay, subject to certain exclusions. In principle, the proposed demolition of buildings, including ancillary buildings, or parts of buildings, or other structures that are on the site of a State or Local Heritage Place but do not form part of the listing should not require public notification.<br><br>It is understood that some practitioners consider the definition of 'excluded building' to be unclear in its effect. This policy piece reviews the definition and seeks to make the intent clear. | ✓ | Support the change, it provides greater clarity to what an excluded building is. |
| **Targeted Policy Updates** | 4.6.1 - Local Heritage Place Overlay – Demolition Policy | The Expert Panel heard that it is commonplace for local heritage places to be neglected and left to deteriorate to enable ease of their demolition taking into account the test in Performance Outcome 6.1 in the Local Heritage Place Overlay of the Code. The Panel recommended that a review of the policy be undertaken to ensure local heritage places are not being neglected and left dilapidated.<br><br>The Government supported this recommendation, noting that it would also be appropriate investigate whether performance outcomes of the relevant Overlays in the Code can be strengthened. | ✗ | To further support the intent of this Code Amendment, it is recommended that "make good" orders be included in the Code to strengthen the retention and maintenance of Local Heritage Places. This measure would specifically address and prevent instances where owners allow Local Heritage Places to deteriorate through neglect. This would provide a mechanism to enforce the owner to undertake any restoration or renovation works to improve the structure integrity of the item. |
| | 4.6.2 - Covered Car Parking Spaces | The Expert Panel recommended that:<br><br>*'the requirement to provide undercover car parking should be removed from the Planning and Design Code (the Code), but provision of space for a covered car park should still be made available behind the face of the dwelling.'*<br><br>The Government supported the recommendation.<br><br>Accordingly, a review of the relevant provisions of the Code has been undertaken to determine any policy that needs to be removed and any new policy that needs to be added to implement the Expert Panel's recommendation | ✗ | Design PO 19.2 and Design in Urban Areas PO 23.2 needs to be strengthened above 'appropriately located'. Suggested amendment would be:<br><br>*Uncovered car parking spaces provide an uncovered car parking space located behind the main face of the dwelling and have the necessary dimensions to be functional, accessible and convenient.*<br><br>Instead of the proposed:<br><br>*Uncovered car parking spaces are appropriately located and have of the necessary dimensions to be functional, accessible and convenient*<br><br>Which then captures the location of one uncovered park behind the main face in the according DTS/DPF. Again, Rules of interpretation identify that the DTS/DPF is one way to achieve the PO and the proposed format of this |

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| | | | | amendment exposes relevant authorities to accept something other that will not achieve the performance outcome as intended by this amendment.<br><br>Furthermore, the dimensions identified in the DTS/DPF does not reflect the *Planning, Development and Infrastructure (Vehicle Parking) Bill 2025* (Busting congestion on suburban streets \| Premier of South Australia). Under the proposed changes, the size of a single vehicle park would be 3.5 metres wide and 6 metres long, with the minimum garage door size increased to 3 metres. The current dimensions of a single garage are 3 x 5.4 metres with a 2.4 metre garage door. |
| | 4.6.3 - Community Title Land Division | Community Title subdivisions were introduced around Australia partly to cater for a growing number of lifestyle property developments based on developments that have common areas devoted to shared facilities, such as playgrounds, swimming pools, gyms, tennis courts, lakes, gardens, roads, parks and golf courses. Prior to the enactment of the Community Titles Act 1996 (CT Act), land divisions would have needed to occur under the Real Property Act 1886 as division of land into Torrens titled allotments (or under the Strata Titles Act 1988). It is understood the cost to subdivide under the CT Act can be cheaper than a Torrens title land division. This means CT Act divisions can be preferred by developers, even where there are no extensive shared facilities, or staged development proposed. The comparatively lower cost of CT Act divisions stems from:<br>• the ability to install shared service connections and/or meters<br>• more efficient use of space, as regular setbacks to public roads prescribed in the Planning and Design Code do not apply to private roads<br>• design specifications for private roads within a community title development are to a lower (and therefore cheaper) standard than those required for a public road, which will be handed over to the local council.<br>The choice by developers to utilise a community title division may disadvantage purchasers who have no control over the quality and completion of the roads or other infrastructure that will become their shared responsibility after completion of the development.<br><br>Given the CT Act commenced operation in 1996 there is potentially going to be an increasing number of common driveways in community title divisions that are going to require maintenance. Unlike council roads which are, in most cases, subject to regular inspection and maintenance, the maintenance and repair of community title roads is the responsibility of the members of the community corporation. | ✗ | The maintenance and repair of common property within Community Title subdivisions should remain the responsibility of the members of the community corporation, as this property is privately owned and exclusively benefits a specific group of individuals rather than the broader community. Shifting responsibility to local councils would unfairly impose costs on the wider community for private infrastructure that does not serve the public at large.<br><br>The Code Amendment should remove reference to (d) maintenance of any of the above. We do not request this level of detail for the maintenance of other forms of private development e.g. shopping centre car parks, letterbox and external lighting for industrial complexes. |
| | 4.6.4 - Car Parking Rates for Major Open Spaces | The Expert Panel undertaking the Planning System Implementation Review made the following recommendation: | ✓ | Support the inclusion of a clarifying note in PO 5.1 that makes plain that it is acceptable to consider similar developments when seeking to understand car parking demand for a land use not described in Table 2. |

| No. | Topic | Recommendation | Comment |
|---|---|---|---|
| ***Planning and Design Code*** | | | |
| 18. | Car Parking | Investigate the application of specified car parking rates for major open spaces. | The Code does not currently specify car parking rates to apply to open space. This is logical in most scenarios; however, the Panel heard there may be circumstances where it would be helpful for car parking rates to be specified. For example, for major open space projects which include recreation facilities (playground, basketball court, walking tracks etc) and which may reasonably be expected to attract large numbers of people, there would be benefit in a car parking rate being associated with the same. The Panel understands a scenario of this nature arose in the Riverlea development, and the developers determined their own car parking rate to apply to the open space. This is a best practice approach. However, the Panel recognises this will not always be the approach taken and recommends investigations be undertaken to applying car parking rates to major open spaces. |

The Government supported the recommendation. A review of relevant technical guides and recent development applications involving the establishment or upgrade of public open spaces has therefore been undertaken to inform any policy change to this effect.

# Table 2: Assessment Improvements Identified by West Torrens for Consideration by State Planning Commission

| Code Section | DPF / PO | Assessment Provision | Comments |
|---|---|---|---|
| **Zone** | General Neighbourhood Zone PO 1.1, 1.3, 1.5. | *[...] neighbourhood* | All PO's use the word "neighbourhood". The use of the word "neighbourhood" is a matter which has caused issues for assessments within the Courts. The use of the word neighbourhood could mean it's necessary to assess the amenity/pattern of development/etc. within the entire (neighbourhood) Zone. Suggest the word be replaced with "locality" to use a term which is commonly used, has been defined by the Courts, and is relevant to an assessment. This also applies to most other neighbourhood Zones. |
| | General Neighbourhood Zone PO 1.4 | *Commercial activities improve community access to services are of a scale and type to maintain residential amenity.* | The PO does not read correctly (there should be an 'and' or 'which'). This also applies to most other neighbourhood Zones. |
| | General Neighbourhood Zone DPF 1.4 | *A shop, consulting room or office (or any combination thereof) satisfies any one of the following:*<br>*[...]*<br>*(d) the development site abuts an Activity Centre and all the following are satisfied:*<br>*(i) it does not exceed 200m2 gross leasable floor area (individually or combined, in a single building)*<br>*(ii)the proposed development will not result in a combined gross leasable floor area (existing and proposed) of all shops, consulting rooms and offices that abut the Activity Centre in this zone exceeding the lesser of the following:*<br>*50% of the existing gross leasable floor area within the Activity Centre*<br>*1000m2.* | DPF 1.4(d)(ii) (which can directly result in Public Notification to be required) seeks a Relevant Authority to assess the combined gross leasable floor area of all shops, consulting rooms and offices which abut the Activity Centre and the gross leasable floor area within the Activity Centre. If no recent plans of this can be found, this is a time consuming and complex exercise, all before the application is even under assessment. Also applicable to other neighbourhood Zones. |
| | General Neighbourhood Zone DPF / PO 3.1 | ***DPF** - The development does not result in site coverage exceeding 60%.*<br>***PO** - Building footprints allow sufficient space around buildings to limit visual impact, provide an attractive outlook and access to light and ventilation.* | The quantitative site coverage has limited relevance to the PO, which reads more as an assessment for setbacks with the use of "space around buildings", "visual impact". Does this mean a site could have something like 80% site coverage as long as it maintained appropriate space around buildings? Also, what about stormwater management - a higher site coverage means more water needs to be captured, retained and detained. Recommend altering the PO to discuss not only setbacks, but also link to soft landscaping & POS? Also relevant to most other neighbourhood zones. |
| | [...] Neighbourhood Zone PO 11.1 / 12.1 Design in Urban Areas PO 19.1 | ***DPF -** [includes upwards of 11 quantitative provisions].*<br>***PO** - Residential ancillary buildings are sited and designed to not detract from the streetscape or appearance of primary residential buildings on the site or neighbouring properties.* | There would be minimal examples of where an ancillary building would detract from the appearance of primary residential buildings on neighbouring properties, only if it were perhaps forward of each dwelling. Furthermore, the DPF is very extensive with a wide range of quantitative criteria, some of which may not be relevant to the PO, such as floor area, being ancillary to a dwelling on the site, and soft landscaping area.<br>Suggest this PO discuss impacts on neighbouring properties. Also applies to other neighbourhood Zones such as ENZ, HDNZ, SNZ. |

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| | General Neighbourhood Zone PO & DPF 7.1 / 7.2 / 8.1 | ***DPF 7.1*** *[...] side boundary walls occur only on one side boundary [...].*<br>***PO 7.1*** *Walls on boundaries are limited in height and length to manage visual and overshadowing impacts on adjoining properties.*<br>***DPF 7.2*** *Dwelling walls in a semi-detached, row or terrace arrangement are setback at least 900mm from side boundaries shared with allotments outside the development site.*<br>***PO 7.2*** *Dwellings in a semi-detached, row or terrace arrangement maintain space between buildings consistent with a suburban streetscape character.*<br>***DPF 8.1*** *[...] Other than walls located on a side boundary*<br>***PO 8.1*** *Building walls are set back from side boundaries to provide:*<br>*(a) separation between buildings in a way that contributes to a suburban character*<br>*and*<br>*(b) access to natural light and ventilation for neighbours.* | In relation to 2x detached dwellings which are proposed to be 'boundary to boundary', **DPF 7.1** seeks for walls to only be on one boundary, however **PO 7.1** does not specify this, only seeking to limit their height and length to manage impacts. There is nothing in the PO preventing boundary to boundary development.<br>Meanwhile, **DPF/PO 7.2** provide no assistance, only relating to semi-detached, row or terrace dwellings. Why does this not apply to 2x detached dwellings which abut one another and the boundaries of the site? The impact is the same as semi-detached and the same sense of space should be provided.<br>While **PO 8.1** provides some guidance, **DPF 8.1** explicitly states "Other than walls located on a side boundary". If a DPF is intended to guide the relevant authority, does this render the PO null as it should only be in reference to walls not on boundaries?<br>This is also in issue in most neighbourhood zones, including the ENZ if walls on the boundary are permitted by the TNV (or lack of TNV). |
| | Established Neighbourhood Zone & Suburban Neighbourhood Zone PO 2.1 | ***ENZ*** *- Allotments/sites for residential purposes are of suitable size and dimension to accommodate the anticipated dwelling form and are compatible with the prevailing development pattern in the locality.*<br>***SNZ*** *- Allotments/sites created for residential purposes are of suitable size and dimension and are compatible with the housing pattern consistent to the locality.* | Why such inconsistency in the wording? Also, ENZ includes "compatible with the prevailing development pattern" which captures allotment dimensions. SNZ includes "compatible with the housing pattern consistent to the locality". With regard to comments by the Court ([2023] SAERDC 1) in relation to space between buildings being a key indicator of compatibility (and capability of existing together in harmony), if two semi-detached dwellings appear as a single dwelling, are they compatible with the housing pattern? |
| | Established Neighbourhood Zone DPF 2.2 | *Where the site of a dwelling does not comprise an entire allotment:*<br>*(a) the balance of the allotment accords with the requirements specified in Established Neighbourhood Zone DTS/DPF 2.1, with 10% reduction in minimum site area where located in a Character Area Overlay or Historic Area Overlay* | Does the "balance of the allotment" refer to the allotment of the existing dwelling after completion, or the allotment of to the new allotment after completion? Technically if a new dwelling is proposed which does not comprise an entire allotment, could the balance of the allotment refer to either/both? |
| | Established Neighbourhood Zone DPF 7.1 / PO 7.1 | ***DPF*** *Dwellings do not incorporate side boundary walls where a side boundary setback value is returned in (a) below: [...]*<br>***PO*** *Walls on boundaries are limited in height and length to manage visual and overshadowing impacts on adjoining properties.* | In cases where the DPF includes a TNV, the PO does not state that walls are not permissible. Suggest this be similar to building height in Employment Zone or HDNZ, which states the proposal should either be in accordance with the TNV, or if none applies, then the current PO wording applies. |
| | Housing Diversity Neighbourhood Zone DPF / PO 2.1 | *Allotments/sites created for residential purposes accommodate a diverse range of low to medium density housing, with higher densities closer to public open space, public transport stations and activity centres.* | The DPF will ordinarily give a quantitative guideline as to what is likely appropriate by way of a TNV. Is the TNV based on the proximity to public open space, public transport stations, and activity centres, or is the TNV the baseline, and if the site is in proximity to the above three points, then what is proposed has greater merit to increase the density beyond the TNV guideline? |
| | Housing Diversity Neighbourhood Zone DPF / PO 4.1 | ***DPF*** *Buildings setback from the primary street boundary in accordance with the following table: (3m)*<br>***PO*** *Buildings are set back from primary street boundaries to contribute to the existing/emerging pattern of street setbacks in the streetscape.* | The DPF is clearly seeking a new character of 3m primary street setbacks. Meanwhile the PO refers to primary street setbacks being contributory to the existing / emerging pattern. What if the streetscape is untouched, with 8m primary street setbacks, and no 'emerging' setbacks closer? How to justify a 3m setback contributing to the existing pattern of setbacks? |

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| | Housing Diversity Neighbourhood Zone DPF / PO 7.1 / 8.1 | ***PO** [...] separation between buildings in a way that complements the established character of the locality [...]* | Similar to the abcve, where lesser setbacks from side and rear boundaries are sought by the DPF, they are contradicted by the PO if the established character is not what the DPF aligns with. |
| | Suburban Neighbourhood Zone DPF / PO 4.1 | ***DPF** Building height (excluding garages, carports and outbuildings) is no greater than: [...] 3 levels / 12m.*<br>***PO** Buildings contribute to a low-rise suburban character and complement the height of nearby buildings.* | The PO seeks buildings to contribute to a low-rise character, and complement the height of nearby buildings. Meanwhile the TNV allows up to 3 building levels, which is medium-rise. Suggest the PO use similar wording to Employment Zone. "In accordance with the TNV or otherwise low-rise" |
| | [...] Neighbourhood Zone DPF 11.1 / DPF 12.1 | *[...] (h) have a wall height or post height not exceeding 3m above natural ground level (and not including a gable end)* | Does this DPF provision mean either:<br>(a) A gable end on any structure means the structure is not DTS?<br>or<br>(b) The 3m wall height assessment does not include the gable end of the structure?<br>This needs to be clarified as it can directly affect the assessment pathway, including whether a proposal is 'Accepted' development.<br>If option (a), recommend a separate provision. If option (b), recommend the wording updated to: "(and the wall height calculation does not include any gable end)". |
| **Overlay** | Aircraft Noise Exposure Overlay PO 1.1 / 3.1 | ***PO 1.1** Buildings that accommodate activities sensitive to aircraft noise are designed and located to minimise aircraft noise intrusion and provide appropriate interior acoustic amenity.*<br>***PO 3.1** Land division does not increase the number of allotments used for sensitive receivers in areas adversely affected by aircraft noise to mitigate community exposure to potential adverse environmental and amenity impacts generated by aircraft movements.* | If the proposal is for two dwellings, with no land division, **PO 3.1** is not applied. **PO 3.1** is significantly stronger wording than **PO 1.1**. |
| | Affordable Housing Overlay DPF / PO 3.1 | ***DPF** The minimum site area specified for a dwelling can be reduced by up to 20%, or the maximum density per hectare increased by up to 20%, where it is to be used to accommodate affordable housing except where the development is located within the Character Area Overlay or Historic Area Overlay.*<br>***PO** To support the provision of affordable housing, minimum allotment sizes may be reduced below the minimum allotment size specified in a zone while providing allotments of a suitable size and dimension to accommodate dwellings with a high standard of occupant amenity.* | The DPF seems to suggest that the minimum site area for a dwelling can be reduced by up to 20% if that dwelling is to be used for affordable housing.<br>The PO however is more broad, with the wording not seeming to restrict the reduction in site area to the dwellings designated for affordable housing. A reduction in all allotment sizes could support the provision of affordable housing by allowing an additional dwelling on the land. |
| | Affordable Housing Overlay DPF / PO 3.2 | ***DPF** Where a building incorporates dwellings above ground level [...]*<br>***PO** To support the provision of affordable housing, building heights may be increased above the maximum specified in a zone.* | Is the DPF referring to simply two-storey and above dwellings including ones which have a ground level, or is it intended to only apply to apartment style residential flat buildings? If it only applies to apartment style residential flat buildings, why should it not also apply to other dwellings which are not above ground level? Then however the PO is much less specific, seemingly allowing more styles of housing to be increased above the maximum height irrespective of whether they incorporate dwellings above ground level. |
| | Airport Building Heights (Regulated) DPF 1.1 (& other airport overlays) | *Buildings are located outside the area identified as 'All structures' (no height limit is prescribed) and do not exceed the height specified in the Airport Building Heights (Regulated) Overlay which applies to the subject site as shown on the SA Property and Planning Atlas.* | It would be helpful if the height limit could be pulled through into the provision similar to TNV's. This also applies to other airport overlays, including ANEF. |

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| | Character Area Overlay / Historic Area Overlay PO 5.1 | *Land division creates allotments that are:*<br>*(a)compatible with the surrounding pattern of subdivision in the character area*<br>*[...]* | Per the courts, compatible means "capable of existing together in harmony". This meaning can be stretched quite far in some circumstances. The CAO and HAO should be seeking "consistent" allotments with the pattern in the area, per every other provision of each Overlay. Should PO 5.1 refer to the statements? |
| | Hazards (Flooding) PO 3.5 | *Buildings are sited, designed and constructed to prevent the entry of floodwaters in a 1% AEP flood event where the entry of flocdwaters is likely to result in undue damage to, or compromise ongoing activities within, buildings.* | The P&D Code does not generate PO 3.5 as an applicable assessment criteria for warehouses and stores (and possibly other development types). Therefore, there is no requirement to increase the FFL of a development which is a warehouse or store, despite the fact that the warehouse employs people, and stores goods. The entry of flood waters into such types of development is likely to compromise ongoing activities within such buildings. Further, the DO seeks for impacts on people and property to be minimised. The DO is intended to inform the assessment but there is nothing which allows the impacts on people and property in warehouses and stores to be minimised. |
| **General Development** | Design in Urban Areas PO 20.2 | *Dwelling elevations facing public streets and common driveways make a positive contribution to the streetscape and the appearance of common driveway areas.* | This gives very little to go on, particularly if the DPF criteria are satisfied. Poor outcomes can still occur even if the DPF criteria are satisfied. Guidance on what constitutes a "positive contribution" within the PO would be beneficial. |
| | Design in Urban Areas PO 20.3 | *The visual mass of larger buildings is reduced when viewed from adjoining allotments or public streets.* | What constitutes a "larger" building? Larger than other surrounding buildings? Larger to what extent? Larger at all, or significantly larger - what is the threshold? There is no DPF applicable to guide the assessment. |
| | Design in Urban Areas DPF / PO 21.1 | ***DPF*** *Private open space is provided in accordance with Design in Urban Areas Table 1 - Private Open Space.*<br>***PO*** *Dwellings are provided with suitable sized areas of usable private open space to meet the needs of occupants.*<br>***Table 1*** *Site area <301m2: 24m2 located behind the building line.*<br>*Site area ≥ 301m2: 60m2 located behind the building line.* | The DPF relates to the site area of the dwelling, but the PO refers to providing suitable space to "meet the needs of the occupants". The needs of the occupants don't directly relate to the site area. More POS may be required if, for example, 6 bedrooms are proposed meaning 6 or more people could live in the house. Would 60sqm then meet the needs of the occupants?<br>Suggest modifying Table 1 to refer to bedrooms rather than site area. Note this is already done for dwellings within a residential flat building / mixed use which incorporates above ground dwellings? |

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| | Interface between Land Uses DPF / PO 3.1, 3.2, 3.3<br>General Neighbourhood Zone DPF / PO 8.1 | ***DPF 3.1*** *North-facing windows of habitable rooms of adjacent residential land uses in a neighbourhood-type zone receive at least 3 hours of direct sunlight between 9.00am and 3.00pm on 21 June.*<br>***PO 3.1*** *Overshadowing of habitable room windows of adjacent residential land uses in:*<br>*a. a neighbourhood-type zone is minimised to maintain access to direct winter sunlight*<br>*b. other zones is managed to enable access to direct winter sunlight.*<br>***DTS 3.2*** *Development maintains 2 hours of direct sunlight between 9.00 am and 3.00 pm on 21 June to adjacent residential land uses in a neighbourhood-type zone in accordance with the following: [...]*<br>***PO 3.3*** *Development does not unduly reduce the generating capacity of adjacent rooftop solar energy facilities taking into account:*<br>*(a) the form of development contemplated in the zone*<br>*(b) the orientation of the solar energy facilities*<br>*(c) the extent to which the solar energy facilities are already overshadowed.*<br>***Zone DTS 8.1*** *building walls are set back from side boundaries in accordance with the following: [...] for a wall that is south facing and the wall height exceeds 3m - at least 1.9m from the boundary of the site plus a distance of 1/3 of the extent to which the height of the wall exceeds 3m from the top of the footings.*<br>***Zone PO 8.1*** *Building walls are set back from side boundaries to provide: [...] access to natural light and ventilation for neighbours.* | A two-storey development may satisfy the DPF of the Zone, but not maintain the rate of natural light to a southern adjacent property sought by IbLU policies. Even still, a large setback from the southern boundary can still overshadow the neighbouring property. The Zone PO states that access to natural light should be maintained, but doesn't specify "direct" or "direct winter", meaning it is weaker than the overshadowing provisions, and is applicable throughout the year. Further, based on the hierarchy of code policies, the Zone PO's are weighted more heavily than the General Development Policies. Not much weight can be placed on the IbLU policies then? |
| | Transport, Access and Parking PO 5.1 | *Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as:*<br>*(a) availability of on-street car parking*<br>*(b) shared use of other parking areas*<br>*(c) in relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site, the provision of vehicle parking may be shared*<br>*(d) the adaptive reuse of a State or Local Heritage Place.* | Should there also be (f) public transport proximity and frequency? |

CAMPBELLTOWN
CITY COUNCIL

Enq: Nigel Litchfield
Ph: 8366 9259

20 February 2025

Mr Craig Holden
State Planning Commission
GPO Box 1815
Adelaide SA 5001

Dear Sir,

**Draft Assessment Improvements Code Amendment**

Please be advised that at its meeting on the 4th March, 2025 Council endorsed the following feedback to be provided to the State Planning Commission concerning the draft Assessment Improvements Planning Code Amendment.

***Rules of Interpretation***

*Quantitative Provisions as Guidelines*

Quantitative provisions in performance assessment policies lack clarity on how deviations should be managed, leading to uncertainty in decision-making. To address this, the rules of interpretation are proposed to be amended to clarify that numeric values within a Designated Performance Feature serve as a guideline for the relevant authority rather than a strict requirement in performance-assessed developments.

While Council acknowledges that these provisions function as guidelines, clearer direction on handling numerical deviations is needed. Establishing well-defined thresholds for acceptable variations would improve consistency and provide greater certainty in assessments.

*Alignment with Australian Standards*

Council support aligning policies with Australian Standards however have raised concerns about access to these Standards and the potential costs for Councils. Offering free or subsidised access would help ensure compliance is achievable for all stakeholders.

***Language, Consistency and Policy Applicability***

*Clarity in DTS/DPF Requirements*

Council support the clarification to provide greater specificity when provisions require one or all criteria to be met, as it reduces ambiguity. This increased clarity benefits Staff and applicants alike, streamlining the approval process.

*Consistency in Policies for Shops, Offices, and Consulting Rooms*

Council support the proposed amendments as this ensures consistent policy application across different Zones. Updates to the performance-assessed pathways will standardise the policy, providing a more predictable and transparent regulatory framework.

*Noise Mitigation for Pool Pump Equipment*

Council support the clarification of noise mitigation requirements, ensuring that appropriate acoustic controls are implemented for affected developments. These measures will help preserve residential amenity and reduce potential noise pollution.

*Parking Provisions in Accepted Development Pathway*

Council support incorporating parking provisions in accepted developments helps prevent unintentional on-site parking issues, promoting better planning for vehicle accommodation in new developments and ensuring adequate space for residents and visitors.

*Clarification on Accessible Parking Places*

Council support this clarification, as providing a clearer definition of accessible parking will promote consistency in its application across developments and ensure that accessibility requirements are met uniformly.

*Removing Duplication in Advertisements Policy*

Council support the amendment to simplify policies by removing unnecessary duplication, making regulatory requirements clearer and more efficient for both developers and assessing authorities.

***Referrals***

*Heritage Referrals*

Council support this refinement, as it will improve the efficiency of the approval process while maintaining the necessary safeguards for heritage preservation. Allowing determination by

the relevant authority will streamline procedures, reduce administrative *burdens and enhance the overall efficiency of the assessment process.*

### *Land Use Definitions*

*Definition of Domestic Services Establishment*

Council believe refining the definition is essential to ensure that external amenity impacts—(particularly those associated with car washes) are appropriately managed, preventing unintended inclusions within the Code.

*New Definition – Trade Training Facility*

Council support the introduction of a new definition for 'trade training facility' to cover the education, training and operation of heavy machinery, lifting equipment and the cutting or finishing of materials. This would ensure that trade training facilities are clearly distinguished from educational facilities and are located in appropriate zones, away from sensitive areas like neighbourhood zones.

*New Definition – Emergency Services Facility*

Council support the creation of a new definition for 'emergency services facility' based on the approaches used in Victoria and Queensland, as recommended in the Code amendment. This will ensure greater consistency and clarity in planning and land use decisions.

### *Targeted Policy Updates*

*Local Heritage Place Demolition Policies*

Council agree with aligning local heritage demolition policies with state heritage policies as this will create a more consistent regulatory framework, reducing discrepancies in heritage assessments and minimising the risk of demolition due to neglect.

*Covered Parking Spaces*

Council have no objections to removing the covered parking requirement, however emphasise the importance of ensuring adequate space for future additions such as carports. This approach provides flexibility, allowing homeowners to adapt their properties to changing needs while maintaining functional off-street parking options.

*Community Title Land Division*

Council support this recommendation in principle, however have raised concerns about the need for meaningful shared facilities in CT land divisions. Further clarification or examples may be necessary to ensure proper interpretation and implementation of the policy.

Yours Sincerely,

Nigel Litchfield
Manager Planning Services

City of Salisbury
ABN 82 615 416 895

34 Church Street
PO Box 8
Salisbury SA 5108

(08) 8406 8222
city@salisbury.sa.gov.au

salisbury.sa.gov.au

27 February 2025

State Planning Commission
GPO Box 1815
ADELAIDE SA 5001
plansasubmissions@sa.gov.au

**City of Salisbury Submission – Assessment Improvements Code Amendment**

Dear State Planning Commission,

Thank you for inviting the City of Salisbury to provide a submission in response to the draft Assessment Improvements Code Amendment.

Council observes that clear and succinct policy drafting plays a significant role in community confidence in the planning system. Council supports the intent of the draft Code Amendment to provide greater clarity to the provisions of the Planning and Design Code (the Code) as this will guide professionals within the industry and the broader community more effectively.

The subjective nature of Performance Outcomes (POs) within the Code has proven contentious in several cases presented before the Environment Resources and Development Court (ERD Court). One key point of contention raised throughout these proceedings consisted of the precise and consistent interpretation of words and phrases within the Code, such as 'complement' and 'compatible'. This Code Amendment has the opportunity to amend the language used within the Code to better guide interpretation for both the public and industry professionals alike, an opportunity that should not be missed.

More broadly, this Code Amendment should take the opportunity to address some of the fundamental challenges of the Code, such as inconsistencies between POs and Designated Performance Features (DPFs). In addition, the Code Amendment does not address issues such as the need for additional guidance for non-residential uses in neighbourhood type zones, which Council has previously raised with the Minister.

Engagement with stakeholders, particularly local government, should be sought before initiating such code amendments to scope key issues impacting development assessment across our State and to address matters raised by the ERD Court and Supreme Court of South Australia.

Further to the above, Council's attached submission requests further consideration of the following topics within this Code Amendment:

- Community title land divisions
- Spatial updates to Overlays
- Australian Standards within the Code
- Uncovered carparking provisions
- Various administrative and land use definitions
- Non-residential policies within the General Neighbourhood Zone
- Referral to the Department of Defence.

These matters and others relevant to the City of Salisbury are addressed in detail in the attached table of comments.

We trust that the feedback provided within this submission will be carefully considered and express our thanks again to the State Planning Commission for inviting Council's comments on this Code Amendment.

If any further clarification regarding Council's comments would be of assistance, please do not hesitate to contact Kynan Mann, Senior Policy Planner at [redacted]

[redacted]

**City of Salisbury Table of Comments – Assessment Improvements Code Amendment**

| Code Amendment Reference Number | Recommendation | Comments |
|---|---|---|
| **4.1 - Rules of Interpretation** | | |
| 4.1.3 - Spatial Mapping Updates – Minister's Determination (s71(e)): Airport Overlays | Conditional support with comments | The changes afforded to the airport overlays allowing spatial amendments to occur without a full code amendment process is generally supported as it will enable the assessment of developments against relevant provisions within a shorter timeframe. However, concerns are held by Council as Airport overlays and policies affect a significant amount of land within the Salisbury Council area. Unlike the other Overlays identified in this part, this proposed change has potential to significantly affect the development opportunity and cost to those landowners that are affected in the future. The alteration of these Overlays via other legislation frameworks does not afford our community the same level of consultation, that should be provided by the Engagement Charter. Therefore, it is requested that the State Government advocates with Council that a more robust consultation process is adopted for airbase and airport masterplans, to provide our communities with meaningful engagement. |
| 4.1.3 - Spatial Mapping Updates – Minister's Determination (s71(e)): Future Local Road Widening Overlay | Drafting amendment | Support this change with (b) amended to the following: Where the update involves the removal of the Overlay from a road, or a reduction of the road widening requirement of a road, which is not a State Maintained Road, at the request of Council.<br><br>Council has previously written to the Department on changes to current road widening requirements through the amendments portal with no response. |
| 4.1.5 – Policy Updates (Australian Standards) | Conditional support with comments | The intent of this policy is sound. Though this should only be applicable where the Australian Standard is the primary policy guiding the DPF. Should the DPF differ from the Australian Standard in order to provide a specific policy outcome this should follow due process of a Code Amendment. Where policy within the code references requirements of an Australian Standard, the policy provision should notate that it relates to an Australian Standard. |

| 4.2. Language, Consistency and Policy Applicability | | |
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| 4.2.3 Rural Horticulture Zone – Ancillary Accommodation – Deemed-to-Satisfy Pathway | Conditional support with comments | It is considered that the proposed amendments will have limited impact given the proposed changes included in the State-Wide Bushfire Code Amendment. At the present time, City of Salisbury (CoS) has Rural Horticulture Zone located in the Hazards (Bushfire - Urban Interface) Overlay or no Bushfire Overlay. If, the State-wide Bushfire Code Amendment comes into effect as consulted on, all CoS RH Zone will be within the Medium Bushfire Risk Area, and therefore all ancillary accommodation will be prevented from undertaking a DTS pathway within the Zone in any case. It is anticipated that many other LGAs will face a similar situation, or their Rural Horticulture Zones already are located within a Bushfire Overlay. This change will have the greatest impact on RH Zones that are located in the Outback Bushfire Areas (if any). |
| 4.2.6 - Swimming Pool Pumps – Acoustic Enclosure Policy | Conditional support with comments | Clarity should be provided for the term 'solid acoustic structure' by way of an administrative definition in Part 8 |
| 4.2.8 Accepted Development – Building Alterations – Loss of Carparking | | Concerns are held regarding the introduction of this accepted development criteria as it may result in unintended consequences. Whilst CoS agrees with the intention to prevent the ability of garages under the main roof of a dwelling from being converted to a habitable room and resulting in insufficient car parking, the inserted provision will prevent the necessary and simplified pathway for shops, offices, consulting rooms and the like to undertake building alterations in cases where they are located on sites that may have existed prior to specific car parking being required, may have been approved with a reduced rate, or may have paid into a car parking fund. The provision should identify that one of either; no net loss of car parking, or by meeting the relevant off-street car parking requirements, are acceptable. |
| 4.2.14 Advertisements – General Policy – Third Party Advertising | Drafting amendment | The DPF 3.1 does not show any changes but omits the 'or proposed' from the current DPF. This should be retained as advertisements regularly come with proposed land use applications. |
| Consistency and policy applicability | | Zones tables should all uniformly use either; 'General Development Policies – Design', or 'General Development Policies - Design in Urban Areas', for all elements listed in tables 2 and 3, rather than a mix of these two modules. Additionally, the application of which module is used for each zone should be reviewed to ensure consistency. |

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| | | Example: Master Planned Neighbourhood Zone uses Design for Carport and Detached Dwelling, but instead uses Design in Urban Areas for Deck and Ancillary Accommodation.<br><br>Example: Neighbourhood Zone uses Design for all developments listed in table 3 and Established Neighbourhood Zone uses Design in Urban Areas for all developments listed in table 3. However, the Neighbourhood Zone can be located in areas like Hewett which is a substantially more urban area than areas like Greenock which has the Established Neighbourhood Zone applied. |
| **4.4. Land Use Definitions** | | |
| 4.4.4 New Definitions – Trade Training Facility | Conditional support with comments | The definition is too narrow and excludes training facilities for specialised equipment that does not fall within the definition of an educational facility. These may be standalone training facilities, or in combination to another use. An example in our experience would be trench shoring equipment. |
| **4.5 Administrative Terms and Definitions** | | |
| 4.5.1 – Building Height (Measurement Point Clarification) | Drafting amendment | Support the intent of the proposed amendment. The proposed definition reads far more complicated and is difficult to easily comprehend. In addition, the illustration is not entirely clear and does not really show a real-world application. An illustrated example that includes a cut and fill section (delineating finished ground level and natural ground level), and a theoretical building would better demonstrate a real-world situation. |
| 4.5.2 Primary Street | Conditional support with comments | While the City of Salisbury has not taken into consideration the corner cutoff when measuring the primary street setback, the intent of the cut-off is to maintain sightlines rather than impact setbacks. This intent needs to be more explicit, or a corner cut-off better defined. |
| **4.6 Targeted Policy Updates** | | |
| 4.6.2 Covered Car Parks | Not supported with comments | In principle, this is a positive change but may cause some unforeseen issues. The key concern with this policy is future proofing any such proposal. We are observing that the community has an overwhelming desire is to have vehicles covered by way of carports or garages. This trend is likely to continue with the impact of climate change to protect vehicles from heat and from hailstorms. |

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| | | Sufficient space should be provided to ensure the uncovered space can be easily converted in accordance with other relevant policy. Key to this is Design in Urban Areas DPF 20.1. Additional space should be required to ensure any conversion is situated so that no part of the carport will be in front of any part of the building line, and should even be setback behind the building line to leave quoins exposed on heritage buildings and maintaining streetscape character. Eventual conversion may also need to account for a secondary street setback should it be required.<br><br>In addition, the uncovered parking space dimensions is in sharp contrast with recent push for larger garages. Legislation has been proposed which would result in a minimum 6m length and 3.5m width for garages. It also appears that should the uncovered parking space become a covered car parking space, no account has been made for the thickness of any wall, should it be desired in the future. Uncovered car parking spaces should be of a dimension that that an unclosed car parking space can be established that meets the minimum covered car parking space dimension. |
| 4.6.3 Community Title Land Division | Drafting amendment | Section 66(3)(a) of the Act requires that polices and rules should be 'clear and straightforward'. As presently drafted, the wording of PO 2.9 provides no guidance as to what is, or may be, appropriate, leaving it entirely to the discretion of the assessment authority.<br>It would be of great assistance to relevant authorities if the wording of PO 2.9 was expanded to provide specific guidance. For example, it could couched along the following lines:<br>*PO 2.9 Land division under the Community Titles Act 1996 or the Strata Titles Act 1988 should:*<br>(a) *avoid provision of a common driveway that functions as a public road*<br>(b) *provide a suitable common driveway design (having regard to, amongst other things, the type and nature of vehicles expected to use the driveway, and the provision and location of utilities, letterboxes and bin storage)*<br>(c) *avoid provision of infrastructure (including a common driveway) which is likely to require excessive or unreasonable maintenance; and* |

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| | | (d) *if it is envisaged that public waste collection vehicles will access the common driveway, be supported by a land management agreement with the public waste collection authority.*<br><br>Furthermore, additional POs should be incorporated into the Code that reinforces the desire for street connectivity over community title arrangements, or which requires consideration of whether the land and the locality would be better serviced through the establishment of a public street, rather than a common driveway. POs in this realm should be included to provide sufficient weight to enable a refusal of a community title arrangement that has been plugged into an existing street network, which eliminates perfectly viable options for street and pedestrian connectivity, results in the continuation of a stub road as a private road and when a community title arrangement would disrupt the established setback pattern of a street. |




The above image identifies how the proposed community title division (361/C566/23) prevents street and pedestrian connectivity. To maximise street connectivity Osborne Avenue would connect into Willochra Road, and Costa Court/Prosperity Way would continue to connect into the extended portion of Osborne Road. This would have enabled a walking distance of 260 metres to Public Open Space accessible via Osborne road. But now due to the lack of street connectivity, the same public open space will be over 700 metres walking distance.

| **Policy Concerns** | | |
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| Design - DTS/DPF 11.1 / Design in Urban Areas - DTS/DPF 17.1 | Recommended amendment | Amendments are proposed to this provision to prevent dwellings with "token" front windows from being approved as DTS or Accepted development. Under the current provisions, a dwelling could have a porthole window that is 2 metres above the finished floor level of the dwelling into a habitable room with an internal dimension of not less than 2.4 metres and then supply the remaining windowed area via frosted glass to a non-habitable room and meet the DTS/DPF provision. Existing and proposed provision identified below.<br><br>Existing<br>Each dwelling with a frontage to a public street:<br><br>(a) includes at least one window facing the primary street from a habitable room that has a minimum internal room dimension of 2.4m<br>(b) has an aggregate window area of at least 2m2 facing the primary street.<br><br>Proposed:<br>Each dwelling with a frontage to a public street has at least 2 square metres of window area that meets all of the following:<br>(a) faces the primary street; and<br>(b) is from a habitable room that has a minimum internal room dimension of 2.4m; and<br>(c) is less than 1.8 metres above the finished floor level of the dwelling.<br>(d) does not comprise any permanently obscured glazing. |
| Boundary development | Recommended amendment | It is recommended that in relation to a building or a structure, any portions of the building or structure that is located less than 600mm from the boundary of a site should be considered to be on a boundary.<br><br>This is particularly in relation to structures that can be located within 600mm of a boundary (without being located exactly on a boundary), i.e. verandahs and carports. These developments can be proposed 20mm (as an example) off of a boundary and still meet Accepted or DTS criteria regardless of its length along that boundary, given that it is not exactly on the boundary. In these instances, |

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| | | they will still have the same fundamental impact as if it was located on the actual boundary. Providing an administrative definition for what is to be considered on a boundary would help ensure that verandahs and carports are not approved as Accepted or DTS in a form that is fundamentally at odds with the intention of the Planning and Design Code. |
| Urban areas | Recommended amendment | Currently, no clear distinction has been made for when to apply policies contained within General Development Policies - Design or General Development Policies - Design in Urban Areas in the assessment of all-code assessed developments. When to apply policies from General Development Policies - Design is less of a concern given that all policies contained within this module are replicated within the General Development Policies - Design in Urban Areas. However, planning policies unique to the General Development Policies - Design in Urban Areas module can significantly alter the design of a proposed development should they be applied or not.<br>Notable examples include provisions relating to student accommodation, quantitative separation from infrastructure and street trees within the road verge, and facade treatments for dwellings. A SAPPA reference layer, the Metropolitan Adelaide Boundary, a list of particular zones, or a mixture of these methods could be used to determine whether to apply Design or Design in Urban Areas. Alternatively, if the use of Design and Design in Urban Areas is used consistently within table 3 for each zone, it could then be assumed that whichever module is used for the listed developments, it can then also apply to all-code assessed developments. |
| General Neighbourhood Zone PO 1.3 and 1.5 | Recommended amendment | A DPF 1.3 for the siting and design of development is required to provide better guidance for new non-residential development within the General Neighbourhood Zone, particularly due to the lack of direction afforded by the PO. DPF 1.5 provides for the siting and design of expansions to existing facilities and it would be of benefit to provide similar policy guidance for new facilities. |
| Relationship between PO and DPF | Recommended amendment | There are concerns raised regarding the relationship between a PO and its corresponding DPF. This can be seen in the below Design in Urban Areas provision. The PO in effect makes the DPF, particularly the dimensional element redundant and reduces the PO to merely having a window. |

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| | | • PO 17.1 - Dwellings incorporate windows facing primary street frontages to encourage passive surveillance and make a positive contribution to the streetscape.<br>• DTS/DPF 17.1 - Each dwelling with a frontage to a public street:<br>o includes at least one window facing the primary street from a habitable room that has a minimum internal room dimension of 2.4m<br>o has an aggregate window area of at least 2m2 facing the primary street. |
| Overlooking policy | Recommended amendment | There is a lack of policy guidance relating to managing overlooking from ground level areas at sloping sites. While anticipated and unavoidable on some sloping sites in neighbourhood type zones, particularly Hills zones, infill residential development exacerbates potential overlooking by intensifying the site and shortening the distance between vantage points (windows, sliding doors, alfresco) and neighbouring habitable rooms / private open space. These typically can not be directly addressed through related policy that deal with slope, e.g. spilt level design, or result in proposals that externalise negative impacts by introducing substantial retaining and fencing for example. |
| Car Parking Rate - Places of Worship | Recommended amendment | The City of Salisbury requests additional guidance in relation to Places of Worship and associated car parking. Council has an increased demand for Places of Worship and additions to such facilities. Table 1 provides a car parking rate of 1 space for every 3 visitor seats. Council's experience is that this is open to manipulation of the number of stated seats to accommodate a particular car park number. Additionally, the application of this policy to places of worship that contain no seating is problematic. We recommend a car parking rate measured relative to total floor area. |
| Referral - Department of Defence | Recommended amendment | The Defence Aviation Area Overlay prescribes maximum building heights on allotments in proximity to the RAAF Base Edinburgh. The greater the distance from the centreline of the runway, generally the greater the height of buildings are permitted. However, given the size of some allotments within this overlay, vastly different heights of building would may be permissible when comparing the nearest and furthest points of the site. At this point in time, relevant authorities are required to assess against the prescribed building heights, but it can be difficult to issue a refusal where it offends this building height alone, and it would |

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| | | be inappropriate for a local government to issue a decision that may impact RAAF airbase operations. Accordingly, a referral to the DoD where a development exceeds the prescribed building heights would enable the DoD to consider the impacts, request additional information as necessary, make an informed decision on the basis of how it may impact their operations, and may direct the Relevant Authority to refuse the application if necessary. |
| General Development Policies – Transport, Access and Parking – Table 1 – General Off-street Car Parking Requirements | Recommended amendment | The car parking rate identified for an Educational Facility should provide further guidance as to what can be counted as a pickup/set down area for the purposes of the car parking rate. Guidance on this matter in the code should be consistent with decision handed down in GARDEN COLLEGE v CITY OF SALISBURY [2022] SAERDC 10. This will help ensure that car parking is considered more consistently. |

PORT ADELAIDE ENFIELD

26 February 2025

Planning and Land Use Services
Department for Housing and Urban Development
GPO Box 1815
Adelaide SA 5001

Dear Planning and Land Use Services,

**Administrative Submission – Assessment Improvements Code Amendment**

Thank you for providing Council the opportunity to provide feedback on the *Assessment Improvements Code Amendment*.

