



Miscellaneous Technical Enhancement Code Amendment

Overview

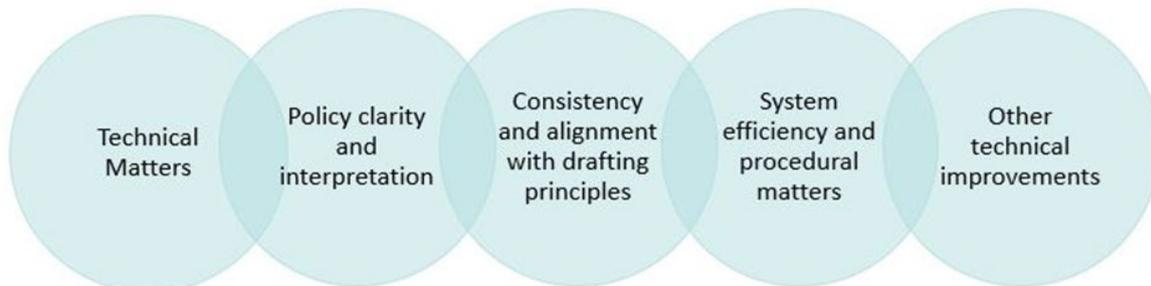
The Miscellaneous Technical Enhancement Code Amendment proposes a series of technical amendments which aim to enhance the general performance and operation of the Planning and Design Code (the Code).

This 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 Miscellaneous Technical Enhancement Code Amendment has been prepared by the State Planning Commission (the Commission) and represents the first of what will be a regular review and “tune-up” of technical or operational aspects of the Code, based on stakeholder feedback.

The Miscellaneous Technical Enhancement Code Amendment is informed by valuable feedback received from local council, planning industry professionals and other users of the Code during its first year of operation.

The Miscellaneous Technical Enhancement Code Amendment is focused on:



This fact sheet provides an overview of the key amendments proposed in the Miscellaneous Technical Enhancement Code Amendment, with references to page numbers in the official Code Amendment Document for further information. The Code Amendment Document can be viewed on the PlanSA portal: plan.sa.gov.au/en/ca/mte

What is a Code Amendment?

The Planning and Design Code (the 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).

Code Amendments may be undertaken by a range of entities including the State Planning Commission, the Chief Executive of the Department for Trade and Investment, local councils, state agencies or people who have an interest in the land.

Background

In July and August 2021, the Commission instigated a 'call for issues' to assist with informing the scope of the Miscellaneous Technical Enhancement Code Amendment. This process called upon planning and development professionals, along with the public generally, to flag elements of a technical nature which should be addressed via this Code Amendment.

In 2021 Planning and Land Use Services staff from the Department for Trade and Investment (the Department) also held a workshop with planning staff from several local councils to identify technical or operational aspects of the Code which should be addressed.

The items raised during the 'call for issues' and early stakeholder consultation, along with issues raised via the PlanSA Service Desk, now form the basis of the amendments proposed in the Miscellaneous Technical Enhancement Code Amendment.

What is being proposed?

The Miscellaneous Technical Enhancement Code Amendment proposes a series of amendments which aim to enhance the operation of the following key areas of the Code:

- Public notification tables
- Assessment pathways
- Overlays and referrals
- Definitions
- Restricted Development
- Policy terminology
- Expanded policy
- Rules of Interpretation
- Character and Heritage identification
- Classification tables / Linkages

The full details of each amendment proposed in the Miscellaneous Technical Enhancement Code Amendment are listed in the draft Code Amendment Document which can be viewed on the PlanSA portal: plan.sa.gov.au/en/ca/mte

The following pages of this fact sheet provide a 'high-level' overview of the proposed amendments, with references to the corresponding pages of the Code Amendment Document for further information.

Some of the terminology in this fact sheet is quite technical. For more information on how the Planning and Design Code works, and what some of the key planning terms mean, please refer to the recently updated '[Guide to the Planning and Design Code](#)' which can also be found on the PlanSA portal.

1. Public notification tables

Public notification (the act of publicly notifying people of any proposed development) is legislated in *The Planning Development and Infrastructure Act 2016* (the Act). The Act prescribes that all properties within a 60-metre radius of a proposed development site must be notified if the proposed development meets certain criteria.

'Public notification tables' in the Planning and Design Code are used to identify which classes of development are exempt from requiring public notification.

The Miscellaneous Technical Enhancement Code Amendment proposes amending the public notification tables in the Code to improve consistency and avoid classes of development being inadvertently subject to public notification when not required.

