

## Agenda Report for Decision

**Meeting Date: 25 November 2021**

<b>Item Name</b>	Initiation of the Miscellaneous Technical Enhancement Code Amendment
<b>Presenters</b>	Brett Steiner and Daniel Clapp
<b>Purpose of Report</b>	Decision
<b>Item Number</b>	3.1
<b>Confidential Item (Y/N)</b>	Not Confidential (Released Delayed). To be released following final decision by the State Planning Commission on initiation of the Code Amendment
<b>Related Decisions</b>	SPC Meeting 24 June 2021 – Agenda item 3.3

### Recommendation

It is recommended that the State Planning Commission (the Commission) resolves to:

1. Approve the designation of the item as Not Confidential (Release Delayed), with the meeting papers for the item to be released following final decision by the Commission on initiation of the Code Amendment.
2. Agree to Initiate the Miscellaneous Technical Enhancement Code Amendment to the Planning and Design Code (the Code) under section 73(2)(a) of the *Planning, Development and Infrastructure Act 2016* (the Act).
3. Approve the scope and investigations of the proposed Miscellaneous Technical Enhancement Code Amendment outlined in the Proposal to Initiate (**Attachment 1**).
4. Approve the summary of issues raised from preliminary engagement and include in the Proposal to Initiate documentation (**Attachment 2**).
5. Authorise the Chair of the Commission to make any minor amendments as required and sign the draft letter in **Attachment 3** addressed to the key industry and local government stakeholders as listed in **Attachment 4**.
6. Authorise the Chair of the Commission to make any minor amendments as required and sign letter to the Minister for Planning and Local Government (the Minister) in **Attachment 5** to advise of the initiation.

## Proposal

The Miscellaneous Technical Enhancement Code Amendment (the Code Amendment) will provide an opportunity to make policy change to improve outcomes and consistency in policy interpretation. Since the implementation of the Phase Three (Urban Areas) Code Amendment on 19 March 2021, the Attorney-General's Department (the Department) has been continually reviewing and receiving feedback on aspects/policies of the Code which could be improved, or may not be resulting in the anticipated policy outcomes.

In addition, the Commission has also undertaken a preliminary engagement on possible issues for the proposed Code Amendment through a 'call for issues'. The main purpose of preliminary engagement was to gain further insight into key issues facing planning practitioners and development industry participants based on their experiences using the Code, prior to finalising the scope of this Code Amendment.

The outcomes of this preliminary engagement has assisted to inform the final scoping of the initiation documentation. The outcomes have also been summarised and included in the Proposal to Initiate document to allow for understanding of the issues raised and position of the Commission for this Code Amendment.

This report seeks for the Commission to initiate the Code Amendment on its own initiative, pursuant to section 73(2)(b) of the Act.

The purpose of the Code Amendment is to focus on the below key topics:

- improve policy clarity and interpretation
- improve consistency and alignment with Code drafting principles
- system efficiency and procedural matters.

The Code Amendment is anticipated to come into effect around late-2022.

A flowchart of the Code Amendment process is provided in **Attachment 6**.

## Background

Under section 73(2)(a) of the Act, the Commission may, acting on its own initiative, initiate an amendment to the Code.

A draft Proposal to Initiate has been prepared in accordance with the Act and the requirements of *Practice Direction 2 – Preparation and Amendment of a Designated Instrument*.

The Commission's Strategic Plan 2020-21 identifies work plan priorities for implementing the new planning system for the next 12 to 18 months; a Code Amendment process to address technical matters with the Code is amongst these priorities.

This Code Amendment is intended to focus on the general performance, interpretation and consistency of the Code, informed by experiences of planning practitioners, building industry participants and peak bodies during the initial period of its operation across the whole of South Australia.

At its 24 June 2021 meeting, the Commission discussed the agenda item for the 'Amendment Scoping (call for issues) for potential Code Amendment Initiation – Technical Enhancements'. The Commission resolved to:

1. Approve undertaking preliminary engagement with peak planning, local government and development industry groups, and referral bodies to inform the Miscellaneous Technical Enhancement Code Amendment;
2. Authorise the Chair to sign the draft letter at Attachment 1, to the key industry and local government stakeholders as listed in Attachment 2;

3. Note that a subsequent Commission agenda report will be prepared by the Department summarising the engagement and seeking the Commission's approval to initiate a Commission led Miscellaneous Technical Enhancement Code Amendment under section 73(2)(a) of the *Planning, Development and Infrastructure Act 2016*.

The Department, on behalf of the Commission, undertook preliminary engagement during July and August this year. See below heading 'Engagement already undertaken' for further details and the summary of issues received by submissions document.

## Discussion

### Scope of the Code Amendment

The Code Amendment seeks to amend the Code by updating key identified parts requiring technical enhancements in order to reach to desired outcomes, provide greater clarity and ensuring consistency in policy interpretation.

The scope of the proposed Code Amendment is anticipated to be focussed on technical enhancements rather than issues involving substantial change in policy position, or intent of zones, subzones, overlays or general development policies.

These key areas have been identified through a number a different sources, including internal Departmental review, stakeholders registering issues through the SA Planning Portal (or service desk), workshops with councils, and through the monthly policy forums with councils and accredited professionals hosted by the Department. In addition, key areas have been identified through the Commission's preliminary engagement with key stakeholders and public through its 'call for issues'.

This Code Amendment will focus on making improvements to the Code through the below key topics:

- a primary focus on technical matters
- improve policy clarity and interpretation
- improve consistency and alignment with Code drafting principles
- system efficiency and procedural matters
- unintended policy consequence from the Code commencement rather than substantial change of policy position.

Some of the key issues proposed to be addressed include, but not limited to, the following:

- **Notification Tables**
  - Review to ensure consistency across similar types of zones, avoid classes of development inadvertently being subject to notification etc.
- **Assessment Pathways**
  - Improve or create new designated assessment pathways to:
    - Avoid certain common or minor development types such as swimming pools, decks and privacy screens; being 'All Code assessed'. This could include creating new Code policy for activities such as swimming pools, swimming pool fencing, decks, balconies and verandahs.
    - Increase accepted and Deemed-to-Satisfy (DTS) pathways for minor common forms of development
  - Reviewing relevance of Overlay policy to certain development types, noting in some cases overlay policy may be of little relevance.

- Reviewing Overlay policy to determine whether new DTS/Designated-Performance-Feature (DPF) criteria can be included to address a Performance Outcome so that a DTS pathway may be maintained.
- Clarify pathways and policy for dwelling alterations and building additions/alterations.
- **Relevant policy in Zone Classification Table 1-3 (linkages)**
  - Review relevant policies identified in zone Classifications Tables to ensure there are no gaps or inconsistencies across similar zones.
- **Restricted Development Classification**
  - Review to ensure development classified as 'restricted' meet key guiding principles.
- **Referrals**
  - Review to remove unnecessary or unintended State Agency referrals.
- **Definitions**
  - Review certain land use and administrative definitions to provide greater clarity of interpretation, and consider inclusion of certain new definitions.
- **Policy Review**
  - General review of identified policies to improve clarity, remove any inconsistencies or ambiguity etc.
- **Part 1 – Rules of Interpretation**
  - Review to ensure the Rules of Interpretation are clear and understandable, including:
    - Providing clarification of the process for amending spatial information within the South Australian Property and Planning Atlas (SAPPA) that do not form part of the Code or the SA planning database (eg Reference Layers).
    - Providing clarity in relation to the application of policies or determination for a class of development where a zone, subzone or overlay only applies to a portion of an allotment.
- **Heritage Places**
  - Include a list of State Heritage Places, and include notes that clarify the SA Heritage Register takes precedence in respect to State Heritage Places, and the Code's Local Heritage list takes precedence over the SA Heritage Register. Clarity

Refer to the Proposal to Initiate for further information on the issues (**Attachment 1**).