Council is generally supportive of the Code Amendment and appreciates the Commission's ongoing commitment to review and improve the Planning and Design Code, ensuring it remains up to date and easy to interpret.

The following key issues have been identified:

- Potential impacts of removing the requirement for covered car parking spaces, and ensuring any policy changes reflect recently announced proposed changes to minimum vehicle parking space dimensions
- Support for extending Local Heritage Place protections to match State Heritage Places, however additional enforcement mechanisms may be required to prevent neglect leading to demolition by default
- Suggestions for additional land use definitions that are currently undefined in the Code
- Key terms such as "solid acoustic structure" lack definition, requiring clearer guidance
- Additional DTS/DPFs that may require review to ensure clarity, with reference to the use of 'and' and 'or'

Please see attached Council's full comments on selected changes proposed in the Code Amendment. If you require further information or would like to discuss this matter, please contact Caitlin Breyer on [redacted]

Thank you,

**Caitlin Breyer**
Urban Planner
City of Port Adelaide Enfield

Email: [redacted]

## Administrative Submission – Assessment Improvements Code Amendment

| Section | Policy Issue | Proposed Policy and Comment |
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| 4.1.4 | Spatial Mapping Updates (Spatial Improvements) | Council is support of the intended changes, however notes that there appears to be missing words at the end of Part 1:<br><br>*"…if the Minister is satisfied that the alteration will preserve or restore the intended spatial relationship between (?)"* |
| 4.2.1 | Use of 'And' and 'Or' in Policy | Consideration should be given to whether Performance Outcomes also need to be reviewed with a similar lens as the DTS/DPF criteria, to determine whether some POs require clarifying statements.<br><br>Not that the following DTS/DPFs may have been omitted from the list of changes in Attachment A1 –<br><br>• DTS/DPF 5.1 of the Established Neighbourhood Zone – should AND be added between (a) and (b)<br>• DTS/DPF 9.1 of the Established Neighbourhood Zone – should AND be added between (a) and (b)<br>• DTS/DPF 11.2 of the Established Neighbourhood Zone – should AND be added between (a) and (b)<br>• DTS/DPF 5.1 of the General Neighbourhood Zone – should AND be added between (a) and (b)<br>• DTS/DPF 7.1(b) of the General Neighbourhood Zone – should 'satisfies (i) to (iv), inclusive' be added<br>• DTS/DPF 11.2 of the General Neighbourhood Zone – should AND be added between (a) and (b)<br>• DTS/DPF 1.3 of the Home Industry Zone – should AND be added between (a) and (b)<br>• DTS/DPF 3.1 of the Home Industry Zone – should AND be added between (a) and (b)<br>• DTS/DPF 3.6 of the Home Industry Zone – should AND be added between (a) and (b)<br>• DTS/DPF 6.1 of the Master Planned Neighbourhood Zone – should AND be added between (a) and (b)<br>• DTS/DPF 17.2 of the Master Planned Neighbourhood Zone – should AND be added between (a) and (b)<br>• DTS/DPF 2.3 of the Recreation Zone – should 'satisfies (a) to (c), inclusive' be added<br>• DTS/DPF 2.2(b) of the Strategic Neighbourhood Zone – should AND be added between (i) and (ii)<br>• DTS/DPF 7.1(b) of the Strategic Neighbourhood Zone – should 'satisfies (i) to (iv), inclusive' be added<br>• DTS/DPF 6.1 of the Suburban Neighbourhood Zone – should AND be added between (a) and (b)<br>• DTS/DPF 5.1(b) of the Urban Renewal Neighbourhood Zone – should 'satisfies (i) to (iv), inclusive' be added<br>• DTS/DPF 10.2 of the Urban Renewal Neighbourhood Zone – should AND be added between (a) and (b) |

| Section | Policy Issue | Proposed Policy and Comment |
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| | | • DTS/DPF 2.2(b) of the Waterfront Neighbourhood Zone – should AND be added between (i) and (ii)<br>• DTS/DPF 7.1(b) of the Waterfront Neighbourhood Zone – should 'satisfies (i) to (iv), inclusive' be added<br>• DTS/DPF 12.3 of the Waterfront Neighbourhood Zone – should AND be added between (a) and (b) |
| 4.2.5 | Shop, Office and Consulting Room – Inconsistent Policy Linkages | Council is supportive of the intended changes to ensure consistency in assessments across various Zones. |
| 4.2.6 | Swimming Pool Pumps – Acoustic Enclosure Policy | Council is supportive of updating the requirements for pool pumps to ensure consistency across the Accepted Development and Performance Assessed Development policies.<br><br>However, the term 'solid acoustic structure' has no definition nor a generally accepted noise reduction level across other literature. As such, a new administrative definition should be considered which defines the meaning of 'solid acoustic structure' and provides guidance on what level of acoustic dampening such structure should have. |
| 4.2.8 | Accepted Development – Building Alterations – Loss of Carparking | The additional clause proposed is supported in practice, however, may result in issues when the land use does not have a specified car parking rate in Tables 1 or 2 of *Transport, Access and Parking*. As such, consider whether alternative wording can be used to generalise the requirement. |
| 4.2.12 | Stormwater Management Overlay – Connection to Hot Water Services | Consider the use of 'and' or 'or' as appropriate in the term, in line with the changes proposed in Section 4.2.1, to ensure clarity.<br><br>Consideration should be given to requiring connection tanks to *all* toilets within the associated dwelling and include additional wording to allow connection to "irrigation systems" (which is a major source of water consumption, does not need to be clean mains water, and lawns benefit from the nitrogen in rainwater compared to chemical cleansed mains water).<br><br>In its response to the Expert Panel's Planning System Implementation Review in 2023, Council highlighted that there is further opportunity to strengthen the stormwater management provisions in the Code by linking them to Australian Standards and Engineering best practices. A further suggestion was made to require all stormwater to be managed on site or conveyed to a legal point of discharge as deemed appropriate by the relevant authority. |
| 4.2.14 | Advertisements (General Policy – Third Party Advertising) | The wording proposed in PO 3.1 is slightly confusing and could be amended to improve readability. Consider the following rewording:<br><br>*Advertisements are to assist the public in locating the premises and/or the services available at them, and are limited to clear, concise information that identifies the lawful use of the land on which they are located.* |

| Section | Policy Issue | Proposed Policy and Comment |
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| 4.4.1 | Personal or Domestic Services Establishment | If adding more methods to (b), consider whether dyeing/colouring of hair should be included. |
| 4.4.4 | New Definitions | The proposed definitions of "trade training facility" and "emergency services facility" are supported.<br><br>The following land use terms are also suggested to be defined, as they are listed in Zones but are not defined:<br>• Training facility<br>• Transport distribution |
| 4.5.1 | Building Height (Measurement Point Clarification) | The introduction of a picture to assist in the interpretation is positive and may assist Relevant Authorities in explaining to the general public how measurement of building heights is undertaken. |
| 4.5.2 | Primary Street | The updated definition and associated diagrams are generally supported, however note that the direction to ignore corner cut offs could potentially lead to the justification to ignore PO 10.1 of *Transport, Access and Parking*. Further clarity should be added to ensure that where policy specifically applies to protect sightlines around corners, setbacks from corner cutoffs cannot be ignored. |
| 4.6.1 | Local Heritage Place Overlay (Demolition Policy) | Council supports the introduction of the same level of protection to Local Heritage Places as is afforded to State Heritage Places.<br><br>The new protections should be further supported by extending offences under Section 36 the Heritage Places Act 1993 to include Local Heritage Places. If a Local Heritage Place cannot be justified for demolition due to damage or neglect, and there are no mechanisms to pursue recourse for such damage or neglect, then the building may effectively be left in limbo to degrade to such a state where it cannot be appropriately repaired. |
| 4.6.2 | Covered Car Parks | Modern residential developments have increasingly seen garages being repurposed as storage spaces, pseudo-sheds, and bin storage areas, rather than their intended use for vehicle parking. This raises considerations regarding the requirement for at least one covered parking space in new developments. If the requirement for a covered space is removed, it may encourage the use of two uncovered spaces for parking, which could be a positive outcome. However, the broader role of a covered space in contemporary housing design must be acknowledged, given the decline of traditional garden sheds.<br><br>A common trend observed is the public seeking approval to construct additional covered car parking spaces in front of existing garages or carports, even when the current structures are legally used for parking (i.e. not storage). This suggests a high likelihood that if a covered space is not mandated upfront, without a strong policy ensuring the designated parking area is retained, these spaces may be repurposed for other such uses as decks, swimming pools, etc. This, in turn, could lead to future applications for carports or |

| Section | Policy Issue | Proposed Policy and Comment |
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| | | garages at the front of dwellings, particularly when ownership changes and subsequent owners desire a covered parking space.<br><br>An important aspect requiring confirmation is whether the proposed Design in Urban Areas DTS/DPF 23.2 will apply to ancillary developments such as dwelling additions, swimming pools, garages, and decks, as these structures could potentially occupy the space originally designated for parking behind the main face of the dwelling if uncovered car parking space requirements do not form part of the assessment criteria.<br><br>Further, consideration should be given to whether the absence of an initial covered parking requirement provides justification for homeowners to maximise site coverage without including a covered space, only to later seek approval thus exceeding site coverage limits when adding a garage or carport. This raises questions about the long-term effectiveness of site coverage policies if not appropriately addressed when proposing no undercover parking.<br><br>Additionally, any changes to vehicle parking size requirements proposed in the draft Vehicle Parking Scheme should be incorporated into the subject DTS/DPF dimensions to ensure alignment with updated standards.<br><br>The provision requiring carports and garages to be set back at least 0.5m behind the building line in the Established Neighbourhood Zone needs to be explicitly addressed in proposed Design in Urban Areas DTS/DPF 23.2. Moreover, it should be noted that any uncovered car parking space maintain a minimum setback of 5.5m from the front boundary when the second space is located in tandem. This ensures compliance with on-site parking requirements, particularly in cases where the dwelling's front setback is less than 5.5m.<br><br>Overall, these considerations emphasise the need for a clear, well defined policy to balance flexibility in parking requirements with long term planning objectives, ensuring that residential developments maintain functional and compliant parking arrangements over time. |
| 4.6.2 | Covered Car Parks | If policy is adopted as proposed, the applicable POs for land divisions should be updated to include all the following to ensure that sufficient vehicle parking is retained when undertaking a land division but retaining one or more dwellings:<br>• *Design in Urban Areas* PO 23.1 and 23.2 |
| 4.6.3 | Community Title Land Division | The change is supported in principle; however, it is suggested that the Performance Outcome is amended to ensure that any community land created under the CT Act is meaningful. The following is suggested: |

| Section | Policy Issue | Proposed Policy and Comment |
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| | | *Community land created under the Community Titles Act 1996 or the Strata Titles Act 1988 is meaningful having regard to the nature and extent of the common property established by the relevant scheme, including but not limited to:*<br>*(a) common driveway design*<br>*(b) provision and location of utilities, letterboxes and bin storage*<br>*(c) landscaping provision.*<br>*(d) maintenance of any of the above.* |
| 4.6.4 | Car Parking Rates for Major Open Spaces | While the investigation discussion revolved around parking for major open spaces, the introduction of the note in PO 5.1 is likely to apply to other development types beyond major open spaces. Whether or not this was intentional, the introduction of a clarifying note in PO 5.1 that makes plain that it is acceptable to consider similar developments when seeking to understand car parking demand for *any* land use not described in Table 2 is positive and supported.<br><br>It is suggested that the note includes the ability to determine that car parking rates at other similar developments might be *insufficient*, therefore providing justification to request an increase in car parking provision for a proposed development.<br><br>It is noted that the following land uses that are defined and envisaged in Zones in the Code could benefit from having defined car parking rates:<br>• Function Venue |
| **Other issues that could be addressed in this Code Amendment** | | |
| | Inconsistent policy linkages – land division | Design in Urban Areas PO 23.1, 23.2, 33.1, 33.4 and 33.5 are not linked to development type "land division" across Neighbourhood-type Zones, which would be beneficial to ensure land divisions are being assessed against these criteria – particularly when a dwelling is being retained in conjunction with a land division application. |

District Council
of Yankalilla

27 February 2025

State Planning Commission
GPO Box 1815
ADELAIDE SA 5001

By Email: plansasubmissions@sa.gov.au

Dear Sir/Madam

**Council Submission on the Draft Assessment Improvements Code Amendment**

Thank you for the opportunity to comment on the draft Assessment Improvements Code Amendment (draft Code Amendment). The draft Code Amendment proposes a series of technical amendments that aim to enhance the performance of the Planning and Design Code and ultimately assist relevant authorities with the assessment of development proposals.

Council considered the draft Code Amendment at its February Council Meeting and has provided a number of comments and suggestions which are summarised in the Attachment to this letter.

Council looks forward to your favourable consideration of these matters. Should you wish to discuss Council's submission further, please do not hesitate to contact Connie Parisi, Team Leader Planning Policy on [redacted] or by email [redacted].

Yours sincerely

[redacted]

Nathan Cunningham
**Chief Executive Officer**

Attachments: Table 1 – Summary of Comments – Draft Assessment Improvements Code Amendment

1 Charles Street
(PO Box 9)
Yankalilla SA 5203
yankalilla.sa.gov.au

Phone (08) 8558 0200
Fax (08) 8558 2022
Email council@yankalilla.sa.gov.au
ABN 17 163 010 187

**Table 1**: Summary of Comments – draft Assessment Improvements Code Amendment

| **Issue and Reference** (as identified in Attachment A – Amendment Instructions) | **Proposed draft Assessment Improvements Code Amendment change** | **Council Comment** |
|---|---|---|
| Rules of Interpretation (Item 4.1.2) | Clarifies that a technical numeric value serves as a 'guide' to a relevant authority, and is not a mandatory requirement (in the case of a performance assessed development) | The TNV or other numeric value which forms part of a DPF appears to become superfluous under the changes if it is to be used as a 'guide' only.<br><br>This does not assist in the assessment of an application and will make it difficult in negotiations with applicants when seeking a good design outcome, as there is no 'strong' numeric benchmark to reference.<br><br>This is a significant issue where there is a TNV applying to sites that need to meet a minimum site area (for example, 1200 m2) if the site is not connected to a Community Wastewater Management Scheme or mains sewer system; the allotment size is critical for providing on site waste management systems and the associated soakage areas.<br><br>The majority of the time, when assessing a proposal that does not meet the DPF or TNV, a proposal would be assessed on its merits against the relevant policies of the Planning and Design Code. The challenging element of the process, though, is when there is insufficient guidance around the performance outcome to assist in either an approval or a refusal, so therefore, there is heavier reliance on the TNV. By including the TNV as a 'guide' may render it challenging when 'relevant policies' do not provide sufficient guidance to either refuse or |

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| | | approve a proposal. Ultimately, the message around this proposed amendment is that it is recommended that further work on some of the performance outcome policies needs to be undertaken in tandem with this proposed amendment. |
| Rules of Interpretation (Item 4.1.3) | Alterations to the spatial application of an Overlay due to updates | It is recommended that Local Government be directly informed of any changes to the spatial application of Overlays. |
| Rules of Interpretation (Item 4.1.4) | Alterations to the spatial boundary of a zone, subzone or overlay to align the boundary to cadastre | It is recommended that the Council affected by the changes is directly informed of the change. |
| Language, Consistency and Policy Applicability (Item 4.2.3) | Inserting Deemed to Satisfy pathway for Ancillary Accommodation in the Rural Horticulture Zone and excluding from notification | Ancillary Accommodation should be listed in DTS/DPF 1.1 of the Rural Horticulture Zone, particularly if it is to follow a DTS pathway and will not require public notification.<br><br>In addition, request that **12.1** of the Infrastructure and Renewable Energy Facilities be included in the 'General Policy' Column of Table 2 relating to Ancillary Accommodation, to ensure that the development will be connected to an approved wastewater disposal system. |
| Referrals (4.3.1) | Amendments to Heritage Adjacency Overlay, State Heritage Area Overlay and Historic Shipwrecks Overlay | Based on the changes to wording for Heritage Adjacency Overlay, State Heritage Area Overlay and Historic Shipwrecks Overlay, it is recommended that the State Heritage Branch prepare advisory information to relevant planning authorities to provide greater clarity and guidance on what criteria should be considered when making a decision as to refer an application or otherwise. |
| Land Use Definitions (4.4.2) | Workers' Accommodation revision to definition | "Workers' accommodation" definition needs to be further tightened; too much opportunity to convert buildings in rural areas to a second dwelling where a second dwelling is not envisaged by the zone |

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| Car parking Rates for Major Open Spaces (Item 4.6.4) | Proposed Policy with change highlighted in green:<br><br>PO 5.1 Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as: (a) availability of on-street car parking (b) shared use of other parking areas (c) in relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site, the provision of vehicle parking may be shared (d) the adaptive reuse of a State or Local Heritage Place.<br>Note: For the avoidance of doubt, in circumstances where a land use is not defined in in Table 2 – Off-Street Vehicle Parking Requirements in Designated Areas or Table 1 – General Off-Street Car Parking Requirements (as applicable), an appropriate car parking rate may be defined by reference to similar development in comparable locations. | Where a land use is not defined in Table 2 – Off-Street Vehicle Parking Requirements in Designated Areas or Table 1 – General Off-Street Car parking Requirements (as applicable), an appropriate car parking rate should not be calculated at a rate *similar to development in comparable locations* as that development site referenced may not have sufficient car parking. Rather, the Assessment Manager, or delegate, should be able to request a car parking provision report from the applicant which provides an analysis of what car parking rate should be used.<br><br>This practice should be adopted as an interim measure, while investigations are undertaken on suitable car parking rates for the various uses undertaken at major public open space areas. |

72 Woodville Road, Woodville, South Australia 5011
PO Box 1, Woodville SA 5011
T: 08 8408 1111 F: 08 8408 1122 charlessturt.sa.gov.au

26 February 2025

Mr Craig Holden
Chair
State Planning Commission

Via email: PlanSAsubmissions@sa.gov.au

Dear Mr Holden

## Submission by the City of Charles Sturt – Assessment Improvements Code Amendment - for Consultation

Council wishes to thank the State Planning Commission for the opportunity to comment on the Draft Assessment Improvements Code Amendment.

It is acknowledged that the draft Code Amendment proposes a series of technical amendments that aim to enhance the general performance and operation of the Planning and Design Code, including but not restricted to, improvements to the Rules of Interpretation, language and policy consistency, ensuring reasonable and practical policies, improvements to land use and administration definitions and review of referrals to government agencies and industry.

The City of Charles Sturt has taken the opportunity to consider the proposed Code amendments and provides a table of Council's review in Appendix A. The following is a summary taken from Appendix A:

Rules of Interpretation

The Code Amendment suggests changes to interpretation rules based on investigations and recent case law to provide clearer guidance for planning assessments. While Council supports the changes, it raises concerns about the past omission of relevant policy in some applications. It is essential that any errors or inconsistencies in the updated interpretation rules are communicated to the Commission to ensure consistent assessment parameters. Appendix A includes an example of these inconsistencies for the Commission's reference.

Language and Consistency

A key matter of the Code Amendment is to ensure Code policy has a consistent use of terms. The need for clearer DTS/DPF provisions, is an ongoing users identify which requirements must be fully met and which only need one or a combination of criteria. Council generally supports the proposed changes but offers suggestions to improve clarity, including adjustments to the use of 'and' or 'or' in DTS/DPF provisions and minor language changes for consistency.

Issues Identified by Council

Council has identified an issue during the general assessment process where the current policy does not provide adequate provisions for evaluating structures such as, swimming pools and verandahs, when meeting the Deemed-to-Satisfy (DTS) criteria. The issue being that there is no specified minimum dimension for soft landscaping defined, unlike in the General Development Policies for non-DTS developments which state a minimum dimension of 700mm. This inconsistency is seen as a barrier to achieving optimal sustainability outcomes and has been addressed in Council's submission.

Should you have any questions, please contact Megan Hendy, Senior Policy Planner on [redacted] or by email at [redacted]

Yours sincerely

[redacted]

**Craig Daniel**
**Manager City Planning and Sustainability**
City of Charles Sturt

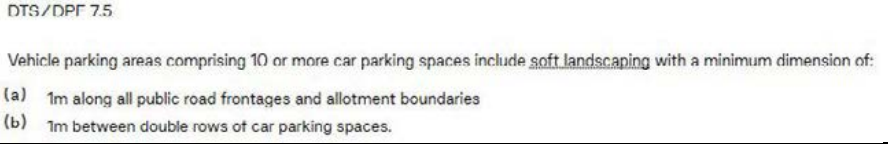
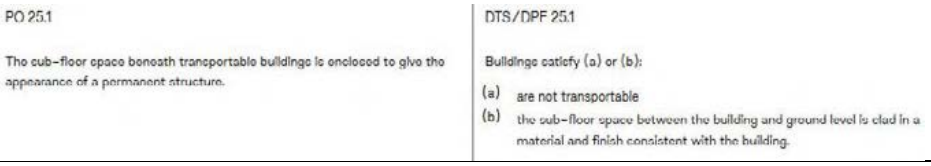
# Appendix A

## 4.1 Rules of Interpretation

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| **4.1.1 – Performance Assessed Development - Relevant Policy Considerations** | While there is support for this amendment, concerns have been raised regarding the generation of the relevant policy framework for all developments. Planning staff have encountered instances where certain assessments do not produce all the necessary policies, hindering the ability to conduct a comprehensive evaluation for specific performance-based developments.<br><br>Example: Development application 22022567, pertaining to a performance-assessed verandah, did not generate all the relevant policies. The 'Code Rules' document, available on the Plan SA Portal, upon application lodgement to guide the assessment process, included only the following performance outcome (PO) under the General Development Policies - Design in Urban Areas when multiple additional PO's within Design in Urban Areas applied.<br><br>**Design in Urban Areas**<br>**Assessment Provisions (AP)**<br><br>**Desired Outcome**<br>DO 1<br>Development is:<br>(a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributing to the character of the locality<br>(b) durable - fit for purpose, adaptable and long lasting<br>(c) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors<br>(d) sustainable - by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.<br><br>**Performance Outcome** \| **Deemed-to-Satisfy Criteria / Designated Performance Feature**<br>All Development<br>Earthworks and sloping land<br>PO 8.1 \| DTS/DPF 8.1<br>Development, including any associated driveways and access tracks, minimises the need for earthworks to limit disturbance to natural topography. \| Development does not involve any of the following:<br>(a) excavation exceeding a vertical height of 1m<br>(b) filling exceeding a vertical height of 1m<br>(c) a total combined excavation and filling vertical height of 2m or more. |
| **4.1.2 - Performance Assessed Development – TNV Policy Weight** | The matter of how much weight should be given to departures from a numeric value within a DPF during performance assessment has become a notable point of discussion with conflicting opinions between applicants and assessing authorities. While it is acknowledged that |

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| | this should not constitute a mandatory requirement, it is imperative that more precise parameters be established to enable both applicants and relevant authorities to effectively conduct a merit-based assessment. |

## 4.2 Language, Consistency and Policy Applicability

| **4.2.1 Use of 'And' and 'Or' in Policy** | |
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| **General Development Policies – Advertisement – PO 1.1** | It is recommended that DTS/DPF 1.1 is amended the same as indicated for item c(ii) to item b(ii) which also has two parts needs an "all of the following are satisfied".<br>  <br>GENERAL DEVELOPMENT POLICIES<br>Advertisements — DTS/DPF 1.1 — INSERT 'OR' between list items (b)(ii)(A) and (b)(ii)(B)<br>INSERT the following words after the words 'two-storey building' in list item (c)(ii): all of the following are satisfied<br>INSERT the following words after the word 'canopy' in list item (f): all of the following are satisfied |
| **General Development Policies – Design – PO 24.3** | It is considered that by inserting 'or' between list items (a) and (b) it is taking away the minimum driveway width of 3m. Part (b) is only dealing with passing bays so there should be 'and' between (a) and (b) not 'or'.<br>  <br>Design — DTS/DPF 24.3 — INSERT 'OR' between list items (a) and (b)<br>INSERT 'AND' between list items (b)(i) and (b)(ii) |
| **General Development Policies – Design in Urban Areas – PO 7.5** | It has been identified and is advised that an 'and' is missing and should be added between (a) and (b) of DTS/DPF 7.5<br>  <br>DTS/DPF 7.5<br>Vehicle parking areas comprising 10 or more car parking spaces include soft landscaping with a minimum dimension of:<br>(a) 1m along all public road frontages and allotment boundaries<br>(b) 1m between double rows of car parking spaces. |
| **General Development Policies – Design in Urban Areas – PO 25.1** | It has been identified and is advised that an 'and' is not required between (a) and (b) because there is already an 'or' in the opening sentence and (b) should apply when the building is transportable and has no link to the intent of (a).<br>  <br>PO 25.1<br>The sub-floor space beneath transportable buildings is enclosed to give the appearance of a permanent structure.<br>DTS/DPF 25.1<br>Buildings satisfy (a) or (b):<br>(a) are not transportable<br>(b) the sub-floor space between the building and ground level is clad in a material and finish consistent with the building. |
| **General Development Policies** | It has been identified that in some DTS/DPF's the wording is similar to 'satisfy (a) to (f) inclusive'. A suggested change would be that this reads as |

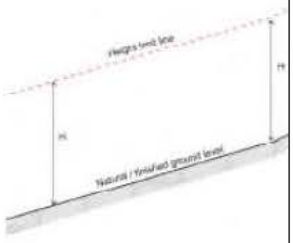
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| | 'satisfies all the following' to avoid updates being required if more provisions are added in the future. |

## 4.4 Land Use Definitions

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| **4.4.4 New Definitions**<br><br>**Part 7 – Land Use Definitions propose new definition of 'trade training facility'** | The definition for trade training facility includes three specific functions that the use needs to include one of more of to be a trade training facility (see below).<br><br>Trade training facility<br><br>Means land use for the provision of education and training in trade, construction, earthmoving or similar related activities and includes one or more of the following activities:<br>(a) operation of heavy machinery and/or earthmoving equipment<br>(b) operation of moving and/or lifting equipment or processes<br>(c) the process of cutting and/or finishing of materials.<br><br>This could possibly eliminate a facility that provides training to electricians or solar energy equipment unless they include the training on earth moving. |

## 4.5 Administrative Terms and Definitions

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| **4.5.1 Building Height – Measurement Point Clarification**<br><br>**Part 8 – Administrative Terms and Definitions – Amend the definition of 'building height'** | The inclusion of 'reference point' within the definition of building height is deemed superfluous, as it necessitates the addition of a clarifying note to elaborate on the meaning of 'reference point.' Furthermore, the definition of 'reference point' appears redundant, as it mirrors the existing language used to define building height.<br><br>It should be noted that the inclusion of the illustration in Column C is endorsed to enhance clarity. |

| Term (Column A) | Definition (Column B) | Illustrations (Column C) |
|---|---|---|
| Building height | Means the maximum vertical distance between the reference point ~~lower of the natural or finished ground level or a measurement point specified by the applicable policy of the Code (in which case the Code policy will prevail in the event of any inconsistency)~~ at any point of any part of a building and the finished roof height at its highest point immediately above the reference point, ignoring any antenna, aerial, chimney, flagpole or the like. For the purposes of this definition, building does not include any of the following:<br>(a) flues connected to a sewerage system<br>(b) telecommunications facility tower or monopole<br>(c) electricity pole or tower<br>(d) or any similar structure.<br>NOTE: For the purposes of this definition, reference point means the lower of the natural or finished ground level or a measurement point specified by the applicable policy of the Code (in which case the Code policy will prevail in the event of any inconsistency) |  |

## 4.6 Targeted Policy Updates

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| **4.6.1 - Local Heritage Place Overlay**<br><br>**Part 3 – Overlays – Local Heritage Place Overlay - PO 6.1** | Staff including Council's Heritage Advisor are supportive of the addition of "and results from the actions and unforeseen events beyond the control of the owner" to part (b) of Performance Outcome 6.1.<br>PO 6.1<br>Local Heritage Places are not demolished, destroyed or removed in total or in part unless:<br>(a) the portion of the Local Heritage Place to be demolished, destroyed or removed is excluded from the extent of listing that is of heritage value<br>or<br>(b) the structural integrity or condition of the Local Heritage Place represents an unacceptable risk to public or private safety and results from actions and unforeseen events beyond the control of the owner and is irredeemably beyond repair. |

## Issues identified by Council

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| **Table 1 – Accepted Development Classification** | Accepted Development Classification Criteria 11 states:<br><br>*11.Retains a total area of soft landscaping in accordance with (a) or (b), whichever is less:*<br><br>*(a) total area as determined by the following table:* | |

| *Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) ($m^2$)* | *Minimum percentage of site* |
|---|---|
| *<150* | *10%* |
| *150-200* | *15%* |

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| *201-450* | *20%* |
| *>450* | *25%* |

*(b) the amount of existing soft landscaping prior to the development occurring*

The Accepted Development criteria does not reference a minimum dimension for soft landscaping. It is essential for the Code to maintain consistency in the assessment of soft landscaping to ensure that its intended purposes—such as visual amenity, stormwater infiltration, biodiversity, and heat reduction—are applied consistently to both DTS and Performance Assessed development.

THE RURAL CITY OF MURRAY BRIDGE

LOCAL GOVERNMENT CENTRE
2 Seventh Street
Murray Bridge SA 5253
T 08 8539 1100
F 08 8532 2766
council@murraybridge.sa.gov.au

Department for Housing and Urban Development
Plan SA

Response to engagement on Assessment Improvements Code Amendment

Council thanks PLUS for the opportunity to provide comment on this Code Amendment and considers that the proposed amendments will indeed assist in the understanding and interpretation of the Planning and Design Code and will assist in providing better development outcomes. Please note however that this response has been prepared by Council administration and has not been endorsed by Council.

We are generally supportive of the majority of amendments contained within the Code Amendment and would like to provide feedback on only one of the proposed elements which we believe is of sufficient concern to warrant a formal response.

This feedback relates to Section 4.5 Administrative Terms and Definitions, and in particular 4.5.1 Building Height – Measurement Point Clarification.

This proposed amendment, which we understand is seeking to provide clarification on how building height should be determined, particularly in relation to sloped sites, appears to oversimplify the definition. In considering the vertical distance between point a and point b, the definition ignores issues such as the visual impact from the lower end of the site, or the adjoining properties and other amenity considerations.

We are of the view that the proposed amendment will enable buildings to be established at a height greater than that envisaged by both the TNV and anticipated by the community. It will additionally allow for height increase 'by stealth' as finished ground levels can be raised to suit the application.

This proposed amendment could also lead to cases where the opportunity for public notification has been removed where under the current definition it would likely occur.

We understand that there have been several ERD Court decisions in relation to the building height definition, and these indicate that building height should be measured from the lowest building point to the highest building point at any location. This interpretation is considered more in line with the accepted understanding of building height and its potential impacts on amenity.

Given the guidance already provided by the Court on the current definition of building height and the potential impacts on public notification, bulk and amenity that the proposed changes could lead to, Council recommends that the current definition remains unchanged.

Again, we thank PLUS for this opportunity to comment and would be more than happy to discuss this feedback should you require.

Kind Regards,

[redacted]

Sally Roberts
Acting General Manager Community Development.

File Number: fA36341
Enquiries To: Emily McLuskey
Direct Telephone: 8366 4561

City of Norwood Payneham & St Peters

3 March 2025

Mr Craig Holden
Chair
State Planning Commission

Via email: PlanSAsubmissions@sa.gov.au

Dear Mr Holden

**ASSESSMENT IMPROVEMENTS CODE AMENDMENT**

Thank you for the opportunity to provide comment on the *Assessment Improvement Code Amendment*. The Council's submission is attached for your consideration, in addition to the comments below.

The Council supports the intent of the Code Amendment, to provide technical amendments to enhance the general performance and operation of the Code, both in response to feedback from Code users and in response to the Planning System Implementation Review. Rather than providing comments on the full suite of proposed changes, the Council's submission is limited to feedback on the changes which the Council considers could be improved, particularly on operational concerns including the ability for assessing planners to consider Code policies which are 'missing' from Table 3 and the role and use of DTS / DPF policies.

Thank you again for the opportunity to participate in this Code Amendment process. The Council looks forward to continuing to contribute to policy and process changes associated with the Code.

Should you require any additional information or clarification, please contact the Council's Senior Urban Planner, Emily McLuskey on [redacted] or [redacted]

Yours sincerely

[redacted]

Carlos Buzzetti RPIA (Fellow)
**GENERAL MANAGER, URBAN PLANNING & ENVIRONMENT**

175 The Parade
Norwood SA 5067

PO Box 204
Kent Town SA 5071

Telephone
8366 4555

Email
townhall@npsp.sa.gov.au

Website
www.npsp.sa.gov.au

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| 4.1 | Rules of Interpretation |
|---|---|
| 4.1.1 | **Performance Assessed Development – Relevant Policy Considerations**<br>Application of policies outside of Table 3 |

The Council supports a mechanism which allows planners to consider policies outside of Table 3. The proposed change to allow relevant authorities to consider other policies for 'contextual or interpretation' purposes only, will create confusion for Development Assessment Planners as to the weight that can be placed on these policies.

Relevant authorities should be able to apply a 'missed policy' to an assessment (which has the same weight as Table 3 policies), where there is a clear and direct relationship with the proposed development. Considerations for when this could occur include:

- the relevance to the development (e.g. a policy about buildings on corner sites is applicable to corner sites, or a policy about upper-level windows is relevant to 2+ storey buildings);
- the intended spatial or contextual application of the policy (e.g. a policy in Design in Urban Areas should only be applied in urban areas, and a policy in the Character Area Overlay cannot be applied outside of the Overlay); and
- the intended development type (e.g. a policy under DIUA 'Medium and High Rise' can't be applied to a low-rise development).

Notwithstanding the above suggestion, there should not be an expectation that assessing planners will pick up 'missed' policies, given the huge number of potentially applicable policies. Rather, this suggestion is for when a planner is familiar with a policy they consider is directly relevant / applicable, but has been omitted from Table 3.

To assist with searching for a policy the planner considers is relevant, it is suggested that the Code search function be improved in the following ways:

- currently when searching in 'Browse the Code' with multiple search results, you have to click into each result one-by-one to see if it's the policy you want, but when you navigate back a page to check the next result, it resets the search. The search function should enable the user to right-click and open an individual search result in a new tab so they can 'short list' the results they think might be relevant, rather than needing to reset the search multiple times to work through the list of results to find a relevant policy (when an attempt has been made to open a policy in a new tab, it just brings up a blank search page);
- when you click on a search result, it shows you the whole module / Overlay the policy is in, rather than the individual policy, so you need to Ctrl+F to find the policy in any case, essentially negating the search tool;
- if you're looking for a policy in a particular module / Overlay, there isn't an obvious way of limiting the search to that module. You need to bring up the module then Ctrl+F the word(s) you're looking for in the webpage; and
- when searching or scrolling through a large module, like DIUA, it would be helpful if the section titles were static (while you're scrolling through that particular section) so you can keep track of what section you're in – e.g. when you have to scroll through a lot of similar policies, it is easy to lose track of whether you are in the low-rise development or medium to high-rise section of DIUA.

A further, longer-term enhancement would be for policies to be 'tagged' with relevant topics. This would assist with searches when the exact search terms aren't used in the policy, and also provide guidance as to when and how the Code authors intended for the policy to apply.

Consideration should also be given to what circumstances / how efficiently a Section 76 Amendment can be undertaken to include a clearly 'missed' policy, rather than waiting for the next available miscellaneous Code Amendment.

| 4.1.2 | **Performance Assessed Development – TNV Policy Weight**<br>Role of DPFs is as a guide rather than a mandatory requirement in performance assessed development |
|---|---|

The Council is not specifically opposed to the proposed re-wording of the rules of interpretation, however further consideration should be given to the following comments regarding the role of DPFs:

Dual role of DTS/DPF

The format of the Code results in the same policy wording being used as a DTS or DPF depending on the assessment pathway, so it can be difficult to determine what policies are there for functional / pathway purposes and what policies are seeking to create desirable outcomes. This creates confusing outcomes in two respects:

Firstly, in some circumstances the DTS/DPF is clearly intended to facilitate a DTS pathway, but appears to contradict the PO – e.g.

*Design in Urban Areas > All Development > External Appearance*

PO 1.4

Plant, exhaust and intake vents and other technical equipment are integrated into the building design to minimise visibility from the public realm and negative impacts on residential amenity by:

(a) positioning plant and equipment discretely, in unobtrusive locations as viewed from public roads and spaces
(b) screening rooftop plant and equipment from view
(c) when located on the roof of non-residential development, locating the plant and equipment as far as practicable from adjacent sensitive land uses.

DTS / DPF 1.4

Development does not incorporate any structures that protrude beyond the roofline.

*Affordable Housing Overlay*

PO 1.1

Development comprising 20 or more dwellings / allotments incorporates affordable housing.

DTS/DPF 1.1

Development results in 0-19 additional allotments / dwellings.

These policies become confusing when they are read as DPFs in a performance assessed pathway.

Secondly, it is not always appropriate to have the same policy for a DTS or DPF outcome because a conservative DTS outcome may be too restrictive for a performance assessed development, or a more enabling policy for a performance assessed development may not be appropriate as a DTS outcome, the policy may not be appropriate for the alternative assessment pathway. For example, the following policy is applicable to alterations and additions in the CAO, in both DTS and performance assessed developments:

*Character Area Overlay – DTS pathway*

DTS/DPF 3.1
Additions and alterations:

(a) are fully contained within the roof space of a building with no external alterations made to the building elevation facing the primary street
or
(b) meet all of the following:
  (i) do not include any development forward of the front façade building line
  (ii) any side or rear extensions are no closer to the side boundary than the existing building
  (iii) do not involve the construction or alteration of a second or subsequent building level.

*Character Area Overlay – Performance Assessed Pathway*

PO 3.1
Additions and alterations do not adversely impact on the streetscape character.

DTS/DPF 3.1
Additions and alterations:

(a) are fully contained within the roof space of a building with no external alterations made to the building elevation facing the primary street
or
(b) meet all of the following:
  (i) do not include any development forward of the front façade building line
  (ii) any side or rear extensions are no closer to the side boundary than the existing building
  (iii) do not involve the construction or alteration of a second or subsequent building level.

In this example, DTS/DPF 3.1 states that additions should not exceed one storey, so as to not result in unreasonable outcomes through a DTS pathway. However, the Character Area Statements in NPSP anticipate that two storey may be appropriate at the rear provided it provides a single storey streetscape appearance. Ideally, there would be separate policies applied to DTS and DPF pathways where different outcomes may be appropriate.

