

CHAPTER TWO

Original consultation

- Summary of feedback
- Response and recommended amendments to Code Policy

Chapter 2: Original consultation – Summary of feedback, response and recommended amendments to Code Policy

This section describes the Commission's recommended changes to the Phase Three (Urban Areas) Planning and Design Code Amendment (the Phase Three Amendment) policy in response to feedback from the original consultation period from 1 October 2019 to 28 February 2020.

Feedback, response and recommendations have been classified into categories:

1. **Procedural and Technical** – recommended changes to procedural matters (public notification, referrals), definitions, designated areas and general structure/consistency/drafting
2. **Code Policy Content** – recommended changes to the policy content of the Code, grouped into four themes:
 - 2.1 People and Neighbourhoods
 - 2.2 Productive Economy
 - 2.3 Natural Resources and Environment
 - 2.4 Integrated Movement Systems and Infrastructure

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1. Procedural and technical (PT)

The following procedural and technical matters received feedback from respondents which was not specific to particular zones, subzones, overlays or general development policies.

Rules of Interpretation (Part 1)

The rules of interpretation in the Code sets out how the Code implements the requirements of the PDI Act and instructs how the Code is to be read and applied to development assessed under the PDI Act.

Designated performance features (DPFs)

Engagement feedback:

The majority of feedback on the Rules of Interpretation queried the role of DPFs. Comments included:

- There is a risk that DPFs will be used as a minimum requirement in performance assessment
- Clarification is needed to ensure that a DPF represents only one way that a performance outcome can be satisfied.
- If a proposal meets a DPF the Rules of Interpretation should clarify whether the proposal should be considered to meet the relevant Performance Outcome (PO).
- Deemed-to-satisfy (DTS)/DPF should not be included in Table 3 as 'Applicable Policies' as this has the potential to cause inconsistency and uncertainty for performance-assessed development, particularly if the authority takes a strict view of the application of the DPF.

Commission's response:

DPFs guide relevant authorities about what is generally considered to satisfy the corresponding performance outcomes but do not derogate from their discretion to determine that the outcome is met in another way.

While a DPF generally satisfies the relevant PO, this may not always be the case. Section 107 of the PDI Act establishes that performance assessed development will be assessed on its merits against the Code. Accordingly, the role of the relevant authority in a performance assessment is to consider all relevant policies on balance and determine whether the development warrants consent.

For example, a proposed three-storey dwelling may be listed in Table 2 – Deemed-to-Satisfy Classification and meet the relevant deemed-to-satisfy (DTS) criteria except for building height, which should be a maximum of two levels. This will mean the development is performance assessed and the house would meet all relevant DPFs except for building height. The height may be considered appropriate in a performance assessment of the proposal's merits, for example, if a three-storey house of a similar scale is located next door and the nature of the development is consistent with the corresponding Performance Outcome (PO) and Desired Outcome (DO) for the zone. In such an assessment, the authority may consider that setbacks should be increased (even if meeting the relevant DPF) to minimise visual massing and overshadowing impacts on other properties and allow the excess in building height.

Some changes to the wording in the rules of interpretation are recommended to provide greater clarity on the role of DPFs in a performance assessment.

Commission's Recommendation:

PT.1 **AMEND** the Rules of Interpretation to clarify that DPFs provide only one way in which a PO can be satisfied and do not derogate from an authority's discretion to determine that the outcome is met in another way or from the need to assess development on its merits against all relevant policies.

Determination of Classes of Development

Engagement feedback:

One submission queried whether alteration or addition of a particular land use would be classified as restricted if the land use was identified as restricted. For example, 'Industry' is identified as restricted development, however would a substantial extension to an existing industry (on an abutting allotment) also be classified as 'restricted'?

Commission's response:

Generally, where reference is made to a land use (e.g. dwelling) with no other more specific references to that land use (e.g. dwelling addition) in the same table, reference to the land use is intended to capture all forms of that development class. For example, reference to 'industry' includes a change in use of land to industry, construction of a new industrial building or addition to an existing industrial building. However, where the same table references permutations of the same land use, the most relevant class of development should be applied. For example, if a table references both 'Dwelling' and 'Dwelling addition', only 'Dwelling addition' would be relevant to an application for an addition to an existing dwelling.

It is considered appropriate to amend the Rules of Interpretation to clarify this approach.

Commission's Recommendation:

PT.2 **AMEND** the Rules of Interpretation to clarify that, unless otherwise specified in another class of development in that table, the reference to a class of development includes a reference to a change in the use of the relevant land or building work (including construction of a new building or alteration/addition of an existing building).

PT.3 **AMEND** Restricted Development Classification tables to exclude alteration/addition of a particular land use where appropriate.

Hierarchy of policies

Engagement feedback:

Some submissions requested a hierarchy be created to determine which overlay takes precedence. For example, there are several locations where an Historic or Character Area Overlay overlaps the Affordable Housing Overlay which permits affordable housing to exceed height limits and reduce site areas and parking requirements. It was observed these features conflict with the policy and character of an Historic and Character Area and a hierarchy is therefore needed to ensure overlays do not conflict with one another.

Respondents also requested that a statement be included in the Code directing that TNVs take precedence over Desired Outcomes where there are different heights, setbacks, etc.

Commission's response:

It is considered inappropriate to specify that certain overlays take precedence over other overlays. Conflict should generally be avoided in the overlay policy, and therefore changes have been

recommended to the Affordable Housing Overlay to avoid potential conflict with Historic or Character area overlays (see [People and Neighbourhoods > Affordable Housing Overlay](#) discussion in this report).

A Desired Outcome (DO) would generally take precedence over a DPF with TNV data. For this reason, TNV data should be within the scope of what's envisaged in the zone. If it is not, then the TNV or zone should be reviewed for suitability.

Code layout

Engagement feedback:

Some submissions requested that public notification and exemptions for performance assessed development and restricted development should be consolidated in one location in the Code.

Councils provided detailed commentary on all aspects of the transition of existing development plans to the Code. A notable issue was the desire for existing Desired Character Statements to be incorporated in the Code to assist in guiding future development.

Commission's response:

The Commission considers the most appropriate place for restricted development and public notification exclusions is in the zone which forms the spatial area to which these procedural matters apply. In addition, the electronic format of the Code will make it easier to navigate to the procedural matters tables in the Code.

Desired Character statements have commonly been used in development plans to provide background about the history and context of an area and to set out the vision for an area which is often replicated in principles of development control and/or objectives.

The Code's Assessment Provisions have been structured to set out the vision of an area through DOs, POs and DTS/DPF criteria. These are considered sufficient to set out the vision for an area as well as the specific outcomes through which that vision could be achieved.

It is noted that Historic/Character Area Statements have been prepared for areas within the Historic/Character Area overlays, which provides an additional method to set out the context for an area where a specific character/history exists.

Designated Areas (Part 5)

Part 5 of the Code designates areas (being certain zones, subzones, overlays etc) for the purposes of the Planning, Development and Infrastructure (General) Regulations 2017 or the PDI Act. This includes areas where certain forms of development are 'exempt' from approval, require approval, or where the State Planning Commission is the relevant authority.

Engagement feedback:

The Adelaide City Council observed that council-wide demolition control currently applies for all buildings and that this is important because outcomes (vacant lots or open car parks) may negatively impact on city streetscapes.

It was also requested that the City of Adelaide be excluded from the operation of clause 4(1) of Schedule 6 of the Regulations, so that the Commission would not be the relevant authority for buildings exceeding 4 building levels in the Design Overlay in the City of Adelaide.

The City of Mitcham requested that areas of their council where excavation/filling exceeding 9 m³ comprises development under Schedule 2 of the Development Regulations 2008 be carried forward into designated areas under Schedule 3 of the Planning, Development and Infrastructure (General) Regulations 2017.

Commission's Response:

The Regulations prescribe demolition of the entirety of a building as an exemption from the definition of development subject to certain exclusions where planning consent and building consent are required. As a principle, demolition should require planning assessment only when the building is of heritage or historic value. In the City of Adelaide, while demolition itself will not be controlled, policy can be used to address streetscape/activation in zones where this is important (City Main Street, Capital City etc.) – see those zones chapters of this report for response/recommendations.

It is considered appropriate to remove the City of Adelaide from designated areas under clause 4(1) of Schedule 6, as this would be consistent with the Development Regulations 2008.

In the consultation version of the Code, the Sloping Land Overlay was designated as an area within which excavation or filling exceeding 9m³ would comprise development. Given this overlay is proposed to be deleted and replaced with a new Hills Neighbourhood Zone (see associated discussed in [People and Neighbourhoods > General Neighbourhood Zone](#) section of this report), it is considered appropriate to list that zone as a designated area for which such earthworks would need approval. This consistent approach is preferred as opposed to singling out specific areas from the existing regulations.

Commission's Recommendations:

- PT.4** **AMEND** the areas identified for the purposes of clause 4(1) of Schedule 6 of the Regulations - Buildings exceeding 4 storeys – to apply only to those parts of the Design Overlay within the City of Burnside, Norwood Payneham and St Peters, Prospect, Unley, West Torrens and Holdfast Bay.
- PT.5** **REMOVE** 'Sloping Land Overlay' from 'Areas identified for the purposes of clause 1 of Schedule 3 under the Regulations - Excavating or filling in identified zones or areas' and add 'Hills Neighbourhood Zone'.

Land Use Definitions (Part 7)

Part 7 of the Code provides definitions of land uses, as well as land uses which are included or excluded from that term.

Engagement feedback:

The following key matters were raised in respect to land use definitions:

- general support for accommodation land use definitions – tourist accommodation and ancillary accommodation
- opportunity to improve dwelling definitions
- broadening and refinement of retirement facility and supported accommodation definitions
- further clarity required around renewable energy facilities, including small-scale proposals
- distinction between shops, bulky goods outlets and restaurants
- refinement of primary production definitions
- request for additional land use definitions where common meaning was considered unclear
- reinstatement of some land use definitions from the current Development Regulations/Development Plans
- opportunity to add ancillary activities to land use definitions for clarity of interpretation
- variety of queries, opinions and suggestions regarding definition clarity and enhancements.

Clarification:

The definitions within the Code had been transitioned from the Development Act 1993 and associated Regulations. They were also informed by a discussion paper released by the Commission in 2018 which is available on the PlanSA Portal. There is significant case law on definitions that was considered through the drafting process. The definitions were consulted on through the Phase One (Outback) Code in early 2019, and again through the Phase Two (Rural Areas) Code Amendment.

Accommodation

Engagement feedback:

Ancillary accommodation

Respondents expressed support for the definition of ancillary accommodation but suggested that it be broadened to apply to buildings with more than one bedroom. Others felt that a floor area cap would be a better way in which to regulate this form of development.

Tourist accommodation

Providing a definition for tourist accommodation was also supported by a number of submissions, however it was suggested that the definition could be more specific to avoid confusion with dwellings and campgrounds.

Clarification:

Tourist accommodation that presents and operates like a dwelling may continue to fit both definitions of tourist accommodation and dwelling. This is an issue that is difficult to avoid without wholesale amendments to the definitions which in itself could open up other issues. It is therefore recommended that no change to the new definition of tourist accommodation be made in respect to this issue but that its

application be evaluated further once the Code is operational to see if any adjustments or further guidance is needed.

Workers accommodation

Some respondents suggested that workers' accommodation should not be limited to temporary accommodation.

Clarification:

The focus of the definition is accommodating workers on a temporary basis so it is therefore not considered necessary to amend the definition in respect to this issue.

Others felt that the definition should be expanded to include workers accommodation associated with all forms of transport infrastructure construction rather than being limited to road and/or railway construction. It was further suggested that this could be expanded to all forms of essential infrastructure.

Commission's response:

In relation to ancillary accommodation, the Commission agrees with the suggestion to allow for an additional bedroom in order to provide greater flexibility in design. Floor area caps however are a matter for policy as there may be circumstance were a larger floor area (or smaller for that matter) may be warranted depending on the nature of the zone.

Tourist accommodation is a new term and the Commission, whilst acknowledging the complexities of its relationship with dwelling, is also cautious about making wholesale changes to a term that hasn't been given opportunity to establish. No changes to tourist accommodation to distinguish it from a dwelling are therefore recommended at this time.

For workers' accommodation, the commission has considered the feedback and agrees that its association with road/rail infrastructure should be broadened to not only all forms of transport infrastructure but to essential infrastructure which is defined in the PDI Act as follows:

essential infrastructure means—

- (a) infrastructure, equipment, structures, works and other facilities used in or in connection with—
 - (i) the generation of electricity or other forms of energy; or
 - (ii) the distribution or supply of electricity, gas or other forms of energy; and
- (b) water infrastructure or sewerage infrastructure within the meaning of the *Water Industry Act 2012*; and
- (c) transport networks or facilities (including roads, railways, busways, tramways, ports, wharfs, jetties, airports and freight-handling facilities); and
- (d) causeways, bridges or culverts; and
- (e) embankments, walls, channels, drains, drainage holes or other forms of works or earthworks; and
- (f) testing or monitoring equipment; and
- (g) coast protection works or facilities associated with sand replenishment; and
- (h) communications networks; and
- (i) health, education or community facilities; and
- (j) police, justice or emergency services facilities; and
- (k) other infrastructure, equipment, buildings, structures, works or facilities brought within the ambit of this definition by the regulations;

Dwellings

Engagement feedback:

Detached, semi-detached and row dwellings

Many respondents identified opportunities to improve the definition for detached, semi-detached and row dwellings. Specific issues were raised about the phrase 'held exclusively' in each of these terms and how it requires applicants to create allotments prior to any authority being able to determine applications for dwellings of this nature. Submissions have suggested that while it is logical, from a legal perspective, to require allotments to be created before a dwelling application is determined, from a planning perspective, it is often preferable for the dwelling application to come first in order to gain a greater appreciation of built form outcomes.

Residential flat buildings and apartments

There was some confusion raised about the use of apartments in the Code and how this may or may not differ from dwelling or residential flat building.

Commission's response:

Interpretation of the current detached, semi-detached and row dwelling definitions has, in the opinion of the Commission created unnecessary red tape. In most circumstances, assessing the built form and functional aspects of a dwelling proposal will result in a more beneficial outcome, than undertaking the land division process first. It makes logical sense to assess applications in this way, with applications for land division then following as a matter of course.

In relation to apartments/residential flat building, the Commission notes that the PDI Act contains a definition for apartment which applies in the context of open space contributions. This definition is broader than that which is encompassed by the term residential flat building and not considered appropriate for use in the Code due to its broad application. To avoid confusion, it is therefore the Commission's view that the term 'apartment' be avoided in the Code and that 'dwelling' or 'residential flat building' be used instead.

Retirement housing and supported accommodation

Engagement feedback:

The following feedback was received in relation to retirement housing and supported accommodation:

- the definition of retirement facility should be replaced with retirement housing and redefined to broaden its scope
- retirement housing should be accommodation which is lawfully restricted for the predominant accommodation of persons who have attained the age of 55 years
- there is no definition for 'residential aged care facility' or 'nursing home' even though there is reference to these land uses within the Code (although they could fall under the definition of supported accommodation).

Commission's response:

The Commission acknowledges that the definition of 'retirement village' has narrow application, however adding an 'age' criteria to any land use definition should be approached with caution. Whilst the necessity to continue working to earn an income whilst moving to accommodation suited to advancing age is becoming more common, given the complexities involved in such a policy change, the Commission is not recommending any change to the Phase Three Amendment. Instead, it is the Commission's view that policy for retirement housing be looked at as part of a separate review / generation change to the Code where these matters can be fully investigated with relevant stakeholders, along with supportive legislative amendments if necessary, e.g. linkages with lands titles etc.

On reviewing the definition for 'supported accommodation' the Commission believes that further amendments are necessary to ensure that the defined term is encapsulating accommodation in the form of purpose built facilities, not private houses within which 'home care' is provided. To support this it is recommended that the definition includes 'nursing homes' and the various forms of 'residential care' governed by the Commonwealth's Aged Care Act 1997.

Renewable energy

Engagement feedback:

Industry and community groups called for a reconsideration of what size and scale of facilities should be classified as a renewable energy facility. Some suggested that the 5MW minimum threshold is not low enough given the typical footprint for a solar facility is approximately 1.4ha of panels for every MW produced. Others felt that solar facilities less than 5MW be separately defined in the Code with their own suite of policy.

Submissions also suggested the adoption of the qualification for 'small scale solar', as exists in the NSW SEPP, which uses both generation capacity and land area in a scaled definition of solar farms from small to large. Others raised issues with renewable facilities being classed as a form of industry as they produce electricity.

Commission's response:

The Commission recognises that there is a gap in assessment policy for domestic-type renewable energy facilities that trip into performance assessed development (e.g. where a heritage type overlay applies or where ground mounted facilities are proposed in zones that don't have an accepted development pathway). The same applies to facilities that are set up principally to supply electricity to a land use on the same site. To address this, the Commission is recommending that additional policies be added to the Infrastructure and Renewable Energy Facilities – General Module to provide suitable guidance. It is also recommended that the generating capacity of 5MW be removed from the definition as this contributes to confusion and is not necessary for the definition to function properly. Such matters are for the Technical Regulator.

The issue of renewable energy facilities being captured by the definition of industry is one that could potentially complicate and confuse assessment procedures. To overcome this, it is recommended that the process of generating electricity from a renewable energy source be excluded from the definition of industry.

Shops, Bulky Goods Outlets and Restaurants

Engagement feedback:

Various submissions spoke of the desire to make restaurant and bulky goods outlet stand-alone definitions, separate from the umbrella term 'shop'.

Commission's response:

The structure, functionally and policies of the Code have been built around the longstanding position that 'shop' includes restaurants and bulky goods outlets. Whilst the feedback is acknowledged, there is a need to tread cautiously around making wholesale changes to definitions such as this, particularly given the extent of case law available around this topic and the unintended policy consequences that could occur from such a change. Instead, it is the Commission's view that the status quo be retained in regard to these definitions, but Code policy be reviewed to ensure that assessment pathways are clear, and that issues specific to restaurant or bulky goods outlets are clearly addressed within DTS/DPF policy. In addition, improvements to the PlanSA online interface should be explored so that users are clearly informed about what the term 'shop' encompasses when undertaking a 'development type' search.

Primary Production

Engagement feedback:

Commentary around the various rural definitions including suggested improvements, observations, operational aspects and requests for further clarity was received during the consultation process. Key feedback included:

- agricultural buildings to include 'silo' and 'frost fans' to the list of inclusions for agricultural buildings to ensure such improvements don't get caught up in longer assessment processes than required
- concern that uses such as 'dairies' and 'intensive animal husbandry' are excluded from agricultural buildings to support their operations
- a definition of grazing should be included
- containment feeding should form part of the definition for low intensity animal husbandry
- need to distinguish between commercial forestry and environmental plantings
- operational aspects of commercial forestry such as timber processing should form part of the 'commercial forestry' definition.

Commission's response:

On review of the term 'agricultural building', the Commission is of the view that further refinement is required to ensure that dairies and intensive animal husbandry are afforded the same opportunities as other forms of agriculture in terms of having a streamlined pathway for buildings that they require in order to support their operations. This shouldn't, however extend to the actual use itself e.g. buildings that are intended to house animals, which would require more detailed assessment. The commission agrees with suggestion about including 'silos' into the definition, but to ensure that large bulk handling silos are not inadvertently captured, it is recommended that 'farm silo' be inserted instead of just 'silo'. On further consideration, the Commission recommends that 'frost fans' not be included in the definition for agricultural building given their potential for noise impacts on sensitive receivers (refer to Rural Zone section of this report).

Recommendations with regards to the other suggestions are:

- Grazing – not recommended as it is a well-recognised term that is included in the definition of low intensity animal husbandry.
- Containment feeding – not recommended on the basis that it is generally an ancillary and subordinate activity to low intensity animal husbandry. Where containment feeding becomes the predominant activity it would be treated as intensive animal husbandry.
- Environmental plantings – not recommended on the basis that environmental planting is not likely to become development—requiring an application—unless there is some form of commercial benefit obtained from the plantings.
- Commercial forestry – not recommended on the basis that on-site processing activities can be dealt with as 'ancillary or subordinate' to the primary use of commercial forestry.

Reinstatement and requests for additional definitions

Engagement feedback:

There was suggestion for additional definitions to be included in the code particularly where common meaning was considered to be unclear. Others recommended that the code might benefit from the reinstatement of current Development Regulation/Development Plan land use definitions. Suggested terms included:

- Affordable housing
- Function centre
- Manager's residence
- Private bushfire shelter (Dev. Regs.)
- Tiny house
- Sales office
- Private works depot
- Bulk petroleum storage
- Multiple dwelling (Dev. Regs.)
- Health facility
- Research facility
- Community centre (Dev. Regs.)
- Waste transfer facility
- Adult entertainment premises
- Adult products and services premises
- Amusement machine centre (Dev. Regs.)
- Bakery
- Boarding/lodging houses
- Cinema/theatre
- Emergency services facilities (Ambulance, Fire, Police)
- Entertainment centre
- Events/special events
- Health care facilities
- Helicopter landing facility
- Hospital
- Funeral parlour
- Licensed Entertainment premises
- Licensed premises
- Motel (Dev. Regs.)
- Short term accommodation/service apartment

Clarification:

The ordinary meaning of a word (i.e. the dictionary definition) can be used when interpreting terms used in the Code. Thus, it is not necessary to define all terms used in the Code.

Commission's response:

Definitions are provided in the Code as to support policy. The Commission is of the view that ordinary and common meaning has a place in policy interpretation, and a separate definition is only required where the ordinary meaning of a term does not appropriately work with the policy intent. With this in mind the following terms are recommended for either inclusion into the Code or amendment:

- Affordable housing – to be linked to the criteria established under the South Australian Housing Trust Act 1997.
- Community facility – to be based on the definition of 'community centre' in the Development Regulations
- Office – to avoid conflict with consulting room, add in the missing wording from the Development Regulations version – '*...but does not include a consulting room or premises where materials are stored for sale or manufacture*'.

Some of the other requests such as a definition of 'tiny house' will require further research before they can be considered.

Service industry is not recommended for inclusion as it is sufficiently covered by the definition of 'industry' which now reasonably allows for a comparable area floor space (250m²) to be made available of the retail sale of products manufactured by that industry.

Ancillary uses in definitions

Engagement feedback:

Some of the feedback expressed that known ancillary uses should be added to definitions in order to make sure that they are covered by the term. It was considered that this would benefit policy interpretation and would help relevant authorities when determining the 'nature of a use' at the application stage.

Commission's response:

Part 7 of the Code includes the following explanatory statement in respect to ancillary and subordinate activities:

Unless stated to the contrary, a term set out in the following table which purports to define a form of land use will be taken to include a use which is ancillary and subordinate to that defined use.

Over prescribing ancillary activities within individual land use definition could serve to limit flexibility, e.g., it could be interpreted that ancillary activities for a particular use are limited or confined to those that activities are specifically listed. It is therefore the recommendation of the Commission that the 'explanatory notes' in Part 7 take this role rather than over listing 'ancillary' activities within individual definitions.

Definition clarity and enhancement

Engagement feedback:

Various suggestions for definition clarity and enhancement were received including:

- refinement of definitions to include additional 'inclusions' and 'exclusions'
- where definitions link with other legislation – hyperlink that legislation
- exclusions/inclusions that are listed in the meaning of a definitions should be moved to the inclusions/exclusions columns

Commission's response:

The meaning of definitions (Column B) often makes reference to exclusions, with the same then replicated in the 'excludes column' (Column D). This is done to ensure that the definition is clear and does not inadvertently capture other uses in its meaning. It is recommended that the definitions be reviewed in order to consistently apply this principle.

Minor adjustments such as the inclusion of 'servicing and maintenance' to the 'repair' function of motor repair station are logical enhancements to the Code and are supported.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- PT.6 AMEND** the land use definition for ‘ancillary accommodation’ to allow for a maximum of 2 bedrooms; add ‘dwelling’ to the list of exclusions, and add ‘ancillary accommodation’ to the exclusions for dwelling.
- PT.7 AMEND** the land use definition for ‘tourist accommodation’ to add ‘campground’ to the list of exclusions.
- PT.8 AMEND** the land use definition ‘workers’ accommodation’ to allow for accommodation in relation to the construction of ‘essential infrastructure’.
- PT.9 AMEND** the land use definitions for detached, semi-detached and row dwelling to replace the words ‘site that is held exclusively with that dwelling’ with ‘...comprising 1 dwelling on its own site and has a frontage to a public road’ or similar.
- PT.10 AMEND** the land use definitions to exclude renewable energy facility from the definition of industry.

Phase Three (Urban Areas) recommendations:

- PT.11 AMEND** the land use definition for ‘supported accommodation’ to add ‘nursing home’ and ‘residential care’ to its inclusions list, but exclude ‘home care’. Define ‘residential care’ and ‘home care’ to have the same meaning as in the *Commonwealth Aged Care Act 1997*.
- PT.12 AMEND** the land use definition for ‘renewable energy facility’ to remove the generating capacity from the exclusion.
- PT.13 AMEND** the land use definition for ‘agricultural building’ by adding ‘farm silo’ to the inclusions list, but exclude ‘frost fans’. Revise the definition to read as follows to allow for ‘agricultural buildings’ that support the operations of ‘intensive animal husbandry’ and ‘dairies’:

Means a building used wholly or partly for purposes associated with farming, commercial forestry, intensive animal husbandry, dairying or horticulture, or to support the operations of that use, but does not include frost fans or a building used wholly or partly for any of the following:

- (a) the processing or packaging of commodities*
- (b) the housing of animals for the purposes of intensive animal husbandry*
- (c) the purposes of a dairy.*

- PT.14 CREATE** new land use definition for ‘affordable housing’:

Means housing that meets the relevant criteria for ‘affordable housing’ as determined by the Minister responsible for the South Australian Housing Trust Act 1995 under Regulation 4 of the South Australian Housing Trust Regulations 2010.

- PT.15 CREATE** new land use definition for ‘community facility’:

Means premises used for the provision of social, artistic, educational or community support services to the public but does not include a pre-school, educational establishment, place of worship or indoor recreation facility.

PT.16 AMEND the land use definition for 'office' by reinstating the following text from the Development Regulations version:

...but does not include a consulting room or premises where materials are stored for sale or manufacture.

PT.17 AMEND the land use definition for 'outbuilding' to exclude private bushfire shelter.

Administrative Definitions (Part 8)

Part 8 of the Code provides definitions of various administrative terms which may be used in the Code.

Additional definitions

Engagement feedback:

Many requests were received for additional administrative definitions to be included in the Code to provide greater clarity and certainty in policy interpretation. The definitions suggested were not confined to specific areas or themes of the Code and included:

- B85 passenger vehicle
- Bedroom
- Biodiversity
- Building façade
- Climate responsive buildings
- Ecological sustainable
- Exceedances per year
- Flood waters and stormwater
- Human wastewater
- Living green landscaping
- Low and medium level clearance of vegetation
- Open space and usable open space
- Perviousness
- Residential allotments
- Sewerage infrastructure
- Significant development site
- Small-scale and low impact
- Streetscape
- Third-party advertising
- Total roofed area (site coverage)

Clarification:

As with land use definitions, the ordinary meaning of a word (the dictionary definition) can be used when interpreting terms used in the Code. Other terms are limited to specific policy, such as 'significant development site' and are better explained at the source. Thus, it is not necessary to define all terms used in the Code. Over-defining also has the potential to result in unintended consequences.

Commission's response:

To provide greater alignment with related legislation and to improve policy interpretation the following additional administrative terms are recommended for inclusion in the Code:

- exceedances per year
- human wastewater
- sewerage infrastructure
- site coverage

To complement infill neighbourhood policy improvements, the Commission is of the view that the Code would benefit from the following additional definitions:

- central site – to guide new policy and manage impacts for dwellings that sit in the 'middle' of row dwelling/terrace type proposals.
- communal open space – to provide clarity around what it can and cannot contain and how it differs from private open space
- building envelope plan and activity centre – to complement policy relating to the Master Planned Neighbourhood Zone (see Section 2.1 of this report for more detail).

The Commission has also reviewed the terms that are separately defined in Part 9 – Referrals and considers that they should be moved to Part 8 to provide a 'one-stop' location for administrative definitions.

Diagrams

Engagement feedback:

General support was expressed about the use of diagrams in the definitions and it was felt that this could be expanded to other definitions like building height, finished floor level, secondary street etc.

Commission's response:

The Commission understands the need for greater clarity in policy interpretation and that diagrams and illustrations can assist in this regard. The use of diagrams will be considered further as the Code is developed.

Density

Engagement feedback:

In relation to the definition of density, some respondents observed that the numeric standards are too low while others consider the densities are too high and are orientated around metropolitan Adelaide.

Clarification:

The density definitions are based on the current parameters set by The 30-Year Plan for Greater Adelaide (2017 Update) which defines low density as up to 35 dwellings per hectare. The introduction of allotment area TNVs (the current allotment sizes used in development plans) provides the local context which some regional councils have sought.

Feedback on the use of the term 'density' in the Code suggested there is some inconsistency in interpretation and that would be better to provide two terms ('net density' and 'gross density') and update the policy accordingly.

Commission's response:

The Commission is of the view that the Code would benefit from defining density into two categories being 'net residential density' for established zone and 'gross density' for use in greenfield zones.

Definition clarity and enhancement

Engagement feedback:

The following questions and comments were received in relation to the administrative definitions incorporated into the draft Code and released for public consultation, including:

- Battle-axe allotment – what are the frontage minimums along road boundaries?
- Building height – what is the potential impact on utilitarian structures such as telecommunications towers?
- Building level – how does building level relate to rooftop gardens and levels that are underground?
- Building line – how is this measured and what is the extent of protrusion allowed?
- Habitable room – does this include a detached pool room?
- Hours of operation – are deliveries and servicing part of the hours of operation?
- Low, medium and high rise – how does the definition of 'medium rise', which anticipates up to 6 building levels, apply in various policies?
- Private open space – can the reduced minimum dimension of 1.8 metres be located forward of the primary building line? What is meant by 'not fully enclosed'?
- Tangent point – Is the kerb of the road pavement or the cadastral boundary the line in the diagram?
- Total floor area – clarification required as to whether it includes 'mezzanine' floor levels
- Sensitive receiver and sensitive land use – do these terms align with EPA documents?
- Site – the definition of 'site' appears to relate only to a building on a single allotment, but should include more than one allotment.
- Soft landscaping – should exclude synthetic grass
- Wall height – definition may not capture certain architectural styles.

Commission's response:

Many of the above definitions such as battle-axe allotment, building height, building line, total floor area and site have been 'transitioned' over from the Development Regulations 2008 and are generally well understood.

Definitions such as building level, habitable room, hours of operation, private open space, sensitive receiver/land use and wall height are generally new to planning policy but have been considered in detail with input sought from relevant agencies as needed. Considering this, the Commission is cautious about making wholesale changes to the new definitions without giving them an opportunity to establish.

A lot of the feedback relates to Code policy wording, rather than definition construction. For example, in relation to private open space, some zones/area might well warrant front yard private open space as a suitable design solution, so restricting it at the definition level would potentially limit such opportunities. Similarly, the minimum road frontage of a 'battle-axe allotment' could vary depending on zone context. No changes to definitions are recommended in these circumstances.

In terms of building height, policy in the Code is generally written in a way that is not meant to target utilitarian structures such as sewer vent pipes, telecommunications towers / monopoles and electricity poles and towers. The Commission is therefore of the view that the definition of building height should be amended to exclude structures of this nature.

Minor changes and adjustments that help improve clarity and interpretation of Code policy and guide new policy initiatives are supported and are documented in the recommendations below.

General feedback

It was noted that terms like finished floor level (FFL), Australian Height Datum (AHD), Annual Exceedance Probability (AEP) are less of a definition and more of an acronym listing. There were also queries and suggestions regarding definitions contained in the PDI Act, such as adjacent land, adjoining owner and advertisement. Hyperlinks were suggested as one way to improve user experience in the Code when definitions reference other legislation.

Commission's response:

In relation to acronyms being referenced in Part 8 the Commission agrees that they are less of a definition but are more a 'glossary' term. It is therefore recommended that Part 8 be renamed 'Administrative Terms and Definitions'.

The PDI Act and the terms contained within have been established by Parliament. Amending these terms is outside the scope/role of the Commission in respect to the Code.

The use of hyperlinks is supported and will be investigated as a possible future enhancement to the electronic Code.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- PT.18** **AMEND** the definition of 'tangent point' to reflect its measurement point from the kerb, to provide greater clarity as follows: *Means the end point of a road's curve at the point of intersection, measured at the kerb.*
- PT.19** **CREATE** new administrative definitions as follows:
- 'human wastewater' - has the same meaning as in the Environment Protection (Water Quality) Policy 2015
 - 'sewerage infrastructure' - has the same meaning as in the Water Industry Act 2012
 - 'exceedances per year (EY)' - means the number of times an event is likely to occur or be exceeded within any given year.

Phase Three (Urban Areas) recommendations:

- PT.20** **CREATE** new administrative definitions as follows:
- 'site coverage' – is calculated by adding the total roof area of all roofed buildings/structures on a site (excluding any eaves surrounding a habitable building)

dividing this by the site area and then multiplying it by 100. Site coverage is expressed as a percentage.

- 'central site' - means any site of a row dwelling or dwelling in a terrace arrangement that does not share a boundary with allotments outside the development site.
- 'communal open space' - means open space shared by more than one dwelling, but is not publicly accessible. It excludes any of the following:
 - (a) private open space
 - (b) public rights of way
 - (c) private streets
 - (d) parking areas and driveways
 - (e) service and storage areas
 - (f) land with a minimum dimension of less than 2m.
- 'building envelope plan' – means a building envelope plan that has been approved under the Planning, Development and Infrastructure (General) Regulations 2017, has been published on the SA planning portal by the Chief Executive, and applies in relation to the site where the relevant building is proposed to be situated.
- 'activity centre' – means land contained in a Local Activity Centre Zone, Suburban Activity Centre Zone, Suburban Main Street Zone, Township Activity Centre Zone, Township Main Street Zone, Urban Activity Centre Zone, Urban Corridor (Main Street) Zone, Urban Corridor Living Retail Subzone, Urban Neighbourhood Retail Subzone, Activity Node Subzone, Retail Activity Centre Subzone or in relation to the Emerging Activity Centre Subzone in the Master Planned Neighbourhood Zone, either:
 - an allotment identified for the purposes of an activity centre on an authorised land division application under the Planning, Development and Infrastructure Act 2016
 - an activity centre nominated on a Concept Plan in Part 12 of the Code.

PT.21 **AMEND** the table of administrative definitions to include those definitions located in the preamble to Part 9.1 Referral Body: Environment Protection Authority of the Code and remove these definitions from Part 9.1 accordingly.

PT.22 **AMEND** density definitions to refer to 'net residential density' instead of just density.

PT.23 **CREATE** a new definition for 'gross density':

Is calculated by dividing the total number of dwellings by the total land area that they occupy (no land is excluded from the calculation) and expressed as dwelling units per hectare (du/ha).

PT.24 **AMEND** the definition of 'building height' to exclude structures such as sewer vent pipes, telecommunications towers/monopoles and electricity poles and towers:

Means the maximum vertical distance between the lower of the natural or finished ground level at any point of any part of a building and the finished roof height at its highest point, ignoring any antenna, aerial, chimney, flagpole or the like. For the purposes of this definition, building does not include any of the following:

- (a) flues connected to a sewerage system
- (b) telecommunications facility tower or monopole
- (c) electricity pole or tower
- (d) or similar structure.

PT.25 **AMEND** the definition of 'building level' to provide clarity about underground levels in terms of when they are included:

Means that portion of a building which is situated between the top of any floor and the top of the next floor above it, and if there is no floor above it, that portion between the top of the floor and the ceiling above it. It does not include any mezzanine or any building level having a floor that is located 1.5m or more below finished ground level.

PT.26 **AMEND** the definition of 'building line' to include 'balcony' and 'awning' as acceptable types of protrusions, but remove 'carport'. Include a clause restricting protrusions to not more than 1.5m.

In relation to a building on a site, means a line drawn parallel to the wall on the building closest to the boundary of the site that faces the primary street (and any existing projection from the building such as a verandah, porch, balcony, awning or bay window is not to be taken to form part of the building for the purposes of determining the relevant wall of the building, provided that the projection is not more than 1.5m).

PT.27 **AMEND** the definition of 'private open space' to increase the minimum dimension to 2.0m for ground level areas, provide clarity around 'privacy' and include verandah and alfrescos as suitable areas:

Means a private outdoor area associated with a dwelling that:

- (a) is for the exclusive use of the occupants of that dwelling*
- (b) has a minimum dimension of 2.0m for ground level areas and 1.8m for balconies*
- (c) is screened from public view by a building, fence, wall or other similar structure with a minimum height of 1.8m above ground level and a maximum transparency of 20%.*

Private open space may include verandahs, alfrescos, balconies, terraces, decks where not enclosed on all sides. Private open space does not include areas used for bin storage, laundry drying, rainwater tanks, utilities, driveways or vehicle parking areas.

PT.28 **AMEND** the definition of 'soft landscaping' to exclude artificial turf.

PT.29 **AMEND** the definition of 'total floor area' to clearly identify that it includes 'mezzanine' floors.

PT.30 **AMEND** Part 8 by renaming it to 'Administrative Terms and Definitions'.

Referrals (Part 9)

Part 9 of the Code sets out referrals to prescribed bodies which apply state-wide and are not contained to specific overlays.

Power of direction

Engagement feedback:

There was strong feedback from a number of stakeholders regarding referrals where the prescribed body would have the power of direction, as this could compromise certainty in the assessment process.

Particular concern was raised from the development industry in relation to the following referrals:

- Affordable housing: suggest this should be dealt with through standard conditions rather than referral
- Native vegetation: If power of direction is maintained, it should also require the Native Vegetation Council to grant approval under the Native Vegetation Act. If not, referral should be for advice only

Further information on these matters can be found in the relevant Overlay/General Development Policies discussion in this report.

Clarification:

The scope of referrals under the PDI Act and the draft Code have been narrowed to specifically reflect state interests. The State Agencies responsible for these interests will have the power to direct refusal or set conditions on a development application. Referrals for direction are proposed to be reduced from 24 under the Development Regulations 2008 to 20 in the new system.

EPA Referrals (9.1)

Engagement feedback:

Feedback on referrals to the Environment Protection Authority (EPA) regarding activities of environmental significance included the following:

- The current definition of 'electricity generating plant' will capture any form of generating plant so the reference to energy storage facility could be removed.
- The referral should be amended to remove the words, 'that is to be connected to the state's power system' as this will not apply to all development that generates energy.
- The potential for site contamination referrals to the Environment Protection Agency may add considerable time and cost to the development assessment process for applications for a more sensitive land use.
- The conduct of a petrol station should not be the subject of a referral to the EPA unless the minimum evaluation distance specified by the EPA for effective air quality and noise management are not satisfied or the volume of fuel storage on site exceeds 140,000 litres.
- The conduct of works at which paper pulp or paper is manufactured or is capable of being manufactured is referenced in the Code, however, the Development Regulations 2008 base the referral trigger on a threshold of 100 tonnes per year.

- In relation to 'Energy generation and storage', the purpose is too vague, in particular the reference to 'and other activities'. It was suggested that the following would improve the meaning: 'to provide direction to the relevant authority on measures to prevent or mitigate harm from pollution from the development'.
- The repeated reference in the EPA referrals to 'prescribed factors' need to be defined.
- 'Fish processing' should be modified to: "fish processing has the same meaning as in the *Fisheries Management Act 2007* which states that processing fish does not include freezing, chilling or packing the fish'.

The new site contamination referral to the EPA drew the following comments:

- Industry bodies were concerned referrals to the EPA will compound the issue and result in the over use of consultants and over prescription of audits.
- Several submissions raised concern with the referral powers provided to the EPA and suggested the EPA would accept referrals even if they weren't triggered by the Code.
- More time was requested to consider and work through the policy amendment and proposed referral.
- Concern was expressed for needing to provide an audit report and suggested a site history should suffice. Additionally comments suggested that the provisions of detailed reports and possibly remediation plans as part of the development assessment process was not required.
- Several submission raised concern with the use of the term 'adjacent use' and understanding what that term means and potential for this term of increase the number of impacted site significantly.
- Submissions contended that site contamination was not a planning issue, suggesting that the planning system should not require any site contamination assessment prior to the grant of approval.

Commission's Response:

The 100 tonne threshold in the paper manufacturing referral was intentional to reflect the current EPA referral in Schedule 21 of the Development Regulations 2008.

The referral for a 'petrol station' is consistent with the current EPA referral in Schedule 22 of the Development Regulations 2008 and is not considered suitable for change.

Site contamination

Section 122(9) of the PDI Act sets out rules around a referral agency's role in the new planning system. Those rules state that a referral body could not comment on matters beyond the scope of the referral, and that a Planning Authority could make a decision on the application if an agency referral response is overdue (PDI Act s.122(1)(b)). These rules mirror similar Development Act 1993 provisions and would ensure development application (DA) processing efficiency and referral scope certainty.

The EPA has confirmed it will also decline to accept any referral sent in error or where it did not meet the defined risk-based referral triggers. The practice of declining a referral is already exercised by the EPA for current Development Act referrals. Continuing this practice under the PDI Act would provide clarity for the development industry around the EPA's site contamination assessment role through the planning system.

When a referral is properly triggered the EPA respects and understands the potential impact directive power can have on a development project. In the case of a site contamination assessment referral, the EPA suggests it would carefully evaluate the need for a site contamination audit based on a number of risk factors. Only in high risk scenarios would the EPA require a site contamination audit, noting any EPA directed condition in relation to an audit could be appealed by the applicant.