Some of the proposed amendments to the public notification tables are outlined below. To view the full list of proposed amendments, refer to pages 42-80 (section 2.3.2.10. Notification Tables – Table 5 – Procedural Matters (PM)) of the Code Amendment Document.

Minor development

In a number of zones, minor forms of development (including carports, pergolas and fences) are listed in the public notification tables together with more substantial forms of development (such as a new detached dwelling).

The way the public notification tables are grouped, and the exception criteria arranged, means that minor developments are sometimes triggering the need for public notification which is not the intent of the Code.

To correct this, it is proposed that a new "part" be added to the public notification tables to ensure that minor forms of development are not subject to notification where notification is not required. Minor development will still of course be subject to performance assessment by the relevant authority (most often local council).

Addition to the "exception" criteria

Some forms of development are exempt from public notification subject to meeting certain "exception" criteria (for example not exceeding a prescribed height or length of building on a boundary).

A new clause is proposed to enable the relevant authority (most often local council) discretion to deem a departure from an exception criteria as "minor", and therefore not require notification, on a case-by-case basis.

For example, a garage that is proposed to be built on a common boundary for a length 11.6m, where the "exception" in a notification table only allows up to 11.5m of building length, could be deemed minor by the relevant authority in certain circumstances such as adjoining an existing shed on the neighbouring property.

Errors and inconsistencies

Amendments are proposed to correct errors and inconsistencies where the public notification tables do not align with existing zone policy.

Demolition

Amendments are proposed to clarify that partial demolition of a Heritage Place requires public notification. It is also proposed to exclude the requirement for public notification for buildings of no heritage value within areas subject to the Historic Areas and State Heritage Areas Overlay (at the discretion of the relevant authority).

2. Common and ancillary development – changes to ‘accepted’ and ‘deemed-to-satisfy’ pathways

Common development proposals such as detached dwellings, carports and outbuildings often have either an ‘accepted’ or ‘deemed-to-satisfy’ assessment pathway, whereby if certain prescribed criteria are met then planning approval is either:

- (a) not required for accepted development (this applies to very minor low-impact development such as an underground water tank), or
- (b) must be granted in the case of deemed-to-satisfy development.

However, in many instances an ‘accepted’ or ‘deemed-to-satisfy’ pathway is not applicable where an Overlay applies to indicate that it is an area of potential state interest (for example, a Coastal Areas Overlay or Historic Areas Overlay).

The Code Amendment proposes removing some unnecessary state interest Overlay exclusions – particularly in the case of proposed ancillary development which is consistent with the already established/approved primary use of the land for dwelling purposes.

Refer to pages 92-105 (section 2.3.2.14. Common and Minor Development – Overlay Relevance – Assessment Pathways) of the Code Amendment Document for more detail on proposed changes that will affect common and ancillary development pathways.

3. Overlays and referrals

Minor amendments are proposed to some Overlay policies in the Code as they relate to referrals to other state government departments.

‘Referrals’ are triggered by a development proposal if a government department (the Department of Environment and Water for example) has an interest in that land.

The Code Amendment proposes minor changes to address inconsistencies and remove any unnecessary referral triggers for these agencies.

Refer to pages 136-181 (section 2.3.3. Part 3 – Overlays) of the Code Amendment Document for more detail on proposed changes to Overlays and referrals.

4. Land Use and administrative definitions

The Code Amendment proposes to modernise a small number of definitions in the Code to provide greater clarity and to address minor inconsistencies. The following definitions are proposed to be adjusted:

- Ancillary accommodation
- Tourist accommodation
- Commercial forestry
- Indoor recreation facility
- Office
- Pre-school
- Educational establishment
- Worker’s accommodation
- Building line

And the following *new* definitions are proposed to be incorporated into the Code:

- Heavy vehicle parking
- Function centre
- Catalyst site
- Direct overlooking

Refer to pages 221-254 (section 2.3.7. Part 7 – Land Use Definitions and section 2.3.8. Part 8 Administrative Terms and Definitions) of the Code Amendment Document for more detail on the proposed changes to Land Use and Administrative definitions in the Code.

5. Restricted Development

The restricted development threshold is a procedural trigger applied under the Code to development which requires a more rigorous planning assessment by the State Planning Commission rather than a local planning authority. Within each zone in the Code, there are tables which identify restricted classes of development for that particular zone.

The Code Amendment proposes to remove some restricted classes of development from identified zones which the Commission does not believe warrants its consideration and which can be appropriately assessed by the relevant local authority (most often local council).