*Recommendation*

Separate policies are drafted for DTS and Performance Assessed pathways where different policy outcomes are expected (i.e. the right-hand coloumn in the Code would list DTS 1.1 for a policy only applicable to a DTS pathway, DPF 1.1 for a policy only applicable to a PA pathway, or DTS/DPF 1.1 where the same wording is applicable in both circumstances)

<u>Inconsistent outcomes / intent between PO and DPF</u>

The outcomes listed in some DPFs do not entirely line up with the respective PO. For example, PO 11.1 in many Neighbourhood Zones seeks:

*Residential ancillary buildings and structures are sited and designed to not detract from the streetscape or appearance of buildings on the site or neighbouring properties.*

The corresponding DTS/DPF lists 11 criteria including a minimum 5.5m setback to garage/carports and the retention of minimum amounts of soft landscaping. While setbacks and soft landscaping are relevant to appearance, these features typically serve other purposes as well i.e. the 5.5m setback is to accommodate a car parked in the driveway and soft landscaping is also for stormwater management and urban greening / cooling. As these additional policy intents (car parking, stormwater, urban greening) are not included in the PO,

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| | it can be difficult during a performance assessed development to advocate for design changes relating to shortfalls in the 5.5m setback or soft landscaping requirements.<br><br>The Council's Accommodation Diversity Code Amendment submission highlighted that the wording of the proposed SRFSA Overlay PO 2.1 is too open to interpretation and could be used to justify a departure from the building heights identified in the DPF, which is concerning given the proposed building heights are already considered excessive:<br><br>**PO 2.1**<br>Buildings for supported accommodation and retirement facilities on a significant retirement facility and supported accommodation site achieve an increased development yield, provided that off-site impacts can be managed.<br><br>**DTS/DPF 2.1**<br>Buildings for or associated with supported accommodation or a retirement facility on a significant retirement facility and supported accommodation site do not exceed:<br>(a) 4 levels and 15m in height on sites between 10,000m² up to 20,000m² in area<br>(b) 6 levels and 22m in height on sites over 20,000m² in area.<br>In instances where the zone's maximum building height exceeds the height specified in part DTS/DPF 2.1 (a) or (b) (whichever is relevant), then the zone's maximum building height will apply.<br><br>Specifically, there is a risk applicants may seek a greater building height than envisaged in the DPF on the basis it achieves an 'increased development yield' and that they can 'manage' off-site impacts, noting there is no measure as to what constitutes 'managed' and the policy does not require the impacts to be mitigated to an acceptable level.<br><br>*Recommendation*<br><br>A review is undertaken of POs and corresponding DPFs to better align the expected development outcomes with the quantitative figures provided in a DPF.<br><br>Departures from DPFs<br><br>The case law and commentary in the Code Amendment relate to a departure from a quantitative DPF. It is recommended that clarifying language also be included that in some cases, achieving a DPF does not guarantee that a PO will be considered to be met in every circumstance. For example, a minimum site area can be achieved, but if the land division pattern is clearly at odds with the 'prevailing development pattern in the locality', then it may not warrant approval. |
| **4.1.3** | **Spatial Mapping Updates – Minister's Determination (s71(e))**<br>Updates to the types of minor spatial changes which can be made without full Code Amendment (e.g. due to an external change to legislation, reference documents etc) |
| | It is recommended that the State Heritage Place Overlay is included in the table, such that a decision of the SA Heritage Council under the Heritage Places Act can be reflected appropriately through updated mapping/Overlay application in a timely manner. |

| 4.2 | **Language, Consistency and Policy Applicability** |
|---|---|
| **4.2.1** | **Use of 'And' and 'Or' in Policy**<br>Amendments to 'and' 'or' policies, to clarify how the policies should be read and applied |
| | The Council supports improvements to policy language, particularly in relation to 'and'/'or' policy as there are many examples of policies where it is unclear how the different criteria should be applied. The proposed amendments generally seem satisfactory, however it is the Council's preference that the term 'and' / 'or' is used to divide each criteria for absolute clarity.<br><br>The proposed change appears to have missed Stormwater Management Overlay DTS 1.1, which would also benefit from 'and' 'or' separation between clauses (notwithstanding other changes to this policy which are proposed as part of this Code Amendment).<br><br>It is noted this change targets DPFs however there should be a review of POs as well. Below are two POs which also require clarification:<br>*Design in Urban Areas > All Development > External Appearance*<br>*PO 1.4*<br>*Plant, exhaust and intake vents and other technical equipment are integrated into the building design to minimise visibility from the public realm and negative impacts on residential amenity by:*<br>a) *positioning plant and equipment discretely, in unobtrusive locations as viewed from public roads and spaces*<br>b) *screening rooftop plant and equipment from view*<br>c) *when located on the roof of non-residential development, locating the plant and equipment as far as practicable from adjacent sensitive land uses.*<br>*Established Neighbourhood Zone PO 1.2*<br>*Commercial activities improve community access to services and are of a scale and type to maintain residential amenity.* |
| **4.2.6** | **Swimming Pool Pumps – Acoustic Enclosure Policy**<br>Amendments to provide language consistency between Accepted Development Tables and GDPs |
| | This amendment is supported, however it is suggested that a definition or clarification be provided for what constitutes a 'solid acoustic structure'. |
| **4.2.11** | **Water Resources Overlay - Exclusions** |
| | The rationale behind the proposed change is understood, however the following issues are recommended for consideration:<br><br><u>Missing DTS Criteria for Dwelling Additions</u><br>A review of some Neighbourhood Zones indicates that no Water Resources Overlay policies / criteria are applied to dwelling additions in a DTS pathway. By comparison, Water Resources criteria are applied to ancillary development such as ancillary accommodation, outbuildings, carports etc. This appears to be an oversight and it is recommended a review is undertaken to ensure the Water Resources Overlay is appropriately considered when processing a DTS dwelling addition.<br><br><u>Need for an additional Overlay</u><br>There does not appear to be an Overlay which deals with land stability near watercourses. Development on sites near rivers or similar watercourses may need to consider land stability, including proximity to the riverbank and/or appropriate engineering design requirements. It is recommended that an Overlay addressing this issue is explored through a separate Code Amendment. |

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| **4.2.13** | **Educational Establishment Policy – Marking of Accessible Car Parking**<br>Providing clarification that 'accessible parking places' relates to parking for people with disabilities, not identifying which parking spaces are associated with a particular land use |
| | The intent of the change is supported, but it is recommended the clarification of the term 'accessible parking places' is included as an administrative definition rather than defined within this particular policy. |
| **4.2.14** | **Advertisements – General Policy – Third Party Advertising**<br>Proposed change to Advertisements General Development Policy PO 3.1 to avoid duplication with other policy |
| | Advertisements PO 3.1 and POs 2.1 – 2.3 are considered to deal with different issues; PO 3.1 deals with the display of multiple signs on a single sign structure (particularly relating to third party advertisements and/or digital displays) whereas POs 2.1 – 2.3 deal with the number of sign structures / physical signs are located on a property.<br><br>It is unclear if the Code policies support third party advertising. For example PO 3.1 limits signage to only relating to the business on the site, although some businesses advertise products or brands they sell which can constitute third party advertising (e.g. a café displaying the brand of coffee or other drinks they serve). It is recommended the Code policies are more explicit about if and when third party advertising is anticipated. |

| 4.3 | Referrals |
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| 4.3.1 | **State Heritage Overlays**<br>Heritage Adjacency Overlay referral wording is changed for development adjacent State Heritage Places:<br>"~~materially~~ substantially affects the visual context" |
| | Consideration should be given to whether the change to 'visual context' rather than just 'context' may result in land divisions surrounding a SHP no longer being referred on the basis that a land division with no built form does not, in and of itself, affect the visual context of a SHP, however the subsequent built forms on the new allotments may have a substantial impact on the visual context but there may be limited opportunities to mitigate this once the allotments are created. |
| 4.3.5 | **Referral Duplication and Minor Development within Overlays** |
| | The benefit of reducing referrals for duplicated or minor referrals is generally supported, however clarification should be provided for what constitutes minor development in the context of different Overlays. In particular, within the Future Road Widening Overlay would sign structures (free-standing or under canopy) or front fences count as minor development? These types of structures, although minor in some contexts, can require significant financial investment. The applicant should be made aware if there is a high likelihood the new structures would need to be removed in the event of road widening. Similarly, like-for-like replacement could involve significant structures (e.g. replacing one dwelling with another) which may not be appropriate within a road widening area – that is, just because a building currently exists there, doesn't mean the owner should invest in a new building in the same location.<br>If a formal referral is not warranted, could there be an avenue for formally advising property owners their development is in a future road widening area so they can make an informed decision as to the potential implications of being within the road widening area? |

| 4.5 | Administrative Terms and Definitions |
|---|---|
| 4.5.2 | **Primary Street**<br>Where sites have multiple frontages, more weight should be given to the way the building faces. Include interpretation note to clarify the corner cut-off boundary alignment is to be ignored when measuring building setbacks from the road frontage of an allotment |
| | While the need to simplify the primary street definition is understood, consideration should be given to potential impacts on street numbering and whether there is the ability to change the street address of a property. |
| 4.5.3 | **Excluded Building**<br>Proposed amendment to definition of Excluded Building to clarify that public notification is required only when demolition of heritage elements listed in the Code or SA Heritage Register is proposed |
| | The issue of the current definition of excluded building was raised by this Council based on our interpretation that demolition of an ancillary building on the site of a SHP / LHP which is *not* included in the listing and is *not* in the HAO falls outside the definition of excluded building, and therefore requires public notification. By comparison, the demolition of an ancillary building on the site of a SHP / LHP which *is* in the HAO, is within the definition of excluded building and therefore is exempt from public notification. It is our view that whether or not the unlisted ancillary building is within the HAO should not make a difference to its notification status.<br>The amendment as proposed does not entirely resolve the Council's concerns, as most of our Local Heritage Place listings are not sufficiently refined to exclude non-heritage outbuildings or non-original portions of the building, and even those which have more specificity do not clarify if the listing extends to the interior of the Place. It is recommended that the definition refer to something akin to: "*in the opinion of the Relevant Authority, does not form part of the fabric of the Heritage Place*" (can be demolished without notification). |

| 4.6 | **Targeted Policy Updates** |
|---|---|
| 4.6.1 | **Local Heritage Place Overlay – Demolition Policy**<br>New policy states structural dilapidation of a LHP must be the result of something outside of the owner's control (eg a natural disaster), not deliberate neglect, in order for it to lend support to an application for demolition. |
| | The intent of the amendment is supported with the following recommendations:<br>• suggest referring to both the owner and occupier, in the event that an owner claims ignorance or inability to access the property to undertake the necessary maintenance or repairs;<br>• if the property is sold, a new owner could claim that current deterioration of a Place was not a result of *their* actions and was beyond *their* control and pursue demolition. Consider wording to clarify that it resulted from actions of the current or past owners; and<br>• if an owner has allowed a Place to become dilapidated and the policies preclude demolition, there is a risk the Place could be caught in 'limbo' of not being demolished but also not being repaired. Section 155(1)(b) enables an authorised officer to require the owner to carry out building work in response to a threat to a Heritage Place. Anecdotally, this power appears to be underutilised, but greater clarity regarding what constitutes a 'threat' and the extent of building work which could be required under this power would be valuable and may result in increased use of this power. |
| 4.6.2 | **Covered Car Parking Spaces**<br>Remove requirement for covered parking spaces but adjust requirements for uncovered spaces to accommodate future covered structures that won't be forward of the dwelling |
| | The intent of this change is supported.<br>It is recommended, however, that the uncovered space is required to be set back from the front of the main building in the order of 0.5 metres as this is commonly required to minimise the visual dominance of a carport or garage structure, particularly in Character or Historic Areas. |
| 4.6.3 | **Community Title Land Division**<br>Proposed new provision in the Land Division General Development Policies to ensure that Comm Title land divisions have regard to the nature of common property established by the relevant scheme (noting that Comm Titles may be used inappropriately where an alternative Title type would be more functional) |
| | It is not uncommon for this Council to experience the opposite issue outlined in the Code Amendment whereby a Torrens Title land division is proposed when a Community Title would be more functional. For example, in some developments a common (private) road is proposed to consist of a series of rights of way for Torrens Titled homes instead of a Community Title, when the latter would provide clearer avenues for responsibility over time. In these cases, it is likely developers are choosing Torrens Titles as they are more appealing to home buyers who wish to avoid the 'complications' which may come with Community Title, notwithstanding the 'complications' that will inevitably come with sharing a private road in any case.<br>It is recommended that the proposed policy is amended to be clear that any proposed land division is of a type which is suitable for the proposed development, such as:<br>*"Land division ~~under the Community Titles Act 1996 or the Strata Titles Act 1988~~ is appropriate having regard to the nature and extent of ~~the common property established by the relevant scheme~~ shared facilities and services, including but not limited to:*<br>*a) common driveway design*<br>*b) provision and location of utilities, letterboxes and bin storage*<br>*c) landscaping provision.*<br>d) *maintenance of any of the above."* |

## Other Recommendations

### Stormwater Management Overlay

SMO DPF 1.1 applies to:

*Residential development comprising detached, semi-detached or row dwellings, or less than 5 group dwellings or dwellings within a residential flat building:…*

Clarification would be appreciated as to:

- whether this policy applies to RFBs with any number of dwellings, or only RFBs with less than 5 dwellings; and
- what policies are intended to apply to manage stormwater for developments containing more than 5 group dwellings / dwellings in a RFB? Some relevant policies include:
  - DIUA > All Development > WSUD PO 5.1 (maintaining hydrological systems)
  - DIUA >Group / RFB / Battle axe > WSUD PO 36.1 (quality of stormwater); and
  - DIUA >Group / RFB / Battle axe > WSUD PO 36.2 (mitigating peak flows)

  However all of the above are qualitative policies and do not provide any quantitative guidance or requirements.

It is understood that RFB and Group dwelling developments may need to be designed with common stormwater management systems, however there should be some quantitative policy guidance to ensure these developments are performing equally with other residential developments with respect to stormwater management.

### Boundary development policy and public notification triggers

Many neighbourhood zones contain DPFs relating to boundary walls which outline a variety of criteria including:

a) *side boundary walls adjoin or abut a boundary wall of a building on adjoining land for the same or lesser length and height*

b) *side boundary walls do not:*

   i. *exceed 3m in wall height*

   ii. *exceed 11.5m in length*

   iii. *when combined with other walls on the boundary of the subject development site, exceed a maximum 45% of the length of the boundary*

   iv. *encroach within 3m of any other existing or proposed boundary walls on the subject land.*

By comparison, public notification triggers for boundary development in these zones is typically limited to wall length and height:

*involves a building wall (or structure) that is proposed to be situated on (or abut) an allotment boundary (not being a boundary with a primary street or secondary street or an excluded boundary) and:*

a) *the length of the proposed wall (or structure) exceeds 11.5m (other than where the proposed wall abuts an existing wall or structure of greater length on the adjoining allotment)*
*or*

b) *the height of the proposed wall (or post height) exceeds 3m measured from the top of footings (other than where the proposed wall (or post) abuts an existing wall or structure of greater height on the adjoining allotment).*

Is it intentional that the notification triggers do not include the full suite of criteria set out in the relating PO?

# NPSP Submission
# Assessment Improvements Code Amendment

City of Norwood Payneham & St Peters

## Application of Water Resources Overlay in NPSP

In the City of Norwood Payneham & St Peters, the Water Resources Overlay applies to the River Torrens and Third Creek but does not apply to First and Second Creeks.

This may be related to the first draft of the Code in which, from recollection, the Water Resources Overlay did not apply to the same locations where the Flood Hazards Overlay was proposed to apply (despite WRO relating to protection of waterway quality from development, and FHO relating to the protection of properties from flood waters) and the draft Code only adopted the outdated Norwood and Kent Town flood mapping around First and Second Creeks contained in the Council's former Development Plan. During the redrafts and final versions of the Code, the Flood Hazards Overlays were adapted to reflect current flood hazard mapping, however it appears the Water Resources Overlay was not amended to apply to First and Second Creeks.

It is recommended that this issue be investigated, and that the Water Resources Overlay is applied to First and Second Creeks.

**From:** Emily McLuskey [redacted]
**Sent:** Friday, 7 March 2025 3:10 PM
**To:** DHUD:Plan SA <PlanSA@sa.gov.au>
**Cc:** Kieran Fairbrother [redacted] Eleanor Walters [redacted]
**Subject:** Further suggestion for Assessment Improvements Code Amendment

Hi team

We have already provided our submission for the Assessment Improvements Code Amendment, but have recently had a policy issue relating to ancillary accommodation that is relevant to one of the points we made in our submission, so we would like to share the below example with the planners working on the Code Amendment.

We are assessing ancillary accommodation which is proposed to be added as a second level to an existing ground floor garage. The proposed development is considered to result in an unreasonable visual and overshadowing impact on neighbours, but we find DIUA PO 19.5 inadequate in addressing this issue. In particular, the PO refers to the development not detracting from the streetscape or appearance of buildings, but does not address the impact on adjacent property occupants.

PO 19.5

Ancillary accommodation:

a. is sited and designed to not detract from the streetscape or appearance of primary residential buildings on the site or neighbouring properties

b. is integrated within the site of the dwelling to which it is ancillary and incorporates shared utilities and shared open space.

A number of the DPF criteria are focused on limiting impacts on neighbours more so than the streetscape (e.g. extent of boundary walls, wall heights etc), which is sensible given that ancillary accommodation is typically located in rear yards so will often impact neighbours more than the streetscape.

DTS/DPF 19.5

Ancillary accommodation:

a. is ancillary to a dwelling erected on the same site

b. has a floor area not exceeding 70m$^2$

c. is not constructed, added to, or altered so that any part is situated:
   i. in front of any part of the building line of the dwelling to which it is ancillary
      or
   ii. within 900mm of a boundary of the allotment with a secondary street (if the land has boundaries on two or more roads)

c. if situated on a boundary (not being a boundary with a primary street or secondary street), does not exceed a length of 11.5m unless:
   i. a longer wall or structure exists on the adjacent site and is situated on the same allotment boundary
      and
   ii. the proposed wall or structure will be built along the same length of boundary as the existing adjacent wall or structure to the same or lesser extent

d. if situated on a boundary of the allotment (not being a boundary with a primary street or secondary street), all walls or structures on the boundary will not exceed 45% of the length of that boundary

e. will not be located within 3m of any other wall along the same boundary unless on an adjacent site on that boundary there is an existing wall of a building that would be adjacent to or abut the proposed wall or structure

f. has a wall height or post height not exceeding 3m above natural ground level (and not including a gable end)

g. has a roof height where no part of the roof is more than 5m above the natural ground level

h. if clad in sheet metal, is pre-colour treated or painted in a non-reflective colour

i. retains a total area of soft landscaping in accordance with (i) or (ii), whichever is less:
   i. a total area as determined by the following table:

| Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m$^2$) | Minimum percentage of site |
|---|---|
| <150 | 10% |
| 150-200 | 15% |
| 201-450 | 20% |
| >450 | 25% |

   ii. the amount of existing soft landscaping prior to the development occurring

j. does not have separate connection to utilities and services (such as electricity, gas, water, telecommunications, sewerage system, wastewater system or waste control system) to those servicing the existing dwelling

k. has unrestricted access to the private open space associated with the existing dwelling to which it is ancillary

l. in the case of the Rural Zone, Productive Rural Landscape Zone, or Rural Horticulture Zone, is located within 20m of an existing dwelling

As PO 19.5 doesn't provide any commentary about impacts on neighbours we don't feel we can use this PO as a reason for refusal, notwithstanding the fact the development does not achieve the criteria in the DPF. In this respect, **it is recommended that PO 19.5 is amended to better reflect the suite of criteria in the DPF.** That is, the PO should address both impacts on the streetscape as well as impacts on neighbours. **It is also recommended that parts (a) and (b) in PO 19.5 are separated by an 'and'** as per other changes proposed in the AICA.

We note that the above issue is consistent with the commentary in our Code Amendment submission regarding a misalignment between POs and DPFs (refer to our commentary on clause 4.1.2 *TNV Policy Weight*). In that example we referred to a misalignment between PO 11.1 and DPF 11.1 in the Neighbourhood Zones for ancillary buildings and structures, which has essentially the same issues as what's outlined above.

It would also be helpful to include **additional policies in Table 3 for ancillary accommodation to deal with overshadowing** and other impacts on neighbours. In the application we're currently assessing, Established Neighbourhood Zone PO 3.1 applies, and might be helpful in other assessments, but it relates to building footprints which is not applicable in this case because the ancillary accommodation is proposed as a second level above a ground floor garage so the building footprint isn't changing.

PO 3.1

Building footprints are consistent with the character and pattern of the neighbourhood and provide sufficient space around buildings to limit visual impact, provide an attractive outlook and access to light and ventilation.

We also recommend that **DPF 19.5 is amended to state that ancillary accommodation should be a ground level only**. In our submission for the Ancillary Accommodation Code Amendment we recommended the following, which is also relevant to the current application:

*Building levels and Overlooking*
Notwithstanding that *Ancillary Buildings and Structures DTS/DPF 11.1* sets parameters for wall and building height, there is no limit on the number of building levels for ancillary buildings, and overlooking policies are not currently applied to these assessments. It is suggested that either DTS/DPF 11.1 envisages single level buildings (without a mezzanine) and/or relevant overlooking policies are applied in the assessment tables.

In summary, we would recommend that DIUA PO 19.5 is amended to better represent the breadth of considerations outlined in the DPF and that the Table 3 policies applied to ancillary accommodation are more broadly reviewed to ensure there are appropriate policies to manage impacts on neighbours.

Thanks in advance for your consideration, and have a great long weekend.

Cheers,

Emily McLuskey
**SENIOR URBAN PLANNER**

*Monday, Tuesday, Thursday & Friday*

**City of Norwood Payneham & St Peters**
175 The Parade, Norwood SA 5067
**Telephone** [redacted]
**Email** [redacted]
**Website** www.npsp.sa.gov.au




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CITY OF ADELAIDE

Kaurna Country
25 Pirie Street, Adelaide
GPO Box 2252 Adelaide
South Australia 5001

T +61 (08) 8203 7203
F +61 (08) 8203 7575
W cityofadelaide.com.au

ABN 20 903 762 572

Enquiries: Gabriella Cutri
Reference: ACC2025/14462

4 March 2025

Mr Craig Holden
Chair
State Planning Commission
GPO Box 1815
ADELAIDE SA 5000

Via email: planSAsubmissions@sa.gov.au

Dear Mr Holden

**Submission to the draft Assessment Improvements Code Amendment consultation**

Thank you for the opportunity to provide feedback on the draft Assessment Improvement Code Amendment (the Code Amendment), which is open for consultation until Tuesday, 4 March 2025.

This is an administrative response and is not a formal position of the Council elect.

The Code Amendment is an ongoing activity of the State Planning Commission and the Planning and Land Services division of the Department for Housing and Urban Development to improve the State Government's Planning and Design Code (the Code).

The Code Amendment proposes improvements to assessment processes rather than a substantial change in policy position or intent. Its scope includes:

- Ensuring the Code's Rules of Interpretation are up-to-date and provide clear guidance in line with recent case law.
- Undertaking a language and consistency check to ensure the same terms and expressions are used throughout.
- Ensuring requirements for assessment are reasonable and practical, including agency referrals.
- Ensuring definitions within the Code are relevant and up-to-date.
- Reviewing demolition policy for local heritage places and car parking rates for major open spaces.

In its January 2023 submission to the Expert Panel, the Council expressed support for amendments to the Code that provide technical improvements as recommended by the Expert Panel.

This letter provides an overview of Council's submission with detailed comments and recommended changes to the policies in the Code Amendment provided in Enclosure 1. Matters in Zones or Overlays that do not apply to the City of Adelaide are not addressed.

Administration does not support the proposed changes to the Capital City Zone titled 'Service Lanes v Lane Activation Policy' (refer to Code Amendment reference number 4.2.7 in Enclosure 1).

The proposed amendments have the potential to create ambiguity without clear planning policy that defines street hierarchy.

**Amendment to Capital City Zone PO 3.11**

Capital City Zone PO 3.11 seeks that development along minor streets and laneways is informed by its local context.

The Code Amendment raises a concern around rigid application of the policy limiting development outcomes for service lanes, and proposes an exception for service lanes.

> The City of Adelaide does not support this change, as it shifts the focus from the original goal of preserving built form and creating a vibrant, walkable public realm to provision of vehicle access and servicing. The City of Adelaide submits that the existing performance objective is fit for purpose and contemplates local context. The proposed exception creates policy ambiguity without a defined street hierarchy.

**Amendment to Capital City Zone PO 4.2(b)(vi)**

Capital City Zone PO 4.2 is an incentive-based policy enabling additional height where high-quality design elements are provided elsewhere in the building. There are nine possible incentives for additional height of which four are required to be met.

The Code Amendment proposes to exempt building frontages to service lanes from the incentive that *'at least 75% f the ground floor street fronts of the building are active frontages.'*

> The City of Adelaide does not support this change as: 1. active street frontages are considered critical to good design; 2. other possible incentives can be achieved for buildings with frontages to service lanes; and 3. any building exceeding the Technical and Numeric Value should be an exemplary model of high-quality design and urban design principles.

The City of Adelaide reiterates its concerns regarding catalyst site policies and notes incentive-based height policies can create uncertainty in the planning system. Administration requests further discussion on incentive-based height policies more broadly before amendments are made.

Enclosure 1 makes recommendations and requests further refinement of policy, including:

- Accepted development should not lead to a net loss of car parking, to account for areas where a car parking shortfall already occurs.
- Define the word 'substantially' used in the State Heritage Overlay and create a referral pathway to the Minister.
- Further clarification of land use definitions and administrative terms for:
    - Licensed premises, bars and nightclubs
    - Building alterations
    - Sensitive receiver.
- Revised policy or a Practice Direction to clarify use of the term 'Excluded Building'.
- Legislative changes to introduce penalties for neglect of Local Heritage Places.

- Ensuring car parking is set back from the main face of dwellings in character areas, Heritage Places, and Historic Area Overlays.
- Ensuring secondary uncovered car parking spaces are capable of being converted into a covered space in those circumstances where the Code requires two covered carparking spaces.

The City of Adelaide acknowledges that the Adelaide Park Lands Zone provisions that seek to minimise car parking in the Adelaide Park Lands will still apply and have greater weight than the amended car parking provisions within the General modules of the Code.

For further information about this submission, please contact Sarah Gilmour, Associate Director, Park Lands, Policy and Sustainability on [redacted] or [redacted]

Yours sincerely

[redacted]

Ilia Houridis
**Director City Shaping**
Encl:

1. City of Adelaide Administration's technical comments on the Assessment Improvements Code Amendment

Enclosure 1 – City of Adelaide's (CoA) technical comments on the Assessment Improvements Code Amendment

| *Code Amendment reference number* | *Change topic* | *Administrative response* | *Administrative comment* | *Changes or outcomes recommended* |
|---|---|---|---|---|
| *4.1.1* | *Changes to Rules of Interpretation* - Performance Assessed Development – Relevant Policy Considerations | *Supports* | The amendment seeks to clarify the role of policies outside of those identified by Table 3 – Applicable Policies for Performance Assessed Development of a Zone, in the case of performance assessed development.<br>The amendment responds to recent Court judgements regarding matters of interpretation of the Code which will support development assessment. | Nil |
| *4.1.2* | *Changes to Rules of Interpretation* - TNV Policy Weight | *Support* | The amendment seeks to improve interpretation of the weight to be afforded to a Technical and Numeric Variation, and departures from numeric values.<br>The amendment responds to recent Case Law regarding matters of interpretation of the Code which will support development assessment. | Nil |
| *4.1.3* | *Changes to Rules of Interpretation* - Spatial Mapping Updates – Minister's Determination (s71(e)) | *Support* | The amendment enables the Minister to make changes to the Code's spatial layers in specified circumstances without the need for a full Code Amendment. The CoA agrees with the proposed changes as it enables the Code to respond in a timely manner to updates | Nil |
| *4.1.4* | *Changes to Rules of Interpretation* - Spatial Mapping Updates – Spatial Improvements | *Support* | The Minister may alter the spatial application of certain Overlays in the Code in certain circumstances without the need for a full Code Amendment.<br>The amendment expands the list of Overlays and circumstances in which they can be amended to align with cadastre. | Nil |

| Code Amendment reference number | Change topic | Administrative response | Administrative comment | Changes or outcomes recommended |
|---|---|---|---|---|
| *4.1.5* | Policy Updates – Australian Standards | *Partially Support* | The amendment enables the Minister to make changes to the Code's policies to align with Australian Standards without the need for a full Code Amendment. CoA supports the intent but considers further clarity is required to promote consistency throughout the Code. | It is recommended that policies in the Code derived from Australian Standards also reference the relevant Australian Standards in the Code. |
| *4.2.1* | Use of 'And' and 'Or' Policy | *Support* | The proposed amendment seeks to improve the consistency of language within the Code which will support development assessment. | Nil |
| *4.2.5* | Shop, Office and Consulting Room – Inconsistent Policy Linkages | *Support* | The amendment seeks to address a policy inconsistently applying to the assessment of Shops, Offices and Consulting Rooms for deemed-to-satisfy and performance assessed pathways. | Nil |
| *4.2.6* | Swimming Pool Pumps – Acoustic Enclosure Policy | *Support* | The proposed amendment seeks to address a policy inconsistently applying to the location and noise mitigation measures for swimming pool filtration systems for accepted development and general development policies. | Nil |
| *4.2.7* | Capital City Zone – Service Lanes v Lane Activation Policy<br><br>*Amendment to Capital City Zone PO 3.11* | *Do not Support* | The intent of Capital City Zone PO 3.11 is maintaining the prevailing built form and creating a vibrant, walkable public realm, informed by local context. It states (emphasis added):<br>*'Development along minor streets and laneways is informed by its local context to maintain the prevailing built form pattern and structure, and designed to provide a sense of enclosure, and enable fine-grain uses at street level to create an intimate, active, inclusive and walkable public realm.'*<br>When assessing planning proposals, the local context should be carefully considered to preserve the prevailing built form and character and address service requirements. The Code contains policies that support both active frontages and vehicular access to service developments, as well as guidance for development in areas with high pedestrian activity. If the relevant authority conducts a thorough assessment, these policies provide sufficient framework to achieve appropriate development outcomes. | CoA does not support changes being made.<br>The City's vision is to create vibrant, engaging, safe and accessible spaces. The City of Adelaide Strategic Plan 2024-2028 and City Plan – Adelaide 2036 outline objectives, strategies, and actions to help achieve this vision. State Planning Policies also seek to 'facilitate development that positively contributes to the public realm by providing active interfaces with streets and public open spaces' (SPP 2.10).<br>The CoA's proposes to further discussions with the State Government through its Code Amendment Program. |

| Code Amendment reference number | Change topic | Administrative response | Administrative comment | Changes or outcomes recommended |
|---|---|---|---|---|
| | | | The proposed amendment's wording is inconsistent with the existing Code language and introduces ambiguity. Without clear planning policy that defines a street hierarchy and 'service laneways', minor streets like Peel Street could be negatively impacted by the proposed amendments. Development and vehicle access that is not appropriately managed may detract from the activation and human scale of street frontages. | |
| 4.2.7 | *Amendment to Capital City Zone PO 4.2(b)(vi)* |  | Capital City Zone PO 4.2 is an incentive-based policy that allows for additional height where specific design elements are incorporated into the building. Should a building achieve four of the nine requirements, it could achieve a height above height limits specified by the Technical Numerical Variations (TNV).<br>The proposed amendment to 4.2(b)(vi) is as follows (with additional wording in green underline):<br>*(vi) at least 75% of the ground floor street fronts of the building (except where required to accommodate servicing such as waste collection by heavy vehicles, deliveries, and/or passenger drop-off and pick-up areas) are active frontages*<br>The proposed amendment is not supported. As stated in the draft Code Amendment, the building features that justify the additional height above the TNV should contribute to high-quality design.<br>Since the performance outcome is incentive-based, other design features identified could be achieved to allow height above the TNV. The opportunity to exceed the TNV should encourage innovative, high-quality design. It is also noted that the 'incentive' measures listed in PO 4.2(b) PO 4.2(b) are standard elements of good urban design and would be more appropriately included as performance outcomes in the Code, rather than as requirements for additional height.<br>Furthermore, in its previous submission to the Expert Panel, the City of Adelaide raised concerns about Zone Interfaces, Building Height transitions, and the community's concerns regarding policy limits and adherence, specifically to height. The height requirements in the Capital City Zone are generous, any policies that allow development to exceed the height specified should encourage exemplary development outcomes. | CoA does not support the proposed amendment.<br>The CoA does not support this change as: 1. active street frontages are considered critical to good design; 2. other possible incentives can be achieved for buildings with frontages to service lanes; and 3. any building exceeding the TNV should be an exemplary model of high-quality design and urban design principles.<br>The CoA reiterates its concerns regarding catalyst site policies and notes incentive-based height policies can create uncertainty in the planning system. Administration requests further discussion on incentive-based height policies more broadly before amendments are made. |

| Code Amendment reference number | Change topic | Administrative response | Administrative comment | Changes or outcomes recommended |
|---|---|---|---|---|
| *4.2.8* | Accepted Development – Building Alterations – Loss of Carparking | *Partially Support* | The proposed amendment seeks to ensure that building alterations that fall within an Accepted Development class (not requiring planning consent) do not result in a loss of car parking.<br>In principle, the amendment is supported. However, it is recommended that the proposed Accepted Development Classification criteria be revised. The proposed criteria require a car parking assessment according to the Transport, Access and Parking Table 1 – General Off-Street Car Parking Requirements or Table 2 – Off-Street Car Parking Requirements in Designated Areas. This could create issues in situations where a previous car parking shortfall has been approved.<br>CoA suggests further changes to 'building alterations', as highlighted in our earlier submissions on the Miscellaneous Technical Enhancement Code Amendment (MTE) and Planning System Implementation Review (PSIR). It is essential to distinguish between internal and external building alterations as their impacts differ significantly. Internal alterations are not visible from the streetscape, whereas external changes, such as bricking in windows or doors facing the street, can negatively affect the streetscape's activation and amenity, particularly in high-pedestrian areas.<br>The CoA is committed to creating vibrant and engaging public spaces for residents, workers, and visitors. This involves fostering passive surveillance and dynamic pedestrian environments. Classifying external alterations as accepted development without proper assessment will limit the ability of Assessment Managers to ensure these goals are met. There are currently no provisions to prevent public space encroachment (e.g., verandahs, balconies, canopies) or to address the built form and character policies of the Zone or Subzone.<br>Moreover, internal fit-outs typically don't trigger a change of use and are considered accepted development. However, such alterations often lead to changes in waste storage, causing bins to be stored in public spaces rather than onsite. | It is recommended that accepted development should not lead to a net loss of car parking.<br>The following changes are requested:<br>• Distinguish between internal and external building alterations<br>• Ensure any building alterations that affect the building setback do not fall into the accepted development classification criteria<br>• Ensure building alterations do not encroach into public space (without approval)<br>• Ensure building alterations do not result in a loss of bicycle parking or waste storage (for uses that generate a high volume of waste)<br>• Ensure building alterations that include a shopfront security grille will not have less than 75% permeability. |

| Code Amendment reference number | Change topic | Administrative response | Administrative comment | Changes or outcomes recommended |
|---|---|---|---|---|
| *4.2.12* | Stormwater Management Overlay – Connection to Hot Service | *Support* | The amendment seeks to align policies within the Stormwater Management Overlay to the requirements of the Plumbing Code of Australia.<br>CoA supports the amendment that reduces conflicts with National Construction Code/Plumbing Code. | As per CoA's previous submissions to the MTE Code Amendment and PSIR, CoA also encourages a greater application of the Stormwater Management Overlay across the City and to non-residential development. |
| *4.2.13* | Educational Establishment Policy – Marking of Accessible Car Parking | *Support* | The amendment seeks greater clarification regarding the meaning of 'specifically marked accessible car parking places' within General Development policies for Transport, Access and Parking.<br>The amendment responds to recent Case Law regarding matters of interpretation of the Code which will support development assessment. | Nil |
| *4.2.14* | Advertisements – General Policy – Third Party Advertising | *Partially Support* | The amendment seeks to remove duplication of policies in relation to advertisements. CoA supports the intent of the amendment and suggests a minor change to DTS/DPF 3.1 to remove 'proposed' activities. | CoA proposes that Attachment A DTS/DPF 3.1 of the Advertising General Module is amended as:<br>DTS/DPF 3.1 ~~Advertisements contain information limited to the lawful existing or proposed activity or activities on the same site as the advertisement (i.e. site identification signage).~~ Advertisements contain information limited to the lawful existing activity or activities on the same site as the advertisement (i.e. site identification signage).<br>CoA recommends changes to *the Planning, Development and Infrastructure Regulations* to ensure that the exclusions listed under Schedule 4 do not apply in relation to a Local Heritage Place. |
| *4.3.1* | State Heritage Overlays | *Partially Support* | The amendment seeks to reduce the number of referrals received by the Heritage Branch in relation to State Heritage Places. This includes policy amendment in the Code and additional advisory information for relevant authorities.<br>The amendments proposed to the **Heritage Adjacency Overlay** impact the City of Adelaide. | Further guidance and clarity recommended to define the word 'substantially'<br>Recommend that development which in the opinion of the relevant authority affects the Heritage Values of the Place and changes the context within which the State Heritage Place is situated should be referred to the Minister. |

| Code Amendment reference number | Change topic | Administrative response | Administrative comment | Changes or outcomes recommended |
|---|---|---|---|---|
| | | | CoA partially supports the proposed amendments although further guidance and clarity are recommended to define the word 'substantially'. | |
| *4.3.5* | Referral Duplication and Minor Development within Overlays | *Support* | The amendment aims to reduce unnecessary referral of minor development and for applications that have already been referred as part of a previous authorisation (e.g. case of a land division that reflects an approved residential development). CoA agrees with the proposed changes. | Nil |
| *4.4* | Land Use Definitions | *Partially Support* | Support the intent of the amendment, but see the opportunity for further clarification of the following land use definitions/ administrative terms:<br>*Licensed premises, Bars & Nightclubs* – referenced in policies and not defined in the Code. A licenced premises under *the Liquor Licensing Act 1997 means a premises in which a licence is in force/currently under suspension. CoA notes that a nightclub, restaurant, and bar, may all be licensed and the terms are used interchangeably within the Code.*<br>*Building alterations* – not defined in the Code or legislation. As referenced in section 11 of this table, there are opportunities to define external or internal alterations. Additionally, internal fit out works are still an element in the portal despite not having a reference in the Code.<br>*Sensitive Receiver* – refers to land zoned "primarily for residential purposes". Zones "primarily for residential purposes" are not defined in Code, Environmental Protection Act 1993 or *Environment Protection (Commercial and Industrial Noise) Policy 2023*. Recommend this is defined, or clarified, or uses language consistent with Code (such as neighbourhood-type zones) | CoA recommends further clarification of land use definitions/ administrative terms for:<br>• Licensed premises, Bars & Nightclubs<br>• Building alterations<br>• Sensitive Receiver. |
| *4.4.1* | Personal or Domestic Services Establishment | *Support* | The amendment clarifies the definition of personal or domestic services establishment to reduce legal ambiguity.<br>The amendment responds to recent Case Law regarding matters of interpretation of the Code which will support development assessment. | Nil |

| Code Amendment reference number | Change topic | Administrative response | Administrative comment | Changes or outcomes recommended |
|---|---|---|---|---|
| 4.4.2 | Workers Accommodation | Support | The amendment expands the definition of workers' accommodation to include seasonal hospitality and tourism workers. The amendment improves the Codes practical application. | Nil |
| 4.4.4 | New Definitions | Support | The amendment introduces definitions for 'Trade training facility' and 'Emergency services facility'. CoA agrees with the proposed changes. | Nil |
| 4.5 | Administrative Terms and Definition | Support | The amendment improves the interpretation of the administration terms and definitions 'building height', 'primary street' and 'secondary street'. CoA agrees with the proposed changes that improve the clarity and interpretation of the administrative terms and definitions. | Nil |
| 4.5.3 | Excluded Building | Partially Support | The amendment seeks to amend the administrative term/definition of 'Excluded Building'. CoA supports the intent of the amendment.<br>As stated in its submissions to the MTE Code Amendment, CoA welcomes the broader application of the term 'Excluded Building' noting the extent and frequency of notifications for minor development to State and Local Heritage Places has increased.<br>However, many heritage listings within CoA have brief descriptions like 'House'. It is noted that these descriptions appear inadequate. CoA supports non-heritage elements of a Heritage Place being demolished without notification.<br>CoA notes the revised policy may allow for the demolition of heritage elements that are not specifically listed or excluded from the heritage listing to be demolished without notification. | CoA seeks the revised policy, or a Practice Direction to clarify the term 'Excluded Building'.<br>CoA supports the proposed amendment as shown below:<br>Means, for the purposes of Table 5 - Procedural Matters (PM) - Notification, a building, structure or landscape feature (or part thereof) that is:<br>(a) in an area established as a State Heritage Area under the Heritage Places Act 1993 and the relevant authority is of the opinion that the building, structure or landscape feature (or part thereof) does not contribute to the buildings or features of identified heritage value within the State Heritage Area; or<br>(b) in a Historic Area Overlay and the building (or part thereof):<br>(i) is an ancillary building; or<br>(ii) in the opinion of the relevant authority, does not demonstrate the historic |

| Code Amendment reference number | Change topic | Administrative response | Administrative comment | Changes or outcomes recommended |
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| | | | | characteristics as expressed in the Historic Area Statement; or<br>(c) on the same site as a State or Local Heritage Place but is not an element of the relevant listing in Part 11 of the Code and/or the South Australian Heritage Register.<br>Note: The application of Part (c) is subject to the heritage listing being specifically clear that the element does not form part of the heritage place. |
| *4.6.1* | *Local Heritage Place Overlay – Demolition Policy* | Partially Support | CoA supports the intent of the amendment and preservation of Heritage Places.<br>The amendment seeks to introduce policy, that only supports the demolition of a local heritage place where the structural integrity or condition of the Local Heritage Place represents an unacceptable risk to public or private safety and results from actions and unforeseen events beyond the control of the owner and is irredeemably beyond repair.<br>During the development assessment process, evaluating "actions and unforeseen events beyond the control of the owner" can be difficult to assess and apply effectively.<br>**Example: 187-189 Hutt Street, Adelaide**<br>The site was acquired by new owners in 2022, who engaged with CoA Administration to explore development options, including adaptive reuse. Concerns about the site's condition were raised in 2022.<br>In 2024, the site was approved for demolition. The Local Heritage Place was found to be in poor condition, with much of its fabric requiring replacement rather than conservation. This deterioration was largely due to decades of neglect.<br>Under the proposed amendment, the previous owner's actions would be considered a factor impacting the site's condition. Given this context, the question arises: Should the site be considered suitable for demolition? | Legislative changes to introduce penalties for neglect of local heritage places are recommended to safeguard heritage places. |
| *4.6.2* | *Covered Car Parks* | Partially support | The amendment seeks that where carparks are required by the Code they do not have to be covered. CoA supports the | It is recommended that Design DTS/DPF 19.2(d) and Design in Urban Areas DTS/DPF |

| Code Amendment reference number | Change topic | Administrative response | Administrative comment | Changes or outcomes recommended |
|---|---|---|---|---|
| | | | amendment's intent. Uncovered car parking spaces should be appropriately located and have the necessary dimensions to ensure they are functional, accessible, and convenient.<br>It is also noted that in Zones with existing character, Heritage Places, or where Historic Area Overlays apply, car parking should be set back 500mm from the main face of the dwelling to preserve the street's character. | 23.2 be revised relating to Zones with existing character, Heritage Places, or where Historic Area Overlays apply, to set back car parking from the main face of the dwelling.<br>If two cover car parking spaces are required and one is provided, at least one uncovered space should be capable of being converted into a covered space, in line with the relevant provisions of the Code. |
| *4.6.3* | *Community Title Land Division* | *Support* | The amendments seek to ensure that matters related to the provision of common property can be addressed at the planning consent stage as opposed to the land division approval stage. CoA agrees with the proposed changes. | Nil |
| *4.6.4* | *Car Parking Rates for Major Open Spaces* | Partially support | The amendment seeks to guide applicants and relevant authorities towards defining an appropriate rate of car parking for major open spaces by referencing surveys of similar developments in comparable locations.<br>The amendment does not specifically list carparking rates for open space.<br>The proposed changes are relevant to any land use that does not have a carparking rate delineated within Table 2 - Off-Street Vehicle Parking Requirements in Designated Areas or Table 1 - General Off-Street Car Parking Requirements.<br>The amendment applies to the Adelaide Park Lands. | CoA acknowledges that the Adelaide Park Lands Zone provisions that seek to minimise car parking in the Adelaide Park Lands still apply and have greater weight than the amended provisions within the General modules of the Code. |

6 March 2025

Code Amendment Team
Planning and Land Use Services Division
Department for Housing and Urban Development
GPO Box 1815,
ADELAIDE, SA 5001

Plansasubmissions@sa.gov.au

**Email** light@light.sa.gov.au
**Post** PO Box 72, Kapunda SA 5373
**Phone** 08 8525 3200
**Web** light.sa.gov.au

**Principal Office**
93 Main Street
Kapunda SA 5373

**Kapunda Public Library and Visitor Information Centre**
51–53 Main Street
Kapunda SA 5373

**Freeling Public Library and Customer Service Centre**
7 Hanson Street
Freeling SA 5372

**Planning and Development Services**
12 Hanson Street
Freeling SA 5372

**Operations Centre**
11 Stephenson Street
Freeling SA 5372

Dear Code Amendment Team,

**Assessment Improvements Code Amendment**

Thank you for the opportunity to provide a submission with respect to the above-mentioned Code Amendment.

Please find related comments provided on behalf of the Light Regional Council in the attached Table.

Thank you for the opportunity to provide this submission for your consideration. If you have any related questions, please contact the undersigned on 8525 3200 or via light@light.sa.gov.au.