An 'Advice' referral would not give the development industry the necessary certainty required during the development assessment process. There would remain a genuine risk that cautious relevant authorities may consider a site contamination audit necessary contrary to the EPA's referral 'Advice' adding unnecessary cost and delay to a development project. 'Direction' on the other hand would ensure a consistent state-wide approach for similar scenarios, and provides a clear pathway for developers to cost-effectively manage their site contamination liability when bringing about a change in land use.

Other changes based on additional information/investigation:

The imprecise concept of 'adjacent or other land' remains a key issue.

To address this concern, it is proposed to map three site contamination data sets on the South Australian Property and Planning Atlas (SAPPA):

1. Groundwater Prohibition Areas (GPA)
2. EPA Assessment Areas (AA), and
3. Notifications of site contamination of underground water (s.83A notifications).

In mapping these records, it would define those circumstances where off-site contamination is a relevant consideration for a development site.

In practice this would mean that preliminary site investigations would be required as part of a development application if a more sensitive land use is proposed and the development site is adjacent (within 60 metres), or subject to, a section 83A *Environment Protection Act 1993* notification mapped area through the SAPPA to determine if a referral is necessary.

In addition, if a site is located in a mapped GPA or AA then a referral would apply if the application were proposing change to a more sensitive use. To avoid any confusion, the term 'other land' has been removed entirely and replaced with direct references to the SAPPA layers for GPAs, AAs and section 83A notifications.

This approach would provide early certainty in the development application process and only requires basic map interpretation abilities to determine if a site is "in or out".

Note: Discussion on the relevant policies and practice direction related to the site contamination referral are discussed in the [Natural Resources and Environment > Site Contamination General Development Policies](#) section of this report.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

PT.31 **AMEND** the referral for energy generation and storage in Part 9.1 to relate only to energy generation (not energy storage) and to capture all such electricity generating plants, irrespective of whether they are connected to the state's power system.

Phase Three (Urban Areas) recommendations:

PT.32 **AMEND** the EPA referral trigger for site contamination in Part 9 of the Code to:

- Provide greater clarity by referencing a site contamination declaration form to confirm the site's status.
- Clarify the term 'adjacent land' by amending the referral trigger to include land subject to notification of site contamination of underground water, or located within a Groundwater Prohibition Area or EPA Assessment Area, as shown on the South Australian Property and Planning Atlas.

Policies relevant to referrals

Engagement feedback:

It was observed that Part 9 and the Procedural Matters tables in the Overlays should be drafted to identify the policies relevant to the referral.

Clarification:

Section 122(2) of the PDI Act establishes that the Governor must not prescribe a referral in the regulations unless the Governor is satisfied that provisions about policies that the body will seek to apply have been included in the Code. This does not create a requirement for the policies relevant to the referral to be expressly identified in the Code, simply that the Governor must be satisfied that such provisions are included in the Code. The PDI Act also recognises that a policy may not apply in all cases, and the Minister may be satisfied that a Code policy relevant to the referral is not necessary or appropriate.

Technical updates

The Department has identified the following technical amendments to referrals to provide greater clarity and consistency:

- The purpose of the aquaculture referral should be amended to read: 'the associated aquaculture lease and/or licence, and any other existing aquaculture leases and/or licences within the region, and aquaculture zone policies under the *Aquaculture Act 2001*'.
- In relation to referrals for dams under Part 9.2:
 - Overlays which have the same referral (the River Murray Flood Plain Protection Area Overlay, the River Murray Tributaries Protection Area, the Prescribed Surface Water Overlay, the Prescribed Watercourse Overlay, the Mount Lofty Ranges Catchment (Area 1) Overlay or the Mount Lofty Ranges Catchment (Area 2) Overlay) be excluded from the Part 9.2 referral to avoid double up.
 - The expert assessment and direction must be in accordance with the provisions of the relevant water allocation plan or natural resources management plan or equivalent. The Department for Environment and Water (DEW) has confirmed that this amendment should also be applied to the Mount Lofty Ranges Catchment (Area 1) Overlay, the Mount Lofty Ranges Catchment (Area 2) Overlay and the Prescribed Watercourses Overlay.

Commission's Recommendations:

PT.33 REMOVE definitions in Part 9 and place in Part 8 – Administrative Definitions

PT.34 AMEND the purpose of the aquaculture referral to read: 'the associated aquaculture lease and/or licence, and any other existing aquaculture leases and/or licences within the region, and aquaculture zone policies under the *Aquaculture Act 2001*'.

PT.35 AMEND the referral for 'dams' under Part 9.2 to exclude the River Murray Flood Plain Protection Area Overlay, the River Murray Tributaries Protection Area Overlay, the Prescribed Surface Water Overlay, the Prescribed Watercourse Overlay, the Mount Lofty Ranges Catchment (Area 1) Overlay and the Mount Lofty Ranges Catchment (Area 2) Overlay from this referral.

Public Notification

Each of the zones in the Code contain a 'Procedural Matters' table which sets out the classes of performance assessed development which are excluded from notification, and development which does not require a notice to be placed on the development site.

Engagement feedback:

Local government and industry expressed concern that public notification may be required for significantly more development, even for kinds of development specifically sought within the zone. This was considered to incur a significant cost and add time to the assessment process.

Some submissions noted that public notification would be required where the site of a proposed development is adjacent to a zone boundary, resulting in unnecessary public notification where two similar zones meet (e.g. where a dwelling is proposed on a boundary of a Suburban Neighbourhood Zone and a Residential Neighbourhood Zone, public notification will be required despite the consistent residential themes). It was recommended that public notification only be required where development is on the boundary of zones that are in conflict with each other.

A range of submissions from different stakeholders raised concern that public notification triggers appear to require much more public notification, which should not be the case where development is of a minor nature or anticipated by the zone's policies. Particularly concern was raised in relation to requiring notification where the 'site of the development is adjacent land to land in a different zone', observing this could trigger notification of low-impact land uses adjacent high-impact zones (e.g. a dwelling adjacent an industrial zone).

A number of council and community submissions observed that the demolition of heritage items should be notified.

Community submissions emphasised that public notification should be required where a development fails to meet the planning rules.

Public notification for Performance Assessed development

Engagement feedback:

Section 107(6) of the PDI Act establishes that the Code may exclude specified classes of performance assessed development from requiring public notification. Feedback received on the exclusions proposed within the draft Code recommended these be reviewed to avoid:

- increasing the amount of public notification required
- increasing the resources required to administer the public notification process and development assessment generally (recognising that public notification may result in development applications needing to be considered by assessment panels)
- notification occurring for comparatively low-risk development that is reasonably expected within a zone.

Specifically, it was recommended that:

- development envisaged in a zone should not be subject to notification. To achieve this, it was suggested that reference to 'All Other Code Assessed Development' in the Notification tables be amended to 'any class of development not listed in DTS/DPF 1.1' (which lists the envisaged uses in the zone)
- the requirement for notification of 'All Other Code Assessed Development' be removed as it is inadvertently capturing minor forms of development
- minor forms of performance-assessed development should not be notified due to a minor departure from the accepted or deemed-to-satisfy criteria.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

PT.36 **AMEND** all 'Procedural Matters – Notification tables' to list classes of development excluded from notification (instead of excluding all development and listing the exceptions), as envisaged by the PDI Act.

PT.37 **AMEND** 'Procedural Matters – Notification tables' in all zones to exclude performance assessed development from notification where envisaged in the zone, in accordance with the following principle:

- a) An accepted class of development identified in Table 1 of the Zone
- b) A Deemed-to-Satisfy class of development identified in Table 2 of the Zone
- c) A type of development identified or captured within land uses that are expected in the zone in DTS / DPF 1.1

is not subject to notification, except where:

- a) acceptable standards of built form or intensity are exceeded
and/or
- b) the development is likely to result in substantial impacts on the amenity of adjacent dwellings located on land in another zone.

Minor in nature

Engagement feedback:

While *State Planning Commission Practice Direction 3 – Notification of Performance Assessed Applications 2019* provided the ability for a relevant authority to deem an application minor in nature and waive the need to undertake notification under section 107(3) of the DPI Act, feedback demonstrated a lack of understanding of the function of this practice direction.

Commission's Recommendation:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

PT.38 **AMEND** the 'Procedural Matters – Notification' tables to specify that minor forms of development, in the opinion of the relevant authority, do not need to be notified.

Public notification near a zone boundary

Engagement feedback:

Feedback suggested that the requirement for notification of development on land adjacent another zone created excessive notification requirements for development that was an envisaged land use within the zone. Some raised concern that the term 'adjacent' called up the definition of adjacent land in the PDI Act which captures all properties within 60 metres of a development site, suggesting this distance is excessive.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

PT.39 **REMOVE** the trigger of 'land adjacent another zone', except in commercial and industrial-type zones where development may impact on sensitive uses, such as where located adjacent a zone with 'neighbourhood' in its name.

PT.40 **RETAIN** the term 'adjacent' for the public notification trigger, but only apply this trigger to land uses that are anticipated to have impact on land within 60 metres of the site.

Consistency with current Regulations

Engagement feedback:

Some submissions identified specific forms of development that should not be notified, such as those that are currently prescribed as Category 1 in Schedule 9 of the *Development Regulations 2008*, including:

- Swimming pools
- Land divisions
- Dwelling additions
- Telecommunications facilities in certain zones
- Advertisements.

Commission's Recommendation:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

PT.41 **AMEND** 'Procedural Matters – Notification' tables to generally exclude development from notification that is identified as Category 1 in Schedule 9 of the Development Regulations 2008.

Height/setbacks as a trigger for notification

Engagement feedback:

The suitability of notification being dependent on setback or height policy was queried, with concern about this potentially resulting in excessive notification requirements.

Clarification:

The proposal to remove setback is supported, given that failure to satisfy a setback is unlikely to have a direct impact on adjacent land (i.e. properties within 60m of the site), however it is considered that excess building height generally warrants notification due to the potential for overshadowing and visual impacts on adjacent land owners/occupiers.

Commission's Recommendation:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

PT.42 **AMEND** 'Procedural Matters – Notification' tables to remove public notification triggers based on a failure to satisfy boundary setbacks.

Additional cases where notification is required

Engagement feedback:

Several submissions identified additional forms of performance-assessed development that should be publicly notified, including:

- Removal of significant trees
- Demolition of heritage places or buildings within the Historic Area Overlay.

Commission's Response:

Tree-damaging activity (in relation to a regulated/significant tree) is currently prescribed as a Category 1 form of development in the Development Regulations 2008 which means that notification is not required, except where the tree is located on land owned or occupied by a council where the council is the relevant authority in relation to the development. Given that council will no longer be a relevant authority for planning consent under the PDI Act, it is considered unnecessary to require notification for tree-damaging activity in the Code.

It is however considered appropriate to require notification for demolition of heritage places and buildings in the Historic Area Overlay.

Commission's Recommendation:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

PT.43 **AMEND** relevant 'Procedural Matters – Notification' tables to prescribe that demolition of heritage places is subject to public notification.

Phase Three (Urban Areas) recommendations:

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

Exemptions from the need to place a notice on the relevant land

Engagement feedback:

Respondents emphasised that the need for placement of notification signs on land in rural areas is not practical and should be reconsidered.

Commission's Recommendation:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

PT.45 **AMEND** the 'Placement of Notices – Exemptions for Performance Assessed Development' in the Rural Zone, Remote Areas Zone, Rural Aquaculture Zone, Rural Horticulture Zone, Rural Intensive Enterprise Zone, and Coastal Waters and Offshore Islands Zone to remove the need to place a notice on the land.

Classification Tables

Tables 1, 2 and 4 in each zone classify development as accepted, deemed-to-satisfy or restricted, and assign the relevant criteria for accepted and deemed-to-satisfy development. Table 3 assigns the relevant policies to performance assessed development.

Engagement feedback:

Submissions identified some issues associated with classification tables, including:

- Different policies called up for the same land uses in different zones
- Inconsistency of Accepted and Deemed-to-Satisfy pathways when compared to the Development Regulations 2008
- The relevance of overlays to certain classes of development.

A number of stakeholders raised concern that overlays would unreasonably restrict deemed-to-satisfy pathways. A review was recommended to remove the unintentional reduction in accepted or deemed-to-satisfy pathways due to the existence of overlays for simple developments such as housing, outbuildings, fencing, verandahs and pools in neighbourhood-type zones.

Particular concern was raised around the following overlays preventing DTS pathways:

- Building Near Airfields Overlay
- Hazards (Bushfire - Urban Interface) Overlay
- Sloping Land Overlay
- Noise Air Emissions

It was requested that internal building work criteria should allow for insignificant alterations to the external parts of a building.

Amendments were sought to the overlay provisions to avoid unnecessarily increasing the number of residential developments that require complex and costly performance assessment. For example, the application of overlays within the General Neighbourhood Zone precludes many 'minor' building works (such as carports, outbuildings, shade sails, swimming pools, verandahs and water tanks) from being categorised as Accepted Development. It was requested that overlays not be listed as exceptions to a deemed-to-satisfy pathway and that compliance with deemed-to-satisfy requirements within the overlay should apply.

The large number of overlays was identified in submissions to likely expand a number of referral triggers.

Commission's response:

In response to consultation feedback, the Commission reviewed all references to overlays in Classification Tables to ensure that an overlay only precludes an accepted/DTS pathway where both:

- a) The overlay's policy is directly relevant to that development type; and
- b) The overlay policy does not provide a quantifiable DTS criteria for use in a DTS pathway.

Commission's Recommendations:

PT.46 AMEND all classification tables to ensure accepted, deemed-to-satisfy and performance assessed pathways and policies are consistent between similar zones.

PT.47 AMEND all classification tables to provide a deemed-to-satisfy pathway for classes of development listed in Schedule 4 complying development in the *Development Regulations 2008*. (For example: the replacement of an existing building in substantially the same manner as the existing building, and land division that follows an approved land use)

PT.48 AMEND all accepted development classification tables to apply wording from the Development Regulations 2008 for internal alterations where 'there will be no alteration to the external appearance of the building **to any significant degree.**'

PT.49 AMEND the classification tables so that the class of development column lists only the relevant development type and does not incorporate policy or references to policy.

PT.50 AMEND the classification tables to ensure overlays are called up in assessment only where the overlay policy is directly relevant to the class of development.

Applicable Policies for Performance Assessed Development

Engagement feedback:

Various requests were received to incorporate additional classes of development in Table 3: Applicable Policies for Performance Assessed Development, seeking to ensure that development envisaged in the zone would not require public notification.

Commission's response:

Development classification tables serve only to provide pre-selected policies for common land uses; they do not necessarily signify whether a class of development is envisaged in that zone.

Exclusions from public notification are no longer proposed to be linked to the classes of development listed in Table 3: Performance Assessed Development, and therefore requests to add in additional land uses to Table 3 are generally not supported.

Table 3: Applicable Policies for Performance Assessed Development should only list land uses which are expected to occur frequently in the zone, and for which the policies used for a performance assessment are known without variability. For example, it no longer proposed to list 'educational establishment' in Table 3, because even if it is an envisaged land use in the zone, such development may be a small single-storey building or a multi-storey complex. Design policies for such different scales of development are difficult to identify upfront, and therefore such development is more suitably captured as 'All Other Code Assessed Development', allowing the relevant authority to identify the relevant policies from the Code Library appropriate to the proposed development.

Commission's Recommendations:

PT.51 REMOVE classes of development from Table 3: Applicable Policies for Performance Assessed Development which can vary in scale or intensity.

Restricted development

Engagement feedback:

A number of council and community groups observed that the restricted development lists are shorter than the non-complying lists in current development plans and requested existing non-complying lists be transitioned into the Code.

Contrastingly, development industry feedback recommended that restricted development lists be reduced, suggesting that where a restricted development classification is intended to provide a state-level assessment, this could be more appropriately achieved in the Regulations rather than the Code (given that restricted development enables third party appeal rights).

A number of stakeholders identified a lack of policy to assess undesirable development that is not envisaged in a particular zone.

It was suggested the 'restricted' lists include a small range of development which is not likely in the majority of circumstances to warrant consent. Alternatively, a performance outcome for each zone could guide the range of development which is generally inappropriate within the zone.

Concern was expressed that councils are not involved in the consideration of restricted development.

Clarification:

Regulation 23 of the Planning, Development and Infrastructure (General) Regulations 2017 prescribes that where development is within the area of a council, the Commission must give the chief executive officer of the council a reasonable opportunity (15 business days) to provide the Commission with a report on relevant matters including essential infrastructure, traffic, waste management, stormwater, public open space, public assets and infrastructure, or any local heritage place.

Commission's response:

The restricted development threshold is a procedural trigger to require a more comprehensive assessment pathway. Unlike non-complying development in Development Plans, the restricted development threshold does not indicate that a development is inappropriate or otherwise. The policy itself (DOs, POs and DTS/DPF criteria) are the only matters that should be used to assess the merits of a performance assessed development. Due to the differences in non-complying and restricted development, it is considered inappropriate to transition all non-complying development to restricted development in the Code.

The Code has been drafted in a manner which speaks to the types of development that are envisaged, not what is discouraged or inappropriate. The DOs, POs and DTS/DPF provisions guiding envisaged land uses should provide sufficient guidance on land use suitability. Additionally, policies regarding built form could be relevant to assess impacts on adjoining land.

Technical corrections, consistency and editing

Additional Investigations/Information:

A number of formatting and consistency improvements were identified through further analysis and audit by the Department.

Commission's Recommendation:

- PT.52 AMEND** the Code to address editorial, referencing and formatting issues.
- PT.53 AMEND** policies to improve clarity and expression.
- PT.54 AMEND** references from the *Natural Resource Management Act 2004* to the new *Landscape South Australia Act 2019*, with associated amendment to referral bodies.
- PT.55 AMEND** references from the *Public and Environmental Health Act 1987* to the new *South Australian Public Health Act 2011*.
- PT.56 AMEND** the expression of policy which prescribes minimum site/allotment areas to clarify that it does not apply to dwellings located on an existing allotment.
- PT.57 INSERT** 'temporary accommodation in areas affected by bushfire' in deemed-to-satisfy tables in all zones that intersect with Hazard (Bushfire) overlays, consistent with amendments to Schedule 4 of the Development Regulations 2008, following the catastrophic bushfires.
- PT.58 INSERT** assessment provisions regarding Concept Plans in all zones where Concept Plans spatially apply.
- PT.59 INSERT** zone assessment provisions regarding the height and size of new advertisements where a deemed-to-satisfy pathway for advertisements is provided for in the zone.

2. Code Policy Content

The Planning and Design Code framework includes all the policy modules that make up the Code Library including:

- Zones and subzones (Part 2 of the Code)
- Overlays (Part 3 of the Code)
- General Development Policies (Part 4 of the Code)

The submissions and recommendations in relation to the policy within the Code have been divided into the following themes that are aligned with the four Discussion Papers released by the Commission during the preparation of the Code:



2.1 People and Neighbourhoods (P)

Executive summary

The People and Neighbourhoods theme attracted some of the highest level of interest through the consultation process. The following is a summary of the key issues raised, an overview of the feedback received on specific policies, the Commission's response and associated recommendations.

Councils and the development industry raised a number of common issues and proposed similar amendments, particularly with regard to public notification exclusions and land division pathways.

Council submissions were detailed in relation to a range of matters affecting residential development, including various requests to transition current policy from development plans into the Code. In preparing the Code, the Commission seeks to strike an appropriate balance between the Code's objective to achieve greater consistency in planning policy, while also transitioning local policy where unique local context needs to be acknowledged. This is proposed to be addressed in a number of ways, including:

- Creation of new zones which acknowledge unique areas of established character, waterfront areas, sloping land in foothill locations, and residential areas in a regional context.
- Creation of new subzones where unique local circumstances apply and cannot be captured by the policy intent of zones, subzones or overlays in the Code framework
- Introduction of targeted capacity to allow technical and numeric variations to populate policy in certain zones
- Historic/Character Area Statements in the Character Area Overlay and Historic Area Overlay which provide context on the local character
- Introduction of Concept Plans where staging of development and/or infrastructure development needs to be referenced

There were numerous suggestions from local government about how the Code could be improved in relation to building design, siting, Water Sensitive Urban Design, density, car parking and a range of other detailed matters. In many cases, councils sought stronger alignment between the Code and the policies within their existing development plan. Submissions also raised concerns around battle-axe development, and it was suggested that policy needed to be more nuanced between regional and urban areas.

Responses received from the development industry, including development advocacy associations and private developers, suggested ways the Code could address infill development, requested more streamlined pathways for development in new greenfield/master planned areas and recommended policies that enable greater density on large-scale infill projects.

Community submissions emphasised the importance of preserving urban tree canopy and expressed support for new soft landscaping and tree planting requirements in the Code. This was considered particularly worrying where site dimension/density provisions enable infill development that is not compatible with tree canopy protection and biodiversity goals. Other submissions observed that setbacks in the General Neighbourhood Zone should be increased as they should allow for installation for standard wastewater systems and requested that privacy treatments be provided to a height of 1.7m above floor level rather than 1.5m. Objection was also expressed about non-residential uses in neighbourhood zones, with concern it will result in increased noise, parking congestion, traffic, loss of trees and impacts on residential amenity, and place pressure on already struggling commercial centres.

Changes to People and Neighbourhoods framework

The following table summarises the zones, subzones and overlays relevant to this section and proposed changes to the Code framework. The rationale behind these changes is described below.

Intensity	Zones (and Subzones in <i>italics</i>)	Overlays		
City	City Living Zone <i>North Adelaide Low Intensity Subzone</i> <i>Medium-High Intensity Subzone</i> NEW <i>East Terrace Subzone</i> City Main Street Zone <i>Rundle Street Subzone</i> <i>Rundle Mall Subzone</i> <i>Hindley Street Subzone</i> <i>Gouger and Grote Street Subzone</i> NEW <i>City High Street Subzone</i>	Affordable Housing Character Area Character Preservation District Design Historic Area Local Heritage Place Noise and Air Emissions State Heritage Area State Heritage Place NEW Heritage Adjacency		
Urban Areas	Urban Corridor (Living) Zone NEW <i>Urban Corridor Living Retail Subzone</i> Urban Corridor (Business) Zone Urban Corridor (Boulevard) Zone DELETE <i>Hard-edged Built Form Subzone</i> DELETE <i>Soft-edged Landscape Subzone</i> Urban Corridor (Main Street) Zone Urban Neighbourhood <i>Main Street Subzone</i> NEW <i>Urban Neighbourhood Retail Subzone</i>	<table border="1"> <thead> <tr> <th data-bbox="938 863 1450 909">General Development Policies</th> </tr> </thead> <tbody> <tr> <td data-bbox="938 909 1450 1199"> Design in Urban Areas RENAME Design in Rural Areas to 'Design' Housing Renewal COMBINE Land Division in Urban Areas and Land Division in Rural Areas and RENAME 'Land Division' Workers' Accommodation and Settlements </td> </tr> </tbody> </table>	General Development Policies	Design in Urban Areas RENAME Design in Rural Areas to 'Design' Housing Renewal COMBINE Land Division in Urban Areas and Land Division in Rural Areas and RENAME 'Land Division' Workers' Accommodation and Settlements
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Suburban Areas	Urban Renewal Neighbourhood Zone <i>Mixed Use Transition Subzone</i> Housing Diversity Neighbourhood Zone General Neighbourhood Zone Suburban Neighbourhood Zone NEW Established Neighbourhood Zone NEW Hills Neighbourhood Zone NEW Waterfront Neighbourhood Zone NEW Golf Course Estate Zone NEW Neighbourhood Zone NEW <i>Waterfront Subzone</i> RENAME Residential Neighbourhood Zone to Rural Neighbourhood Zone Residential Park Zone			

<p>Broad-hectare Areas</p>	<p>COMBINE Suburban Greenfield Neighbourhood Zone and Suburban Master Planned Neighbourhood and RENAME to Master Planned Neighbourhood Zone</p> <p>NEW <i>Emerging Activity Centre Subzone</i></p>
<p>Rural Areas and Townships</p>	<p>Township Zone</p> <p>NEW Township Neighbourhood Zone</p> <p>Rural Living Zone</p> <p><i>Animal Husbandry Subzone</i></p> <p><i>Intensive Horse Establishment Subzone</i></p> <p>Rural Settlement Zone</p> <p>Rural Shack Settlement Zone</p> <p>NEW Workers' Settlement Zone</p>

General matters

Retail fuel outlets

Engagement feedback:

'Retail fuel outlet' was requested be listed as an envisaged land use in neighbourhood zones and be generally subject to the same policies as a 'shop'. Reference to hours of operation was observed as being unnecessary given the standards specified in relation to noise or vibration, air quality, light spill and other amenity impacts elsewhere in the General provisions and draft Code.

Commission's response: Retail fuel outlets are not considered complementary to residential areas due to interface issues and are not envisaged in current residential zones.

Telecommunications facilities

Engagement feedback:

It was requested that 'Telecommunications Facility' be added to Table 3 – Applicable Policies for Performance Assessed Development in a range of neighbourhood zones.

Commission's response: Other zones are more suitable for telecommunications facilities than residential areas such as infrastructure and employment zones. In these areas, the policies used to assess such facilities are relatively static and therefore can be identified in Table 3 - Applicable Policies for Performance Assessed Development. In neighbourhood zones, different assessment provisions may be applicable to appropriately consider impacts to the predominantly residential environment. Accordingly, it is not considered appropriate to list telecommunications facility in Table 3.

Deemed-to-satisfy land division

Engagement feedback:

A number of submissions requested that deemed-to-satisfy pathways be introduced in neighbourhood zones for land division which follows an approval for dwellings.

Commission's Response: It is considered appropriate to introduce a deemed-to-satisfy pathway for residential land division which follows an authorised land use application for dwellings, given that the relevant planning matters would have been considered when the sites for those dwellings were authorised. A similar pathway currently exists in Schedule 4 clause 2C of the Development Regulations 2008 in relation to land division which follows 'Residential Code' complying dwellings.

Commission's Recommendation:

P.1

AMEND Table 2 – Deemed-to-satisfy Development Classification to add land division which follows an authorised land use application for dwellings in the following zones:

- 3 Urban Renewal Neighbourhood Zone
- 4 Housing Diversity Neighbourhood Zone
- 5 General Neighbourhood Zone
- 6 Suburban Neighbourhood Zone
- 7 NEW Waterfront Neighbourhood Zone
- 8 Rural Neighbourhood Zone (former Residential Neighbourhood Zone)

Restricted development

Engagement feedback:

A number of council submissions requested land uses which are currently non-complying in their development plans be classified as restricted development.

Several submissions also requested further policy guidance to assess land uses which are not envisaged, particularly shops which exceed the zone policy of 100-200m² floor area but are below the 1000m² floor area restricted development trigger.

Commission’s Response: Restricted classes of development are a procedural matter and restricted development thresholds should not be taken into consideration in the assessment of a performance assessed development as, unlike development plans, there is no relevant policy which indicates that restricted development is inappropriate or otherwise. It is considered inappropriate to transition non-complying lists into restricted development tables due to these fundamental differences.

The Code has been drafted in a manner which speaks to the types of development that are envisaged, not what is discouraged or inappropriate. The desired outcomes and performance outcomes on envisaged land uses should provide sufficient guidance on land use suitability. Additionally, policies regarding built form could be relevant to assess impacts on adjoining land.

Community land uses

Engagement feedback:

Some submissions requested further guidance on the scale of community facilities in the neighbourhood zones.

Commission’s response: The provision of community facilities is anticipated in neighbourhood zones. To ensure these services can continue, a new policy is recommended which enables their reasonable expansion.

Commission’s Recommendation:

P.2 **CREATE** new PO/DTS/DPF criteria in General, Housing Diversity, Suburban, Waterfront and Urban Renewal neighbourhood zones which guides the reasonable expansion of community facilities, including pre-schools and educational establishments, being single storey additions which don’t exceed 150% of the total floor area prior to the addition, set back 3m from boundaries with nearby dwellings, and providing sufficient on-site car parking.

Additional investigations/information

It was observed that deemed-to-satisfy pathways for new dwellings in Neighbourhood zones would benefit from policy which specifically relates to the balance of sites containing an existing dwelling, for example where a hammerhead or corner allotment is subdivided.

Commission's Recommendation:

P.3 **CREATE** new PO/DTS/DPF 2.2 under 'Site Dimensions and Land Division' in Housing Diversity Neighbourhood, General Neighbourhood and Suburban Neighbourhood zones, as well as proposed Township Neighbourhood, Established Neighbourhood, Hills Neighbourhood and Waterfront Neighbourhood zones to reference criteria for the balance of a site where the site of a dwelling does not comprise an entire allotment, including site area, private open space and car parking.

Nuances in policy regarding ancillary buildings was observed, for example between rural zones and neighbourhood zones where the scale of outbuildings could vary. Accordingly, it is considered appropriate to include policy to guide the scale of ancillary development within zones which anticipate residential outbuildings.

Commission's Recommendation:

P.4 **CREATE** new PO/DTS/DPF under the heading 'Ancillary Buildings and Structures' in zones which anticipate residential outbuildings.

City Living Zone

This zone applies to the primary living / residential areas in the City of Adelaide.

The Medium-High Intensity Subzone applies to small areas of a this zone where there is capacity for well-designed, higher intensity infill development on large sites. The North Adelaide Low Intensity Subzone applies in appropriate parts of North Adelaide.

Engagement feedback:

Adelaide City Council, which provided the majority of feedback on the City Living Zone, noted that some of the more detailed design policy currently in this zone have not transitioned across to the Code such as front and side boundary setbacks in regard to floor to ceiling heights, and relationship with the local context, and without these some poor design responses may occur.

The Council also commented that the allowances for non-residential activity in the zone were not suitable and that the current policy that seeks to shift such development out of the zone should be reinserted.

A submission considered the proposed policy undermines the intent of the current zoning arrangement, which sought to spatially apply the City Living Zone to areas identified as key residential areas of the city centre and reinforce residential outcomes.

This is based on the City Living Zone's central location, placing it at a higher risk of more non-residential activity compared to suburban locations. There is also the potential consequential effect of detracting from nearby commercial zones where commercial activities are preferred. In ACC's view, a different approach is required to this zone compared to suburban neighbourhood type zones.

The Council also suggested a range of additional POs and DTS/DPF criteria to address areas they consider require specific attention and acknowledgement in the Code, including the following:

- Additional DOs which reference predominant built form character present in the zone and acknowledge the heritage values of buildings
- A list of uses not envisaged in the zone, similar to DTS/DPF 1.1 which specifies envisaged uses
- Introduction of an additional PO that explicitly discourages the development of non-residential uses
- Specific identification of North Adelaide residential colleges, Calvary Hospital and St Dominic's Priory College, with each land use afforded a tailored PO to guide development outcomes
- Additional POs to guide circumstances where buildings may be built up to a maximum permitted height or where such development is higher than the prevailing building height in the locality
- Additional POs to reflect prevailing setbacks, building envelopes, overshadowing, hammerhead land divisions, undercroft parking, vehicle access arrangements and advertisements
- Detailed, nuanced design policy to guide a more contextual response to the immediate locality
- Deletion of performance outcomes considered irrelevant, or identified as being captured by other policy provisions in overlays and general development modules
- Inclusion of zone-specific advertising policy which was not transitioned from the current development plan
- Classification of temporary public service depots as accepted development.

The introduction of a new East Terrace Subzone was recommended, given the area's unique built form characteristics. It was suggested the new subzone could operate in a similar fashion to the North Adelaide Subzone, where prevailing built character attributes are afforded tailored policy provisions.

Industry requested that the allowance for the extent of building on the side boundary be increased to allow for tandem parking in a garage.

Commission's Response:

There were a number of issues raised by the Council that are addressed by other parts of the Code (such as in relation to heritage and overshadowing), and therefore do not need to be addressed through the Zone.

Land Use

It is recommended that land use policy be updated to ensure consistent use of terminology and defined uses. Policy in relation to change of land use should also be included, consistent with the approach in other comparable zones.

In relation to non-residential uses, the policy in the zone reflected the general approach adopted in other 'neighbourhood' (residential) type zones in the Code. However, it is acknowledged that the City Living Zone's central city location does make it a desirable location for non-residential development. Accordingly, the Commission is of the view that policy should be amended to ensure that any non-residential development is ancillary to / in association with residential development, remove the requirement for off-street parking requirements to minimise impact on residential streetscapes, and remove 'shop' based on the City Living Zone's proximity to commercial areas.

Other non-residential activity (recreational uses, community uses) are typically accommodated in neighbourhood type zones. Policy in this regard should be generally consistent across comparable zones, including in the City Living Zone.

In relation to Council's request for more explicit policy regard inappropriate land uses, the Commission is of the view that the structure and drafting of zone land use permissibility policy is suitable to control land use, and that an explicit list of 'unacceptable' uses is not needed. It is implicit that activities that are incompatible with a zone's envisaged activities (described in a zone's Desired Outcomes and land use Performance Outcomes) would be inappropriate and therefore avoided.

Built form

Given the diversity of built form across the zone, the Commission is of the view that policy to better address built form context is needed. A number of related changes are therefore recommended. Front and side setback provisions therefore should be adjusted to give a more contextual response in relation to the immediate locality (by removing the numeric setback policy, so that instead setbacks relate to the average of adjoining buildings), plus including new policy to pick up character elements such as floor to ceiling heights and driveway widths.

The Commission proposes to adjust the DTS/DPF figure for length of building work on a boundary from 8m to 11.5m to allow for a tandem garage arrangement, to assist in minimising the extent of garaging and impact on the streetscape. This is consistent with other similar 'neighbourhood' zones.

In regard to building height, policy in the Zone is considered suitable and will reflect the current height allowances contained in the Development Plan, although some technical refinement is suggested to ensure expression in relation to building height Technical and Numeric Variation is suitable.

Zoning

Council's request to create a new a new Subzone for East Terrace to reflect the current local policies (including Catalyst Site policy, policy seeking an open landscaped setting and medium rise built form outcomes and the like) is supported.

Advertising

Advertising policy is largely addressed through the Advertising General Module, however it is acknowledged that the city has a small number of zone-specific policies. The Commission is therefore of the view that zone specific advertising policy is warranted to reflect current key zone-specific policy, avoiding any duplication with Advertising General Development Policies.

Development Classification

The Commission supports inclusion of Temporary Public Service Depot as an Accepted development, given current Development Plan policy contemplates this activity as "complying" (i.e. automatic planning consent if relevant criteria are met).

Other changes based on additional information/investigation:

The Commission notes that the Restricted classification in relation to the institution sites in North Adelaide requires adjustment to reflect the intent of the Development Plan policy – i.e. that development associated with existing non-residential or institutions identified on a Concept Plan is contemplated as a performance assessed development if located on an institutional site, or on a directly adjoining an institutional site. This issue was identified in the Planning and Design Code Update Report in December 2019, and is recommended to be amended accordingly.

General and consequential changes are recommended to improve expression, avoid duplication with general policy and the like. Technical adjustments in relation to policy referencing *Technical and Numeric Variation* layers is recommended to ensure consistency of approach and expression.

Changes to the Zone's Classification Tables and Procedural Matters Tables are also recommended to ensure consistency with other neighbourhood-type zones.

Commission's Recommendations:

- P.1** **AMEND** the zone's classification's tables to:
- (a) ensure greater consistency with similar neighbourhood-type zones
 - (b) include Temporary Public Services Depot as an Accepted Development
 - (c) amend the Restricted Classification relating to existing non-residential or institutional activity identified on Concept Plans so that development associated with an existing institution is not classified as Restricted only where it is on the site, or a directly adjoining site, of the Institution (with the 'site' spatially identified on a concept plan to prevent gradual creep).
- P.2** **AMEND** land use policy in the zone so that non-residential activity is in association with residential activity, and remove 'shop' from the DTS/DPF criteria.
- P.3** **CREATE** new polices to achieve a more contextual design outcome that responds to important character element such as floor to ceiling heights, driveway widths and the like.
- P.4** **AMEND** front and side setback DTS/DPF in the Zone and any Subzone to remove reference to numeric requirements, so that only policy that relates to the average of adjoining buildings applies. Remove setback policy from subzones accordingly.
- P.5** **AMEND** policy relating to building on the boundary so that a double stacked space can be achieved for garaging.
- P.6** **CREATE** new advertisements policy reflecting current Development Plan allowances in relation to size, illumination and the like, avoiding duplication with the Advertisement General Module.
- P.7** **REMOVE** any policy that is addressed in other general parts of the Code, for example in relation to sloping land.
- P.8** **AMEND** policy relating to Technical and Numeric Variations to ensure consistency of expression with comparable Code zones.
- P.9** **CREATE** a new East Terrace Subzone to apply to the same area currently covered East Terrace Policy Area in the Adelaide (City) Development Plan, with the desired outcome of predominantly medium rise housing on large allotments in an open landscaped setting, and incorporate any key policy matters such as Catalyst Sites.

North Adelaide Low Intensity Subzone

Engagement feedback:

The Council had few concerns or suggested amendments to this subzone, with commentary limited to an inconsistency observed in setback policy, policy expression and a recommendation for an additional PO, DTS/DPF that sought to reference the prevailing low-scale, historic built form environment.

Commission's Response:

The policy in the subzone is considered sufficient to address the prevailing low scale form. Removing the prescribed setback is supported (this is recommended throughout the City Living Zone – refer above) given the range of building sitings. Historic built form is covered through the Historic Area Overlay and Statements. However, Council's request to extend the zone to apply to all the residential locations of North Adelaide currently not covered by the subzone (other than any location where the Medium-high Intensity Subzone applies) is supported. Slight policy adjustment will be required to the subzone policy to be clear that it is not intended to apply to the more compact high-density locations in North Adelaide and instead applies to areas where the open landscape setting is the predominant character.

Commission's Recommendations:

- P.10** **EXTEND** the North Adelaide Low Intensity Subzone so it applies to all City Living parts of North Adelaide, other than locations where the Medium-High Intensity Subzone applies, so that it is suitable in light of the Subzone being applied to most parts of North Adelaide.
- P.11** **AMEND** policy in the zone to be clear that it is not intended to apply to the more compact high density locations in North Adelaide, and instead applies to areas where an open landscape setting is the predominant character.

Medium-High Intensity Subzone

Engagement feedback:

Feedback from the Council identified an inconsistency in setback policy and recommended the inclusion of an additional PO, DTS/DPF that seeks to articulate desired horizontal and vertical built form elements.

Commission's Response:

Built form policy including external appearance is covered through the Design in Urban Areas General Module and is considered suitable in this regard. Interface issues between medium-scale and low-scale locations has been raised generally in regard to the Code, and it is noted that the Medium to High Intensity Subzone does not have an interface provision to address built form transition at the edge of the subzone to the low-scale parts of the City Living Zone. This provision is considered warranted.

Commission's Recommendations:

- P.12** **CREATE** a new PO to address interface built form impacts on adjoining residential development in the City Living Zone outside the Medium-High Intensity Subzone.

City Main Street Zone

This zone supports an innovative mix of medium and high density urban development along main road corridors within the City of Adelaide which display main street qualities and provide both day-time and night-time activation.

Engagement feedback:

A number of comments were received around the need to be strengthen policy in relation to public realm outcomes, pedestrian comfort and human scale, and activation in the Main Street Zones.

Adelaide City Council requested that the Urban Corridor (Main Street) Zone be replaced by the City Main Street Zone. It also requested that retail floor limit be removed in relation to the City Main Street Zone, reflecting its current development plan policy and the zone's primary purpose as vibrant retail / commercial precincts.

The Council expressed the following key concerns with the City Main Street Zone and recommended amending the proposed policy and transitioning the existing provisions to resolve concerns:

- Specific policy relating to achieving human scale was considered to have been omitted.
- Policy concerning daytime activation requires review and refinement to ensure that night-time activities (i.e. nightclubs, small scale licensed premises) do not undermine the activation of areas during daylight.
- Vehicle access arrangements and their impact on main street activation should be considered by introducing policy that prescribes that car parking should be sleeved or at basement level.
- Policy that encourages setbacks to accommodate outdoor dining is not considered appropriate and does not fit the character of the city.

Amendments to policy expression to provide greater clarity or emphasis a specific point were proposed across a broad range of POs and DTS/DPF criteria. These suggestions included rewording policy, introducing new text and deleting certain passages.

The introduction of new POs was recommended to capture design quality/sustainable design, multi-level car parking developments, the temporary use of vacant or undeveloped land, roof features and demolition controls. Additional tailored policy concerning street activation, pedestrian prominence and comfort, car parking and vehicle access was also requested to enhance appropriate development outcomes.

The Council suggested an array of sub-zones, which encompass the following localities:

- Hutt Street (South)
- Melbourne Street (East)
- O'Connell Street
- Halifax and Sturt Street

Feedback was also received in relation to the Hutt Street Centre to include policy that limits its operations.

Commission's Response:

Desired Outcomes / Land Use

It is recommended that land use policy be updated to ensure consistent use of terminology and defined uses. Policy in relation to change of land use should also be included, consistent with the approach in other comparable zones.

Removing the retail / commercial floor limit in the zone is recommended to achieve a greater level of consistency with the approach in other Main Street zones, also noting that there is no retail floor limit applying in these areas at present.

In relation to change of land use, the Commission agrees with commentary that suitable policy is needed to guide such development accordingly, and that the policy that is used in relation to activity centres in relation to this issue is considered suitable for use in the City Main Street Zone also.

Zoning

Including other city main street locations in the zone that were proposed to be Urban Corridor Main Street (such as Hutt Street, O'Connell Street, Melbourne Street, Sturt / Halifax Street) would require a new subzone to be created as part of the City Main Street Zone that picks up important policy elements from the current Development Plan zoning (such as catalyst site, low-rise interface with the City Living Zone interface and the like). The Commission considers a single subzone would prove sufficient to address these localities (rather than multiple additional subzones as requested by Council).