To help guide what classes of development should and should not be listed as a ‘restricted’ form of development, the Commission has established the following new principles:

- **Principle 1: Warrants assessment at a state-level due to strategic implications and impacts.** For example, a large retail centre development will warrant assessment by the Commission as it may have a broader impact on the form and pattern of development across a region which may in turn impact equitable public 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, a development application for a significant solar or wind farm where its impacts will require assessment from the Commission.

Refer to pages 29-42 (section 2.3.2.9. Restricted Development Classification – Table 4) of the Code Amendment Document for the full list of proposed amendments to restricted classifications in the Code.

6. Policy terminology

The Code Amendment proposes to edit and refine the terminology used in a small number of Code policies to improve clarity and to address minor anomalies or inconsistencies. The proposed changes include the following:

- Amend *wall and building height* policy terminology in some neighbourhood-type zones (changes do not affect policy allowances)
- Amend *side setback* policy terminology in some neighbourhood-type zones (changes do not affect policy allowances)
- Refine *building height* policy terminology for “multi storey” zones (changes do not propose to alter the allowable building height)

- With regard to *street setbacks* policy terminology, remove reference to “building line” and clarify policy intent (“Building line” will then be reserved as a measure for ancillary development on an allotment relative to the primary building)
- Amend *side setbacks* policy terminology in relevant Urban Corridor Zones to remove potential tension between the Performance Outcome and Deemed-to-Satisfy/Designated Performance Feature
- With regard to *driveway access* policy terminology, clarify requirements for allowable driveway angles at the allotment boundary point of entry
- With regard to *car parking* policy terminology, correct the car parking rates in the Urban Neighbourhood Zone applying to the Bowden area, as they were inadvertently not transitioned into the Code

Refer to the following pages of the Code Amendment Document for more detail on proposed changes to policy terminology:

- Pages 81-92 (section 2.3.2.11. Building Height – TNV and context – Policy refinement, section 2.3.2.12. Building Height, Building Wall Setback and Wall Height – Policy Review and section 2.3.2.13. Building Walls and Dwelling Walls – Policy Review)
- Pages 129-134 (section 2.3.2.26. Primary Street Setback – Use of Building Line)
- Pages 28-29 (section 2.3.2.8. Urban Corridor Zones – Side Boundary Setback – Policy Review)
- Pages 206-207 (section 2.3.4.7. Garage and Driveways – Design DTS/DPF 19.5 and Design in Urban Areas DTS/DPF 23.5 General Development Policies – Policy Review)
- Pages 215-220 (section 2.3.4.13. Transport, Access and Parking – General Development Policy – Car Parking Rates Table – Review, and section 2.3.4.14. Transport, Access and Parking – General Development Policy – Designated Parking Areas / Car Parking Rates – Interpretation)

7. Expanded policy

The Code currently contains no direct policy in relation to the following three common development types:

- Decks
- Heavy vehicle parking
- Building alterations/additions

The Code Amendment therefore proposes to insert more specific policy in the Code to assist local authorities in assessing these types of common development.

Refer to the following pages of the Code Amendment Document for more detail on the proposed expanded policy:

- Pages 196-199 (section 2.3.4.4 Decks – Design, and Design in Urban Areas General Development Policies – Assessment Pathways)
- Pages 207-210 (section 2.3.4.8. Heavy Vehicle Parking - Transport, Access and Parking General Development Policy - Policy and Definition Review)

- Pages 112-114 (section 2.3.2.19. Dwelling Alterations and Building Additions/Alterations – Assessment Pathways)

8. Rules of Interpretation

Additional content is proposed to be added to *Part 1 – Rules of Interpretation* within the Code to clarify that:

- when routine survey work determines that current cadastral boundaries (property boundaries) are incorrect in the SA Property and Planning Atlas (SAPPA) (usually by only a very small amount), and require updating by the Surveyor-General, any Code zone, subzone or overlay boundary that is aligned to Cadastre* will automatically move to retain its alignment without the need for an operational or technical Code Amendment
- a zone, subzone, overlay or technical and numeric variation will only apply to the part of a development site that they spatially cover (as mapped in SAPPA), and are not taken to apply to any part of a development site they do not spatially cover

*Cadastre is a comprehensive register of property titles and is geographically represented in SAPPA.

See pages 13-17 (section 2.3.1. Part 1 – Rules of Interpretation) of the Code Amendment Document for more detail on proposed changes to Rules of Interpretation.

9. Character and Heritage identification

Minor amendments are proposed to improve the visibility of Representative Buildings and State Heritage Places in the Code.

Representative Buildings

Representative Buildings are defined in the Code as buildings which display characteristics of importance to a particular area. They are referenced in Historic Area Statements and Character Area Statements and mapped in the SA Property and Planning Atlas (SAPPA).