These topics are largely based on feedback received on the Code so far. However, this will continue to be further refined, and may be added to, as ongoing policy review, along with working with referral agencies and key stakeholders in the preparation of the Code Amendment prior to consultation being undertaken.

#### Restricted Development

Some classes of development currently listed as 'restricted' do not require a State-level assessment, and could be performance assessed by an Assessment Manager or Council Assessment Panel. These relevant authorities have the appropriate skills and qualifications to undertake a performance assessment of a number of land uses currently listed as restricted development in the Code. Therefore, a review of the current classes of development listed as 'restricted' is recommended.

To help guide and assist in what classes of development should be listed as a 'restricted' form of development, it is proposed to establish new principles; these being:

- **Principle 1:** Warrants assessment at a State-level to consider the strategic implications and impacts.

For example, large-scale out-of-centre retail warrants State assessment as it may have a broader impact on the form and pattern of development across a region, and could disrupt the role of activity centres in providing equitable and convenient access to shopping, administrative, cultural, entertainment and other facilities.

- **Principle 2:** Requires detailed investigations and assessment beyond that provided through a performance assessed pathway, and may require consideration of other documents outside of the Code

For example, special industry has the potential to endanger or detrimentally affect the health of people and property, and would therefore benefit from a more detailed assessment process.

### Strategic Assessment

The Code must be consistent with the State Planning Policies (SPPs) and should be consistent with the directions of the relevant Regional Plan. The Code Amendment continues to support the principles of good planning as one of the primary objectives of the Act.

The achievement of other SPPs and relevant policies and targets within the Regional Plan are further outlined in the Proposal to Initiate (**Attachment 1**).

### Engagement already undertaken

In May 2021, the Department held a workshop with nominated planning officers from councils to discuss the Code in terms of key areas which could be improved. These discussions included the potential for these issues to be addressed as part of a potential Code enhancement amendment. This workshop assisted in the scoping and setting priorities for this Code Amendment.

Additionally, through the SA Planning Portal and PlanSA service desk, the Department is continually responding to queries and working through other enhancements which could be made through an amendment.

During July and August 2021, the Department, on behalf of the Commission, undertook preliminary engagement to assist in informing the scope of this Code Amendment. This process called upon planning and development professionals, along with the general public, to provide feedback on potential matters to be addressed through this Code Amendment.

A total of 42 written submissions were received during the consultation period. A breakdown of the submissions is as follows:

- 24 submissions were received from councils:
  - Of these 24 submissions received, 17 (71 per cent) were from Greater Adelaide and seven (29 per cent) were from regional areas of the State.
- Four submissions were received from the following industry bodies:
  - Local Government Association
  - Master Builders Association
  - Housing Industry Association
  - Urban Development Institute Australia.

- Six submissions were received from State Government Departments.
- Six submissions were received from the public, planning professionals and community organisations, including:
  - Community Alliance S.A.
  - Resilient East
  - Norwood Residents Association
  - Bike Adelaide.

A summary of the issues raised by submissions has been prepared and is suggested to be included in the Proposal to Initiate documentation (**Attachment 2**).

It is considered that some of the issues raised within the submissions were outside the scope of this Code Amendment. For the most part, these could be classified into two types of categories, a correction of a minor/operational amendment or a policy review.

#### *Minor or Operational Amendment*

A number of requests have been received to amend the Code in relation to a policy that was incorrectly applied through the transition from a Development Plan to the Code.

Under section 76(1)(b) of the Act, the Minister is able to amend the Code to correct an error or inconsistency by notice published in the *Government Gazette*. It is noted that this process has already been used in a number of instances since the Code become operational to amend specific policy where it has clearly been established to be an unintended incorrect application of a policy.

If any of the suggested amendments can be classified as addressing or removing irrelevant material, a duplication, inconsistency or an error, then the Code can be amended through the section 76 process accordingly.

#### *Policy Review*

Some of the issues raised during the preliminary engagement period were consideration of a change in a 'policy position' for a particular issue. In some instances, these issues were raised and considered during the Phase Three Code Amendment process.

It is not the intent of this Code Amendment to address issues that relate to a substantial change in a policy position. A review of these sorts of issues is best progressed through separate Code Amendment processes.

#### Further engagement

An Engagement Plan will be prepared for the Commission in accordance with the Community Engagement Charter. This will be provided to the Commission as part of the approval package prior to commencing consultation on this Code Amendment.

### Next steps

- Undertake final review and refine the topics and issues to be addressed through this Code Amendment, which may include a pre-consultation workshop with key stakeholders on specific issues where appropriate.
- Finalise the Code Amendment and Engagement Plan for approval by the Commission for public consultation release.
- Undertake the consultation process in accordance with the Engagement Plan.
- Review submissions received.
- Prepare an Engagement Report in accordance with section 73 of the Act.
- Present the Engagement Report and the Code Amendment to the Commission for approval.
- Present the Code Amendment and Engagement Report to the Minister for adoption.

### **Attachments:**

1. Proposal to Initiate the Miscellaneous Technical Enhancement Code Amendment (#17126770).
2. Summary of Preliminary Engagement Submission Feedback (#17921427).
3. Suggested letter to stakeholders – advising of initiation (#17955894).
4. List of stakeholders (#17967992).
5. Suggested letter to the Minister for Planning and Local Government – advising of initiation (#17956201).
6. Process Flowchart – Code Amendments Initiated by the Commission (#18011763).

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Endorsed by: Brett Steiner

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Date: 18 November 2021

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**PROPOSAL TO INITIATE AN AMENDMENT TO THE  
PLANNING & DESIGN CODE**

**Miscellaneous Technical Enhancement Code  
Amendment**

**By the State Planning Commission**



**Craig Holden  
CHAIR, STATE PLANNING COMMISSION**

**Date: 6 December 2021**

**This Proposal to Initiate document forms the basis for the preparation of a proposed amendment to the Planning and Design Code for the purpose of section 73(2)(a) of the *Planning, Development and Infrastructure Act 2016*.**

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## 1. INTRODUCTION

The State Planning Commission (the Commission) is an independent body providing advice and leadership on all aspects of planning and development in South Australia. A key role is to ensure the Planning and Design Code (the Code) is maintained, reflects contemporary values relevant to planning and is responsive to emerging trends and issues.

The Commission is proposing to initiate an amendment to the Code (the Code Amendment) as it relates to the whole of South Australia, excluding coastal waters (the Affected Area).

The Commission seeks to amend the Code pursuant to section 73(2)(a) of the *Planning, Development and Infrastructure Act 2016* (the Act). This Proposal to Initiate details the scope, relevant strategic and policy considerations, nature of investigations to be carried out and information to be collected for the Code Amendment. It also details the timeframes to be followed in undertaking the Code Amendment.

The Commission is the 'designated entity' responsible for conducting this Code Amendment process and is required to undertake consultation in accordance with the Community Engagement Charter and make final recommendations to the Minister for Planning and Local Government (the Minister) prior to consideration whether to approve, amend or refuse the Code Amendment.