Commentary received in relation to the Hutt Street Centre, requesting that policy should be included to limit its operation, and also from the Centre to make adjustments to the zone to make it more favourable to its operation were noted. However, including specific policy to limit or favour the operation of a particular activity within the zone is not supported. Instead the prevailing land use allowances of the zone ought to apply, and development proposals would be subject to those planning rules.

Design

New policy reflecting current policy from the Development Plan relating to the need for shopfronts that have security grilles or shutters to have some visual permeability, to ensure pedestrian amenity is not significantly impacted upon when shops are closed, is considered appropriate, and is recommended.

New policy is considered warranted in place of the current general demolition controls that have historically applied in the Adelaide City Council in response to concerns from the Council about demolition of buildings leading to the potential for sites to then be used as open lot carparks (and the like) which can significantly detract from the desired streetscape.

Access/ Movement

New policy to ensure new access points minimise interruption operation and queuing on public roads and pedestrian paths is considered appropriate to adopt.

Council request to reinstate key aspects of the current pedestrian priority policy is recommended, thereby addressing council pedestrian connectivity and pedestrian primacy in zone.

Advertising

Advertising policy is largely addressed through the Advertising General Development Policies, however it is acknowledged that the City has a small number of zone specific policies that to achieve certain city-specific outcomes. The Commission is therefore of the view that updated advertising policy to reflect current key zone-specific policy is warranted, but avoiding any duplication with Advertising General Development Policies. These would be derived from the current Development Plan Capital City Zone which currently applies to Rundle Mall & Street, Hindley Street and Gouger / Grote Street.

Procedural Matters Table (notification)

The Zone's Procedural matters Table should be updated to reflect the structure and content consistent with other comparable zones, and ensure minor and unnecessary notification is avoided.

Other changes based on additional information/investigation:

Policy that allows for that allows for development exceeding the prescribed building height allowance in certain circumstances currently applies in the Rundle Mall, Rundle Street, Hindley Street, and Gouger and Grote Street Subzone areas through the application of the Capital City Zone (which currently applies in these areas). The Commission believes it is important that this policy continues to apply in these locations.

General and consequential changes to the zone are recommended to improve expression, avoid duplication with general policy, and consistency with other 'Main street' type zones (such as in relation to minimum ground level floor to ceiling heights for adaptability, ground level visual permeability, daytime activation of night time activity and the like).

Commission's Recommendations:

- P.13** **CREATE** a new City High Street Subzone to apply to the main street areas that were proposed to be Urban Corridor (Main Street) Zone to apply important policy elements such as Interface Height and Catalyst Sites, and suitable main street land use built form policy.
- P.14** **AMEND** DO 1(b) by adding the words 'and intimate character' immediately following the words 'to reinforce the street rhythm'.
- P.15** **AMEND** DTS/DPF 1.1 to include: Educational Establishment, Pre-school, Residential Flat Building, Retirement Facility, and Student Accommodation; and remove: Apartments and Child Care Facility.
- P.16** **REMOVE** DTS/DPF 1.2 (i.e. replace it with 'None are applicable').
- P.17** **AMEND** PO 1.3 to be clear that the outcome sought is for land uses typically open during night-time hours incorporate activities along street frontages at ground level that encourage day-time activation compatible with surrounding land uses.
- P.18** **CREATE** a new PO and DTS/DPF to address change of use requirements, consistent with change of use policy applied in other centre type zones.
- P.19** **AMEND** PO 2.3 by removing reference to a minimum measurement in metres, so instead only a minimum percentage applies.
- P.20** **CREATE** new POs & DTS/DPFs relating to vibrancy and pedestrian environment.
- P.21** **AMEND** PO and DTS/DPF 2.8 (2.7 in the consultation draft) by removing references to occasional / minor setbacks.
- P.22** **CREATE** a new PO with an outcome that seeks to avoid activities that result in a gap in the built form along a public road or thoroughfare.
- P.23** **AMEND** building height policy to be consistent with the Capital City Zone (under a new heading 'Building Height').

- P.24** **CREATE** a new PO under the heading 'Movement Parking and Access' to ensure development designed so that vehicle access points for parking, servicing or deliveries, and pedestrian access to a site, are located to minimise interrupting the operation of and queuing on public roads and pedestrian paths.
- P.25** **CREATE** a new PO to reflect advertising policy that currently applies in the area.
- P.26** **CREATE** an new Pedestrian Priority Concept Plan with associated policy that reflect key policy elements in the current Development Plan such as limiting location of standalone multi storey car parks, location of access points and the like, to apply to relevant parts of the zone.

Urban Corridor Zones

There are four types of urban corridor zones:

- Urban Corridor (Boulevard) Zone supports a mix of medium and high density urban development framing strategic main road corridors and areas of significant open space, seeking a uniform streetscape edge.
- Urban Corridor (Business) Zone supports a mix of medium and high density urban development along established strategic or mixed use road corridors, seeking a large range of non-residential development typical of existing Mixed Use Zones on main road corridors.
- Urban Corridor (Main Street) Zone supports a mix of medium and high density urban development along main road corridors which display main street qualities and provides both day-time and night-time activation.
- Urban Corridor (Living) Zone supports the development of high-intensity, vibrant, mixed use corridors which include a variety of new housing choices along with a range of complementary retail and commercial activities.

Engagement feedback:

Most issues raised by respondents apply across all four urban corridor zones. Of particular note were comments in relation to land use, interface height, significant development sites, density, retail floor limits and change of use. These topics are discussed in further detail below:

Land Use

Comments were received about some of the land use terms in the zone, such as that some appeared to be unnecessary (e.g. apartment, which is a type of dwelling), or that some terms ought to be defined (such as licenced premises).

Interface Height

A number of councils expressed concern that the proposed interface height provision does not reflect current Development Plan policy. The provision requires development adjacent to a zone boundary at the interface with a neighbourhood type zone be constructed within a 45 degree envelope (so that building height reduces closer to the zone interface to address visual impact associated with building mass) other than at a southern boundary where a 30 degree envelope applies (to address overshadowing). A number of councils currently have a 30 degree envelope applying to all aspects and most want this retained. The City of Prospect, which currently has a 45 degree envelope applying on all zone boundaries (including the

southern one) requested it retain this policy and rely on the general overshadowing policy to address that issue.

The City of West Torrens also commented that where the zone interface is along a residential street the building envelope provision would not apply and tall buildings facing back into residential areas could result, rather than being focussed towards the primary corridor. It requested additional policy to address this situation.

Comments were received from the development industry in relation to the Urban Corridor Zone's interface height provision, supporting the 45 degree envelope, but requesting that it not apply where it adjoins a higher intensity scale mixed use zone (such as where an Urban Corridor Zone abuts an Urban Neighbourhood Zone).

Significant Development Sites

There were mixed views in relation to the new Significant Development Site provision (which allows for an increase of 30% in building height on large sites [over 2500m² and 25m frontage] for the inclusion of a range of desirable community and sustainability outcomes). There was some support for the policy and its intent to encourage amalgamation of sites to enable better overall design outcomes. Others were opposed to any allowance for additional building height and suggested the required desirable outcomes should be standard requirements for all corridor development.

Density

Feedback in relation to density provisions included some requests for slightly lower density requirements in relation to some zones or locations while others considered the proposed policy as suitable (in essence reflecting current development plan settings). One submission suggested that a maximum floor area be used in some cases instead of a density requirement.

Retail Floor Limits

Some feedback was received in relation to retail floor limits for the Urban Corridor (Main Street) and (Business) zones, suggesting that the proposed limit will reduce opportunity for larger scale retail activity that should be retained in these areas.

Change of Use

Feedback was received in relation to change of use between a shop, office and consulting room being identified as a Deemed-to-Satisfy development, but without any criteria for assessment.

Commission's Response:

Desired Outcomes / Land Use

Desired Outcomes and land use policy is recommended to be refined to better reflect the differences between each Urban Corridor Zone, refined to remove unnecessary land use terms (e.g. apartment) and ensure defined terms are correctly used.

In relation to change of land use, the Commission agrees with commentary that suitable policy is needed to guide such development, and that the policy that is used in the current Development Plans Urban Corridor zones should be transitioned into the Coode zones.

Density

Specific density criteria are considered unnecessary, given the Code provides a definition for medium and high density. The Commission therefore recommends the removal of any specific density requirements, so that the zones only refer to medium and/ or high density accordingly.

Interface Height

In response to requests it is considered appropriate to reflect the interface height policy that currently applies to each corridor contained in the relevant Development Plan (through the use of a TNV) as follows:

- 30 degree building envelope (all boundaries) along corridors in the Burnside, Unley, Norwood Payneham & St Peters, and West Torrens council areas;
- 45 degree building envelope except along the southern boundary where a 30 degree envelope applies, in the Campbelltown Council area; and
- 45 degree building envelope (all boundaries) in the Prospect Council area.

A new provision to address instances where the interface is along a neighbourhood road to ensure an orderly transition in scale from the higher scale development facing the primary corridor down to the low scale in an adjacent neighbourhood type zone is recommended, given the operation of the general height interface provision is in instances where the zone boundary adjoins a residential allotment (not a road).

It is noted that the operation of the interface height provision is in relation to neighbourhood-type zones, which are defined in the Code's administrative definitions (covering zones that are low rise and residential in nature), and not in relation to any other zones. The provision therefore does not require any refinement in this regard.

Significant Development Sites

The Commission is of the view that significant development site policy is important to be retained as it provides an incentive to amalgamate sites to form a large land holding with sufficient frontage to achieve better design outcomes and address interface impacts.

Amending the threshold size in the Urban Corridor (Main Street) Zone is supported given the function and intensity of the zone (i.e. a centre type zone), and the typically compact allotment configuration found in these locations. The interface height provision addresses interface impacts on adjoining neighbourhood zones.

The expression of the policy in the DTS/DPF should be adjusted to specify that the 30% height increase be rounded to the nearest whole number.

Retail / office / consulting room floor limits

The Commission is of the view that it reasonable to expect greater retail opportunity in the Urban Corridor (Business) Zone compared to the Urban Corridor (Living), so an adjusted retail limit of 1000m² (and adjusted restricted development trigger to 2000m²) is recommended. This would allow for small / medium scale shopping, but is less than required for a medium sized floor plate supermarket.

Reduced front setback in certain locations

The Urban Corridor (Boulevard Zone) proposed to address the issue of a reduced front setback with associated policy through the use of the Hard-edge Built form and Soft-edge Landscaping Subzones.

Given the issue applies across a number of the different Urban Corridor Zones (for instance Prospect Council through current Development plan Concept Plans), and setbacks are generally addressed at the zone level, it is considered appropriate to maintain this structure and address reduced setbacks through the use of a TNV along with associated rewording of the performance outcome. The use of a TNV in relation to front setbacks is considered suitable where change is sought, as opposed to most other zones where generally maintaining the current setback is desired.

Other changes based on additional information/investigation:

Removing the retail floor limit in the Urban Corridor (Main Street) Zone is considered necessary to be consistent with other main street type zone, including the City Main Street Zone, and reinforces the zone's primary function as a centre-type zone.

Creating a new Subzone in the Urban Corridor (Living) Zone to reflect the more flexible non-residential/retail policy that applies to the former LeCornu site on Anzac Highway is recommended to maintain the current Development Plan policy allowances.

Policy in the Urban Corridor (Main Street) Zone relating to visual connection at the ground level through an amount of window and entry foyer should be adjusted so that it consistent across all of the main street zones.

General and consequential changes are also recommended improve expression, avoid duplication with general policy, ensure greater consistency with other main street zones, and the like.

Commission's Recommendations:

All Urban Corridor Zones:

- P.27** **AMEND** land use related policy to better reflect the outcomes sought, and differences between, each of the Urban Corridor Zones, to remove redundant terminology (such as apartments) and ensure consistency with defined terms.
- P.28** **REMOVE** the DTS/DPF criteria that specifies a minimum net residential density for residential development.
- P.29** **AMEND** front setback policy in the Urban Corridor (Boulevard) (Business) and (Living) Zones to accommodate reduced front setbacks through the use of a Technical or Numeric Variation.
- P.30** **AMEND** The interface height provision so it reflects the building envelope(s) that currently apply to each corridor under the current Development Plan through the use of a *Technical and Numeric Variation* layer – i.e. as follows:
- 30 degrees on all zone boundaries in the Burnside, Norwood Payneham & St Peters, Unley, and West Torrens Councils areas
 - 45 degrees, and 30 degrees on the zone southern boundary in the Campbelltown Council area
 - 45 degrees on all zone boundaries in the Prospect Council area.
- P.31** **CREATE** a new PO under the heading 'Interface height' to seek buildings adjoining a neighbourhood-type zone to provide an orderly transition from the higher scale built form

envisaged along the primary corridor down to the prevailing low scale built form in the adjacent zone.

P.32 **AMEND** the significant site DTS/DPF to indicate that the 30 % increase in building height allowance be rounded to the nearest whole number.

P.33 **CREATE** new advertisements policy under a new heading 'Advertisements' that reflect the allowances contained in comparable main street / activity centre zones.

Urban Corridor (Boulevard) Zone:

P.34 **CREATE** change of use policy that reflects the current policy contained in the Development Plan Urban Corridor Zone and Policy Areas.

P.35 **REMOVE** the Hard-edge Built Form and Soft Edge Landscaped Subzones from the Urban Corridor (Boulevard) Zone.

Urban Corridor (Business) Zone:

P.36 **AMEND** DTS/DPF 1.1 by removing 'Apartments', 'Child Care Centre' and 'Service Industry'; and including 'Advertisement', 'Light Industry', 'Pre-school' and 'Retirement Facility'.

P.37 **AMEND** DTS/DPF 1.2 to increase the allowable non-residential floor area from 500m² to 1000m², and increase the restricted trigger in zone Table 4 from 1000m² to 2000m².

Urban Corridor (Living) Zone:

P.38 **CREATE** a new Urban Corridor Living Retail Subzone to reflect the additional retail allowance under the Development Plan zoning that currently to the former LeCornu site on Anzac Highway.

Urban Corridor (Main Street) Zone:

P.39 **AMEND** DTS/DPF 2.3 by deleting the words '5m or' and '(whichever is the greater)'.

P.40 **AMEND** DTS/DPF 2.4 by adding the words 'to contribute to pedestrian comfort'.

P.41 **AMEND** The Significant development site allotment size trigger to 1500m²

Urban Neighbourhood Zone

This zone supports a combination of major land use types such as residential, retail, office, commercial and civic in compact and higher-density growth or regeneration areas. These are the highest density of land uses in the state (with the exception of the Adelaide CBD) and may apply to locations where there is substantial opportunity to increase the density of development around a major public transit node or corridor or a significant place of interest.

Engagement feedback:

Feedback on the Urban Neighbourhood Zone focussed on the following key matters:

- The zone appears to be too high intensity to be applied in a number of locations.
- Prescriptive minimum density requirements may be problematic to be used as a minimum and may be prohibitive to achieving medium-density outcomes.
- A cap of 5,500m² (and restricted 10,000m²) is too high for use in the zone generally.
- The net residential density desired was queried with the 150 dwellings/hectare specified considered unachievable given existing height limits, and the fact that some areas in which the zone applies currently encourage medium to high density development (35-70 dw/ha > 70 dw/ha).
- The Code should offer a distinction between consolidated land holdings and minor infill sites in its application of assessment criteria, specifically within this zone. Large sites have the propensity to resolve all design concerns expressed in respect of small-scale infill development and should therefore not be subject to the same quantitative standards. A solution would be to modify the definition of a 'Significant Development Site' to be a site of more than 4000m² within one or more allotments but without a road frontage dimension.

A range of policy provisions was suggested to be amended, with performance outcomes and associated DTS/DPF criteria identified for review and refinement. Council submissions noted that some proposed policy was inconsistent with development plan policies and recommended a like-for-like transition.

In areas where the zone is proposed to replace an existing Suburban Activity Node Zone, a number of councils observed that the new zone allows for higher intensity development compared to the existing zone in relation to retail allowances and requirements for high density, and that these may not align with development plan requirements in the current Suburban Activity Node Zone (which generally seeks a less intense overall form of development). This was not an issue where the Urban Neighbourhood Zone replaces the current Urban Core Zone.

Comment was also made in relation to retail floor limit where the zone has been applied to the Residential (High Density) Zone along foreshore areas of Glenelg adjacent to Jetty Road, where currently only smaller-scale retail activity is allowed.

Main Street Subzone

It was requested that other design solutions be considered to address the main street boundary in addition to a zero setback to that boundary.

Commission's Response:

Desired Outcomes and land use policy are recommended to be refined to better reflect the differences between each Urban Corridor Zone, remove unnecessary land use terms (e.g. apartment) and ensure defined terms are correctly used.

Reference to the prescriptive minimum density requirements is recommended to be removed. The zone's reference to medium to high density development, defined by the Administrative Definitions of the Code, is considered sufficient to guide appropriate development outcomes.

In response to comments that the zone is too high in intensity to be suitable to apply in current Suburban Activity Node locations, the Commission recommends it be adjusted so that it generally accommodates medium-density other than in the higher-intensity and scale locations (locations where 7+ storeys is envisaged) where higher density development is sought. These changes would assist in achieving a better alignment with the current Suburban Activity Node and Urban Core Zones.

A lower retail cap in the medium density locations is warranted to better reflect current development plan policy settings (i.e. 5500m² lowered to 1000m², with a restricted trigger of 2000m²), while the higher retail cap is considered appropriate to continue in the higher-intensity locations where that allowance currently applies. This can be achieved via a subzone.

To be consistent with other main street zones, an exclusion should be applied to this subzone so that no non-residential limit applies and policy relating to ground floor activation and foyer/window display area should also be amended.

Other changes based on additional information/investigation:

The zone's Procedural Matters Table 5 should be updated to reflect structure adopted through Phase Two (Rural Areas) Code to assist with removing unnecessary or minor notifications.

General and consequential changes are also recommended to improve expression, avoid duplication with general policy, and the like.

Commission's Recommendations:

- P.42** **AMEND** DO 1 by removing references 'low, medium to high rise' in the introductory text.
- P.43** **AMEND** land-use related policy to better reflect the outcomes sought and remove redundant terminology (such as apartments) and ensure consistency with defined terms.
- P.44** **AMEND** the zone policy in regard to density so that it anticipates medium-density generally, and high-density in locations where high rise (7 storeys and above) is envisaged, and remove the zone's explicit minimum net density criteria.
- P.45** **AMEND** DTS/DPF 1.6 by reducing the gross leasable floor area from 5500m² to 1000m², and the restricted exception for a shop from 10000m² to 2000m², other than where the Main Street Subzone or recommended new Urban Neighbourhood Retail Subzone apply.
- P.46** **CREATE** a new Urban Neighbourhood Retail Subzone to allow for the higher non-residential cap (5500m² instead of 1000m²) within the subzone area in locations where that limit currently applies (e.g. in the core area of the current Urban Core Zone applying to West Lakes).

Urban Renewal Neighbourhood Zone

This zone supports the renewal of sites with medium- to high- density housing in precincts where the housing stock is being replaced as it no longer meets market and community needs. This zone seeks to establish a new character and actively encourages a new urban form, urban renewal and new housing.

Engagement feedback:

Various requests were received to list additional uses as deemed-to-satisfy in the Urban Renewal Neighbourhood Zone, including retirement villages, supported accommodation, dwellings, land division and shops.

Council submissions also provided the following feedback and questions:

- Additional uses should be listed as restricted development, such as industry and waste treatment.
- TNV capabilities for concept plans, building height, site areas and frontages are needed to ensure existing policy is reflected in the Code.
- Minimum and maximum densities need to be prescribed.
- Which roads are included by reference to 'arterial or collector road' in PO 1.4?
- The zone needs more policy that addresses interface impacts, such as the appropriate transitioning down of building height to mitigate the impacts on existing development in cases where a building height of 4 storeys/15m is envisaged.
- There is concern regarding the higher density sought in the zone due to its lack of functional private open space and vegetation around buildings which could lead to poor amenity for residents.

Regional Climate Partnerships (a collaboration of councils, industry groups, landscape boards and the Government of South Australia) observed the zone provides an opportunity to enhance active travel opportunities and policy, suggesting a DO could encourage development to provide for walking and cycling and promote active movement and public transport use.

A number of requests were received about the notification triggers in Procedural Matters – Table 5, including:

- Increasing the height threshold for notification from a wall height greater than 7m and total height greater than 9m as the zone specifies 12m and 15m heights (respectively) as deemed-to-satisfy
- Making shops, consulting rooms or offices in excess of the gross leasable floor area specified in DTS/DPF 1.3 or 1.4 subject to notification
- Adding medium-density development to the list of publicly notified development.

Concern was also expressed about the 'adjacent land' trigger for notification capturing all development where the zone's spatial extent is narrow/small.

Mixed Use Transition Subzone

Limited feedback was received on this subzone.

Commission's Response:

In relation to requests for supported accommodation and retirement facilities to be classified as deemed-to-satisfy, it is noted these facilities generally exceed the scale of standard dwellings and include common facilities, car parking areas, reception, waste storage etc.. Such attributes are considered best suited to

assessment on merit under the performance-assessed pathway. Given that this zone primarily anticipates residential development, shops are also considered best suited to a performance-assessed pathway whereby impacts to nearby residential properties can be considered in a qualitative assessment.

It is acknowledged that a number of Development Plan zones/policy areas which the Urban Renewal Neighbourhood Zone will replace envisage larger shops than 100m² (and 200m² on arterial roads and adjacent activity centres). Accordingly, it is considered appropriate to increase the maximum floor area in DTS/DPF 1.3/1.4 to 250m² to better reflect the employment and community uses envisaged in this urban medium-high density environment.

Restricted development need not necessarily capture all undesirable land uses in a particular zone as, unlike development plans, there are no policies which suggest that restricted development is inappropriate or otherwise. If development such as an industry or waste treatment facility were proposed, suitability could be assessed against the relevant DOs and PO in the zone. A more comprehensive assessment pathway is therefore not considered necessary for land uses which are clearly incompatible with the desired outcomes of the zone.

It is appreciated that some existing development plans incorporate building heights which vary from the standard 3 building levels (or 4 in certain cases) in DTS/DPF 2.1 and it is therefore appropriate to introduce TNV capacity to capture these variations.

TNV capacity is not considered appropriate for density given that density outcomes should be applied consistently to these renewing areas. However, there is capacity to introduce policy to guide the form of development at the interface with lower-density residential areas.

It is not considered appropriate to mandate minimum densities in this zone in order to maintain flexibility to respond to market conditions.

The use of TNV data is considered appropriate to acknowledge any concept plan which may apply.

Other changes based on additional information/investigation:

The list of envisaged development in DTS/DPF 1.1 should be updated to add additional land uses (consulting room and student accommodation) which are anticipated in this zone.

Amendments to policies under 'Land Use and Intensity' heading are proposed to achieve consistency with other zones.

Commission's Recommendations:

- P.47** **AMEND** DTS/DPF 1.1 to add consulting room and student accommodation.
- P.48** **DELETE** PO/DTS/DPF 1.2 given that the types of residential development envisaged are covered by PO/DTS/DPF 1.1.
- P.49** **AMEND** DTS/DPF 1.3 and 1.4 into a single policy which envisages shops, consulting rooms and offices up to 250m² and of a scale to maintain the amenity of nearby residents.
- P.50** **AMEND** DTS/DPF 2.1 to incorporate a TNV for building height.
- P.51** **CREATE** new PO to guide building height at the interface with lower-density residential areas.

- P.52** **AMEND** DTS/DPF 3.1 to permit a smaller front setback only where the site adjoins, or is separated by, a public road or a public reserve >2000m².
- P.53** **CREATE** new PO and DTS/DPF to reference concept plans.
- P.54** **DELETE** PO/DTS/DPF 9.1 'Façade Design' as this policy is already located in Design in Urban Areas General Development Policies.
- P.55** **AMEND** Procedural Matters – Notification to exempt the following forms of performance assessed development from notification:
- Development that is minor in nature
 - Development undertaken by the South Australian Housing Trust, except a residential flat building or buildings of 3 building levels or greater, or demolition of a State or Local Heritage Place.
 - Development envisaged in the zone or ancillary to envisaged land uses except where such development:
 - comprises demolition of a heritage place
 - fails to comply with maximum floor area limits for non-residential development and/or
 - fails to comply with building height policy
 - Comprises addition/alteration of an existing community facility, educational establishment or pre-school which exceeds the DTS/DPF criteria

Housing Diversity Neighbourhood Zone

This zone anticipates replacement of existing dwellings with medium density housing, primarily in the form of terrace housing, group dwellings or residential flat buildings.

Feedback on the Housing Diversity Neighbourhood Zone was primarily provided by local government, community members and the development industry.

Engagement feedback:

Density/site dimensions

- There is concern that the zone seeks a higher density than the Medium Density Policy Area it replaces. It is therefore requested that the minimum size allotment be increased to be more consistent with current policy (250m² /150m² on arterial roads, 270m² unless located within 400m of a Centre Zone, and 150-250m² depending on dwelling type).
- Why is the proposed density of 70du/ha well above Urban Corridor Living Zone at 45 du/ha?

Clarification: Medium-density development is defined as ranging between 35 to 70 du/ha consistent with the 30 Year Plan for Greater Adelaide. The Urban Corridor (Living) Zone seeks a minimum density of at least 45 du/ha whereas 70 du/ha referenced in the Housing Diversity Neighbourhood Zone is a maximum.

- A measure of dwellings/hectare should apply only to multi-storey residential flat buildings or dwellings in a mixed use building, where appropriate. Including minimum site areas and frontage widths for detached, semi-detached, row, group dwellings and residential flat buildings up to 2 storeys in height is recommended.
- Why is there no reference to minimum frontage requirements for different dwelling types?
- Site Dimensions and Land Division PO and DTS/DPF 2.1 should be amended to ensure the frontage allows space for street tree planting, taking into account the existing infrastructure.
- There is concern that the increased density will cause greater traffic pollution and decrease the safety of children, pedestrians and cyclists.
- The potential rate and intensity of new development which will be facilitated through the proposed Code policies could place existing local infrastructure, especially roads (street parking and traffic congestion), stormwater systems and essential services such as schools and emergency services under stress.
- The proposed policy is considered too much of a variation from the intent of the current policy. This should be addressed either by adopting a TNV to site areas or applying a zone that better aligns with the current development plan density.
- DTS 2.1 should be amended to enable high-density development (2 or 3 storeys), noting the award-winning projects in estates such as Blake's Crossing and Playford Alive where the density is above 100 du/ha.
- Battle-axe allotments should be 400m² minimum (not including the access handle) and include a landscaping strip/s along the driveway which enables sufficient space for vehicle manoeuvring and appropriate amenity for dwelling and neighbours.

Clarification: Requirement for landscaping strip along battle-axe driveways is contained in PO/DTS/DPF 34.2 of the Design in Urban Areas General Development Policies

Commission's Response:

This zone seeks to replace existing Medium Density Zones and Policy Areas from council development plans. Medium density development is defined in the 30 Year Plan for Greater Adelaide and in the Code of 35 to 70 d/ha. It is therefore considered inappropriate to increase or decrease the density ranges.

That being said, it is acknowledged that the zone seeks to carry forward the intent of the current Medium Density Policy Areas it will replace, and that a majority of these policy areas currently prescribe minimum site dimensions for different dwelling types. Accordingly, it is recommended the site dimensions and land division policy incorporates the ability to reference different minimum site areas and site frontages based on current development plan policy (ensuring such criteria accords with the definition of 'medium density').

It is also considered appropriate to amend the PO on site dimensions/density to provide clearer guidance and context around where higher density housing may be appropriate (in proximity to open space, activity centres or public transport).

Assessment Provisions

Engagement feedback:

- Policies are needed to promote the provision of additional design quality, environmental or sustainability features in return for allowing an increase in the maximum building height.
- Garages and carports should be required to be set back at least 0.5m from the main face of the dwelling or 5.5m from street, whichever is greater.
- The maximum site coverage should be set at 70%.
- The DTS requirements for the minimum front setback should be increased to 4m (noting that where the locality has very close front setbacks a departure from the DTS could be assessed on its merits)
- Southern boundary upper level setbacks should be increased to reduce overshadowing
- Rear setbacks should be increased to 4m for single storey and 6m for upper level plus additional height calculated based on wall height for walls which are 3 levels or above as the 3m rear setback at ground level is unlikely to facilitate a tree with a mature spread of 2-4m
- A rear setback of 0m for 2 levels should be permitted if the rear boundary abuts a laneway
- The following text in PO 4.1 should be deleted: '...and provide a functional semi-private space between the building and street' as this policy should not encourage high fencing or similar in front yards which can have a significant detrimental impact on streetscape amenity, passive surveillance and community interaction.

Clarification: Private open space policy is considered in the Design in Urban Areas General Development Policies – see discussion in associated section of this report.

- A 1.5m setback to porches, balconies, verandahs and the like is considered too close, particularly given the potential bulk and scale of some of these elements. The front setback should be increased and balconies removed from this policy as a permissible projection; porches/porticos should be required to have 3 open sides and be limited to a height of 2.7m; and verandahs should be limited in width.

Clarification: See discussion regarding 'building line' definition in the Design in Urban Areas General Development Policies section of this report.

- Greening policies should be introduced to maximise shading, cooling and amenity in this zone.

Clarification: Policies requiring tree planting and landscaping are located in the Design in Urban Areas General Development Policies.

- Residential development by the South Australian Housing Trust or registered Community Housing providers should be consistent with the zone provisions, as well as 'Housing Renewal' General Development Policies.

Commission's Response:

It is considered inappropriate to provide incentives for additional building height in this zone given it anticipates primarily low-rise development. Such incentives are more appropriate in Urban and City zones.

Policy requiring garages to be set back behind the main face of the associated dwelling is proposed to be superseded by the new Design in Urban Areas General Development Policies which seek to achieve building articulation through a number of measures such as stepping of the façade, protruding elements, mixture of materials, etc.

Site coverage policy is not intended to apply in the Housing Diversity Neighbourhood Zone given policies ensuring a minimum level of site perviousness/soft landscaping will apply through the Design in Urban Areas General Development Policies.

Three metre front and rear setbacks are considered appropriate in areas which seek replacement of existing buildings and redevelopment based on a medium-density character. Trees with a mature height of 4m could be planted within 3m of the dwelling, depending on the footing design (e.g. if a neighbour has an existing mature tree near the boundary, the dwelling's footings would need to be designed to account for tree effect in any case). Alternatively, an applicant could opt to increase the setback to account for the desired tree planting location.

The Commission will investigate the establishment of an offset scheme to allow for payments in lieu of tree plantings in higher-density zones where there is less room to accommodate trees.

Non-residential development

Engagement feedback:

- Policies should not encourage non-residential uses as a desired land use in predominantly residential areas.
- Telecommunication Facility, Community facility, Dwelling, Educational establishment and Recreation area should be listed in Table 3 – Applicable Policies for Performance Assessed Development.

Clarification: Assigning policies to development has been considered in the wholesale review of Classification Tables and application of applicable policies. It is noted that listing a land use in Table 3 does not signify its appropriateness in the zone or otherwise, and should only be undertaken where the scale and form of a development has low variability and the policies to be assigned are known.

- Community facility and shops exceeding 80 m² should not be listed as envisaged land uses.
- Policy contemplating shop, office and consulting rooms to 100 m² or 200 m² with frontage to higher order roads or adjacent Main Street or Activity Centre Zone has the potential to negatively affect nearby Activity Centre and Urban Corridor zones.

- PO 1.3 should specify that a café or restaurant is suitable development in the zone.

Clarification: A café or restaurant is included in the definition of 'shop'

- 100m² of floor area for commercial development is considered acceptable for activation of residential areas but conditions allowing 7am to 9pm operation is excessive for a predominately residential area. DTS criteria should be limited to 50sqm and shorter hours.

Clarification: No forms of commercial development are listed in Table 2 - Deemed-to-Satisfy Development Classification in this zone, and therefore such development will follow a performance-assessed pathway (unless classified as 'impact assessed')

- Shops <80m² should be restricted in the existing Glen Stuart Road Policy Area under the Residential Zone in the Adelaide Hills Council Development Plan.
- Policies which provide guidance for all land uses anticipated in PO 1.3 are requested, including community services such as educational establishments, community centres, places of worship, pre-schools, child care and other health and welfare services.
- Given the increased densities envisaged in the zone, further policy is sought in relation to establishing additional public open space and community facilities.
- Change of use applications to a non-residential development in the Housing Diversity Zone should be performance-assessed.

Commission's Response:

The current Residential Zone in development plans (based on the SAPPL) encourages non-residential development of a nature and scale that serves the local community and is consistent with the character of the locality. PO 1.3 to 1.6 of the Housing Diversity Neighbourhood Zone in the consultation version of the Code Amendment carried forward the intent of this policy, but provided a DTS/DPF solution where limiting floor area to 100m², or 200m² where adjacent an activity centre or arterial/collector road.

The Commission endorses an amendment to the policy to ensure that non-residential development in predominantly residential areas:

- supports home-based businesses in all areas (up to 50m², such as a room within a house)
- supports small standalone shops, offices and consulting rooms (up to 100m², such as the front part of a house) where there are no nearby activity centres to encourage walkable neighbourhoods
- Allow larger shops, offices and consulting rooms (up to 200m², such as conversion of an existing house) where:
 - (a) adjoining an activity centre to enable the moderate expansion of existing centres where demand exists; or
 - (b) located on main road where traffic/noise can create detrimental impacts for dwellings, but can provide beneficial exposure for commercial premises, but only where there are no nearby activity centres to encourage walkable neighbourhoods.

Policies in Design in Urban Areas, Interface Between Land Uses and Transport, Access and Parking General Development Policies are considered sufficient to guide the assessment of non-residential land uses.

PO 1.3 limits commercial uses such as offices and consulting rooms to 'small scale', while community services (such as churches, schools, community centres, childcare and health/welfare services) do not have the same restriction because these types of community infrastructure can often be larger. In such

cases, PO 1.4 provides further policy guidance to require non-residential development to be compatible with the residential character and amenity of a neighbourhood and is therefore considered sufficient to guide the scale of these land uses. It is however considered appropriate to introduce a policy which enables expansion of existing community facilities and schools.

Public notification

Engagement feedback:

The following amendments were requested to Table 5 – Procedural Matters regarding forms of development exempt from public notification:

- The term 'dwellings' should be replaced by building or buildings
- Ancillary accommodation, dwellings, outbuildings and residential flat buildings should be exempt from notification, except where the development involves the demolition of a Heritage Place, exceeds the maximum building height or floor area policy, creates four or more dwellings
- Advertisements that exceed the maximum size and height requirements should be notified
- Concerns are held with the number and relevance of public notification triggers. Councils appreciate that exceeding the side and rear setbacks is a planning concern for a neighbour, however cannot understand how a neighbour will be concerned about a front setback, secondary street setback or how many articulation measures will be included within a facade.
- There does not appear to be a trigger for notification where a proposal exceeds the prescribed building height.
- For consistency of policy, shops, consulting rooms or offices that exceed the maximum gross leasable floor area for the zone identified by DTS/DPF 1.5 & 1.6 should be subject to notification.
- A number of community members sought all development which increases development intensity (i.e. additional dwellings on the site, two storeys, a change of use from residential to non-residential and earthworks where a new dwelling is located 600mm above ground level) be publicly notified.

Commission's Response:

As a principle, neighbours should be notified of performance-assessed development which falls outside of the rules of the zone or is not envisaged in the zone. It is appreciated that the consultation version of the Housing Diversity Neighbourhood Zone could be improved to achieve this outcome.

The notification exclusions are proposed to be reviewed to accord with the following, except where acceptable standards of built form or intensity are exceeded:

- a) an accepted class of development identified in Table 1 of the zone
 - b) a deemed-to-satisfy class of development identified in Table 2 of the zone
- or
- c) a type of development envisaged in the zone.

Commission's Recommendations:

- P.56** **CREATE** new PO/DTS/DPF to guide the scale of home-based businesses, with a DTS/DPF criteria setting a maximum gross leasable floor area of 50m².
- P.57** **AMEND** PO/DTS/DPF 1.5 and 1.6 (now 1.3 and 1.4) to:
- (a) provide for shops, offices and consulting rooms up to 100m² where located more than 500m from an Activity Centre to contribute to walkability
 - (b) provide for shops, consulting rooms and offices up to 200m² where located adjoining an Activity Centre (not adjacent) to support the limited expansion of existing Activity Centres.
- P.58** **AMEND** PO 2.1 to anticipate higher densities in areas close to public transport, activity centres or public open space.
- P.59** **AMEND** DTS/DPF 2.1 to add reference technical and numeric variations (TNV) for site area and site frontage (and add TNV data for site area and frontage in areas where minimum site dimensions are currently prescribed in Development Plans), and where not prescribed, maintain a net residential density up to 70 dwellings/hectare.
- P.60** **AMEND** rear setback policy to include 0m rear setback where a laneway exists.
- P.61** **DELETE** PO/DTS/DPF 4.2 as this is covered by the amended administrative definition of 'building line'.
- P.62** **DELETE** PO/DTS/DPF 9.1 (Façade Design) and 10.1 and 10.2 (Group Dwellings, Residential Flat Buildings and Battle-Axe Development - External Appearance) as these matters are covered in the Design in Urban Areas General Development Policies.
- P.63** **AMEND** Procedural Matters – Notification to exempt the following forms of performance assessed development from notification:
- Development that is minor in nature
 - Development undertaken by the South Australian Housing Trust, except a residential flat building or buildings of 3 building levels or greater, or demolition of a State or Local Heritage Place.
 - Development envisaged in the zone or ancillary to envisaged land uses except where such development:
 - comprises demolition of a heritage place
 - fails to comply with maximum floor area limits for non-residential development, or
 - fails to comply with building height policy
 - Comprises addition/alteration of an existing community facility, educational establishment or pre-school which exceeds the DTS/DPF criteria

General Neighbourhood Zone

This zone encourages a range of dwelling types to increase housing diversity and supply. Other non-residential uses, including small-scale office and consulting rooms and a range of community facilities, will also be encouraged. Development will generally retain a suburban character and scale of 1 or 2 building levels.

A high volume of feedback was received on the General Neighbourhood Zone, focussing on the following key matters:

- Density, dwelling types and minimum site dimensions
- Non-residential development
- Public notification
- Battle-axe development
- Setbacks
- Ancillary development

Density, dwelling types and minimum site dimensions

Engagement feedback:

Submissions from local government and community members/groups generally sought an increase in minimum site dimensions while submissions from the development industry generally sought a decrease:

Respondents requested that:

- The current development plan minimum site dimensions transition into the General Neighbourhood Zone through TNVs
- Note: See Code Spatial Application section for further detail on spatial application of the General Neighbourhood Zone by local government area.*
- Policy encouraging increased densities/building heights/smaller allotment sizes be encouraged in appropriate locations in the zone. The DO refers to 'low and medium density housing' but subsequent policies fail to limit medium-density housing to suitable locations (e.g. centres, public transport and significant public open spaces).
 - As some forms of dwellings (e.g.: Fonzie flats, cohousing accommodation) don't meet the criteria of those listed as being acceptable, the term 'dwelling(s)' be added to the list in DTS 1.2.
 - DTS/DPF 1.2 include student accommodation.
 - Clarity be provided on whether PO 2.1 applies to retirement facilities and supported accommodation.
 - A subzone be provided to enable affordable housing for seniors in close proximity to key health facilities etc.
 - Larger scale infill projects (on sites say 4000m² or more) have catalyst/strategic site policies that enable interface issues to be dealt with and to increase their density.
 - The minimum allotment size for row dwellings be increased from 200m² to 250m².

- Row dwellings not be considered as a DTS pathway, particularly with a minimum site area of 200m².
- The Commission address the concern about minimum site area for semi-detached dwellings at 300m², as well as greater potential for row dwellings.
- The minimum allotment sizes be reduced for the following dwelling types: reduce 20m² for semi-detached and row dwellings; 100m² for group dwellings; and 150m² for residential flat buildings as the proposed sizes are considered to be overly restrictive.
- DTS/DPF 2.1, which refers to site areas for group dwellings and residential flat buildings, specify whether this is an average and/or includes or excludes common areas.
- Site areas be increased for dwellings on land with steep topography and for sites requiring on-site waste treatment systems.
- Minimum site dimensions' criteria not apply to new dwellings built on existing allotments.
- Analysis be undertaken of the impact of decreased minimum allotment sizes (compared to current development plan policy) on local infrastructure such as stormwater systems, on-street parking, roads (street parking and traffic congestion), emergency services and capacity at zoned schools.

Commission's Response:

The General Neighbourhood Zone has been drafted to provide a consistent set of policies for standard residential areas within Greater Adelaide. To uphold this consistency across the zone in different council areas, TNVs do not form part of the zone's policies.

Requests to insert current development plan minimum site dimensions through application of TNV data have been considered in the broader context of suitability of the General Neighbourhood Zone. This involved a detailed analysis of the current development plan policy intent compared to the zone's desired outcomes. This analysis demonstrated the need for several new zones to capture the policy intent, including:

- A Waterfront Neighbourhood Zone which can be applied to areas with existing policy specifically related to the design of dwellings on waterfront allotments, with TNV capability to populate minimum site dimensions
- An Established Neighbourhood Zone which can be applied to areas with existing policy guiding new dwellings consistent with an established character, with TNV capability to populate minimum site dimensions
- A Hills Neighbourhood Zone which can be applied to areas with existing policy related to sloping land, with TNV capability to populate minimum site dimensions
- A Neighbourhood Zone which can be applied to residential areas in a rural/regional context, with TNV capability and reference to on-site waste treatment systems in site dimension policy.