Yours sincerely,

**Lisa Sapio**

**Manager Development Services and Assessment Manager**

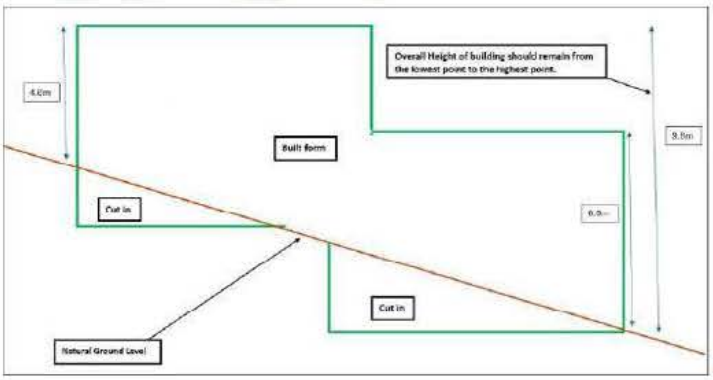
| Table - Assessment Improvements Code Amendment – Light Regional Council Comments | |
|---|---|
| **Code Amendment reference** | **Comments** |
| **4.1 Rules of Interpretation**<br><br>4.1.1 Performance Assessed Development – Relevant Code Considerations | Support the recommendation to amend the rules of interpretation considering recent case law. |
| 4.1.2 Performance assessed – TNV Policy Weight | Support the recommendation to amend the rules of interpretation to clarify that a numeric value forming part of a DPF serves to guide a relevant authority is not a mandatory requirement in the case of a performance assessed development.<br><br>It is recommended that policy authors further consider additional wording, that in the main states that the minimum numerical contained within a TNV should be achieved unless the departure is so minor and inconsequential.<br><br>Where this does not occur, the greater the variance the more difficult it may be to establish conformity with the PO unless the departure is so minor and inconsequential. This would assist decision makers where the PO is loosely written and enable appropriate weighting to TNVs. |
| 4.1.3 Spatial mapping updates – Minister's determination (S71 (e)) | Support the recommendation. |
| 4.1.4 Spatial Mapping Updates – Spatial Improvements | Support the recommendation which will allow minor or operational amendments to correct relationship between spatial layers and land parcel cadastre. However, the recommendation should read that the process 'will be' undertaken for the sake of consistency rather than 'may' be undertaken<br><br>**Recommendation**<br>**AMEND** Part 1 – Rules of Interpretation to clarify the circumstances under which the boundaries of the Code's spatial layers may be aligned with cadastre. |

| Table - Assessment Improvements Code Amendment – Light Regional Council Comments | |
|---|---|
| 4.1.5. Policy Updates – Australian Standards | Support the recommendation. |
| **4.2 Language, Consistency and Policy Applicability**<br><br>4.2.1. Use of 'And' and 'Or' in Policy | Support the Recommendation as this issue has generated debate amongst planning professionals. The proposed amendment will benefit all users of the Code. |
| 4.2.2. Rural Zones – Detached Dwelling – Second Dwelling Policy Linkages | Support the recommendation. |
| 4.2.3. Rural Horticulture Zone – Ancillary Accommodation – Deemed-to Satisfy Pathway | Whilst the Light Regional Council doesn't have this zone within its Council area, it is considered unlikely that the proposed change will result in DTS applications for ancillary accommodation given that most of the Rural and Rural Horticulture zones are primarily within a current bushfire overlay or proposed to fall within a bushfire overlay as a result of the draft State Wide Bushfire Code Amendment. A DTS pathway for ancillary accommodation is not reasonable where the land is located within a designated bushfire overlay given the importance of fire safety related to human habitation. |
| 4.2.4. Rural Type Zones – Workers' Accommodation – Performance Assessed Policy Linkages | Support the recommendation. |
| 4.2.5. Shop, Office and Consulting Room – Inconsistent Policy Linkages | Support the recommendation. |
| 4.2.6. Swimming Pool Pumps – Acoustic Enclosure Policy | Generally, support the proposed changes. Further refinement in terms of consistency should be undertaken as follows:<br><br>Accepted Development – Table 1<br><br>Include the following addition:<br><br>6. Location of pump and/or filtration system from a dwelling……<br><br>The addition of this wording will then correlate with that which is contained within General Development policy. |

| Table - Assessment Improvements Code Amendment – Light Regional Council Comments | |
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| | Clarification is sought with the intent behind the term 'solid acoustic structure'. Is this in the form of a fully enclosed structure or can it be in the form of a partially open structure, fence or similar? A definition would be useful and should provide clarity in terms of the intended built form. It would be appropriate to include this in the administrative definitions Part 8 of the P&D Code |
| 4.2.7. Capital City Zone – Service Lanes v Lane Activation Policy | No comment – not applicable to LRC |
| 4.2.8. Accepted Development – Building Alterations – Loss of Carparking | Support the recommendation. |
| 4.2.9. Conservation Zone – Restricted Development Ambiguity | Support the recommendation. |
| 4.2.10. River Murray Tributaries Protection Area Overlay – Exclusions | No comment – not applicable to LRC |
| 4.2.11. Water Resources Overlay – Exclusions | This recommendation is not supported. The one applicable provision that exists (DTS/DPF 1.5) is essential to ensuring that a dwelling is not located within 20 metres of a water course. If a proposal cannot achieve the DTS/DPF a full code assessment is warranted to ensure appropriate development occurs in association with water courses. |
| 4.2.12. Stormwater Management Overlay – Connection to Hot Water Service | Support the recommendation. |
| 4.2.13. Educational Establishment Policy – Marking of Accessible Car Parking | Support the recommendation as it provides greater clarification of the intent of the policy. |
| 4.2.14. Advertisements – General Policy – Third Party Advertising | Support the recommendation. |
| **4.3. Referrals** | Whether a land division has been previously referred is immaterial. A land division in most cases doesn't include a built form. Gas and Petroleum pipelines are |

| Table - Assessment Improvements Code Amendment – Light Regional Council Comments | |
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| 4.3.4. Gas Pipelines – Referral Duplication | more likely to be potentially impacted when associated with a built form application such as a dwelling. The consequence of not having due regard to these pipelines identified within this overlay can be catastrophic if damaged during construction. The simple installation of a fence posts, excavation associated with a footing, depending on the depth of the pipeline beneath can affect a pipeline with a wide-ranging devastating consequence impact zone.<br><br>The removal of this referral process is not supported. |
| **4.4. Land Use Definitions**<br><br>4.4.1 Personal or domestic services establishment | Support the recommendation, however, the definition should be amended to include examples such as piercing and tattooing. Non-surgical cosmetic procedures should include examples such as laser procedures and hair replacement. |
| 4.4.2 Workers accommodation | This recommendation is not supported as proposed. The suggested changes seem to complicate the definition with the need to include additional types of specific workers accommodation groups. It would be more appropriate to reduce the length of the definition to read as such:<br><br>*Means premises used to accommodate workers on a temporary basis while employed in a range of industries including mining, energy/resources, agriculture, rural industry, construction of essential infrastructure and other services associated with tourist events to be located on the same site or on adjacent land to the activity in which is being undertaken.*<br><br>The proposed amendment also seeks to ensure a reasonable proximity of location of the accommodation to the source of the employment.<br><br>Furthermore, the current exclusion of tourist accommodation should be retained in Column D and furthermore workers accommodation shall be included in the exclusion of the definition of tourist accommodation. |
| 4.4.3 Commercial Forestry | Support the recommendation. |

| Table - Assessment Improvements Code Amendment – Light Regional Council Comments | |
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| 4.4.4 New definitions<br><br>Trade Training Facility | Support the recommendation. Further regard should be had to accommodate mining trades. The Light Regional Council has such a facility which is an additional use to an existing industry and not a land use in its own right.<br><br>Attention has been given to manufacturing based training facilities; however, no regard has been had to hair dressing, electrical, plumbing and hospitality (chefs etc). Are these trades to remain within the realm of a technical institute as contained with the educational facility definition?<br><br>Over the years, branded and targeted training facilities have been established which have not been established within technical institutes. For example, Clip Joint Hair academy and Sprout cooking school (boutique cooking school for cooking enthusiasts). Consideration should be given to including trades more broadly rather than only construction base trades. |
| Emergency Services Facility | Support the recommendation. However noting the examples cited form Victoria and Queensland, any definition should specifically exclude evacuation centres and bushfire safer areas. Evacuation centres and bushfire safer areas often occur as and when required during an emergency and are not generally a dedicated land use in their own right. |
| 4.5 Administrative terms and definitions<br><br>4.5.1 Building height – Measurement Point Clarification | Concern is raised with the limited application of building height in the example provided. The Courts have clearly considered this matter in numerous cases, See:<br>1. *Greenslade Holdings Pty Ltd vs DC Yorke Peninsula (2001 – SAERDC 17)*, and<br>2. *Turner V City of Victor Harbor (2013 0 SAERDC 44*.<br><br>The measurement shall be taken from the lowest building point to the highest building point <u>at any location</u> and not from natural ground level at any point, in a vertical plane, to a point immediately above that point. The proposed amendment doesn't appear to understand the consequences as the example provided only appears to have regard to the lowest point of a site and not the whole site. For example, the difference of a site adjacent a beach front compared to the level of the |

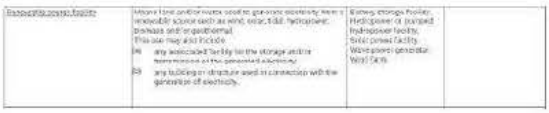
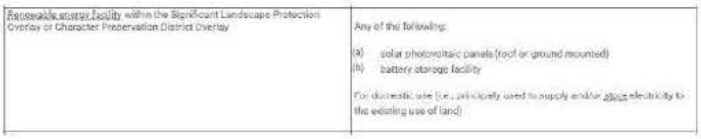
| Table - Assessment Improvements Code Amendment – Light Regional Council Comments | |
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| | site adjacent a road. The slope variation can be extensive, but as proposed the definition will only have regard to the lowest point. The amendment entirely changes the outcome and concept resulting in taller buildings, greater visual impacts and less public notification.<br><br>The measurement point clarification shall be altered to address ad recognise the stamens provided above.<br><br>See illustrative example below:<br>  |
| 4.5.2 Primary Street / Secondary Steet/ corner cutoffs | Support the recommendation. |
| 4.5.3 Excluded Buildings | The Light Regional Council raised concerns with public notification triggers relating to ancillary buildings that do not form part of a heritage listing as part of the Miscellaneous Technical Code Amendment. This recommendation is supported. |
| 4.6 Targeted Policy Updates<br><br>4.6.1 Local Heritage Place Overlay – Demolition Policy | Support the recommendation. |
| 4.6.2 Covered Carparking Space | This proposed amendment is not supported.<br><br>Provision of at least one covered car parking has long been a design requirement to provide greater security for these assets as well as protection from inclement weather effects.<br><br>The more recent release of the draft *Planning, Development and Infrastructure (Vehicle Parking) Amendment Bill 2025* is relevant together with the accompanying draft *Vehicle Parking Scheme.* |

| Table - Assessment Improvements Code Amendment – Light Regional Council Comments | |
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| | The Scheme envisages uncovered parking however the dimensional requirements have changed.<br><br>The Code will need to be aligned with the final form of the legislation/ Scheme for consistency in due course.<br><br>Enforcing the requirement for at least an uncovered parking space of sufficient size to be provided behind the main building line is reasonably expected to be an area of future legal challenge – particularly as the proposed 3.5m minimum width for a single space is the internal measurement, not inclusive of wall width etc. |
| 4.6.3 Community Title Land Division | This is not supported as proposed.<br><br>Council provided a submission to the *Draft Planning, Development and Infrastructure (General) (Community Title Land Division) Amendment Regulations 2024*<br><br>At that time, Council management observed that using the *Planning, Development and Infrastructure Act 2016* and its regulations to require certain works on common property in a community plan appeared to be the incorrect device, particularly as this is contemplated in the community titles legislation<br><br>The definition of 'common property' and its permitted use under section 28 of the *Community Titles Act, 1996* is broad, and includes use for service infrastructure provision as well as access, including public access.<br><br>Repeating the legislated requirements of s102(1)(d)(vi) in Code policy is viewed as unnecessary as it is already a matter to be considered.<br><br>However, an applicant only needs to indicate that the common property satisfies the broad allowance of the *Community Titles Act, 1996* for this requirement to be satisfied.<br><br>Instead, it is considered that that it should be required that a driveway or private road in common property in a community plan is in place before section 138 clearance is granted.<br><br>Related policy could also better outline the impervious hard sealed pavements required to enable safe and |

| Table - Assessment Improvements Code Amendment – Light Regional Council Comments | |
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| | convenient access which shall be maintained for the life of the development by the Community Corporation.<br><br>Some of the commentary, such as at the bottom of page 53 of the Code Amendment about consumer / community corporation awareness of their shared responsibilities, otherwise suggests that the premise for community titles ought to be reviewed going forward. |
| 4.6.4 Carparking Rates for Major Open Spaces | Support the recommendation |

| **Other** | |
|---|---|
| Land Division and Noise and Air Emissions overlay | It is suggested that consideration also be given to:<br>- Land division policy that allows consideration of noise sources as part of a land division assessment. The former Development Plans considered noise generating source overlays and inclusion of appropriate noise attenuation as part of a land division.<br>- The current policy doesn't consider noise generating sources such as major urban transport routes, or state-maintained roads, rail corridors in terms of noise generators at the time of assessing a land division application.<br>- This doesn't allow for these considerations to be addressed as a part of a land division application or for design treatments such as suitable landscaped buffers, noise attenuating built form etc to be incorporated to mitigate impacts<br>- Instead, the current system requires that expensive building treatments are employed at the Building Rules Stage of a dwelling, costing unsuspecting landowners.<br>- Landowners in the Light Regional Council have encountered these very issues which has resulted in building contracts being cancelled due to the associated building costs. The noise and air emissions overlay should be triggered as part of any land division assessment to address this issue at the outset rather than passing the issue onto landowners at the building stage. |

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| Building over easements | - Policy should be included within the P&D Code that prevents buildings and structures from being built over easements. There is no policy that seeks to maintain and protect the integrity of easements and restrict built form. |
| Rural Living specific policy – Truck Parking, non-domestic animal keeping, additional horse keeping policies | - Specific policy relating to truck parking, horse keeping and non-domestic animal keeping is deficient in the Rural Living Zone and the General Policies<br>- Policy relating to general animal stocking rates should be introduced for sheep, goat, cattle and alpaca keeping within zones that anticipate small-scale rural living activities.<br>- Truck parking assessment criteria is also deficient in the P&D Code. The former Light Regional Council Development Plan contained specific assessment criteria relating to truck parking assessment considerations. |
| Carparking Funds to be spatially mapped on SAPPA | - Spatially map the location of existing carparking funds in existence to correlate with the P&D Code policy. |
| Affordable Housing Overlay | - Affordable Housing Overlay. The attempts at having developers incorporate affordable housing is considered to be ineffective.<br>- The policy is not mandatory, and local government has no legal standing to refuse an application for failure to achieve one provision of the P&D Code.<br>- At present it is an opt in scheme where no developers within the Light Regional Council citing that they can produce a level of affordable housing through their own undertakings in terms of products offered. It has been suggested that the existing system is a costly and administrative burden (i.e. LMAs) via the SA Housing Trust. It is suggested all the affordable housing policy, workings and legislative parameters should comprise a standalone review and code amendment. |

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| Solar Panels | The Light Regional Council encountered a situation which proposed a large ground mounted solar panel array that would generate electricity to provide the associated industry's power needs. The proposal was determined to be Restricted and therefore SCAP was the relevant authority.<br><br>Reviewing part 7 of the Land Use Definitions Table – the only Land Use Definition that applied to the proposed development was that of a Renewable Energy Facility.<br><br>  <br><br>Given the inclusion of solar power facility within the definition – and that there are no exclusions surrounding whether the facility produces electricity for its own use or third-party consumption, the proposal was determined as a Renewable Energy Facility.<br><br>In this scenario, the proposal could not be an Accepted development under the Rural Zone as it was ground mounted and exceeds 30kW (facility was 1.3MW). Furthermore, the proposal also did not align with any of the land uses listed within the DTS or Performance Assessed Development tables. Renewable Energy Facilities are however listed within the Restricted Development table of the Rural Zone.<br><br>  <br><br>It is clear that the left-hand column applies as the land was located within the Character Preservation District Overlay and is a Renewable Energy Facility. However, the exclusions listed in the right-hand column are less clear.<br>The use of the word "domestic" in the bottom sentence of the exclusion's column does not provide any clarity – even with the following example. The word domestic typically means either:<br>- Belonging or relating to the home, house, or family; or<br>- Existing or occurring inside a particular country; not foreign or international.<br>- |

| | |
|---|---|
| | Out of the two definitions, 'belonging or relating to the home, house, or family' appears to be the appropriate meaning – and thereby the exclusion is looking to exclude solar panels used ancillary to a dwelling from Restricted Development.<br>As the proposal was not for domestic purposes, the solar farm was not excluded from Restricted Development.<br><br>This is clearly not the intention for a renewable energy facility to follow the Restricted development pathway where it proposes to sustain an existing lawful business use. Changes to remedy this scenario are required. |
| Transport, Access and Parking Overlay | Recent internal discussions amongst Council staff have highlighted that it would be beneficial if the Tables referred to in DTS/DPF 5.1 were referenced in Performance Outcome 5.1.<br><br>This would enable parking number calculations made having regard to the applicable Table to be more highly regarded in an assessment as a requirement, rather than a 'guide'. |

BRRA Inc.
BAROSSA REGION RESIDENTS' ASSOCIATION
Conserving our unique character and heritage since 1987
ABN 11 622 342 11 : : PO Box 327 Tanunda SA 5352
www.brra.org.au

Attention:
State Planning Commission
GPO Box 1815
Adelaide SA 5001

4 March 2025

Re: Assessment Improvement Code Amendment

Thank you for the opportunity to provide feedback on the Assessment Improvement Code Amendment.

Barossa Region Residents' Association has become aware of a submission by the Onkaparinga Council, in respect of the Assessment Improvement Code Amendment. As an organisation representing residents within the Barossa Character Preservation district, we wish to add our strong support to this submission, in respect of a common area of concern, relating to minimum land subdivision size with the Character Preservation Districts:

**4.1. Rules of Interpretation**
**4.1.2. Performance Assessed Development – TNV Policy Weight**

We share the concerns regarding the unacceptable lack of weight of the 16-hectare TNV in the Rural Zone, and the detrimental impact this could have on the Barossa and McLaren Vale Character Preservation Districts.

We support the recommendations by Onkaparinga Council to strengthen Performance Outcome 11.1 to reference the Minimum Site Area TNVs, to ensure that the minimum hectare provision for land divisions for residential purposes in the Rural Zone is protected.

The Character Preservation Legislation was enacted in 2012, to protect the unique character and agricultural significance of the Barossa and McLaren Vale regions from overdevelopment and subdivision of vital agricultural land. Several iterations of state planning code have failed to fully capture the spirit and intent of this legislation, and we are concerned that this proposed Code Amendment will cause the Planning & Design Code to be ineffectual in the preventing the creation of small allotments in the Rural Zone.

We urge Plan SA to adopt the suggestions put forward by Onkaparinga Council, in order to reflect the provisions of the Character Preservation Act and to strengthen policy support for the original spirit of this important piece of legislation.

Yours sincerely,

Cathy Wills
Vice-President
Barossa Region Residents' Association
enquiries@brra.org.au

# FEEDBACK & COMMENTARY

THE NORTH ADELAIDE SOCIETY Inc.

4 March 2025

**TO:** Submission – Assessment Improvements Code Amendment

**Code Amendment Team**
**Planning and Land Use Services,**
Department for Housing and Urban Development, SA Gov

**By email only:**
PlanSASubmissions@sa.gov.au

**Subject: Assessment Improvements Code Amendment**

The North Adelaide Society Inc. (TNAS) was established in 1970. It is a community based association with a diverse membership (>200). It links with community associations to address planning and land use issues that impact local communities neighbourhoods. TNAS and its members have extensive experience of, and advocacy and representation about, planning, development and land use within or affecting the City of Adelaide and its local communities, neighbourhoods and individuals.

TNAS has primarily focussed on addressing those aspects of the proposed code amendment with which it is most familiar and relevant to its experience and that of its members. Please see the attached feedback (including commentary). Other matters have not been considered and no inference ought to be drawn concerning matters not specifically addressed.

TNAS notes that this code amendment is primarily directed to "*technical enhancement to improve policy and pathways of the Code and* undertake *targeted policy adjustments in line with the objectives of the PDI Act*." It largely does not address substantive matters that would provide reasonable balance amongst varied interests, equanimity, and practical procedural fairness for communities, individuals and diverse participants.

TNAS is available to clarify any aspect and reserves the right to vary or correct the content hereof.[1]

*The North Adelaide Society Inc. (est. 1970)*

Per: Elbert Brooks BA LLB GDLP MBA,
Chairperson

[1] The views expressed herein are the views of TNAS provided for the purposes of public consultation about the subject matter. They are not intended to reflect adversely on any person or entity concerned with the preparation or presentation of the content of a draft, document or other material the subject of public consultation process and this feedback, submission or representation.


TNAS ©2025

| *FOR CONSULTATION Assessment Improvements Code Amendment – extracts* | *Consultation Draft Recommendations – alterations underlined – extracts* | **TNAS Feedback (includes commentary)** |
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| *Performance Assessed Development – Relevant Policy Considerations*<br>*Issue*<br>*Recent Court judgements have questioned the role of policies outside of those identified by Table 3 – Applicable Policies for Performance Assessed Development of a Zone in the case of a Performance Assessed Development.*<br>*Investigation*<br>*Geber Super Pty Ltd v The Barossa Assessment Panel [2023] SASC 154 made several observations regarding the interpretation of the Code, including that assessment of a development proposal is not limited to the provisions of the Code provided by the PlanSA Portal:*<br>*'It would be a bizarre result if a panel or other relevant authority were precluded from having regard to a provision of the Code that was objectively relevant merely because the computer had not produced that provision on an enquiry of the planning database.'*<br>*Conversely, Part 1 - Rules of Interpretation [Application of Policies to Performance Assessed Classes of Development] states: The Code applies policies to performance assessed development through an Applicable Policies for Performance Assessed Development Table relative to each zone - Table 3. The policies specified in Table 3 constitute the policies* | *AMEND Part 1 - Rules of Interpretation [Application of Policies to Performance Assessed Classes of Development] to clarify:*<br>*• For all development classes listed in Table 3 (for every zone), only those polices identified are relevant to the assessment and that other Code policies can be only used for contextual, interpretation purposes.*<br>*• Those development classes not listed are to be assessed against:*<br>*o All polices in Zones, Subzones and Overlays that spatially apply*<br>*o All general development polices*<br><br>Attachment A<br>The policies specified in Table 3 constitute the policies applicable to the particular class of development within the zone to the exclusion of all other policies within the Code, and no other policies are applicable <u>to the assessment of the application</u>.<br><u>In interpreting the policies specified in Table 3 the relevant authority may, in assessing an application, consider other similar code provisions (beyond those produced</u> | "*Recent court judgements*" – yet only one judgment is cited.<br>The quote is incomplete.<br>"***49—Planning database***<br>*(1) The Chief Executive is to establish and maintain an electronic database (the SA planning database) that produces, by gaining access to—*<br>*(a) the state planning policies; and*<br>*(b) the Planning Rules; and*<br>*(c) any relevant land management agreements; and*<br>*(d) other instruments and documents as the Chief Executive thinks fit,*<br>*textual and spatial information that identifies the planning policies, rules and information that apply to specific places within the State under this Act.*<br>*(2) The SA planning database must be accessible on the SA planning portal."*<br><br>*"122 Barossa Central contends that, because section 49(1)(b) provides for the PlanSA database to produce the provisions of the Code that apply to a specific place within the State, only the provisions of the Code so produced can be considered in relation to an assessment whether or not to grant consent under the Act.*<br>*123. I reject that contention. <u>There is nothing in the text of section 49 or any other provision of the Act that supports it.</u> It would be a bizarre result if a panel or other relevant authority were precluded from having regard to a provision of the Code that was objectively relevant merely because* |

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| *applicable to the particular class of development within the zone to the exclusion of all other policies within the Code, and no other policies are applicable.* | from Table 3) for contextual purposes only. Where policies, outside of those returned by Table 3, are considered (for contextual purposes to interpret the applicable policies) they cannot form the reasons as to whether consent should be granted (or refused) for an application. | *the computer had not produced that provision on an enquiry of the planning database. The evident purpose of sections 48 and 49 is to facilitate access by members of the public to the Code and guide them as to the directly relevant provisions. It is not within the evident purpose to constrain the provisions that are directly relevant and, even more so, to constrain provisions that are indirectly relevant.*<br>*124. Section 49 simply does not address the provisions to which a relevant authority is to have regard when considering an application for consent. Rather, this is addressed by section 102. Section 102(a)(i) requires a relevant authority to assess a development against the relevant provisions of the Planning Rules. This plainly means all relevant provisions and not merely those that might be produced by the PlanSA computer on an enquiry under section 49. Further, subsection 132(2) is inconsistent with the construction advanced by Barossa Central." (emphasis added)*<br><br>**1 Feedback**<br>His Honour make the point that **the Act does not prescribe** to the effect that a computer programmer's coding that produces an electronic generated document for ease of use does not thereby proscribe use of "objectively relevant" content from the 'paper' or official version of the 5,408 page Planning and Design Code.<br>It would be perverse that a computer programmer's generation of a document could override **content** from the |

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| | | P&D Code that is **objectively relevant**. That would be to 'put the cart before the horse'.<br>The proposed amendment is <u>not supported</u>.<br>**2 Feedback**<br>The purpose of interpretation provisions is to clarify and add certainty to interpretation and application of language.<br>The phrase "for contextual purposes only" is not defined or explained; it is vague and uncertain and seeks to undermine the operation of a provision of the Act that has been interpreted to have a meaning that the Code (which is not a provision of the Act) seeks to undermine or make a nullity. That would 'seek to raise the stream above its source'.<br>That is <u>not supported</u>. |
| ***Issue***<br>*Feedback has identified that Table 3 – Applicable Policies for Performance Assessed Development in the Productive Rural Landscape Zone is missing policy linkages to the Significant Interface Management Overlay for workers' accommodation.*<br>*In addition, it is noted that the Productive Rural Landscape Zone has its own policy for workers' accommodation whereas the Rural and Rural Horticulture Zone link zone policy relating to second dwellings instead.*<br>***Investigation*** | *2.1.4 <u>Rural Type Zones – Workers' Accommodation – Performance Assessed Linkages</u>*<br>*… <u>accommodates not more than 20 persons at any one time</u>* | **3 Feedback**<br>The total floor space is not to exceed 250m2.<br>That equates to only 12.5m2 per person. That seems inadequate for workers' accommodation, notwithstanding that it is said to be consistent with other zones.<br>That something may be consistent does not of itself mean it is satisfactory in the circumstances.<br>In that regard, this aspect is <u>not supported</u> in its current terms. |

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| *In the Rural and Rural Horticulture Zones, the following policies from the Significant Interface Overlay are linked to performance assessed workers' accommodation: …*<br>*To provide for a consistent approach to the assessment of workers' accommodation across the three zones it is proposed that the PO 9.1 above be added to the Rural Zone and applied to performance assessed – workers' accommodation and that Rural Zone PO 5.2, 5.3 and 5.4 be unlinked as applicable policy.* | | |
| ***Issue***<br>*Feedback has identified inconsistencies between the requirements for the location and provision of noise mitigation measures for swimming pool filtration systems in Accepted Development Tables and General Development Policies.*<br>***Investigation***<br>*Inconsistencies in wording between policies contained within Accepted Development tables and General Development Policies have been identified …*<br>*With respect to Accepted Development Tables, it is considered appropriate to amend policy to replace references to 'a solid structure that will have material impact on the transmission of noise' with 'acoustic structure', given this will* | 4.2.6 Swimming Pool Pumps – Acoustic Enclosure Policy<br>*… located inside a solid acoustic structure* | **4 Feedback**<br>It is not immediately obvious that "acoustic structure" is defined, nor that it is defined as a structure that abates the escape of sound from within, nor to what is to be the extent of abatement.<br>It fails to be defined and provide certain of effective sound containment or abatement.<br>The proposal is to replace one vagary with another vagary; that is neither sensible or reasonably in a context that requires reasonable certainty of requirement and effect.<br>In that regard, it is not supported in its current undefined terms. |

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| *serve the same intent whilst avoiding the potential for uncertainty around the meaning of 'material impact' for the purposes of assessment.* | | |
| ***Issue***<br>*It is understood that PO 3.11 in the Capital City Zone is being interpreted as requiring active uses along service laneways. Whilst this is beneficial in some contexts, at other times it is appropriate for laneways to accommodate servicing of development, including vehicle access by heavy vehicles for refuse collection. The rigid application of the policy is understood to be limiting the ability of relevant authorities to drive good development outcomes that respond appropriately to context. …*<br>***Investigation***<br>*A review of PO 3.11 in the Capital City Zone was undertaken with a view to promoting flexibility in development assessment. The PO currently requires consideration of the local context of the development site, but then proceeds to focus on activation, pedestrianisation and fine-grained form as outcomes: …* | *4.2.7 Capital City Zone – Service Lanes v Lane Activation Policy*<br>*PO 3.11*<br>*Development ~~along~~ with frontage to minor streets and laneways is informed by its local context ~~to maintain the prevailing built form pattern and structure,~~ recognising that built form outcomes may need to strike a balance between: ~~and~~*<br>(a) *design~~ed to~~ that provide~~s~~ a sense of enclosure, ~~and~~ enable~~s~~ fine-grain uses at street level ~~to~~ and create~~s~~ an intimate, active, inclusive and walkable public realm;*<br>*and*<br>(b) *the need for vehicular access to service development, including for access to car parking and for refuse collection.* | **5 Feedback**<br>There is a substantive difference as between service lanes (road reserve or rights of way) and a laneway or road reserve that may successfully facilitate shop or hospitality or other business/commerce – of which there are many examples. Whether that can be achieved will be circumstantial and context dependant. It may also depend on dimensions and accessibility, including whether ambulatory or vehicle access is contemplated.<br>To seek to use a euphemistic uncertain phrase like "*may need to strike a balance*" is to detract from any semblance of certainty of outcome. It vacates determination to subjective unaccountable assessment and the serious risk of 'lowest common denominator' rather than aspiration or exemplars of planning outcomes averted to in the explanatory material.<br>The notions in (a) ought always to prevail over (b).<br>The current proposed changes are not supported in their current terms.<br>The amendment ought to be revised to give priority to the land use and design notions that underpin (a) and be directed to achieving successful land use outcomes that will very much depend on circumstances and context. |

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| | … amend PO 4.2(b)(vi) as follows:<br>(vi) at least 75% of the ground floor street fronts of the building *(except where required to accommodate servicing such as waste collection by heavy vehicles, deliveries, and/or passenger drop-off and pick-up areas)* are active frontages | **6 Feedback**<br>This is not supported.<br>This would significantly impair pedestrian amenity and detract from the commercial, residential or business amenity of a locality.<br>It would give primacy to non-people interactions, waste collection and delivery heavy vehicles and allocate yet more space to vehicles and vehicle movements.<br>In any event, it does not even prescribe a minimum.<br>It is not supported. |
| ***Issue***<br>*Issues with the restricted development triggers of the Conservation Zone have been identified that are resulting in dwelling replacements (where the dwelling has already been demolished) and minor boundary realignment proposals falling into the restricted development pathway.*<br>***Investigation***<br>*The restricted development threshold is a procedural trigger applied under the Code to development that typically requires a more rigorous planning assessment by the Commission. The threshold does not indicate whether a development is suitable. This determination is made based on the applicable* | *4.2.9 Conservation Zone – Restricted Development Ambiguity*<br>*(b) detached dwelling that will replace an existing lawfully erected dwelling (including a lawfully erected dwelling which was demolished within the previous 3 years)* | **7 Feedback**<br>This is **supported**, subject to the following commentary.<br>**Additional** comments:<br>The approach applicable to a Conservation Zone vis a vis triggering a restricted development threshold should equally be applied to an application concerning a local (and state) heritage place and whenever the heritage adjacency overlay is applicable to a development application.<br>Similarly, demolition of the elements applicable to a local heritage place, or a site to which the heritage adjacency overlay applies, ought also to meet the restricted development threshold. |

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| *policy (e.g. the DOs, POs and DTS/DPF criteria). …*<br>*Dwelling*<br>*In relation to dwelling, one of the exceptions (exception (b)) allows for a detached dwelling that replaces an existing lawfully erected dwelling to be assess via the performance assessed pathway rather than as a restricted class of development.*<br>*A recent example has emerged where an existing dwelling was demolished prior to the submission of an application for a replacement dwelling. This has resulted in the application falling into the restricted development pathway. Had the dwelling not have been demolished, Council would have been the relevant authority. It is considered that this is an anomaly in the Code, and a development application of this nature is not one that meets the principles for restricted development. …* | | |
| ***Issue***<br>*Users of the Code have suggested that definitions for the following terms would benefit the Code:*<br>(1) …<br>(2) *Emergency services facility.*<br>***Investigation***<br>… | *4.4.4 New Definitions*<br>In Part 7 – Land Use Definitions … insert new definition for 'emergency services facility'<br>*Emergency services facility*<br>*Means premises used for the provision of essential emergency or disaster management services. The use may include administrative,* | **8 Commentary**<br>It seems odd:<br>• to include a "police station" as an emergency services facility and<br>• to not include "CFS stations".<br>Presumably it is not an envisaged land use in relation to residential zones or applicable to public reserves, park lands, or national, state, local parks, or the like. |

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| *Emergency services facility*<br>*The term emergency services facility is not currently defined in the Code. It does, however appear in several zone and subzone envisaged land use policies. These zones are either of a community or activity centre nature.*<br>*The term also appears in the Gas and Liquid Petroleum Pipelines Overlay, the policy of which discourages emergency service and major community health related facilities from areas within the overlay where a gas or liquid petroleum pipeline failure may disrupt ongoing operations or response capacity in the event of an emergency.*<br>*Emergency service facility is not a class of development that is assigned to an accepted development or deemed-to-satisfy assessment pathway in the Code. It is not a restricted form of development in any zone nor is it linked to specified policies for performance development through zone Table 3 - Applicable Policies for Performance Assessed Development.*<br>*Even so, defining the term will assist to provide clarity around what is meant by emergency services facility, what it encompasses and will benefit the interpretation Gas and Liquid Petroleum Pipelines Overlay DTS/DPF 1.2. By comparison, the term hospital has a well* | *operational or storage facilities associated with the provision of emergency or disaster management services.*<br>*[includes]*<br>*Ambulance station; Emergency management support facility; Evacuation centre; Fire station; Police station; State emergency services facility;* | |

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| *understood dictionary meaning that does not require further detailing. ...* | | |
| ***Issue***<br>*Feedback has identified a need for clarification on where building height should be measured from on stepped or sloping sites.*<br>***Investigation***<br>*Part 8 – Administrative Terms and Definitions defines Building Height as follows: ...*<br>*Although the current definition states that building height can be measured "at any point of any part of a building", it has been suggested that this may be interpreted as being able to measured from the lowest point of a building on a sloping site to the highest point of the building at a different location on the site, as opposed to the highest point of the building immediately above the measurement point. It is considered appropriate to amend the building height definition provide clarification in relation to this matter.* | *4.5.1 Building Height – Measurement Point Clarification*<br>*Building height*<br>*Means the maximum vertical distance between the reference point ~~lower of the natural or finished ground level or a measurement point specified by the applicable policy of the Code (in which case the Code policy will prevail in the event of any inconsistency)~~ at any point of any part of a building and the finished roof height at its highest point immediately above the reference point, ignoring any antenna, aerial, chimney, flagpole or the like. For the purposes of this definition, building does not include any of the following:*<br>(a) *flues connected to a sewerage system*<br>(b) *telecommunications facility tower or monopole*<br>(c) *electricity pole or tower*<br>(d) *or any similar structure.*<br>*NOTE: For the purposes of this definition, reference point means* | **9 Feedback**<br>**Supported**, subject to the inclusion of a reasonable methodology that factors in variable physical contexts and has appropriate regard to the reasonable interests of adjacent and nearby landowners. |

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| | *the lower of the natural or finished ground level or a measurement point specified by the applicable policy of the Code (in which case the Code policy will prevail in the event of any inconsistency)* | |
| ***Issue***<br>*Users of the Code have identified that the definition for primary street doesn't cover all potential development scenarios. This includes:*<br>(1) *sites that have front and rear road frontages where the primary frontage is longer than the rear frontage*<br>(2) *corner sites which retain an existing building following land division and the 'secondary frontage' in relation to that building is now shorter than the frontage to which to which the building faces*<br>(3) *corner sites where the existing or proposed building faces the longer frontage.*<br>*There have also been examples where relevant authorities are measuring building setbacks from 'corner cut-offs', which is unnecessarily requiring greater building setbacks.*<br>***Investigation***<br>*When the Code was developed a definition for primary street was created to aid interpretation,* | *4.5.2 Primary Street*<br>*In Part 8 – Administrative Terms and Definitions, in the Administrative Terms and Definitions Table, replace the definition for 'primary street' as follows:*<br>*Primary street*<br>*In relation to an existing or proposed building on a site is:*<br>(a) *in the case of a site that has a frontage to only 1 road - that road*<br>(b) *if the site abuts two or more roads - the road to which the existing building or proposed building principally faces.*<br>*Notes:*<br>1. *In determining the principal face of the building for the purposes of (b), regard will be given to the following:*<br>(a) *building form and design elements and how they* | **10 Feedback**<br>The definition includes classical and simplistic considerations vis a vis street frontage.<br>They omit environmental and solar orientation aspects and considerations that will increasingly be of importance to contemporary and future generations.<br>Living in a built form approved when the classical considerations emphasised 'street frontage' may currently be unavoidable.<br>It would be a lost opportunity to not now include environmental, solar orientation, energy and similar considerations to the benefit of contemporary and future generations, and effective land use planning.<br>**Support** the inclusion of environmental orientation considerations likely to be of importance to contemporary and future generations. |

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| *particularly for accepted development and deemed-to-satisfy assessment pathways which require quantitative policy. The definition was based on the former complying (Rescode) standards of the Development Regulations 2008 – Schedule 4.*<br>*The definition currently in the Code is as follows: …*<br>*The current definition of primary street could be updated to include the missing examples identified by users of the Code, however it is felt that this would lengthen the definition to a point where it becomes confusing to follow. …*<br>*For sites that have more than one street frontage, the question likely to come up is 'what defines the way the building faces?' Is it more than just the front door? The Code provides some guidance through its design policies about the types of building elements which should face a primary street and will help to provide distinction between the front and side of a building. …* | *present to the streetscape, including window type and orientation*<br>(b) *front door and porch entry location and orientation*<br>(c) *street setbacks, front yard location and fencing arrangements.*<br>… | |
| ***Issue***<br>*The Expert Panel heard that it is commonplace for local heritage places to be neglected and left to deteriorate to enable ease of their demolition taking into account the test in Performance Outcome 6.1 in the Local Heritage Place Overlay of the Code. The Panel* | *4.6.1 Local Heritage Place Overlay – Demolition Policy*<br>*… Local Heritage Place Overlay, amend PO*<br>*6.1 as follows:*<br>*PO 6.1* | **11 Feedback**<br>**Supported**<br>This is an overdue reform and provides a mirrored approach as between state and local heritage places. The amendment is commendable.<br>**Commentary re additional amendment** |

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| *recommended that a review of the policy be undertaken to ensure local heritage places are not being neglected and left dilapidated.*<br>*The Government supported this recommendation, noting that it would also be appropriate investigate whether performance outcomes of the relevant Overlays in the Code can be strengthened.*<br>***Investigation***<br>*PO 6.1 in the Local Heritage Place Overlay is as follows: …*<br>*The Expert Panel considered that it would be appropriate for wording analogous to that contained in the corresponding PO of the State Heritage Place Overlay to be inserted into the provisions of the Local Heritage Place Overlay.*<br>*…*<br>*The wording in part (b) makes it clear that structural dilapidation must be the result of something outside of the owner/developer's control (e.g. a natural disaster) in order for it to lend support to an application for demolition.* | *Local Heritage Places are not demolished, destroyed or removed in total or in part unless:*<br>*(a) the portion of the Local Heritage Place to be demolished, destroyed or removed is excluded from the extent of listing that is of heritage value or*<br>*(b) the structural integrity or condition of the Local Heritage Place represents an unacceptable risk to public or private safety and <u>results from actions and</u> <u>unforeseen events beyond the control of the owner</u> and is irredeemably beyond repair.* | Additional language should be considered that makes plain that the language of PO 6.1 is materially and substantively different from the pre-PD Code prescription. Alternatively, it ought to be made the subject of a SPC Practice Note in the interests of certainty and avoidance of misapprehension.<br>There is a misapprehension about the operation of this PO 6.1 which ought to be addressed and rectified by additional language, explanatory material, or a practice direction.<br>The language of PO 6.1, the more so with the currently proposed additional words, is stronger with additional and more onerous criteria, and is more directive of a performance outcome, than the previous less specific language that was the subject of consideration in *Klemich v City of Norwood, Payneham & St Peters* [2002] SAERDC 10 (*Klemich*).<br>The erroneous approach is exemplified in the consideration and decision of the Council Assessment Panel of the City of Adelaide in relation to Application ID 24020992, which resulted in the regrettable demolition of the heritage elements of an LHP on Hutt Street.<br>The Code conditions "*safety*" to "*public or private safety*". That makes sense. Much building and restoration work (incl. demolition) is inherently unsafe. It can be made reasonably safe by experienced builders. In *Klemich*, "unsafe" is left at large.<br>The Code conditions "*irredeemable*" not by reference to structural safety as in *Klemich* (i.e. "unsound"/"unsafe") |

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| | | but by requiring it to be "*beyond repair*". "*Repair*" is a broad expression and in the current context ought to be applied in its broadest sense (i.e., restoration, mending, renovating, fixing, restoring, to get working again).<br>The Code supports "*conservation works*" with "*match[ing]*" materials and methods (PO 7.1, LHP Overlay). *Klemich* does not refer to any such provision.<br>In the Hutt St matter, the engineering report identified that "remedial work" can be done through conservation works using matching materials. The area was fenced and presented no risk to public or private safety.<br>In addition, the Hutt St matter exemplifies the obvious necessity for third party appeal rights vis a vis an application / decision for demolition of heritage elements of an LHP. And in any event, demolition ought not be permitted without an application for exemplary replacement built form.<br>**Support** additional amendment<br>The proposed code amendment should be further revised and amended to the above effect to provide *technical enhancement to improve policy and pathways of the Code and undertake targeted policy adjustments in line with the objectives of the PDI Act*.<br>Alternatively, a Practice Direction should be issued to the effect that the language of PO 6.1 makes *Klemich* inapplicable. |

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| | | **Commentary re Expert Panel Recommendation 24**<br>The Expert Panel recommended *demolition of all dwellings should be recorded on the e-Planning portal*. The Government response supports that recommendation.<br>To the extent that requires amendment to the Code, that is supported.<br>Otherwise, its implementation ought to be administratively addressed at the earliest opportunity having regard to the rationale at page 86 of the Expert Panel Report and the Government's response. |
| ***Issue***<br>*The Heritage Branch currently receives the 3rd highest number of referrals out of all referral bodies, although quite often the matters are not viewed as 'high risk' proportionate to the whole referral regime for the planning system.*<br>***Investigation***<br>*Refining the spatial extent of the State Heritage Place Overlay to listed buildings has been explored however this is somewhat constrained by the Heritage Places Act 1993 which defines a 'place' as including the land upon which the heritage place is located. Spatial mapping for the purposes of the Code therefore errs on the side of caution and maps the whole allotment upon which a State Heritage Place is located. …*<br>*Heritage Adjacency Overlay* | *4.3.1 State Heritage Overlays*<br>*In Part 3 – Overlays, in the Procedural Matters (PM) – Referrals of the Heritage Adjacency Overlay, amend the Class of Development / Activity in the following manner:*<br>*Class of Development / Activity*<br>*Development which in the opinion of the relevant authority ~~materially~~ substantially affects the visual context within which the **State Heritage Place** is situated.*<br><br>*Note – Referrals are not required where the Overlay relates to a **Local Heritage Place*** | **12 Feedback**<br>There is no rationale or authority provided about the utility of using "substantially" instead of "materially".<br>Heritage is not confined to "visual" context, nor is planning and land use.<br>The supporting material appears somewhat ambivalent and the proposed amendment does not appear to address what appears to be a problematic practice of referral when objectively none is required; a practice of an abundance of caution.<br>The proposed amendment will not necessarily abate or redress that cautionary practice.<br>There is a significant public interest in the value of heritage (incl. culture) for contemporary and future generations, and for the character, history, and culture of localities.<br>Similarly, there is a considerable public interest in the underpinning knowledge base and experience about heritage (incl. culture). |

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| *There is scope to make some minor wording changes to the following referral triggers to provide better clarity through using more plain English expression and to better empower a relevant authority to determine that a particular application may not warrant a referral, as follows:*<br>*Development which in the opinion of the relevant authority ~~materially~~ substantially affects the visual context within which the State Heritage Place is situated.*<br>*Currently there is varied interpretation regarding what constitutes a 'material affect' in the context of the Heritage Adjacency Overlay. It is considered that replacing this with the term 'substantially', whilst also introducing the word 'visual', will better clarify the overlay's role in relation to State Heritage Places and provide slightly more freedom for a relevant authority to not undertake a referral where appropriate.* | | The proposed alteration ought not risk having the unintended consequence of undermining those current and future values.<br>The amendment is not supported.<br><br>Alternatively, a SPC Practice Direction is an adaptive mechanism that could provide the salve to the indicated symptom of unnecessary referral, which approach is **supported**. |

**From:** Geoff Hayter
**To:** DHUD:PlanSA Submissions
**Cc:** Renee Mitchell; gabriella smart ; [redacted]
**Subject:** Assessment Improvement Code Amendment
**Date:** Thursday, 27 February 2025 12:12:06 PM
**Attachments:** image002.jpg

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Sir/Madam,

We write regarding a critical matter pertaining to the preservation of the 16 Ha land division limit in the Character Preservation District. Our specific concern relates to a matter near McLaren Vale, but the anomaly revealed appears to apply across the board in Rural zoned land within the two current Character Preservation Districts.

We will not, in this email, try to go into the fine detail of the situation. Suffice to say that, consequent on a local matter arising, we wrote recently to Renee Mitchell at Onkaparinga Council on the subject of sub-16 Ha land divisions and have subsequently exchanged emails - including this in one of ours:

*So, as I read yours, a sub-16 Ha land division application in the Rural zone such as described would be assessed by 'Council' (because it is not a restricted form of development, and it is outside the Limited Land Division Overlay), but it would not be publicly notified because it is not a restricted form of development. Meaning that such an application would be considered without reference to the public.*

*Is this correct?*

Renee's response suggests that this is correct, in which case changes to the rules are required so that in future such applications are suitably aired in the public arena. Further, she has shared with us a draft of Council's submission to this Code Amendment, which suggests that our present enquiry is not an isolated incident. We are also alarmed to learn that the transition from Development Plan to Design Code has not provided a like-for-like solution in this instance but instead has created a gap in the defences of the 16 Ha aspect of the Character Preservation legislation. As Council puts it, land use policy is now "almost ineffectual to prevent the creation of small allotments".

As I say, we will not delve deeply into an argument about the application of TNV Policy Weightings here. Suffice to say that we have read Council's draft submission on this matter, we understand it and we are in complete and absolute agreement with the case that it makes and the urgency of correcting the situation.

The Design Code must protect the Character Preservation Districts, including via the prevention of land divisions below 16 Ha for residential purposes. The Act provides an absolute mandate for appropriate policy to ensure this outcome, and for the proper application of that policy.

We fully support Council's strongly expressed requests that:

- in the Rural Zone, Land Division PO 11.1 be amended to: ***Land division, including boundary realignments, promotes productive, efficient and sustainable primary production and is consistent with the dimensions expressed in any relevant Minimum Site Area Technical and Numeric Variation;*** and

  in order to honour the original policy framework designed to minimise fragmentation,

maintain the agricultural qualities of the district, and now to respect the district's preservation in both legislation and practice, the **Limited Land Division Overlay** apply to the entirety of the Rural Zone within the City of Onkaparinga – noting that this should also provide for there to be public notification of such applications.

We thank you for your consideration of this most important matter and look forward to news that intent of the Character Preservation Act is properly reflected in and respected by future versions of the Design Code.

Best regards,

Geoff H

**Geoff Hayter**

Mob: [redacted]



| | |
|---|---|
| **From:** | Willunga Farmers Market |
| **To:** | Mawson EO; Bignell, Leon; DHUD:PlanSA Submissions |
| **Cc:** | Ben Riggs; Andrea Maxwell; Andrew Press; Joch | Battle of Bosworth; Chelsea Boylan; Richard Leask; Derek Cameron; James Hook; Corrina Wright; Don Henderson; Di Harvey; Tom Harvey; John Harvey; Erin Leggat; Paula Edwards; Paula Edwards; [redacted]; [redacted]; Dylan; info@foggowines.com.au; Gavin Malone; Sandra & Gary Jobling; Geoff Hayter; Geoff@winesbygeoffhardy.com.au; Goodieson Brewery; grower@mclarenvale.info; Holly Marquis; Susan Lambert; Irina Santiago-Brown; info@whitehillestate.com.au; Janine; McLaren Vale Business & Tourism Association; Jacqui Henderson; Jordan Robertson; Kate Fleming; [redacted]; Karrie-Anne Lawson; Kelly Wadewitz | Peats Soil; Kevin O"Brien; matt.koch matt.koch; Lachie Francis; Lauren Langfield; Armand; Mark Maxwell | Maxwell Wines; Jeremy Maxwell Maxwell Wines; Madeleine Spry; Tarlie Blackwood, Mollydooker Wines; Monika McArthur; Natasha Haitana; Tess Pointer; Paul Roberts; Ben Quinn; Rachel Steer; Sami Gilligan; Sarah Marquis; Salopian Events; Longwood Wines; Skye Salter; Toby Bekkers; Tom Grant; tom hajdu; Tara Madgett; Phil Tabor; Cherise Vallet; Velvet Oaks; [redacted]; Peter Fraser; Michael Lane; Zar Brooks; Bignell, Leon |
| **Subject:** | RE: Assessment Improvement Code Amendment |
| **Date:** | Friday, 28 February 2025 3:24:21 PM |
| **Importance:** | High |

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Dear Leon,

The Character Preservation Act (the Act) prohibits land division below 16 Ha for residential purposes in the Rural Zone. Contrary to this provision, it has become apparent that under current Design Code settings, land use policy is now, in the words of the City of Onkaparinga, “almost ineffectual to prevent the creation of small allotments”.