### 1.1. Designated Entity for Undertaking the Code Amendment

In accordance with section 73(2)(a) of the Act, the Commission will be the Designated Entity responsible for undertaking the Code Amendment process. As a result:

- 1.1.1. The Commission acknowledges that it will be responsible for undertaking the Code Amendment in accordance with the requirements Act.
- 1.1.2. The Commission declares that it has not and does not intend to enter into an agreement with a third party for the recovery of costs incurred in relation to the Code Amendment under section 73(9) of the Act. If the Commission does enter into such an agreement, the Commission will notify the Department prior to finalising the Engagement Report under section 73(7).
- 1.1.3. The Commission intends to undertake the Code Amendment by utilising professional expertise of employees of the Attorney General's Department (the Department) including:
  - Planning officers
  - Communications staff
  - Staff responsible for the technical management and operation of the online Planning and Design Code.

### 1.2. Rationale for the Code Amendment

The Code Amendment will provide an opportunity to make policy changes of a technical nature to improve the general performance, interpretation, and consistency of the Code, informed through experience of planning practitioners and other users during the initial period of its operation.

The Commission has been monitoring and reviewing the Code and its performance with a view to identifying any particular areas where targeted adjustments may be required to ensure intended outcomes are better achieved. For the most part, it is considered the Code has been working efficiently and the intent of the drafted policy is generally being achieved. However, in the interest of ongoing improvements it is acknowledged that regular updates to particular policy and their effect on procedures may be necessary in certain instances ensure the appropriate outcomes and intent are being met.

The Commission has previously stated its commitment to regularly reviewing the Code and where appropriate initiated a Code Amendment to ensure the best development outcomes are being achieved through the Code.

This Code Amendment will focus on making technical improvements to the Code in relation to the follow key topics:

- Improve policy clarity and interpretation
- Improve consistency and alignment with Code drafting principles
- Improving system efficiency and procedural matters
- Review classification tables and assessment pathways, in particular for common and minor forms of development
- Linkages improvements (missing or additional policies)
- Addressing unintended policy consequence
- Update to the Rules of Interpretations to improve understanding of the Code’s operation

## **2. SCOPE OF THE CODE AMENDMENT**

### **2.1. Affected Area**

The proposal seeks to amend the Code through policy and technical enhancement across a range of zones, subzones, overlays, general policies, and any other parts of the Code as required. Accordingly, the proposal seeks to amend the Code for the whole of South Australia; the Code Amendment is not limited to a specified spatial area.

### **2.2. Scope of Proposed Code Amendment**

<b>Current Policy</b>	The whole of the Code is relevant to the Miscellaneous Technical Enhancement Code Amendment
<b>Amendment Outline</b>	The scope of the proposed Code Amendment is focussed on technical enhancements that improve clarity and understanding, ensure consistency, correct unintended outcomes, and improve efficiency on policies and pathways and the like.

	<p>The Code Amendment is not specific to any one 'Part' of the Code but will primarily focus on the amendments to policies and wording within:</p> <ul style="list-style-type: none"> <li>• Part 1 - Rules of Interpretation</li> <li>• Part 2 - Zones and Sub Zones</li> <li>• Part 3 - Overlays</li> <li>• Part 4 - General Development Policies</li> <li>• Part 7 - Land Use Definitions</li> <li>• Part 8 - Administrative Terms and Definitions</li> <li>• Part 9 - Referrals</li> </ul>
<b>Intended Policy</b>	<p>While the Code Amendment will broadly include the whole Code, the scope of the Code Amendment itself is limited to matter and issues of a technical nature.</p> <p>It is not the intent of the Code Amendment to make substantial change in policy positions that would affect the underlying intent.</p> <p>The following sorts of technical issues have been identified so far.</p>
	<p><b>Notification tables</b></p> <p>Review Notification Tables (Table 5 – Procedural Matter (PM) – Notification) within all zones in the Code, to:</p> <ul style="list-style-type: none"> <li>• Consider changes so that minor development types, for example fences, pergolas, decks and carports, earthworks, are exempt from notification</li> <li>• Update tables to provide consistency and clarity in the application of the 'boundary' development notification exclusion criteria</li> <li>• Review and create tailored notification exclusion criteria for different development types</li> </ul>
	<p><b>Assessment pathways</b></p> <p>Review and amend Table 1 – Accepted Development Classification, Table 2 – Deemed-to-Satisfy Development Classification and Table 3 – Applicable Policies for Performance Assessed Development within all zones, primarily in relation to minor and common forms of development, to improve pathways, for example (but not limited to):</p> <ul style="list-style-type: none"> <li>• Improve or create new designated assessment pathways to avoid certain common or minor</li> </ul>

	<p>development types such as swimming pools, decks, and privacy screens, being 'All code assessed'. This could include creating new Code policy for activities such as swimming pools, swimming pool fencing, decks, balconies, and verandahs.</p> <ul style="list-style-type: none"> <li>• Reviewing relevance of overlay policy to certain development types, noting in some cases overlay policy may be of little relevance.</li> <li>• Reviewing overlay policy to determine whether new DTS/DPF criteria can be included to address a Performance Outcome so that a Deemed-to-Satisfy pathway may be maintained.</li> <li>• Clarify pathways and policy for dwelling alterations, and building additions/alterations.</li> </ul>
	<p><b>Review relevant policies (linkages) in Zone Classification Tables 1-3</b></p> <p>Review relevant policies assigned to various types of development to ensure appropriate policies are consistently applying across similar types of zones.</p> <p>Review and amend Table 1 Accepted Development Classification, Table 2 – Deemed-to-Satisfy Development Classification and Table 3 – Applicable Policies for Performance Assessed Development to ensure relevant polices are applied consistently across similar types of zones in similar scenarios, or where certain policies should be identified as relevant to address a policy gap. For example (but not limited to):</p> <ul style="list-style-type: none"> <li>• Consistent application of waste disposal and water supply policies to relevant classes of development.</li> </ul>
	<p><b>Restricted development classifications</b></p> <p>Review and amend Table 4 – Restricted Development Classification across all zones with a view to classifying a class of development as restricted where it meets either of following Principles:</p> <ul style="list-style-type: none"> <li>• Principle 1: Warrants assessment at a State level to consider the strategic implications and impacts. For example, large scale out of centre retail warrants state assessment as it may have a broader impact on the form and pattern of development across a region, and could disrupt</li> </ul>

	<p>the role of activity centres in providing equitable and convenient access to shopping, administrative, cultural, entertainment and other facilities.</p> <p>And</p> <ul style="list-style-type: none"> <li>• Principle 2: Requires detailed investigations and assessment beyond that provided through a performance assessed pathway and may require consideration of other documents outside of the Code.</li> </ul> <p>For example, special industry has the potential to endanger or detrimentally affect the health of people and property and would therefore benefit from a more detailed assessment process.</p>
	<p><b>Provide greater clarity in referral requirements</b></p> <p>Review referrals in Overlays with a view to removing any unnecessary ones through adjustment to relevant criteria, or through additional or new policy, to ensure that only the sorts of development that are directly relevant to the referral are referred.</p>
	<p><b>Improvements to Land Use and Administrative Definitions</b></p> <p>Review of Part 7 – Land Use Definitions and Part 8 – Administrative Terms and Definitions to provide greater clarity in interpretation and relationship with policy. For example (but not limited to):</p> <ul style="list-style-type: none"> <li>• Consider including ‘explanatory information’ to assist with definition interpretation.</li> <li>• Review certain definitions to improve their clarity – for example ‘building line’ and how it is meant to be applied in the context of additions to an existing development.</li> <li>• Review new definitions for land uses and terms that are used in the Code but currently not defined – for example ‘dwelling boundary wall’, , ‘special events’, ‘distillery’, ‘brewery’, ‘winery’ etc.</li> <li>• Review ‘exclusions’ and ‘inclusions’ lists to reduce ambiguity (e.g. is a ‘caravan and tourist park’ a form of ‘tourist accommodation’?)</li> <li>• Address some inconsistent application and use of terms in policy for example, where terms</li> </ul>

