



This practice direction is issued by the State Planning Commission under section 42 of the *Planning, Development and Infrastructure Act 2016*.

Introduction

Section 42 of the Planning, Development and Infrastructure Act 2016 allows the State Planning Commission (the Commission) to issue practice directions for the purposes of the Act. Generally, practice directions specify procedural requirements or steps in connection with a matter arising under the Act. In certain cases, the Act requires a particular matter to be addressed or dealt with by a practice direction.

This practice direction is provided by the Commission to support the operation of Part 5 Division 2 Subdivision 5 of the Act with respect to the requirements for:

- engagement required by the Community Engagement Charter is to be undertaken and reported on under section 73 of the Act. The direction sets out:
 - (a) the preparation and implementation of a community engagement plan that meets the principles and performance outcomes of the Charter as required under section (73)(6) of the Act
 - (b) the details of the report required to be provided to the Minister under section 73(7) of the Act. The report is intended to:
 - describe the engagement undertaken and the outcomes of that engagement including how it has or has not influenced the preparation or proposed amendment of a designated instrument
 - evaluate the effectiveness of the engagement in delivering on the principles of the Charter
 - how the report is to be published on the SA planning portal under section 73(8) of the Act.
- Code Amendments. The direction sets out:
 - (a) The details of the proposal required to be provided to the Minister under section 73(2) of the Act for approving the initiation of an amendment to the Code.
 - (b) The requirements for the preparation of an amendment to the Code for consultation and approval.
 - (c) For the purposes of preparing its advice to the Minister, the Commission will provide an opportunity for landowners who are objecting to the listing of their places as a place of local heritage value to be heard before Commission representatives.
- The information requirements for requesting a Complying Change to the Code after completing a regional plan under section 75 of the Act.

- The information requirements for requesting early commencement of a code amendment as part of a Code Amendment under section 78 of the Act.

Part 1 – Preliminary

1 – Citation

This practice direction may be cited as the State Planning Commission Practice Direction – 2 Preparation and Amendment of Designated Instruments.

2 – Commencement of operation

This practice direction will come into operation on the day on which it is published on the SA Planning Portal.

3 – Object of practice direction

The object of this practice direction is to specify:

1. how under section 73 of the Act engagement as required by the Charter is to be undertaken and reported on in relation to the preparation or proposed amendment of a designated instrument
2. requirements under section 73 of the Act for the preparation of a proposal to initiate, consult and lodge for approval an amendment to the Planning and Design Code
3. requirements under section 75 of the Act for requesting a complying change to the Planning and Design Code
4. requirements under section 78 of the Act for requesting early commencement of an amendment proposed as part of a code amendment.

4 – Interpretation

In this practice direction, unless the contrary intention appears –

Act means the Planning, Development and Infrastructure Act 2016

Charter means the Community Engagement Charter

Code means the Planning and Design Code

Code amendment means an amendment to the Planning and Design Code

Department of Planning Transport and Infrastructure means the Department

Designated instrument means the instruments set out in section 70 of the Act

Designated entity means a person or entity authorised or approved to prepare a draft of a proposal to prepare or amend a designated instrument

Proponent means the Chief Executive, another agency or instrumentality of the Crown, a joint planning board, a council, a provider of essential infrastructure, a scheme coordinator, or a person who has an interest in land, as listed in section 73 (2)(b) of the Act

Private proponent means a provider of essential infrastructure or a person who has an interest in the land, as listed in section 73(2)(b)(v) or (vii) of the Act.

Note: Section 14 of the Acts Interpretation Act 1915 provides that an expression used in an instrument made under an Act has, unless the contrary intention appears, the same meaning as in the Act under which the instrument was made.

Part 2 – Consultation for Designated Instruments

5– Requirements in relation to preparing an Engagement Plan

- (1) The entity authorised to prepare or amend a designated instrument is responsible for preparing a community engagement plan that:
 - (a) meets the principles and performance outcomes of the Charter
 - (b) describes the persons or bodies to be consulted
 - (c) outlines any relevant previous engagement undertaken to inform the proposal
 - (d) describes the evaluation framework for the engagement.
- (2) the community engagement plan must be submitted to the Commission for approval with the exception of an amendment to the Code and a Design Standard.
- (3) The Commission, in reviewing the proposal to initiate the community engagement plan for the purposes of section 73(2)(b), may specify that the entity engage with a particular person or body.

6– Requirements in relation to preparing an Engagement Report following consultation

- (1) At the completion of engagement on a draft of a proposal to prepare or amend a designated instrument an engagement report must be provided to the Minister by the designated entity.
- (2) The report must set out:
 - (a) details of the engagement undertaken and how that engagement met the agreed community engagement plan, and reasons for variations, if any to that plan
 - (b) the outcome of the engagement including a summary of the feedback made
 - (c) the response to the details of, and reasons for, changes to the proposal to prepare or amend a designated instrument when compared to the proposal that was engaged on. This should specifically indicate:
 - (i) where changes are proposed to the designated instrument based on the engagement; and
 - (ii) any other changes proposed based on additional investigations or information not available when the proposal was released for engagement.
- (3) The engagement report must also include an evaluation of the effectiveness of the engagement that considers whether:
 - (a) the principles of the Charter have been achieved; and
 - (b) all mandatory requirements identified in the Charter have been met where the consultation category is applicable.

- (4) The engagement report will be placed on the SA Planning Portal by the Department:
 - (a) in relation to a regional plan, the Planning and Design Code or a design standard -five days after the Minister has made a decision on the proposal to prepare or amend the designated instrument under section 73(10) of the Act;
 - (b) in relation to a state planning policy -five days after the Governor has approved the preparation or amendment of a state planning policy under section 73(12)(a) of the Act.