Technical adjustments are understood to be required to the wording and operation of the Design Code to give practical effect to the intentions of the Act and to re-assert the prohibition on small-lot land divisions.

We understand that, in response to the Assessment Improvement Code Amendment, Council has suggested very specific changes to the Code to address this problem [including amendments to Rural Zone Land Division PO 11.1 and wider application of the Limited Land Division Overlay].

We urge Plan SA to adopt these suggestions in order to reflect the provisions of the Character Preservation Act and to honour the original policy framework intended to give effect to these provisions.

On behalf of

Willunga Farmers Market





SPASA
SWIMMING POOL & SPA ASSOCIATION

Response to:

# Assessment Improvements Code Amendment

**State Planning Commission**
**South Australia**

March 2025

## ABOUT SPASA AND THE SWIMMING POOL & SPA INDUSTRY

The Swimming Pool & Spa Association of Australia (SPASA) is the peak industry body representing businesses involved in the design, construction, installation, and maintenance of pools, spas, and related products across Australia and New Zealand. SPASA's diverse membership includes large-scale operators, independent builders, retailers, consultants, and service providers, all delivering high-quality products and services that meet the needs of homeowners, builders, and developers.

The pool and spa industry is a key economic driver across Australia, supporting tens of thousands of jobs across Australia and New Zealand, and contributing to a variety of residential and commercial projects, from new builds to luxury pools. SPASA advocates for its members by promoting best practices, ensuring a positive regulatory environment, and offering resources such as technical advice, training, and business support.

SPASA is committed to fostering industry growth through policy development, compliance support, and continuous innovation. With offices across Australia and New Zealand, SPASA provides the tools and resources needed for business success and industry excellence.

## OVERVIEW

SPASAs submission is mainly focused on the proposed changes at **4.2.6. Swimming Pool Pumps – Acoustic Enclosure Policy** of the consultation documentation, with a small comment on **4.3.3. Department for Environment and Water Referrals.**

SPASA also takes this opportunity to again raise the issue of landscaping requirements, which are becoming increasingly challenging to accommodate alongside the installation of a pool or spa, noting that SPASA has raised this in the past without formal response or comment received from the State Planning Commission

We recommend a more flexible and performance-based approach to both noise mitigation and landscaping requirements.

**Noise Regulation:** the rigid requirements for solid acoustic structures and set distances should be removed, allowing for the use of modern noise reduction technologies, such as quieter pumps and advanced enclosures, provided they can demonstrate that the noise levels are below the 52 dB(A) threshold at sensitive receptor locations.

**Landscaping:** SPASA recommends removing or reducing the landscaping requirements for swimming pools and spas, particularly on smaller lots where meeting the minimum soft landscaping guidelines is impractical. Alternatively, the soft landscaping requirements could be applied across the entire property, allowing for more flexibility in the design and placement of pools and spas while still meeting infrastructure and environmental objectives.

**Performance-Based Solutions:** By embracing performance-based solutions and allowing for greater flexibility, the Code would better accommodate the evolving needs of residential development and still achieve its environmental and noise-reduction goals. This approach would better reflect the diverse range of technological solutions available and the varied nature of residential properties, ensuring that homeowners are not unduly constrained by prescriptive rules that no longer suit contemporary urban living.

## 4.2.6. Swimming Pool Pumps – Acoustic Enclosure Policy

**Noise and Equipment Requirements**

SPASA agrees that a language change is required, and the revised language should reflect flexible and modern approaches to noise mitigation.

**Recommendation 1:** Remove the **DTS/DPF 19.3** distance requirement where it can be demonstrated that the pump, enclosure, performance solution or combination of can operate less than the maximum 52 dB(A) between the hours of 7 am and 10 pm on any day when measured at a relevant position at a noise affected premises

And replace with revised wording is as follow:

> *The pump and/or filtration system is ancillary to a dwelling erected on the same site and has any of the following measures in place:*
>
> *a) Enclosed in an acoustic enclosure; or*
> *b) Decibel rating of equipment does not warrant an acoustic enclosure; or*
> *c) Incorporates an acoustic treatment, such as:*
> *i. sound dampening casing and/or base*
> *ii. low-noise pump and/or filtration system*
> *iii. noise reduction pump equipment covers*
> *iv. screening features as part of the landscaping*

There is a larger issue SPASA would like to raise and address: the existing regulations set rigid standards for the placement of pumps and filtration systems for swimming pools and spas, requiring both a solid acoustic structure and a specific distance from the nearest habitable room on an adjoining allotment.

While these guidelines are intended to minimise noise pollution, they fail to consider the growing challenges posed by the shrinking size of residential lots, which often make it practically impossible to meet the specified criteria. This one-size-fits-all approach overlooks the availability of innovative treatments, technical solutions, and modern equipment that mitigate noise effectively.

For example, many newer variable-speed pool pumps produce noise levels significantly lower than the prescribed 52 dB(A) limit, even without a solid acoustic structure. These pumps can achieve noise reduction through quieter design features such as sound-dampening casings, low-noise pump units, and advanced performance solutions which are increasingly available in the market. By insisting on the solid acoustic structure and fixed distance requirements, the regulation limits the flexibility to adopt these more innovative and effective noise reduction methods.

In addition, residential lots are becoming smaller, and as a result the solutions currently outlined in the Code, such as placing pumps 5m or 12m from adjoining properties, are no longer feasible. The stringent distance requirements may force homeowners to choose between installing a pool or complying with noise regulations, ultimately leading to inefficient, intrusive, and costly solutions.

SPASA notes that in more recent times, Councils and building inspectors have treated swimming pool heat pumps in the same way as pool pumps, when in fact a swimming pool heat pump is functionally the same as an air-conditioning system, which does not have the same acoustic or distance restrictions. This demonstrates inconsistencies between regulations and reinforces our assertion that this policy is poorly suited to contemporary block sizes and modern building projects. Additionally, enclosing a heat pump in an acoustic enclosure creates heat and airflow hazards.

Accordingly, the change to, “Solid structure that will have a material impact on the transmission of noise” and “solid acoustic structure”, must read “***acoustic enclosure***”, rather than “acoustic structure.”

## Additional Issue: Landscaping Requirements

**Recommendation 2:** Replace the soft landscaping requirements under DTS/DPF 22.1 for the installation of swimming pools and spas shown in **Table 1 - Current Regulation** with the changes shown in **Table 2 - Proposed Regulation (Incorporating Changes)**.

| PO 22.1 | DTS/DPF 22.1 |
|---|---|
| Soft landscaping is incorporated into development to:<br>a. minimise heat absorption and reflection<br>b. contribute shade and shelter<br>c. provide for stormwater infiltration and biodiversity<br>d. enhance the appearance of land and streetscapes | Residential development incorporates soft landscaping with a minimum dimension of 700mm provided in accordance with (a) and (b):<br>a. a total area for the entire development site, including any common property, as determined by the following table:<br><br>Site area (or in the case of residential flat building or group dwelling(s), average site area) ($m^2$) — Minimum percentage of site<br><150 — 10<br>150-200 — 15<br>>200-450 — 20<br>>450 — 25<br><br>b. at least 30% of any land between the primary street boundary and the primary building line. |

***Table 1 - Current Regulation***

| PO 22.1 | DTS/DPF 22.1 |
|---|---|
| Soft landscaping is incorporated into development to:<br>a. minimise heat absorption and reflection<br>b. contribute shade and shelter<br>c. provide for stormwater infiltration and biodiversity<br>d. enhance the appearance of land and streetscapes | Residential development incorporates soft landscaping ~~with a minimum dimension of 700mm provided~~ in accordance with (a) and (b):<br>a. a total area for the entire development site, including any common property, as determined by the following table:<br><br>Site area (or in the case of residential flat building or group dwelling(s), average site area) ($m^2$) — Minimum percentage of site<br><150 — 10<br>150-200 — 15<br>>200-450 — 20<br>>450 — 25<br><br>b. at least 30% of any land between the primary street boundary and the primary building line.<br><br>c. Where (a) and (b) are impracticable or unreasonable, minimum percentages can be calculated within the site envelope to include three-dimensional open spaces like roof gardens, vertical gardens, planter boxes, and green walls. |

***Table 2 - Proposed Regulation (Incorporating Changes)***

SPASA suggests taking this opportunity to update the Code to include three-dimensional measures such rooftop gardens, vertical gardens, green walls, planter boxes, and a variety of other planting options, which achieve these outcomes but do not contribute to an area percentage measurement, and removing dimensional requirements that no longer work for small and complex properties.

The requirement for minimum soft landscaping when considering the inclusion of a pool or spa in the property, has become increasingly difficult to satisfy due to shrinking lot sizes, especially in high-density areas. The guidelines demand a percentage of the property be devoted to soft landscaping, including a specific percentage between the primary street boundary and the primary building line. With some residential lots now smaller than 150m², the area required for landscaping may leave insufficient space for essential features such as pools or spas.

SPASA notes that a dwelling may be built upon, or exceptionally close to, the primary street boundary meaning there may be no opportunity to meet the 30% soft landscape requirement.

The growing trend toward high-density development, along with the increasing demand for private recreational spaces like swimming pools and spas, creates a direct conflict with these landscaping requirements. As dwelling footprint is maximised, and backyard size decreases, it becomes more challenging to incorporate both the necessary landscaping and the installation of a pool or spa. The result is that homeowners may be forced to compromise on either their landscaping or recreational choices, undermining the principle of providing outdoor spaces that contribute to quality of life.

Consideration could also be given to including swimming pools, spas, ponds, or other water features in the definition of soft landscaping, as bodies of water contribute to the lowering of temperatures and enhance the property where they are situated.

The following **example images** are provided to illustrate this point.





**Example images (continued)**






## 4.3.3. Department for Environment and Water Referrals

SPASA supports the alterations to clarify the conditions for referral exemption and make it clear that referrals are only required for in-ground pools that are located within the 1956 flood plain.

## For more information

Swimming Pool & Spa Association (SPASA) Contacts:


Lindsay McGrath
Chief Executive Officer
[redacted]

Spiros Dassakis
Chief Policy Officer
[redacted]

Ben Makepeace
Policy Manager
[redacted]


SPASA
SWIMMING POOL & SPA ASSOCIATION

**From:** Ben Makepeace [redacted]
**Sent:** Friday, 20 June 2025 2:41 PM
**To:** DHUD:PlanSA Submissions <plansasubmissions@sa.gov.au>
**Cc:** Gencarelli, Damien (DHUD) [redacted]
**Subject:** RE: SPASA Submission - Assessment Improvements Code Amendment

> You don't often get email from [redacted] Learn why this is important

Good Afternoon!

I hope the consultation process is going well.

SPASA provided a submission, which includes the below section:

*SPASA notes that in more recent times, Councils and building inspectors have treated swimming pool heat pumps in the same way as pool pumps, when in fact a swimming pool heat pump is functionally the same as an air-conditioning system, which does not have the same acoustic or distance restrictions. This demonstrates inconsistencies between regulations and reinforces our assertion that this policy is poorly suited to contemporary block sizes and modern building projects. Additionally, enclosing a heat pump in an acoustic enclosure creates heat and airflow hazards.*

I want to further expand on this, as it has been coming up from our members interacting with Council. There is a real need to provide a clear distinction as to what a pool pump is, vs what a heat pump is, as we're finding Councils are treating them the same when they are not.

Indeed, it would be dangerous to enclose a heat pump. They are akin to an air conditioner in their purpose and operation.

One definition could be added:

**Pool Pump** – water recirculation system

The Standard for the Operation of Swimming Pools and Spa Pools makes this definition: a system of pipes, pumps, filters, and devices which enable water to be taken from a pool, subjected to treatment and then returned to the pool.

And we could go one step further and include ‘heat pump’ in the Table 1 entries which talk about “Air handling unit, air conditioning system, or exhaust fan”.
Simply updating the line to be: “Air handling unit, air conditioning system, heat pump, or exhaust fan.”

This simple clarification would solve a lot of issues with Councils not understanding what a heat pump is and where it fits.

Thank you

**Ben Makepeace**
**Policy Manager, SPASA**

1300 021 482 | [redacted]

www.spasa.com.au | ben@spasa.com.au




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Ref: 25ADL-0072

URPS

Adelaide
27 Halifax Street
Adelaide SA 5000
08 8333 7999

urps.com.au

ADL | MEL | PER

4 March 2025

Submission: Assessment Improvements Code Amendment
Att: Code Amendment Team
Department for Housing and Urban Development

plansasubmissions@sa.gov.au

# Submission to the Assessment Improvements Code Amendment – Outdoor Media Association

We act for Outdoor Media Association (OMA).

As the leading voice on Out of Home (OOH) advertising in Australia, OMA is the peak industry body that represents companies that display advertisements, own signs, and provide services to the industry. OOH is advertising for products and services seen outside the home, on a variety of signs, across various locations.

The 'Assessment Improvements Code Amendment' (Code Amendment) includes a review of and changes to the Advertisements Module – this submission focuses on the Code policies affecting advertisements.

While the Code Amendment seeks to improve the Advertisements Module by removing policy duplication, our review of the Module identifies a gap in the current policy.

PO 3.1 of the Advertisement Module currently seeks that:

> *Advertisements are limited to information relating to the lawful use of land they are located on to assist in the ready identification of the activity or activities on the land...*

However, the Module makes no reference to third party advertisements (ie signage on land, which is advertising a product or service that is unrelated to the use of that land). Third party advertisements often come in the form of billboards.

In essence, the Code ignores the practical reality that third party advertisements are part of the urban landscape. There should be policy controls in place to enable third party advertisements, in the right circumstances.

Our client's concern is that a literal or strict interpretation of the Code (including Advertisements PO 3.1) will prevent the reasonable development of third party advertisements.

OMA welcomes the opportunity to work collaboratively with the Department and State Planning Commission towards a more balanced policy stance for third party advertising.

## Requested actions

The existing and draft policy for Advertisements PO 3.1 are set out below:

> *EXISTING POLICY (ADVERTISEMENTS PO 3.1)*
>
> *Advertisements are limited to information relating to the lawful use of land they are located on to assist in the ready identification of the activity or activities on the land and avoid unrelated content that contributes to visual clutter and untidiness.*

and

> *DRAFT POLICY AS OUTLINED IN CODE AMENDMENT (ADVERTISEMENTS PO 3.1)*
>
> *Advertisements are to assist the public in locating the premises and / or services available at the premises and be limited to clear, concise information that identifies the lawful use of land they are located on.*

While the above draft amendment reduces duplication, the policy remains too restrictive in our view, as it provides no scope for third party advertisements.

We therefore request a minor amendment to PO 3.1, via this Code Amendment, to use language that clarifies that third party advertising can be permitted in limited circumstances.

We have suggested two options for rewording PO 3.1 to achieve this outcome:

> *REQUESTED POLICY – OPTION 1 (ADVERTISEMENTS PO 3.1)*
>
> ***Advertisements are primarily limited to information relating to the lawful use of land they are located on to assist in the ready identification of the activity or activities on the land.***

or

> *REQUESTED POLICY – OPTION 2 (ADVERTISEMENTS PO 3.1)*
>
> ***Advertisements should generally assist the public in locating the premises and / or services available at the premises and be limited to clear, concise information that identifies the lawful use of land they are located on.***

The requested policy will clarify to planning authorities and communities that while the Code primarily anticipates on-premises business signage, third-party advertisements may also be supported in some circumstances.

The Code already contains a range of policies that control the size, design and impact of advertisements, that need not be repeated in this new Performance Outcome.

This request is justified further below.

## Rationale

### *Within the scope of the Code Amendment*

This Code Amendment is an appropriate vehicle to enact the changes that we have recommended.

This Code Amendment can clarify that third party advertisements are a legitimate form of development, as Section 3.3 of the Code Amendment confirms that submissions can influence:

> *Change to the Code's policies*

While an earlier section of the Code Amendment suggests "Lager topic-based issues identified by the Expert Panel like tree and heritage protection will be address though separate Code Amendments or via other statutory means", the requested change involves a relatively subtle "tune-up" to the Code policy and does not involve a larger topic-based issue – third party advertising is a relatively narrow issue in contrast.

It would be most efficient and cost-effective to provide the requested enabling policy as part of this Code Amendment.

If our recommendation is not adopted in this Code Amendment, then we request that third party advertising is considered in the next regular 'technical enhancements' Code Amendment.

### *Aligns with Recommendation 19 of the Planning System Implementation Review*

Page 28 of the Code Amendment states that:

> *In line with the Recommendation 19 of the Planning System Implementation Review, the Advertisement General Development Policies have been reviewed to ensure that the policy is reasonable and practical and does not duplicate other policies in the module*

In turn, this recommendation states:

> *Impractical Policy Provisions:*
>
> *The Code should be reviewed to ensure requirements are reasonable and practical.*
>
> *The Panel understands there are some provisions in the Code which are impractical in physical situations. For example, the General Development Policies, Infrastructure and Renewable Energy Facilities DTS/ DPF 11.2 requires 50,000 litres of water supply if reticulated water is unavailable, and a further 5,000 litres dedicated water supply for bushfire fighting purposes. The Panel understands standard tank sizes are 22,500 litres, making the Code requirements impractical for implementation. The Panel therefore recommends the Code is reviewed to ensure any requirements imposed by policy are reasonable and practical.*

As discussed above, the Code's silence on third party advertisements is "impractical" as it fails to recognise that this is a reasonable and expected form of development in some environments. Code policy should recognise this as a legitimate form of development.

The requested enabling policy therefore improves the practicality and reasonableness of the Code, in accordance with Recommendation 19.

*This development is compatible with urban, commercial and roadside environments*

Advertising is a ubiquitous and ever-present part of modern life.

In areas designated for commercial or mixed-use activities, third party advertisement such as billboards can be integrated into the urban fabric with appropriate design, making efficient use of prime locations, with little to no impact upon visual amenity.

**Appendix A** contains examples of well-designed third party advertisements that are contextually appropriate while also making important economic contributions to local and state economies.

*Minimises the potential for reasonable developments to be refused*

In our experience some planning authorities / officers have treated Performance Outcomes as mandatory requirements.

In an example of this, OMA is aware of several applications for third party advertising being refused under the P&D Code, where the proposal's failure to satisfy PO 3.1 has been cited as a reason for refusal.

Proper planning requires the circumstances of the proposal, the site and the locality to be factored in. There are circumstances where third party advertising is reasonable, and where third party advertising has been successfully developed (see Appendix A).

A softening of the language within PO 3.1, to contemplate limited third party advertising, would minimise the potential for reasonable advertising proposals to be refused.

*Economic benefits that support local businesses and the state economy*

Third party advertising reaps economic benefits for landowners and businesses, helping to support the ongoing viability of existing land use (ie billboards attached to hotels provide additional revenue streams for those businesses).

In addition, OMA commissioned *Deloitte Access Economics* to better understand the contribution the Out Of Home (OOH) advertising industry makes to the Australian and South Australian Economies.

The findings of this study are summarised in **Appendix B** and includes the following:

- There are approximately 5200 advertising panels in South Australia as of 2023.
- OOH Advertising contributes $41m to the South Australian economy.
- For every FTE employment directly, there are two other FTEs employed elsewhere in the economy.
- OOH advertising provides essential public infrastructure at no cost to taxpayers – OMA members contribute $665 worth of infrastructure items including bus shelters, tram shelters and bins (including 771 public infrastructure items in South Australia).

These statistics illustrate the importance and benefit of OOH advertising, and its prevalence in the state, which reinforces the need to update the Code's advertising policies.

### *Avoids an existing exemption in the PDI Regulations from being exploited*

Schedule 3, clause 8(2) of the PDI regulations 2017 provides that:

> *a change made to the type or contents of an existing advertisement will be taken not to constitute the commencement of the display of an advertisement if— the advertisement area is not increased; and the change does not involve the addition of animation or illumination.*

In effect, signage can be approved under the Act, then the content of the sign can be adjusted to introduce third party advertising without requiring planning approval.

Including the requested enabling policy into the Code will therefore minimise the risk of this exemption being exploited for third party signage, which improves transparency for planning authorities, applicants and neighbouring parties.

## Conclusion

We request that the Advertisements Module is updated via this Code Amendment, to provide policy that enables third party advertisements. This request:

- Is within the scope of this Code Amendment, which contemplates changes to Code policies and which included a review of the Advertisements Module in particular.
- Aligns with Recommendation 19 of the Planning System Implementation Review, by improving the reasonableness and practicality of the Advertising policy.
- Supports development that is compatible with urban, commercial and roadside environments.
- Supports development that provides economic benefits for local businesses and the state.
- Means that an existing exemption in the Regulations is less likely to be exploited.

If our recommendation is not adopted in this Code Amendment, then we request that third party advertising is considered in the next regular 'technical enhancements' Code Amendment.

We would be pleased to work with you and our client in support of this submission.

Please contact me if you wish to discuss this submission further on 8333 7999.

Yours sincerely

[redacted]

**Joshua Skinner**
Principal Consultant



SHAPING GREAT COMMUNITIES

## Appendix A – Examples of third party advertisements and their benefits

*Promotion of a third party event*

The advertisement below promotes the LIV Golf event. This is an important event which has already generated $136 million to the State's economy in 2 years and brought thousands of visitors to the State – it warrants promotion. The sign is well integrated into the building, located in a viewshed containing other advertisements and of no greater impact than a sign advertising a business on the land.




Likewise, the advertisement below promotes a third party event, while supporting the local landowner, and harmonising with the scale and height of the surrounding buildings.






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COMMUNITIES

*Compatibility with scale and form of other buildings & advertisements in the locality*

The third party advertisement at the centre of the image reflects the scale and alignment of the first party 'Skoda' advertisement to the right of image, while its colouring and scale also complements the associate building. Other advertisements are present in the viewshed.




The advertisement below is integrated into an existing overpass and suits this roadside environment.






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COMMUNITIES

*Local economic benefit*

The third party advertisement below supports the ongoing viability of primary production land, through a development that has a very small footprint and which will not reduce the productive output of the land. The signage is also designed in a manner that is not distracting to motorists. It's impact on visual impact is low and fleeting.




Likewise, the below advertisement complements the scale and appearance of the associated group of shops while also supporting investment into the centre.



## Appendix B – Economic contribution of OOH advertising

# Economic Contribution of Out-of-Home Advertising

The Outdoor Media Association (OMA) is the peak industry body that represents companies that display advertisements, own signs, and provide services to the industry. Out of Home (OOH) is advertising for products and services that you see outside the home, on a variety of signs, across various locations.

To better understand the contribution of the OOH industry, OMA has commissioned *Deloitte Access Economics* to estimate the contribution of the industry to the Australian economy.




*Source: Deloitte Access Economics analysis (2024)*

**$1.3B**
**contributed to the Australian economy**

**$572m**
direct contribution to the economy

**$719m**
indirect contribution to the economy

For every dollar of value added by OOH advertising companies, there is more than another dollar of value added across the broader economy.

**6,100+**
**FTE positions supported nationally in 2023**

**75%**
higher than 2014

For every FTE employed directly, there are two other FTEs employed elsewhere in the economy.

## OOH advertising provides essential public infrastructure at no cost to tax payers.

OMA members contribute over **21,500** public infrastructure items – including bus shelters, bins, and tram shelters – worth over **$665** million.

**300**
Charities supported in 2023 by OMA members

**$97.8m**
in charitable support in 2023





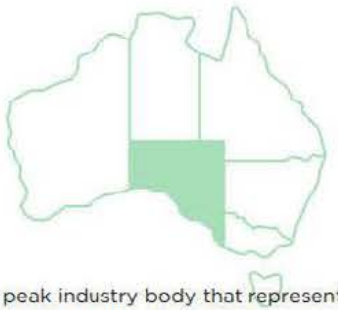
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URPS

OMA

## Economic Contribution of Out-of-Home Advertising

# South Australia



The Outdoor Media Association (OMA) is the peak industry body that represents companies that display advertisements, own signs, and provide services to the industry. Out of Home (OOH) is advertising for products and services that you see outside the home, on a variety of signs, across various locations.

### State Contribution

**$41m**
**Total value added**
Economic contribution is calculated as the sum of gross operating surplus and labour income.

**$287k**
**Taxes paid**
Total amount of taxes paid by OMA members in 2023.

**$32m**
**Revenue in roadside advertising**
Includes billboards and street furniture such as bus shelters, tram shelters and phone booths.

**$7m**
**Revenue in retail/lifestyle advertising**
Includes place-based advertising such as shopping centres, cafes, office lobbies, gyms, petro-convenience and universities.

**$7-8m**
**Revenue in transit advertising**
Includes advertising in and around airports, on public transport and on station concourse, platforms and terminals.

### Advertising Panels

Outdoor media plays a role in creating a valued local identity, offer a platform for important community messaging, promote local events and businesses, and contribute to creating a safer city.

There were an estimated **5,200** panels in South Australia in 2023.

**771**
**Public infrastructure items**
provided, developed, maintained and managed by OMA members, such as bus shelters and pedestrian bridges at no cost to tax payers.

**$23m**
**Value of public infrastructure**
developed, maintained and managed by OMA members.



SHAPING GREAT COMMUNITIES

**From:** Wood, Aidan (CESA)
**To:** DHUD:PlanSA Submissions
**Subject:** Assessment Improvements Code Amendment - Catholic Education South Australia (CESA)
**Date:** Tuesday, 11 March 2025 3:31:10 PM
**Attachments:** image001.jpg
image002.jpg
image003.png
image004.png
image005.png
image006.png

You don't often get email from [redacted] Learn why this is important

To whom it may concern,

This submission has been prepared by Catholic Education South Australia (CESA).

CESA comprises of 101 primary and secondary schools. These schools account for 52,590 student enrolments and employ 8,499 staff.

CESA commends the State Planning Commission for seeking to enhance the performance, interpretation, and consistency of the Planning and Design Code (the Code). CESA supports this amendment.

This submission focuses on the proposed change to clarify the intended interpretation of the Code's car parking provision applicable to schools. This specifically relates to the interpretation of 'specifically marked accessible car parking places'.

CESA also contend that further changes should be undertaken to provide the necessary clarity for school development. This relates to car parking provisions and statutory referral triggers.

In particular, CESA requests that:

- The proposed amendment to clarify the meaning of 'specifically marked accessible car parking places' be approved.

  CESA share the view that the intended phrasing of the existing provision was in reference to AS/NZS 2890.6-2009 Parking facilities Off-street parking for people with disabilities.

- The definition of pick up/set down areas be clarified.

  There are varying views on this. Despite the clarity proposed by the amendment, it is possible that confusion around the need for the signposting of on-street car parking for use by schools may still exist.

- The method of measurement for the nominated 300m radius be confirmed.

  It would be a practical for this to be applied as a distance measured from all property boundaries.

- The Traffic Generating Overlay triggers a statutory referral to the Commission of Highways for schools with a student capacity of 250 students or more.

  It is unclear if this applies to every development seeking to incrementally increase student enrolment capacity or to developments that do not propose to increase enrolment capacity (i.e. replacement classrooms).

While the intent of the code amendment is supported, it is vital that the above changes are made to ensure the Code Amendment achieves its objective.

Sincerely,
Aidan Wood

Aidan Wood
Project Officer
Catholic Education South Australia
On Kaurna Country
t: [redacted]
e: [redacted] | w: cesa.catholic.edu.au
a: 116 George Street Thebarton SA 5031

We acknowledge the Traditional Owners of the lands and waters on which we live, learn and work.
We acknowledge the continued deep spiritual connection and relationship of Aboriginal peoples to this country and commit to the ongoing journey of Reconciliation.

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South Australian Independent Retailers
Supporting local

Code Amendment Team
Planning and Land Use Services Division
Department for Housing and Urban Development
GPO Box 1815,
Adelaide SA 5001

**Via email: plansasubmissions@sa.gov.au**

Dear Craig,

**RE Submission – Assessment Improvements Code Amendment**

I refer to the Assessment Improvements Code Amendment (draft) which is currently out for public consultation and wish to provide the following response on behalf of State's Independent retail sector, South Australian Independent Retailers (SAIR) and Metcash, Food.

## 1.0 SAIR Background

SAIR advocates on behalf of the 120 owners representing over 200 independent supermarkets stores which are branded Foodland, IGA & IGA Local Grocer.

This sector employs some 12,000 people which also includes over 300 staff in the Metcash wholesale distribution centre at Gepps Cross. The Retail/Wholesale Industry is the biggest 'private' employer in South Australia (circa 102,000) and independent supermarkets are the largest sector i.e. circa 12%.

As a collective group, this sector is the largest private employer in the State and maintains a greater than 20% market share of the Supermarket sector which is the highest market share for Independent stores in Australia.

The South Australian supermarket industry is a robust marketplace in which the independents vigorously compete against the major national and international chains.

The independents are driven by having a strong emphasis on:

- quality customer service and support
- targeting and promoting local South Australian brands of manufactured food and grocery products
- promoting the largest range of Australian branded food and grocery products
- leading the promotion of South Australian and Australian fresh meat, fresh fruit and vegetables

These factors and the increased competition provided by strong vibrant independent supermarkets is a driving force in ensuring SA shoppers pay less for their groceries versus like for like baskets on the Eastern seaboard. Independents in South Australia provide excellent career pathways and take the training and development of their staff very seriously, in order to provide local quality customer service and employ more people per store than their competitors.



*'advocating for all independent owners of Foodland; IGA and Friendly Grocer supermarkets in South Australia'*
PO BOX 2176, KENT TOWN SA 5071 | **M:** 0413 282 641 | **E:** admin@sairetailers.com.au | **ABN:** 82 804 971 951

### 1.2 SA Retail Market – State of Play

While we are confining our submission in the main to the South Australian independent supermarket sector, the more recent and current state of play is worth outlining as it cuts to the heart of the planning policy positions that we are advocating.

Although the food and grocery sectors are experiencing a more 'stable' economy, there are still other factors to consider and as cost of living pressures continue to increase and continue to impact household spending the sector is going to continue to face headwinds post the COVID pandemic.

Consumers are increasingly holding back on their discretionary spending due to rising cost of living expenses in particular rent, /mortgages and consumables such as energy, healthcare, education, transportation, rates and taxes and insurances etc. We have, like many other industries, weathered the COVID pandemic along with natural disasters in terms of storm damage and the current flood risk continues to impact communities we serve.

We are also seeing more regularly in South Australia, 'smaller shopping centres' across the State with tenancy vacancies up to 50%. In some instances, there are 100% vacancies i.e. completely vacant shopping centres, scattered around both metropolitan Adelaide and regional South Australia.

This is a trend that has been increasing over the last three years in the United States of America. The lag time between their retail market experiences and ours is traditionally around 3-5 years and as such we must act now to 'sure up' our centre's hierarchy to ensure the same does not happen here in South Australia.

Most of our owners are traditionally the 'anchor tenant' in shopping centres. Moreover, the other businesses within these shopping centres are mainly South Australian owned and categorised as SME's e.g. local pharmacies, butchers, florists, newsagents, locally run Post Offices, takeaway shops, bakeries, medical and dental practices etc.

Our family-owned independents pride themselves on serving their local communities, partnering with their local supply chains, working with all locally owned retail business operators, supporting local service & sporting organisations.

However, our independents are increasingly concerned about urban/retail developments that only consider 'progress for progresses sake' and the 'we need large land holdings and do not want to pay retail floor space rates' and the unintended consequences arising resulting a lack of strategic retail planning.

It is our firm and considered view that there is a real need to further strengthen and protect the centre's hierarchy, to avoid additional and unnecessary pressure on the marketplace, and the hierarchy should be retained along with projected future population growth.

### 1.3 Expert Panel Final Report 2023 (for the Planning System)

The Expert Panel for the Planning System Implementation Review, 2023 makes several references to retail, particularly in its commentary around walkable neighbourhoods.

On page 134/236, the report identifies 'supermarkets' and 'schools' as social infrastructure. It also highlights 'retail' as essential for a walkable community.



*'advocating for all independent owners of Foodland; IGA and Friendly Grocer supermarkets in South Australia'*
PO BOX 2176, KENT TOWN SA 5071 | **M:** [redacted] | **E:** admin@sairetailers.com.au | **ABN:** 82 804 971 951

There is currently no definition of “supermarket” and as a result these activities are treated in a definitional sense as ‘shops’.

However, there may be circumstances where a certain type of shop is a suitable retail activity, but a supermarket, being a higher order level of shop is perhaps less desirable, particularly if the existing retail catchment cannot support another supermarket in a locality, without detrimental impacts to lawfully existing centres.

### 1.4 Retail Planning Policy

In the initial GARP discussion paper we highlighted our concerns with the limited focus afforded to retail planning more broadly and our concerns with the 30Yr Plan for Greater Adelaide (The 30Yr Plan) including the need to……

- recognise and reinforce the importance of the centre’s hierarchy and centre-based planning;
- utilise retail catchment analysis to determine the best locations for future activity centres;
- provide greater policy clarity regarding the location of new activity centres, especially in growth areas;
- provide greater clarity around where supermarkets are envisaged compared with other retail land uses;.
- ***consider and adopt a definition of the word ‘supermarket’.***

Defining 'supermarket' could benefit the market and help policy makers identify suitable zones for supermarkets.

This could be done, while still maintaining the current Restricted development triggers and DTS/DPF performance outcomes for ‘shop’

The Planning and Design Code includes a single reference to the word ‘supermarket’ in the Assessment Provisions for the Retail Activity Centre Subzone, namely PO 1.3, which states….

*PO 1.3* *Shops, including supermarkets, restaurants and cafes, designed and sited to be complementary to established land uses and of appropriate scale to cater for demand.*

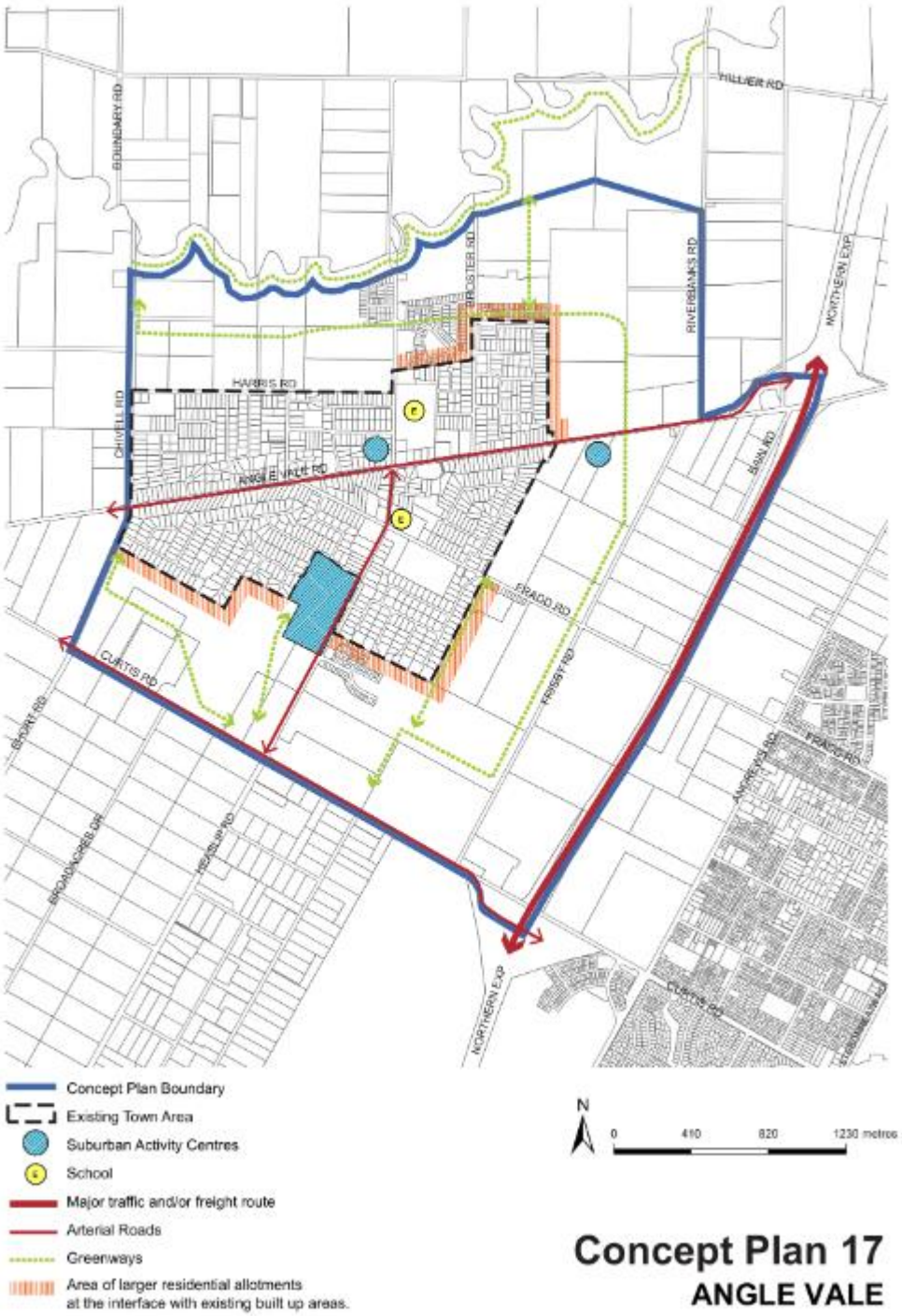
This is particularly relevant in growth area locations where there is more widespread use of Emerging Township Activity Centre Subzones.

As seen below, the Emerging Township Activity Centre is only applicable if it is identified as an activity centre related to the definition in the relevant concept plan, see extracts from the Code **below**.



*‘advocating for all independent owners of Foodland; IGA and Friendly Grocer supermarkets in South Australia’*
PO BOX 2176, KENT TOWN SA 5071 | **M:** [redacted] | **E:** admin@sairetailers.com.au | **ABN:** 82 804 971 951

**Concept Plan 17 Angle Vale**




**Concept Plan 17**
**ANGLE VALE**



*'advocating for all independent owners of Foodland; IGA and Friendly Grocer supermarkets in South Australia'*
PO BOX 2176, KENT TOWN SA 5071 | **M:** [redacted] | **E:** admin@sairetailers.com.au | **ABN:** 82 804 971 951

| | |
|---|---|
| Activity centre | Means land contained in a Local Activity Centre Zone, Suburban Activity Centre Zone, Suburban Main Street Zone, Township Activity Centre Zone, Township Main Street Zone, Urban Activity Centre Zone, Urban Corridor (Main Street) Zone, Urban Corridor Living Retail Subzone, Urban Neighbourhood Retail Subzone, Activity Node Subzone, Retail Activity Centre Subzone or in relation to the Emerging Activity Centre Subzone in the Master Planned Neighbourhood Zone or the Emerging Township Activity Centre Subzone in the Master Planned Township Zone, either:<br>(a) land identified for the purposes of an activity centre on a building envelope plan<br>(b) an activity centre nominated on a Concept Plan in Part 12 of the Code. |

However, in many circumstances, such as those identified in Concept Plan 17 Angle Vale, the Suburban Activity Centre (the blue dot) sits across more than one land parcel and in some cases multiple titles and therefore it is not clear which land parcel nor title the Suburban Activity Centre applies to.

**Given this ambiguity, the department has suggested that an application for a shop on these sites may have a Restricted Development Pathway. The intent is obviously to provide additional activity centres in this growth area, but the policy lacks clarity and thus the risk associated with a Restricted development pathway is most certainly hampering investment decision making.**

There needs to be far greater clarity in relation to the placement of the Suburban Activity Centres sites within Emerging Township / Emerging Activity Centre Zones and the land parcels and titles to which the Suburban Activity Centre 'blue dot' applies, see **above**.

## 2.0 Local & Neighbourhood Centre Planning

Whilst we generally support the suggested role of local government in leading the strategic response to the planning of lower order centres (i.e. Local and Neighbourhood Activity Centres) as recommended in the GARP (draft), there needs to be parity and consistency across local government in terms of how the retail catchment analysis is undertaken and in the implementation of activity centre network planning.

Councils acknowledge the absence of strategic retail planning creates challenges, yet there appears to be no urgency in undertaking retail planning and catchment analysis investigations to inform future Activity Centre Code Amendments.

The lack of clarity in the Planning and Design Code Concept Plans, especially in growth areas like Angle Vale, may result in a developer-led system instead of a planning-led one.

For successful delegation of activity centre network planning to local government, Councils need resources and prioritisation of retail catchment planning to meet local community needs.

## 3.0 Summary of Recommendations

Below is a summary of our recommendations, including;

- Encouragement for quicker implementation of retail planning catchment analysis to prevent 'out of centre' developments.



*'advocating for all independent owners of Foodland; IGA and Friendly Grocer supermarkets in South Australia'*
PO BOX 2176, KENT TOWN SA 5071 | **M:** [redacted] | **E:** admin@sairetailers.com.au | **ABN:** 82 804 971 951

- Greater scrutiny for retail developments that may undermine established centre networks, with proponents needing to demonstrate benefits outweighing negative impacts.
- Support the identification of proposed activity centres via the allotment parcel being shaded rather than the more ambiguous location of the current 'activity centre dot' on Concept Plan.
- General support for local government's role in planning lower order centres, but calls for consistency across local governments in retail catchment analysis and activity centre network planning.
- Urgency needed in retail planning and catchment analysis to inform future Activity Centre Code Amendments.
- Clarification required on intended locations of activity centres in Planning and Design Code Concept Plans, especially in growth areas.
- Local governments need resources and prioritization of retail catchment planning to meet local community needs.

## 4.0 Conclusion

Thank you for the opportunity to comment on the Assessment Improvements Code Amendment (draft) and we thank you for your obvious consideration of our previous comments on this important policy area.

We look forward to the final version of the Code Amendment being released and are keen to engage with PLUS regularly in relation to the implementation phase to ensure it achieves its intensions while ensuring a level playing field for the retail sector.

Yours sincerely

[redacted]

**Sam Zucco**

**Chairman**
**SA Independent Retailers**

[redacted]

**Matt Roberts**

**General Manager SA/NT, Food Metcash**

(On behalf on the 120 South Australian family owners and the 12000 South Australian employees).

4 March 2025

*Cc* *Hon Nick Champion, MP*
*Minister for Planning*



*'advocating for all independent owners of Foodland; IGA and Friendly Grocer supermarkets in South Australia'*
PO BOX 2176, KENT TOWN SA 5071 | **M:** [redacted] **E:** admin@sairetailers.com.au | **ABN:** 82 804 971 951

e udiasa@udiasa.com.au
t 08 8359 3000
w www.udiasa.com.au

Urban Development Institute of Australia
(South Australia) Inc.
Level 1, 26 Flinders Street
Adelaide SA 5000

4 Marsh 2025

Submission – Assessment Improvements Code Amendment
Code Amendment Team
Planning and Land Use Services, Department for Housing and Urban Development
GPO Box 1815
ADELAIDE SA 5001

Via email: plansasubmissions@sa.gov.au

Dear Code Amendment Team,

**Assessment Improvements Code Amendment**

Thank you for the opportunity to comment on the draft Assessment Improvements Code Amendment (the Code Amendment) which implements some of the recommendations of the Expert Panel and builds upon the Miscellaneous Technical Enhancement Code Amendment.

The Urban Development Institute of Australia (UDIA) has been active in South Australia since 1971. As a member-based organisation, the UDIA is powered by the contributions and deep involvement of many leaders and experts in the field of development. Reflecting this expertise, the UDIA is a powerful and insightful voice on development matters, particularly in relation to initiatives for homebuyers, urban developers, professionals and others who are involved in the sector. More broadly, the UDIA is an advocate for effective growth planning and liveability in all areas of the State.

The UDIA generally supports the Code Amendment in so far as it seeks to clear up various ambiguities that have troubled the system in the past. It is important that the Commission remains agile in responding to issues that are identified by the Courts and others in seeking to interpret the Code. Put simply, words matter. The remainder of this submission considers aspects of the Code Amendment under the headings of; rules of interpretation, building height, EPA referrals, primary street, covered car parking spaces, performance assessed development –relevant policy considerations, performance assessed development – TNV policy weight, and policy updates – Australian Standards.