	<p>have been used interchangeably or are similar, these should either be separately defined, or the Code be amended to remove superfluous terms</p> <ul style="list-style-type: none"> <li>• Clarify matters such as ‘ancillary accommodation’ and dwellings in a ‘terrace arrangement’.</li> </ul> <p>An additional review into the policy and use of the definitions to ensure a consistent application and outcomes of the defined term.</p>
	<p><b>Refinement of Overlay policy</b></p> <p>Through improving the application, consistency and interpretation. Additionally, ensure consistent approach to spatial application of Overlays between similar zones.</p> <p>To review and amend policies Part 3 – Overlays to provide a consistent policy and spatial application.</p>
	<p><b>General review of policies</b></p> <p>Review and amend any policies to improve clarity, remove any inconsistency or ambiguity. In particular the Design, Design in Urban Areas, Infrastructure and Renewable Energy Facilities, Interface between Land Uses, and Transport, Access and Parking. For example (but not limited to):</p> <ul style="list-style-type: none"> <li>• Policy to assess minor forms of development that are currently being performance assessed</li> <li>• Policy refinements to improve clarity of interpretation</li> <li>• Review and amend policy to ensure greater consistency in the application across development types and locations</li> <li>• Review and amend policy to ensure greater consistency between Performance Outcomes and accompanying DPF/DTS.</li> <li>• Refinement to site contamination policy and relationship with the relevant Practice Direction.</li> </ul>
	<p><b>Consistent approach to parking rates</b></p> <p>Review Tables 1, 2 and 3 within the Transport, Access and Parking section of the Part 4 – General Development Policies including:</p> <ul style="list-style-type: none"> <li>• Appropriate parking rates for state significant development locations / zones.</li> </ul>

	<ul style="list-style-type: none"> <li>• Clarity and application of rates requirements for Table 3 – Off-street bicycle parking.</li> <li>• Clarity parking rates when the Affordable Housing Overlay applies.</li> </ul>
	<p><b>Part 1 - Rules of Interpretation</b></p> <p>Review Part 1 – Rules of Interpretation to provide additional guidance or clarification where required. For example (but not limited to):</p> <ul style="list-style-type: none"> <li>• Clarification of the amendment process and details of Planning Reference Layers in SAPPAs, such as following an update of bushfire hazard mapping.</li> <li>• Clarify Overlay applicability – i.e. where an overlay applies to part of an allotment, it only applies to the part of the allotment over which it spatially applies and not the whole allotment.</li> </ul>
	<p><b>Heritage Places</b></p> <p>Include a list of State Heritage Places in the Code</p> <p>Include a note in the Part 1 – Rules of Interpretation that:</p> <ul style="list-style-type: none"> <li>• Where there is a discrepancy between the Code’s List of State Heritage Places and the SA Heritage Register, the SA Register Prevails.</li> <li>• Where there is a discrepancy between the Code’s list of Local Heritage Places and the list of Local Heritage Places in the SA Heritage Register, the Code prevails.</li> </ul>

The technical review will continue through the investigations and preparation of the Code Amendment. This may reveal additional issues for consideration which haven’t been raised so far.

If additional issues of a comparable technical nature (i.e. do not involve a substantial change in policy position, and would assist in clarity understanding of Code policy more generally) are identified during the course of the investigations and preparation of the Code Amendment, they can be considered within the in the scope of this initiation and suitable for inclusion (also noting that as Commission led Code Amendment the Commission will considered the draft Code Amendment before it is released for consultation).

### 3. STRATEGIC PLANNING OUTCOMES

Proposed Code Amendments occur within a state, regional and local strategic setting, which includes:

- State Planning Policies (SPPs)
- Regional Plans
- Other relevant strategic documents.

#### 3.1. Alignment with State Planning Policies

The State Planning Policies (SPPs) set out the State’s overarching goals and requirements for the planning system. Under section 66(3)(f) of the Act, the Code must comply with any principle prescribed by a SPP.

The Code Amendment should be initiated because the strategic planning outcomes sought to be achieved through the Code Amendment align with or seeks to implement the following SPPs:

State Planning Policy (SPP)	Code Amendment Alignment with SPPs
<p><b>SPP1: Integrated Planning</b></p> <p><u>Objective</u></p> <p>To apply the principles of integrated planning to shape cities and regions in a way that enhances our liveability, economic prosperity and sustainable future.</p> <p>In particular, the principle for: balanced decision-making – Decision-making that considers multiple perspectives</p> <p><b>SPP2: Design Quality</b></p> <p>2.1 Promote best practice in the design of buildings, places and the public realm by applying the principles of Good Design.</p> <p>2.6 Maximise opportunities for the Principles of Good Design and community engagement to inform future</p>	<p>The Code Amendment will continue to build upon the goals and requirements of the SPPs already established within the Code. The implementation of the Code through the three phase approach, has ensured that each of these phases met the goals and requirements set out in the SPPs.</p> <p>Due to scope of the Code Amendment it is not anticipated to substantially change policy positions. However, there will be improvements made in the decision-making process through better clarity, consistency and interpretation to policy.</p>

<p>policy creation and improve design outcomes.</p> <p>2.7 Promote a culture of good design to foster creative thinking, innovation and effective design processes within the planning industry, built environment professions and general public.</p>	
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### 3.2. Alignment with Regional Plans

As with the SPPs, the directions set out in Regional Plans provide the long term vision as well as setting the spatial patterns for future development in a region. This includes consideration of land use integration, transport infrastructure and the public realm.

Given the scope of the Code Amendment it is not anticipated to substantially change or address specific policy positions or strategic outcomes within Regional Plans. However, there will be an overall improvement of the Code through better clarity, consistency and interpretation to policy.

### 3.3. Alignment with Other Relevant Documents

Additional documents may relate to the broader land use intent within the scope of this proposed Code Amendment and therefore are identified for consideration in the preparation of the Code Amendment.

The following table identifies other documents relevant to the proposed Code Amendment:

Other Relevant Document	Code Amendment Alignment with Other Relevant Document
<p><i>Planning, Development and Infrastructure Act 2016</i> - Section 12 Objects of Act</p> <p>...the scheme established by this Act is intended to—</p> <p>(a) be based on policies, processes and practices that are designed to be simple and easily understood and that provide consistency in interpretation and application; and</p> <p>(c) promote certainty for people and bodies proposing to undertake</p>	<p>The Code Amendment has been prepared taking into account sections 12 and 14 of the Act. The Code Amendment will enable those identified intentions and principles of the Act to be fulfilled.</p>

<p>development while at the same time providing scope for innovation; and</p> <p>(g) promote cooperation, collaboration and policy integration between and among State government agencies and local government bodies.</p> <p>Section 14 Principles of Good Planning, particularly—</p> <p>a) Long-term focus;</p> <p>c) High-quality design;</p> <p>d) Activation and liveability: and</p> <p>e) sustainability</p>	
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## 4. INVESTIGATIONS AND ENGAGEMENT

### 4.1. Investigations Already Undertaken

The table below identifies what investigations have already been undertaken in support of the proposed Code Amendment.