Part 3 – Planning and Design Code Amendments

7– Requirements in relation to initiating a code amendment pursuant to section 73 of the Act

- (1) To initiate a code amendment the proponent must provide a proposal to the Commission. That proposal must set out:
 - (a) Scope- an explanation of the reasons for the preparation of the amendment and a description of the changes in circumstance leading the need for the amendment and the range of issues to be addressed in the amendment
 - (b) Code Modules- an outline of any overlay, general policy, zone or subzones being considered for amendment and/or the intended spatial application of an overlay, general policy, zone or subzone over an identified area, or draft instructions for the proposed amendments
 - (c) Area Affected- A map or description of the area affected by the proposed amendment
 - (d) State Planning Policies- an identification of the relevant key state planning policies and a statement of assessment of the amendment’s consistency with those policies
 - (e) Regional Plans- An indication of how the matters or issues proposed to be addressed by the amendment will relate to the relevant regional plan and any relevant infrastructure planning
 - (f) Infrastructure Provision-
 - a. an explanation of any infrastructure provision that is required and how the infrastructure provision will be provided and
 - b. an indication whether it is likely that an infrastructure agreement or agreements will need to be entered into in connection with the code amendment process, identifying the tools that will be used for this process
 - (g) Council and Joint Planning Board Comments- demonstrate that the proponent has discussed the proposal with the relevant Council and relevant Regional Planning Board
 - (h) Consultation- Information regarding any other consultation that has occurred

- (i) To designate a place as a place of local heritage value or a heritage area- the proponent must provide a heritage review prepared by a heritage architect or historian or similar occupation in accordance with the Commission's guidelines prepared under section 67 (2)(c)
 - (j) To designate a tree a significant tree- the proponent must provide an assessment of the tree against the criteria under section 68(1)(a) of the Act
 - (k) To designate a stand of trees to be significant trees- the proponent must provide an assessment of the trees against the criteria under section 68(1)(b) of the Act.
- (2) In addition, a designated entity must provide:
- (a) Timetable- an outline of the proposed timetable for each step of the process (ensuring that the process is completed within reasonable time limits), and a commitment on the part of the entity that it will take steps to update this timetable if it appears at any stage that the entity will require an extension;
 - (b) Investigations- An outline of the investigations and justifications that will be undertaken (and those that may have already been undertaken) and the form that those investigations will take in order to address the strategic and social, economic and environmental issues of the proposed amendment, or an explanation and summary of the investigations undertaken and how these support the amendment;

8– Requirements in relation to preparation of the draft proposal prior to consultation and decision

- (1) Prior to consultation the designated entity must provide to the Department:
 - (a) instructions that set out the intent of the proposed policy amendment for the purposes of the Department writing the draft Code Policy for the designated entity
 - (b) any maps in an industry standard GIS format to the Department to enable the production version of mapping to be prepared and returned to the designated entity
 - (c) In relation to heritage lists a local heritage data sheet and a significant trees data sheet.
- (2) If amendments are proposed to the consultation versions, the designated entity must provide to the Department:
 - (a) instruction to write the amendments to the Code Policy
 - (b) amendments to the maps in an industry standard GIS format to the Department to enable the production version of mapping to be prepared and returned to the designated entity;

9– Requirements in relation to preparation of the draft proposal for consultation

- (1) For engagement purposes code amendment must be supported by the following information:
 - (a) an explanation about why and how the Code is proposed to be amended
 - (b) an assessment of the amendment against the relevant provisions of State Planning Policies and the relevant regional plan

- (i) Any amendment that is not fully consistent with the State Planning Policies or the region plan must be specifically identified and an explanation setting out the reason or reasons for the inconsistency must be included
- (c) an explanation and summary of the investigations undertaken and how these support the amendment
- (d) an explanation of any infrastructure provision that is required and how the infrastructure will be provided.

10– Requirements in relation to the objectors to local heritage listings

- (1) In the case of an amendment that designates a place as a place of local heritage value under section 67(1) of the Act the Commission will give the owner of the land if an objection was received reasonable opportunity to make a submission before them.

11– Requirements in relation to Complying Changes under section 75

- (1) A proposal to agree to a complying change must provide the following information to the department:
 - (a) reference to the documentation and recommendation in relation to the proposed amendment in the relevant regional plan
 - (b) a summary of the consultation in accordance with the Charter that has occurred in relation to the proposed which should include reference to the Engagement Report prepared for the regional plan and any additional consultation that has occurred
 - (c) instructions that set out the intent of the proposed policy amendment for the purposes of the Department writing the draft Code Policy for the designated entity
 - (d) any maps in an industry standard GIS format to the Department to enable the production version of mapping to be prepared and returned to the designated entity.

12– Requirements in relation to Early Commencement under section 78

- (1) A request for a code amendment to come into operation without delay must provide to the department:
 - (a) an explanation about how early commencement is required to counter applications for undesirable development (development that would detract from, negate the object of the amendment) during consultation and consideration of the code amendment
 - (b) instructions that set out the intent of the proposed policy amendment for the purposes of the Department writing the draft Code Policy for the designated entity
 - (c) any maps in an industry standard GIS format to enable the production version of mapping to be prepared and returned to the designated entity.

Practice Direction 2 *Consultation on the Preparation or Amendment of a Designated Instrument 2018* issued by the Commission on the 9 August 2018 is revoked.

Issued by the State Planning Commission on 28 November 2019.