**Rules of Interpretation**

The UDIA has in the past made submissions about clarifying the direction that is given to relevant authorities on whether a separate assessment against the corresponding Performance Outcome (PO) is still required in circumstances where a Designated Performance Feature (DPF) is met.

It remains the case that relevant authorities continue to cite failures to comply with a PO as a reason for refusal even though the corresponding DPF has been met. In our view it should be sufficient for an applicant to meet the DPF, and an assessment against the PO should only be required where the DPF is not met. To do otherwise is to undermine the purpose of having a DPF in the first place.

Indeed, in some policies there is a disconnect between the wording of the PO and the apparent intent of the DPF. By way of example, we are aware of a development in a Designated Area being refused by an Assessment Panel on the basis that it does not provide enough car parking to meet anticipated demand notwithstanding that the prescribed minimum number of parks have been provided. Because the Code deliberately seeks a lesser rate of car parking in a Designated Area, such developments will invariably fail on an assessment against anticipated demand. That would appear to defeat entirely the apparent purpose of having Designated Areas to drive efficiency in shared car parking and increase reliance on public and alternative modes of transport.

The Rules of Interpretation should be amended to make satisfaction of a DPF sufficient to meet the PO. Plainly, where a DPF is not met an assessment against the PO will be required.

**Building Height**

The UDIA has long advocated for the definition of building height to be amended and welcomes the new definition which will ensure that height is measured in a vertical plane.

We request that the definition be further improved by clarifying that lift overruns and stairwell protrusions be excluded from the calculation of building height.

This is presently a cause of some ambiguity and has potentially significant procedural ramifications as the calculation of building height is often a trigger for public notification.

The exclusion of lift overruns and stairwells is, in our submission, logical and sensible, noting that:

- lift overruns and stairwells do not meaningfully add to the visual bulk of buildings, are typically a fraction of the area of the building and are typically set in from the roof edge so as to not be prominently visible;
- excluding those features from the definition of building height does not exclude them from a planning assessment. Matters of design, overshadowing and potentially wall height will all need to be considered.
- If lift overruns and stairs are included in the calculation of height it will discourage designs which preserve easy access to roof areas, discouraging the creation of roof top gardens and other future uses of roof areas.

**EPA Referrals**

The UDIA supports the Environmental Protection Referral amendments. The removal of the land division referral criteria in particular is noted by members as a progressive outcome given their feedback that existing referrals typically identify no issues. The UDIA also supports the referral purpose terminology amendment to an affirmative position of whether a proposed development 'would have an adverse impact on water quality'. The amendment places the onus on the EPA to verify the anticipated adverse impacts, which is considered beneficial for applicants.

**Primary Street**

The inclusion of a contextual primary frontage assessment test relevant to allotments with two or more street frontages (in place of the existing shortest frontage criteria) is supported by the UDIA. The contextual assessment enables the facilitation of improved streetscape presentation and greater site efficiency given the opportunity to identify the primary street with dwelling design. The UDIA also supports the absence of referencing the site's postal address or vehicle access points as being relevant when determining the primary street.

**Covered Car parking spaces**

The UDIA supports to the opportunity to not incorporate a covered car parking space for each of the dwelling classes defined within the Code. We note that the policy intention includes the expectation that the car parking space is located behind the main face of the dwelling (Design DTS/DPF 19.2). We anticipate the intention of this policy in part is to ensure that should a later carport or garage application be submitted, there is an opportunity for that structure to not dominate the dwellings streetscape presentation. However, we do foresee some technical difficulties with the policy:

- While the UDIA is in strong opposition to the implementation of the minimum garage dimension specified within the Vehicle Parking Amendment Bill, with our detailed response provided separately and an item for discussion at the Minister's Liaison Group Meeting on 7 March, we note that the minimum dimensions outlined within DTS/DPF 19.2 do not align with those referenced within the Vehicle Parking Amendment Bill. The DTS/DPF 19.2 (c) car parking space width of 3 metres is particularly relevant. The Code Amendment will result in an uncovered space located adjacent to the dwelling that is not able to accord with the garaging dimensions of the Vehicle Parking Amendment Bill should an application be lodged at a later date. This inconsistency highlights the unorderly Legislative intentions of the Vehicle Parking Amendment Bill in stipulating design criteria beyond that of the Planning and Design Code, a position which will be put in detail through the continued consultation on that Bill. The inconsistency will inhibit the future development of carports and garages where an uncovered space is provided.
- We note that DTS/DPF 19.2 (e) refers to the need for the uncovered space to be 'located behind the main face of the dwelling'. Where the dwelling is contained within a residential flat building, the expectation that the space be located behind the dwelling may deter the opportunity for creative development solutions where common uncovered car parking areas may be appropriately located, though not behind a specific dwelling. While we recognise the DTS/DPF 19.2 is a guide to inform PO 19.2, we request the provision of further flexibility and clarity within the DTS/DPF regarding uncovered car parking associated with residential flat buildings. A clarification within DTS/DPF 19.2 (e) that the spaces are able to be located behind the main face of a residential flat building(s) is recommended.

**Performance Assessed Development – Relevant Policy Considerations**

The Code Amendment recommends that Part 1 – Rules of Interpretation [Application of Policies to Performance Assessed Classes of Development] is amended to clarify:

- For all development classes listed in Table 3 (for every zone), only those polices identified are relevant to the assessment and that other Code policies can be only used for contextual, interpretation purposes.

- Those development classes not listed are to be assessed against:
  - All polices in Zones, Subzones and Overlays that spatially apply
  - All general development polices

It is understood that the key change is reflected in the words underlined above. It is also understood that this change is intended to reflect recent ERD Court rulings.

The UDIA acknowledges the need for the Code to be amended to reflect or react to relevant case law.

The UDIA considers that extreme caution should be used ensure that this proposed change is not misinterpreted to mean that Code provisions not directly applicable to a development proposal can be used as grounds for refusal of a development proposal.

It is therefore suggested that the proposed wording be amended to make this even clearer as follows (new suggested wording again underlined):

- For all development classes listed in Table 3 (for every zone), only those polices identified are relevant to the assessment. <u>Other Code policies can be only used for interpretation purposes and not as grounds for refusal.</u>

**Performance Assessed Development – TNV Policy Weight**

The Code Amendment recommends that the Rules of Interpretation related a to Designated Performance Feature (DPF) are amended to clarify:

…that a numeric value forming part of a DPF serves to guide a relevant authority, and is not a mandatory requirement in the case of a performance assessed development.

The UDIA has always been concerned that the quantitative values in DPFs would be used as mandatory tests of the acceptability of a development proposal. That has indeed been the experience of many of our members interacting with different Councils and different assessing planners across a range of development scenarios and applicable DPFs. It is all too often the case that any variation from the quantitative figures in DPFs is viewed as being fatal to a development proposal.

Therefore, the UDIA strongly supports this element of change to the Code where emphasis is given to the non-mandatory nature of DPFs. They are but one way of satisfying the associated Performance Outcome.

**Policy Updates – Australian Standards**

The Code Amendment recommends that Part 1 – Rules of Interpretation are amended to clarify:

…the circumstances under which a Code policy may be amended under section 71(e) of the PDI Act to reflect the requirements of an Australian Standard.

The Code Amendment states that the reasons for this is to enable updates to a relevant Australian Standard to be reflected in Code policy in a timely manner without the need to undertake a full Code Amendment.

Australian Standards relating to design elements such as off-street parking can have a significant impact on the design of development. The Code Amendment states that on-line consultation occurs when Standards Australia intend to amend an Australian Standard.

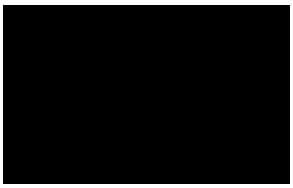
The UDIA is concerned that the community engagement for changes to the Australian Standards may not be as comprehensive and transparent as the community engagement process for a Code Amendment. This may result in changes to Australian Standards and, in turn, the Code without adequate input from peak bodies such as the UDIA.

Before giving its support to this proposed change, the UDIA seeks assurance that the community engagement for changes to the Australian Standards is as comprehensive and transparent as the community engagement for Code Amendments.

The above considerations and details summarise the industry position on the Code amendment. The UDIA reiterates its general support for the Code Amendment and thanks Planning and Land Use services for undertaking this work of continual improvement to ensure a functioning and efficient planning system.

Thank you once again for the opportunity to comment on the draft Code Amendment. Through direct engagement with our members, we have reviewed the Code Amendment leading to the above observations. I am more than happy to discuss the above submission or other matters associated with the changes as required.

Yours sincerely



Liam Golding
**Chief Executive**

11 March 2025

The Hon. Mr Nick Champion MP
Minister for Housing and Urban Development
GPO Box 11032
ADELAIDE SA 5001

Dear Minister

PROPOSED ASSESSMENT IMPROVEMENTS CODE AMENDMENT

I write to you in relation to the Assessment Improvements Code Amendment, which is currently under consultation and for which Master Builders SA (MBASA) has sought an extension until 11 March 2025.

The proposed Code Amendment provides opportunity to respond to anomalies in the Planning and Design Code that have surfaced over the last four years post-implementation of the Code through, among other things, testing in the Environment, Resources and Development Court (ERD), based on established case law.

Master Builders SA (MBASA) supports continuing improvement of the Code to make policy clear and readily able to be understood by end users. There has been significant discourse about some of the problematic and confusing language in the Code since its implementation. Tidying up this is essential to make assessment clearer and reduce cases of matters having to be determined in a costly and time-consuming ERD Court process.

The *Jahk Enterprises v City of Campbelltown* matter, for example, was a four-day appeal and cost Campbelltown Council and the applicant combined, more than $100,000 in expert reports, legal fees and court costs, largely due to the problematic language concerning what a domestic and personal services establishment entailed. In addition, there was deliberation about what population catchment a non-residential use in a neighbourhood-type zone should serve.

If anything, MBASA would like to see the process of Code policy responding to case law made much simpler. This would enable the tidying up of problematic language within the Code, without having to go through an exhaustive community engagement process. A truncated engagement process in which planners, industry experts and representatives, together with planning lawyers all combine to implement these types of changes would be better than a process in which non-experts are able to participate on highly technical matters.

MASTER BUILDERS SA
Built on Strength

## THE LESSONS OF JAHK ENTERPRISES V CITY OF CAMPBELLTOWN

One aspect that was lost in the transition to the PDI Act was the concept of commercial land uses. Land uses such as car washes, bulky goods outlets, and service trade premises, generally sat within the umbrella of these types of uses, and within designated Commercial zones in the former system. There is clear distinction between Centre zones, in which most shops operate, and Employment Zones, which are more "industrial" in character. The policy aims to be more flexible generally than that of former Industry zones, to allow commercial type uses and advanced technology and trade training, which has been a benefit.

However, the problem, as seen with the *Jahk Enterprises case*, is that Neighbourhood zones have also become more flexible to more readily allow for shops and commercial uses. This has created confusion about the types of non-residential uses actually appropriate alongside residential development. In addition, there is some confusion about the definition of shop in the first place, with the modified definition provided in Part 7 of the Code. This definition is being tightened in the proposed Code Amendment, which we support.

Another significant discussion point in the *Jahk Enterprises case* has not been tackled in the proposed changes. The Commissioner was critical of the language concerning "neighbourhood" in the concept as to what population a shop in a Neighbourhood zone should service. GNZ DO 1 States:
*Low-rise, low and medium-density housing that supports a range of needs and lifestyles located within easy reach of services and facilities. Employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising residential amenity.*

Replacing the word "employment" with *Small-scale shops, offices and community service uses,* would entrench the fact that uses found in employment zones are not what is contemplated. This includes such enterprises as car washes and other commercial enterprises.

There was significant discussion in *Jahk* during the appeal, about what so-called "neighbourhood" non-residential uses should service. Neighbourhood has no definition in the Planning and Design Code and there was discussion as to whether the neighbourhood actually meant the General Neighbourhood Zone. The intent is clearly that smaller scale shops in these zones service local populations generally within walking distance (refer PO 1.1). That could be better conveyed in the Desired Outcome using language that is less confusing. The concept of locality is well-tested in the ERD Court and each expert planning witness must define their locality when presenting to the Courts.

Perhaps the wording could therefore be:
*Small-scale shops, offices and community service uses contribute to making predominantly residential localities convenient places to live without compromising residential amenity.*

The argument against the proposal expressed in *Jahk Enterprises*, critiqued the car wash as very much a "passer-by" catchment type land use. The authors of the Code clearly wanted small shops to be the focus when opening up residential areas for more flexibility in land use within neighbourhood zones.

The fundamental idea in moving from "Residential" Zones and Policy Areas to "Neighbourhood" zones was to reinvigorate the "corner shop" culture of years gone by, with walkability to nearby services that can facilitate better community interaction and provide for the day-to-day services that benefit local communities.

The intent is reflected in Performance Outcome (PO) 1.1:
*Predominantly residential development with complementary non-residential uses that support an active, convenient, and walkable neighbourhood.*

Unfortunately, the language in the Desired Outcome (DO 1) of the General Neighbourhood Zone in the case of *Jahk Enterprises,* and the other supporting Performance Outcome 1.4 (which speaks to "Commercial activities"), were found not to appropriately convey this concept. This included misuse of the word "employment" uses, which perceivably has a connotation of affiliation to Employment zoning. Clearly, industrial and commercial type land uses are not appropriate land uses in Neighbourhood zones. While the discussion was not reflected so strongly in the judgement, the court transcripts strongly highlighted this problem.

As such, further to the land use definition of shop being changed, which we strongly support, MBASA recommends that the aforesaid changes are made to the Zone DO and PO 1.4 are to truly encapsulate the original intent of the authors.

## MORE ORGANISED INFILL THAT RESPONDS BETTER TO LOCALITIES WHILE INCREASING HOUSING CHOICE AND BETTER HOUSING AFFORDABILITY

Much of the common criticism of infill has concerned its impacts beyond the boundaries of sites, such as overshadowing, removal of trees, and depleting on-street parking. The result of this has been a number of policy initiatives of the Malinauskas Government to combat each of these factors. However, these measures are subject to political agendas of inner-ring Councils. What is needed is the taking of a holistic approach to make infill work better within localities.

Post-war allotment dimensions and how policy has dealt with infill over many years has created challenges for settlement patterns. Traditionally, infill has resulted in "long-skinny" designs for terrace housing, or "townhouse down a site "developments.

At present, most neighbourhood zones lack a policy mechanism that encourages amalgamation to larger "catalyst" sites in which spatial arrangements can be more orderly and car parking, landscaping, and other aspects can be better internalised to the development site.

It is therefore recommended that catalyst sites are introduced more widely as a concept through the Planning and Design Code and policy is provided to support site amalgamation of sites for more orderly infill.

As mentioned earlier, there are many very large sites in metropolitan Adelaide within neighbourhood zones that are appropriate for a more compact and diverse form of infill development than the quantitative criteria in the Designated Performance Features of the Code provisions envisage. While meeting DPFs is not mandatory for achieving the performance outcomes, there are still many Council planning authorities that apply significant pressure on these, in particular in relation to building height and site area. Therefore, some more specific policy to facilitate more compact and diverse urban form on larger development sites would be helpful, as these sites offer the best opportunities for the most orderly form of infill development.

One potential solution is to define "Catalyst" and "Masterplanned Catalyst" sites and provide a Desired Outcome in each of the Neighbourhood Zones (excluding Rural Living and Rural Neighbourhood). This would identify catalyst sites as important to realise the State-wide planning goals of a more diverse, inclusive community. It would provide a variety of housing to meet the needs of all people, rather than the current piecemeal infill development.

Many of Adelaide's post-war suburbs comprised allotments of between 600 and 800 square metres ($m^2$) and frontages between 15m and 20m where remnant allotment patterns remain. Combining two such allotments or more for development could materially improve the functional aspects of redeveloping a site for infill development. Therefore, some concessions on building height, frontage, and site area could help these sites better cater for the "missing middle" varying building typologies desired by the Government.

It is therefore suggested to insert the following definitions into Part 7 of the Planning and Design Code:
*Catalyst site*: means any development *site* within a development application for infill development (whether or not there is more than one existing land parcel) that includes wholly or predominantly dwellings that are not less than 1400$m^2$ and have a single road frontage of at least 25 metres, or where multiple road frontages are provided, at least one road frontage being 20 metres which is within 400 metres of any of the following:

- a high frequency transit route,
- public open space greater than 2000 square metres
- an Activity Centre

*Masterplanned Catalyst site*: means *site* within a development application to be assessed by the State Planning Commission for infill development (whether or not there is more than one existing land parcel), that is not less than 5000$m^2$ and having a single road frontage of at least 40 metres, or where multiple road frontages are provided, at least one road frontage being 30 metres and which is within 1 kilometre of any of the following:

- The City of Adelaide Local Government Area, an Urban Activity Centre, Urban Corridor (Main Street) or Suburban Activity Centre Zone
- a high frequency transit route,
- public open space greater than 5000 square metres

Specific policy could make provision for the exclusion of sites containing heritage places, or within the historic area overlay, being excluded from the Masterplanned Catalyst site assessment pathway.

Assessment Path for Masterplanned Catalyst site application:
An assessment pathway for Masterplanned Catalyst sites should be provided whereby any application comprising a Masterplanned Catalyst site is assessed by the State Planning Commission. The developer would provide a a combined application for built form and the division of land, and would be assessed in a similar manner to the previous non-complying development stream. The applicant would provide A Statement of Support with a "concept plan" to support the application.

This would require a change to the Planning, Development & Infrastructure Regulations and a Practice Direction for the administrative process to assist prospective applicants. The applicant would need to demonstrate how the proposal would respond to State planning policies, and take into account the locality, specific considerations that support the need for a more compact and diverse urban form than otherwise contemplated in the relevant Zone, and demonstrate a minimum of 15% affordable housing provision. There would be incentives in the form of policy concessions for more affordable housing than this.

The purpose of the Masterplanned Catalyst site related path (as opposed to Catalyst site) could be to provide more specific policy that places greater importance on high quality design and planning outcomes. It would also allow the greatest level of variation from numerical minimums in the relevant Technical and Numeric Variations in a particular zone and area.

In instances where the application is not deemed to meet the criteria for the relevant assessment pathway to be able to be assessed by the Commission, the applicant should be given the opportunity, via a redirection at the verification stage, to a relevant authority (Council Assessment Manager for example) for assessment as a catalyst site development. This could theoretically work in a similar manner to how an authority that is selected incorrectly in the Portal can direct the application to the correct authority.

A sliding scale on the concessions for site area and building height could be provided for policy in relation to Masterplanned Catalyst sites that enables greater concessions if there are more environmentally sustainable and socially responsible designs and planning measures adopted but allow greater flexibility with regard to quantitative provisions. This will promote something like the "Nightingale" developments that have evolved in Melbourne (car-free apartment developments with high affordable housing provision).

Because of the emphasis on design quality, a design review process in the Commission should be provided as part of the process, after the Statement of Support has been accepted and the application proceeds as a Masterplanned Catalyst site assessment with the suite of plans required for lodgement.

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MBASA propooses that Catalyst Site policy is introduced in the "Design in Urban Areas" module, specifically identifying the need for appropriate orientation, incentives for "above ground" dwellings, minimising the number of access points to existing roads, and providing canopy trees that balance the effect of taller buildings and provide visual softening and separation between higher buildings and established adjacent dwellings.

**Assessment for a Catalyst site application:**

MBASA suggests that if the Commission does not proceed with the application for a Masterplanned Catalyst site, it assigns the application to the relevant Council in which the land is located, and the site is taken to be then a 'catalyst site'.

The following performance outcomes should be inserted into the General Neighbourhood, Suburban Neighbourhood, Housing Diversity Neighbourhood, Waterfront Neighbourhood, Hills Neighbourhood (except where located within a Medium or High Bushfire Hazard Overlay area),

*PO 1.3*

*Residential and mixed-use development comprising predominantly dwellings on catalyst sites providing a greater mix of housing close to open space, public transport, activity centres and community facilities to enhance community access to services and increase affordable housing.*

*DTS/DPF 1.3 Medium and higher density residential development located where any one of the following is satisfied:*

1. *within 400m of an activity centre*
1. *within 400m of a high frequency public transit service*
1. *adjoining public open space greater than 2000m² (including where the site would adjoin if not separated by a public road)*

*PO 3.1*

*Other than development on catalyst sites, in which case-built form may be higher than nearby buildings but scaled down within 6 metres of development site boundaries shared with adjoining properties, building height is consistent with the form expressed in any relevant* Maximum Building Height (Levels) Technical and Numeric Variation l*and* Maximum Building Height (Metres) Technical and Numeric Variation layer, *or is generally low rise, or complements the height of nearby buildings.*

*DTS/DPF 3.1*

*Building height (excluding garages, carports and outbuildings) is no greater than:*

1. *the following:*

| *Maximum Building Height (Metres)* |
|---|
| *Maximum building height is XXXm* |

| *Maximum Building Height (Levels)* |
|---|
| *Maximum building height is XXX levels* |
| |

*b. in all other cases (i.e. there are blank fields for both maximum building height (metres) and maximum building height (levels)) - 2 building levels up to a maximum height of 9m or in the case of a catalyst site, 3 building levels and maximum height of 12m.*
*In relation to DTS/DPF 3.1, in instances where:*

1. *more than one value is returned in the same field, refer to the* Maximum Building Height (Levels) Technical and Numeric Variation *layer or* Maximum Building Height (Meters) Technical and Numeric Variation *layer in the SA planning database to determine the applicable value relevant to the site of the proposed development.*
2. *only one value is returned for DTS/DPF 3.1(a) (i.e. there is one blank field), then the relevant height in metres or building levels applies with no criteria for the other.*
3. *The development occurs on a catalyst site, the maximum stated in part (a) can be increased by one building level or by 3 metres, whichever applies, or in the case where part (b) applies, 3 building levels and a maximum height of 12m, with development above the heights stated in part (a) or part (b) not within 5 metres of the side and rear boundaries of the development site, or 6 metres in the case of a southern boundary.*

Policy should be provided with specific difference between Masterplanned catalyst sites and catalyst sites to highlight the greater number of features able to be incorporated into larger development sites, and the greater concessions to TNVs applicable.

A masterplanned catalyst site should not have a stated minimum site area with the designated performance feature, but mandate a minimum diversity target of not less than 2 different categories of dwellings and not less than 15 percent affordable housing and incentives for other types of housing, including universal housing.

## CHANGES TO STORMWATER MANAGEMENT OVERLAY

Master Builders SA commends the State Government for removing reference in Stormwater Management Overlay policy to hot water system as a means to direct roof water. MBASA called for this change in its GARP Discussion Paper 2023 submission and this change is most appreciated as such a policy promoted non-compliance with AS 3500.1, “the plumbing code”.
However, the second part of the MBASA comments at the time have not been taken onboard, so it is reiterated that DTS/DPF 1.1(b) of the Overlay is flawed.
Part (b) of the Stormwater Management Overlay with a requirement for the roof area of dwellings to comprise not less than 80% of the impervious area on the site does not make any policy sense.
The attainment of a minimum 80% dwelling roof coverage total impervious surfaces is, for many dwellings, inherently difficult when one proposes a dwelling on a subdivided site and there is a minimum 900mm perimeter pathway *(as required by the Building Code with falls away from footings) and a standard width driveway. This will soon increase to not less than 3.5m if the Government’s Garages and Parking Bill proceeds. Furthermore, the way to achieve the 80% threshold is often to increase the eaves width and then just vary the application at building rules consent stage through a Regulation 65 Amendment.

The policy serves no planning purpose not already achieved by other policy and does not correlate to the Performance Outcome, seeking to:

*PO 1.1*

*Residential development is designed to capture and re-use stormwater to:*

a. *maximise conservation of water resources*
b. *manage peak stormwater runoff flows and volume to ensure the carrying capacities of downstream systems are not overloaded*
c. *manage stormwater runoff quality.*

Part (a) of the DPF/DTS criteria outline the size of retention/detention tank dependent on the site area and the percentage of impervious land. The PO is attained by Part (a) without Part (b) being required. Limiting the proportion of the dwelling roof area to overall impervious area does not directly correlate to managing peak flows.

If the planning intent is to limit the amount of impervious area comprised by roof areas on any particular site, the site coverage provisions are already in place to deal specifically with this issue and there is no loophole to avoid these.

Site coverage is designed to limit the total built footprint on sites, presumably to also limit stormwater output from sites, but the Performance Outcome relevant to site cover does not specifically mention this as one of the reasons to limit coverage.

The site coverage provisions are called into the assessment for any additions, sheds and ancillary roofed structures. These are Zone specific and relate to the type of dwelling.

Overall, SW Management Overlay DPF/DTS 1.1 Part (b) serves no purpose other than create complexity in the documentation and assessment. Master Builders suggests removal of this altogether.

## TRADE TRAINING CENTRES

Master Builders SA commends the State Government for providing a definition for trade training centres, as recommended in the MBASA 2023 GARP Discussion Paper submission.

## BUILDING HEIGHTS AND PRIMARY STREET DEFINITIONS

Master Builders SA supports the changes to the definition of building height as well as the simplified primary frontage definition proposed in the Code Amendment.

Policy that takes into account the averaging of that secondary frontage setback and the primary front setback of the building facing the same street as the proposed dwelling is favoured.

## SUMMARY

MBASA supports the changes proposed in the Code Amendment, which seek to reduce confusion in policy and respond to case law. It is reiterated there are opportunities to further enhance the workability of the Code policy and drive a more holistic approach to infill with catalyst sites being encouraged, as suggested in this submission. This will help relieve the housing crisis of critical pinch points in established areas, where the next generations cannot get into the market due to recent significant price increases.

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If there are further workshops in which MBASA can participate on policy improvements this would be of great interest to our organisation.

Thank you in advance for your consideration of this submission. If you have any questions or would like to discuss, please contact me on 0422 052 728.

I look forward to your response and opportunity to meet and discuss further.

Yours faithfully,

[redacted]

**Will Frogley**
Chief Executive Officer, Master Builders SA

**Property Council of Australia** ABN 13 00847 4422
**A** Level 4, 91 King William Street, Adelaide SA 5000
**T** +61 8 8236 0900
**E** info@propertycouncil.com.au
**W** propertycouncil.com.au
@propertycouncil

4 March 2025

State Planning Commission
GPO Box 1815
Adelaide SA 5001

plansasubmissions@sa.gov.au

Re: Assessment Improvements Code Amendment

The Property Council of Australia is the leading advocate for Australia's largest industry – property.

Our members have a direct interest in ensuring that planning reform delivers outcomes that increase housing supply, innovation and flexibility in housing choice for the markets they serve.

We therefore thank the South Australian Government for the opportunity to provide feedback on the proposed Assessment Improvements Code Amendment.

The Property Council made a submission in 2022 to the Planning System Implementation Review Expert Panel (*the Stimson Review*). We understand that this Code Amendment process builds on the work of the Expert Panel along with the Miscellaneous Technical Enhancements Code Amendment.

We thank you for your consideration of this submission.



Bruce Djite
SA Executive Director,
Property Council

## Introduction

The Property Council understands that the Code Amendment applies to the whole of South Australia and that it is focused on technical matters related to the policies and wording within the Code related to:

- Part 1 – Rules of Interpretation
- Part 2 – Zones and Sub Zones
- Part 3 – Overlays
- Part 4 – General Development Policies
- Part 7 – Land Use Definitions
- Part 8 – Administrative Terms and Definitions
- Part 9 – Referrals

We also understand that the Code Amendment will assist in the delivery of some of the recommendations outlined in the Final Report of the Expert Panel including:

- Covered Car Parking Spaces
- Heritage
- Language and Consistency
- Definitions
- Policy Applicability
- Car Parking Requirements

The Property Council's submission will focus on a select number of issues under 'Part 4 Investigations' of the consultation paper.

## Investigations – 4.1 Rules of interpretation

- Regarding Section 4.1.1 Performance Assessed Development – We note the intention for the proposed clarification of the rules of interpretation relating to Table 3 Performance Assessed Developments. It is however critical that all of the necessary provisions for the assessment of "Table 3 Developments" are in fact included in the Table. To the extent we note the matters of inconsistent policy linkages have been identified and proposed to be corrected in Section 4.2

- General point - The proposed changes in the Code Amendment fail to address the inherent issues that are currently being perpetuated by a conservative or potentially misconstrued reading/interpretation of Part 1 – Designated Performance Features. Under the heading of "Policies - Desired Outcomes and Performance Outcomes", the following text is used for the interpretation of how to apply Designated Performance Features (DPF):

    - *"In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the*

*corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies."*

There is an interpretation being promoted that suggests if you meet a DPF then you may not have necessarily met the corresponding PO because of the use of the words *"generally considered to satisfy the corresponding performance outcome"*.

We submit that this interpretation undermines the structure and intent of the Planning and Design Code and is inconsistent with the worldwide application of Performance Based Planning Policy, which is premised on the basis of, if you meet the corresponding Standard Acceptable Criteria you meet the Performance Based Outcome. If it was to be read otherwise, there would be no role for the fact that the DTS and the DPF represent one and the same criteria.

Some planning authorities assert that even if you meet the standard outcome in a DPF you do not necessarily achieve the corresponding Performance Outcome. It is entirely reasonable for applicants for consent to be afforded the security of knowing that if they design a development which meets a DPF that they will achieve the corresponding PO. To do otherwise defeats the purpose of the DPF.

- Additional General Comment - The Property Council also encourages amendments to be made to the Rules of Interpretation which clarify what consideration is to be given to Character Area Statements. To explain:

    - PO 1.1 of the Character Area Overlay provides as follows: *All development is undertaken having consideration to the valued attributes expressed in the Character Area Statement.*

    - Character Area Statements then contain a table with various attributes in localities. To give an example, in one of the CAS's it says: *Architectural styles, detailing and built form features – still some remaining examples of bungalows west of the railway line.*

  What is the relevant authority to do with this in their assessment? Providing clarification about what Character Area Statements mean, what their intent is and how the relevant authority is to practically give consideration to them a planning assessment will greatly assist.

## Investigations – 4.2 Language, Consistency and Policy Applicability

- Regarding 4.2.1, the Property Council would strongly support the recommendation. From a statutory interpretation point of view, clarifying the use of 'And' and 'Or' is critical to ensure the proper and most efficient implementation of the DTS/DPF provisions in all policies.

The clearer the policy is the more consistent the approach is from the relevant authority and will minimise the risk of differing interpretation in decision making under the PDI Act. Whilst the Property Council generally agrees in principle it will of course be necessary to see the details of the where 'and/or' is applied in respect of the specific policies.

- 4.2.5 Without doing a whole of Code audit it is difficult to comment on the specific inconsistencies that have been identified for the amendment, however the Property Council endorses the correction of errors in documentation of policy.

- 4.2.13 The Property Council endorses the clarification of the misconstrued interpretation associated with the application of marked accessible car parking.

- 4.2.14There is an inherent disconnect between the application of *the Planning Development and Infrastructure Act 2016* and the inclusion of policy or tightening of policy associated with the display of third-party advertising.

  An advertisement is clearly able to be considered as a "Land Use" by virtue of its inclusion under PO1.1 in most commercial zones relating to the types of land use that are considered to be appropriate in the respective zone. The Development Regulations clearly exempt the change in the content of a sign from the definition of Development.

  The inclusion of Policy seeking to limit "Advertising Content" (PO3.1) in the General Policies Section of the Code and more specifically any changes to such Policy undermines the fundamental framework of the Act and Regulations that do not seek to control the content of advertising signs.

  Given that advertisements are a clearly anticipated land use and that third party advertisements are a legitimate and lawful business operation, explicit acknowledgement of the existence of third-party advertising should be made in the Code via this Code Amendment process.

  We suggest the following changes:

  - PO3.1 should be deleted in its entirety and the control of signage should be limited to a contextual assessment of size and number to manage any concern regarding "Visual Clutter".

  - Explicitly allow third party advertisements by defining the same.

  - Provide guidance to applicants as to appropriate locations for such development which could include limiting third party advertising to:
    - State Maintained Roads
    - Centre Zones
    - Employment/Strategic Employment Zones; and
    - Avoiding Neighbourhood-Type Zones.

  - Ensure there are no DTS/DPF criteria applicable to third party advertising applications to make it abundantly clear to planning authorities that a performance assessed outcome is to occur.

- General Point - Definition – Trade Training Facility: While the Property Council endorses the ability for greater certainty in understanding definitions for land uses, it is noted that "Training Facility" is not defined. The introduction of a sub-category to an undefined Land Use Term, which is referenced throughout the land use tables/PO of the Code, could do with greater explanation.

## Investigations – 4.5 Administrative Terms and Definitions

- 4.5.1 – Building Height Definition: The Property Council supports the intent to provide greater clarity to the Building Height Definition in order to avoid ambiguity, however the changes to the definition do not currently provide sufficient clarification. Specifically, where horizontally on a site is the newly identified "reference point" to be identified? Is that to be taken at the lowest natural or finished ground level of the "site", or from the point, directly below the highest point of the building? This is currently not clear from the changes made to the definition. We do not believe that the illustration (Column C) currently affords sufficient guidance to the interpretation of this definition as it fails to include examples associated with cut or fill nor does it include a building to reference the height from. Furthermore, the list of excluded examples for being included in the measurement of building height should be expanded to include roof top plant and equipment, lift overruns and the like, all of which are elements that have previously been excluded by reference in specific Development Plans and are all relatively minor built form elements that are typically located above the finished roof height.

  The proposed amendment to the definition of "building height" is partly helpful, although it does not address lift overruns and fire stairs.

  Lift overruns and fire stairs do not meaningfully add to the visual bulk of buildings, are typically a small fraction of the area of the building and are typically set in from the roof edge so as to not be visible.

  The practical reality of not allowing lift overruns and fire stairs to be excluded is that it discourages the creation of roof top gardens and other future uses of roof areas.

  Having regard to the above, the Property Council strongly encourages further amendment to the definition of "building height" such that lift overruns and fire stairs are excluded from the measurement. This could readily be achieved by the following additions to the list of things that are not included in the existing definition – i.e.

  - *Means the maximum vertical distance between the lower of the natural or finished ground level or a measurement point specified by the applicable policy of the Code (in which case the Code policy will prevail in the event of any inconsistency) at any point of any part of a building and the finished roof height at its highest point, ignoring any antenna, aerial, chimney, flagpole or the like. For the purposes of this definition, building does not include any of the following*:

*(a) flues connected to a sewerage system*
*(b) telecommunications facility tower or monopole*
*(c) electricity pole or tower*
*(d) lift overruns*
*(e) fire stairs*
*(f) or any similar structure.*

- 4.5.2 – Primary Street Frontage Definition: The Property Council is not convinced that the amendments to the definition for Primary Street frontage for Corner Sites are yet to satisfactorily address the need to define primary street frontage. The use of the term primary street frontage is typically used to assist in assessing street setbacks to ensure that where there is need for consistency of street setbacks to maintain character, those setbacks are recognised and responded to accordingly. The proposed changes will undermine the current policy intent.

## Investigations – 4.6 Targeted Policy Updates

- 4.6.1 Local Heritage Place Demolition Policy: The proposed wording changes to Local Heritage Demolition Policy undermines the fundamentally hierarchical nature of Heritage Policy which has over time become more blurred. The heritage hierarchy comprising State Heritage Areas, State Heritage Places, Local Heritage Places, Historic Conservation Areas, Representative Buildings, Character Areas. Elevating the demolition policy to include the same wording utilised for the consideration of the demolition of State Heritage items erodes the hierarchy to the extent of questioning whether there is a need to distinguish between State and Local Heritage items. The Property Council supports the need to maintain and distinguish the different values of a State and a Local heritage place and accordingly policy associated with the demolition of such places, where appropriate, needs to be able to distinguish the criteria and reasons as to when such demolition may be warranted.

- In addition and not included within the Code amendment but requiring attention is clarification associated with the terminology "Partial Demolition" where it is used as a trigger for public notification. Currently, the application of this trigger would involve any extent of demolition no matter how minor, associated with changes or amendments to the existing building, including where such demolition may be required to facilitate the restoration and maintenance of the building. This cannot be the intent behind the inclusion of this phrase into the public notification criteria, and as such the Property Council requests that the phrase "Partial Demolition" be further clarified by definition or other means.

12th March 2025

**Adelade Airport Limited submission to the Assessment Improvements Code Amendment**
*Sent via email: plansasubmissions@sa.gov.au*

Dear Chair,

Thank you for the opportunity to provide feedback on the Assessment Improvements Code Amendment.

**OVERVIEW**
This submission is provided on behalf of both Adelaide Airport Limited and Parafield Airport Limited ("**together AAL"**) as operators of Adelaide and Parafield Airports.

**DISCUSSION**
In principle AAL is supportive of:

- Improvements to enhance the South Australian Planning and Design Code
- Safeguarding airspace and ensuring developments comply with Commonwealth requirements

The airspace around Adelaide and Parafield Airports is protected under the Commonwealth *Airports Act 1996* (**the Act)** and the *Airports (Protection of Airspace) Regulations 1996 (**the Regulations)**.* The protection of airspace around both airports is essential to ensure that we maintain a safe operating environment which is free of obstacles and ensures air navigation equipment can operate free of interference.

Described as Prescribed Airspace, the legislation does not allow for degrees of intrusion into prescribed airspace, there is no capacity to consider something as a minor or significant intrusion, reflecting the importance of protecting the safe operating environment for aircraft.

The proposed amendments, namely the introduction of a minor development clause within the *Airport Building Heights (Regulated)* Overlay introduces ambiguity and cannot be supported for reasons noted above. There is no mechanism within the Federal legislation to allow for varying degrees of intrusion. That is, it is either an intrusion and requires referral and approval or it is not. The introduction of this minor development clause has the real potential to result in elements associated with a development intruding into prescribed airspace and creating a hazard to the safe operation of aircraft. This would occur in the absence of any due consideration from relevant stakeholders, including AAL, Airservices Australia, the Civil Aviation Safety Authority and the Secretary of the Department of Infrastructure, Transport, Regional Development and the Arts as authority ultimately responsible for approval.

AAL remains committed to working with the State Government on ways to improve and streamline the planning approval processes, however we are not able to support the current proposed amendment for the reasons outlined above. We understand the current approval process is onerous and has a protracted timeline for processing. AAL is already undertaking work with Airservices Australia, CASA and relevant Commonwealth agencies to develop an alternative process which would see simplified approval processes for developments meeting certain criteria. This is the most appropriate way to continue to safeguard airspace while also supporting increased development and unlocking economic potential of Adelaide's available land.

**CONCLUSION**

Adelaide Airport

Adelaide Airport Limited
1 James Schofield Drive
Adelaide Airport
South Australia 5950

T +61 8 8308 9211
F +61 8 8308 9311
adelaideairport.com.au
ABN 78 075 176 653

Thank you once again for the opportunity to provide a submission to the draft code amendments process. We look forward to continuing to work together on this and other related initiatives.

Yours sincerely
**ADELAIDE AND PARAFIELD AIRPORTS**



**Kym Meys**
**Executive General Manager Planning and Infrastructure**

03 March 2025

Ground Floor,
89 King William Street
GPO Box 2403
Adelaide SA 5001
PH: 08 8221 5511
W: www.futureurbangroup.com
E: info@futureurbangroup.com
ABN: 34 452 110 398

Mr Craig Holden
Chair, State Planning Commission
Via email: PlanSASubmissions@sa.gov.au

Dear Graig,

## RE: ASSESSMENT IMPROVEMENT – BUILDING HEIGHT CLARIFICATION

This firm acts for Chasecrown Pty Ltd (**client**), a respected design and development company that has delivered to market a number of significant medium and high rise development projects in South Australia.

We are instructed by our client to make the following submission in respect of the *Assessment Improvements Code Amendment* (**AICA**) being led by the State Planning Commission (**Commission**).

**Section 4.5.1 Building Height – Measurement Point Clarification**.

Our client is generally supportive of the intentions of the AICA which aims to, amongst other things, amend the definition of *Building height* as defined in Part 8 of the Planning and Design Code to provide clarity for relevant authorities, applicants and the community more broadly in relation to how *Building height* is measured.

We agree that the distance between the 'reference point' and the 'roof height at its highest point immediately above the reference point' is a more meaningful and practical way to measure building height as it better captures the visual legibility of buildings in a real-world context.

We also note that the definition for *Building height* as proposed by the AICA retains the following exclusions:

*(a) flues connected to a sewerage system*

*(b) telecommunications facility tower or monopole*

*(c) electricity pole or tower*

*(d) or any similar structure.*

We agree that these exclusions should be kept in the definition.

Notwithstanding, we suggest that the definition for *Building height* can be further improved by including a clear and specific **exclusion for lift and fire stair overruns**.

Based on our, and our client's considerable experience with a variety of medium and high rise development projects in South Australia, we can inform the Commission that the development assessment regime would benefit by not including lift and fire stair overruns from the measurement of *Building height* for the following reasons:

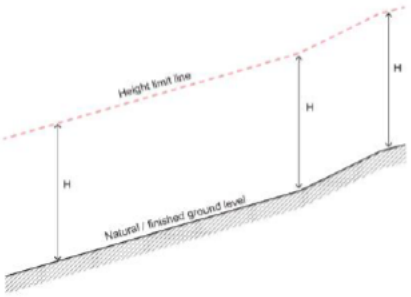
- the Code uses the term *Building height* in two primary contexts as follows:
  - » the first being a procedural
- lift and fire stair overruns do not meaningfully add to the visual bulk of buildings because these aspects of a building typically:
  - » occupy a very small fraction of the area of the overall building footprint.
    - for example, a lift overrun for a two lift system typically measures 16 square metres in area with the associated fire stair generally being similar in size. Based on our experience, the total area of the lift and fire stair core generally represents about 5 percent of the total area of a development site; and
  - » are set in from the edge of the roof and are not visible to an observer on ground level.

We also foreshadow that by not excluding lift and fire stair overruns from the methodology for measuring *Building height* as defined in Part 8 of the Code, the Commission may, unintentionally, discourage the creation of roof top gardens and other future uses of roof areas such as renewable energy installations and the like.

Having outlined the above, we suggest that the Commission amend the definition for *Building height* in Part 8 of the Code as follows:

**SEE OVERLEAF**

**Table 1** *Proposed wording in blue underlined*

| Term (Column A) | Definition (Column B) | Illustrations (Column B) |
|---|---|---|
| Building Height | Means the maximum vertical distance between the reference point ~~lower of the natural or finished ground level or a measurement point specified by the applicable policy of the Code (in which case the Code policy will prevail in the event of any inconsistency)~~ at any point of any part of a building and the finished roof height at its highest point immediately above the reference point, ignoring any antenna, aerial, chimney, flagpole or the like. For the purposes of this definition, building does not include any of the following:<br><br>(a) flues connected to a sewerage system<br><br>(b) telecommunications facility tower or monopole<br><br>(c) electricity pole or tower<br><br>(d) or any similar structure.<br><br>and / or whether combined or separate:<br><br>(a) lift core overrun<br><br>(b) fire stair overrun<br><br>NOTE: For the purposes of this definition, reference point means the lower of the natural or finished ground level or a measurement point specified by the applicable policy of the Code (in which case the Code policy will prevail in the event of any inconsistency) |  |

We would be pleased to meet with DHUD staff to further discuss this submission and to work through solutions which ensure the Code enables delivery of the excellent development outcomes in the manner anticipated by the State Government.

Naturally, should you have any queries please do not hesitate to contact me via email addressed to [redacted] or on mobile [redacted].

Yours sincerely

[redacted]

**Jason Cattonar**
Associate Director

| | |
|---|---|
| **From:** | Marc Duncan |
| **To:** | DHUD:PlanSA Submissions |
| **Cc:** | James Course |
| **Subject:** | Submission to the Assessment Improvements Code Amendment – Advertising Provisions |
| **Date:** | Saturday, 1 March 2025 12:51:09 AM |
| **Attachments:** | image001.png<br>23C292 - ITS - Part B Attachment 1 - Site Sheets - Billboard Advertising.PDF |

You don't often get email from [redacted] Learn why this is important

We act for Gawk Outdoor, an outdoor media operator with installations across Australia.

It is acknowledged the Assessment Improvements Code Amendment is an omnibus policy document seeking to effect change to a raft of policies in the Planning and Design Code ('Code') however, this submission relates only to the policies affecting advertisements. We make this submission in light of our recent meetings and discussions with officers from the Department of Housing and Urban Development and our recent experiences lodging applications for advertisements under the current policy environment.

In our submission, the current polices under the Code are utterly deficient and effectively seek to prohibit the lawful business operation of "third party" advertising. The proposed changes will only make this form of development more difficult and should be rejected in their entirety. We make this submission on the basis of our lived recent experience lodging applications for advertisements across the State in which numerous applications have been refused. We currently have several appeals lodged with the ERD Court.