Further information and analysis on the spatial application of the zone changes is contained in the Code Spatial Application part of this report.

Suggestions for desired outcomes to guide the predominant locations of higher density development are noted, but it is considered more appropriate to amend the PO on site dimensions/density to provide clearer guidance and context around where higher-density housing may be appropriate (e.g. in proximity of open space, activity centres or public transport).

In relation to requests for the policy to reference specific dwelling types, and 'dwellings' generally, as envisaged uses, it is noted that PO and DTS/DPF 1.1 encourage residential development and 'dwelling' as an envisaged land use. Upon review of the policy, it is recommended that PO and DTS/DPF 1.2, which set out different types of dwellings that are envisaged, be deleted, given that 1.1 captures the overarching land uses sought. Further policy in the zone regarding minimum site dimensions, built form, etc. are sufficient to guide the suitability of dwelling types/forms.

It is agreed that student accommodation should be added to the list of dwelling types.

Given that supported accommodation, retirement living and student accommodation are envisaged forms of development in the zone, it is appreciated they generally warrant smaller individual site areas given their reliance on common land. As these forms of development will be performance-assessed in the zone, it is not considered necessary or appropriate to provide quantitative site area criteria in DTS/DPF 2.1. In such cases, PO 2.1 would be taken into consideration in conjunction with the relevant policies in the Design in Urban Areas General Development Policies specific to supported accommodation, housing for aged persons, people with disabilities, and student accommodation.

Housing for aged persons and retirement living has specific policies in the 'Supported Accommodation and Retirement Facilities' section of the Design in Urban Areas General Development Policies. It is not considered appropriate to introduce a specific subzone for aged care at this time, as the suitability of such facilities can be assessed against the relevant policies.

It is appreciated that amalgamated/large development sites can often address interface issues in a more suitable manner than small-scale infill. However, such dispensation would be appropriately considered in a performance assessment, taking into account the site context and how interface is handled in the particular circumstance. For this reason, it is not considered appropriate to quantify numerical discounts for such development in this initial transitional Code, but the relevant performance outcome should be amended to clarify that 'low density' is not envisaged in all circumstances.

The General Neighbourhood Zone seeks to provide greater standardisation of minimum frontage and site area requirements to deliver a steady supply of well-designed and diverse infill housing compatible with existing suburban streets and suburbs. In response to various requests to increase/decrease minimum site dimensions, the zone sets minimum site areas and frontages that are designed to be in harmony with typical allotment patterns and are wide and big enough to comfortably accommodate a range of housing options.

Investigation has demonstrated that:

- sites over 200m² can comfortably accommodate a range of 1-storey, 2-bedroom dwellings and 2-storey, 3-bedroom dwellings with single garages
- sites over 300m² can comfortably accommodate a range of 1-storey, 3-bedroom dwellings and 2-storey, 4+ bedroom dwellings
- sites with a frontage of 9m can comfortably accommodate a 1-storey dwelling with single garage and a street-facing room and 2-storey dwellings with double garages
- terrace housing / row dwellings can be developed on sites as narrow as 4.8m, however at 7m these can be more sensitively integrated into existing areas by providing adequate separation from neighbours and retaining on-street parking and landscaped street frontages.

Accordingly, the Commission does not support any increase or decrease in the minimum site dimensions. However, it is considered appropriate for minimum site areas for group/residential flat buildings to be calculated on an average basis, given the integrated nature of such dwellings and reliance on shared driveways and facilities.

When the Code was released for consultation, the Sloping Land Overlay was applied in conjunction with the General Neighbourhood Zone. Given that this overlay is proposed to be removed (see associated discussion and recommendations in the Natural Resources and Environment section of this report), it is considered appropriate to create a new zone which accommodates policy for development on sloping land.

The level of infill development supported by the General Neighbourhood Zone is reasonably consistent with the 30 Year Plan for Greater Adelaide, and existing development plan policy. Furthermore, a number of areas are proposed to be removed from the General Neighbourhood Zone to more appropriately transition the current development plan policy intent – see discussion in the Code Spatial Application section of this report.

Non-residential development

Engagement feedback:

A high volume of feedback on the General Neighbourhood Zone queried the treatment of non-residential development in the zone. Community and local government submissions generally sought to further restrict the scope of non-residential development permitted in neighbourhood zones, while development industry submissions sought for greater diversity in certain areas. The following comments were received:

- non-residential uses in residential zones will result in increased noise, parking congestion, traffic, loss of trees and impacts on residential amenity and will place pressure on already struggling commercial centres by drawing activities away.
- shops, offices and consulting rooms up to 200m² and 1000m² restricted threshold could affect the value and viability of existing centre zones and result in inappropriate 'out of centre' shops and 'strip development' on arterial roads. Suggestions to remedy this included:
 - reducing the maximum floor areas in DTS/DPF
 - limiting shops, offices and consulting rooms to home businesses (in conjunction with a residential use)
 - decreasing the restricted threshold to 100-250m² floor area
 - listing all existing non-complying uses in development plans as restricted
 - ensuring non-residential development is subject to public notification.

Clarification: *The restricted development threshold is a procedural trigger to require a more comprehensive assessment pathway. Unlike non-complying development in development plans, the restricted development threshold does not indicate that a development is inappropriate/not envisaged in the zone. The policy itself (DOs, POs and DTS/DPF criteria) are the only matters that should be used to assess the merits of a performance-assessed development. Due to the differences in non-complying and restricted development, it is considered inappropriate to transition all non-complying development to restricted development in the Code.*

- Policy guidance is needed around the appropriate scale of the community services envisaged in part (b) of PO 1.3, to specify appropriate locations (e.g. arterial roads) and scale (e.g. floor area maximum).
- Under the current development policy regime, residential zones envisage a limited range of non-residential development that 'serves the local community' or similar. PO 1.3 and 1.4 are less generic and may undercut the provision of essential infrastructure.

- Non-residential developments (i.e. consulting rooms, office, pre-school, shop) should trigger waste management requirements similar to those applied to residential development.
- Greater clarity is needed about what comprises an 'arterial road', 'collector road', 'higher order road', 'commercial and retail precincts' and 'Activity Centre or Main Street zone' in PO/DTS/DPF 1.5 and 1.6.
- Small-scale consulting rooms and child care centres should be developed along collector roads to minimise the impact of associated traffic on surrounding residential development.
- There should be a greater equivalence in the policy treatment of shops and retail fuel outlets. Provisions of the Code relating to traffic, noise and other potential amenity impacts ensure that any development proposal for either of these uses will be properly assessed against applicable standards.

Commission's Response:

The current Residential Zone in Development Plans (based on the SAPPL) encourages non-residential development of a nature and scale that serves the local community and is consistent with the character of the locality. PO 1.3, 1.4 and 1.5 of the General Neighbourhood Zone carries forward the intent of this policy, but provides a DTS/DPF solution limiting floor area to 100m² or 200m² where adjacent an activity centre or arterial/collector road.

The Commission endorses an amendment to the policy to ensure that non-residential development in predominantly residential areas:

- supports home-based businesses in all areas (up to 50m² e.g. a room in a house)
- supports small stand-alone shops, offices and consulting rooms (up to 100m² e.g. the front part of a house) where there are no nearby activity centres
- allows larger shops, offices and consulting rooms (up to 200m² e.g. a conversion of an existing house) where they:
 - adjoin an activity centre to enable the moderate expansion of existing centres where demand exists
 - or
 - are located on a main road where there are no nearby activity centres.

Policies in Design in Urban Areas, Interface Between Land Uses and Transport, Access and Parking General Development Policies are considered sufficient to guide the assessment of non-residential land uses.

PO 1.3 limits commercial uses such as offices and consulting rooms to 'small scale', while community services (such as churches, schools, community centres, childcare and health/welfare services) do not have the same restriction because these types of community infrastructure can often be larger. In such cases, PO 1.4 provides further policy guidance to require non-residential development to be compatible with the residential character and amenity of a neighbourhood and therefore is considered sufficient to guide the scale of these land uses.

It is however considered appropriate to introduce a policy which enables expansion of existing community facilities and schools.

Notification

Engagement feedback:

The types of performance-assessed development excluded from public notification drew a considerable amount of comment from a range of stakeholders.

The following feedback observed an excess in the classes of development that would be subject to notification:

- The current extent of public consultation proposed for development applications will result in excessive and unwarranted public notification requirements which in turn will contribute to extended assessment timeframes and long Council Assessment Panel (CAP) meetings. Examples of excessive notification criteria include circumstances where a proposed development is located adjacent to land in another zone and fails to meet 'deemed-to-satisfy' provisions which is of little or no consequence to the adjacent property owners.
- Minor forms of development and development envisaged in the zone should not be notified except where they exceed set parameters (e.g. building height, floor area, frontage width, advertisement height/area).
- Non-compliance with DTS/DPF 5.2, 6.1 and 8.1 (verandahs/porches projecting beyond 1.5m of building line, secondary street setback, façade design) is a design considerations and should not form part of a public notification trigger as the general public do not generally raise these concerns in an assessment.
- If the site is adjacent to another zone then the application should be notified, however if that zone's primary form of development is intended to be residential, notification is unnecessary.
- Development involving the creation of 4 or more additional dwellings triggers public notification but this is considered unnecessary in a primarily residential zone where dwellings are anticipated.
- Advertising in association with approved non-residential activities should be excluded from public notification requirements.

Other feedback observed the types of development that should be subject to notification above what was listed in the consultation document:

- Shops, consulting rooms or offices that exceed the maximum gross leasable floor area for the zone identified by DTS/DPF 1.5 & 1.6 should be subject to notification.
- If public notification is required for 4 or more dwellings then public notification should also be required for 4 or more allotments created.
- Performance-assessed applications should be publicly notified where development increases development intensity (including new dwellings on a site) or includes two-storey development.
- Performance-assessed applications (particularly non-residential) should be publically notified to ensure consideration of:
 - potential impacts on existing centres
 - residential amenity

- size of non-residential development and impacts on parking, movement, noise and rubbish collection
 - provision of space for bins, gardens and street trees.
- All development which increases development intensity (i.e. additional dwellings on the site, two storey, change of use from residential to non-residential and earthworks where a new dwelling is located 600mm above ground level) should be publicly notified, and right of response and appeal should be permitted.

Commission's Response:

As a principle, neighbours should be notified of performance assessed development which falls outside of the rules of the zone, or is not envisaged in the zone. It is appreciated that the consultation version of the General Neighbourhood Zone could be improved to achieve this outcome.

The notification exclusions are proposed to be reviewed to accord with the following, except where acceptable standards of built form or intensity are exceeded:

- a) an accepted class of development identified in Table 1 of the zone
 - b) a deemed-to-satisfy class of development identified in Table 2 of the zone
- or
- c) a type of development envisaged in the zone.

In the case of neighbourhood zones, the standards which have the potential to impact on the locality where exceeded are considered to be building height and non-residential floor areas.

Setbacks

Engagement feedback:

Feedback regarding setbacks in the General Neighbourhood Zone raised the following matters:

- Primary street setbacks should have regard to the existing streetscape character and setbacks on buildings on adjoining land
- There is concern that the 5m setback does not provide sufficient room for landscaping or retention of trees.
- The 10m boundary wall length is considered excessive and should be reduced to 8m and also apply to non-residential development.
- The boundary wall length should be increased to 11m to allow for stacked (tandem arrangement) garages/carports.
- Allowing 1.5m wide projections to encroach into the front setback could be inconsistent with many streetscapes and setback patterns. It is suggested that the front setback be increased or not allow balconies in this setback encroachment and limit the height/width of verandahs/porches.
- Request rear setbacks should be increased to 4m for ground level and 6 metres for upper level.

- Setbacks from primary road frontage for sites not connected to mains sewer need to allow installation of standard wastewater systems. Typically, 6.5 m is required for the tank and prescribed setbacks.
- The reduction of front, side and rear building setbacks in residential areas, particularly at upper levels, is of concern as it will impact on the amenity and privacy of adjacent neighbours.
- Setbacks should be measured to the wall of the dwelling, not including any eaves, verandahs, etc.
- Rear setback criteria should relate to wall height rather than building levels (as per side setbacks).
- Side and rear setback criteria (identified in the Phase 3 Planning and Design Code Update Report dated 23 December 2019) have been omitted.

Clarification: Feedback has been received regarding the absence of side and rear setback criteria, which was subsequently updated in the Commission's Planning and Design Code Phase Three (Urban Areas) Code Amendment - Update Report in December 2019.

Commission's Response:

The General Neighbourhood Zone seeks to apply standard setback criteria to apply to typical suburban areas where infill development is expected.

Rear and side setbacks reflect the current Residential Code complying development standards, and therefore are considered appropriate for a new General Neighbourhood Zone to replace Residential Code areas.

Concerns regarding front setbacks not reflecting adjoining properties are acknowledged, however this demonstrates a more fundamental issue with the need for new development to retain the character of an existing established neighbourhood. Areas where this matter warrants policy change have been considered for inclusion in the Suburban Neighbourhood or Established Neighbourhood Zone (see Code Spatial Application section of this report for rezoning analysis).

The benefits of visual articulation that projections from the front façade (verandahs, porticos, etc.) provide to are considered to outweigh any detriments of street setback and visual dominance, because such structures are, by definition, open in nature.

Given the Code's focus on minimising garage dominance in infill development, particularly on narrow sites, the ability to provide a tandem or 'stacked' garage arrangement is important. Accordingly, it is considered appropriate to allow for side boundary walls to align with the standard length of such garages (e.g. 5.5 metres for 2 spaces, plus approx. 240mm wall thickness at each end).

Rural areas which typically do not have connection to mains sewer have been considered for rezoning to the Neighbourhood Zone in the Code Spatial Application section of this report. As such, front setback in the General Neighbourhood Zone does not need to cater for septic tank location.

Battle-axe development

Engagement feedback:

- An increase in minimum site area of 'battle-axe' allotments (from 300m² to 400-450m²) is requested.
- A landscaping strip/s along the driveway to ensure sufficient space for vehicle manoeuvring with forward egress, and to enhance amenity should be included.

Clarification: Requirement for a 1m wide landscaping strip along battle-axe driveway is contained Design in Urban Areas General Development Policies PO/DTS/DPF 34.1 with criteria for forward vehicle movement in 33.4.

- Dwellings on battle-axe sites should be limited to single-storey due to concerns regarding bulk, scale, overshadowing and privacy, or privacy treatments should be required to a height of 1.7m from floor level with an 8m rear setback.
- Low Density Policy Area 20 and 21 in the West Torrens Council Development Plan specifically discourages battle-axe subdivision to retain allotment pattern, ensure privacy, maintain the streetscape and minimise bulk and scale impacts.
- Hammerhead blocks in neighbourhood-type areas should be discouraged except in certain existing areas in Victor Harbor.

Commission's Response:

Battle-axe development is considered a legitimate housing form in the General Neighbourhood Zone provided such dwellings accord with the setback and height provisions. For this reason, it is not considered appropriate to insert policy which specifically discourages battle-axe development in certain areas.

It is acknowledged that dwellings on battle-axe sites should not follow a deemed-to-satisfy pathway given qualitative assessment of vehicle turning areas, etc. warrants a merit assessment. As such, a DTS criteria is proposed to be inserted in the Design in Urban Areas General Development Policies to prevent detached dwellings on battle-axe sites from following a deemed-to-satisfy pathway (rather than relying on descriptors in the development type). Furthermore, in a performance-assessment, the corresponding PO ensures battle-axe development is appropriately sited and designed to respond to the existing neighbourhood context.

Two storey battle-axe dwellings are considered appropriate in areas which anticipate two+ storey development. It's noted that a number of areas originally proposed for inclusion in the General Neighbourhood Zone have been considered for a different zone in the Code Spatial Application section of this report. The use of TNVs to populate the building height policy in Suburban Neighbourhood, Hills Neighbourhood, Established Neighbourhood and Neighbourhood zones will therefore limit these dwellings to single-storey in appropriate areas.

Privacy treatments to a height 1.5 metres above finished floor level are considered sufficient to minimise direct overlooking into the private areas of adjacent properties, whilst also maintaining a reasonable level of internal amenity for new dwellings.

Side and rear setbacks are considered appropriate to apply to battle-axe dwellings. However, it is appreciated that there may be some confusion around what comprises a side/rear boundary where group residential flat buildings are oriented toward the common driveway. It is understood that the common understanding of a rear boundary (the boundary opposite the primary street boundary) forms the accurate interpretation, and that side boundary setbacks would be appropriate for dwellings even where facing a common driveway, provided that dwelling provides sufficient private open space. It's also appreciated that

what comprises a side/rear boundary may be a matter for discretion/interpretation on irregular-shaped sites. Given that battle-axe dwellings will be performance-assessed, this would allow the relevant authority to consider the neighbourhood pattern and context, and assess the proposed setbacks on merit in the particular circumstance. For these reasons, it is considered inappropriate to prescribe different side/rear setbacks for battle-axe sites.

Ancillary accommodation/structures

Engagement feedback:

Feedback from local government highlighted the following concerns with the pathways and policies for ancillary accommodation:

- Ancillary accommodation should not be a deemed-to-satisfy form of development as there are issues with such forms of development being used as second dwellings / holiday houses with associated impacts on CWMS infrastructure, stormwater infrastructure and parking in peak periods.
- There are insufficient policies included for ancillary accommodation which should include site coverage, setbacks, limit to single storey (or privacy treatment criteria), design, materials to be consistent with the existing dwelling on the site and a requirement that it be ancillary to a dwelling on the site.

Clarification: The land use definition of 'ancillary accommodation' ensures such buildings will be subordinate to a main dwelling. DTS/DPF 16.1 of the Design in Urban Areas module applies to deemed-to-satisfy ancillary accommodation and applies criteria for setbacks and height.

- Ancillary structures should include criteria for clearance from overhead powerlines.
- Outbuildings should have requirements for internal dimensions for covered car parking spaces.

Commission's Response:

Given that ancillary accommodation must be located behind the building line of the associated dwelling, and is commonly not visible from the street, the use of complementary materials is not considered a requisite requirement (and nevertheless such qualitative criteria would not be compatible with a deemed-to-satisfy pathway).

Ancillary accommodation is a common form of development in residential areas and is considered appropriate for a deemed-to-satisfy pathway given its subservience to a main dwelling and the criteria limiting its size.

Minimum car park internal dimensions are an important consideration when assessing new houses and additions (based on dwelling type and number of bedrooms) to ensure the convenient parking of vehicles. An application for an outbuilding in isolation will not increase parking demand therefore there is limited use in mandating internal dimensions as on-site car-parking arrangements would have been assessed and deemed appropriate when the associated building was originally approved. If a dwelling/dwelling addition is proposed in association with an outbuilding, minimum garage internal dimensions would be provided with the dwelling application.

Other feedback

- The Code should provide a deemed-to-satisfy pathway for all land divisions that create up to 5 allotments provided no new public roads are created and the resulting allotments achieve the required minimum site areas and frontage widths.

Commission's Response: It is considered appropriate to introduce a deemed-to-satisfy pathway for land division which does not follow a land use but which meets the numeric criteria in the General Neighbourhood Zone. It's acknowledged that complying pathways for land division without a land use have not typically existed before, so it's proposed to introduce this pathway only in the General Neighbourhood Zone where a high volume of typical infill subdivision occurs. The Commission will monitor and review the effectiveness and suitability of this pathway as the new planning system commences operation.

- The Code should transition the non-complying lists in current development plans to Table 4 – Restricted Development, particularly special industry, general industry (which is listed as restricted in the Business Neighbourhood Zone), light industry, service trade premises, bulky goods outlet, petrol filling stations and motor repair stations.

Commission's Response: The restricted development threshold is a procedural trigger to require a more comprehensive assessment pathway. Unlike non-complying development in Development Plans, the restricted development threshold does not indicate that a development is inappropriate or otherwise. The policy itself (DOs, POs and DTS/DPF criteria) are the only matters that should be used to assess the merits of a performance-assessed development. Due to the differences in non-complying and restricted development, it is considered inappropriate to transition all non-complying development to restricted development in the Code.

- A separate site coverage requirement of 50% for dwellings excluding outdoor covered areas, outbuildings etc. is recommended.

Commission's Response: Eaves are already excluded from the 60% site coverage criteria to ensure energy efficient design is not disincentivised. 50% for dwellings alone represents a substantial contrast to the scale of development currently permitted under the Residential Code complying criteria in Schedule 4 clause 2B of the Development Regulations 2008 (ResCode). Further, new minimum site perviousness requirements will complement site coverage to promote positive outcomes.

- A TNV for building heights to reflect current development plans is needed.

Commission's Response: The General Neighbourhood Zone has been created with the intent to provide a standardised set of policies throughout the residential areas in South Australia, to provide consistency in development policies. Areas which warrant different parameters should be considered for inclusion in a different zone, to be assessed against the principles of application of that zone.

- Further consideration should be given to good urban design principles for all infill development, regardless of the intended zone, with a greater emphasis on existing built form character and amenity.

Commission's Response: The Commission has considered the design quality of infill development, primarily through policies in the Design in Urban Areas General Development Policies. Considerable enhancements are proposed which exceed the current Residential Code, including articulation, soft landscaping, tree planting and minimising garage width.

- Building height should allow for a maximum building height of up to three building (3) levels in appropriate circumstances.

Commission's Response: The General Neighbourhood Zone has generally been applied in areas where the current Residential Code applies, which currently limits maximum building height to 2 levels. It is considered inappropriate to substantially change the building scale in these areas.

- Additional policy is needed to require wastewater-generating development to be connected to SA Water mains sewer if it is to follow a deemed-to-satisfy pathway. Performance-assessed development should also have this requirement with a corresponding DPF.

Commission's Response: Policies in the Infrastructure and Renewable Energy Facilities General Development Policies will ensure that new wastewater-generating development is connected to either an approved common waste water disposal service, or where this is not available, an on-site waste water treatment system.

Commission's Recommendations:

P.64 CREATE a new Waterfront Neighbourhood Zone to capture waterfront areas where current development plan policy references the design of dual frontage sites and the relationship to the waterfront. In this zone:

- setback and design parameters will be provided specifically for dual frontage sites with frontage to a waterfront
- TNV data can populate policy regarding minimum site areas, site frontages and building height in a manner consistent with current development plan policies.

P.65 CREATE a new 'Hills Neighbourhood Zone' to capture areas where current policy references land gradients and topography. In this zone:

- Policy will guide building form in undulating areas given that the Sloping Land Overlay will be removed from the Code (*see discussion in Natural Resources and Environment chapter of this report*)
- TNV data can populate policy regarding minimum site areas, site frontages, and building height, in a manner consistent with current development plan policies

P.66 CREATE a new 'Established Neighbourhood Zone' to capture areas covered by the Historic Area Overlay, Character Area Overlay, and areas where current development policies seek a specific built form character that is not compatible with the General Neighbourhood Zone or Suburban Neighbourhood Zone. In this zone:

- Technical and Numeric Variation data can populate policy regarding minimum site areas, site frontages, side setbacks, site coverage and building height, in a manner consistent with current Development Plan policies
- Policies ensure dwelling additions are compatible with the character of the area

P.67 CREATE a new 'Neighbourhood Zone' to capture regional/rural areas which would benefit from different policies regarding on-site wastewater treatment, larger outbuildings, etc.

In this zone:

- TNV data can populate policies on minimum allotment size, frontage, building height and concept plans to create better consistency with current development plans
- A larger minimum floor area for outbuildings applies on sites greater than 800m² (80m² rather than 60m²).

- A minimum allotment size of 1200m² applies for sites that are not connected to mains sewer or a common wastewater disposal service.
- A maximum floor area of 50m² applies for shops, offices and consulting rooms which would better respond to the local context and economic conditions in regional locations
- References to policy from the new 'Design' General Development Policies rather than Design in Urban Areas to enable the zone to utilise design policy that better responds to a rural context.
- A new 'Waterfront Subzone' provides additional design policy relating to buildings in waterfront (some coastal and riverfront) locations.

P.68 CREATE a new 'Golf Course Estate' Zone that:

- Facilitates development of a golf course and associated club facilities (e.g. clubroom, shop and office as well as tourism accommodation and residential development)
- Includes the ability to use TNVs for minimum allotment size, frontage and concept plans
- Includes policy relating to on-site wastewater treatment, including a minimum allotment size of 1200m² for sites that are not connected to mains sewer or a common wastewater disposal service
- Includes policy about the built form of residential development around the golf course.

Note: Refer to Code Spatial Application section of this report for recommended spatial application of these new zones.

P.69 AMEND DTS/DPF 1.1 to add 'student accommodation' and 'consulting room'.

P.70 DELETE PO/DTS/DPF 1.2 given that the types of residential development envisaged are covered by PO/DTS/DPF 1.1.

P.71 CREATE new PO/DTS/DPF to guide the scale of home-based businesses, with a DTS/DPF criteria setting a maximum gross leasable floor area of 50m².

P.72 AMEND PO/DTS/DPF 1.5 and 1.6 to:

- (a) provide for shops, offices and consulting rooms up to 100m² where located more than 500m from an Activity Centre to contribute to walkability
- (b) provide for shops, consulting rooms and offices up to 200m² where located adjoining an Activity Centre (not adjacent) to support the limited expansion of existing Activity Centres.

P.73 AMEND PO 2.1 to acknowledge that sites should be of suitable size and dimension to accommodate the anticipated residential form, while being compatible with a predominantly low-density neighbourhood, with higher densities appropriate in areas near public transport, activity centres or public open space.

P.74 AMEND DTS/DPF 2.1 to:

- clarify that the minimum site area for group and residential flat buildings is calculated from the total development site area divided by the number of dwellings

- clarify that the criteria does not apply to a dwelling located on an existing allotment that will be the only dwelling on that allotment.

P.75 CREATE new PO/DTS/DPF 2.3 setting out deemed-to-satisfy criteria for land division which isn't preceded by a related land use application, with criteria for minimum site dimensions, no more than 5 additional allotments, site gradient less than 12.5%, no regulated tree within 20m of the site, does not involve creation of a public road, vehicle access, no allotments are in a battle-axe configuration, and able to accommodate a rectangular building envelope.

P.76 AMEND DTS/DPF 5.1 regarding primary street setback to:

- Refer to 'building line' setback
- Delete setback from 'arterial road or collector road' given the transport route and road widening overlays will guide the suitability of development on state maintained roads.

P.77 DELETE PO/DTS/DPF 5.2 relating to projections into the primary street setback, as this is covered in the administrative definition of 'building line'.

P.78 AMEND PO and DTS/DPF 7.1 to clarify that boundary wall limitations relate to all buildings, not just dwellings, and increase boundary wall length permitted to 11.5 metres to allow for tandem garage arrangements on boundaries.

P.79 AMEND setback policies to clarify it is measured from the building wall (not eaves or open-sided projections).

P.80 AMEND DTS/DPF 5.1 and 6.1 to allow buildings to be located closer to the primary or secondary street frontage if buildings on adjoining land located closer than the distance specified.

P.81 DELETE PO/DTS/DPF 8.1 (Façade Design) as similar policy is already included in Design in Urban Areas General Development Policies.

P.82 CREATE policies regarding side and rear setback (consistent with that identified in the Code Update Report).

P.83 AMEND Procedural Matters – Notification to exempt the following forms of performance assessed development from notification:

- Development that is minor in nature in the opinion of the relevant authority
- Development undertaken by the South Australian Housing Trust, except a residential flat building or buildings of 3 storeys or greater, or demolition of a State or Local Heritage Place.
- Comprises addition/alteration of an existing community facility, educational establishment or pre-school which exceeds the DTS/DPF criteria
- Development envisaged in the zone or ancillary to envisaged land uses except where such development:
 - comprises demolition of a heritage place
 - fails to comply with maximum floor area limits for non-residential development, and/or
 - fails to comply with building height policy

P.84 AMEND applicable policies for ancillary accommodation (in both deemed-to-satisfy and performance-assessed pathways) to include the following criteria:

- site coverage
- connection to waste water disposal system
- clearance from overhead powerlines.

Suburban Neighbourhood Zone

This zone replaces the current Residential Zones but rather than adopting a uniform approach as per the General Neighbourhood Zone, it provides for local variations to carry forward existing development plan parameters relating to building heights and allotment sizes. It is applied where the current development plan policy intent is not compatible with the General Neighbourhood Zone.

A number of submissions sought amendments to the Suburban Neighbourhood Zone, with similar feedback received to the matters raised on the General Neighbourhood Zone. The majority of feedback related to:

- Non-residential development (shops, office and consulting rooms)
- Restricted development
- Setbacks
- Accepted and deemed-to-satisfy pathways
- Public notification exclusions

Non-residential development

Engagement feedback:

Feedback from local government and community raised concern with the scale of non-residential envisaged in the Suburban Neighbourhood Zone. Alternatively, submissions from development industry sought to accommodate additional non-residential uses in the zone such as telecommunications facilities and retail fuel outlets. The following comments were received:

- A new zone or subzone should be established which is solely focussed on maintaining and enhancing the residential character of a locality by encouraging residential developments and restricting or prohibiting commercial land uses.
- Policies should not encourage non-residential uses as a desired land use in predominantly residential areas.
- A new TNV is needed to restrict the floor area of non-residential land uses (shops, offices, consulting rooms etc.) in accordance with current development plan policy.
- Envisaged uses such as preschools, childcare, health and welfare services, and recreation facilities should have size restrictions applied to increase their compatibility with the residential character of the area.
- Consulting rooms, shops and offices may be suitable where sites have a frontage to an arterial road, but the envisaged scale of consulting/commercial activities is not suitable in the middle of a residential area.
- Consulting rooms and offices should not have a floor area cap and should be listed in DTS/DFP 1.3 & 1.4 of the Suburban Neighbourhood Zone for services and facilities ancillary to the function or operation of supported accommodation or retirement facilities.
- Intensification of commercial or retail activities in low-density residential areas is not supported due to the impacts that such commercial intensification will place on residents, residential streets and traffic. Car parking has the potential to be a significant impact in particular as it will compound demand for on-street parking, which in many areas is already under pressure.
- The proposed policy promotes leakage of commercial and retail development from activity centres and urban corridor zones.

- The impacts from non-residential development in residential areas on traffic, parking, amenity, noise, liveability and character.
- There are some instances where small non-residential uses can be accommodated in residential areas, e.g. a medical or child care centre. Policy which places the onus on the applicant to demonstrate a need for the development and to ensure that the use services the immediate locality is needed.
- In regards to PO 1.5 (non-residential land uses), there are no policies to assess community services, supported accommodation / retirement facilities or open space and recreation facilities.
- In former historic conservation areas, shops should be in a building originally constructed as a shop and be no more than 100m².
- Larger shops up to 200m² are anticipated on arterial or collector roads or adjacent a Main Street or Activity Centre Zone. These parameters may be appropriate as a DPF i.e. assessing a performance-assessed development but not if applied as a DTS development.

Clarification: This policy would not function as a DTS, only a DPF, because no forms of commercial development are listed in Table 2 - Deemed-to-Satisfy Development Classification in this zone.

- Non-residential development should not be deemed-to-satisfy and should instead be performance-assessed.

Clarification: Non-residential development is not listed in Table 2 - Deemed-to-Satisfy Development Classification in this zone and therefore would not follow a deemed-to-satisfy pathway.

- There is no objection to the proposed floor areas of non-residential development, but conditions allowing 7am to 9pm are considered excessive.
- Policy needs to refer to forms of development that are generally not considered appropriate within the zone. This has the advantage of enabling these forms of development to still be considered on merit if there is appropriate justification.
- Retail fuel outlet should be included specifically as a Performance Assessed Class of Development in Table 3, subject generally to the same Applicable Policies as relate to use of land for a Shop.
- Telecommunications Facility should be added to the Performance Assessed Table 3.

Commission's Response:

The current Residential Zone in development plans (based on the SAPPL) encourages non-residential development of a nature and scale that serves the local community and is consistent with the character of the locality. PO 1.3, 1.4, 1.5 and 1.6 of the Suburban Neighbourhood Zone carries forward the intent of this policy but provides a DTS/DPF solution where limiting floor area to 100m² (except where adjacent an activity centre or arterial/collector road, where 200m² applies), whether individually or combined.

The Commission endorses an amendment to the policy to ensure that non-residential development in predominantly residential areas:

- supports home-based businesses in all areas (up to 50m², such as a room within a house)

- supports small standalone shops, offices and consulting rooms (up to 100m², such as the front part of a house) where there are no nearby activity centres to encourage walkable neighbourhoods
- allows larger shops, offices and consulting rooms (up to 200m², such as conversion of an existing house) where:
 - (a) they adjoin an activity centre to enable the moderate expansion of existing centres where demand exists
 - or
 - (b) are located on main road which can provide beneficial exposure for commercial premises, but only where there are no nearby activity centres to encourage walkable neighbourhoods.

Polices in Design in Urban Areas, Interface Between Land Uses and Transport, Access and Parking General Development Policies are considered sufficient to guide the assessment of non-residential land uses.

PO 1.3 limits commercial uses such as offices and consulting rooms to 'small scale', while community services (such as churches, schools, community centres, childcare and health/welfare services) do not have the same restriction because these types of community infrastructure can often be larger. In such cases, PO 1.4 provides further policy guidance to require non-residential development to be compatible with the residential character and amenity of a neighbourhood, and therefore is considered sufficient to guide the scale of these land uses.

It is however considered appropriate to introduce a policy which enables expansion of existing community facilities and schools.

Restricted development

Engagement feedback:

Feedback from local government and the community generally sought to reinstate non-complying lists from development plans as restricted development, with the following specific comments received:

- Why is 'shop' (over 1000m²) a restricted development but no other forms of development with potentially greater impact, e.g. industry, waste treatment, intensive animal keeping
- A reduction in the 1000m² 'shop' restricted trigger is needed, including requests for:
 - 100-200 m² to align with DTS/DPF criteria
 - 250 m²
 - 500m² to still allow for several shop and or small cafes to service neighbourhood precincts
- All non-complying uses in current Development Plans should be listed as restricted.
- There is significant concern about existing non-complying uses being performance-assessed, e.g. hotels, petrol stations, warehouses and wrecking yards.
- Mobile phone towers should be classed as restricted development in the Historic Area Overlay to enable a more rigorous assessment.

Commission's Response:

The restricted development threshold is a procedural trigger to require a more comprehensive assessment pathway. Unlike non-complying development in development plans, the restricted

development threshold does not indicate that a development is inappropriate/not envisaged in the zone. The policy itself (DOs, POs and DTS/DPF criteria) are the only matters that should be used to assess the merits of a performance-assessed development.

Due to the differences in non-complying and restricted development, it is considered inappropriate to transition all non-complying development to restricted development in the Code.

There is considered to be sufficient policy in the Historic Area Overlay and Infrastructure and Renewable Energy General Development Policies to provide sufficient rigour in the assessment of telecommunications facilities. It is acknowledged that telecommunication facilities provide an essential form of infrastructure to our modern communities and precluding such infrastructure in certain areas could lead to 'black spots' in mobile coverage.

Setbacks

Engagement feedback:

A number of local government and community submissions sought increases to setbacks throughout the zone, including the following:

- The word 'building' DTS 4.1(a) regarding front setback should be replaced with 'main face of the adjacent dwelling' as reference to building could capture a masonry wall, retaining wall or carport.
- The use of the word 'buildings' in DTS 4.1(b) should be replaced with 'dwelling' to ensure a more consistent approach to setbacks.
- Building setback from primary street boundaries policy doesn't cover a situation where one of the adjacent sites is vacant.
- Setbacks from primary road frontage for sites not connected to mains sewer should be increased to at least 6.5m to allow for the installation of standard wastewater systems in the front yard.
- DTS 6.1 regarding secondary street setbacks should remove the portion of the clause that relates to buildings on other sites.
- All development should be set back 900mm from a secondary street boundary.
- Secondary street setbacks should be increased from 900mm to at least 2 metres.
- There is significant concern that building setbacks from side and rear boundaries will decrease, particularly at upper levels, which will impact amenity and privacy. Existing siting, setback and floor area criteria should therefore be maintained throughout all residential areas.
- Reduced side setbacks in relation to secondary street boundaries do not align with current policy and a TNV for a secondary street setback of 3.0m is recommended.
- Quantitative provisions such as side boundary and front boundary setbacks for development should be no less than currently exists in the Burnside Development Plan.
- Regarding PO/DTS/DPF 7.1, a 10m boundary wall would be excessive and should be limited to 8m as per current regulations, allowing longer walls to be assessed in the context of the situation as part of a performance-assessed development.
- variation to the upper level rear setbacks for dwellings should be enabled and an option for TNVs in DTS/DPF9.1 for upper level rear boundary setbacks be inserted.
- A 3m rear setback for single storey and 5 for upper storey is considered too small and should be at least 5m and 8m.

- To address a sense of enclosure, the permissible rear setback should be increased to 8m and the PO amended.
- Rear setbacks for ground and upper levels should be increased to 4m and 6m respectively to accommodate tree planting.

Commission's Response:

It is acknowledged that the residential areas covered by the Suburban Neighbourhood Zone (as consulted) can vary in form and character and include areas of historic and character value. To cater for this level of variation in character, a new Established Neighbourhood Zone is proposed to apply over areas covered by the Historic Area Overlay and Character Area Overlay as well as certain areas where current development plan policies differ from the policy intent of the Suburban Neighbourhood Zone.

This new zone would provide capacity for policies prescribing minimum site dimensions, side setbacks, site coverage and building height to be populated by TNV data, allowing current development plan policies to be transitioned into the Code.

The setbacks in the remainder of the Suburban Neighbourhood Zone are considered sufficient to reflect the desired outcomes of the zone.

Accepted and deemed-to-satisfy pathways

Engagement feedback:

Comments on Table 1 – Accepted Development Classification and Table 2 – Deemed-to-satisfy Development Classification sought to ensure that streamlined pathways for minor structures (e.g. carports, outbuildings, swimming pools, shade sails, water tanks and verandahs) should not be prevented by irrelevant overlays, such as the Native Vegetation Overlay or the Hazard (Medium Bushfire) Overlay.

Other comments raised concern with the pathways provided, including:

- Verandah - while permitted a maximum boundary length of 10 metres, it is suggested a boundary site length maximum as a percentage of the lot depth be added to ensure consistency with other forms of domestic structures.
- A garage length of 10m along a boundary can create significant negative impacts for a neighbour and should be subject to assessment against its performance.
- The Updated Classification Tables have character and historic area overlays removed from exempting dwelling additions as being deemed-to-satisfy. This is inconsistent with the practice direction and is a significant step away from existing policies and procedures. Dwelling additions should be excluded from deemed-to-satisfy where a character and/or historic area applies.
- Deemed-to satisfy-provisions should not extend to development within Character Area Overlays or Historic Area Overlays, in particular development visible from the street e.g. dwelling additions, carports and garages that have an impact on streetscape.
- Development that impacts on the public realm e.g. new dwellings, dwelling additions to the side or front of an existing dwelling, carports or garages visible from the street should not be 'deemed to satisfy' development in the zone.
- Any boundary development over 1.8 metres in height should be performance-assessed.
- Additional policy that requires wastewater-generating development to be connected to SA Water mains sewer if it is to fall into a deemed-to-satisfy pathway is needed.

Clarification: DTS/DPF 11.2 of the Infrastructure and Renewable Energy General Development Policies ensures new dwellings will have connection to water supply.

Commission's Response:

In response to consultation feedback regarding the perceived unwarranted obstruction of accepted and deemed-to-satisfy pathways where certain overlays apply, a review of all classification tables and overlay relevance has been undertaken, as discussed in the Procedural and Technical section of this report.

Suitability of the deemed-to-satisfy criteria for dwelling additions and ancillary structures visible from the street in Historic/Character areas is considered in the Character Area Overlay and Historic Area Overlay discussion in this report.

Concerns regarding boundary development are noted, however one of the key focus points of the Commission's infill improvement policies is to minimise the visual dominance of garaging. Accordingly, the ability to provide a tandem or 'stacked' garage arrangement is important, and therefore it is considered appropriate to allow for side boundary walls to align with the standard length of such garages (i.e. 5.5 metres for 2 spaces, plus approx. 240mm wall thickness each end).

That being said, it is noted that the proposed Established Neighbourhood Zone (including areas covered by the Character Area Overlay or Historic Area Overlay) anticipate a lower level of residential infill. It is considered appropriate to reduce the DTS/DPF standard for boundary wall length to 8 metres in this new zone.

Notification

Engagement feedback:

A number of submissions requested amendment to Table 5 – Procedural matters. Local government observed that the current extent of public notification for performance-assessed development applications would result in excessive and unwarranted public notification requirements for development that is minor in nature, whereas many more significant developments wouldn't require notification. The lack of consistency in notification triggers between different 'neighbourhood' zones was raised and community members generally sought an increase in the scope of development requiring notification.

The following specific requests for amendment were received:

- Remove '4 or more additional allotments' and 'any development adjacent a different zone' from the notification triggers
- Notification for additional dwellings, a two-storey development, earthworks where a new dwelling is 600mm above ground level and a change of use from residential to non-residential is needed
- Notification for land division, all development which increases development intensity (i.e. additional dwellings on the site, two storey, change of use from residential to non-residential and earthworks where a new dwelling is located 600mm above ground level) should be publicly notified
- Shops, consulting rooms or offices that exceed the maximum gross leasable floor area for the zone identified by DTS/DPF 1.3 & 1.4 should be subject to notification.

Commission's Response:

As a principle, neighbours should be notified of performance-assessed development which falls outside of the rules of the zone or is not envisaged in the zone. It is appreciated that the consultation version of the Suburban Neighbourhood Zone could be improved to achieve this outcome.