Investigation Undertaken	Summary of Scope of Investigations	Summary of Outcome
<p>Review during the practical application of the Code</p>	<p>The Commission and Department have been monitoring the Code and its operation in a technical sense since its implementation, informed by its use by practitioners and stakeholders.</p> <p>Additionally, continued feedback is being received by stakeholders as part of their interactions with the Code.</p> <p>Along with suggested for improvements to the Code being identified</p>	<p>These outcomes have been filtered and for this Code Amendment it will be focussed on the technical enhancement to policy and pathways.</p>

### 4.2. Further Investigations Proposed

In addition to the investigations already undertaken and identified above, the table below outlines what additional investigations that will be undertaken to support the Code Amendment.

<b>Further Investigations Proposed</b>	<b>Explanation of how the further investigations propose to address an identified issue or question</b>
Continued review during the practical application of the Code	Investigations will largely be of a detailed technical nature to consider and review the effect of proposed changes with respect to ensuring they achieve the desired outcome.

### 4.3. Engagement Already Undertaken

The Commission has undertaken targeted preliminary engagement with key stakeholders through a ‘call for issues’ to assist in informing the scope of this Code Amendment. This process called upon planning and development professionals, along with the public generally, to provide feedback on potential matters to be addressed through this amendment. A total of 42 written submissions were received by the Commission during the consultation period. The Commission’s *Preliminary Engagement “Call for Issues” Summary Report* summaries the outcomes of this (see **Attachment A**).

The Department also held a workshop in May this year with planning staff from councils to discuss keys areas where the Code could be improved. In addition, a range of technical Code issues have been raised with the Department since the Phase 3 Code Amendment was approved.

All submissions and issues raised have been reviewed and form the basis for the various matters that will be reviewed.

While it is acknowledged that some of suggested amendments within those submission are outside the scope of this technical enhancement amendment, some of which were a change in policy position. They do form a good basis for other potential amendments which would benefit from further investigations and a separate Code Amendment process.

### 4.4. Further Engagement Proposed

In addition to the engagement already undertaken and identified above, the table below outlines what additional engagement will be undertaken to support the Code Amendment.

<b>Further Engagement Proposed</b>	<b>Explanation of how the further engagement proposes to address an identified issue or question</b>
Pre-consultation with stakeholders (including councils and stakeholders who have identified potential enhancement to the Code or want to	Potential workshop with key stakeholders to continue working with and refine the details, drafting of policy (where appropriate) and instructions for

work and assist the Department and Commission in improvements to the Code).	Code Amendment and if any additional changes are required to inform the Code Amendment.
Monthly Policy Forum	Ongoing monthly meetings with planning practitioners in which further discussions of specific policy or pathway amendments can occur and already have. An example of this has been the presentation of potential changes to restricted development classifications (Table 4 within zones)
Agency Reference Group Meetings	Ongoing meetings with State Agencies in which further discussions of specific policy or pathway amendments can and already have occurred.

## 5. CODE AMENDMENT PROCESS

### 5.1. Engagement Plan

The Code Amendment process will occur in accordance with the Community Engagement Charter and Practice Direction 2 – Consultation on the Preparation or Amendment of a Designated Instrument.

The Commission will prepare an Engagement Plan prior to the commencement of engagement on the proposed Code Amendment. The Engagement Plan will include the following mandatory consultation requirement:

- Given the proposal is generally relevant to councils, the Local Government Association must be notified in writing and consulted;

In addition to engaging with the Local Government Association the Commission will directly notify and consult with the following key stakeholders:

- All South Australian councils
- All referral agencies (State Government Agencies)
- Association of Consulting Architects
- Australian Institute of Architects
- Australian Institute of Landscape Architects
- Housing Industry Association
- Master Builders Association
- Planning Institute of Australia
- Property Council of Australia

- Urban Development Institute of Australia.

The Commission will also directly notify those who made a submission during the preliminary engagement period.

It is anticipated for Community Engagement on this Code Amendment to be undertaken in April 2022. This will be for a period of 8 weeks.

Along with directly notifying the above listed persons/groups the Code Amendment will be published on the Plan SA webpage to invite submissions and involve:

- An article within the Planning Ahead e-newsletter
- Targeted workshops (commenced and ongoing)
- A continuation of Monthly Policy Forum with Planning Professionals (Council Code policy group and Accredited Professionals) and Agency Reference Group Forum
- Monitoring the SA Planning Portal (or service desk) and engagement with person/s who identify any new issues that are consistent with the technical enhancements theme for the Code Amendment.

## **5.2. Engagement Report**

Once engagement on the Code Amendment is complete, the Commission will prepare an Engagement Report under section 73(7) of the Act.

The Commission must ensure that a copy of the Engagement Report is furnished on the Minister and also published on the SA Planning Portal. This will occur in accordance with Practice Direction 2.

The Commission will provide a report to the Environment, Resources and Development Committee of Parliament under section 74(3) of the Act. The Commission's report will provide information about the reason for the Code Amendment, the consultation undertaken on the Code Amendment and any other information considered relevant by the Commission.

## **5.3. Code Amendment Timetable**

The Code Amendment is intended to be undertaken in line with the timeframe outlined in **Attachment B**.

# **ATTACHMENT A**

## **Preliminary Engagement 'Call for Issues' Summary Report**

# Preliminary Engagement 'Call for Issues' Summary Report

## Miscellaneous Technical Enhancement Code Amendment

### Introduction

The State Planning Commission (the Commission) has commenced its first review of the Planning and Design Code (the Code) since its State-wide implementation on 19 March 2021. The review will focus on technical amendments to improve general performance of the Code and assist with the consistent interpretation and application of policy. The scope of the Miscellaneous Technical Enhancement Code Amendment (the Code Amendment) is not intended to include policy reform or involve substantive review of policy positions.

On 1 July 2021 the Commission put out a 'call for issues' to help inform the scope of the Code Amendment. Feedback was invited from key stakeholders including Councils, State Government Agencies, the Local Government Association, and key industry groups, and was sought via email or post. Consultation closed on 13 August 2021.

In addition to feedback received from the Commission's call for issues, the Attorney General's Department (the Department) has received various requests to consider technical changes to the Code since its introduction. These are also addressed in this report.

Following is a summary of the feedback received.

### Submissions Received

A total of 42 written submissions were received by the Commission during the consultation period. A breakdown of the submissions is as follows:

- 24 submissions were received from the following local Councils:
  - Mid Murray Council
  - Town of Gawler
  - City of West Torrens
  - City of Tea Tree Gully
  - Adelaide Hills Council
  - Adelaide Plains Council
  - Alexandrina Council
  - City of Adelaide
  - City of Burnside
  - City of Campbelltown
  - City of Norwood Payneham & St Peters
  - City of Onkaparinga
  - City of Unley
  - City of Victor Harbor
  - District Council of Mount Barker
  - Eyre Peninsula Councils (multiple)
  - Light Regional Council
  - Wattle Range Council
  - Yorke Peninsula Council
  - District Council of Grant
  - Clare & Gilbert Valley Council
  - City of Playford
  - Port Pirie Regional Council
  - City of Charles Sturt

- 4 submissions were received from the following industry bodies:
  - Local Government Association
  - Master Builders Association
  - Housing Industry Association
  - Urban Development Institute Australia
- 6 submissions were received from State Government Departments
- 6 submissions were received from the public, planning professionals and community organisations including:
  - Community Alliance
  - Resilient East
  - Norwood Residents Association
  - Bike Adelaide

Of the 24 local Council submissions received, 17 (71%) were from Greater Adelaide and 7 (29%) were from regional areas of the State.