In our experience, many local government authorities have expressed the view that the Code does not seek this form of development, and even where such applications are entertained, are being held to the DTS standards in the Code, particularly in relation to the size of advertisements.

Most problematic is PO 3.1 of the Advertisements module within the Code which provides, "Advertisements are limited to information relating to the lawful use of land they are located on to assist in the ready identification of the activity or activities on the land and avoid unrelated content that contributes to visual clutter and untidiness." We can advise that local government authorities are using this particular policy as a mandate to prohibit any form of third party advertising without any form of contextual analysis or reference to the zone or locality within which it is proposed.

The demarcation between first and third party advertising as a planning concept is something that escapes the writer. Whether an advertisement advertises a soft drink or muesli bars and its impacts from a wider planning perspective are mysterious at best.

In this regard, I refer to a decision in the ERD Court (*Adspace Group Pty td v City of Marion* [2009] SAERDC 39) in which the writer was involved as counsel where commissioner Hamnett held:

44. *A close reading of the Development Plans for metropolitan Adelaide and for the metropolitan councils reveals that guidance of outdoor advertisements away from some areas and towards others is the applicable planning precept. In doing so, there is a recognition that, in general, the message is not the issue. A message*

*advertising a product or service available on the land on which a hoarding may be erected can be just as offensive in terms of its visual impact as one advertising a generic product or service. What is at issue is the size, height, shape etc of the hoarding.*

46. *I accept the view expressed by Commissioner Hutchings in Keast v Marion that:*
    *... in general the message is not the issue.*
46. *Signs that relate to the building to which they are attached or adjacent may make more contribution to the meaning or legibility of a locality than third party signs of a generic nature, unrelated to that building or locality, and might therefore be said to make more contribution to enhancing the amenity and appearance of an area. However, third party advertisements clearly have a place in the urban environment and I can see no objection to the location of such signs adjacent to a District Centre, a higher-level shopping centre.* (my emphasis).

It is also worth noting that a large proportion of advertising on "third party" advertisements is government messaging such a road safety and public health messaging. Using the literal interpretation of PO 3.1, which many local government authorities do, prohibits this form of advertising as it does not, nor can it ever, relate to the lawful use of the land. This cannot be a good public policy outcome.

It is noted the Department for Infrastructure and Transport (DIT) currently has an open tender for the provision of third party billboards across 15 State Government owned sites, some of which are within Character Preservation Areas. On one hand, the State Government is most keen to promote third party advertising on its own land but through this Code Amendment, seeks to limit the ability of the private sector to provide the same. DIT also have the benefit of the Crown development assessment pathway and adherence to the Code policies is not required for applications lodged via this process. A copy of the DIT tender with visual depictions of the billboard sites is attached for your reference.

As mentioned above, the proposed policy changes to the Advertisements module within the Code do nothing to assist and should be rejected in their entirety.

**Suggested Changes**

Given that advertisements are a clearly anticipated land use and that third party advertisements are a legitimate and lawful business operation, explicit acknowledgement of the existence of third party advertising should be made in the Code via this Code Amendment process. We suggest the following changes:

- Explicitly allow third party advertisements by defining the same;
- Provide guidance to applicants as to appropriate locations for such development which could include limiting third party advertising to:
    - State Maintained Roads;
    - Centre Zones;
    - Employment/Strategic Employment Zones; and
    - Avoiding Neighbourhood-Type Zones.
- Ensure there are no DTS/DPF criteria applicable to third party advertising applications to make it abundantly clear to planning authorities that a performance assessed outcome is to occur. Unfortunately, it does not matter how many times

the rules of interpretation in Code clearly spell out that compliance with DTS/DPF is not required for performance assessed applications, planners invariably revert to numerical criteria as currently occurs.

I welcome the opportunity to speak to this submission should you require.

Yours faithfully

MARC DUNCAN
**Director**

signature_967180107

**M.** [redacted]
**E.** [redacted]
**W.** www.futureurban.com.au
**A.** Level 1, 74 Pirie Street, Adelaide, SA, 5000

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New Billboards

| ID | Road Corridor | Specific Location | Direction | Proposed Lease Term (Years) |
|---|---|---|---|---|
| 10(02) | Northern Expressway | Curtis Road Interchange Bridge | North/Southbound | 9 + 2 |
| 10(03) | Northern Expressway | Penfield Road Interchange Bridge | North/Southbound | 9 + 2 |
| 10(04) | Northern Connector | Kawanta Wama Bridge - Waterloo Corner Road | North/Southbound | 9 + 2 |
| 10(05) | Northern Connector | Harry Taylor Warritja Bridge - Bolivar Road | Northbound | 9 + 2 |
| 10(12) | North/South Motorway | Bridge over Grand Junction Road | East/Westbound | 9 + 2 |
| 10(11) | North/South Motorway | Bridge over Regency Road | East/Westbound | 9 + 2 |
| 10(13) | North/South Motorway | Outer Harbour Rail Line Bridge | East/Westbound | 9 + 2 |
| 10(00) | Southern Expressway | Southern Expressway, Beach Rd Interchange Bridge | North/Southbound | 9 + 2 |
| 10(09) | Main South Road | Corner of Main South Rd/Robinson Rd | North/Southbound | 9 + 2 |
| 10(06) | South Eastern Freeway | Carey Gully Road Bridge - Bridgewater Interchange | North/Southbound | 9 + 2 |
| 10(15) | Glen Osmond Road | Corner of Glen Osmond Road/Main Avenue | SouthEastbound | 9 + 2 |
| 10(18) | Tapleys Hill Road | Tapleys Hill Road, Adelaide Airport | North/Southbound | 9 + 2 |
| 10(19) | Victor Harbour Road | McLaren Vale Rd Interchange Bridge | North/Southbound | 9 + 2 |
| 10(20) | Morphett Road | Morphett Road Tram Overpass | North/Southbound | 9 + 2 |
| 10(21) | Marion Road | Marion Road Tram Overpass | North/Southbound | 9 + 2 |

Government of South Australia
Department for Infrastructure and Transport

**IMAGES BELOW ARE FOR SAMPLE ONLY - FINAL LOCATION AND DESIGN TO BE PROVIDED BY PROSPECTIVE SUPPLIERS THAT MEET DEPARTMENT GUIDELINES AND REQUIREMENTS**

| | |
|---|---|
| **Site:** | 1000 |
| **Speed Limit:** | 100 |
| **Location:** | Southern Expressway (Beach Road Bridge) Hackham West/Noarlunga Centre |
| **Recommended Format:** | Digital |
| **Traffic Count*:** | 43,000 |
| **Comments/Conditions:** | Sign must be fastened to the bridge structure and contained within the silhouette of the main portion of the structure as specified in DIT Master Specifications and Requirements in the ITS.<br><br>Throw screens are required where no other protective rear barrier exists. |

| | |
|---|---|
| **Certificate of Title:** | Public Road |
| **Managing Agency:** | Department for Infrastructure and Transport |
| **Registered Proprietor:** | Commissioner of Highways |

**DIT - Annual average daily traffic counts - 24 hour two-way flows*

Aerial view



**Site Images**

Northbound



Southbound



Government of South Australia
Department for Infrastructure and Transport

**IMAGES BELOW ARE FOR SAMPLE ONLY - FINAL LOCATION AND DESIGN TO BE PROVIDED BY PROSPECTIVE SUPPLIERS THAT MEET DEPARTMENT GUIDELINES AND REQUIREMENTS**

| | |
|---|---|
| **Site:** | 1002 |
| **Speed Limit:** | 110 |
| **Location:** | Northern Expressway (Curtis Road Interchange Bridge) MacDonald Park/Andrews Farm |
| **Recommended Format:** | Digital |
| **Traffic Count*:** | 37,000 |
| **Comments/Conditions:** | Sign must be fastened to the bridge structure and contained within the silhouette of the main portion of the structure as specified in DIT Master Specifications and Requirements in the ITS.<br><br>Throw screens are required where no other protective rear barrier exists. |
| **Certificate of Title:** | Public Road |
| **Managing Agency:** | Department for Infrastructure and Transport |
| **Registered Proprietor:** | Commissioner of Highways |

**DIT - Annual average daily traffic counts - 24 hour two-way flows*

Aerial view




**Site Images**

Northbound (37,000)



Southbound (37,000)



Government of South Australia
Department for Infrastructure and Transport

**IMAGES BELOW ARE FOR SAMPLE ONLY - FINAL LOCATION AND DESIGN TO BE PROVIDED BY PROSPECTIVE SUPPLIERS THAT MEET DEPARTMENT GUIDELINES AND REQUIREMENTS**

| | |
|---|---|
| **Site:** | 1003 |
| **Speed Limit** | **110** |
| **Location:** | Northern Expressway (Penfield Road) Penfield/Penfield Gardens |
| **Recommended Format:** | Digital |
| **Traffic Count*:** | 32,000 |
| **Comments/Conditions:** | Sign must be fastened to the bridge structure and contained within the silhouette of the main portion of the structure as specified in DIT Master Specifications and Requirements in the ITS.<br><br>Throw screens are required where no other protective rear barrier exists. |
| **Certificate of Title:** | Public Road |
| **Managing Agency:** | Department for Infrastructure and Transport |
| **Registered Proprietor:** | Commissioner of Highways |

**DIT - Annual average daily traffic counts - 24 hour two-way flows*

Aerial view




**Site Images**

Westbound



Eastbound



Government of South Australia
Department for Infrastructure and Transport

**IMAGES BELOW ARE FOR SAMPLE ONLY - FINAL LOCATION AND DESIGN TO BE PROVIDED BY PROSPECTIVE SUPPLIERS THAT MEET DEPARTMENT GUIDELINES AND REQUIREMENTS**

| | |
|---|---|
| **Site:** | 1004 |
| **Speed Limit** | **110 (Variable)** |
| **Location:** | **Kawanta Wama Bridge**<br>Northern Connector (Waterloo Corner rd)<br>Waterloo Corner |
| **Recommended Format:** | Digital |
| **Traffic Count*:** | 51,000 |
| **Comments/Conditions:** | Sign must be fastened to the bridge structure and contained within the silhouette of the main portion of the structure as specified in DIT Master Specifications and Requirements in the ITS.<br><br>Throw screens are required where no other protective rear barrier exists.<br><br>**Indigenous name of the bridge MUST be shown as a banner at the base of the Billboard** |

Aerial view




| | |
|---|---|
| **Certificate of Title:** | Public Road |
| **Managing Agency:** | Department for Infrastructure and Transport |
| **Registered Proprietor:** | Commissioner of Highways |

**DIT - Annual average daily traffic counts - 24 hour two-way flows*

**Site Images**

Northbound




Southbound



Government of South Australia
Department for Infrastructure and Transport

**IMAGES BELOW ARE FOR SAMPLE ONLY - FINAL LOCATION AND DESIGN TO BE PROVIDED BY PROSPECTIVE SUPPLIERS THAT MEET DEPARTMENT GUIDELINES AND REQUIREMENTS**

| | |
|---|---|
| **Site:** | 1005 |
| **Speed Limit** | **110 (Variable)** |
| **Location:** | **Harry Taylor Warritja Bridge**<br>Northern Connector<br>(Bolivar Rd)<br>Bolivar |
| **Recommended Format:** | Digital |
| **Traffic Count*:** | 52,000 |
| **Comments/Conditions:** | Sign must be fastened to the bridge structure and contained within the silhouette of the main portion of the structure as specified in DIT Master Specifications and Requirements in the ITS.<br><br>Throw screens are required where no other protective rear barrier exists.<br><br>**Indigenous name of the bridge MUST be shown as a banner at the base of the Billboard** |

| | |
|---|---|
| **Certificate of Title:** | Public Road |
| **Managing Agency:** | Department for Infrastructure and Transport |
| **Registered Proprietor:** | Commissioner of Highways |

**DIT - Annual average daily traffic counts - 24 hour two-way flows*

Aerial view




**Site Images**

Northbound



Government of South Australia
Department for Infrastructure and Transport

**IMAGES BELOW ARE FOR SAMPLE ONLY - FINAL LOCATION AND DESIGN TO BE PROVIDED BY PROSPECTIVE SUPPLIERS THAT MEET DEPARTMENT GUIDELINES AND REQUIREMENTS**

| | |
|---|---|
| **Site:** | 1006 |
| **Speed Limit:** | 110 |
| **Location:** | South Eastern Freeway (Carey Gully Road Bridge) Bridgewater |
| **Recommended Format:** | Digital |
| **Traffic Count*:** | 46,000 |
| **Comments/Conditions:** | Sign must be fastened to the bridge structure and contained within the silhouette of the main portion of the structure as specified in DIT Master Specifications and Requirements in the ITS.<br><br>Throw screens are required where no other protective rear barrier exists. |
| **Certificate of Title:** | Public Road |
| **Managing Agency:** | Department for Infrastructure and Transport |
| **Registered Proprietor:** | Commissioner of Highways |

**DIT - Annual average daily traffic counts - 24 hour two-way flows*

Aerial view




**Site Images**

Westbound



Eastbound



Government of South Australia
Department for Infrastructure and Transport

**IMAGES BELOW ARE FOR SAMPLE ONLY - FINAL LOCATION AND DESIGN TO BE PROVIDED BY PROSPECTIVE SUPPLIERS THAT MEET DEPARTMENT GUIDELINES AND REQUIREMENTS**

| | |
|---|---|
| **Site:** | 1009 |
| **Speed Limit:** | 60 |
| **Location:** | 2 Robinson Road<br>Seaford Heights |
| **Recommended Format:** | Digital |
| **Traffic Count*:** | 62,300 |
| **CT** | CT5060/181 |
| **Comments/Conditions:** | Sign must be positioned so it meets DIT Master Specifications and Requirements in the ITS. |

| | |
|---|---|
| **Certificate of Title:** | Road reserve |
| **Managing Agency:** | Department for Infrastructure and Transport |
| **Registered Proprietor:** | Commissioner of Highways |

*DIT - Annual average daily traffic counts - 24 hour two-way flows*

Aerial view




**Site Images**

Southbound (27,000)



Northbound (19,000)



Government of South Australia
Department for Infrastructure and Transport

**IMAGES BELOW ARE FOR SAMPLE ONLY - FINAL LOCATION AND DESIGN TO BE PROVIDED BY PROSPECTIVE SUPPLIERS THAT MEET DEPARTMENT GUIDELINES AND REQUIREMENTS**

| | |
|---|---|
| **Site:** | 1011 |
| **Speed Limit:** | 60 |
| **Location:** | North/South Motorway - Bridge over Regency Rd Croydon |
| **Recommended Format:** | Digital |
| **Traffic Count*:** | 40,000 |
| **Comments/Conditions:** | Sign must be fastened to the bridge structure and contained within the silhouette of the main portion of the structure as specified in DIT Master Specifications and Requirements in the ITS.<br><br>Throw screens are required where no other protective rear barrier exists. |

| | |
|---|---|
| **Certificate of Title:** | Public Road |
| **Managing Agency:** | Department for Infrastructure and Transport |
| **Registered Proprietor:** | Commissioner of Highways |

**DIT - Annual average daily traffic counts - 24 hour two-way flows*

Aerial view



**Site Images**

Westbound (40,000)




Eastbound (26,000)



Government of South Australia
Department for Infrastructure and Transport

**IMAGES BELOW ARE FOR SAMPLE ONLY - FINAL LOCATION AND DESIGN TO BE PROVIDED BY PROSPECTIVE SUPPLIERS THAT MEET DEPARTMENT GUIDELINES AND REQUIREMENTS**

| | |
|---|---|
| **Site:** | 1012 |
| **Speed Limit:** | **60** |
| **Location:** | North/South Motorway - Bridge over Grand Junction Rd Angle Park |
| **Recommended Format:** | Digital |
| **Traffic Count*:** | 47,000 |
| **Comments/Conditions:** | Sign must be fastened to the bridge structure and contained within the silhouette of the main portion of the structure as specified in DIT Master Specifications and Requirements in the ITS.<br><br>Throw screens are required where no other protective rear barrier exists. |
| **Certificate of Title:** | Public Road |
| **Managing Agency:** | Department for Infrastructure and Transport |
| **Registered Proprietor:** | Commissioner of Highways |

**DIT - Annual average daily traffic counts - 24 hour two-way flows*

Aerial view



**Site Images**

Westbound (47,000)



Eastbound (33,000)



Government of South Australia
Department for Infrastructure and Transport

**IMAGES BELOW ARE FOR SAMPLE ONLY - FINAL LOCATION AND DESIGN TO BE PROVIDED BY PROSPECTIVE SUPPLIERS THAT MEET DEPARTMENT GUIDELINES AND REQUIREMENTS**

| | |
|---|---|
| **Site:** | 1013 |
| **Speed Limit:** | **80 (Variable)** |
| **Location:** | North/South Corridor (Outer Habour Rail Bridge) Croydon |
| **Recommended Format:** | Digital |
| **Traffic Count*:** | 69,000 |
| **Comments/Conditions:** | Sign must be fastened to the bridge structure and contained within the silhouette of the main portion of the structure as specified in DIT Master Specifications and Requirements in the ITS.<br><br>Throw screens are required where no other protective rear barrier exists. |
| **Certificate of Title:** | Public Road |
| **Managing Agency:** | Department for Infrastructure and Transport |
| **Registered Proprietor:** | Commissioner of Highways |

**DIT - Annual average daily traffic counts - 24 hour two-way flows*

Aerial view




**Site Images**

Southbound (69,000)



Northbound (67,200)



Government of South Australia
Department for Infrastructure and Transport

**IMAGES BELOW ARE FOR SAMPLE ONLY - FINAL LOCATION AND DESIGN TO BE PROVIDED BY PROSPECTIVE SUPPLIERS THAT MEET DEPARTMENT GUIDELINES AND REQUIREMENTS**

| | |
|---|---|
| **Site:** | 1015 |
| **Speed Limit:** | **60** |
| **Location:** | Glen Osmond Rd/Main Avenue Frewville |
| **Recommended Format:** | Digital |
| **Traffic Count*:** | 27,800 |
| **Comments/Conditions:** | Sign must be positioned so it meets DIT Master Specifications and Requirements in the ITS. |
| **CT** | Part of CT6268/937 |

| | |
|---|---|
| **Certificate of Title:** | Commissioner of Highways |
| **Managing Agency:** | Department for Infrastructure and Transport |
| **Registered Proprietor:** | Commissioner of Highways |

**DIT - Annual average daily traffic counts - 24 hour two-way flows*

**Site Images**

SouthEastbound (27,800)



Aerial view






Government of South Australia
Department for Infrastructure and Transport

**IMAGES BELOW ARE FOR SAMPLE ONLY - FINAL LOCATION AND DESIGN TO BE PROVIDED BY PROSPECTIVE SUPPLIERS THAT MEET DEPARTMENT GUIDELINES AND REQUIREMENTS**

| | |
|---|---|
| **Site:** | 1018 |
| **Speed Limit:** | 60 |
| **Location:** | Tapleys Hill Road<br>Adelaide Airport |
| **Recommended Format:** | Digital |
| **Traffic Count*:** | 52,000 |
| **Comments/Conditions:** | Sign must be positioned so it meets DIT Master Specifications and Requirements in the ITS as well as any requirements from the Adelaide Airport. |
| **CT** | CT6125/880 |

| | |
|---|---|
| **Certificate of Title:** | Commissioner of Highways |
| **Managing Agency:** | Department for Infrastructure and Transport |
| **Registered Proprietor:** | Commissioner of Highways |

**DIT - Annual average daily traffic counts - 24 hour two-way flows*

Aerial view




**Site Images**

Northbound



Southbound



Government of South Australia
Department for Infrastructure and Transport

**IMAGES BELOW ARE FOR SAMPLE ONLY - FINAL LOCATION AND DESIGN TO BE PROVIDED BY PROSPECTIVE SUPPLIERS THAT MEET DEPARTMENT GUIDELINES AND REQUIREMENTS**

| | |
|---|---|
| **Site:** | 1019 |
| **Speed Limit:** | **100** |
| **Location:** | Victor Habour Road (McLaren Vale Road Interchange) McLaren Vale |
| **Recommended Format:** | Digital |
| **Traffic Count*:** | 26,000 |
| **Comments/Conditions:** | Sign must be fastened to the bridge structure and contained within the silhouette of the main portion of the structure as specified in DIT Master Specifications and Requirements in the ITS.<br><br>Throw screens are required where no other protective rear barrier exists. |
| **Certificate of Title:** | Public Road |
| **Managing Agency:** | Department for Infrastructure and Transport |
| **Registered Proprietor:** | Commissioner of Highways |

*DIT - Annual average daily traffic counts - 24 hour two-way flows*

Aerial view




**Site Images**

Northbound



Southbound



Government of South Australia
Department for Infrastructure and Transport

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| | |
|---|---|
| **Site:** | 1020 |
| **Speed Limit:** | 60 |
| **Location:** | Morphett Road Overpass |
| **Recommended Format:** | Digital |
| **Traffic Count*:** | 30,000 |
| **Comments/Conditions:** | Sign must be fastened to the bridge structure and contained within the silhouette of the main portion of the structure as specified in DIT Master Specifications and Requirements in the ITS.<br><br>Throw screens are required where no other protective rear barrier exists. |
| **Certificate of Title:** | Public Road |
| **Managing Agency:** | Department for Infrastructure and Transport |
| **Registered Proprietor:** | Commissioner of Highways |

*DIT - Annual average daily traffic counts - 24 hour two-way flows*

Aerial view




**Site Images**

Northbound



Southbound



Government of South Australia
Department for Infrastructure and Transport

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| | |
|---|---|
| **Site:** | 1021 |
| **Speed Limit:** | 60 |
| **Location:** | Marion Road Overpass |
| **Recommended Format:** | Digital |
| **Traffic Count*:** | 38,000 |
| **Comments/Conditions:** | Sign must be fastened to the bridge structure and contained within the silhouette of the main portion of the structure as specified in DIT Master Specifications and Requirements in the ITS.<br><br>Throw screens are required where no other protective rear barrier exists. |
| **Certificate of Title:** | Public Road |
| **Managing Agency:** | Department for Infrastructure and Transport |
| **Registered Proprietor:** | Commissioner of Highways |

**DIT - Annual average daily traffic counts - 24 hour two-way flows*

Aerial view




**Site Images**

Northbound



Southbound



Community Alliance SA Inc
PO Box 520
Goodwood, SA 5034

Engaging for Reform
Community Alliance
South Australia

4 March 2025

**State Planning Commission**
**GPO Box 1815**
**Adelaide 5001**
**Email: plansasubmissions@sa.gov.sa**

Dear Sir/Madam

**RE: Assessment Improvements Code Amendment consultation**

Thank you for the opportunity to comment upon the Assessment Improvements Code Amendment (CA).

Community Alliance SA (CASA) represents over 35 community and resident groups across South Australia. CASA has a focused objective to improve the planning laws in this state to ensure the voice of the community is heard. CASA meets quarterly with the Chair of the State Planning Commission to discuss many planning matters. These meetings are greatly appreciated. CASA has demonstrated with evidence to the Chair and his colleagues, aspects of the Code that do not provide benefits to the community. In many cases the Code is detrimental to the community, favouring developers in the majority of situations.

The Minister for Planning, The Hon Nick Champion MP, presented at the CASA AGM in November 2024 and indicated he was willing to hear the CASA perspective about some of the matters raised in this CA in more detail.

CASA discussed issues regarding this CA and the issues to be highlighted with Mr Holden on 18 February 2024. These are listed on the following pages.

## 1. COVERED CAR PARKING SPACES (4.6.2)

Refine the car parking policy for dwellings to review the requirement to provide undercover parking.

The Government recommends that only one covered car park be provided. A further provision requires that this covered car park should still be made available behind the face of the dwelling (Recommendation 51).

**CASA supports the amendment.**

CASA and one of its member groups, (Prospect Residents Association) noted the increasing congestion on suburban residential streets. Increased garage size may lead to large double

garages dominating the streetscape. CASA agrees with the Expert Panel that these car parks 'should be made available behind the face of the dwelling'.

The relationship between bigger cars and larger garages may be circular i.e., bigger garages lead to bigger cars. The amendment does not change the car parking or visitor car parking requirements. It seeks to remove the requirement for more than one covered car park (see Table 1) as currently required. There are presently exceptions, such as retirement facilities and student accommodation. CASA does not suggest that this amendment alone will address the congestion on suburban streets.

## 2. LOCAL HERITAGE PLACE OVERLAY- DEMOLITION POLICY (4.6.1)

Refine Performance Outcome 6.1 in the Local Heritage Place Overlay to exclude deterioration due to neglect as a supporting factor for demolition, as in State Heritage Place Overlay (Recommendation 72.13).

Development to State Heritage Places should not attract a referral in certain circumstances (Recommendation 72.2).

**CASA supports this amendment.**

CASA members strongly recommend that local historic places need greater protection than currently found in the Code. This is due to the combination of engineers' reports' primacy, little understanding of adaptive reuse, and the risk-averse decision-making of Council Assessment Panels. A recent demolition occurred for the whole of a shop and residence at 187-189 Hutt Street Adelaide rather than conserving the LHP front facade, which was capable of retention.

Further, the provisions provide that the provisions that currently apply to the State Heritage Overlay to ensure that these places are not deliberately run down due to a lack of repairs and dilapidation are inserted into the provisions of the Local History Overlay.

**CASA proposes the inclusion of an appeal right.**

The Minister for Planning has indicated that he is 'open' to consideration of appeal rights, which should be regarded as part of this suite of changes to protect South Australia's history and cultural heritage.

**CASA recommends that this matter (Third Party appeal rights re LHP demolition] be included within this amendment.**

CASA is <u>extremely concerned</u> that Representative buildings to be included in the Historic Overlay Areas should be treated as a third tier as occurs in other jurisdictions. Representative Buildings are a selection of items from a larger group that accurately reflect the characteristics of the entire group, essentially referring to buildings that contribute significantly to the historic character of a particular area. Therefore, these items should be included in the Code more fully, beginning with being treated as LHP and having the same protection from demolition.

The current Code allows the demolition of LHP without needing planning approval for 'replacement' development. That is wholly unsatisfactory.

**CASA strongly recommends that Representative items to be included in the Code more fully, beginning with being treated as LHP and having the same protection from demolition.**

**CASA also recommends that Recommendation 24 of the Expert Panel Report be included in the amendment, where site demolitions are recorded on the e-Planning portal to provide oversight and accountability regarding heritage sites.**

## 3. CATALYST SITES

Although this matter is not addressed in the amendment, CASA has raised this with Mr Holden. There is a 'rude agreement' that the current 'catalyst site' policies and criteria are not fit for purpose and warrant review. That is self-evident from the submission of the City of Adelaide to the Expert Panel, the Expert Panel's Review Report and the Government's response. Given this alignment, it is of concern that there has been no substantive progress.

CASA encourages the Commission to address the matter as highlighted in Recommendation 23 and the content at page 85 of the Expert Panel's Report. CASA also encourages the report to address and define the terms CBD, City Plan, building height, that "maximum" carries its ordinary meaning, and that in or adjacent to, a low-rise locality or area, a catalyst site cannot exceed mid/medium rise.

## 4. LANGUAGE AND CONSISTENCY

Planning and Land Use Services (PLUS) undertake a language and consistency check of the Code to ensure the same terms and expressions are used throughout (Recommendation 72.16).

CASA generally supports this initiative, providing the community with a better opportunity to understand the extraordinarily voluminous (5,408 pages), complex content, framework, and operation of the Planning and Design Code.

### 4.1 Use of 'And' and 'Or' in Policy (4.2.1)

Recommendation 16 of the Expert Panel Report called for reviewing Code policy to ensure the same terms and expressions are used throughout.

An investigation of the Code found that additional clarity is obtained by defining and or satisfying one/more of the following. In addition, guidance will be given if provisions are not required to be met.

**CASA supports this amendment**

### 4.2 Shop, Office and Consulting Room – (4.2.5)

User feedback has identified an inconsistency in applying Zone provisions relating to shops, offices, and consulting rooms throughout various Zones. Therefore, CASA

supports the inclusion of Performance Assessed pathways for shops, offices, and consulting rooms to ensure the consistent application of zone policies.

**CASA supports the amendment**.

**4.3 Swimming Pool Pumps** (4.2.6)

The Accepted Development Tables and General Development Policies gave examples of inconsistencies between the requirements for the location and provision of noise mitigation measures for swimming pool filtration systems. The amendment seeks to use the words' solid acoustic structures' rather than other more extended descriptors and remove them from the design in urban areas.

CASA supports the amendment and notes that other examples of private equipment, such as air conditioning units and generators, affect residents' amenities. Moreover, public facilities, such as hospitals, impact nearby housing with their large equipment.

**CASA supports the amendment.**

**4.4 Capital City Zone** – **Service Lanes v Lane Activation Policy** (4.2.7)

It is understood that PO 3.11 in the Capital City Zone is being interpreted as requiring active uses along service laneways. This is beneficial in some contexts; at other times, it is inappropriate for laneways to accommodate development servicing, including vehicle access by heavy vehicles for refuse collection.

CASA does not support the amendment generally as it is wholly inappropriate for "service lanes" to become active frontages as if the "service lane" were to be a street front. A "service lane" is distinguished from a "laneway" that can successfully facilitate shop, hospitality, or other business/commerce. Whether that can be achieved will be circumstantial and context dependent. It may also depend on dimensions and accessibility, including whether ambulatory or vehicle access is contemplated.

**CASA does not support the amendment.**

**4.5 Accepted Development – Building Alterations – Loss of Carparking**. (4.2.8)

Accepted Development pathways for Building Alterations do not address the loss of off-street parking by converting a carport or garage to a room.

CASA supports the recommendation that a building alteration cannot result in less vehicle parking on the property than is currently required by the Transport Access and Parking/Affordable Housing Overlay.

**CASA supports the recommendation.**

**4.6 Conservation Zone** – **Restricted Development Ambiguity (4.2.9)**

Feedback suggests that the Conservation Zone's restricted development triggers dwelling replacements (where the dwelling has already been demolished), and minor

boundary realignment proposals fall into the restricted development pathway and are therefore referred to the Commission for decision.

CASA does not support this amendment, which may support the creation of additional allotments for public road reserves and vehicle access points.

**CASA does not support this amendment.**

**4.7 River Murray Tributaries Protection Area Overlay** – Exclusions (4.2.10)

Several development types are excluded from the Accepted and Deemed-to-Satisfy Assessment Pathways in various Zones where the site is located within the River Murray Tributaries Protection Area Overlay, despite the Overlay's provisions being irrelevant to the development type or otherwise not applied to that development type for related Performance Assessed pathways.

CASA opposes the amendment allowing dwellings and buildings to be built on flood plains despite this type of development being permitted in the past, with often disastrous consequences when flooding has occurred. For creeks and small streams, 50m on either side may be more appropriate, provided housing development (creating increased runoff) has not happened upstream, especially at higher elevations upstream of the proposed development. An additional benefit results from wildlife corridors on either side of such watercourses, creeks, and rivers, enhancing and protecting wildlife and increasing native biodiversity.

**CASA opposes this amendment.**

**4.8 Water Resources Overlay – Exclusions (4.2.11)**

Several development types are excluded from Deemed-to-Satisfy Assessment Pathways throughout various Zones where the site is located within the Water Resources Overlay, despite the Overlay containing DTS/DPF provisions which could reasonably be applied to a Deemed-to-Satisfy pathway.

CASA does not support this amendment. CASA is opposed to allowing dwellings to be built on the flood plain, and we consider DTS/DPF of 1.5 of the Water Resources Overlay, which specifies that a strip of land 20m or more measured from the top of existing banks on each side of the watercourse is free from development 'is unsatisfactory. Therefore, CASA does not support the deemed to satisfy dwellings in zones to apply to the Overlay Policy in its place.

**CASA does not support this amendment.**

**4.9 Stormwater Management Overlay – Connection to Hot Water Service (4.2.12)**

This Overlay requires that residential development comprise detached, semi-detached or row dwellings, or less than 5 group dwellings or dwellings within a residential flat building, including rainwater tank storage connected to toilets, laundry cold water outlets or hot water services. The proposed amendment removes references to 'hot water' in the Overlay.

CASA believes that it is irresponsible to continue advocating for and supporting urban development into less reliable rainfall areas when water resources are limited, and supply may fail (as it has in 2025).

**CASA supports this amendment.**

## 5. REFERRALS

As part of its review of the implementation of the planning system, the Expert Panel recommended that the development of State Heritage Places should not attract a referral in certain circumstances.

### 5.1 State Heritage Overlays (4.3.1)

The Heritage Branch currently receives the 3rd highest number of referrals out of all referral bodies, although the matters are often not viewed as 'high risk'.

CASA does not support this amendment. The Heritage Branch must know the planning implications for heritage buildings and sites throughout the state, particularly as matters of high, moderate or low risk are debated and interpreted. The Heritage Branch should be funded to meet the referrals and additional workload. CASA submits that the Heritage Adjacency Overlay should require referrals to the Heritage Branch for proposed developments as they may affect LHP and the requirement for referrals for SHP.

**CASA does not support this amendment.**

### 5.2 Environment Protection Referrals (4.3.2)

The Environment Protection Authority (EPA) has identified several areas in which its referrals can be improved to address duplication, remove problematic items that can be addressed at a different stage of development, and better align the triggers with the supporting legislation and policy under which it operates as an authority.

CASA supports the amendment for land division referrals to the EPA to ensure a timely response from the EPA, particularly in areas of water runoff, slopes, and wastewater disposal.

**CASA supports the amendment.**

## 6. DEFINITIONS

Definitions within the PDI Act and Code should be reviewed, and additional definitions should be included (Recommendation 72.1).

### 6.1 Personal or Domestic Services Establishment

The Environment, Resources and Development Court recently found that a car wash fits within the Code's land use definition of personal or domestic services establishment. A review of the Court judgement has been undertaken to determine if amendments to the definition are needed considering the activities typically expected at a personal or domestic services establishment.

CASA supports the amendment and the view that activities such as car washes and boat and caravan repairs have the potential to impact the amenities external to land use.

**CASA supports the amendment.**

### 6.2 Workers' Accommodation

Users of the Code have suggested expanding the definition of workers' accommodation to include seasonal hospitality and tourism workers.

CASA does not support the amendment that this accommodation type is suitable for tourists, backpackers, and seasonal hospitality as its infrastructure is temporary and short-term. Future worker-type accommodation in towns/districts with seasonal harvest work or similar requires careful consideration of accommodations design, supervision, and security. Caravan Parks seem to provide the most secure and reliable style of accommodation and should be made affordable for harvest workers.

**CASA does not support this amendment.**

### 6.3 Commercial Forestry

In 2023, the Miscellaneous Technical Enhancement Code Amendment refined the definition of commercial forestry to clarify its purpose.

However, the altered definition has resulted in some ambiguity regarding commercial forests that are not harvested but used purely for commercial carbon absorption benefits (carbon plantings).

**CASA supports the amendment.**

## 7. NEW DEFINITIONS

Users of the Code have suggested that definitions for the following terms would benefit the Code:

- Trade training facility
- Emergency services facility

**CASA supports the amendment.**

## 8. ADMINISTRATIVE TERMS AND DEFINITIONS

### 8.1 Building Height – Measurement Point Clarification

Feedback has identified a need to clarify where building height should be measured, and the Code definition of building heights should clarify measurement points for sloping sites.

**CASA supports the amendment, subject to a reasonable methodology with appropriate regard for context and adjacency.**

**8.2 Excluded Building - Demolition**

Public notification is required for State or Local Heritage places or buildings within a Historic Area Overlay, subject to specific exclusions. In principle, the proposed demolition of buildings, including ancillary buildings, parts of buildings, or other structures on a State or Local Heritage Place site that do not form part of the listing, should not require public notification.

CASA does not support this amendment. CASA supports full public transparency and notification about a development application concerning a state and local heritage place**.** There is a public and community interest in such places and matters that may impact those places. An application that clearly delineates no impact can reasonably be expected to be dealt with expeditiously.

**CASA does not support this amendment.**

**8.3 Car Parking Rates for Major Open Spaces**

A review of relevant technical guides and recent development applications involving establishing or upgrading public open spaces has been undertaken to inform any policy change to this effect.

**CASA notes the lack of specified car parking for recreational and sporting activities in open spaces.** Nonetheless, open spaces should not be diminished, enclosed, or made inaccessible to users merely to provide car parking. A car park is not a recreational or sporting activity for which a public parkland or open space has been designed or designated. Reducing green space, trees, or understorey cover and allocating ever-expanding hard surfaces for cars is wholly objectionable and short-sighted.

**9. STRATEGIC ANALYSES**

This is a technical enhancement to improve the Code's policy and pathways. CASA notes that these amendments are viewed as consistent with the Planning, Development and Infrastructure Act, key strategic planning policies, and the South Australian Planning Strategy until the Regional Plans are established. However, in the case of any conflict, the State Planning Policies will prevail.

Thank you for the opportunity to comment on the Assessment Improvements Code Amendment. Please do not hesitate to contact me should you have any queries.

Your sincerely



**Sandy Wilkinson**
**President**
**Community Alliance of South Australia**
**E: sa.community.alliance@gmail.com**

4 March 2025

State Planning Commission - Code Amendment Team
Planning and Land Use Services Division
Department for Housing and Urban Development
Adelaide SA 5001

By email: plansasubmissions@sa.gov.au

**Submission: Assessment Improvements Code Amendment - SA Planning and Design Code Review**

To the Chair of the State Planning Commission and other members,

Greening Australia and its subsidiary company Canopy Nature Based Solutions are pleased to provide a submission to the technical amendments of the SA Planning and Design Code, particularly in relation to the amendment of the definition of Commercial Forestry as detailed in Section 4.4.3 of the Assessment Improvements Code Amendment document.

Our submission is to be read concurrently with our submission to the *Landscape South Australia Act 2019* regarding the definition of Commercial Forestry and the requirement for Environmental Plantings using carbon sequestration as the funding source to be included in this definition. A copy of this submission has been annexed to this letter.

Greening Australia and its subsidiary company Canopy Nature Based Solutions believe that to apply the definition of Commercial Forestry through the *Landscape SA Act* and the Code to both Commercial Forestry and Environmental Planting project types is inconsistent with Federal legislation and has a detrimental outcome to the restoration of native landscapes.

As discussed in our submission below, it would be of enormous benefit to all parties seeking to undertake environmental restoration work to amend the definition of Commercial Forestry to exclude Environmental Planting, irrespective of funding source. This would resolve myriad legislative and policy anomalies and allow Environmental Plantings using carbon as the funding source and which is strictly controlled by the Clean Energy Regulator, to proceed without a Development Application (DA) as they have always been able to when not funded using carbon.

## 1. Greening Australia

As a National not-for-profit organisation, Greening Australia has been in operation for over 40 years and for this time has been committed to restoring native vegetation communities and protecting biodiversity. These projects have largely been funded by contributions and donations from individuals, small and large organisations, and through business and government grants.

Through its subsidiary business Canopy, Greening Australia is now exploring opportunities to use the carbon market to fund these biodiverse restoration projects across Australia, in an economic climate where other traditional funding opportunities are limited and declining.

Our carbon projects are developed through the Federal Government's Emissions Reduction Fund (ERF) and this provides Greening Australia with the opportunity to undertake our high quality restoration projects at a larger scale where other funding sources are not available. Our environmental plantings restore degraded landscapes, encourage biodiversity, enhance wildlife corridors and store carbon in woody biomass which contributes to Greening Australia's vision, mission and values and our 2030 goals:




*Figure 1: Greening Australia Vision, Mission, Values and 2030 goals.*

## 2. What is Emission Reduction Fund (ERF) funding and ACCU's?

To encourage carbon abatement activities, the Australian Government through the Clean Energy Regulator provides incentives called Australian Carbon Credit Units (ACCUs) through the Emissions Reduction Fund (ERF). Eligible ACCU Scheme projects can earn ACCUs when they reduce or avoid emissions. One ACCU represents one tonne of carbon dioxide equivalent (tCO2-e) that would have otherwise remained or been released into the atmosphere.

ACCUs are a tradable financial product. They incentivise carbon abatement activities through projects ranging from reforestation to energy efficiency. In many cases ACCUs are an additional income source for individuals and businesses running ACCU Scheme projects.

More details about the Federal Government's ERF and ACCUs can be found here Australian Carbon Credit Unit Scheme | Clean Energy Regulator (cer.gov.au).

The ACCU scheme methods cover projects across:

- Agriculture
- Energy efficiency
- Landfill and waste
- Mining, oil and gas
- Transport
- Vegetation

Under vegetation there are several different 'methods' used to generate ACCU's:

1. Avoided clearing of native regrowth method
   Retain and maintain native forestry in Queensland, Australia.

2. Designated verified carbon standard projects method
   Protect and maintain native forestry with a Verified Carbon Standard approval.

3. Plantation forestry method
   Establish, convert or transition to forestry plantations.

4. Reforestation and afforestation method
   Plant trees in belt or block configurations, or a combination of both, to establish a permanent forest formation.

5. Savanna fire management methods
   Manage and plan savanna fire activities that burn in north Australia to reduce emissions.

6. Tidal restoration of blue carbon ecosystems method
   Reintroduce tidal flow to coastal wetland ecosystems for blue carbon storage.

7. Reforestation by environmental or mallee plantings FullCAM method 2024
   Plant trees to store carbon and earn Australian carbon credit units.

Each 'method' above is very specific and has distinct definitions and requirements to be met as defined by the relevant Federal Legislation for that method. For example, Plantation Forestry is governed by Federal legislation within the *Carbon Credits (Carbon Farming Initiative—Plantation Forestry) Methodology Determination 2022* and Environmental Planting is governed by the *Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2024*.

## 3. Plantation (Commercial) Forestry vs Environmental Planting

As mentioned above, one of the main ways that Greening Australia and Canopy can achieve our goal of restoring native landscapes to Australia is to register larger scale Environmental Planting projects under the ERF to claim ACCU's which we use to directly

fund our Environmental Planting projects.

Environmental Planting projects under the ERF claim ACCU's for the carbon stored in the trees planted. The South Australian Government considers that claiming carbon credits introduces a commercial aspect to this Environmental Planting so by means of statutory planning definitions require development approval as a Change of Use, even when an Environmental Planting project funded by other sources would not require the same approval. In this instance the intended biodiversity and environmental restoration outcomes of the Environmental Planting project are the same, the only difference in the work being undertaken is the means of funding the project which we believe does not constitute a Change of Use.

The SA Planning and Design Code (the Code) defines **Commercial Forestry** as:

> *...the practice of planting and managing plantation forests that are to be harvested for wood products or other commercial purposes, including through the commercial exploitation of the carbon absorption capacity of the forest.*

The clear intention of this definition is to consider the commercial outcome of a wood product or byproduct, not the long term retention of the forest for environmental benefit.

The definition of **Commercial Forest** under the *Landscape SA Act* is:

> *... a forest plantation where the forest vegetation is grown or maintained so that it can be harvested or used for commercial purposes (including through the commercial exploitation of the carbon absorption capacity of the forest vegetation)*

However under the ERF methods listed above, **Plantation Forestry** is a distinctly different method from **Reforestation by Environmental Plantings**. Each method has specific definitions, requirements and processes defined under Federal legislation that must be adhered to.

Under the Federal *Carbon Credits (Carbon Farming Initiative—Plantation Forestry) Methodology Determination 2022* a ***plantation forest*** is defined as:

> ***plantation forest*** *means a plantation for the harvest of forest products:*
> *(a) that is established by planting or seeding; and*
> *(b) that is harvested by periodic clearfelling of the whole; and*
> *(c) that can be expected, in the absence of a natural disturbance, to reach forest cover before clearfelling; and*
> *(d) in which any management actions involving replanting, re-seeding or coppicing occur only after such a harvest; and*
> *(e) that is managed in a way consistent with an intention to continue to comply with paragraphs (b), (c) and (d).*
> *Note: A horticultural plantation is not a plantation forest.*

An ***environmental planting*** is defined as:

> ***environmental planting*** *means a planting that consists of species that:*
> *(a) are native to the local area of the planting; and*
> *(b) are sourced from seeds:*
> *(i) from within the natural distribution of the species; and*
> *(ii) that are appropriate to the biophysical characteristics of the area of the planting; and*
> *(c) may be a mix of trees, shrubs, and understorey species where the mix reflects the structure and composition of the local native vegetation community.*

A ***permanent planting*** is defined as:

> ***permanent planting*** *means a planting:*
> *(a) that is not harvested other than:*
> *(i) for thinning for ecological purposes; or*
> *(ii) to remove debris for fire management; or*
> *(iii) to remove firewood, fruits, nuts, seeds, or material used for fencing or as craft materials, if those things are not removed for sale; or*
> *(iv) in accordance with traditional indigenous practices or native title rights; and*
> *(b) that is not a landscape planting.*

The definition of **Environmental Planting** in the *Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2024* is:

> *A mixed-species environmental planting is a planting that consists of a mixture of trees and shrubs that:*
> *(a) are native to the local area of the planting; and*
> *(b) are sourced from seeds:*
> *(i) from within the natural distribution of the species; and*
> *(ii) that are appropriate to the biophysical characteristics of the area of the planting; and*
> *(c) are established through planting.*
> *A mixed-species environmental planting may consist of a mixture of trees and shrubs that reflects the structure and composition of the local native vegetation community.*

Unlike **Commercial Forest** (as defined under the *Landscape SA Act*), or **Plantation Forestry** (as defined by the Plantation Forestry methodology), ACCU scheme plantings using the **Environmental Planting Method** must plant a mixture of tree and shrub species that are native to the local area and are adapted to the soil and climate conditions. These environmental plantings must also be maintained for a minimum period of at least 25 years and implementation are not typically irrigated.