The notification exclusions are proposed to be reviewed to accord with the following, except where acceptable standards of built form or intensity are exceeded:

- a) an accepted class of development identified in Table 1 of the zone
 - b) a deemed-to-satisfy class of development identified in Table 2 of the zone
- or
- c) a type of development envisaged in the zone.

In the case of neighbourhood zones, the standards which have the potential to impact on the locality where exceeded are considered to be building height and non-residential floor areas.

Other feedback

A number of requests were received to incorporate variations in the zone's policies regarding upper level rear setbacks, secondary street setbacks, building height, site coverage and non-residential floor areas to align with development plans.

Other comments regarding the zone's policies included:

- A request to include 'Dwelling' and 'Detached dwelling in a battle-axe arrangement' in Table 3 – Applicable Policies for Performance Assessed Development

Commission's response: Assigning policies to battle-axe development has been considered in the wholesale review of Classification Tables and application of applicable policies. It is noted that listing a land use in Table 3 does not signify its appropriateness in the zone or otherwise, and should only be undertaken where the scale and form of a development has low variability and the policies to be assigned are known. 'Dwelling' would not satisfy this test, as it could range from a tiny house to an apartment building.

- There is inadequate policy to limit and/or guide key built form aspects of a store, such as size and height. Stores on vacant land are not an orderly development outcome and pose a serious issue in regional SA with the proliferation of people living in sheds and leading to visual, amenity, public health (wastewater issues) and illegal changes in land use.

Commission's response: The Code has been drafted in a manner which speaks to the types of development that are envisaged, not what is discouraged or inappropriate. If a store were proposed in a residential area, the desired outcomes and performance outcomes on envisaged land uses should provide sufficient guidance on land use suitability. Additionally, policies regarding built form could be relevant to assess impacts on adjoining land.

- 'Supported accommodation' and 'retirement facilities' should be added to the list of specifically envisaged development and to Table 3 - Applicable Policies for Performance Assessed Development

- A new PO to allow for development on consolidated sites greater than 5,000m² is needed to increase housing choice by providing dwellings, supported accommodation or institutional housing facilities at densities and heights greater than, but compatible with, adjoining residential development.

Commission's response: It is considered appropriate for supported accommodation to be listed as an envisaged land use in the Suburban Neighbourhood Zone.

Amalgamation of sites is encouraged by policies in the Urban Renewal Neighbourhood Zone as well as Urban Corridor Zones where the scale of form of envisaged development warrants larger

site areas to appropriately mitigate impacts to lower-density residential areas. Such provisions are considered inappropriate in the Suburban Neighbourhood Zone given this zone comprises a lower-density residential area.

- Policy should reference complementary roof pitch, materials, finishes, etc., specifically in relation to previous Historic Conservation Areas.

Commission's response: These matters may be referenced in Historic Area Statements in the Historic Areas Overlay

- Policy should make provision for a second storey in the roof space or set behind a primary street façade.
- Additional policies to reduce the streetscape dominance of 2-storey development and ensure appropriate land division patterns are needed.

Commission's response: Such policies have been considered in the new Established Neighbourhood Zone.

- The minimum allotment size for land having a gradient between 12.5% and 25% should be increased to at least 1200 m² instead of the existing 1000sqm / 15m frontage.

Commission's response: These standard policies are proposed to be deleted and instead rely on TNV data to transition current development plan policy.

- The title Suburban Neighbourhood Zone is confusing in relation to the primary intent of the zone. It is suggested the title be amended to include the word 'residential' to provide a clearer explanation of the zone's purpose.
- The descriptor 'Low Density' should be included in this zone's name to send a clear message about the level of density anticipated.

Commission's response: The term 'neighbourhood' has been selected in the Code Library to represent the diversity of uses that may exist and continue to be envisaged within our typical suburban neighbourhoods (e.g. not just dwellings but also corner shops, schools, etc.)

- A PO that restricts battle-axe allotments is needed.

Commission's response: Battle-axe development is a legitimate form of infill development where designed in accordance with the relevant criteria. Policies which guide setbacks and privacy ensure dwellings on battle-axe sites achieve an appropriate level of neighbourhood amenity.

Commission's Recommendations:

- P.85** **DELETE** Desired Outcome 2 (transition into the new Hills Neighbourhood Zone).
- P.86** **AMEND** DO 1 and PO 1.2 to delete reference to very low-density housing.
- P.87** **AMEND** DTS/DPF 1.1 to add ancillary accommodation, consulting room and supported accommodation.
- P.88** **CREATE** new PO/DTS/DPF to guide the scale of home-based businesses.
- P.89** **AMEND** PO/DTS/DPF 1.3 and 1.4 to:

- (a) provide for shops, offices and consulting rooms up to 100m² where located more than 500m from an Activity Centre to contribute to walkability
- (b) provide for shops, consulting rooms and offices up to 200m² where located adjoining an Activity Centre (not adjacent) to support the limited expansion of existing Activity Centres.

P.90 **AMEND** DTS/DPF 2.1 and 2.2 to combine into a single policy, remove reference to slope (site gradient), and apply minimum site dimension and frontage based on the applicable TNV.

P.91 **AMEND** DTS/DPF 5.1 to provide greater clarity that front setback comprises the average distance between the building line and front boundary of buildings on adjoining sites (including those sites separated from the subject land by a road).

Residential Neighbourhood Zone

This new zone applies in rural areas and provides for low-density housing within low rise buildings, often with large outbuildings. Considerable space for trees and other vegetation around buildings, as well as on-site wastewater treatment, is encouraged where necessary.

There were a considerable number of responses received on the Residential Neighbourhood Zone, focussing on policy for non-residential development, site dimensions and dwelling types. The following comments were made:

Non-residential development

Engagement feedback:

- There were mixed views in relation to the extent of non-residential development that should be allowed in the zone. Some respondents indicated that opportunities for non-residential uses should be expanded and that the floor area prescribed for shop office and consulting room was too low, being only slightly higher than the current floor area for a home activity.
- Increasing the DTS/DPF floor-area threshold for shops, offices and consulting rooms above 50m² is suggested as it is considered unreasonable for a combination of the uses to achieve.
- The scale of non-residential development envisaged is not appropriate due to the very low density nature of the zone and the restricted development criteria should be reviewed in this context.
- The restricted floor area threshold for shop to 100m² should be lowered.
- Consulting room, office and shop should be made restricted development unless in association with a residential use.
- Educational facilities should be a restricted form of development as they have a high impact in a zone that envisages very low residential densities.
- Additional policy measures that discourage non-residential development should be included.

Clarification: The Code has been drafted in a manner which speaks to the types of development that are envisaged, not what is discouraged or inappropriate. The desired outcomes and performance outcomes on envisaged land uses should provide sufficient guidance on land use

suitability. Additionally, policies regarding built form could be relevant to assess impacts on adjoining land.

- All forms of development currently listed as non-complying should be transitioned to Table 4 – Restricted Development.

***Clarification:** The restricted development threshold is a procedural trigger to require a more comprehensive assessment pathway. Unlike non-complying development in development plans, the restricted development threshold does not indicate that a development is inappropriate or otherwise.*

Commission's Response:

The dichotomy of views regarding non-residential development in the zone is noted. It is considered appropriate to maintain the 50m² floor area limit to ensure the zone maintains a focus on predominantly residential land uses, with ancillary home businesses where appropriate.

It's acknowledged that land uses such as 'community facility' and 'educational establishment' are not common in rural residential areas and therefore need not be expressly desired in the zone.

Dwelling types and site dimensions

Engagement feedback:

- A minimum allotment size of 1200m² listed in DTS/DPF 8.1(b) may not be appropriate given other site restraints and these factors should be considered during assessment to determine whether 1200m² is appropriate.
- The minimum site area requirement for on-site waste treatment is too restrictive (1200m²) given that in some circumstances this can be achieved on 900m².
- A more diverse range of housing typologies should be encouraged by policy to provide greater housing choices to those areas currently zoned Mixed Residential Zone.
- It is not appropriate for the zone to include references to group dwellings and residential flat buildings due to the zone's low-density character.
- More robust policy measures to specified settlements are needed (Crafers, Stirling, Aldgate and Bridgewater) and recommend the transition of the council's current 'Median Rule Land Division' mechanism for 'Site dimensions and land division' policy
- An additional PO that seeks to preserve existing vegetation is needed to reflect the spatial application of the zone in dense areas of native vegetation in the Adelaide Hills.

Commission's Response:

It is appreciated that the zone primarily applies to low density rural areas where residential flat buildings, group dwellings and supported accommodation are generally not developed.

Requests for specific policy to apply in the Adelaide Hills demonstrates that a new subzone would be suitable to transition policy from the Adelaide Hills Development Plan to the areas of Crafers, Stirling, Aldgate and Bridgewater.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- P.92** **RENAME** 'Residential Neighbourhood Zone' to 'Rural Neighbourhood Zone' to better reflect the very low density rural residential nature of development envisaged.
- P.93** **AMEND** DO 1 and POs that refer to low-density or low-rise as these terms are defined in the administrative definitions and may conflict with TNVs.
- P.94** **AMEND** DTS / DPF 1.1 relating to land uses to:
- (a) remove reference to 'residential flat buildings' which are not envisaged a zone that supports very low density development in a spacious rural setting
 - (b) include 'consulting rooms', noting that other policy in the zone already references consulting rooms and limits the floor area to 50m²
 - (c) remove other land uses that would not be expected in a very low density regional residential setting such as 'community facility', 'educational establishment' and 'supported accommodation'.
- P.95** **AMEND** setback policy, in particular:
- (a) DTS / DPF 3.1 – Reduce the front setback from 10m to 8m
 - (b) DTS / DPF 4.1 – Reduce the secondary street setback from 4m to 2m
- P.96** **AMEND** DTS / DPF 7.1 to increase the maximum floor area for ancillary buildings and structures to 120m² for sites greater than 2000m².
- P.97** **REMOVE** site coverage requirements as these are unnecessary due to very large allotment sizes contemplated in the zone.
- P.98** **REMOVE** policy relating to external appearance of 'group dwellings', 'residential flat buildings' and 'battle-axe' development given that these forms of development would generally not be expected in this zone.

Phase Three (Urban Areas) recommendations:

- P.99** **CREATE** a new 'Adelaide Hills Subzone' to transition the policy in that region which seeks:
- additional residential and tourist accommodation that retains and embraces the values of the established mature vegetation as a defining characteristic of the area
 - land division that is sympathetic to the allotment pattern and characteristics within the locality.

Residential Park Zone

This zone envisages accommodation predominantly in the form of caravan and camping sites, cabins and transportable dwellings, with associated small-scale services and facilities. It applies in areas subject to the Residential Parks Act 2007 such as caravan parks.

Engagement feedback:

Feedback centred on additional policy recommendations, refining proposed criteria and retention of passages from desired character statements. The feedback can be summarised as follows:

- 'Shop', except where ancillary to a residential park and less than 150m², and 'Industry' are currently non-complying land uses. The transition of these two classes of development to the restricted table and the lowering of shop criteria from 1000m² to the current 150m² is recommended. The transition of existing non-complying land uses to restricted is encouraged.

Clarification: The restricted development threshold is a procedural trigger to require a more comprehensive assessment pathway. Unlike non-complying development in development plans, the restricted development threshold does not indicate that a development is inappropriate or otherwise.

- An additional PO is encouraged to control or reference building heights desired in zone.
- PO 1.4 does not reference shops being ancillary, a departure from existing policy.
- The transition of existing policy that requires internal roads to be surfaced to mitigate potential dust is sought.
- Semi-permanent structures should be recommended in areas prone to flooding, bushfire and other natural hazards.
- DTS/DPF 1.5 should be amended to reference 150m², as 250m² is a departure from existing floor area limits. Reference to 'small-scale' in PO 1.5 should be removed as it is ambiguous.
- PO 3.1 should be expanded to encourage greening to provide shading and/or cooling.

Commission's Response:

PO 1.1 refers to 'low-scale', which itself acts as a height control, as development should satisfy this criterion (development up to two building levels).

PO 1.5 captures in the intent of PDC 4 of the Onkaparinga Council Development Plan, with shops ancillary to tourist accommodation anticipated.

It's considered appropriate to remove reference to 'small-scale' in PO 1.5 as shops associated with tourist facilities can be larger.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

P.100 **AMEND** DO 1 to clarify that the zone supports short-term accommodation and opportunities for 'affordable living' rather than 'affordable housing'.

Note: 'affordable housing' is a defined term that is not relevant in this context.

P.101 **AMEND** PO 1.2 to identify that permanent buildings can be established to accommodate offices in association / ancillary to a residential park.

P.102 **AMEND** DTS / DPF 1.1 to include 'office' and 'tourist accommodation' as land uses envisaged in the zone.

Phase Three (Urban Areas) recommendations:

P.103 **AMEND** PO 1.5 to remove reference to 'small scale'.

Greenfield Suburban Neighbourhood Zone

This zone primarily supports low-rise greenfield development in areas that will not include an activity centre. The focus is on addressing the majority of planning, design and infrastructure matters through the land division stage with a more flexible deemed-to-satisfy pathway applied for dwellings at the individual allotment scale.

Engagement feedback:

Feedback on the Greenfield Suburban Neighbourhood Zone raised the following matters:

- The zone should identify consulting rooms as an envisaged development type.
- The zone should allow higher densities above 100 dwellings/hectare. PO 1.5 should be amended so that limited amounts of 2 / 3 storey density residential development can occur.
- Telecommunications Facility should be added to Table 3 – Applicable Policies for Performance Assessed Development.
- 'Retail fuel outlet' should be included specifically as performance -assessed in Table 3, subject generally to the same applicable policies as a 'Shop'. Reference to hours of operation is unnecessary given the standards specified in relation to noise or vibration, air quality, light spill and other amenity impacts elsewhere in the General provisions and draft Code.
- Deemed to Satisfy (DTS) pathways for residential development should be reviewed and amended to ensure they are not diluted by the imposition of onerous overlay restrictions (e.g. Bushfire – Medium Risk) which would unreasonably restrict simple and expected classes of development.
- PO 2.1 / 2.2 should include an obligation on the infrastructure authorities and councils to plan for urban development in conjunction with the development industry at a more detailed spatial level than occurs at present.
- The provision of a 1.5ha open space per DTS 4.1 requires all of the open space provision of a 12ha parcel of land. This policy should not apply to land division applications where the subject land is less than 15ha in size.
- a DTS criteria in 7.1 to require 1 street tree per allotment is requested, which generally applies across different councils.
- The current policy refers to buildings 'complementing the height of nearby buildings', which is not relevant in a greenfield context.
- If the rear boundary is abutting a laneway then the rear setback should be able to be 0m for 2 levels.
- The trigger for notification of performance-assessed non-residential development should be consistent with the maximum gross leasable floor area for the zone identified by DTS/DPF 1.4.
- PO 4.2 could refer to sustainable and durable infrastructure.
- PO 7.1 could refer to trees chosen to thrive in hotter and drier conditions and seek to protect existing trees.

- This zone should include some hazard risk minimisation criteria that avoids development on hazard-prone land.

Commission's response:

The Greenfield Suburban Neighbourhood Zone and the Master Planned Suburban Neighbourhood Zone provide similar policy except that activity centres and associated commercial development are anticipated within the Master Planned Suburban Neighbourhood Zone. To improve the clarity of this approach, it is proposed to replace spatial application of the Greenfield Suburban Neighbourhood Zone with the Master Planned Neighbourhood Zone and apply a new 'Emerging Activity Centre Subzone' in areas where new activity centres are anticipated.

See discussion under Master Planned Suburban Neighbourhood Zone for further detail on recommended policy changes.

Commission's Recommendations:

P.104 REPLACE the 'Greenfield Suburban Neighbourhood Zone' with the 'Master Planned Neighbourhood Zone' (see policy recommendations of that zone).

Master Planned Suburban Neighbourhood Zone

This zone supports greenfield residential developments which include larger scale, non-residential uses (such as an activity centre). Like the Greenfield Suburban Neighbourhood Zone, the focus of this zone is to address the majority of planning, design and infrastructure matters through a master-planned approach with a more flexible deemed-to-satisfy pathway applied for dwellings at the individual allotment scale.

Engagement feedback:

The majority of feedback on the Master Planned Suburban Neighbourhood Zone was from submissions from development industry. The following amendments were requested:

- Excavation and retaining walls should be deemed-to-satisfy at 1.5m, with total cut/fill to 3m. A retaining wall and fence should be able to be 3.3m in height and be deemed-to-satisfy where located behind the front façade of the proposed dwelling. Such outcomes are commonplace in greenfield locations with some slope.
- Group dwellings should be deemed-to-satisfy subject to certain policies being met, and listed in Performance Assessed Table 3.
- Land division creating allotments where dwellings have already been approved should be deemed-to-satisfy.
- The Code should include provisions that facilitate requirements to be varied where the council has approved Building Envelope Plans within a Master Planned estate. The Code takes a 'one size fits all approach', which could reduce innovation and housing diversity and limit potential responses to the site's context.
- The front, side, rear and secondary street setbacks should be able to be altered with a Building Envelope Plan that is approved as part of a land division.

- The build on boundary wall length should be 11m not 10m to allow for stacked garages/carports.
- If a rear boundary is a laneway then a 0m setback should be permissible for both single and double storey structures.
- DTS/DPF 1.4 seems to require development have a minimum density of 40 dwellings/hectare whereas the ability to develop at a density above 40 dwellings/hectare should be the aim of the policy but not be required.
- Telecommunications Facility should be added to the Performance Assessed Table 3
- 'Retail fuel outlet' should be included as a performance-assessed class of development in Table 3, subject generally to the same applicable policies as a 'Shop'. Reference to hours of operation is unnecessary given the standards specified in relation to noise or vibration, air quality, light spill and other amenity impacts elsewhere in the General provisions and draft Code.

Clarification: Retail fuel outlet is listed an envisaged land use in the Master Planned Suburban Neighbourhood Zone. Table 3 does not indicate whether a land use is suitable or otherwise, and only includes land uses where standard policies can be applied to common land uses.

- The zone should reference access to electricity and the provision of electricity infrastructure.

Clarification: Policies under the heading Coordinated and Orderly Development in the zone guide the provision of infrastructure generally.

- A PO should be added that seeks the layout to be undertaken takes into account factors such as topography, orientation and views.

Clarification: These matters are guided by policies in the Land Division in Urban Areas and Land Division in Rural Areas General Development Policies.

- Reference to the 'scale' of non-residential uses is not sufficiently objective and other provisions adequately deal with the visual and other amenity impacts of proposed development on its locality. Recommend PO 1.5 (Land Use and Intensity) be amended by deleting the words 'are of a scale to'.
- Recommend amending DTS/DPF 3.5 to increase non-residential floor area from 250m² to 1000m², and allow such uses to be conveniently located to best serve the needs of anticipated customers.

Clarification: Reference to small-scale non-residential uses is intended to apply to residential areas not identified as an 'activity centre' on a concept/master plan. These areas will comprise predominantly residential land uses with only supporting and subordinate non-residential uses to maintain a neighbourhood scale and ensure the viability of new activity centres in these emerging neighbourhoods.

Council submissions raised the following matters:

- The Accepted Development table should be updated to remove restrictions for carports and outbuildings (and similar domestic outbuildings) due to the Native Vegetation Overlay.

- There is a need to ensure appropriate development is deemed-to-satisfy and not excluded by irrelevant overlays.
- Concept Plans and electricity transmission lines should be included as an overlay and be consistent with gas pipelines.
- The ability to ensure that shopping development is focused in centres needs reinforcement and concept plans need to be provided additional weight through additional policy.
- The Code needs to more closely transition current policies which identify preferred locations for activity centres while acknowledging that such centres may not in all cases be able to be delivered and therefore provide for alternate opportunities.
- There should be a maximum amount of public open space covered by drainage reserves.
- 'Activity centre' should be defined and included in the administrative definitions.
- Policy should provide guidance on the anticipated size of activity centres based on their location by including a DTS/DPF for PO 3.2 in the zone and retain the anticipated floor areas as TNVs to be applied spatially.

Clarification: The size of planned activity centres in the Master Planned Neighbourhood Zone can be assessed and authorised by the relevant authority on a case-by-case basis through the land division stage when concept/master plans are considered.

- To improve the identification of known contaminated sites, an overlay or a concept plan could be applied.

Clarification: The Environment Protection Authority currently maintains a database of potential contaminated land. This will be transitioned to the SAPPAs as a spatial dataset to assist in the assessment of planning applications – see associated discussion/recommendations in the Procedural and Technical > Referrals > EPA Referrals section of this report.

- An additional policy referring to allotments that abut the Hills Face Zone is needed to ensure they are of a sufficient size and shape to accommodate dwellings with appropriate setbacks from the zone boundary and include suitable landscape buffers. A DTS/DPF to ensure built form is set back a minimum of 40 metres from the Hills Face Zone boundary and includes a landscaped buffer of not less than 10 metres in width along the Hills Face Zone is recommended.

Clarification: Any areas of scenic value which currently have development plan policy guiding development complementary to the natural and rural character may be suitably covered by the new Scenic Quality Overlay. Refer to spatial application discussion in Code Spatial Application section of this report.

Commission's response:

Building Envelope Plans (BEPs)

It is acknowledged that BEPs will commonly exist in these developing areas and that deemed-to-satisfy standards should have regard to these site-specific requirements rather than applying a 'one size fits all' approach.

Accepted/deemed-to-satisfy pathways

It is considered appropriate to establish an accepted pathway for new dwellings in master planned areas which accord with an authorised BEP. In these cases, the building envelope would have already been assessed by the relevant authority, and therefore the subsequent dwelling application which complies with this envelope would gain limited benefit from another planning assessment.

It is considered appropriate to provide a streamlined assessment pathway for retaining walls up to 1.5m in height in these greenfield/broad-hectare areas given earthworks are more common there. Given that a standard 1.8m high fence would usually be constructed on top of retaining walls to maintain privacy between neighbours, a pathway for combined fence/retaining wall structures up to 3.3m in height is also supported. An accepted pathway is considered more suitable than deemed-to-satisfy given these structures would not involve a complex assessment.

A deemed-to-satisfy pathway for group and residential flat buildings is not proposed for Generation 1 of the Code due to the complexity of quantifying criteria for vehicle turning areas, etc.

Activity centres

The Commission supports provision of greater clarity around how emerging activity centres are acknowledged in the zone policy.

Enabling flexibility in the location of new activity centres in master planned areas brings challenges in defining such fluid boundaries. The creation of a new Emerging Activity Centre Subzone over these places is recommended to provide greater clarity around how emerging activity centres are acknowledged in the zone policy.

Flexibility will still be maintained by enabling a relevant authority to consider policy guidance in the zone regarding the location of new centres when assessing a land division,. However, greater confidence will be provided by providing a new definition of 'activity centre', being that identified in an authorised land division or Concept Plan. This will allow land division boundaries to delineate new centres and for existing Concept Plans to formally acknowledge existing planned centres instead of facing a lengthy rezoning process.

Refer to associated recommendation of 'Activity Centre' in the Administrative Definitions section of the Procedural and Technical chapter of this report.

Other changes based on additional information/investigation:

The Greenfield Suburban Neighbourhood and Master-planned Suburban Neighbourhood Zone in the consulted version of the Code contained similar policies except for additional policies guiding activity centres located in the Master Planned Suburban Neighbourhood Zone.

To clarify the policy intent of both zones, it is proposed to replace the Master-planned Suburban Neighbourhood Zone and Greenfield Suburban Neighbourhood Zone with a single 'Master Planned Neighbourhood Zone'.

Policies regarding activity centres will be located in a new Emerging Activity Centres Subzone to be applied over the consulted Master Planned Suburban Neighbourhood Zone (i.e. in master planned areas where new activity centres are anticipated).

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

- P.105** **RENAME** 'Master Planned Suburban Neighbourhood Zone' and 'Greenfield Suburban Neighbourhood Zone' to '***Master Planned Neighbourhood Zone***'.
- P.106** **CREATE** a new 'Emerging Activity Centres Subzone' which applies to the entirety of all broad-hectare areas where new centre(s) are anticipated. The subzone will:
- contain provisions from the Master Planned Neighbourhood Zone related to establishment of new activity centres, and guiding development within activity centres
 - contain new policy guiding the size of advertising signs within activity centres.
- P.107** **AMEND** Table 1 – Accepted Development Classification to add the following activities:
- (a) Retaining wall retaining a difference in ground levels not exceeding 1.5m
 - (b) Retaining wall and fence structure not exceeding a total height of 3.3m
 - (c) Detached dwelling which accords with an authorised building envelope plan
- P.108** **AMEND** Table 4 – Restricted Development to list 'shop' as a restricted form of development except where located in an Activity Centre, or where gross leasable floor area is less than 1000m², or where comprising a restaurant.
- P.109** **REMOVE** policies related to development of and within activity centres and place within the new Emerging Activity Centre Subzone.
- P.110** **AMEND** DTS/DPF 1.1 to remove commercial-type land uses which are only envisaged in the new Emerging Activity Centre Subzone.
- P.111** **AMEND** DTS/DPF 1.3 to remove reference to set density limits, but encourage medium-to-high residential densities in proximity to transport, open space, centres and facilities in PO/DTS/DPF 1.4.
- P.112** **AMEND** DTS / DPF 1.4 to support medium- and high- density development within 200m of an activity centre, 200m of a public transport stop, or adjoining public open space greater than 2000m².
- P.113** **AMEND** PO and DTS/DPF 1.5 to guide non-residential development (located outside of Activity Centres) including small-scale shops, offices and consulting rooms up to 150m² in gross leasable floor area.
- P.114** **REMOVE** DTS / DPF 4.1 regarding minimum percentage of allotments within 400m of open space as this can be assessed against the PO in a performance assessment taking into account the context of the locality.
- P.115** **AMEND** PO 5.1 relating to building height to clarify that buildings taller than the DTS requirements (3 levels) should be located adjacent activity centres or open space.
- P.116** **AMEND** DTS / DPF 5.1, 6.1, 7.1, 8.1, 9.1, 10.1 to reference building envelope plans as a relevant parameter for setbacks and building height.
- P.117** **AMEND** DTS / DPF 8.1 to increase the maximum boundary wall length to 11.5 metres to allow for a 'stacked' or 'tandem' garage arrangement.
- P.118** **DELETE** PO and DTS/DPF 8.2 which relate to having sets of row dwellings and semi-detached dwellings set back from adjoining allotments. This policy is relevant to zones that apply to established areas where development should have regard to maintaining separation between buildings consistent with an established suburban context.

- P.119** **AMEND** DTS / DPF 10.1 relating to rear setbacks to allow 0m setbacks along rear laneways.
- P.120** **CREATE** an additional PO and DTS/DPF under 'Site Dimensions and Land Division' to ensure dwellings following a deemed-to-satisfy pathway do not result in more than one dwelling on an existing allotment.
- P.121** **CREATE** an additional PO and DTS/DPF to seek development to be consistent with any relevant concept plan.
- P.122** **CREATE** an additional PO to ensure display homes are provided with sufficient car parking.
- P.123** **CREATE** an additional PO and DTS/DPF regarding earthworks and sloping land with DTS criteria to limit excavation or filling to a maximum height of 1.5m with a combined maximum height of 3m.

Township Zone

This zone provides for a range of residential, community, retail, business, commercial and light industry uses and facilities to serve the local community, businesses and visitors. Development will contribute to and enhance existing streetscapes and settlement patterns found in the township.

Engagement feedback:

Submissions from local government were generally supportive of the transition from existing townships to the proposed Township Zone with numerous submissions providing suggestions to improve its spatial application and policies. Rezoning requests have been considered in the Code Spatial Application section of this report.

Multiple submissions identified that the Township Zone results in reduced allotment sizes and frontage to many townships that may result in metropolitan-scale development that is out of character with the village and township characteristics. It has also been suggested that this approach is inconsistent with the Character Preservation policy for townships in the Barossa and McLaren Vale regions.

Submissions identified that the impacts of out-of-centre retail development should be reviewed. It was suggested that the changes to retail development in township residential areas could affect the value and viability of existing centre zones and result in 'out of zone strip development' on arterial roads. It was observed that most development plans contain non-complying provisions to limit the sizes of shops/retail development but no size constraints are contained in the proposed zone.

***Clarification:** PO 1.5 of the Township Zone requires that development of a business, commercial or light industrial nature is grouped to establish identifiable service centres or reinforce traditional main streets. Similarly, DTS/DPF 1.5 requires that these uses are adjacent to an existing non-residential use and are oriented toward the same street.*

It was suggested that the restricted development pathway should be introduced for certain land uses. Light Industry and Warehouse activities in particular were identified as land uses that have potential interface issues with adjoining residential properties. Similar to retail land uses, it was observed there are no size limitations, unlike many existing non-complying provisions. It was suggested that policies be considered to guide appropriate development outcomes for certain land uses and consider whether the restricted development pathway is appropriate.

As the above-mentioned land uses have been listed as envisaged land uses with the Township Zone, multiple submissions raised concerns that current non-complying forms of development would no longer require any form of public notification. Further consideration was suggested to ensure residents within townships are provided suitable notification for non-residential land uses.

Clarification: *The Township Zone specifies a deemed-to-satisfy maximum gross leasable floor area of 250m² for a range of non-residential uses including shops, offices, consulting rooms and warehouses. Proposals that would exceed this limit would require assessment against the relevant PO which requires that these uses are of a small scale to serve the local community.*

SA Water suggested a further review of the proposed reduction in minimum allotments sizes in unsewered areas of townships, particularly within the catchment areas of Greater Adelaide's water supply, to ensure that the intensification of townships does not increase the contamination of surface water systems.

Multiple submissions were received from community members/group with suggestions for the re-zoning of land to facilitate increased development outcomes or seek to protect the existing character and amenity of a region. Some of these include, but are not limited to the following areas:

- Adelaide Hills - A petition from residents of the Adelaide Hills region sought the protection of the existing character and amenity of the existing 'country living' areas. It has been suggested that a differing suite of policies apply to this region to protect its existing characteristics.
- Kudla - Multiple submissions from residents of the Kudla region sought land south of Gawler to be zoned Rural Living to accommodate smaller allotments than currently allowed.

Other feedback included:

- Suggestions that existing residential areas adjoining Township Zones be included within a new 'Township Neighbourhood Zone' for rural localities that are neither suburban nor rural.
- Townships that are either located near watercourses or within the Mt Lofty Ranges Overlay(s) require additional water quality policies. It was suggested that in addition to policies to manage water quality, minimum allotments sizes in these locations should be increased to 4000m² to ensure water quality can be managed on site.
- Policy providing guidance as to low-rise development should be more detailed and specify that two-storey developments are envisaged.

Clarification: *PO 2.2 refers to low-rise character, which is defined in Part 8 – Administrative Definitions under 'low-rise' and means up to and including 2 building levels. Further guidance is not considered necessary.*

- The zone's assessment provisions should incorporate a list of desired land uses.
- There should be an ability to have lots that need on-site wastewater systems to be less than 1200m² as there are now solutions that enable lots to be around 900m² subject to percolation testing.

Clarification: *Assessment of site areas less than that specified in the DTS/DPF would be possible through a performance-assessed pathway and would involve assessment of the application against the relevant PO.*

Commission's Response:

In response to requests for various non-residential land uses to be classified as restricted forms of development within the Township Zone, suitability of these uses will be assessed against the relevant Desired Outcomes and Performance Outcomes in the zone. Such uses which are clearly incompatible with these outcomes would not necessarily warrant a restricted pathway. Development should only be specified as restricted where it requires a more comprehensive assessment at the State-level, taking into account matters beyond the Code policies. Furthermore, as the Township Zone has been applied to a wide range of localities and development contexts, it is considered appropriate to maintain flexibility within the zone via performance assessment. For this reason, it is not considered appropriate to require the assessment of these land use via the Restricted Assessment Pathway.

In response to suggestions that all retail, light industry and warehousing should require public notification throughout the zone, it is considered inappropriate to require notification for development which is reasonably expected to occur or which is or desirable within the zone. At present, the Township Zone will require notification for these uses where they exceed the floor area limits specified within the relevant DTS criteria, noting that these land uses require performance assessment in any case.

Submissions requested that various non-residential uses which are envisaged within the proposed Township Zone be restricted or removed to reflect current non-complying triggers in development plans. The Commission considers that these locations may be better suited to transition to another zone type with a stronger focus on residential uses, rather than to amend the Township Zone, which although it provides a focus on residential uses, does envisage a range of small scale, non-residential uses to support the local community.

In this respect, the Commission supports the creation of a 'Township Neighbourhood Zone' which primarily seeks residential development and only home-based businesses. Application of this zone is considered suitable in areas where the current development plan policy seeks residential development and limits non-residential land uses. (Further analysis of spatial application is considered in the Code Spatial Application Section of this report.) By providing a residential focus to this new zone, commercial/community facilities and services will be focussed in township centres.

In response to requests for a smaller frontage width for dwellings in certain circumstances to accommodate existing township growth areas, it is noted that many of these areas may be suitably transitioned to a new 'Township Neighbourhood Zone' which contains the ability for TNV data to populate frontage width criteria.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

P.124 **INSERT** list of land uses envisaged in the zone in DTS/DPF 1.1.

Phase Three (Urban Areas) recommendations:

P.125 **CREATE** a new 'Township Neighbourhood Zone' which captures parts of townships where the current development plan policy seeks residential development and limited commercial/community land uses.

See 'Code Spatial Application' section of this report for further information on spatial application of the new zone

Rural Living Zone

This zone envisages a spacious, secluded and peaceful residential lifestyle within semi-rural or semi-natural environments, providing opportunities for a range of low-intensity rural activities and home-based business activities that complement the lifestyle.

Submissions to the Rural Living Zone were received from industry, practitioners, agencies and a large number of councils. General support was demonstrated for the transition to the new Rural Living Zone however, a range of matters were raised including numerous suggestions to improve its spatial application and policies. A number of discrete zone changes were identified where councils considered that the proposed zone did not reflect existing development plan criteria, particularly reductions in minimum allotment sizes.

Policy Expression

Engagement feedback:

Councils raised concerns with the use of expressions such as 'peaceful' in the DO. It was noted that this reference does not accurately recognise the mixed residential and rural nature of activities which include animal husbandry, light industrial and commercial land uses.

Zone Content

Engagement feedback:

- Amendments to DTS/DPF are needed to recognise the varying allotment sizes and configurations across Rural Living Zones throughout the state.
- The maximum floor area of residential outbuildings should be included and additional compatible land uses in the form of farming and agricultural buildings within DTS/DPF and Classification tables is requested.
- The maximum floor area of residential outbuildings should be increased.
- Additional compatible land uses in the form of farming and agricultural buildings within DTS/DPF and Classification tables are needed.
- DTS criteria concerning desired maximum floor area of kennels, stables, shelters and associated yards needs clarification.
- Heavy vehicle parking policies should be included to identify where this is an appropriate form of development and provide appropriate parameters to guide development outcomes.
- Very detailed zone policy is needed for specific locations including residential, advertising and animal keeping.
- Mixed views were expressed about policy content which provides for the establishment of small-scale non-residential land uses (light industry, shops and consulting rooms). A number of respondents supported the inclusion of these land uses, noting that current policy anticipates and facilitates these land uses whilst others were opposed to the inclusion of policy.
- To avoid the visual impact of two-storey dwellings, it was suggested that policies be inserted to ensure that dwellings be low profile, sited below ridge lines and avoid excessive cut and fill.

- There is a desire for proposed TNVs throughout the region to be reviewed to ensure greater consistency with current land division criteria. A number of respondents requested the inclusion of a Minimum Lot Frontage TNV.

Commission's Response:

The Commission supports amendments to zone policy content to provide a scaled approach to the siting and size of outbuildings, noting such buildings are an important element of the zone and its different land uses.

Requests for the provision of detailed and specific zone policy is not able to be supported, given the broad application of the Code and the need for consistency across the state. It is however noted, that minor adjustments have been supported to provide greater clarity and facilitate interpretation. Where merit has been demonstrated, the Commission has worked with local government to consider the application of alternate policy approaches which address local nuance.

Policy which facilitates non-residential land uses is considered largely in keeping with the mixed nature of the zone. Few rural living areas around the state are utilised solely for residential purposes. Proposed policy requires such land uses to complement the semi-rural character and amenity, whilst a key element is the requirement that non-residential land uses be ancillary to residential activities.

Animal Husbandry Subzone

Intensive Horse Establishments Subzone

Limited feedback was received on these subzones.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- P.126** **AMEND** DTS/DPF 1.1 and expand to include additional land uses that are encouraged within the zone
- P.127** **AMEND** DTS/DPF 2.5 to increase the maximum floor area for an outbuilding from 100m² to 120m²
- P.128** **AMEND** DTS/DPF 3.1 to increase the maximum driveway 'handle' length from 30m to 40m
- P.129** **AMEND** Table 4: Restricted Development Classification to classify a shop having a floor area greater than 1,000m² (other than a restaurant) as restricted.

Phase Three (Urban Areas) recommendations:

- P.130** **AMEND** DO1 to remove the word 'peaceful'
- P.131** **AMEND** DTS/DPF 2.1(a) to increase dwelling setbacks from boundaries to 20m or 10m from a secondary street frontage where allotments are less than 1ha
- P.132** **AMEND** DTS/DPF 2.5 to refer to agricultural buildings as well as outbuildings and increase maximum total floor areas to:
 - for allotments with an area greater than 1ha - 200m²
 - for allotments with an area less than 1ha - 150m²

P.133 AMEND DTS/DPF 1.1 to add Agricultural Buildings and Farming

P.134 AMEND DTS/DPF 2.3 (c) to clarify it relates to a *total combined floor area of 100m²*

Rural Settlement Zone

This zone provides for small mixed-use settlement supporting a limited range of residential development, tourist, recreation and community facilities grouped together to serve the local community and visitors.

Engagement feedback:

Submissions were received from industry, agencies and councils and there was a broad understanding of the zone's role in transitioning existing settlement zones to the proposed Rural Settlement Zone.

Respondents identified a need to create subzones over a number of existing settlements to accommodate areas of unique character or development outcomes and requested a range of policy improvements:

- Code design criteria and land use control policies which reflect those contained within development plans should be included.
- The inclusion of additional setback criteria to guide development within proximity of industry and beverage production land uses.
- Additional guiding policy specifically for outbuildings and amendment of DTS/DPF criteria to include guidance on dwelling height.
- The inclusion of additional criteria for minimum allotment sizes in DPT/DTS 3.1, including site constraints and circumstances where the 1200m² minimum would prove inadequate to accommodate an on-site wastewater management system.

Commission's Response:

In regard to comments about diminishing the prevailing character of settlements, the Code seeks to facilitate the sensitive development of settlements with their prevailing character in mind. The Commission supports inclusion of TNVs to provide local nuancing to policy on building height and density.

The Commission acknowledges the submissions seeking the insertion of current policy to manage matters relating to outbuildings, and supports new policy in the zone regarding ancillary buildings and structures.

The Code policy provides guidance on minimum allotment sizes in line with TNVs (where applicable). The Land Division General Development Policies goes further to recognise the infrastructure characteristics of these areas. These policies ensure that allotments are of an appropriate size and configuration to accommodate on-site wastewater treatment and disposal in a manner which meets relevant public health and environmental standards and are considered to be sufficient.

Where Development Plan policy currently limits/guides sensitive development in proximity to industry and beverage production, this could be transitioned through spatial application of the Interface Management Overlay or Significant Interface Management Overlay to affected areas. This is considered in the Code Spatial Application section of this report.

Other changes based on additional information/investigation:

DTS/DPF 1.1 should be updated to reflect the format of similar policies in other zones, to list the envisaged land uses and development types.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

- P.135** AMEND DTS/DPF 1.1 to list anticipated land uses in the zone.
- P.136** AMEND DTS/DPF on building height to reference TNVs in certain locations.
- P.137** CREATE PO and DTS/DPF policy regarding ancillary buildings.

Rural Shack Settlement Zone

This zone seeks limited development within an environment where natural processes such as flooding, sea-level rise, sand drift and erosion occur.

Engagement feedback:

The following requests were received from members of the public, industry, councils and state agencies:

- A new DO and a Hazard Risk Minimisation Performance Outcome to address the presence of coastal hazard risks, reinforcing the application of the Coastal Areas Overlay and providing further guidance to appropriate development.
- A new PO that anticipates the development of tourist accommodation in the zone, is sympathetic to the surrounding area and offers a value-adding opportunity to existing dwellings.
- Reference to maximum gross leasable area for a shop development in a PO and the associated DTS / DPF and inclusion of shop as restricted development with exclusion if under the gross leasable floor area.

Clarification: Notification requirements in relation to shops with a gross leasable floor area of over 100m² were incorporated within the zone as part of the Phase Two (Rural Areas) Code Amendment. In terms of classifying shops as restricted forms of development, suitability of these uses will be assessed against the relevant DOs and POs in the zone. Such uses which are incompatible with these outcomes would generally not warrant consent; a restricted pathway does not indicate that development is necessarily inappropriate.

- Further guidance as to setback distances from the River Murray and inclusion of policies that reference jetties, pontoons and moorings as these classes of development are currently referenced in development plans.

Clarification: Policy provisions related to matters such as setbacks from the River Murray, as well as jetties, pontoons and other riverine structures are addressed via the River Murray Flood Plain Overlay

- A new PO that emphasises that no allotments are to be created unless a TNV applies which prescribes the minimum allotment size.
- An additional performance outcome to provide opportunities for land division (to create an additional allotment) where existing development plans allow land division to a certain allotment size.
- Additional design criteria for upper storey components of residential development that fronts the coast. While existing design standards are not being carried over from development plans to the

Code, it is proposed that an additional PO be inserted into the zone to ensure appropriate separation for upper storey developments.