In addition, the Department has received various suggestions to improve the Code via the PlanSA portal.

### Key Issues Raised from Submissions

The submissions can be grouped into the following themes:

- Technical amendments
- Policy review
- Minor or operational amendments
- Technology and system enhancements.

### Technical Amendments

The aim of the Code Amendment is for refinements that could improve the general performance, interpretation and consistency of the Code. Importantly, it is not the intent of the Code Amendment to make changes to the Code that would result in a substantial change in a policy position. Technical amendments will generally be of a nature that does not affect the underlying intent of policy, improves system efficiency or interpretation, or removes an unintended outcome or the like.

A range of matters have been identified relating to public notification, changes to assessment pathways for common development types, the application of relevant policies for specified classes of development, and policy refinement to improve clarity and consistency of Code policies and definitions.

The following are some key examples of technical amendment matters that were submitted and will be further investigated as part of the Amendment:

- Assessment pathways:
  - common types of minor development such as swimming pools, pool fencing, decks, earthworks, advertising hoardings, privacy screens, should not have to be 'All Code assessed'.
  - extent and application of overlay policy to certain development types - removing overlays that have little or no relevance to the assessment.
  - unclear whether alterations to buildings with no increase in floor area, such as changes to external appearance should be processed as 'dwelling addition'.
  - Inclusion of an assessment pathway for 'dwelling alteration' or alterations / additions to non-residential buildings
  - focus on additional 'accepted' and 'deemed-to-satisfy' developments to streamline pathways for minor structures / common development types.
- Notification tables:
  - consider changes so that minor development types, for example fences, pergolas, decks and carports, earthworks, are exempt from notification
  - update tables to provide consistency and clarity in the application of the 'boundary' development notification exclusion criteria
  - review and creating tailored notification exclusion criteria for different development types.
- Referrals:
  - review criteria and referral triggers in various overlays including Urban Transport Routes Overlays, Prescribed Water Resources Area Overlay, and River Murray Tributaries Overlay, to ensure unnecessary referrals are removed.
- Definitions and policy relationship:
  - consider including 'explanatory information' to assist with definition interpretation
  - review certain definitions to improve their clarity – for example 'building line' and how it is meant to be applied in the context of additions to an existing development
  - include new definitions for land uses and terms that are used in the Code but currently not defined – for example 'dwelling boundary wall', 'multiple dwelling' (previously defined), 'special events', 'distillery', 'brewery', 'winery' etc.
  - review 'exclusions' and 'inclusions' lists to reduce ambiguity (e.g. is a 'caravan and tourist park' a form of 'tourist accommodation'?)
  - review for inconsistent application and use of terms in policy (e.g. where terms have been used interchangeably or are similar or are superfluous)
  - further clarity needed in relation to defined such as 'ancillary accommodation' and dwellings in a 'terrace arrangement'.
- Heritage items and representative buildings:
  - identification of State Heritage Places in the Code, noting that they were previously listed in Development Plans
- Policy matters and linkages:
  - additional policy to assess minor forms of development that trip into performance assessed, such as parking of a vehicle exceeding 3000kg
  - suggested policy refinements to improve clarity, including matters such as boundary realignments and driveway access provisions
  - review consistency of policy application for different development types in different zones (noting that some of these may be intentional policy decisions), such including building interface policy, various forms of dwellings, balcony screening, bicycle parking rates, soft landscaping, and stormwater management

- examples where greater consistency between Performance Outcomes and accompanying DPF/DTS solutions is required
- issues with combined elements and policy interpretation, for example fences and retaining walls and the cumulative impact of a combined application
- suggested improvements to linkages to include additional policy considered relevant to development type (e.g. land division and Regulated and Significant Tree Overlay)
- Refinement to site contamination policy and relationship with the relevant Practice Direction.

## Policy Review

A range of issues were raised that seek to change policy positions established in the first Generation of the Code. These have been raised in the context that a policy warrants change because the policy position is not supported, or a view expressed that a change would improve the planning outcome in relation to that issue. In some instances these were issues raised through the introduction and implementation of the Code, and previously considered by the Commission.

It is not the intent of this Code Amendment to address issues that relate to a substantial change in a policy position. Consideration of these issues would generally require a greater level investigation to consider the implications and impacts of a change in policy position. Further, it is not practical for a single Code Amendment process to address the range of policy review issues that have been raised. Suggested amendments of this nature are therefore outside of the scope of this Code Amendment.

A proposal to amend the Code to change a policy position is best progressed through separate Code Amendment processes. Where issues are local, these should be progressed by the local Council, such as a rezoning or local policy change such as a change to a Technical or Numeric Variation to alter a minimum allotment size in a given location. Where issues are broader or more strategic, these are best progressed by either the Commission or an Agency, for example the review of policy in a zone or overlay.

The following are some key examples of policy review matters that were submitted:

- Suggested spatial expansion of some overlays over new areas, such as the Urban Tree Canopy Overlay and Stormwater Management Overlay.
- Extent of application of the Emerging Activity Centre Subzone within the Master Planned Neighbourhood Zone.
- That some overlay policies would be better applied in general modules, for example policy relating to significant and regulated trees or traffic management.
- Suggestions for additional new referrals.
- Various policy review matters relating to primary production, bushfire and flooding, and the application of spatial overlays (noting that the Commission is currently leading separate Code Amendment in relation to flooding and bushfire).
- Improvements to heritage protection, including suggestions to provide a heritage impact assessment with all heritage place demolition applications.
- Policy relating to hammerhead / battle-axe development, particularly for historic and character areas.
- Refinement of catalyst site provisions.
- Policy suggestions relating to bicycle commuting and parking and other alternative forms of transport.
- Suggestions in relation to car parking and garaging including design policy relating to 'garage dominance', basement parking and street activation, guidance for car stackers and minimum garaging dimension.
- Threshold for exempt earthworks in the Hills Neighbourhood Zone.
- No Desired Character Statements in the Code (previously contained in Development Plans).
- Additional local content for regional areas.
- Additional guidance relating to infrastructure delivery.
- Requests for additional Practice Directions (e.g. Urban Tree Funds, interchangeable land use applications (shop to office to consulting room)).

- Improve alignment with particular State Planning Policies
- Review of water sensitive urban design policies and policies relating to land stability.
- Various policy suggestions relating to:
  - the design of residential development such as materials and finishes, overlooking and site coverage
  - waste management and storage
  - animal keeping in Rural Living Zones / areas.

### Minor or Operational Amendments

A small number of requests that have been received to amend the Code may be considered an inconsistency or error. Some of these relate to the application of a policy, such as Technical or Numeric Variation (e.g. building height or minimum allotment size), that was not accurately transitioned from a Development Plan into the Code through the Phase Three (Urban Areas) Code Amendment.

Section 76(1)(b) of the *Planning Development and Infrastructure Act 2016* allows the Minister to amend the Code to address or remove irrelevant material, a duplication, inconsistency or an error by notice published in the Gazette.

Those suggested amendments that have been identified through call for issues that can be classified as a minor or operational amendment, will be addressed through the section 76 process accordingly. If it cannot be established that it is an inconsistency, duplication or an error, then the issue would need to be considered through a separate Code Amendment process.

### Technology and System Enhancements

Some of the submissions provided suggested enhancements to the ePlanning technology. Others provided suggested enhancements to the planning system and processes more generally. Whilst outside of the scope of this Code Amendment, the feedback is welcomed and will be reviewed by relevant teams within the Department for consideration as part of future enhancements to technology and systems.