Under the Environmental Planting methodology, **There is no harvesting permitted,** and these are considered **Permanent Forest**:

> *49 Harvesting*
> *Biomass must not be removed from a CEA except in accordance with section 50.*

*50 Permitted biomass removals*

*(1) Subject to subsection (2), biomass may be harvested:*

*(a) for thinning; or*

*(b) to remove debris for fire management; or*

*(c) in accordance with traditional Indigenous practices or native title rights; or*

*(d) to remove up to 10% of fallen timber in a calendar year (but only if for personal use); or*

*(e) to remove seeds, provided no more than 20% of any seeds are harvested from a CEA in a calendar year (whether for personal or commercial use); or*

*(f) to remove up to 10% of stems, roots or bark from standing or fallen trees to be used for fencing or as craft materials in a calendar year (but only if for personal use).*

*Note: Thinning is restricted to the selective removal of trees for ecological purposes, including to maintain species diversity or ground cover (see the definition of* ***thinning*** *in section 5).*

*(2) Biomass described in subsection (1) must only be harvested if the harvesting will not negatively impact any of the following:*

*(a) biodiversity;*

*(b) forest cover;*

*(c) forest potential;*

*(d) abatement estimates.*

To qualify and claim carbon credits as an Environmental Planting under the ERF, the regulations are specific and Environmental Planting project activities are monitored closely by the Clean Energy Regulator through external audits and requirements of the *Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2024* ('the Method'). These projects are contracted for a permanence period of 25 or 100 years, depending on the project which relates to the time period for generation of ACCUs.

Conversely Plantation Forestry must comply with the provision of the *Carbon Credits (Carbon Farming Initiative— Plantation Forestry) Methodology Determination 2022* which has its own very specific requirements and are quire different from those in the Environmental Planting method.

As you can see from the definitions alone these are two vastly different planting methodologies, with completely different environmental outcomes. To apply the same definition of Commercial Forestry through the *Landscape SA Act* and the Code to both project types is inconsistent with Federal legislation and has a detrimental outcome to the restoration of native landscapes.

We understand that the purpose of the proposed Planning and Design Code amendment relating to the definition of Commercial Forestry is to bring the definition in the Code back in line with the definition in the *Landscape SA Act* to reduce ambiguity and make it clear that commercial forestry is inclusive of carbon plantings that are established solely for carbon absorption benefits and never harvested. However using the funding source as the basis of the definition is flawed in our opinion, as detailed below.

The classification of Commercial Forestry brings with it connotations of monoculture planting, established by intensive and disruptive industrial processes, felled using heavy

logging machinery, and devoid of any material understorey. This is far from what Greening Australia's projects entail but the definition itself generates unnecessary negativity around the environmental restoration work we do. We believe that there needs to be a separate definition for Environmental Planting that acknowledges the creation of a biodiverse planted forest as the end product, irrespective of how the planting is funded.

The claiming of carbon credits is simply a method utilised as a source of funding by Greening Australia and Canopy to support our goal of restoring native landscapes to Australia, in a time where funding to undertake this work through other financial means is very limited. By limiting the definition of Environmental Planting by funding source, and therefore adding myriad planning controls and restrictions to the areas where this important restoration work can be undertaken, you are actively limiting the ability of this work to be undertaken, and the ability of Greening Australia, Canopy and other similar organisations to deliver vital biodiversity work at a time when this is of the utmost importance.

Our Environmental Plantings restore degraded landscapes, encourage biodiversity, enhance wildlife corridors and store carbon in woody biomass. **It is not the intention of Greening Australia and Canopy to establish any commercial forestry plantations for the exclusive purpose of harvesting timber, and, unlike Commercial Foresty, we do not irrigate any of our plantings.** This is contrary to our core business, vision, mission and values.

It would be of enormous benefit to all parties seeking to undertake environmental restoration work to amend the definition of Commercial Forestry to exclude Environmental Planting, irrespective of funding source. This would resolve myriad legislative and policy anomalies and allow Environmental Plantings using carbon as the funding source and which is strictly controlled by the Clean Energy Regulator, to proceed without a DA as they have always when not funded using carbon.

## 4. Change of Use

Under Part 3 of the Planning, Development and Infrastructure Act 2016 ***development*** is defined as:

> *(a)* ***a change in the use of land****; or*
>
> *(b) building work; or*
>
> *(c) the division of an allotment; or*
>
> *(d) the construction or alteration (except by the Crown, a council or other public authority (but so as not to derogate from the operation of paragraph (e))) of a road, street or thoroughfare on land (including excavation or other preliminary or associated work); or*
>
> *(e) in relation to a State heritage place—the demolition, removal, conversion, alteration or painting of, or addition to, the place, or any other work that could materially affect the heritage value of the place; or*
>
> *(f) in relation to a local heritage place—any work (including painting) that could materially affect the heritage value of the place (including, in the case of a tree, any tree-damaging activity) specified by the Planning and Design Code for the purposes of this paragraph (whether in relation to local heritage places generally*

*or in relation to the particular local heritage place); or*

*(g) the external painting of a building within an area specified by the Planning and Design Code for the purposes of this paragraph; or (h) in relation to a regulated tree—any tree-damaging activity; or (i) the creation of fortifications; or*

*(j) prescribed mining operations on land; or*

*(k) prescribed earthworks (to the extent that any such work or activity is not within the ambit of a preceding paragraph); or*

*(l) an act or activity in relation to land declared by or under the regulations to constitute development,*

*(including development on or under water) but does not include an act or activity that is declared by or under the regulations not to constitute development for the purposes of this Act;*

Under Section 4 **Change of use of land** is defined as:

*(1) For the purpose of determining whether a change in the use of land has occurred, the commencement or revival of a particular use of the land will, subject to this section, be regarded as a change in the use of the land if—*

*(a)* ***the use supersedes a previous use of the land****; or*

*(b) the commencement of the use or the revival of the use follows on from a period of non-use; or*

*(c)* ***the use is additional to a previously established use of the land which continues despite the commencement of the new use****; or*

*(d) there is an increase in the intensity of the use of the land which is prescribed by the Planning and Design Code as constituting a material increase in use for the purposes of this paragraph.*

Revegetation of land via Environmental Planting:

1. Does not supersede the previous use of the land, the land is still able to be used for rural land uses,
2. Is not an additional use as native vegetation is an ancillary part of any land use, and
3. Does not create a new use as there is no byproduct or ongoing land use change.

There is no planning precedent to support the premise that the method of funding for a project constitutes a change of use. Environmental Planting, and specifically, planting native trees, is complementary to the existing and ongoing rural use of the land. Therefore, a DA is not required when such plantings are not using carbon sequestration as a funding source. There is no change of use trigger for Environmental Planting not using carbon, and there is no definition in the Act that states that funding source alone is a change of use trigger. Requiring a DA for Environmental Planting on the basis of carbon sequestration is a legislative anomaly and we fail to see the legislative basis upon which it is decided that the funding source changes the definition of native tree planting to become Commercial Forestry.

This position has been supported by a small number of LGA's in South Australia who agree that the method of funding an Environmental Planting does not constitute change of use, but this clarity of legislative interpretation is not commonplace.

By comparison, a Commercial Forestry plantation (again irrespective of funding) by its very nature requires the previous use of the land to cease and the Commercial Forestry use to commence to enable the intensity of planting and harvesting to occur, as inferred in the relevant legislative definitions (discussed above), or operates as an additional use concurrent to other previously established land uses.

Commercial Forestry and Environmental Planting should not be defined as the same use or included within the same DA 'change of use' trigger under the *Planning, Development and Infrastructure Act 2016*. One operates consistently with the rural use of the land and has no clear 'change of land use' trigger, and one significantly changes the land use to a commercial operation with a clear and obvious industrial process and end product to be exploited, both of these can occur irrespective of funding source.

## 5. SA Planning and Design Code Provisions

In considering the application of the provisions of the Planning and Design Code, and in particular the Overlays and General Development Policies, we are drawn to the provision of Part 1 - Rules of Interpretation of the Code, under Policies Desired Outcomes and Performance outcomes. The Code specifies that (emphasis added):

> *In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). **A DPF provides a guide** to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but **does not need to necessarily be satisfied** to meet the performance outcome, and **does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.***

Within the Planning and Design Code there are areas where, if our Environmental Planting projects were to be considered strictly as a Commercial Forestry operation, our projects would not comply with some of the DPFs in the Code, because they are not relevant to the we do.

Part 4 General Development Policies –Forestry

The Forestry Policy is targeted at traditional forms of forestry being monoculture plantings of Radiata Pine or native hardwood species such as Tasmanian Bluegum. As such we suggest the policy has limited application to Environmental Plantings given the revegetation nature of the Environmental Planting method and the legislated difference between Commercial Forestry and Environmental Planting.

Desired Outcome 1 seeks to ensure that '*commercial forestry is designed and sited to maximise economic benefits whilst managing potential negative impacts on the environment, transport networks, surrounding land uses and landscapes*'. Environmental planting is not designed and sited to maximise economic benefit and does not impact transport networks or surrounding land uses. It greatly benefits local landscapes it is

designed and sited to maximise the environmental and ecological benefits to the land. It could be argued that Environmental Planting has significant ecological positives in comparison to Commercial Forestry and simply does not fit into the Commercial Forestry definition, as outlined in Table 1 below.

*Table 1. Greening Australia/Canopy responses to the performance outcomes for commercial forestry as outlined in the Planning and Design Code*

| Performance Outcome | Deemed-to-Satisfy Criteria | Greening Australia / Canopy Response |
|---|---|---|
| **Siting** | | |
| PO 1.1<br>Commercial forestry plantations are established where there is no detrimental effect on the physical environment or scenic quality of the rural landscape. | DTS/DPF 1.1<br>None are applicable | Not relevant for Environmental Plantings. The proposed native environmental plantings benefit the physical environment and scenic quality of the rural landscapes as they restore the land to a pre-settlement landscape using species from local vegetation communities. |
| PO 1.2<br>Commercial forestry plantations are established on slopes that are stable to minimise the risk of soil erosion. | DTS/DPF 1.2<br>Commercial forestry plantations are not located on land with a slope exceeding 20% (1-in-5). | Not applicable for Environmental Plantings. One of the objectives of the environment planting is to stabilise degraded land and eroded gullies. Sometimes we need to work on steeper slopes where we can utilise planting to assist the regeneration of the land and reduce erosions and runoff. During planting, techniques are used to minimise the potential for wind and water erosion, including working to contours and arranging the plantings to prevent wind tunnelling. |
| PO 1.3<br>Commercial forestry plantations and operations associated with their establishment, management and harvesting are appropriately set back from any sensitive receiver to minimise fire risk and noise disturbance. | DTS/DPF 1.3<br>Commercial forestry plantations and operations associated with their establishment, management and harvesting are set back 50m or more from any sensitive receiver. | Applicable. All environmental plantings are set back from any sensitive receivers. But this is also covered by bushfire planning regulations. |
| **Water Protection** | | |
| PO 2.1<br>Commercial forestry plantations incorporate artificial drainage lines | DTS/DPF 2.1<br>None are applicable. | Not applicable for Environmental Plantings. The tree canopy will intercept rainfall and increase |

| Performance Outcome | Deemed-to-Satisfy Criteria | Greening Australia / Canopy Response |
|---|---|---|
| (i.e. culverts, runoffs and constructed drains) integrated with natural drainage lines to minimise concentrated water flows onto or from plantation areas. | | infiltration which will reduce the risk of heavy rainfall becoming fast moving runoff. No artificial drainage is constructed in our biodiverse plantings as minimal disturbance techniques are employed during the planting process. |
| PO 2.2<br>Appropriate siting, layout and design measures are adopted to minimise the impact of commercial forestry plantations on surface water resources. | DTS/DPF 2.2<br>Commercial forestry plantations:<br>a. do not involve cultivation (excluding spot cultivation) in drainage lines<br>b. are set back 20m or more from the banks of any major watercourse (a third order or higher watercourse), lake, reservoir, wetland or sinkhole (with direct connection to an aquifer)<br>c. are set back 10m or more from the banks of any first or second order watercourse or sinkhole (with no direct connection to an aquifer). | Not applicable for Environmental Plantings. One of the objectives of environment plantings is to stabilise degraded land and eroded gullies. Often watercourses and drainage lines have been detrimentally impacted by stock and we work to restore these important riparian zones through appropriate planting and stock exclusion. This serves to reduce erosion and runoff and increase water quality in downstream areas. Our work in these areas is carefully controlled and often done by hand to ensure protection of land and water resources. |
| **Fire Management** | | |
| PO 3.1<br>Commercial forestry plantations incorporate appropriate firebreaks and fire management design elements. | DTS/DPF 3.1<br>a. 7m or more wide external boundary firebreaks for plantations of 40ha or less<br>b. 10m or more wide external boundary firebreaks for plantations of between 40ha and 100ha<br>c. 20m or more wide external boundary firebreaks, or 10m with an additional 10m or more of fuel-reduced plantation, for plantations of 100ha or greater.<br>Note: Firebreaks prescribed above (as well as access tracks) may be included within the setback buffer distances prescribed by other policies of the Code. | Applicable in part but also covered in other legislation. For our environmental planting external fire protection zones are established in accordance with the publication ***Managing Native Vegetation:*** *How to reduce the impact of bushfire and the steps you need to take (DEW) August 2020*). A 10m planting buffer adjacent to existing remnant vegetation patches is provided to all new plantings to assist with fire breaks. Additional buffers are provided along internal access tracks required for monitoring and maintenance of the plantings. All environmental plantings are required to provide a Permanence Plan which outlines fire protection methodologies in accordance with the relevant state legislation. We have found that Environmental Plantings achieve a lower canopy density than Commercial Forests |

| Performance Outcome | Deemed-to-Satisfy Criteria | Greening Australia / Canopy Response |
|---|---|---|
| | | and as such have a completely different fire hazard rating and setback and separation requirements. |
| PO 3.2<br>Commercial forestry plantations incorporate appropriate fire management access tracks. | DTS/DPF 3.2<br>Commercial forestry plantation fire management access tracks:<br>a. are incorporated within all firebreaks<br>b. are 7m or more wide with a vertical clearance of 4m or more<br>c. are aligned to provide straight through access at junctions, or if they are a no through access track are appropriately signposted and provide suitable turnaround areas for fire-fighting vehicles<br>d. partition the plantation into units of 40ha or less in area. | Environmental plantings are typically integrated into existing agricultural properties. All bushfire management and setbacks as required by the ***Managing Native Vegetation:*** *How to reduce the impact of bushfire and the steps you need to take (DEW) August 2020*) are incorporated into the panting design and are submitted to the CER as part of the Project's Permanence Plan. Environmental Plantings achieve a lower canopy density than Commercial Forests and as such have a completely different fire hazard level to Commercial Forests. In addition, Environmental Plantings complement operational stock farms, and the stock can reduce grassy fuel load once the vegetation is established. This does not occur with Commercial Forests. |
| Power-line Clearances | | |

<table>
<tr><th>Performance Outcome</th><th>Deemed-to-Satisfy Criteria</th><th>Greening Australia / Canopy Response</th></tr>
<tr>
<td>PO 4.1<br>Commercial forestry plantations achieve and maintain appropriate clearances from aboveground powerlines</td>
<td>DTS/DPF 4.1<br>Commercial forestry plantations incorporating trees with an expected mature height of greater than 6m meet the clearance requirements listed in the following table:
<table>
<tr><th>Voltage of transmission line</th><th>Tower or pole</th><th>Minimum horizontal clearance distance between plantings and transmission lines</th></tr>
<tr><td>500 kV</td><td>Tower</td><td>38 m</td></tr>
<tr><td>275 kV</td><td>Tower</td><td>25 m</td></tr>
<tr><td>132 kV</td><td>Tower</td><td>30 m</td></tr>
<tr><td>132 kV</td><td>Pole</td><td>20 m</td></tr>
<tr><td>66 kV</td><td>Pole</td><td>20 m</td></tr>
<tr><td><66 kV</td><td>Pole</td><td>20 m</td></tr>
</table>
</td>
<td>Applicable in part. Required aboveground powerline vegetation clearances are provided on the Look up and Live website LUAL V2 and are required to be considered for all Environmental Plantings under the Clean Energy Regulator's regulatory requirements.</td>
</tr>
</table>

Overlay - Hazards (Bushfire)

As noted under Desired Outcome 1, Hazards (Bushfire) Overlay applies to the design and siting of buildings development, not to Commercial Forestry or Environmental Plantings:

> *Development, including land division responds to the general level of bushfire risk by siting and designing buildings in a manner that mitigates the threat and impact of bushfires on life and property taking into account the increased frequency and intensity of bushfires as a result of climate change.*

As no land division is proposed and no buildings are constructed as part of the plantings the Performance Outcomes for Siting, Built Form, Habitable Buildings and Land Division are not applicable.

Fire management for Environmental Plantings is covered by the provisions of ***Managing Native Vegetation****: How to reduce the impact of bushfire and the steps you need to take (DEW) August 2020)*

In addition, under the *Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2024,* Environmental Plantings must achieve a required forest cover:

> ***forest*** *means land of a minimum area of 0.2 hectares on which trees:*
> *(a) have attained, or have the potential to attain, a crown cover of at least 20% across the area of land; and*
> *(b) have reached, or have the potential to reach, a height of at least 2 metres.*

We have found that Environmental Plantings achieve a lower canopy density than Commercial Forests and as such have a completely different fire hazard rating and therefore setback and separation requirements to those of Commercial Forests, and should not be required to adhere to the higher level fire planning standards required for a Commercial Forestry plantation.

As part of the CER's Federal approval requirements for carbon sequestration projects, every Environmental Planting project is required to submit a Permanence Plan for the works which include including long term management objectives and addresses risks associated with maintaining the carbon stocks in the ground over the duration of the Permanence Period. This plan identifies risks (including fire), outlines the monitoring requirements to track any disturbances across the property, and requires specific maintenance works, such as invasive weed management and fire prevention.

Bushfire mitigation provisions and a fire response plan are included in the project's Permanence Plan and submitted for each individual project in accordance with the SA CFS requirements.

## 6. Water Affecting Activities

Under the *Landscape SA Act* , Commercial Forestry is a water affecting activity regulated by regional Water Allocation Plans (WAPs) and Water Affecting Activities (WAA) Control policies. Whilst Commercial Forestry may be allowed if a permit is granted under the LSA Act, or if development authorisation is obtained under the PDI Act, this is not always

guaranteed in areas where a regional WAP applies.

We understand that Commercial forestry was introduced as a referral in the planning system to recognise the impact forestry can have on groundwater aquifers and ensure that the water allocation needed for Commercial Forestry is considered at the planning and land use approval stage. This is excessive for environmental restoration work, which is an activity that occurs only once, rather than in a cyclical nature of 'typical' commercial forestry, and where there is no allocation for irrigation required. Trees planted as part of a native Environmental Planting project must remain in place for at least 25 years, after which they may become protected under native vegetation legislation.

When captured within the definition of Commercial Forestry under the Act and Code, the restoration of landscapes with native plantings registered as Environmental Planting is limited and controlled through regional WAP's and WAA Control policies over large areas of the State under Subsection 104(4)(K) of the *Landscape SA Act* . This subsection states:

> *Subject to this Act, a person must not undertake any of the following activities contrary to a water allocation plan or a water affecting activities control policy that applies or makes provision in relation to the region or area in which the activity is to be undertaken:*
> .....
> *(k) undertaking commercial forestry*

Under the Western Mount Lofty Ranges (WMLR) Prescribed Water Resources Area (PWRA) Water Allocation Plan, principle 196 Reservation of Excess water states:

> *A commercial forest should not be planted if the Minister has, pursuant to section 166 of the NRM Act [now the Landscape SA Act ], reserved from allocation excess water that is available for allocation from underground water in the underground water management zone in which the commercial forest would be planted.*

Our belief is that this should not apply to biodiverse native Environmental Plantings that are not irrigated.

Principle 194 of the WMLR PWRA Water Allocation Plan provides one exception to this, stating:

> *For the purposes of this plan, the principles in this section do not apply to commercial forests where the initial and any subsequent, planting densities are less than 250 trees per hectare.*

To undertake Environmental Planting (using carbon sequestration as the funding source) to create habitat for the King Island Glossy Black Cockatoo at a property on the southern Fleurieu Peninsula, Greening Australia was required to submit a development application for the project. The application had to be referred to the Minister for assessment against the relevant Water Allocation Plan under the Landscape South Australia Act 2019 to enable the project to proceed, despite the fact that there was no intention to irrigate project trees using prescribed water resources.

This would not have been necessary if the Environmental Planting was not grouped withing the definition of Commercial Forestry. Of note, Greening Australia had already undertaken native tree planting on the same property without a DA, however the project

was not carbon funded. For both native tree planting projects (carbon and privately funded) there was no intention to use any prescribed water resources as defined under the Western Mount Lofty Ranges (WMLR) PWRA Water Allocation Plan to irrigate the proposed planting, nor were we requesting any new water allocation.

We understand that planting trees could impact the local hydrological cycle because the water uptake may be greater than the land use it replaces (e.g. dryland farming). On the other hand, the trees may benefit the local hydrology by preventing run off and increasing infiltration during heavy rainfall events, and the removal of stock may reduce the water take for those properties.

It is illogical that Environmental Plantings undertaken in a WAP area without funding from carbon sequestration and without any need for water allocation or use of prescribed water resources can be established on a property with no stem density restrictions and without a DA, whereas exactly the same project funded by carbon requires a DA, the only difference being the method of funding the project.

Moreover, planting restrictions such as those under the WML PWRA WAP have the potential to render a project unable to proceed as there are minimum stem densities required under the Environmental Plantings methodology that must be met to replicate the representative vegetation communities. The presence of underwater lenses can also prohibit Environmental Planting projects funded through carbon (and therefore defined as Commercial Forestry) from proceeding in WAP areas, despite the known benefits to water quality, runoff and biodiversity, where they would otherwise proceed if not funded through carbon.

As an example of other WAP's, the Limestone Coast WAP prohibits all Commercial Forestry unless the operation possesses an existing Commercial Forestry water licence and approved water allocation. Unless we undertake Environmental Planting without carbon sequestration as the funding source Greening Australia is unable to undertake any environmental restoration in this area.

Under the Eyre Peninsula Water Affecting Activity Control Policy the importance of Environmental Plantings is recognised with an exemption from requiring a Water Affecting Activity Permit under Section 2.2.4 Permit Exemptions, Principle 29:

> *29. A permit is not required for planting of local native seed or tube stock to revegetate a local vegetation community with appropriate structural components (over-storey, midstorey and understorey species) even if carbon credits will be derived from the planting.*

Whilst a DA is still required for Environmental Plantings in this area, there is no need for approval under the WAP in this instance, but this is not the norm.

Roadblocks through the use of the Commercial Forestry definition in the *Landscape SA Act* directly hinders the ability of organisations such as Greening Australia to undertake important Environmental Planting work solely on the basis of how a project is funded. This is exacerbated when the Commercial Forestry definition is applied in areas with a WAP or Water Affecting Activity Control Policy which in some instances results in projects being unable to proceed solely because of the funding mechanism under which they are generated, even though no irrigation is planned or needed for these projects.

Removing the requirement for biodiverse Environmental Plantings using carbon as the funding source to submit to water allocation plans and water affecting policies does not increase the risk that these proposals would not proceed due to lack of available water. By their very nature biodiverse Environmental Plantings as defined in the *Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2024* consist of a mixture of trees and shrubs that:

> *(a) are native to the local area of the planting; and*
> *(b) are sourced from seeds:*
> *(i) from within the natural distribution of the species; and*
> *(ii) that are appropriate to the biophysical characteristics of the area of the planting; and*
> *(c) are established through planting.*
> *.....*
> *reflects the structure and composition of the local native vegetation community.*

These biodiverse Environmental Plantings use vegetation that have evolved to tolerate local conditions, including low water requirements, and the plant selection is developed considering these local climate conditions.

This policy discrepancy for Environmental Planting could simply be rectified by amending the definition of Commercial Forestry to exclude Environmental Planting. Environmental Planting should be separately defined as it is by the Federal Government, noting within WAP areas that Environmental Planting does not need prescribed water resource allocations.

## 7. Guidelines for Plantation Forestry by the Department of Primary Industries and Regions

In considering the *Guidelines for Plantation Forestry by the Department of Primary Industries and Regions, South Australia 2009*, we note the scope of these guidelines relates specifically for Plantation Forestry:

> *"This document applies to operations carried out in public and private plantation forests. For the purpose of this document, the term 'forestry' or 'plantation forestry' relates to both large-scale and farm forestry plantations. "*

As outlined above, Environmental Plantings are not Commercial Forests and should not be assessed under these Code requirements, despite this being the case currently. The provisions in the Guidelines are excessive for Environmental Plantings and can place unnecessarily financial burden on projects. Amending the definition of Commercial Forestry to exclude Environmental Planting would rectify this policy inconsistency.

## Conclusion

Greening Australia and Canopy find our Environmental Planting projects in the challenging position of being classed as Commercial Forestry under the Code due solely to the mechanism used to fund our projects, not from our intended end product which has not changed over the last 40 years.

The claiming of carbon credits is utilised as a source of funding by Greening Australia and

Canopy to support their goal of restoring native landscapes to Australia. The environmental plantings that we deliver provide significant environmental benefits to restore degraded and over-grazed landscapes, encourage biodiversity and enhance wildlife corridors, reduce surface runoff and erosion, increase water quality, and store excess carbon in woody biomass. It is not the intention of Greening Australia and Canopy to establish any commercial forestry plantations for the exclusive purpose of harvesting timber. This is a wholly different outcome from a Commercial Forestry operation planted for harvesting.

However by association and as currently defined under the Act and Code, our Environmental Plantings are measured against the Commercial Forestry provisions under the Code and the requirements of the *Guidelines for Plantation Forestry by the Department of Primary Industries and Regions, South Australia 2009* which are gross overkill for Environmental Plantings with no harvesting proposed.

As we have outlined above, it is not the intent of Greening Australia or Canopy to undertake Commercial or Plantation Forestry. It is merely due to the legislative provisions and funding opportunities available that we fall under the definition of Commercial Forestry under the *Landscape SA Act* and the Code and this has significant implications for our core business of restoring degraded landscapes and increasing biodiversity.

Our intended outcome and end product could not be more different from Commercial Forestry. The key planting objectives of our projects are to:

- Establish native vegetation.
- Manage pest and weed species
- Ensure the plantings are maintained for at least 25 years and achieve a minimum of 20% canopy cover and 2m height before the end of that 25 year period as required by the *Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2024*.
- Provide landscape shelter for future grazing and livestock retained on the property (if required).
- Contribute to achieving local and regional biodiversity objectives, increasing native vegetation cover and providing habitat structure for declining woodland birds and other species.
- Support the SA Government's priority of regenerating biodiverse and highly productive landscapes.
- Capture and sequester atmospheric carbon in native vegetation.
- Finance the works by registering the property as part of an Emission Reduction Fund Environmental Planting Project as discussed above.

There is no intent to:

1. Remove any existing vegetation unless absolutely necessary to allow the restoration of the landscape or for fire protection purposes (this is very rare).
2. Harvest any of the vegetation.
3. Irrigate any of the plantings or use any prescribed water resources.
4. Plant anything other than endemic species proven to thrive in the local conditions.

Greening Australia and Canopy believe our projects deliver a significant environmental benefit and directly support the SA government's priority of regenerating biodiverse and highly productive landscapes.

Therefore as part of the technical amendment review we formally request a redefinition of Commercial Forestry under the *Landscape SA Act* and the SA Planning and Design Code to exclude Environmental Plantings and by default the need for a development application.

As we have outlined in our submission, Commercial Forestry and Environmental Planting are two vastly different planting methodologies, with completely different environmental outcomes. To apply the same definition of Commercial Forestry through the *Landscape SA Act* and the Code to both project types is inconsistent with Federal legislation and has a detrimental outcome to the restoration of native landscapes.

The Assessment Improvements Code Amendment document also recommends to:

> ***AMEND*** *the definition for commercial forestry so that it aligns with the nature of commercial forestry activities that require licencing and permit approvals under the LSA Act (as currently linked to the referrals set out in Part 9 and the various water protection related overlays of the Code.*

The review of the *Landscape SA Act* has also identified this issue under "Amendment areas for consideration: water regulation" (Rec. 12, Appendix C):

> *Review definition of 'commercial forestry' with regard to biodiverse revegetation.*

We support this recommendation and suggest the resource is already available to define both Commercial Foresty and Environmental Plantings in their own right, consistent with the definitions in the *Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2024* and *Carbon Credits (Carbon Farming Initiative—Plantation Forestry) Methodology Determination 2022.*

Given the definition of Commercial Forestry in the SA Planning and Design Code is recommended to be amended to reflect the *Landscape SA Act* , and the definition for Commercial Forestry with regard to biodiverse revegetation is under review in the LSA Act, this presents an opportunity for collaboration between departments to achieve consistency in the treatment of Environmental Planting in its own right, separate from Commercial Forestry.

Definitions could be contained within the *Landscape SA Act* without the need to reproduce those same definitions in the Code, such that any update to the *Landscape SA Act* would flow through to the Code via reference.

We reiterate that it would be of enormous benefit to all parties seeking to undertake Environmental Restoration work to amend the definition of Commercial Forestry to exclude Environmental Planting, irrespective of funding source. The claiming of carbon

credits is simply a method utilised as a source of funding by Greening Australia and Canopy to support our goal of restoring native landscapes to Australia, in a time where funding to undertake this work through other financial means is very limited.

This would resolve myriad legislative and policy anomalies at both a State and Federal level and allow Environmental Plantings using carbon as the funding source, which are strictly controlled by the Clean Energy Regulator, to proceed without a development application as they have always when not funded using carbon.

We look forward to following the progress of this valuable review, and welcome any opportunity for ongoing discussion between agencies.

I can be contacted on [redacted] or [redacted] if you need to discuss any aspect of our submission further.

Kind Regards,

[redacted]

**Cat Wright**
Land Access Coordinator
Greening Australia

Attachment: GAustralia_Canopy_LSA_Act_2019_Review_v0.1.pdf

27 October 2023

Independent Review of the LSA Act
GPO Box 1047
Adelaide SA 5001
Via email: LSActIndependentReview@sa.gov.au

**Subject: Feedback for Independent review of the *Landscape South Australia Act 2019***

Dear the Hon John Hill,

We are writing regarding the review process currently underway for the *Landscape South Australia Act 2019* ('the LSA Act'). We would like to provide feedback for consideration, particularly in regard to the interaction between the definition of 'commercial forestry' within the LSA Act and Environmental Planting projects registered under the federal government's Emissions Reduction Fund (ERF).

## Background

Environmental Planting projects under the ERF involve planting a mixture of tree and shrub species that are native to the local area and are maintained for a period of at least 25 years and sometimes up to 100 years, depending on the project's selected permanence period.

To qualify and claim carbon credits as an Environmental Planting under the ERF, projects are controlled tightly through external audits and verified against the requirements of the *Carbon Credits (Carbon Farming Initiative) (Reforestation by Environmental or Mallee Plantings—FullCAM) Methodology Determination 2014* ('the Method').

As one means to fund our goal of restoring native landscapes across Australia, Greening Australia, and subsidiary company, Canopy Nature Based Solutions (Canopy), register Environmental Planting projects under the ERF to claim carbon credits. These types of Environmental Plantings restore degraded landscapes, encourage biodiversity, enhance native wildlife corridors and store carbon in woody biomass.

Because carbon credits are claimed from them, these native, biodiverse Environmental Plantings are captured under the definition of commercial forestry in the LSA Act. A 'commercial forest' in the LSA Act is defined as *"a forest plantation where the forest vegetation is grown or maintained so that it can be harvested or used for commercial purposes (including through the commercial exploitation of the carbon absorption capacity of the forest vegetation)"*. This means that the long-term restoration of native landscapes under the Method is subject to the same rules and requirements as rotational, monoculture timber plantations.

When captured within the definition of commercial forestry, the restoration of landscapes with native plantings registered as Environmental Planting projects is limited and controlled through Water Allocation Plans (WAPs) and Water Affecting Activity Control Policies over large areas of the state under subsection 104(4)(k) of the LSA Act.

This subsection states:

*"Subject to this Act, a person must not undertake any of the following activities contrary to a water allocation plan or a water affecting activities control policy that applies or makes provision in relation to the region or area in which the activity is to be undertaken:*

.....

*(k) undertaking commercial forestry....."*

Within South Australia's Carbon Sequestration Strategy 2018, produced by the Department of Environment, Water and Natural Resources, the South Australian Government committed to working with, and listening to, the carbon market supply chain to help stimulate the supply of local carbon credits and meet the growing demand. Specifically, through the Strategy, the South Australian Government committed to addressing any legislative or policy barriers to the uptake of sequestration opportunities.

Given the relatively broad definition of 'commercial forestry' under the LSA Act, and the subsequent requirements under section 104(4)(k), Greening Australia/Canopy have identified this as a barrier to establishing carbon sequestration projects by way of native Environmental Plantings within key parts of South Australia that have favourable conditions for native vegetation restoration.

This feedback focuses on environmental restoration projects that claim carbon credits through the ERF as it is Greening Australia/ Canopy's preferred method. However, given the likely broad interpretation of *"commercial exploitation"*, it would likely also limit carbon offset projects where sequestration through planted vegetation is claimed by a landowner seeking to reduce their carbon footprint for commercial gain (known as 'insetting').

Example Barrier 1: Western Mount Lofty Ranges Prescribed Water Resources Area

As per principle 196 ('Reservation of Excess Water') of the Western Mount Lofty Ranges (WMLR) WAP, *'a commercial forest should not be planted if the Minister has, pursuant to section 166 of the NRM Act [now the LSA Act], reserved from allocation excess water that is available for allocation from underground water in the underground water management zone in which the commercial forest would be planted.'*

As all 'excess' underground water in the WMLR Prescribed Water Resource Area (PWRA) is currently reserved by the Minister, a licence or permit cannot be authorised under the current WAP rules if one is deemed to be required for commercial forestry. This means that unless exempt under another Principle of the WMLR WAP, such as Principles 194 or 195 regarding maximum tree planting densities or existing commercial forestry operations, biodiverse Environmental Plantings registered under the ERF may not take place within the WMLR PWRA. The Water Licensing Branch responsible for administering the WMLR WAP have confirmed that they have not yet received an application seeking exemption under Principle 194 of the WAP, so it is currently unclear how the assessment would be undertaken.

Example Barrier 2: Lower Limestone Coast Prescribed Wells Area

Within a Prescribed area, if a carbon planting under an ERF method falls within a 'declared forestry area', a forest water licence with an appropriate water allocation is required and certain conditions in regard to commercial forestry need to be observed.

The Lower Limestone Coast Prescribed Wells Area is currently a declared forestry area, meaning a forest water licence is required for commercial forestry, including for native, biodiverse plantings from which carbon credits are claimed[1]. This means that no environmental restoration by way of registered Environmental Planting projects, or insetting, as described above, may take place in the Lower Limestone Coast Prescribed Wells Area without first obtaining a forest water licence and purchasing a water allocation. As the aim of these projects is restoring native vegetation, there is no intention to harvest the vegetation for financial gain from wood products. Under these circumstances, the cost of

[1] South East Natural Resources Management Board, accessed 20 September 2023, https://cdn.environment.sa.gov.au/landscape/docs/lc/llc_wap_amended_29_june_2019_no_appendices.pdf

purchasing a water allocation is not able to be offset by high returns as they could for rotational, monoculture timber plantations.

In addition, the Lower Limestone Coast WAP requires commercial forests to be set a calculated distance back from 13 priority wetlands to prevent potential negative impacts to ecosystems meaning these wetlands cannot be extended upon through carbon-market funded native tree planting activities.

## Proposed Solution

It is proposed that during the current review of the LSA Act, the Department considers adopting a similar approach to that of the Eyre Peninsula Landscape Board (the 'EP Board'), who have used strategic language to ensure the exclusion of biodiverse Environmental Plantings from permit requirements within their Water Affecting Activity Control Policy, while still including the requirement for most commercial forestry.

The wording contained within the EP Board's Water Affecting Activity Control Policy is as follows:

### Definition

> **Commercial forest** – Means a forest plantation where the forest vegetation is grown or maintained so that it can be harvested or used for commercial purposes (including through the commercial exploitation of the carbon absorption capacity of the forest vegetation). In the EP Landscape region commercial forest is further defined as a forest not aiming to revegetate a local vegetation community with appropriate structural components (over-storey, mid-storey and understorey species), but all monoculture plantings regardless of species origin, local native species, non-local Australian native species or non-Australian introduced species.

### Permit Requirements

> **Water affecting activities requiring a permit** – Undertaking commercial forestry (including carbon plantings) within a priority catchment requires a permit.
>
> **Permit exemptions** – Planting of local native seed or tube stock to revegetate a local vegetation community with appropriate structural components (over-storey, mid-storey and understorey species) even if carbon credits will be derived from the planting provided the activity is in accordance with principle 29.

Further, the EP Board's Water Affecting Activity Control Policy introduced Principle 29 which states:

> *"A permit is not required for planting of local native seed or tube stock to revegetate a local vegetation community with appropriate structural components (over-storey, midstorey and understorey species) even if carbon credits will be derived from the planting."*

## Benefits

A key difference between environmental restoration and rotational, monoculture timber plantations is that there is no intent to harvest the vegetation, and it is protected through Permanence obligations, described in the 'Background' section above.

In addition to carbon sequestration, biodiverse native plantings can achieve a wide range of co-benefits including:

- supporting agricultural productivity and assisting landholders to diversify their income
- reversing land degradation
- enhancement of habitat for threatened fauna species
- restoration of threatened ecosystems including threatened flora species

- improvement of landscape connectivity
- retaining and expanding remnant vegetation
- soil erosion reduction
- water quality benefits.

Adopting an approach that allows landscape restoration projects to be funded through the federal government's ERF within South Australia will allow closer alignment with Landscape Plans within the Landscape Regions that Environmental Plantings are currently restricted. Using an example from above, the WMLR PWRA located within the Hills and Fleurieu Landscape Region, the Hills and Fleurieu Landscape Plan 2021-2026 goals include:

- **Carbon Farming Roadmap:** "Providing pathways for uptake of emissions reduction and carbon sequestration opportunities in soils, vegetation, forestry and livestock management."

- **Regenerating biodiverse and highly productive landscapes**: "We'll know we've succeeded when Industries are adapting to climate change, have transitioned to low carbon farming methods, and are benefiting from carbon sequestration opportunities."

- **Strategies 2021-26, C1 (Transition to net zero carbon emissions) and L4 (Future-proof our agriculture):** "Explore and support carbon reduction activities, including uptake of carbon farming"

- **The need for action:** "Landscape recovery is critical for building the resilience of our communities, industries and ecosystems – ensuring they can survive, adapt and thrive, no matter what happens."

**Summary**

In conclusion, amending the Commercial Forestry definition within the LSA Act would remove barriers to the market-driven restoration of degraded landscapes within South Australia.

The adoption of our feedback would unlock the potential of our state for greater natural connectivity and biodiversity.

If there is any further information we can provide you to assist with this decision please let me know.

Your consideration of this matter is greatly appreciated.

Kind Regards,

Michelle

Michelle Usher Technical Lead – Carbon

M [redacted] | E [redacted] | W canopy.org.au

PlanSA

WHAT WE HEARD

# Draft Assessment Improvements Code Amendment

## About the proposed changes

The South Australian Government is proposing a series of technical amendments to South Australia's Planning and Design Code (the Code). The amendments are an opportunity to improve the Code's general performance, interpretation and consistency.

Areas of focus in the draft Assessment Improvements Code Amendment include:

- improvements to the rules of interpretation in response to recent case law
- improvements to land use and administrative definitions
- review of heritage referrals
- review of demolition policy in the Local Heritage Place Overlay
- review of language and policy consistency
- ensuring policies are reasonable and practical
- review of car parking for major open spaces.

The amendments implement some of the Expert Panel recommendations from the Planning System Implementation Review supported by the state government. Others have been informed by feedback provided by local council, planning industry professionals and other users of the Code.

The changes build upon the Miscellaneous Technical Enhancement Code Amendment, which came into operation on 1 June 2023. This Code Amendment was similarly focused on addressing technical and operational elements within the Code, as opposed to changing policy intent or outcomes.

Feedback was invited on the draft Code Amendment over 13 weeks, from Tuesday 10 December 2024 to Tuesday 11 March 2025.

## What we heard

A total of 138 submissions were received from the community, councils, industry and government agencies. These submissions have been reviewed and the feedback received covers a wide range of areas that will be considered in finalising the draft Code Amendment.

**The most frequently commented on areas were:**

- proposed changes to the Code's Rules of Interpretation aimed at clarifying the circumstances under which cadastre updates and overlay spatial amendments can be made under section 71(e) of the *Planning, Development and Infrastructure Act 2016*
- proposed changes to the Code's Rules of Interpretation aimed at clarifying how Technical and Numeric Variations (TNVs) are to be interpreted when undertaking performance assessments
- circumstances under which a Code policy may be amended to reflect an Australian Standard taking account of the level of community consultation that is undertaken in relation to the creation and / or updating of Australian Standards
- amendments to administrative terms and land use definitions, with further requests for additional definitions to be included in the Code
- the proposed removal of the requirement for a covered car parking space in association with a new dwelling
- proposed policy amendments relating to noise mitigation measures for swimming pool filtration systems, with comments suggesting a definition be added for 'solid acoustic structure'
- strengthened policies aimed at preventing neglect leading to the deterioration of local heritage places
- car parking rates for open spaces, with some suggesting the need for a Practice Direction to provide additional guidance and other comments noting that car parks shouldn't be provided at the expense of open space.

**Areas of concern/issues identified from the feedback received includes:**

- proposed changes to Rules of Interpretation regarding application of relevant policies to Performance Assessed classes of development is at odds with case law and suggestion that further improvements are needed to make sure all relevant policy is identified
- support for further guidance regarding the assessment of Community Title land divisions
- the impact of removing the Water Resources Overlay exclusion on assessments of developments within 20 metres of a water course.

Whilst not part of the draft Code Amendment released for community engagement, 82 submissions out of 138 raised specific concerns about small-lot rural land division within the Barossa and McLaren Vale character preservation districts. Most of these submissions suggested that amendments to the Code were necessary to better align guidance for the division of rural land with the objectives of the respective character preservation acts.

## Engagement activities

The following engagement activities provided opportunities for the community and stakeholders to gather further information and provide feedback on the draft Code Amendment:

- online information sessions, one in each month of the consultation (December, January, February), aimed at industry, council and government, with anyone able to attend (there were 58 attendees across these sessions)
- information about the draft Code Amendment and consultation was delivered at online Policy Forums in December 2024 and February 2025, which are attended by planning practitioners across industry and government (255 people were invited to attend these)
- PlanSA website and online submission form/emails to submissions and PlanSA inboxes: 123 responses were received, mostly from councils, state agencies and industry
- YourSAy consultation website, survey and question tools: 12 survey responses were submitted and 3 questions.

These engagement activities were promoted through PlanSA, State Planning Commission and YourSAy social media, Planning Ahead e-news, YourSAy e-news, as well as letters sent directly to local councils, state government agencies and industry stakeholders.

## Next steps

All feedback is being collated and considered in greater detail in preparing an update to the draft Code Amendment to be submitted to the Minister for Planning.

An engagement report is being prepared, which includes a summary of written submissions and feedback received, how these were considered, and proposed updates to the draft Code Amendment released for consultation. Once complete, this report will be provided to the Minister with the updated Code Amendment for a decision.

The engagement report, along with the outcome of the Code Amendment and any further updates, will be published on the YourSAy and PlanSA consultation pages.

## More information

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| Contact: | PlanSA |
| Phone: | 1800 752 664 |
| Email: | PlanSA@sa.gov.au |
| Visit YourSAy: | yoursay.sa.gov.au/assessment-improvements |
| Visit PlanSA: | plan.sa.gov.au |