- The refinement of public notification procedures for the zone as, if kept in current format, it would trigger notification requirements for all classes of development adjacent the River Murray.
- Policy that directs future development to establish a connection to a community wastewater management system (CWMS), and in the event a system is not currently available, a requirement that a connection is formalised once the CWMS is available.

Clarification: Policy related to wastewater connections are contained in the Infrastructure and Renewable Energy Facilities General Development Policies.

Commission's Response:

In response to requests for additional policy relating to hazards that would reinforce the provisions of the Coastal Areas Overlay, it is considered inappropriate to duplicate policy contained within an overlay in a zone. It is also considered that the zone policies and DOs are adequate to address matters relating to inundation and minimisation of impacts on the surrounding environment.

In response to requests for additional policies to facilitate the conversion of existing dwellings into small-scale tourism accommodation, it is considered that there is currently nothing in the zone to preclude such a change of use as it would be classified as performance-assessed within the zone under the category of "all other Code assessed development".

Amendments to the public notification table in the zone are proposed in accordance with the associated recommendation in this report under [Procedural and Technical > Public Notification](#).

Based on further investigation and discussion with councils following consultation, a need was identified for building height to be specified through a TNV value in this zone to enable policy from development plans to be appropriately transitioned into the Code.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- P.138** **CREATE** a new PO that provides opportunities for land division (to create additional allotments) where existing development plans allow this to occur.
- P.139** **CREATE** a new PO that provides upper storey separation between developments where there is a prevailing character of two-storey developments occurring in the locality.

Phase Three (Urban Areas) recommendations:

- P.140** **AMEND** DTS/DPF 2.3 to reference the maximum building height TNV value specified in DTS/DPF 3.1 in relation to dwelling additions or replacement dwellings.
- P.141** **CREATE** new PO and DTS/DPF 3.1 regarding building height, including TNV values for maximum building height in metres and levels.

Affordable Housing Overlay

This overlay promotes affordable housing that is integrated with residential and mixed use development and caters for a variety of household structures. The overlay applies to areas of the state where 15% affordable housing must be provided as a part of development applications for 20 or more dwellings or residential allotments. The overlay contains a referral to the Minister responsible for administering the South Australian Housing Trust Act 1995 for development for the purposes of the provision of affordable housing.

Engagement feedback:

A range of feedback was received on the Affordable Housing Area Overlay, with industry, council and community submissions generally in consensus to support incentives for the provision of affordable housing options, however mixed feedback was received in relation to how this policy could be improved:

- Concern was expressed that these incentives (such as additional height or density bonuses) need to be considered within the local context of the surrounding area. As such, it was suggested that these incentives not be applied to Historic or Character Areas.
- It was suggested in some responses that the 20% decrease in site area bonus be amended to allow a 40% site area decrease for affordable housing. Conversely, other submissions suggested that this particular incentive be removed entirely.
- That incentives be made available outside of the overlay to encourage affordable housing to be delivered in other locations.

Clarification: The Commission will further consider how affordable housing incentives could be applied more broadly as a general module to allow them to be utilised outside the overlay as part of subsequent 'generations' of the Code.

- Concern was also raised in relation to parking rates for affordable housing, where dwellings above ground level or within a residential flat building are not required to be provided with an off-street car park. It was suggested that this be amended to apply only where such housing is within close proximity to public transport.
- Request for greater clarity on when referral triggers will be applied (propose new definition to be added to address this)

Commission's Response:

In relation to requests to increase or remove incentives allowing a reduction in minimum allotment size, it is considered that the 20% reduction in site area in DTS/DPF 3.1 is appropriate, noting that other policy within the overlay requires that affordable housing provides a high standard of occupant amenity and complements the character of development in the area.

Given that incentives for affordable housing include height bonuses in addition to reduction in site area, it is appreciated that concern has been raised in relation to ensuring affordable housing reflects local context, especially within Character or Historic Areas. Given that policy within this overlay requires that affordable housing complements the character of development in the area, it is considered appropriate to amend policy to remove such incentives where development is to be located within the Historic and Character Areas Overlays. The Commission also supports removing height incentives in this Overlay where additional height is already granted through incentives in the relevant zone policy.

To provide greater clarity and ensure that referral triggers are applied consistently, it is considered appropriate to include a new definition of Affordable Housing within the Code – see associated recommendation in the Land Use Definitions section of this report.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- P.142** **AMEND** the Affordable Housing Overlay to include new PO and DTS policies to ensure overlay requirements do not apply to development comprising less than 20 dwellings / allotments.

Phase Three (Urban Areas) recommendations:

- P.143** **AMEND** affordable housing incentive policies to:

- Remove incentives for site area and building height where located in a Historic Area or Character Area Overlay,
- Limit car parking discounts for dwellings above ground level (i.e. apartments) only where within 400m of transport (not 800m)
- Remove incentives for building height where additional building height already applied through in the relevant zone policy

- P.144** **AMEND** policy to remove reference to *apartments* and instead reference *dwellings above ground level*.

Character Area Overlay

This overlay seeks to reinforce valued streetscape characteristics through contextually responsive development, design and adaptive reuse that respects the attributes expressed in the relevant Character Area Statement.

Feedback on the Character Area Overlay focussed on:

- The pathway and policies for dwelling alterations/additions
- The role of Character Area Statements
- Demolition control
- Ancillary development
- Other policy matters.

Alterations/additions

Engagement feedback:

- Dwelling additions should not be deemed-to-satisfy and should instead be performance-assessed.
- PO & DTS 2.1 should be more generic to allow for a greater number of outcomes, with the finer detail being in the character and historic area statements.
- The in-roof policy for upper-storey development should not be in the overlay policies as this is an individual location policy. Two-storey development is appropriate in some character and historic areas, and not in others. It would be more appropriate for this policy to sit in the character area statement, rather than imposing a blanket policy affecting areas it doesn't need to.

- There is no reason to restrict side additions based on being closer to the boundary. This clause should be deleted as PO 1.1 to 1.5 provide a clearer direction, and when combined with the character area statement provide sufficient policy to cover additions and new buildings.
- Allowing two-storey additions to be DTS is not supported due to the potential impacts of this type of development.
- PO 2.2 incentivises adaptive reuse in the Character Overlay but could undermine the adaptive reuse incentives which have been in place for heritage properties in many development plans for years. The overlay will take precedence over zone policies, but how will this adaptive reuse policy be applied where the proposed land use is inconsistent with the land uses anticipated at the zone level? Further details should be included about the types of complementary changes which are acceptable.

Commission's response:

Conflicting views on deemed-to-satisfy pathways for dwelling additions in character areas are acknowledged. It is considered appropriate to provide a deemed-to-satisfy pathway for dwelling additions within the Character Area Overlay, with criteria being reasonably consistent with the existing Residential Code provisions for dwelling additions (which can currently occur within character zones/policy areas). For this reason, it is proposed to limit dwelling additions only to ground level additions (except where contained within the roof space).

Dwelling additions which do not comply with the DTS/DPF standard are not necessarily inappropriate, but would be considered against the PO in a performance assessment.

Adaptive reuse sought by PO 2.2 would involve an on-balance assessment using policy from zones.

Character Area Statements

Engagement feedback:

Feedback provided on the Character Area Statements was generally consistent with that provided on the Historic Area Statements (refer also to discussion under Historic Area Overlay) and included the following:

- There is a need for Location-specific Character Area Statements.

Clarification: Character Area Statements were prepared for all affected areas and released for consultation in December 2019.

- Design requirements within Character Area Statements should be included to ensure new development occurring within these areas reflects the desired character.
- Character Statements should contain contextual information to support the basic numerical-based planning policy in zones and overlays.
- PO 1.2 should include 'and as specified in the Character Area Statement'.

Commission's response:

The Commission supports amending Character Area Statements to provide additional guidance around building height, setting and public realm features, carports and garages and dwelling additions.

The Commission will consider including forward-looking design guidance in an advisory guideline.

It is considered appropriate for PO1.1 to reference Character Area Statements. Further guidance on the use of Character Area Statements may be provided in an advisory guideline.

Demolition control

Engagement feedback:

A small number of submissions sought to have demolition control introduced into the Character Area Overlay, including in relation to large trees and gardens:

- Policy is needed to ensure buildings and large trees that contribute to streetscape character as expressed in the Character Area statement are not demolished or removed, unless irretrievably damaged or unsafe; or where an appropriate replacement planting or building has been approved.
- Demolition in the Character Area Overlay should be performance-assessed to preserve character dwellings and buildings and to ensure that demolition can only be undertaken once an appropriately designed application for a replacement dwelling is approved.

Commission's response:

There is no demolition control within the Character Area Overlay, which is reflective of the existing SAPPL policy framework and demolition in character areas currently does not require planning consent under the Development Regulations 2008.

Ancillary development

Engagement feedback:

- The overlay should include a deemed-to-satisfy pathway for minor buildings (e.g. outbuildings and verandahs) constructed behind dwellings within character areas.
- PO 3.4 (Ancillary Development - front fencing and gates etc.) should include guidelines for appropriate fencing designs for different styles of dwellings and seek low and open style fencing.

Clarification: New PO 1.1 (introduced via the Phase Two Amendment) calls up statements for all policies, many of which relate to fencing. Notwithstanding, fencing generally isn't development in most character locations. Low, open fencing isn't always appropriate and some areas allow higher fences or no fences. Character Area Statements have been updated to provide improved guidance around type of fencing found in areas, where provided. Consideration could be given to including guidance on fencing in the design guidelines.

- PO 3.3 (Ancillary Development - advertising) should indicate what types of signs might be appropriate and where (e.g. fascia signs, signs contained within a parapet, whether illuminated signs are appropriate, colours and materials etc.) and be limited to business identification purposes only with no third party signs, and be discreet in size and number.

Clarification: Advertisements General Development Polices guide the design of advertisements. Number and use of signs is more an issue for zoning, much like land use. It is considered that internal illumination is something that needs to be considered in relation to it being unobtrusive and complementing the building. It also depends on the specific area, as in some instances such may be appropriate. Policy can also be clarified in relation to projecting into the skyline. Further guidance could be considered for inclusion in the design guidelines and the Character Area Statements.

Other feedback

- Many development plans include design guides for infill development in historic areas which provide a graphical approach to guiding proposed development. This is considered to be a superior method than text policy which provides too much flexibility.
- Post WWII areas have not been considered to have character or heritage protection requirements, other than specific buildings. To introduce policy such as 1950/60s Housing Trust without there being a thorough debate about the benefits and costs is considered to be unacceptable.

Commission's response:

There are currently areas of Post WWII development - including early Housing Trust - that are within character and/or historic areas. These areas will continue to be protected with the equivalent character / historic area overlay in line with development plan policies.

The Code as first released for consultation included an example Character Area Statement based on a Housing Trust area as a means of showing the wide range of areas that currently have protection. No additional areas are being covered, except where specifically requested and suitably justified. The Character Area Statements / Historic Area Statements have been developed to apply to each specific area.

- The words 'and development patterns...' should be added to DO 1 to reaffirm that allotment patterns and building siting are important.
- PO 1.3 (Built Form - design and architectural detailing) is too general and should include more specific: 'The design of new dwellings may be traditional or contemporary but in all cases will make reference to the architectural detail of the surrounding pre-1940s dwellings, in particular the roof forms, eaves, front verandah treatments, window proportions and the use of different materials and finishes'.

Clarification: Some areas within the Character Area Overlay were constructed after 1949. The Character Area Statements generally identify an era of importance, therefore this can be used to inform decisions as to whether a building warrants retention or not. Age alone does not determine value.

- PO 5.2 (Context and Streetscape Amenity - Landscape pattern and characteristics) should clarify that mature vegetation should be retained and new development should incorporate landscaping areas of varying planting types and adequate dimensions to accommodate future mature vegetation to contribute to the amenity of the locality.

Clarification: Guidance is provided elsewhere in the Code regarding landscaping, including through General Development Policies and new Urban Tree Canopy Overlay.

- PO 4.1 (Land Division) doesn't refer to maintaining the existing allotment pattern (site area and frontage width). Even if minimum site areas are provided, this policy should still indicate that the development should be consistent with other allotments in the locality.
- A review of land division policies is needed to minimise the potential for irregular shaped allotments and allotment frontages not consistent with the prevailing cadastre.

- Policy should provide further guidance such as ‘a front setback which is the average of the 2 adjoining buildings’.

Clarification: The relevant zone will contain policy regarding setbacks and minimum site dimensions

- The character of a building includes the original building, setting and context, not just the façade of a building and impact on the streetscape.
- Policy should exclude battle-axe allotments.
- Public notification should be included under procedural matters within the Character Area Overlay

Clarification: Exclusions from notification are identified in Table 5 – Procedural Matters in the relevant zone.

- State and Local Heritage Places within the Character Area Overlay must be identified and referred to in mapping.

Clarification: All State and Local Heritage Places will be mapped in the respective State Heritage Place and Local Heritage Place overlays.

- A set of Design Guidelines is needed to provide guidance for development within character areas.

Clarification: An advisory guideline that sits beside the Code is being prepared to guide the built form of new development; this will include diagrams and is intended to address this policy gap.

- Some respondents sought the inclusion of words such as ‘should’ and ‘must’ to strengthen policy within the Character Area Overlay.

Clarification: This type of language does not meet the drafting principles of the Code. Location-specific information relating to the Character Area Overlay for a council area will be included in the corresponding Character Area Statement.

Commission’s Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- P.145** **AMEND** the Classification Tables to provide a DTS pathway for minor buildings where they are located behind dwellings in character areas.
- P.146** **CREATE** a new PO to provide a clear link to Character Area Statements and to ensure this is considered for all development.

Phase Three (Urban Areas) recommendations:

- P.147** **AMEND** relevant Character Area Statements to reference Representative Buildings as identified in the SA planning database.

Note: Refer to discussion in [Historic Area Overlay > Contributory items](#) section of this report

P.148 **SPATIALLY APPLY** the Character Area Overlay in Angaston, Tranmere and Auburn to capture existing areas of character value.

Note: Refer to discussion in [Historic Area Overlay > Contributory items](#) section of this report

P.149 **AMEND** PO 1.3 (renumbered to PO 2.3) to reference roof pitch and form, openings, chimneys and verandahs as elements which should be consistent with the prevailing characteristics in the character area.

P.150 **AMEND** DTS/DPF 2.1 (renumbered to DTS/DPF 3.1) regarding dwelling additions to remove reference to second storey additions and a 45 degree view angle, and instead specify that the development should not involve the construction of a second or subsequent building level.

P.151 **AMEND** PO 2.2 (renumbered to PO 3.2) to encourage adaptive reuse and revitalisation to retain local character consistent with the Character Area Statement.

P.152 **AMEND** PO 3.3 (renumbered to PO 4.3) to ensure advertising and advertising hoardings are located below the parapet line.

P.153 **AMEND** PO 3.4 (renumbered to PO 4.4) to refer to fences / gates closer to the street than the façade of an associated building (other than a laneway).

P.154 **AMEND** PO 4.1 (renumbered to PO 5.1) to seek allotments that are compatible with the surrounding pattern of subdivision in the character area.

P.155 **AMEND** Character Area Statements where appropriate to include:

- additional context in relation to the existing development patterns and placement of carports, garages and vehicle access
- details about the placement of existing alterations and additions
- better articulation of existing materials, building styles, landscape patterns, fencing and the like
- a brief context to help capture the era/theme in some very limited cases.

P.156 **AMEND** The following row headings within the tables contained in the Character Area Statements as follows:

Eras, themes and context

Allotments, subdivision and built form patterns

Architectural styles, detailing and built form

Setting, landscaping, streetscape and public realm features.

Historic Area Overlay

This overlay seeks to reinforce historic themes and characteristics through conservation and contextually responsive development, and design and adaptive reuse that responds to existing coherent patterns in streetscapes and built form. The overlay policies link to Historic Area Statements that have regard to the local attributes of particular historic areas. The overlay applies over existing Historic Conservation Zones / Areas / Policy Areas and Precincts.

Feedback on the Historic Area Overlay focussed on:

- Contributory items
- Historic Area Statements
- Demolition control
- Ancillary development
- Other policy matters.

Contributory items

Engagement feedback:

A large number of submissions from local government, heritage professionals and the community sought the reinstatement of contributory items, with many in support of the approach taken in NSW and Victoria and/or based on legal advice. The general sentiment was that the removal of contributory items will result in longer assessment processes, increased cost, less certainty, more litigation and significant erosion of historic values across the state.

Commission's Response:

Contributory items have evolved over time as a third level of heritage with no statutory base in either the Heritage Act or the planning statutes: the Development Act and its successor, the PDI Act. These items have generally been included within Historic Conservation Zones or similar areas, and are identified in 25 of 68 council areas.

Contributory items as they currently exist in council development plans lack consistent application across the state, and listing has often occurred in an ad hoc manner with limited justification or opportunity for owners to comment or object. It is the zones and policy areas that contributory items are located within, rather than the independent listing, which provide them protection.

A large number of submissions from local government, heritage professionals and the community sought the reinstatement of contributory items.

In response to community concerns with respect to the Commission's approach towards the protection of 'neighbourhood character' in the new planning system, the former Minister for Planning reconvened the Expert Panel on Planning Reform late 2019. The Panel, led by Mr Brian Hayes QC, was reconvened specifically to review concerns raised in relation to heritage and character matters, including contributory items.

The Panel advised that heritage and character under the new Code will provide greater consistency and certainty than the current planning system. Specifically, the report states:

'The Panel was, and still is, of the view that the inclusion of some items, be they a group of buildings or a single building, in a Development Plan as a contributory item, was entirely misplaced and gave rise to unjustifiable expectations of heritage conservation. Whilst some of these items

may or may not have had heritage value, there was nothing in the way of evidence to justify their inclusion.'

A copy of the full report is available at:

https://www.saplanningportal.sa.gov.au/__data/assets/pdf_file/0007/624625/Expert_Panel_on_Planning_Reform_-_Heritage_and_Character_in_the_Planning_and_Design_Code.pdf

While the Commission remains of the view that the Historic Area Overlay would provide appropriate protection, acting in response to advice from the Minister, it is proposed to transition 11,891 Contributory Items into the Code as 'Representative Buildings'.

Representative Buildings are proposed to be referenced in Historic Area Statements and Character Area Statements and mapped in the South Australian Planning and Property Atlas.

The identification of Representative Buildings is not intended to imply that other buildings in an historic area are not of importance. They are buildings which display characteristics of importance in a particular area.

All Representative Buildings located in the Historic Area Overlay will have demolition control, as is currently the case under development plans.

79 Representative Buildings are outside of existing Historic Conservation Zones and therefore do not have demolition control today. These properties are proposed to be included in the Character Area Overlay. While this Overlay does not have demolition control, it does seek to ensure the ongoing protection of the valued characteristics of the area.

11 properties will not transition into the Code as Representative Buildings, as they have been assessed as no longer having sufficient character value, were identified in error or have recently been redeveloped.

The Historic Area Overlay will be expanded in Angaston and Williamstown where 2 properties adjoin the existing area.

New Character Area Overlays will be created in Angaston, Tranmere and Auburn to capture existing areas of character value.

In recognition that some contributory items may warrant listing as Local Heritage Places (pursuant to section 23 (4) of the Development Act), it has been agreed that councils may undertake a DPA to list any contributory items that meet the criteria. On 18 June 2020, the then Minister for Planning amended the Planning, Development and Infrastructure (Transitional Provisions) Regulations 2017 to provide councils until 1 July 2021 to lodge a heritage DPA for approval.

Historic Area Statements

Engagement feedback:

In relation to the Historic Area Statements, many submissions supported the intent but raised concerns about the content and level of detail provided. Some submissions called for a complete rewrite of all statements and a re-consultation on them, whereas others were generally supportive of the drafts subject to the inclusion of specific content.

Many councils requested that numeric provisions provided in their original drafts be reinstated as they relate to setbacks, frontages, wall heights (as opposed to storeys) and allotment size (particularly in those

locations where no TNV applies). Some councils also made suggestions for additional subject rows in the table, including roof form, and provided additional content for inclusion.

Some councils expressed a preference to listing of elements within tables, rather than condensed paragraphs, for ease of reading.

The community generally sought further detail be provided in the Historic Area Statements / Character Statements, similar to the above. Many also expressed confusion as to how the statements are intended to work and sought formatting amendments, table headings and numbering of provisions (or rows) within the tables to improve readability.

Key 'gaps' identified included:

- A lack of forward-looking policy to guide the built form of development, for example, restricting the use of zincalume, site coverage, bulk and scale, and general design. Some submissions sought the incorporation of diagrams, or design guidelines based on existing tables in some development plans.
- A lack of policy about the siting, design and bulk of vehicle access points, carports and garages.

Commission's response: Historic Area and Character Area Statements have been updated where appropriate to better describe these characteristics of an area.

- An absence of specific numeric parameters for front and side setbacks, as well as other land division considerations including reinforcement of traditional patterns.

Commission's response: These parameters cannot sit within the statements and are addressed at the zone level. A new Established Neighbourhood Zone is being developed which will apply to a large percentage of these areas and will provide improved guidance (via TNV) on matters such as setbacks and land division.

There was mixed feedback in relation to the need or otherwise for including historical background / context within the statements.

Commission's Response:

Requests for specific amendments to Historic Area Statements have been negotiated with the relevant councils in accordance with the following drafting principles:

- Exclusion of prescriptive numbers, except where not addressed by other means (i.e. TNV or zone policy)
- Not be forward-looking, i.e. providing a description of what is on the ground not what a development should do
- Be relevant to the development assessment process.

A design guideline that sits beside the Code is being prepared to guide the built form of new development; this will include diagrams and is intended to address this policy gap. Forward-looking guidance will be provided in this guideline.

Demolition control

Engagement feedback:

Many stakeholder groups raised concerns in relation to the proposed demolition controls within the Historic Area Overlay. In particular, it was considered that the 'economic test' is an inappropriate consideration in planning and is open to manipulation.

In addition, it was considered that there is too much emphasis on the front façade and its visibility from the street, which could result in the loss of key building attributes (such as chimneys and roof form, side/rear elevations visible from the street) and demolition of historic buildings which are screened by vegetation or fences.

There was a strong sentiment in submissions that these points will result in a weakening of heritage protections in historic areas.

Several councils sought changes to the demolition tests to place more emphasis on a larger building envelope as opposed to simply the primary façade as visible from the primary street frontage. To that end, some councils suggested reference be made to particular building depths (e.g. front rooms including roof form), primary and secondary frontages or to the building envelope as a whole. Changes were also recommended to ensure that a building being obscured by vegetation or a fence was not justification to warrant demolition.

Related to this, one Council – Walkerville – was of the view that it was at significant risk of losing historic buildings as they have been oriented on sites to maximise views of the hills thus the rear of the building is often presented to the primary street frontage.

Commission's response:

Demolition is performance-assessed in the Historic Area Overlay and as such, any proposal for such would be considered on its merits. Exclusions or a deemed-to-satisfy pathway is not supported.

The 'economic' demolition test has been replaced with one of 'reasonableness' to provide a fairer and more consistent approach and to remove the risk of manipulation of policy.

It's considered inappropriate to force someone to build something once demolition approval is granted as there will always be a risk that a variation or a new application is lodged following demolition. Control on replacement buildings would require legally binding mechanisms such as a Land Management Agreement, which would be too onerous and place an unfair burden on land owners.

Ancillary development

Engagement feedback:

- Policy is needed to ensure design elements of the building are not extended such as verandahs, roof forms or historic detailing at the same alignment of the main front façade.
- Garages and carports fronting a primary street should be designed with a maximum width of 6.5m or 40% of the allotment or building site frontage width, whichever is the lesser.

Clarification: Policy in the Established Neighbourhood Zone (which is recommended to be applied to residential areas where the Historic Area Overlay applies) guides the maximum width of garage/carport door openings.

- Policy to ensure garage doors do not visually dominate the primary or secondary street frontage of the place is needed.

- The removal of the 'no carports/ garages forward of the main façade' is concerning as there do not appear to be sufficient controls in the Planning and Design Code to prevent this from occurring.

Clarification: PO 4.2 states 'Ancillary development, including carports, outbuildings and garages, is located behind the building line of the principal building(s) and does not dominate the building or its setting.' Historic Area Statements may also guide the location of such structures.

- PO 3.3 (Ancillary Development - advertising) should indicate what types of signs might be appropriate and where (e.g. fascia signs, signs contained within a parapet, whether illuminated signs are appropriate, colours and materials etc.) and be limited to business identification purposes only with no third party signs, and be discreet in size and number.

Clarification: The General Development Policies guide the design of advertisements. Number and use of signs is more an issue for zoning, much like land use. It is considered that internal illumination is something that needs to be considered in relation to it being unobtrusive and complementing the building. It also depends on the specific area, as in some instances such may be appropriate. However, consider policy can be clarified in relation to projecting into the skyline. Further guidance could be considered for inclusion in the heritage design guidelines and the Historic Area Statements.

- In relation to PO 3.4 of the Overlay (front fencing and gates), request, many Historic Area Statements include guidance about fence styles. In any case, it is recommended that the policy require fencing to be of a low and open style.
- A guide should be produced which provides details of different styles of fencing and which fences are appropriate for which dwellings styles.
- There should be policy guidance for side/rear fencing that is situated on a road boundary, given this requires approval (Schedule 4(1)(d)).

Commission's response:

Suggested changes to garage policy may not be appropriate in all locations, e.g. in some areas carports are attached to dwellings and in others they are to the rear which depends on the era/style of the building. This guidance can be provided in the Historic Area Statements and heritage design guidelines.

Low, open fencing isn't always appropriate - some areas allow higher fences or no fences. Historic Area Statements have therefore been updated to provide improved guidance around type of fencing found in areas, where provided.

Amendment to PO 3.4 regarding front fencing is supported to also capture side/rear fencing situated on a road boundary.

Further consideration can be given to including guidance on fencing in heritage design guidelines.

Other

Engagement feedback:

- Some councils sought clarification and definition of terminology used within the various overlays, including 'minor', 'irredeemably beyond repair' and 'unacceptable risk to public or private safety'.

In relation to the last term, clarification was requested about how this could be determined and recommended there be a requirement for expert engineering advice.

- PO 2.2 could conflict with land use policies in the zone and adaptive reuse shouldn't be encouraged for land uses which are not anticipated or appropriate within the zone. 'Complementary changes' presumably means changes which don't diminish/compromise the historic building fabric but this should be clearer.
- Adaptive re-use is a given in most locations and has become too broad in its usage, stemming from the SPPs (refer comments on Adaptive Re-Use in the SPPs).
- What mechanism calls up the 'prevailing characteristics' of the area in PO 1.3

Clarification: References to Historic Area Statements in the DO and new PO 1.1 will provide suitable reference to Historic Area Statements.

- Explicit policy recognition is needed to reflect the importance of telecommunications facilities being:
 - located away from heritage places (e.g. through Restricted Development triggers)
 - subject to increased public notification.

Commission's Response: Transmission infrastructure will be performance-assessed and it is not considered necessary to single out this form of development. Policy has enough flexibility to ensure development can occur where appropriate, and may also provide an opportunity for infrastructure providers to provide a better design response in more sensitive locations.

- It is recommended that POs 1.1 and 1.3 be combined into a more comprehensive policy which provides greater guidance about what details should be considered, e.g. the proportions (vertical and horizontal); level of visual interest of a building (as determined by the height of eaves, the length and size of unbroken walling, treatment of openings and depths of reveals, roof form and pitch, external colour and texture of materials used, as well as detailing, landscaping and fencing); and design elements such as verandahs, balconies and eaves where appropriate.

Commission's Response: The inclusion of detailed design guidance is not considered appropriate given the level of variation across historic areas - one size does not fit all. Design guidance will be provided via a new guideline that sits outside of the Code.

Better clarity can be provided around the types of design and architectural features that may be considered as part of an assessment.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- P.157** **AMEND** the Classification Tables to provide a DTS pathway for minor buildings where they are located behind dwellings in historic areas.
- P.158** **CREATE** a new PO to provide a clear link to Historic Area Statements and to ensure this is considered for all development.

Phase Three (Urban Areas) recommendations:

- P.159 AMEND** relevant Historic Area Statements to reference Representative Buildings as identified in the SA planning database.
- P.160 SPATIALLY APPLY** the Historic Area Overlay in Angaston and Williamstown where 2 properties adjoin the existing area.
- P.161 AMEND** DO 1 to reference site configuration, building siting and built scale, form and features, and reference those features exhibited in the Historic Area as well as that expressed in the Historic Area Statement.
- P.162 AMEND** PO 1.1 (renumbered to PO 2.1) to reference the scale and form of new buildings.
- P.163 AMEND** PO 1.3 (renumbered to PO 2.3) to provide greater clarity around the types of design and architectural features that may be considered as part of an assessment, including roof pitch and form, openings, chimneys and verandahs.
- P.164 AMEND** PO 2.2 (renumbered to PO 3.2) to seek adaptive reuse and revitalisation of buildings to support retention consistent with the Historic Area Statement.
- P.165 AMEND** PO 3.3 (renumbered to PO 4.3) to ensure advertising and advertising hoardings are located below the parapet line.
- P.166 AMEND** PO 3.4 (renumbered to PO 4.4) to refer to fences / gates closer to the street than the façade of an associated building (other than a laneway).
- P.167 AMEND** PO 4.1 (renumbered to PO 5.1) regarding land division to add reference to compatibility with the surrounding pattern of subdivision in the historic area.
- P.168 AMEND** PO 6.1 (renumbered to PO 7.1) regarding demolition to remove:
- the reference to 'economic' tests
 - the reference to the building façade's contribution to the historic character of the streetscape, but rather focus on preservation of the historic values and characteristics as expressed in the Historic Area Statement.
- P.169 AMEND** PO 7.1 (renumbered to PO 8.1) regarding conservation of ruins to remove reference to mining, farming and industry.
- P.170 AMEND** Historic Area Statements where appropriate to include:
- additional context in relation to the existing patterns and placement of carports, garages and vehicle access
 - details about the placement of existing alterations and additions
 - better articulation of existing materials, building styles, landscape patterns, fencing and the like
 - a brief historical context to help capture the era/theme in some very limited cases.
- P.171 AMEND** The following row headings within the tables contained in the Historic Area Statements as follows:

Eras, themes and context

Allotments, subdivision and built form patterns

Architectural styles, detailing and built form

Setting, landscaping, streetscape and public realm features.

Character Preservation District Overlay

This overlay applies to the Barossa Valley and McLaren Vale to recognise, protect and enhance the special character of these areas, while at the same time providing for the economic, social and physical wellbeing of the community.

Engagement feedback:

Multiple local government submissions suggested that as the Barossa and McLaren Vale regions have been given special recognition in the planning system through the Character Preservation Act(s), a further review of the Character Preservation District Overlay should occur to enhance and protect the character of these regions.

Further, as townships have now been spatially defined within the character preservation districts, additional policies within the overlay may be required to guide future development outcomes both within and outside of townships.

Feedback on the overlay focussed on the following key matters:

- Discouragement of high-voltage electricity lines in PO 1.2 of the overlay may hinder the future provision of electricity in the character preservation districts.
- The 'like-for-like' application of current policies contained within development plans should be included in the overlay as they preserve and enhance the special character of the character preservation districts.
- Opportunities should be considered to apply the Significant Landscape Protection and/or Scenic Route Overlay in tandem with the Character Preservation District Overlay to afford greater protection and guidance to the appropriateness of development in the area (e.g. better coordination and reduction in advertising signs, ensuring development is unobtrusive, minimising disruption of views and vistas, and encouraging the establishment of cycling and walking trails).
- Consideration should be given to adding more design policies to reinforce the preservation of key attributes of the character preservation districts (including scenic, tourism and heritage elements, built form of townships, and viticultural/agricultural and associated industries).
- Opportunities to include criteria in DTS/DPF 3.6 should be considered to reflect the approach to driveways contained in other character/scenic areas in existing development plans (e.g. the Adelaide Hills Face Zone).
- The imposition of the overlay may hinder the development of potentially appropriate development such as outbuildings, which would otherwise be accepted or deemed-to-satisfy class of developments.

- Clarification of the application of Section 8 of the *Character Preservation (McLaren Vale) Act 2012* and *Character Preservation (Barossa Valley) Act 2012* as referred to in PO 1.1, is needed. Specifically, the definition of 'residential development' as it applies to the Act.

Clarification: *The application of Section 8 of the Character Preservation (McLaren Vale) Act 2012 and the Character Preservation (Barossa Valley) Act 2012 has proven successful under current development plans and there is understanding as to what land divisions will be applied. In relation to the term 'residential development', the Act includes a description of this phrase as to mean 'development primarily for residential purposes', but does not include 'a dwelling for residential purposes on land used primarily for primary production purposes'.*

Commission's Response:

The Character Preservation District Overlay applies over the existing Character Preservation Districts prescribed by the *Character Preservation (Barossa Valley) Act 2012* and the *Character Preservation (McLaren Vale) Act 2012*. The character preservation district legislation focuses particularly on restricting further division of land in rural areas of these districts, including requiring the relevant planning authority to refuse to grant development authorisation where additional allotments are to be created for residential development.

In relation to requests to transition current policies contained within development plans into the overlay and to consider additional design policies to reinforce the preservation of key attributes of the character preservation districts (including scenic, tourism and heritage elements, built form of townships, and viticultural/agricultural and associated industries), the overlay has been expanded in the Phase Three (Urban Areas) Code to better clarify attributes to be protected and expectations for development. This includes separate policies to preserve natural features, reinforce rural character, and contribute to and maintain the historic identity and character of townships (e.g. through appropriate form, scale, design, siting, clustering of development and use of landscaping). There is scope, however, to expand the desired outcomes of the zone to recognise existing objectives in development plans to ensure the long-term use of land outside of townships for primary production and associated value-adding enterprises, which is vital to the economic wellbeing of these districts.

Concerns regarding the inclusion of policies (PO 1.2) in the overlay that specifically discourage the construction of high voltage electricity lines in the character preservation districts are acknowledged, noting that new infrastructure or augmentation of existing infrastructure may be needed to supply these regions into the future. Indeed, high voltage transmission lines currently traverse the Barossa Valley Character Preservation District. The draft Code also proposes that other forms of infrastructure, such as renewable energy facilities, are not supported across the character preservation districts. Notably, such facilities are proposed to be Restricted in the Rural Zone where the Character Preservation District Overlay applies.

It is acknowledged that the existing development plan overlay provisions do not specifically discourage types of essential infrastructure but instead include policies to ensure that scenic and rural landscapes within the character preservation districts are retained and protected and that buildings and structures complement the landscape. The overlay provisions include a range of provisions to ensure that buildings and structures harmonise with the natural features of the landscape, maintain character and do not interrupt views of the skyline. It is considered that this should be the focus of the overlay with development pathways established within the zone's tables. Infrastructure and Renewable Energy General policy provisions in the Code also provide additional guidance regarding the siting of electricity infrastructure to minimise visual impacts. On this basis, it is considered appropriate to remove PO 1.2 from the Overlay.

In relation to opportunities to include access and driveway criteria in DTS/DPF 3.6 of the overlay similar to the existing Hills Face Zone, such criteria did not exist in development plans as a desired policy outcome (only as an exclusion to non-complying development). Consequently, it has not transitioned to DTS/DPF criteria in the Hills Face Zone in the Phase Three Amendment (i.e. with regard to driveways, access tracks and car parking, the Hills Face Zone simply includes a PO (PO 8.1) with no associated DTS/DPF criteria). This provides greater flexibility to address a range of circumstances (e.g. on flatter/less visible land or where longer driveways may be necessary to provide access to a dwelling). It is therefore not considered appropriate to include such criteria in the Character Preservation District Overlay as a desired policy position.

Suggestions that the imposition of the Character Preservation District may hinder the development of potentially appropriate development such as outbuildings, which would otherwise be accepted or deemed-to-satisfy class of developments, are acknowledged. The intent of the Code should be to provide a 'like for like' transition where appropriate, including retaining opportunities for more minor forms of development that would be reasonably expected to occur within township areas or existing rural living zones outside of townships in the character preservation districts to be developed 'as of right'. This was also the intent of the policies introduced through the *Barossa Valley & McLaren Vale Revised Protection Districts Development Plan Amendment* in 2013.

At present, the draft Phase Three Amendment excludes most minor forms of residential development from the 'accepted' or 'deemed-to-satisfy' pathways where they are located in the overlay. This includes such uses in residential zones within townships, which was not the intent. It is therefore considered appropriate to review and amend development pathways to allow for minor development (i.e. development that is currently complying in zones within existing townships and listed in Schedule 4 for the current *Development Regulations 2008*, including declared areas for the purposes of the Residential Code) within townships and existing rural living areas in the Character Preservation District Overlay to be included as 'accepted' or 'deemed-to-satisfy' development where appropriate. This change has already occurred through the Phase Two Amendment.

The request to consider application of a 'significant landscape protection' and/or a 'scenic routes overlay' in tandem with the Character Preservation District Overlay (i.e. to potentially afford greater protection and guidance to the appropriateness of development in the districts) is acknowledged. Notably, a new Significant Landscape Protection Overlay has been applied in the Code to protect areas identified as having significant landscape character from inappropriate development (e.g. existing areas located in Rural Landscape Protection Zones under current development plans). The Code does not, however, include a separate overlay to apply to scenic routes.

It should also be noted that the desired outcomes and policies in the Significant Landscape Protection Overlay are similar to the expanded range of policies contained in the Character Preservation Districts Overlay (e.g. in terms of conserving natural and rural character, cultural qualities, siting development to be unobtrusive, limiting earthworks, and the like). If also applied to the character preservation districts, this is likely to result in significant duplication of policy applying to development or some tension between policies.

Further, application of the Significant Landscape Protection Overlay in the Code will also require a range of more minor forms of development (e.g. carports, garages and outbuildings and other ancillary residential development), which are currently allowed 'as of right' in zones within townships and rural living areas across the character preservation districts, to be considered as 'performance-assessed' development. The Significant Landscape Protection Overlay also strongly discourages some forms of development that may be appropriate in the character preservation districts such as uses or activities associated with promoting rural industries. Applying these overlays in tandem therefore has significant

implications and potential to create policy tension and confusion in relation to development assessment pathways within the districts and is therefore not considered appropriate.

Commission's Recommendations:

- P.172** **AMEND** DO 1 to ensure the long-term use of land outside of townships for primary production and associated value-adding enterprises in addition to recognising, protecting and enhancing the special character of the Character Preservation Districts.
- P.173** **AMEND** development pathways to allow for minor development (*i.e. development that is currently complying in zones within existing townships and listed in Schedule 4 for the current Development Regulations 2008, including declared areas for the purposes of the Residential Code*) within the Character Preservation District Overlay to be included as accepted or deemed-to-satisfy development.
- P.174** **CREATE** new DTF/DPF criteria (and an associated PO) to allow appropriate forms of residential and allied development to be considered as deemed-to-satisfy where located within a township in the Character Preservation District Overlay (in particular to address zones that may be located and/or extend outside of townships in the districts).
- P.175** **REMOVE** PO 1.2 and DTS/DPF 1.2 to allow forms of essential infrastructure to be considered in the Character Preservation Districts to meet future demand where they can achieve siting, design, visual and character preservation policies contained in the overlay or set out elsewhere in the Code.

Design Overlay

This overlay will trigger a referral to the Government Architect for advice (to the State Commission Assessment Panel) on how a particular development contributes to meeting the Office for Design and Architecture South Australia's Principles of Good Design.

Engagement feedback:

One council commented that there is limited design-related policy in the overlay.

Clarification: *The Design Overlay applies to certain location where referral to the Government Architect is sought for development over a certain scale or value.*

The Office for Design and Architecture South Australia (ODASA) recommended an amendment to the procedural matters post consultation to provide greater scope as to the purpose of a referral to the Government Architect.

Commission's Response:

The principal purpose of the overlay is to enable referrals to the Government Architect. Design-related policy is principally contained the Design in Urban Areas General Module so policy does not need to be repeated in the overlay.

It is considered appropriate to amend the 'Purpose of Referral' to insert an ODASA recommendation, which will capture the 'value' element of the Principles of Good Design as a referral consideration.

Commission's Recommendations:

P.176 **AMEND** the 'Purpose of Referral' column within the Procedural Matters table, to insert: *'Adds value by positively contributing to places and communities'*.

Local Heritage Place Overlay

This overlay ensures development maintains the heritage and cultural values of Local Heritage Places through conservation, ongoing use and adaptive reuse.

Engagement feedback:

A high number of submissions were received in relation to the Local Heritage Place Overlay.

Some submissions considered the overlay to be too generic and that more emphasis needs to be placed on conservation/retention of places. A number of submissions provided specific suggestions to reword policies to improve clarity, address gaps or to otherwise strengthen the policy intent.

Several submissions also recommended changes to the demolition policies within the Local Heritage Overlay to ensure the focus is first and foremost on retention and to prevent deliberate neglect becoming a means to gain demolition approval.

A number of submissions from a range of stakeholder groups flagged a lack of specific policy guidance for new development and its finished appearance, including form, size, proportions and materials (including what's not appropriate).

Several submissions suggested that more policy guidance is required around adaptive reuse and other development concessions. However, some considered that further guidance was required at the zone level (in relation to appropriate uses) rather than within the overlay itself.

A number of councils sought amendments to the Local Heritage Place listings in order to reflect demolitions, land divisions and other alterations and suggested amendments (via track changes) to the various overlays to address policy gaps, improve clarity and in some cases, alter policy intent. A small number of councils also suggested amendments to policy to better address less consistent historic streetscapes (e.g. within townships/commercial areas).