The ePlanning platform is routinely updated to introduce new functionality, enhance the customer experience and address technical issues. PlanSA is committed to ensuring its ePlanning system is responsive to the needs of its customers. Since March 2021 when the planning system was introduced, 165 system enhancements have been made with more than 25 enhancement projects currently in progress or scheduled for completion by mid-2022. In addition to system enhancements, there is also a commitment to ensure that the ePlanning system is stable, cyber secure and compliant with IT regulations.

## ATTACHMENT B

### Timetable for Code Amendment

Step	Responsibility	Timeframe
<b>Approval of the Proposal to Initiate</b>		
Consideration of Proposal to Initiate	Commission	November 2021
<b>Preparation of the Code Amendment</b>		
<b>Code Amendment Report</b> prepared <b>Amendment Instructions</b> prepared	AGD on behalf of the Commission	20 weeks
Preparation of Materials for Consultation	AGD on behalf of the Commission	1 week
<b>Engagement on the Code Amendment</b>		
<b>Code Amendment Report</b> released for public consultation in accordance with the Community Engagement Charter and the prepared <b>Engagement Plan</b>	AGD on behalf of the Commission	6 weeks
<b>Consideration of Engagement and Finalisation of Amendments</b>		
Submissions summarised; Amended drafting instructions provided, <b>Engagement Report</b> prepared	AGD on behalf of the Commission	4 weeks
Assess the amendment and engagement. Prepare report to the Commission	AGD on behalf of the Commission	4 weeks
Consideration of Advice	Commission	3 weeks
<b>Decision Process</b>		
Minister considers the <b>Code Amendment Report</b> and the <b>Engagement Report</b> and makes decision	Minister	3 weeks
<b>Implementing the Amendment (operation of the Code Amendment)</b>		
Go- Live- Publish on the PlanSA Portal	AGD	2-4 weeks
<b>Parliamentary Scrutiny</b>		
Referral of approved <b>Code Amendment</b> to ERDC	AGD	8 weeks

# ***Preliminary Engagement ‘Call for Issues’ Summary Report***

## ***Miscellaneous Technical Enhancement Code Amendment***

### **Introduction**

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In addition to feedback received from the Commission’s call for issues, the Attorney General’s Department (the Department) has received various requests to consider technical changes to the Code since its introduction. These are also addressed in this report.

Following is a summary of the feedback received.

### **Submissions Received**

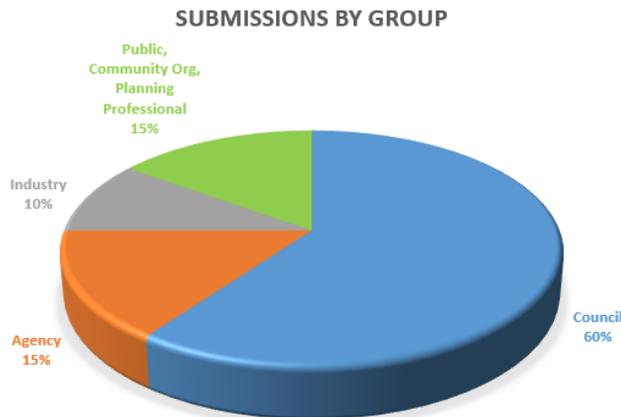
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  - City of Campbelltown
  - City of Norwood Payneham & St Peters
  - City of Onkaparinga
  - City of Unley
  - City of Victor Harbor
  - District Council of Mount Barker
  - Eyre Peninsula Councils (multiple)
  - Light Regional Council
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- Bike Adelaide

Of the 24 local Council submissions received, 17 (71%) were from Greater Adelaide and 7 (29%) were from regional areas of the State.

Copies of submissions received can be found in **Appendix A**.



In addition, the Department has received various suggestions to improve the Code via the PlanSA portal. Copies of these submissions can be found in **Appendix B**.

## Key Issues Raised from Submissions

The submissions can be grouped into the following themes:

- Technical amendments
- Policy review
- Minor or operational amendments
- Technology and system enhancements.

## Technical Amendments

The aim of the Code Amendment is for refinements that could improve the general performance, interpretation and consistency of the Code. Importantly, it is not the intent of the Code Amendment to make changes to the Code that would result in a substantial change in a policy position. Technical amendments will generally be of a nature that does not affect the underlying intent of policy, improves system efficiency or interpretation, or removes an unintended outcome or the like.

A range of matters have been identified relating to public notification, changes to assessment pathways for common development types, the application of relevant policies for specified classes of development, and policy refinement to improve clarity and consistency of Code policies and definitions.

The following are some key examples of technical amendment matters that were submitted and will be further investigated as part of the Amendment:

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  - common types of minor development such as swimming pools, pool fencing, decks, earthworks, advertising hoardings, privacy screens, should not have to be 'All Code assessed'.
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  - unclear whether alterations to buildings with no increase in floor area, such as changes to external appearance should be processed as 'dwelling addition'.
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  - consider changes so that minor development types, for example fences, pergolas, decks and carports, earthworks, are exempt from notification
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- Definitions and policy relationship:
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  - review certain definitions to improve their clarity – for example 'building line' and how it is meant to be applied in the context of additions to an existing development
  - include new definitions for land uses and terms that are used in the Code but currently not defined – for example 'dwelling boundary wall', 'multiple dwelling' (previously defined), 'special events', 'distillery', 'brewery', 'winery' etc.
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  - further clarity needed in relation to defined such as 'ancillary accommodation' and dwellings in a 'terrace arrangement'.
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  - identification of State Heritage Places in the Code, noting that they were previously listed in Development Plans
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  - additional policy to assess minor forms of development that trip into performance assessed, such as parking of a vehicle exceeding 3000kg
  - suggested policy refinements to improve clarity, including matters such as boundary realignments and driveway access provisions.
  - review consistency of policy application for different development types in different zones (noting that some of these may be intentional policy decisions), such including building interface policy, various forms of dwellings, balcony screening, bicycle parking rates, soft landscaping, and stormwater management
  - examples where greater consistency between Performance Outcomes and accompanying DPF/DTS solutions is required
  - issues with combined elements and policy interpretation, for example fences and retaining walls and the cumulative impact of a combined application
  - suggested improvements to linkages to include additional policy considered relevant to development type (e.g. land division and Regulated and Significant Tree Overlay).
  - Refinement to site contamination policy and relationship with the relevant Practice Direction.

## Policy Review

A range of issues were raised that seek to change policy positions established in the first Generation of the Code. These have been raised in the context that a policy warrants change because the policy position is not supported, or a view expressed that a change would improve the planning outcome in relation to that issue. In some instances these were issues raised through the introduction and implementation of the Code, and previously considered by the Commission.

It is not the intent of this Code Amendment to address issues that relate to a substantial change in a policy position. Consideration of these issues would generally require a greater level investigation to consider the implications and impacts of a change in policy position. Further, it is not practical for a single Code Amendment process to address the range of policy review issues that have been raised. Suggested amendments of this nature are therefore outside of the scope of this Code Amendment.

A proposal to amend the Code to change a policy position is best progressed through separate Code Amendment processes. Where issues are local, these should be progressed by the local Council, such as a rezoning or local policy change such as a change to a Technical or Numeric Variation to alter a minimum allotment size in a given location. Where issues are broader or more strategic, these are best progressed by either the Commission or an Agency, for example the review of policy in a zone or overlay.