Representative Buildings are currently only identified in the 'Planning Reference Layers' of SAPPA. A technical change is therefore proposed to give them greater visibility in the Code by relocating the mapping/identification of these buildings into the Character Overlay and Heritage Areas Overlays in SAPPA. No new Representative Building will be added or removed.

This amendment has been requested by local council planning teams to give increased visibility of Representative Buildings in the Code and to also assist with section 7 property interest searches. Section 7 property searches produce all relevant information about the particular property and can be conducted by anyone with an interested in that property (a prospective buyer for example).

State Heritage Places

State Heritage Places are currently identified in the Code through the State Heritage Places Overlay. There is currently no list of State Heritage Places in the Code similar to that provided for Local Heritage Places.

The Code Amendment therefore proposes to insert the list of State Heritage Places currently maintained in the State Heritage Register into Part 11 of the Code, which will be renamed 'Heritage Places'. Part 11 of the Code will then contain the full list of both State and Local Heritage Places (under separate sub-parts).

A new note in *Part 1 Rules of Interpretation* of the Code is proposed in the event of an inconsistency between the Code and the State Heritage Register. The note asserts that the State Heritage Register prevails with respect to State Heritage Places, and that the Code prevails with respect to Local Heritage Places. This aligns with the legislative head powers for each heritage place.

Refer to pages 162-164 (section 2.3.3.13. Representative Buildings – Character Area Overlay and Historic Area Overlay – Spatial Representation) and pages 257-259 (section 2.3.11. Part 11 Local Heritage Places) of the Code Amendment Document for more detail on proposed changes to Character and Heritage Identification.

10. Classification Tables / Linkages

“Linkages” are the relevant policies assigned to classes of development identified in various zone classification tables in the Code.

When a relevant authority is assessing a proposed development, they can only use the policies assigned to that particular class of development.

A small number of discrepancies and anomalies have been identified where the relevant policy for a class of development is inconsistent across a family of similar zones where it should be the same. The Code Amendment therefore proposes to rectify these inconsistencies.

It should be noted that the proposed amendments do not include the review or reconsideration of classification policies more generally.

There are a number of linkages which have been identified and reviewed. Refer to relevant sections (Part 2 – Zones and Sub Zones, Part 3 – Overlays and Part 4 – General Development Policies) of the Code Amendment Document for more detail on proposed changes to Classification Tables.

Further information

Further information about the Miscellaneous Technical Enhancement Code Amendment, including the Code Amendment Document, a set of Frequently Asked Questions, and details on how you can provide feedback, can be found on the PlanSA portal: plan.sa.gov.au/en/ca/mte

During public consultation, the Department will also be running online public information sessions about the Miscellaneous Technical Enhancement Code Amendment. These sessions will offer the opportunity to learn more about the proposed changes and ask the Code Amendment team any questions.

Visit the PlanSA Eventbrite page for session times and to register your attendance. The sessions will be free, but registration is required: planSAevents.eventbrite.com

Contact details are provided overleaf for any enquires about this Code Amendment.

Public consultation

We welcome feedback on the proposed Miscellaneous Technical Enhancement Code Amendment. Feedback is important and can help shape how this Code Amendment is finalised and implemented, if approved.

Public consultation will run for 8 weeks from Monday, 25 July until Friday, 23 September 2022.

Written submissions should be provided no later than 5:00 pm on Friday, 23 September via:

- the online submission form which can be accessed via the QR Code below, or the following PlanSA portal page: plan.sa.gov.au/en/ca/mte



- Email: plansasubmissions@sa.gov.au (subject: Submission – Miscellaneous Technical Enhancement Code Amendment)
- Post:
Attention: Code Amendment Team, Planning and Land Use Services
Department for Trade and Investment
GPO Box 1815, Adelaide SA 5001

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.

The Code Amendment process

- Minister for Planning and Local Government approves the Proposal to Initiate following advice from the State Planning Commission: **July 2021**
- Consultation on Code Amendment: **25 July 2022 to 23 September 2022**
- State Planning Commission assesses compliance with the Community Engagement Charter following receipt of the Engagement Report
- Minister makes a determination on the proposed Code Amendment
- Should approval be granted, the final Engagement Report and Code Amendment Report will be published on the PlanSA portal within 5 business days of the Minister's approval of the Code Amendment
- The Code Amendment is referred to the Environment Resources & Development Committee of Parliament for scrutiny

Code Amendment enquiries

Contact: PlanSA
 Telephone: 1800 752 664
 Email: plansa@sa.gov.au
 Visit: plan.sa.gov.au/en/ca/mte