There was some feedback on the development of transmission infrastructure near heritage places/areas, as discussed in the Historic Area Overlay.

Very few submissions on the topic of heritage and character were received from the development industry.

Some concern was raised about the extent of the State / Local Heritage Place and State Heritage Area Overlays, and the implications this could have on non-listed properties. One submission sought to ensure the extent of these overlays is adjusted when land division occurs, particularly when associated with the subdivision of super lots (i.e. large master allotments which precede further subdivision).

A small number of community submissions sought a strengthening of language within the demolition policy for local heritage places to ensure an emphasis on retention, for example 'should' and 'must'.

Specific comments included the following:

- There were a number of suggestions made to consider rewording POs to better articulate their purpose. These include PO 1.2, PO 1.3, PO 1.6, PO 2.2, PO 3.3, PO 6.1 (b), PO 7.1, DO 1.
- One council suggested removing PO/DTS 6.2 as policy is no longer required as a result of the introduction of this overlay.

Commission's response: It was considered that, whilst the extent of the overlay has been reduced to cover only those sites on which a Local Heritage Place exists, the retention of this policy was still warranted as it would enable consideration of the demolition of buildings on the site which are not part of the listing, e.g. an ancillary dwelling on the same site.

- Several suggestions were made to transfer comments relating to the State Heritage Overlay to ensure a consistent approach is applied in the Local Heritage Overlay. These include PO 3.1, PO 3.2, PO 3.3, PO 5.1, PO 6.1, PO 7.1.
- It was considered by several responses that some terminology expressed in the Practice Guidelines require definition to be interpreted correctly. These included 'irredeemably beyond repair', 'conservation works', 'heritage impact assessment', 'minor nature' and 'setting'.

Commission's response: The topic of definitions needs a broader revisit. However, many of the terms used are consistent with the type of language already used in the heritage sphere, including in relation to State Heritage.

- Some submissions questioned the lack of design policy within the overlay and suggested the inclusion of existing Design Guidelines found in some development plans.

Commission's response: Providing design guidance for Local Heritage Places is considered problematic as what is considered appropriate or not is intrinsically linked to the heritage values and extent of listing of the individual place. In addition, Local Heritage Places are highly varied in their form and function and a single set of guidelines would not be able to address the level of variation across Local Heritage lists. As development of Local Heritage Places will generally be performance assessed, it is considered that guidance should be tailored to the individual place.

- A few submissions queried the lack/loss of public notification and appeal rights for development impacting Local Heritage Places.
- Several respondents felt the overlay is too broad and captures non-heritage places.

Commission's response: The overlay is proposed to be apply to each listed property only and a new Heritage Adjacency Overlay will be applied to adjacent sites.

- Noting this overlay captures land adjacent to Local Heritage Places, it should be amended to clearly identify what policies apply specifically to these places as opposed to adjacent development . It has been suggested that as it currently reads, the overlay treats adjacent development in the same way as development of a Local Heritage Place.
- Some existing Local Heritage Places are currently listed and mapped incorrectly in development plans (i.e. using incorrect property address details).

Commission's response: The Commission will further consider and investigate current known uncertainties with the accuracy of some Local Heritage listings within development plans as a separate project and where necessary will revisit this issue as part of a future Code Amendment.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- P.177** **CREATE** a new Heritage Adjacency Overlay which provides guidance for development on sites adjacent to State and Local Heritage Places.
- Note: Spatial application of the overlay is discussed in the Code Spatial Application section of this report*

Phase Three (Urban Areas) recommendations:

- P.178** **AMEND** various policies to reference 'Local Heritage Place' instead of 'place', 'principal building' or 'subject building'.
- P.179** **AMEND** PO 1.2 to reference siting, scale and massing.
- P.180** **AMEND** PO 1.3 to specify roof pitch and form, openings, chimneys and verandahs, as matters relevant to design and architectural detailing.
- P.181** **AMEND** PO 1.6 to reference structures as well as new buildings, which should not be placed between the primary nor secondary street boundaries and the façade of a Heritage Place.
- P.182** **AMEND** PO 1.7 by replacing the word 'elements' with the word 'features'.
- P.183** **AMEND** PO 2.2 regarding adaptive reuse to support retention of heritage places in a manner that respects its original use.
- P.184** **AMEND** PO 3.2 regarding ancillary development to ensure such structures do not dominate the Local Heritage Place or its setting.
- P.185** **AMEND** PO 3.3 to seek advertising to be located below the parapet line.
- P.186** **INSERT** new policy under the heading *Ancillary Development* to ensure fencing and gates closer to a street boundary (other than a laneway) than the street elevation of the associated building are consistent with the traditional period, style and form of the Local Heritage Place.
- P.187** **AMEND** PO 4.1(a) to seek land division which maintains the heritage values of the Local Heritage Place, including setting, rather than compatibility with the surrounding pattern of subdivision.

State Heritage Area Overlay

This overlay seeks to maintain the heritage and cultural values of State Heritage Areas through conservation, ongoing use and adaptive reuse. Specified development requires referral to the Minister administering the Heritage Places Act 1993.

A number of industry groups, local government bodies and members of the public provided commentary and discussed a broad range of themes and topics. The key themes are listed below:

State Heritage Guidelines for Development

Engagement feedback:

Multiple submissions raised the need to reference Heritage SA's 'Guidelines for Development' for State Heritage Areas within the ePlanning system and Statement of Heritage Significance documents as a component of assessment. It was considered that the provision of these two documents would provide greater guidance and clarity as to the appropriateness of development in each of the State Heritage Areas. Without reference to the guidelines and statements, the overlay was considered to require considerably more detail to avoid undermining existing policy provisions.

Commission's Response:

The Commission supports referencing the State Heritage Guidelines in the Code. Such guidelines are currently publically available through the Department for Environment and Water website. These documents also include a Statement of Significance. It is considered that the adoption of these measures addresses the issues of a number of the submissions received.

Definitions and Terminology

Engagement feedback:

It was considered by several responses that some terminology required definition to be interpreted correctly in application. The choice of specific expressions was also queried and more direct language required. These included:

- Irredeemably beyond repair
- Adaptive reuse
- Unforeseen events beyond the control of the owner
- 'Minor' in reference to referrals, where development considered 'minor in nature' is not required to warrant a referral. In association, 'like-for-like maintenance' warrants a definition.
- Multiple submissions recommended more assertive, definitive language should feature in the overlay. For example, 'should' be replaced by 'must.'

Commission's Response:

The common definition and interpretation of the above expressions is considered sufficient to see their accurate application, and the Commission does not consider it necessary to define the above expressions in the Code. 'Unforeseen events' reference natural weather phenomenon, such as bushfire and flood. Definitive language suggested is inconsistent with the Code drafting principles and are not considered appropriate.

Other feedback

- PO 2.1 should directly reference a heritage building, as the proposed expression is inconsistent.
- A community submission desired that all development within the overlay be publicly notifiable to ensure proposed development does not diminish the heritage attributes of area.

Commission's Response: It is not considered appropriate to notify all development. However, it is considered appropriate to notify demolition within the overlay.

- The 'Purpose of Referral' column is too vague and should be revised to provide greater guidance as to what heritage elements should be considered by referral bodies.
- It was suggested that Practice Directions be published for the State Heritage Area Overlay as such directions exist for similar overlays.

Commission's Response: State Heritage Areas have a referral trigger to the Minister for Heritage and as such, guidance can be provided by the Minister. Further, Heritage SA have a series of Guidelines for Development and other guiding information to assist with the assessment of development associated with State Heritage. As such, a Practice Direction is considered unnecessary.

- Code Heritage Statements should be incorporated into the State Heritage Areas Overlay to reflect and provide appropriate guidance in relation to unique historic attributes for individual areas, similar to the approach taken to Historic Areas and Character Areas.

***Clarification:** The Commission notes that all State Heritage Areas are the subject of a 'Statement of Significance' in the SA Heritage Register, which is maintained by the South Australian Heritage Council under the Heritage Places Act 1993 and outline why an area is of heritage value. It should be noted that several State Heritage Areas have specific Guidelines for Development as well as more generic technical guides applicable to all areas and that development within State Heritage Areas generally triggers a referral to the Heritage Minister.*

- Include a definition of 'minor' as this has implications for referrals to the Minister administering the Heritage Act.

Commission's Response: It is considered a definition should not be provided as 'minor' will depend on the context of the proposal. For example, a small shed next to a very large and imposing State Heritage building could be deemed minor, whereas the same small shed next to a more modest State Heritage building could have significant implications. Further clarification could be considered for any potential future guidance material to support the Code.

Other issues raised in feedback included:

- Policy expression and inclusion of words such as 'should' and 'must'
- Concern regarding the inclusion of a deemed-to-satisfy pathway and referral triggers
- Inclusion of policy to require landscaping where listed trees/gardens are removed
- Rewording of policies to provide clarity around buildings of heritage value.

Commission's Recommendation:

Phase Three (Urban Areas) recommendations:

P.188 AMEND DO 1 to reference Statements of Significance and other relevant documents prepared and published by the administrative unit of the Public Service that is responsible for assisting a

Minister in the administration of the *Heritage Places Act 1993* (i.e. State Heritage Area Guidelines)

- P.189 INSERT** new PO under the heading *Alterations and Additions* to seek the adaptive reuse and revitalisation of heritage buildings and places to support their retention in a manner that respects and references the heritage values of the State Heritage Area.
- P.190 AMEND** PO 3.1 by adding the words '*State Heritage*' before the word '*Area*'.
- P.191 AMEND** PO 3.3 to seek advertising to be located below the parapet line.
- P.192 INSERT** new PO under the heading *Ancillary Development* to seek fencing and gates consistent with the heritage values of the State Heritage Area.
- P.193 AMEND** PO 5.1 to refer specifically to street trees, kerbing, footpaths and other features that contribute to the historic value of the State Heritage Area.

State Heritage Place Overlay

This overlay seeks to maintain the heritage and cultural values of State Heritage Places through conservation, ongoing use and adaptive reuse. Specified development requires referral to the Minister administering the Heritage Places Act 1993.

A significant number of submissions were received concerning the State Heritage Place Overlay. The responses raised a number of issues and addressed varied themes. The topics of discussion listed below under each heading:

Demolition

Engagement feedback:

- Concern was raised that limited notification and appeal rights exist for the demolition of heritage places and that public notification requirements are inconsistent across zones.
- One group was concerned that heritage places and unlisted historic buildings within the Port Adelaide precinct are vulnerable to demolition.

Commission's Response:

Notification varies zone by zone, however amendments are proposed to be made to some neighbourhood zones to require notification where demolition of a heritage place is proposed.

All State Heritage listed buildings are transitioning to the State Heritage Place Overlay and will retain demolition control. There is currently no protection for places which are not listed therefore the Code maintains status quo.

Overlay Policy Content

Engagement feedback:

- Development concessions are considered important in facilitating the adaptive re-use of heritage-listed buildings but the Code is silent in this regard. An additional PO which accommodates such dispensations should be included.
- PO 1.2 should be amended to consider the siting of development.

- Additional detail is needed in PO 1.3 to specify design features and architectural detailing.
- The scope of PO 1.6 should be expanded to encompass the curtilage of a State Heritage Place not only the front street boundary.
- Consistency in policy is needed, particularly in reference to 'heritage building' in place of 'subject building' in PO 2.1.
- Additions to PO 3.3 are needed to consider third party advertising, scale and projection of signage.
- PO 6.1 needs to be amended to focus on conservation and to consider deliberate neglect.

Clarification:

Determining deliberate neglect can be subjective and problematic. Notwithstanding, the Heritage Places Act 1993 discusses such actions. It should be also noted that PO 6.1 is concerned with demolition, not conservation and that DO 1 addresses the intent to conserve heritage.

- The words 'compatible' and 'either' should be inserted in PO 1.5A .

Commission's Response: The Commission support inclusion of these words in the policy to ensure consistency with the other heritage Overlays.

Landscaping

Engagement feedback:

- PO 4.1 should be expanded to prescribe landscape setting and curtilage requirements for land division applications.
- PO 5.1 should be amended to consider landscaped settings around a State Heritage Place and list mitigation measures for the loss of trees or plantings if such loss is considered to impact heritage value or landscape character. New development should consider existing vegetation which should be retained.

Commission's Response:

Landscaping is not considered development unless specifically listed. Mitigation measures such as replanting requirements could form part of development conditions, and be part of the Heritage Minister's advice.

Terminology and Expression

Engagement feedback:

- 'Minor' and 'like-for-like' should be defined when referenced in Referrals Table.
- The word 'maintains' should be replaced with 'does not detrimentally affect' in PO 1.1 - 1.3.
- The word 'values' should be replaced with 'significance' in PO 1.5, 3.1 and 6.1.

Commission's Response:

It was considered that the word 'significance' has the same meaning and intent as 'values' in this context and as such, no change was required. Similarly, it was considered 'maintains' has the same intent as 'does not detrimentally affect'.

Procedural Matters – Referrals

Engagement feedback:

- Public notification should be required for demolition of State and Local Heritage Places and buildings situated within the Historic Area Overlay.
- Adjacency provisions are needed and further guidance is required about when a referral is triggered for either a heritage place and/or an adjacent property. In addition, it is considered the overlay triggers notification requirements for properties located some distance away and/or requires notification for a property whereby no heritage impacts would occur and should be altered.
- The phrases 'like-for-like', 'materiality affect the context of the SHP' and 'substantive' need definition.

Several submissions considered that the State Heritage Area Overlay is too generic and does not contain policy to appropriately address local circumstances. Many of these submissions recommended the inclusion of Historic Area Statements (or similar) for each of the 17 State Heritage Areas or suggested providing links to the various guidelines prepared and used by Heritage SA to inform the development assessment process. It was further suggested that Statements of Significance be included to articulate the historic values of each area.

A number of submissions from a range of stakeholder groups flagged a lack of specific policy guidance in both the State Heritage Place and State Heritage Area overlays for new development and its finished appearance, including form, size, proportions and materials (including what's not appropriate). Again, several submissions referred to the guidance of existing Heritage SA documents.

Some submissions suggested that more policy guidance is required around adaptive reuse and other development concessions. However, some considered that further guidance was required at the zone level (in relation to appropriate uses) rather than within the overlay itself.

The change in referrals to give the Heritage Minister the power of direction within the State Heritage Place and State Heritage Area overlays was generally supported, however, a small number of submissions raised concerns and sought to have more local input into the decision.

Commission's Response:

The referral triggers have been developed in conjunction with SA Heritage as the agency responsible with State Heritage, and are therefore considered to be appropriate. Policies have been introduced to provide guidance around and incentivise the adaptive reuse of State Heritage Places.

Other feedback

Feedback received in relation to this overlay raised the need to clearly identify what policies apply to State Heritage Places as opposed to properties adjacent to these sites.

There was also a suggestion the Code should include the mapping of National Heritage.

Clarification: These sites are covered by Commonwealth legislation.

Other items of note include:

- Policy expression and inclusion of words such as 'should' and 'must'
- Concern regarding inclusion of a DTS pathway and referral triggers.
- Suggestion of inclusion of policy to require landscaping where listed trees/gardens are removed.

- Minor rewording of policies to provide clarity.

Commission's Response:

As with the feedback received for the Local Heritage Place Overlay, the inclusion of words such as 'should' and 'must' in policy does not meet the drafting principles of the Code and is therefore not recommended for adoption.

Guidance was also sought in relation to the term 'irredeemably beyond repair'. This is intended to describe building fabric that is so compromised its value would be lost were it to be repaired or replaced.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

- P.194** **AMEND** various policies to reference 'State Heritage Place' instead of 'place', 'principal building' or 'subject building'.
- P.195** **AMEND** PO 1.2 to reference siting, scale and massing.
- P.196** **AMEND** PO 1.3 to specify roof pitch and form, openings, chimneys and verandahs as matters relevant to design and architectural detailing.
- P.197** **AMEND** PO 1.6 to reference structures as well as new buildings, which should not be placed between the primary or secondary street boundaries and the façade of a Heritage Place.
- P.198** **INSERT** new PO under the heading *Alterations and Additions* to seek the adaptive reuse and revitalisation of State Heritage Places to support their retention in a manner that respects and references the original use of the State Heritage Place.
- P.199** **AMEND** PO 3.3 to seek advertising to be located below the parapet line.
- P.200** **INSERT** a new PO under the heading *Ancillary Development* to ensure fencing and gates closer to a street boundary (other than a laneway) than the street elevation of the associated building are consistent with the traditional period, style and form of the State Heritage Place.
- P.201** **AMEND** PO 4.1(a) to seek land division which maintains the heritage values of the State Heritage Place, including setting, rather than compatibility with the surrounding pattern of subdivision.
- P.202** **AMEND** PO 7.1 to reference both exterior and interior conservation works.

Noise and Emissions Overlay

This overlay provides policy guidance to protect sensitive development from noise and air emissions generated from major transport corridors (road and rail) and mixed land use. The overlay is also used as the trigger for application of Ministerial Building Standard MBS 010: 'Construction requirements for the control of external sound' and addresses development near high-volume roads and rail corridors, plus general noise in mixed-use areas (particularly from music venues).

A number of submissions queried the spatial application of the overlay and suggested further review and refinement. Deemed-to-satisfy development was also considered to be inappropriately hindered by the overlay and more policy provisions concerned with noise attenuation measures were suggested.

Engagement feedback:

- A review of the spatial application of the overlay is needed as it is observed to be applied in areas where there are no or limited noise- or air- polluting sources.
- The spatial extent of the overlay should be applied more broadly across urban areas to support State Planning Policies relating to Integrated Planning, Design Quality, Employment Lands and Strategic Transport Infrastructure and reflect Technical Information Sheet 08.
- DTS criteria should be included as appropriate deemed-to-satisfy developments are not afforded a pathway in areas where the overlay applies.
- Noise attenuation policies should be introduced for residential development on main roads and arterial roads to provide consistency with current policy measures.

Clarification:

Reference to Australian Standards was not included in the Code as some aspects require subjective consideration and therefore are not suitable as measurable criteria for deemed-to-satisfy requirements.

The Commission will consider the use of Practice Guidelines or similar technical guidelines to assist in place of Australian Standards.

Commission's Response:

The overlay has been applied widely across growth area zones and some residential zones, rather than adjacent to main road corridors and mixed use zones. Given it doesn't include a deemed-to-satisfy pathway, this removes the pathway for dwellings etc.

A deemed-to-satisfy pathway is considered warranted for sensitive receivers when not adjacent to a Designated Road Type A or B, Train or Tram Corridor or where it is adjacent to music venue, appropriate noise attenuation measures are incorporated.

Minor editorial amendments are recommended to remove reference to policy issues addressed by other parts of the Code (e.g. requirements for safety, urban design and access, wind impacts on pedestrian amenity).

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

- P.203** **CREATE** DTS/DPF criteria for each PO in the overlay to provide a Deemed-to-satisfy pathway for sensitive receivers where not adjacent to a Designated Road Type A, B or R, Train or Tram Corridor, or where it is adjacent to music venue, appropriate noise attenuation measures are incorporated.

Design in Urban Areas General Development Policies

These general policies reflect the principles of good design and apply across a large number of development scenarios, not just residential. The policies relate to the design of buildings, structures and spaces for aesthetic and/or sustainable purposes. They also provide guidance for residential development with regard to amenity, private and communal open space, dwelling additions, and ancillary buildings and structures. Best practice policy (e.g. relating to WSUD, environmental sustainability and overall design and performance of new urban infill) is included.

The Design in Urban Areas General Development Policies drew a large amount of feedback from a range of stakeholders with the majority focussing on policies which apply to residential infill development including tree planting, landscaping and water sensitive design.

Tree planting

Engagement feedback:

The inclusion of deemed-to satisfy-policy requiring landscaping and tree planting on residential sites was generally supported. Some respondents indicated that the requirements should be increased to improve alignment with tree canopy targets in the 30 Year Plan for Greater Adelaide. Other suggestions related to linking urban heat mapping to Code policy. Some respondents queried how tree planting and landscaping policy could be enforced and monitored by authorities and the resources required to undertake this.

Development industry stakeholders raised the following matters:

- The requirement to plant a tree will increase footing specifications to address potential tree root effects and this increased footing size will increase the cost to the home builder and impact housing affordability.
- It is not feasible to provide a 4 x 4m space for a tree in front of buildings where the street setback is 3m so this policy should not be required in areas where 4 or more storeys are envisaged.

Local government submissions observed the following:

- More policy is needed in the Code to mitigate urban heat effects.
- Additional support through conditions and fees should be included to facilitate the planting of trees.
- Consideration of landscaping and its appropriateness in relation to its proximity to building footings should be considered.
- Soft landscaping and 1 tree per dwelling is positive but should be applied to all development.

Community members and groups:

- supported the provisions for increasing and maintaining tree cover in urban infill situations
- expressed concern that site provisions (infill density) will not protect tree canopy/biodiversity
- requested more policy to protect older trees and more planting policy that gives regard to the type of trees and how the trees are to be maintained.

Advocacy institutes/associations observed:

- The Code should encourage the use of fit-for-purpose plant species; incorporate guidelines on minimum tree size and quality at time of installation; require landscaping be installed prior to occupation; and reference a guide of suitable species.
- Land requirements to support tree planting should be at least 10% of the site for minimum deep soil area (based on 20% being allocated for private open space) and at least 2 larger trees for sites greater than 1500m².

Commission's Response:

To address concerns and queries around the Code's proposed tree planting policy, the Department commissioned a Cost Benefit Analysis by BDO EconSearch. The analysis found that:

- Overall, if well managed, the introduction of the tree planting policy will provide economic, amenity and liveability benefits for the community.
- Trees have the potential to impact on a building's footings where they are set back a distance less than their mature growth height. In such cases, footings must be designed to address the risk of impact with costs depending on soil type, construction method, footing type and number of trees.
- The additional house footing costs and on-site tree planting and maintenance costs (borne by infill households) is offset by the non-market environmental and social benefits that increased urban tree canopy cover provides and the cost-saving benefit of reduced electricity use to infill households.
- The minimum 5m set back of the General Neighbourhood Zone allows a 4m tree (as per the draft DTS) to be planted outside the zone of 'tree effect' and therefore incurs no cost.
- The Housing Diversity and Urban Renewal Zone (with a minimum 3m setback) does not have space to fit a 4m mature tree without the footings being designed to accommodate this. However, the footings of many dwellings (in small lot infill environments) are already affected by near-by street trees and/or trees on adjacent sites so they already have to accommodate a 'tree effect' and this is not a new cost.

Given the notable benefits of tree planting observed in the analysis, the Commission proposes to retain the tree planting policy for new dwellings in urban areas, but not in:

- rural areas where loss of tree canopy is not as severe as urban infill areas
- master planned areas as open space and tree planting is likely to have been provided through the land division process.

To provide a more nuanced approach to apply to the tree planting policy, it is proposed to create a new Urban Tree Canopy Overlay which can be applied over 'neighbourhood' zones where urban tree canopy decline is experienced. This approach would also allow for nuancing in application of the policy to exclude tree planting requirements in cases where the cost of planting a tree (largely incurred by upgrades to building footings) may exceed the anticipated benefits, such as areas with higher soil reactivity.

In response to concerns about the impact on dwelling footings, the Commission may develop advisory material under section 66(5) of the PDI Act in the future which details:

- a suggested planting guide and a selection of tree species suitable for South Australian climate that meet the height/spread categories
- recommendations for setbacks from buildings and reference AS2807-2011 Residential Slabs and Footings
- maintenance guidelines, etc.

Mandatory tree setbacks from buildings are not proposed to be incorporated in the Code policy given that a closer tree may not impact on dwelling footings if the footings are upgraded in any case (e.g. where neighbouring trees, soil type, etc. require footing upgrades irrespective of new tree plantings).

The Cost Benefit Analysis also assessed the costs and benefits of meeting tree canopy cover requirements through an offset scheme. It is expected that there will be no additional house footing costs incurred by infill homeowners if those households choose to participate in an offset scheme. The Commission supports investigation into establishment of an off-set scheme into which payment could be made in lieu of planting one or more new trees, with moneys used to plant and maintain trees in public

reserves and nature strips. This would provide an additional option for payment in cases where it may be impractical to accommodate on-site plantings, such as in higher density zones where a front/rear setback of less than 3m is anticipated, or in areas where higher soil reactivity may substantially increase footing costs when a tree is planted.

Note: An Off-set Scheme established under section 197 of the PDI Act would not form part of the Code, but could provide the ability for a provision of the Code to apply with a specified variation under the terms of the scheme.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

P.204 **CREATE** an Urban Tree Canopy Overlay which contains the tree planting policy, and
DELETE PO/DTS/DPF 21.2 from the Design in Urban Areas General Development Policies.

Soft Landscaping

Engagement feedback:

Feedback on minimum soft landscaping (i.e. pervious areas) varied between different stakeholder groups.

Development industry stakeholders raised the following matters:

- The requirement for soft landscaping is too great an area, particularly for small/narrow sites, and should only apply to the front yard area.
- The Greenfield and Master Planned zones in non-infill areas should be exempt from this requirement as the concern is addressed in the public realm as part of a greenfield/master planned approach.
- Minimum pervious percentages should be reduced to align with POS requirements.
- The policy should not apply in Housing Diversity, Urban Corridor or Urban Renewal Neighbourhood zones.

Local government submissions observed the following:

- More policy is needed in the Code to address urban heat effects.
- The requirement to provide 15-25% soft landscape areas and a minimum of one (1) tree per dwelling is positive and strongly supported but should apply to all development regardless of type or scale.
- The term 'living green landscaping' should replace 'soft landscaping'.
- The proportion of soft landscaping should align with the POS.
- An additional category of soft landscaping is needed to address very small allotments.

Community members and groups:

- expressed concerns about the impacts on urban heat, biodiversity and pollution resulting from plastic lawns instead of porous paving, gravel or vegetation
- requested that smaller sites should be required to have a higher proportion of soft landscaping
- requested that policy to stipulate where greenspace should be located for maximum microclimate benefit
- requested that permeable paving not be a predominant feature of soft landscaped areas.

Advocacy institutes/associations observed that policy relating to soft landscaping and permeable surfaces is ambiguous and open to interpretation and requested an increase in minimum dimension from 0.5m to 0.7m.

Commission's Response:

While concern has been raised by some industry stakeholders regarding soft landscaping requirements, testing of a selection of standard house designs demonstrated that most designs achieve compliance with the criteria as drafted. Cases of non-compliance also demonstrated non-compliance with other criteria such as setbacks, site coverage or private open space, suggesting that those examples represented an over-development of the site that is not appropriate under the Code. However, the need to include an additional category with a reduced amount of landscaped area to apply to a very small site is considered appropriate.

The Commission supports the creation of a new administrative definition of soft landscaping to clarify that it does not include artificial lawn – see associated recommendation in the Administrative Definitions section of this report.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

P.205 **AMEND** policy under 'Residential Development - 3 Building Levels or less > Landscaping' to:

- increase the minimum proportion of soft landscaping forward of the building line to 30%
- increase the minimum dimension of landscaping from 0.5 to 0.7m
- include an additional category of dwelling Site Area (less than 150m²) with a 10% landscaping requirement.

Rainwater tanks and water sensitive urban design

Engagement feedback:

Feedback from development industry stakeholders on rainwater tanks raised the following matters:

- Rainwater tanks (including requirements for minimum 80% of roof area connected to tank and tank volume) could be difficult to achieve and costly and should be at the discretion of the homeowner.
- The 1000L capacity under Building Code of Australia (BCA) should be retained but be reduced to 50% for row dwellings.
- For greenfield/master planned developments, sufficient stormwater management provisions for the retention and detention of stormwater are likely to have already been provided.
- Water sensitive design policies related to 5-19 dwellings are too onerous and unnecessary and stormwater requirements for smaller residential developments, particularly connecting rainwater tanks, would add cost to development.

Some industry submissions indicated that stormwater retention was already addressed in the BCA and policy shouldn't replicate / expand on this. It was also suggested that policy needed to be more flexible to consider local conditions. It was also identified that stormwater management policy should be reworded to improve clarity and make it more equitable, to ensure that it only requires additional stormwater runoff

generated by a development to be managed rather than address existing pre-existing conditions / issues within a catchment.

Other industry submissions provided suggestions for improvements to stormwater related policies including retention and detention solutions.

Local government submissions:

- requested larger on-site stormwater retention/detention requirements
- requested clarification of WSUD provisions to ensure they are practicable and will achieve the desired outcomes.
- expressed concern around stormwater management with increased infill development (hazard mapping)
- queried why stormwater management policy only applies to 5-19 dwellings (stormwater principles for larger development).

Community members and groups:

- requested additional WSUD elements such as compulsory use of permeable paving and greater water catchment options
- requested more guidance for WSUD when it comes to small-scale development in established suburbs
- recommended the inclusion of urban design guidelines that provide standards for incorporating larger on-site water collection/storage for household use, e.g. large underground tanks, deep gutter roofing.
- considered the stormwater management policies could be onerous and inequitable in some circumstances and result in a requiring a reduction in pre-development peak flow rates and that the policy does not align with relevant guidelines used by engineering practitioners
- requested additional policies to mitigate stormwater management as a result of infill development and that further policy development should be undertaken to increase stormwater detention requirements for infill development at the development plan consent stage.

Commission's response:

To address concerns and queries around the Code's proposed rainwater tanks and water sensitive urban design policy, the Department commissioned a Cost Benefit Analysis by BDO. The analysis found that:

- Rainwater tanks are effective in reducing the impact of small-scale flooding provided they are able to be emptied appropriately. A detention component is therefore recommended.
- There is a wide range of existing development plan rainwater tank requirements (2,000-5,000L) and also assessment via the current ResCode for small-scale infill development (e.g. 10% in West Torrens to 64% in Marion) therefore the proposed Code policies provide an appropriate middle ground
- The cost of upgrading a tank is generally offset by water savings benefits to the household, and more notably, preventing the need for upgrades of existing stormwater infrastructure to deal with heavy rain events.

It is proposed to retain the tank sizes proposed in the consultation version for the Code, but to introduce a detention requirement for larger tanks to enhance benefits to the stormwater catchment. The majority of tanks will be used for retentions to deliver greater water-saving benefits to the homeowner, which represents a shift from most council requirements for predominantly detention tanks.

To ensure the efficiency of retention tanks, it is proposed to increase the percentage of roof area connected to the tank to 80% for all dwelling types.

Acknowledging the increase in cost of plumbing connections where dwellings incorporate more than 1 toilet, it is proposed to require connection to only 1 toilet instead of all toilet to minimise costly plumbing works, for example where a second-storey bathroom would require connection. Furthermore, for smaller sites, it is considered appropriate to provide the option for connection to either 1 toilet, laundry cold water outlets, or hot water service.

In accordance with the tree planting policy, it is proposed to apply the rainwater tank policy through application of a new overlay, which will allow the policy to be implemented only in urban areas where on-site stormwater management is needed.

It is acknowledged that on-site water sensitive design policies should not be relevant to new dwellings in master-planned areas given wholesale stormwater management is likely to have been implemented through the land division process.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

P.206 **CREATE** an Stormwater Management Overlay which contains the rainwater tank policy, and **DELETE** PO/DTS/DPF 22.1 from the Design in Urban Areas General Development Policies.

P.207 **AMEND** policy in the new Overlay to:

- introduce detention requirement for tanks on sites >200m² to assist in improving stormwater impacts but waive this requirement if site permeability exceeds 30-35%.
- increase the percentage of roof area connected to rainwater tanks to 80% for all dwelling types
- require connection to: either a toilet, laundry cold water outlets or hot water service for sites less than 200m²; or connected to one toilet and either the laundry cold water outlets or hot water service for sites of 200m² or greater
- clarify that the policy only relates to detached, semi-detached or row dwellings, or less than 5 group dwellings or dwellings within a residential flat building.

P.208 **AMEND** the water sensitive design policies PO 22.2, DTS / DPF 22.2 and PO 22.3 and DTS / DPF 22.3 to:

- move from Residential Development (3 building levels or less) to 'Group Dwellings, Residential Flat Buildings and Battle-axe Development'
- clarify that these policies relate only to development creating a common driveway / access that services 5 or more dwellings
- increase clarity, ease of use and ensure that they are contemporary.

Private open space (POS)

Engagement feedback:

Feedback on private open space criteria drew a variety of feedback from different stakeholder groups.

Development industry stakeholders raised the following matters:

- The private open space definitions and requirements are too onerous and should be reviewed to be more consistent with the current ResCode and reduce significant increases in requirements between allotment sizes (e.g. a 299m² allotment requires 24m² of private open space whereas a 300m² allotment requires 60m²).

- A single open space figure (24m²) would be a more appropriate policy to apply across all but the most 'urban' forms of development (i.e. apartments and some very small lot terrace developments).
- Minimum dimension should be reduced to 3m to align with rear setback criteria.

Local government submissions observed the following:

- Private open space should not be located (or at least not encouraged) in front of the dwelling.
- The minimum dimension and areas for POS are considered largely insufficient and there is concern about the reduction in POS minimum dimension from 2.5 to 1.8m.
- A 20% POS should apply to all dwellings.

Community members/groups and advocacy institutes/associations:

- requested an increase in the requirements for POS provision to ensure liveability and standardised proportion of green space and recommended a minimum of 30%
- requested that requirements for residential flat buildings (apartments) should align with other dwelling forms
- expressed concern that the deemed-to-satisfy solutions around private open space are generally unsatisfactory and do not provide suitable POS for families and children to play
- requested that a minimum 20% POS should apply to all dwellings.

Commission's Response:

Given new requirements for pervious landscaped areas, there is less relevance in prescribing POS as a minimum proportion of the site area. Prescribing a minimum functional area of POS that is directly accessible from living areas is considered a more appropriate and effective policy mechanism.

It is acknowledged that the main area of POS for a dwelling should not be encouraged forward of the building line due to the associated requirement for front fencing (reducing surveillance) and a generally incompatibility with standard house designs having living areas at the rear. As such, it is recommended that a single area of 24m² be located behind the building line.

Amendments to the definition of POS are supported to increase the minimum dimension to 2.0m and clarify that the POS must be screened by fencing etc., and that it includes open verandahs, decks, etc. Refer to associated recommendation in the [Procedural and Technical > Administrative Definitions](#) section of this report.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

- P.209** **AMEND** Table 1 – Private Open Space to prescribe minimum POS of 24m² sited behind the building line with minimum dimensions of 3m and 16m² accessible from a living room for all dwellings other than residential flat buildings.
- P.210** **REMOVE** policy requiring POS areas in front yards to be fenced and incorporate a verandah (this will be dealt with in the definition of POS in any case).

Garaging

Engagement feedback:

Industry groups raised concern with restricting garage/carport width to 50% of allotment as this would no longer allow the option of building a home with a double garage on a 10m wide block. It was also observed the proposed minimum internal garage widths of 3.2m (single garage) and 6.0m (double garage) and length 6.0m would exceed many builder's designs and Australian Standards.

Alternatively, certain council feedback observed garage widths should be limited to a maximum of 30% and up to 6m to reflect certain development plans.

Commission's response:

Currently the ResCode permits a 7m wide garage/carport door and this Code proposed to limit this to 50% of the allotment width or 7m (whichever is less).

A 50% limitation is a common parameter for garage widths in many development plans and assists in not only minimising garage dominance for aesthetic reasons, but also ensures dwellings can be designed with habitable rooms facing the street to enhance passive surveillance.

It is noted that on a 10m wide allotment, the 50% policy would allow a 5.0m wide garage door. This would allow for a double garage as a standard double-width door is 4.8m wide. The policy could be amended to clarify this relates to the width of the door opening, not the garage itself.

It is acknowledged that the 50% garage width restriction has less relevance to two-storey dwellings because the second storey enhances the street's habitable windows, etc.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- P.211** **AMEND** policy under 'Residential Development - 3 Building Levels or less > External appearance' regarding garage and carport door width to:
- delete the maximum 3.5m door width on sites with a frontage less than 12m and replace with a width not exceeding 50% of the site frontage
 - clarify that the maximum 7m or 50% garage/carport width criteria relates to the width of the door opening not the garage itself.
- P.212** **AMEND** internal car parking dimension policy to accord with Australian Standards.

Driveways, access and street parking

Engagement feedback:

Comments on policies regarding driveway design and access observed that sites with a frontage of 12m or less are required to have an access point to the road of a maximum width of 3.2m which is too restrictive and does not allow for a double garage due to insufficient manoeuvring room.

A number of council and community submissions raised concern regarding driveway setbacks from street trees, including:

- Policy should better reflect the characteristics of the particular street tree in question with respect to its own tree protection zone (i.e. 2m may be acceptable for a bottlebrush but not for a 100-year-old gum).

- The setback required is currently determined by the tree species' trunk diameter and, for large mature trees, its structural root zone radius, which is calculated in accordance with AS (a minimum separation between the subject tree and proposed crossover is to protect the tree and provide space for tree growth and minimise future damage to the crossover).
- It is unclear where the 2m setback is measured from (i.e. the trunk, the canopy, etc.).

In relation to the need to retain on-street car parks between driveway, there was concern that on-street car parks will be attributed to more than one proposal.

Commission's response:

While limiting driveway widths is an important consideration in the new infill policy, there is scope to review the criteria to provide more flexibility on wider sites. It is considered appropriate to allow wider driveways on sites where double-garaging is permissible to allow for more convenient vehicle manoeuvring (4.8m standard double-garage door width suits sites with frontage >9.6m, therefore 10m frontage width should be the relevant parameter).

It is acknowledged that driveway setbacks from street trees can be guided by a variety of factors, which could be further investigated as design standards for the public realm are developed. Regarding concerns on the impact on large mature trees, it is noted that if a tree is classified as regulated or significant, a driveway in close proximity to the tree will comprise tree-damaging activity in any case, invoking a performance assessed pathway with relevant provisions from the Regulated and Significant Trees Overlay.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- P.213** **AMEND** DTS/DPF under 'Car parking, access and manoeuvrability' to clarify that on-street car parks are required where on-street parking is available abutting the site's street frontage, at a rate of 0.33 per dwelling (rounded to the nearest whole number, therefore 1 space would be required for 1 or 2 dwellings).
- P.214** **AMEND** DTS / DPF relating to driveway gradient and angle to improve clarity about appropriate alignment of vehicle crossovers / driveways.

Phase Three (Urban Areas) recommendations:

- P.215** **AMEND** DTS/DPFs under 'Car parking, access and manoeuvrability' to:
- clarify setback from street trees refers to the base of the trunk
 - limit driveways to 3.2m in width at the front boundary on sites with a frontage less than 10m, not 12m.

External Appearance

Engagement feedback:

- A window area of 2m² minimum is overly prescriptive and could have impact on energy efficiency and design. Also, does this relate to aggregate window size or each window?

- A minimum room width of 2.7m could have impact on internal design and overall built width will have a negative impact on narrow blocks.
- The requirement for the entry door to the front elevation to address the street is too prescriptive and will preclude different design options.
- The requirement for 3 minimum design features to the front elevation from 4 possible alternatives for single-storey dwellings is too restrictive and it is possible that streetscapes will become repetitive. Suggest additional option for at least two materials/colours on the front facade.
- Additional design criteria should be provided for front and side/rear façades, especially façades which present to public spaces such as secondary streets.

Commission's response:

The 2m² minimum window area is considered achievable on most standard residential designs, however the policy could be amended to clarify this as it relates to the total of all windows on the front façade, not just 1.

It is noted that there has been some ambiguity about what comprises a 'habitable room', as there have been examples of hallways and the like being labelled as 'study' to achieve compliance with ResCode criteria. In such cases, the area is unlikely to be inhabited for extended periods and dilutes the intent of the policy to provide passive surveillance to the street. It is, however, considered appropriate to reduce the dimension to 2.4 metres.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

P.216 **AMEND** DTS/DPF under 'All residential development > Front elevations and passive surveillance' to:

- clarify that 2m² window area relates to the total aggregate area of all windows on front facade
- allow a dwelling's entry door to be 'visible' from the street rather than facing the street.

Phase Three (Urban Areas) recommendations:

P.217 **AMEND** DTS/DPF under 'All residential development > Front elevations and passive surveillance' to reduce minimum habitable room dimension from 2.7 to 2.4m.

P.218 **AMEND** DTS/DPF under 'Residential Development - 3 Building Levels or less > External appearance' to:

- add new criteria to external appearance policy to allow a minimum of two different colours/materials incorporated on the front façade to satisfy 1 of the 3 required treatment options.
- require dwelling façades facing a secondary street frontage to satisfy 2 treatment options.

P.219 **REMOVE** PO/DTS/DPF requiring recessing of the secondary street façade as articulation of secondary street frontages will be achieved through the other 'External appearance' policy.

Waste storage

Engagement feedback:

Feedback from development industry observed that the requirement for waste bin storage mandates additional area that may or may not be used by homeowners. Further, the 3m² area for waste and unobstructed path to the street would not be achievable for narrow sites and will require additional POS.

Local government feedback requested waste storage criteria to apply to all dwellings and to include consideration of gradient for path of travel between waste bin storage and the street (<1:10).

Commission's Response:

3 square metres may be a generous allocation of area for the storage of three domestic bins. It is considered appropriate to reduce the area, but prescribe a minimum dimension to ensure the area can conveniently accommodate standard bins. If an 0.9m dimension is prescribed, a standard side path could be used, taking an area of 0.9 x 2.2m to achieve 2m² area.

There may be ambiguity in the term 'unobstructed path of travel' as the existence of fences or a roller door (if the area is located in a garage) should not create non-compliance with the criteria.