The following are some key examples of policy review matters that were submitted:

- Suggested spatial expansion of some overlays over new areas, such as the Urban Tree Canopy Overlay and Stormwater Management Overlay.
- Extent of application of the Emerging Activity Centre Subzone within the Master Planned Neighbourhood Zone.
- That some overlay policies would be better applied in general modules, for example policy relating to significant and regulated trees or traffic management.
- Suggestions for additional new referrals.
- Various policy review matters relating to primary production, bushfire and flooding, and the application of spatial overlays (noting that the Commission is currently leading separate Code Amendment in relation to flooding and bushfire).
- Improvements to heritage protection, including suggestions to provide a heritage impact assessment with all heritage place demolition applications.
- Policy relating to hammerhead / battle-axe development, particularly for historic and character areas.
- Refinement of catalyst site provisions.
- Policy suggestions relating to bicycle commuting and parking and other alternative forms of transport.
- Suggestions in relation to car parking and garaging including design policy relating to 'garage dominance', basement parking and street activation, guidance for car stackers and minimum garaging dimension.
- Threshold for exempt earthworks in the Hills Neighbourhood Zone.
- No Desired Character Statements in the Code (previously contained in Development Plans).
- Additional local content for regional areas.
- Additional guidance relating to infrastructure delivery.
- Requests for additional Practice Directions (e.g. Urban Tree Funds, interchangeable land use applications (shop to office to consulting room)).
- Improve alignment with particular State Planning Policies
- Review of water sensitive urban design policies and policies relating to land stability.
- Various policy suggestions relating to:
  - the design of residential development such as materials and finishes, overlooking and site coverage
  - waste management and storage
  - animal keeping in Rural Living Zones / areas.

## **Minor or Operational Amendments**

A small number of requests that have been received to amend the Code may be considered an inconsistency or error. Some of these relate to the application of a policy, such as Technical or Numeric Variation (e.g. building height or minimum allotment size), that was not accurately transitioned from a Development Plan into the Code through the Phase Three (Urban Areas) Code Amendment.

Section 76(1)(b) of the *Planning Development and Infrastructure Act 2016* allows the Minister to amend the Code to address or remove irrelevant material, a duplication, inconsistency or an error by notice published in the Gazette.

Those suggested amendments that have been identified through call for issues that can be classified as a minor or operational amendment, will be addressed through the section 76 process accordingly. If it cannot be established that it is an inconsistency, duplication or an error, then the issue would need to be considered through a separate Code Amendment process.

## **Technology and System Enhancements**

Some of the submissions provided suggested enhancements to the ePlanning technology. Others provided suggested enhancements to the planning system and processes more generally. Whilst outside of the scope of this Code Amendment, the feedback is welcomed and will be reviewed by relevant teams within the Department for consideration as part of future enhancements to technology and systems.

The ePlanning platform is routinely updated to introduce new functionality, enhance the customer experience and address technical issues. PlanSA is committed to ensuring its ePlanning system is responsive to the needs of its customers. Since March 2021 when the planning system was introduced, 165 system enhancements have been made with more than 25 enhancement projects currently in progress or scheduled for completion by mid-2022. In addition to system enhancements, there is also a commitment to ensure that the ePlanning system is stable, cyber secure and compliant with IT regulations.

## **Appendices**

**Appendix A** – Submissions received from the Commission's call for issues (Knet # 17994608)

**Appendix B** – Other technical issues raised through PlanSA (Knet #17994704)

## **APPENDIX A**

**Submissions received from the Commission's call for issues**

## **APPENDIX B**

### **Other technical issues raised through PlanSA**

17955894



6 December 2021

Level 5, 50 Flinders Street  
Adelaide SA 5000

GPO Box 1815  
Adelaide SA 5001

08 7109 7466  
saplanningcommission@sa.gov.au

Dear Sir/Madam

### **Initiation of the Miscellaneous Technical Enhancement Code Amendment**

I write to advise you that the State Planning Commission (the Commission) has initiated the Miscellaneous Technical Enhancement Code Amendment (the Code Amendment), pursuant to section 73(2)(a) of the *Planning, Infrastructure and Development Act 2016* (the Act).

The Code Amendment seeks to improve the general performance, interpretation and consistency of the Planning and Design Code. The Code Amendment will focus on technical enhancements rather than significant policy amendments.

The Commission has undertaken preliminary engagement with key stakeholders and local government to inform and assist the scoping of this Amendment. A summary of issues raised during the preliminary engagement period can be found in the Proposal to Initiate for this Code Amendment, and is located on the Code Amendments page on the PlanSA Portal at the following link: [https://plan.sa.gov.au/have\\_your\\_say/general\\_consultations](https://plan.sa.gov.au/have_your_say/general_consultations).

Should you require further information, please contact Mr Jason Bailey from Planning and Land Use Services within the Attorney-General's Department on [REDACTED] or via email at: [REDACTED].

The Commission looks forward to continuing to collaborate with peak planning, local government, development industry groups, and referral bodies to deliver this Code Amendment, with the support of Attorney-General's Department, in 2022.

Yours sincerely

A handwritten signature in black ink, appearing to read "Craig Holden", with a long horizontal flourish extending to the right.

**Craig Holden**  
Chair

**Miscellaneous Technical Enhancement Code Amendment – List of Stakeholders –  
Advice of Initiation**

- (a) All South Australian councils
- (b) Association of Consulting Architects
- (c) Australian Institute of Architects
- (d) Australian Institute of Landscape Architects
- (e) Housing Industry Association
- (f) Local Government Association
- (g) Master Builders Association
- (h) Planning Institute of Australia
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6 December 2021

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Hon Josh Teague MP  
Minister for Planning and Local Government

By email: [AttorneyGeneral@sa.gov.au](mailto:AttorneyGeneral@sa.gov.au)

Dear Minister

### **Initiation of the Miscellaneous Technical Enhancement Code Amendment**

I write to advise you that the State Planning Commission (the Commission) has initiated the Miscellaneous Technical Enhancement Code Amendment (the Code Amendment), pursuant to section 73(2)(a) of the *Planning, Infrastructure and Development Act 2016* (the Act).

Section 73 (2)(a) of the Act provides that a proposal to amend the Planning and Design Code (the Code) via a Code Amendment may be initiated by the Commission. The Commission has agreed to the Proposal to Initiate the Miscellaneous Technical Enhancement Code Amendment, with the aim improve the general performance, interpretation and consistency of the Code. The Code Amendment will focus on technical enhancements rather than significant policy amendments, or substantial change in policy position or intent.

A copy of the Proposal to Initiate is enclosed for your reference.

The Commission has already undertaken preliminary engagement with key stakeholders and local government to inform and assist the scoping of this Amendment. A summary of issues raised by submissions during the preliminary engagement period has been included in the Proposal to Initiate.

The Commission is committed to working collaboratively with key stakeholders and local government throughout this Code Amendment process to refine the details, drafting of policy (where appropriate), and instructions for this amendment

Should you require further information, please contact Mr Jason Bailey from Planning and Land Use Services within the Attorney-General's Department on [REDACTED] or via email at: [REDACTED].

Yours sincerely

A handwritten signature in black ink, appearing to read 'Craig Holden', with a long horizontal flourish extending to the right.

**Craig Holden**  
Chair

Enc Signed Proposal to Initiate the Miscellaneous Technical Enhancement Code Amendment

# Code Amendments Initiated by the Commission

Section 73(2)(a) of the *Planning, Development and Infrastructure Act 2016*