It is noted that the waste storage area could be located to the side of a dwelling with a minimum dimension of 0.9m, which would not be classified as POS in any case.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

P.220 AMEND DTS/DPF under 'Waste storage' to:

- a. Decrease the area from 3m² to 2m² and prescribe a minimum dimension of 0.9m.
- b. Clarify the requirement for a continuous unobstructed path of travel doesn't include moveable objects like gates and roller doors.

Group dwellings, residential flat buildings and battle-axe dwellings

Engagement feedback:

Local government submissions provided a range of feedback on battle-axe policies, including the following:

- Dedicated waste and recyclable material storage areas should be located at least 3m from any habitable room window and/or opening including doors, balcony or private open space (particularly for group dwellings, residential flat buildings, supported accommodation, housing for aged persons and people with disabilities).
- A 50m maximum distance should be required between the bin storage area and the bin collection point.
- Bins should be restricted to the road verge in front of the subject site rather than being placed outside neighbouring properties.
- Additional criteria around the design of Communal Open Space (COS) and clearer definition of the areas excluded is needed (e.g. driveways, POS, rights of way).

- The Code does not articulate whether or where battle-axe development is appropriate but this type of development can have a detrimental impact on the land division pattern and landscaped pattern of a locality, as well as detrimentally impact the amenity of adjacent property occupants.
- Battle-axe developments should require on-site reversing so all vehicles can leave in a forward direction.
- A common driveway servicing 3 or more dwellings should have a 6m x 6m entrance point. Under Code policy this is only required for arterial roads, which is insufficient.
- policy to facilitate access of waste collection vehicles for developments of 10+ dwellings is needed.
- Standard side and rear setbacks appropriate for typical side-by-side dwellings or outbuildings are not appropriate for dwellings adjacent to neighbouring private open space.

Industry feedback observed dwellings should only be separated from common driveways where they incorporate habitable room windows facing the driveway.

Commission's response:

Battle-axe development is considered a legitimate housing form in most neighbourhood zones provided such dwellings accord with the setback and height provisions in the relevant zone, particularly those which anticipate an increase in housing diversity. For this reason, it is not considered appropriate to insert policy which specifically discourages battle-axe development in certain areas.

It is acknowledged that dwellings on battle-axe sites should not follow a deemed-to-satisfy pathway given qualitative assessment of vehicle turning areas, etc. warrants a merit assessment. As such, a DTS criteria could be drafted to prevent detached dwellings on battle-axe sites from following a deemed-to-satisfy pathway (rather than relying on descriptors in the development type). Furthermore, in a performance assessment, a corresponding PO could be drafted to ensure the battle-axe development is appropriately sited and designed to respond to the existing neighbourhood context.

Privacy treatments to a height 1.5 metres above finished floor level are considered sufficient to minimise direct overlooking into the private areas of adjacent properties whilst also maintaining a reasonable level of internal amenity for new dwellings.

It is considered appropriate to improve the 'Group dwellings, residential flat buildings and battle-axe dwellings' policies to:

- require forward entry/exit to all battle-axe sites, even where only servicing 1 dwelling
- align the driveway policy to align with Australian Standards regarding entrance width and passing areas
- provide more guidance on the design and siting of communal open space and its substitution for private open space.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

P.221 CREATE additional policy on the design/siting of communal open space.

P.222 AMEND car parking, access and manoeuvrability policies to:

- require a driveway width of 5.5m for the first 6m length of common driveway

- clarify vehicle access movements, differentiating between entry and exit movements
- apply entry and exit manoeuvring DTS/DPF to any dwelling on a battle-axe site (not just where servicing more than 1 dwelling)
- only require 1.5m dwelling separation from common driveways where the dwelling wall incorporates a ground floor habitable window or door.

P.223 **AMEND** policy to encourage common waste storage facilities to be conveniently located between the collection point and dwellings.

P.224 **CREATE** additional policy to seek battle-axe development that is appropriately sited and designed to respond to the existing neighbourhood context and to preclude battle-axe development from a deemed-to-satisfy pathway.

Flooding

Engagement feedback:

A number of comments on flooding policy PO/DTS/DPF 17.1 raised concern that the requirement for ground level finished floor level to be 300mm above top of kerb level is unnecessarily restrictive as it will preclude many homes from the DTS pathway of assessment. It was observed that many development sites are located on sloping land which results in a significant number being on the low side of the road, but in such cases, there are engineering solutions for appropriate stormwater drainage irrespective of minimum floor/site levels.

It was further observed that the issue around flooding of the allotment / dwelling is not what the FFL of the dwelling is but relates to the height at the property boundary in relation to the top of kerb. New estates generally have had to provide a 2 to 2.5% gradient up from the top of kerb to the property boundary to prevent for flood waters in the road coming into the allotment.

Other matters raised included:

- How FFL requirements will be measured for allotments that have a side slope, suggesting 'Where the residential accommodation's FFL is below the top of kerb, the property boundary's level must be above the top of kerb'.
- Referring to projected increasing frequency and intensity of heavy rainfall events, e.g. "Residential accommodation ... to prevent the entry of floodwaters considering projected increases in heavy rainfall events".
- Changing PO 17.1 to 'unless adequate provision for the management of stormwater has been provided' i.e. rear allotment drainage.
- Flooding and water sensitive design policies aren't relevant or suited to rural areas.
- Policy relating to flooding should be strengthened and consider other land uses (not just residential).
- Additional General Development Policies may be required to address flood hazard risk outside of those areas mapped within the overlay.
- Design in Urban Areas PO 17.1 (Flooding) relates only to residential accommodation not other development types.

- A policy mechanism to apply Finished Floor Levels TNV related to Australian Height Datum (AHD) to reflect current Development Plan policies is needed.

Clarification:

PO/DTS/DPF 17.1 exists to ensure residential development is designed to prevent the entry of flood waters. Stormwater disposal is dealt with under the Building Code of Australia in conjunction with the council's requirements to dispose to their stormwater infrastructure. For this reason, the policy is considered better placed in the Hazards (Flooding) Overlay.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

P.225 RELOCATE PO/DTS/DPF 17.1 to the new Hazards (Flooding General) Overlay.

Medium to high rise development

Engagement feedback:

A wide range of comments were received from local government regarding the design of medium to high rise development including residential aspects, the appearance of buildings and general functionality. They were generally supportive of the policy but did suggest a range of more detailed refinements including:

- strengthening policy around 'liveability' requirements for apartment style living (including in relation to solar access, ventilation, apartment size, outlook, private and communal open space and the like)
- strengthening policy in relation to multi-storey building design (including in relation to context, form, durability and the like)
- improving policy regarding waste storage in multi-storey buildings.

Comments from the development industry were received regarding policy relating to apartment liveability, primarily querying whether certain aspects are relevant planning considerations (such as specifying the maximum number of apartments accessing a corridor and maximum corridor length).

The requirements for a deep soil space in front of a building was commented on, and whether this might detract from building design in some urban areas (and that provision of trees in such location ought to be in the public realm).

Comment was made about the need to be careful around policy requirements relating to context for medium to high rise development, particularly where a location is low rise.

Feedback identified a policy gap relating to the provision of site facilities and waste storage, as the draft policies only relate to development incorporating 4 or more building levels. It was suggested that this policy be applied to all development (noting that this was already addressed for low-rise residential development by other specific policies).

Comments were received that suggested the proposed overlooking and visual privacy policy provisions should apply to all development which may cause potential overlooking impacts on residential development, such as medium to high rise commercial development rather than only being applied to low-scale residential development.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

- P.226** **RENAME** the Site Facilities / Waste Storage subheading to 'Site Facilities / Waste Storage (excluding residential development 3 storeys or less)' and relocate this section to the *All Development* section of the Design in Urban Areas General Development Policies.
- P.227** **RELOCATE** Overlooking/Visual Privacy PO and DTS/DPF 19.1 to the *All Development* section of the Design in Urban Areas General Development Policies.

Privacy

Engagement feedback:

It was observed that many inner metro councils have policies requiring 1.7m sill heights so the proposed 1.5m sill heights were not supported due to concern with privacy impacts.

Industry submissions suggested the 'cone of vision' approach for visual privacy policy (e.g. a view cone 15m deep).

Commission's Response:

The ResCode currently allows window sill heights/glazing to a minimum height of 1.5 metres and it is considered appropriate to maintain this requirement. While typical eye level may be 1.7 metres, the 1.5m privacy treatment level is designed to minimise incidental overlooking, not to prevent overlooking if someone attempts to look over the sill/glazing height. It is also important to balance privacy with internal amenity for occupants and ensure upper-storey rooms have sufficient outlook and access to sunlight.

That being said, it is acknowledged that balconies facing side/rear boundaries can be perceived as a much more invasive so it is considered appropriate to provide a 1.7m screening height for balconies.

It is also considered appropriate to provide additional options for the treatment of upper-storey windows, including external screening.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

- P.228** **AMEND** DTS/DPF under 'Overlooking / Visual Privacy (in buildings 3 storeys or less)' to provide the option to provide external screening adjacent these windows with maximum 25% openings.
- P.229** **CREATE** a new PO and DTS / DPF relating the design and siting of balconies, including DTS criteria for screening on any balcony facing a side/rear boundary (maximum 25% transparency/openings) to a minimum height of:
- 1.5m above finished floor level where the balcony is located at least 15 metres from the nearest habitable window of a dwelling on adjacent land
or
 - 1.7m above finished floor level in all other cases.

Other feedback

- The ancillary development maximum total floor area of 60m² may be too low compared to current maximum floor areas for these types of development.
- Landscaping should be included at a height to adequately screen/minimise/improve the appearance of retaining walls
- On-site waste treatment policy is needed.

Commission's Response:

It is considered appropriate for the size of ancillary structures/buildings to reflect what is currently permitted in Schedule 1A and Schedule 4 of the Development Regulations 2008. As such, permitting 60m² floor area for each ancillary structure, not the total of all buildings on the site, is considered appropriate, particularly given that requirements for maximum site coverage and retention of POS will apply.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- P.230 RELOCATE** policies from the Sloping Land Overlay into Design in Urban Areas General Development Policies regarding cut and fill, retaining walls, driveway gradients and the like.
- P.231 AMEND** DTS/DPF under 'Fences and walls' to reference a landscape strip of 1m wide against the low side of retaining walls where visible from public land, removing reference to depth.
- P.232 AMEND** policy relating to the scale of ancillary buildings in the Design in Urban Areas module to clarify that 60m² floor area relates to the individual ancillary structure not the total of all buildings on the site.
- P.233 CREATE** a new DTS / DPF relating to transportable buildings to require that the sub-floor space of transportable buildings, not just dwellings, are enclosed, consistent with changes in the Design in Rural Areas General Development Policies.
- P.234 CREATE** a new PO and DTS / DPF relating to dedicated effluent disposal areas where development requires on-site waste treatment systems, consistent with that in the Design in Rural Areas General Development Policies.

Design in Rural Areas General Development Policies

These general policies reflect the principles of good design and apply across a large number of development types. The policies relate to the design of buildings, structures and spaces for aesthetic and/or sustainable purposes. They also provide guidance for residential development with regard to amenity, private and communal open space, dwelling additions and ancillary buildings and structures.

Engagement feedback:

Some respondents queried whether the Design in Rural Areas module was too similar to the Design in Urban Areas module and whether it responded adequately to a rural context. In particular:

- Policy relating to the design of dwellings such as requiring a window or door facing the street should be removed as dwelling facades are often not visible from streets in rural locations.
- Additional policy relating to the visual impact of horticultural netting could be included in the Design in Rural Areas module.
- The size of ancillary buildings is often larger in a rural context.
- Sections relating to higher density residential development, small allotment provisions etc. should be reconsidered in a rural context.

Other respondents sought policy improvements or additional policy:

- The Code should include greater acknowledgement of climate change and have regard to projected intense climatic events such as increases in heavy rainfall events which will change the ARI/AEP events and associated flood levels. References to storm or flood events could provide a reference date and refer to the need to consider future flood hazard.
- SAPPL general landscaping provisions and referencing to warmer and drier climatic conditions should be transitioned into PO 3.1.
- A new PO on resource conversion, founded on existing development plan policy, is needed.
- Industry and council submissions suggested refinements to the waste storage and collection elements of the module, specifically that the provision to collect 10 or more bins on-site is achievable without impacts to traffic movement.
- Landscaping policies which feature in the Design in Urban Areas module should be replicated.
- There should be a stronger requirement for onsite wastewater to be assessed at a development application stage.
- Performance assessment criteria for ancillary accommodation in the rural areas for such uses as a granny flat are needed.
- Design solutions to promote water sensitive building design and management of stormwater over the site using such methods as underdeck water storage tanks and permeable parking surfaces as suitable measures should be considered.
- DTS 16.1 regarding water quality for 5-19 dwellings should include reference to 90 per cent reduction of litter/gross pollutants compared to untreated stormwater runoff and ensure no visible oils/grease for flows up to the 1 in 3 months' average return interval flood peak flow.
- A limit of 1m cut and 1m fill is not practical for large rural outbuildings/sheds.
- Policy about the following is needed:
 - environmentally sustainable design including passive heating and cooling
 - landscaping that contributes to biodiversity, the viability of ecosystems and uses locally indigenous species
 - recycling and waste.
- Design policies should include reference to previous guidelines and reference material prepared by the Office of Design and Architecture SA.

Commission's Response:

It should be noted that some of the comments provided in relation to the Design in Urban Areas module are also relevant to this module, given that some policies are contained in both modules. Therefore, some of the recommendations that have resulted from feedback provided about the Design in Urban Areas have been included below.

Many of the policies in this module are suited to both rural areas as well as greenfield locations in urban areas where there is limited infill development or high rise residential development likely to occur. Accordingly, a change to the name of the module is supported to better reflect its application.

It's considered appropriate to update relevant policies in the Design in Rural Areas General Development Policies to align with their equivalent in the Design in Urban Areas General Development Policies.

In relation to other policies, it's acknowledged that the policy intent in non-urban areas differs from urban areas where policies are required to guide infill development. Examples of policy which may not be relevant in a non-urban context include:

- Landscaping / tree planting
- Façade design
- Entry doors
- Waste bin storage
- Common driveway permeability

Specific DTS/DPF policy relating to the design and scale of ancillary buildings and structures will be contained within relevant zone in rural areas as variation between zones is often required in a rural context. As such, it is recommended that the ancillary development DTS/DPF is removed from this module. Retaining the PO will ensure that some policy relating to ancillary buildings is available in the general section of the Code for rare circumstances where no zone policy exists.

PO and DTS / DPF 15.2 and 15.3 relating to the position of private open space are not considered relevant to non-urban areas as this policy was only intended to apply in more dense urban settings (e.g. medium density housing in the Urban Renewal Zone).

Private open space is outdoor space for building occupants to provide access to sunlight, ventilation and accommodate outdoor seating, clothes drying etc. It's acknowledged that the size / dimensions to achieve this should not significantly differ between dwelling types and allotment sizes, so delineating a single figure for all ground-level dwellings is supported.

Rainwater tank policy is not recommended for residential development in rural areas as this policy is included in the Design in Urban Areas and is specifically designed to address infill development in metropolitan Adelaide.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

P.235 **RENAME** the module 'Design'

P.236 **AMEND** PO 1.2 to refer to safety in the public realm and reference verandahs, awnings etc. with adequate lighting, consistent with Design in Urban Areas.

- P.237** **AMEND** the minimum private open space requirements contained in Table 1 – Outdoor Open Space to address inconsistency in expectations between various allotment sizes. This can be achieved by introducing a single minimum requirement for private open space of 24m² noting that where relevant, other policies address maximum site coverage and maximum building envelopes.
- P.238** **REPLACE** DTS / DPF 7.4 and 7.5 with ‘None are applicable’ as a standard approach to landscaping / tree planting may not be appropriate given the diverse range of climates and contexts (e.g. in arid environments tree planting may not be appropriate).
- P.239** **AMEND** DTS/DPF under ‘Fences and walls’ to reference a landscape strip of 1m wide against the low side of retaining walls where visible from public land, removing reference to depth.
- P.240** **REMOVE** residential design requirements that are specific to an urban context (where higher rates of infill development are occurring), noting that the development of a new ‘Neighbourhood Zone’ will allow for greater distinction between rural and urban areas in relation to residential design policy:
- Remove PO and DTS / DPF 13.1 which relates to façade design.
 - Replace DTS / DPF 18.1 relating to waste bin storage with ‘None are applicable’.
- P.241** **AMEND** DTS / DPFs under ‘Car parking, access and manoeuvrability’ to align minimum car parking and garage dimensions with current Australian Standards for car parks and enclosed garages, consistent with Design in Urban Areas.
- P.242** **CREATE** a new PO and DTS / DPF relating to dwelling additions to provide a simpler DTS pathway and assessment for additions that are located to the side or rear of existing dwellings.
- P.243** **CREATE** a new PO and DTS / DPF relating the design and siting of balconies, including screening requirements.
- P.244** **DELETE** PO and DTS / DPF 15.2 and 15.3 relating to the position of private open space and allowing private open space in front of dwellings.
- P.245** **AMEND** DTS / DPF to improve clarity about appropriate alignment of vehicle crossovers / driveways.
- P.246** **CREATE** a new DTS / DPF relating to transportable buildings to ensure that the sub-floor space of these buildings is enclosed and remove references to ‘dwelling’ in the corresponding PO to allow this policy to be used for other transportable buildings.
- P.247** **AMEND** water sensitive design policies to increase clarity, ease of use, and ensure that they are contemporary.

Phase Three (Urban Areas) recommendations:

- P.248** **AMEND** DTS / DPF in ‘Front elevations and passive surveillance’ to reduce the minimum habitable room dimension to 2.4m and clarify the minimum window area is related to the total aggregate window area across the façade, rather than a minimum individual window size.
- P.249** **AMEND** PO and DTS / DPF under ‘Car parking, access and manoeuvrability’ to improve clarity and remove limitations for driveway widths where sites have frontages greater than 10m.

- P.250 RELOCATE** Overlooking and privacy policies from 'Residential Development' to 'All Development'.
- P.251 AMEND** DTS/DPF under 'Water Sensitive Design' to refer to 90% reduction in litter/gross pollutants and no visible oil or grease, consistent with Design in Urban Areas.
- P.252 AMEND** DTS / DPFs under 'Car parking, access and manoeuvrability' to better express minimum on-street parking requirements, and reduce car park length from 6.0m to 5.4m except where an intermediate space between other on-street car parks.
- P.253 AMEND** 'Communal Open Space' policies to align with revised communal open space policies in Design in Urban Areas.
- P.254 AMEND** polices under 'Group dwelling, residential flat buildings and battle-axe development > Car parking, access and manoeuvrability' to:
- provide greater alignment with Australian Standards, improve clarity, and increase driveway width at the front boundary for 3+ dwellings
 - clarify that the common driveway setback only applies where the dwelling wall incorporates an entry door or ground level habitable room windows.

Housing Renewal General Development Policies

These policies will be applied to dwellings developed by the South Australian Housing Trust or registered community housing providers. They generally reflect the checklists used by the State Coordinator-General in the assessment of community/public housing undertaken through the Renewing Our Streets and Suburbs (ROSAS) Stimulus Program.

Engagement feedback:

Submissions received on the Housing Renewal General Development Policies raised concern that deemed-to-satisfy or performance-assessed residential development by the South Australian Housing Trust (SAHT) or registered community housing providers does not need to satisfy any zone/subzone provisions other than these policies. It was therefore requested that policy be included to ensure consistency with other residential developments that are assessed against the relevant provisions of the particular zone, particularly those relating to density and height.

The following matters were also raised:

- DTS/DPF 1.1(e) should be amended to delete 'except where incorporating above-ground dwellings'.
- Additional height above 2 storeys should only be allowed on larger sites with the additional height well separated from other residential areas to minimise impacts.
- Why is the DTS for housing by SAHT set at 3 storeys when the procedural table requires notification for buildings 3 storeys or greater? It is recommended that only 2 storey buildings be deemed-to-satisfy and that higher buildings require notification.
- Given a Procedural Table for notification is proposed in these General Development Policies, in accordance with hierarchy principles in the Rules of Interpretation, it could be superseded by any notification exclusions in the Procedural Table for the subject zone.
- PO 3.1 seeks buildings that are set back from the street boundary to be compatible with the DOs of the area but DTS/DPF 3.1 allows for setbacks of 3 metres. This is considered insufficient and the policy should require buildings to be set back the average of the adjacent dwellings, especially given the allowance for additional height.
- Why is the minimum dimension for soft landscaping between the road boundary and the primary building line set at 1.5m whereas it is 0.5m elsewhere in the Code?
- Requirements relating to environmental initiatives such as tree planting, water sensitive urban design, rainwater tanks, water quality, waste and recycling should be included.
- DTS/DPF 12.1 properties of less than 200sqm should provide more than 15% soft landscaping with the space(s) to be high quality.
- The site contamination policy in the Housing Renewal Module is inconsistent with the policy in the Site Contamination General Development Policies module and should be aligned.
- Concern the Hazards (Medium Risk) Overlay prevents a DTS pathway - the Minister's Specification SA 78 is the more appropriate document / assessment measure within the established township areas of Mount Barker.

The SAHT sought the following amendments:

- Lowering the rear boundary setback to 3m for upper building levels (as per ground level) except 5m where facing a southern boundary
- Adding policy options in façade design (window awnings, 30% different materials on front facade)
- Decreasing the minimum window area facing the street from 2m² to 1m².
- Amending the visual privacy policy to minimise overlooking from balconies through 1.5m high screening where not facing a road or reserve.
- Reducing waste storage area requirements from 3m² to 2m².
- Adding diagrams to support policy.
- Correct reference in DTS/DPF 20.1 (d) that specifically refers to ‘where located in a Hazard (Bushfire Risk) Overlay’. Adequate water supply (and pressure) for fire-fighting purposes is required over metropolitan and regional areas, not just where located in a Hazard (Bushfire Risk) Overlay.

Commission’s Response:

The Housing Renewal General Development Policies seek to transition the criteria which currently apply to residential development undertaken by the SAHT through the Renewing Our Streets and Suburbs (ROSAS) Stimulus Program. Under the *Development Act 1993*, ROSAS development does not require a planning consent and development plan policies do not form part of the ROSAS criteria to ensure that such development is assessed by consistent policy throughout South Australia.

Given that the new Code under the PDI Act provides the opportunity to bring greater consistency in the planning rules more broadly, the consultation version of the Code proposed to bring new housing undertaken by/on behalf of the SAHT back into the planning system, meaning it would now require a planning consent. It is intended that most housing undertaken for the SAHT which is 3 storeys or less could follow a deemed-to-satisfy pathway where the relevant policies are satisfied.

The policies set out in the Housing Renewal General Development Policies maintain the policy intent of the current ROSAS criteria but include some improvements to align with the infill policy in the Design in Urban Areas module. It is considered inappropriate to apply provisions from the relevant zone as this would represent a substantial change from the current ROSAS criteria.

It is noted that development following this process will firstly require endorsement by the South Australian Housing Authority, and so, unlike a standard private development, these applications will face additional interrogation of suitability by the government before a development application is lodged under the PDI Act.

The notification exemptions have been drafted to carry forward the current intent of the ROSAS pathways. Currently single dwellings (e.g. detached, semi-detached, group and row dwellings, or residential flat buildings where no dwelling is located above another dwelling) up to 3 building levels in height are generally not consulted (and do not require planning consent) if they satisfy the relevant ROSAS criteria. However, residential flat buildings (where a dwelling is sited above another dwelling) of 3 building levels or greater are generally consulted by the South Australian Housing Authority under the ROSAS scheme. The notification exclusions in the Code seek to carry forward the intent of this current practice while bringing the current non-legislated consultation process in line with the PDI Act. It is acknowledged that if a development is classified as deemed-to-satisfy, the performance-assessed development notification triggers are not relevant.

A 5m upper level rear setback is considered appropriate and reduction in rear setback is not supported.

It is considered appropriate to update the policies in the Housing Renewal module to align with the relevant policies in the Design in Urban Areas General Development Policies, including those related to privacy, waste storage and façade design.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- P.255** **AMEND** the Housing Renewal General Development Policies to ensure policy consistency with the Design in Urban Areas General Development Policies.
- P.256** **AMEND** PO and DTS 21.1 to achieve consistency with the Site Contamination General Development Policies.
- P.257** **REMOVE** Procedural Matters table from the Housing Renewal General Development Policies and instead reference notification exclusions for development undertaken by the South Australian Housing Trust or registered community housing providers in the Procedural Matters table of relevant zones.

Phase Three (Urban Areas) recommendations:

- P.258** **AMEND** DTS/DPF 1.1 (e) to delete 'except where incorporating above-ground dwellings'.
- P.259** **AMEND** PO 3.1 to reference streetscape character instead of desired outcomes.
- P.260** **AMEND** policy to remove reference to *apartment* and instead refer to *dwelling* and *dwelling above ground level*.
- P.261** **AMEND** DTS/DPF 12.1 to refer to a minimum soft landscaping with of 0.7m, consistent with the Design in Urban Areas General Development Policies.
- P.262** **AMEND** DTS/DPF 20.1(d) to delete reference to areas within a Hazard (Bushfire Risk) Overlay.

Land Division in Rural Areas General Development Policies

These policies seek to ensure land division results in allotments suitable for future uses, enables efficient provision of infrastructure, integrates with environmental features, avoids hazard risk, and supports energy efficiency.

Engagement feedback:

A wide range of feedback on the Land Division in Rural Areas General Development Policies was received, focussing on wastewater treatment, stormwater and infrastructure, allotment configurations, hazard risks, and urban design. The majority of feedback was received from local government and state government agencies.

Key feedback included:

- As the rural areas policy mirrors the Land Division in Urban Areas General Policies an opportunity exists to revisit this policy with a specific rural context.
- Pathways for land division (there is a DTS policy relating to land division but it is more onerous than the current ResCode).
- The Land Division in Urban Areas and Land Division in Rural Areas modules need to be amended to provide greater variation that reflects the rural and/or urban context.
- Specific policies relating to open space (such as % allowed for detention inundation) should provide more flexibility for local authorities given that this will be vested to the local authority at completion of the development.
- Additional policy is required for land divisions under 5 allotments in relation to water sensitive design / stormwater requirements.
- Where land division occurs, allotments should be able to be accessed from an all-weather road.

Wastewater and Environmental Health

Engagement feedback:

Submissions from local government and agencies on wastewater and environmental health in the Land Division in Rural Areas General Development Policies generally sought development outcomes that meet relevant public health and environmental standards:

- Land division in regional areas must remain of sufficient size if not serviced by SA Water sewerage or a CWMS to accommodate an on-site wastewater system.
- The Code currently broadly makes reference to 'South Australian standards for wastewater management and disposal' and 'South Australian Standards' rather than a specific reference to SA Health's 'On-site wastewater Systems Code' and the 'Community Waste Management System Code'.
- 'Wastewater, sewage and other effluent' could be replaced with the term 'Wastewater'.
- 'Pollutant load treatment' should be replaced with 'Organic treatment capacity'.

- 'On-site waste water treatment and disposal' should be replaced with 'On-site wastewater system'.

Commission's Response:

It is important that land division creates allotments suitable for their intended use. This is reflected in PO1.1. The resultant size and/or minimum allotment size will be controlled at a zone level rather than in the General Development Policies. PO 4.2 requires that wastewater, sewage and other effluent is capable of being disposed of from each allotment without risk to public health or the environment.

Whilst the SA Health On-Site Wastewater Systems Code is the current reference document relating to wastewater, the Code refers to 'South Australian standards for wastewater management and disposal' and 'South Australian Standards' so that any change to the relevant codes and standards do not require an update to the Planning and Design Code. This general approach to referencing relevant codes and standards is preferred.

It is appreciated that 'wastewater' could replace 'wastewater, sewage and other effluent', however it is intended that the Code captures a range of types and sources of wastewater.

Allotment Configuration, Size and Access

Engagement feedback:

- Battle-axe lots are inappropriate in rural areas and the Design in Rural Areas module should not facilitate their creation.
- More guidance for boundary realignments when taken in conjunction with the Character Preservation District Overlay is needed.

Commission's Response:

The Land Division in Urban Areas and Land Division in Rural Areas General Policies seek to ensure the pattern of land division is suitable for future built forms and are not intended to relate to a specific land use type, which is dealt with in other parts of the Code.

The appropriateness of battle-axe allotments is dealt with at the zone and overlay level. This policy seeks to ensure that where created, access is appropriate.

In relation to boundary realignments, the Character Preservation District Overlay is intended to provide guidance on development within that specific area. It is not the intention of the General Policies to deal specifically with this type of division within a spatially defined and specific area. For this reason, it is not considered appropriate to make any amendments to the General Policy.

Hazards and Risk

Engagement feedback:

Submissions requested greater clarity over whether land division should be avoided in areas of high natural hazard risk.

Clarification: Feedback was provided in relation to hazard risks and land division, including additional policy relating to avoiding land division in areas where there are significant natural hazards. This is considered as part of feedback relating to the 'hazard' overlays.

Infrastructure

Engagement feedback:

- The siting of stormwater detention basins could be incorporated into policy and include consideration of slope, shared use and accommodation of projected changes in rainfall, rainfall intensity and extreme weather events.
- Where allotments are relatively small, it will, in some cases, be impossible and unrealistic to achieve the desired water quality outcomes. A water quality levy is therefore requested to be applied to the developer/applicant to facilitate, manage and improve the overall catchment run-off downstream at the discretion of the council.
- Pre-development peak flow rates and volumes should be estimated and maintained as post development conditions for all recurrences taking into account the conveyance capacity existing downstream. This will need to be reviewed and further hydrological investigation is required.
- Imposing pre-development conditions of a 5-year ARI event would require a large on-site detention system for the 100-year ARI post-development occurrence, particularly when the existing drainage system is large enough to convey the 100-year pre-development flow rate. Pre-development conditions should therefore be based on each recurrence interval, taking into account the drainage capacity downstream of the site being developed.
- It is requested that the pre-development conditions for all recurrence intervals be maintained if there is no flooding downstream. Should the floodwaters be directed downstream, councils may be required to upgrade the drainage system with a resultant burden of additional costs. The post-development outflow rates could be limited and restricted to ensure that the capacity of the existing drainage system can accommodate the flow.
- New verges should have a minimum width to accommodate a permeable footpath and a deep soil zone.
- Policy should encourage a conduit under footpaths for irrigation purposes. A PO/DTS is requested to address this issue.
- Additional WSUD provisions linked to the management of stormwater run-off, water harvesting, landscaping, public spaces and open space areas, biodiversity protection and hazards when considering land division in urban areas are needed.
- This policy should also refer to meeting the ongoing requirements for water and wastewater treatment. Design features or alternative engineering solutions such as increased porous surfaces, integrated dual purpose detention basins and integrated water sensitive urban design which contributes to the public realm should be considered.
- Stormwater detention requirements in greenfield sites should achieve multiple benefits/performance outcomes rather than just water quality, such as biodiversity, amenity and recreational. There should be a minimum slope for stormwater detention basins as these are likely

to be fenced for safety, will be difficult to maintain and are likely to be positioned next to main roads with no access for residents.

- The siting of stormwater detention basins should be incorporated into policy and include consideration of projected changes in rainfall and rainfall intensity.
- A DO should be incorporated which highlights the need for land division applications to ensure land uses and divisions are compatible with the existing strategic infrastructure.
- References to storm or flood events should consider the future flood hazard due to the impacts of the projected urban infill and climate change.
- The ongoing performance of wetlands, detention and retention basis should be planned and designed to facilitate subsequent cleaning and other maintenance needs. Suggested amendments to PO 4.4: *'Constructed wetland systems, including associated detention and retention basins, sited and designed to allow sediments to settle prior to discharge into watercourses or the marine environment and to facilitate subsequent cleaning and maintenance'*.

Commission's Response:

The Land Division in Urban Areas and Land Division in Rural Areas General Policies seek to ensure the pattern of land division is suitable for future built forms and are not intended to relate to a specific land use type, which is dealt with in other parts of the Code.

In response to requests for additional detailed policy to mitigate the effects of future flood events, analysis has revealed that future work is required to develop the necessary data, and therefore such an approach is not considered feasible for the first 'generation' of the Code.

Due to the site-specific nature of stormwater detention, the Code is designed to provide as much flexibility as possible.

The introduction of a water quality levy via the Code is not supported.

Commission's Recommendations:

Refer to 'Land Division in Urban Areas' recommendations

Land Division in Urban Areas General Development Policies

These policies seek to ensure land division results in allotments suitable for future uses, enables efficient provision of infrastructure, integrates with environmental features, avoids hazard risk, supports energy efficiency, and creates a compact urban form to support active travel.

A wide range of feedback on the Land Division in Urban Areas General Development Policies was received, focussing on assessment pathways, stormwater and infrastructure, open space, allotment configurations, hazard risks and urban design.

Assessment Pathways and General Comments

Engagement feedback:

- Concern was raised about the capacity of private certifiers to approve land divisions.
- Policies which seek to achieve a co-ordinated approach to allotment configuration and the delivery and funding of physical and community infrastructure provision are needed. This may include discussion relative to infrastructure schemes as and when detail in this space becomes clearer or commitments/security from developers via deeds.
- Policy which provides clarity on the link between land division applications, built form and accompanying stormwater management plans is needed.
- Additional structure plans across all council areas are needed which highlight when and where a range of infrastructure (traffic, stormwater, social etc.) is required and how it will be funded.

Commission's Response:

The Accredited Professionals Scheme is a key arm of the new planning system created under the PDI Act.

Under the scheme, planning and building professionals involved in assessing development applications will be expected to maintain minimum standards of professional practice and produce evidence that they are sufficiently qualified to make key decisions at certain levels.

In addition, all accredited professionals will be required to hold the necessary insurance, comply with an Accredited Professionals Code of Conduct, participate in annual compliance checks and undertake specified units of Continuing Professional Development.

As part of the modernisation of South Australia's planning system, a more equitable and transparent process for coordinating and delivering infrastructure has been introduced. This will help unlock investment across the state and create vibrant, safe, healthy and affordable neighbourhoods. This new process will be realised through two new types of infrastructure schemes established under the PDI Act: a Basic Infrastructure Scheme and a General Infrastructure Scheme. Amendments to Code policy to support infrastructure schemes may be considered in future Code Amendments once infrastructure schemes can be evaluated in practice.

There are provisions that require stormwater management plans to be developed when undertaking land division. Given that in most instances the creation of allotments will precede the built form, PO 7.2 seeks land division designed to mitigate peak flows and manage the rate and duration of stormwater discharges from the site to ensure that the development does not increase the peak flows in downstream systems.

Requests for concept plans to be carried forward into the Code are considered in the Code Spatial Application section of this report.

Hazards

Engagement feedback:

- Policy that refers to avoiding areas of high natural hazard risk is needed.
- The following PO should be included in relevant zones such as the Master Planned Suburban Neighbourhood Zone: *'Land division should avoid areas where coastal or river processes occur and is for the creation of allotments required to accommodate dwellings relocated as a result of unacceptable hazard risk.'*

Clarification: Feedback was provided in relation to hazard risks and land division, including additional policy relating to avoiding land division in areas where there are significant natural hazards. This is considered as part of feedback relating to the 'hazard' overlays.

Design and layout

Engagement feedback:

- The prevailing context should only apply as a factor for consideration when the zone is seeking to maintain a character. It should not apply to zones that are seeking change and / or a new character.
- DTS/DPF 2.3 should read “A minimum of 50% of the interface boundary has lots or facing or roads abutting the reserve.” This policy has been in place for many years and has successfully been used to create good outcomes.

Commission’s Response:

The Land Division in Urban Areas and Land Division in Rural Areas General Policies seek to ensure the pattern of land division is suitable for future built forms and are not intended to relate to a specific land use type, which is dealt with in other parts of the Code.

PO 1.2 requires land division to consider the physical characteristics of the land, preservation of environmental and cultural features of value and the prevailing context of the locality. The policy is not specific to any particular zone as it requires a holistic consideration of a range of external factors and features, including the prevailing context of the locality. Where a zone anticipates a change of character, this will be a consideration of the context. For this reason, it is not considered appropriate to amend PO 1.2.

A DTS/DPF policy to corresponded to PO 2.3 is considered inappropriate given that the context and layout of different developments will allow this PO to be satisfied in a number of different ways.

Roads and Access

Engagement feedback:

- Definition of a road reserve is sought to specifically include/consider the road verge. Without the term road reserve being defined, applicants may try and use this provision to get a new crossover when a parcel of land is divided even if the crossover would conflict with on-street parking etc.
- Not all roads need cycle lanes. Amendment requested so that cycle lanes are provided where necessary on collector and arterial roads.
- Amend PO 3.6 to refer specifically to underground (piped) stormwater being in road reserves. Swales can be provided successfully in reserves.
- Tree planting on public streets does more than provide shade and enhance the amenity of streetscapes. This should also capture urban heat load.

- The term 'stormwater drainage' is outdated. A more inclusive term such as 'stormwater management' could be adopted in PO 3.6 as follows: 'Road reserves accommodate stormwater drainage management infrastructure and public utilities.'
- Public streets should include tree planting with integrated passive watering from road run-off where practicable to provide shade and enhance the amenity of streetscapes. Consider a DTS prescribing a minimum area for tree planting in front of each new allotment.

Commission's Response:

The Land Division General Policies are considered to provide suitable guidance around roads and access. The design of roads to cater for the safe and efficient movement of pedestrian, cycle and vehicular traffic is considered suitable as a PO in all cases. If cycle lanes aren't warranted in a particular context, that can be considered in a performance assessment of the land division's merits.

Policies exist in the module to encourage tree planting to enhance the amenity of streetscapes. Given that land division which creates new road reserves will not be classified as deemed-to-satisfy, it is not considered appropriate to provide a DTS/DPF quantifiable standard for street trees.

Infrastructure

Engagement feedback:

- Although the intent for state-wide policies is acknowledged, some individual policies are considered to be too simplistic while others are too specific.
- Division of land under five allotments could still generate significant stormwater management issues for council, depending on the locality, especially from a cumulative perspective. It is suggested that the threshold of 5 or more dwellings/parcels should be lowered.
- There is an assumption that a public stormwater system is capable of catering for a 1% AEP flood event if runoff can be contained within the road reserve. This performance outcome cannot be met in some instances.
- Provisions are needed which require allotments that are/will be connected to on-site disposal to have a greater minimum allotment size.
- The ongoing performance of wetlands, detention and retention basis will be greatly facilitated by planning and designing to facilitate subsequent cleaning and other maintenance needs. Suggest amending PO 4.4 as follows: '*Constructed wetland systems, including associated detention and retention basins, sited and designed to allow sediments to settle prior to discharge into watercourses or the marine environment and to facilitate subsequent cleaning and maintenance.*'
- The proposed policies fundamentally change the nature of who is responsible for dealing with inadequate drainage systems. For decades the principle of 'do not discharge more stormwater from your site than you currently do' has been in place. The proposed policies will, in many instances, require developers to detain more stormwater on-site to deal with upstream and/or downstream drainage system inadequacies. Fixing up such inadequacies is the responsibility of the council (the entire community) not the first purchasers of allotments/dwellings in a new estate.
- It is requested that "Sewerage system / Waste control system" be replaced with "Wastewater system".

- References to storm or flood events should consider the future flood hazard with regard to the impacts of the projected urban infill and climate change over the likely lifetime of development (e.g. 30 years). Therefore, all flood studies that underpin decisions in the Code need to include consideration of climate change and urban infill scenarios so that a relevant scenario can be referenced when assessing for flood risk.

Major Land Division

Engagement feedback:

- A minimum open space percentage should be included and the policy amended to seek that it be within easy walking distance of homes. Healthy Active by Design recommends the provision of large local parks (1 hectare minimum) within 500 metres safe walking distance from all dwellings and small local parks within 150-300 metres safe walking distance of all dwellings. Other health-based guidelines also recommend that open space be within easy, safe, walking distance, usually defined as 400m.
- The amount of open space that can be affected by flood events being counted towards the 12.5% public open space provision is too low. The policy in many councils has been up to 50% rather than 20%. Well-designed and constructed wetlands, detention basins and swales are amenity-enhancing assets which have a positive impact on surrounding land values. There are a number of examples (e.g. Dry Creek at Mawson Lakes, River Torrens Linear Park) where active and passive recreation areas have been created in 'wet' affected land (typically above the 1 in 20 flood line). It is considered the policy could be reworded to state the following:
 'Where provided no more than:
 (g) 20% of public open space has a slope of more than 1 in 4;
 (h) 75% of public open space is comprised of wetlands, watercourses or detention basins that are well landscaped and useable for passive and/or active recreation'.
- An administrative definition of 'open space' and 'usable open space' should be included. For example, 'open space is 'Public land intended for active and passive recreational uses' and usable open space is 'Open space which can comprise no more than 20% of land which has a slope of no more than 1:4 and/or comprises a watercourse, wetland or detention basin.' PO 8.2 should be changed to 'Land allocated for open space includes usable open space that is suitable for intended active and passive recreational uses considering gradient and potential for inundation.' With the administrative definitions suggested above, no DTS/DPF would be required.
- The following should be added to DTS/DPF 9.3:
 (d) 90 per cent reduction of litter/gross pollutants compared to untreated stormwater runoff; and
 (e) no visible oils/grease for flows up to the 1 in 3 months' average return interval flood peak flow.
- With 6-star rating requirements in the BCA for all dwellings, the solar orientation of allotments becomes a largely outdated tool. Orientation of allotments is just one of the factors that urban designers take into account when designing land divisions. The key factors are topography, views and existing boundaries. It is therefore requested that the solar orientation diagram be removed from the Code.

- The DTS requirement for 80% of allotments that have a west-east orientation to have a lot frontage of 15m or more is identified as problematic. The average lot size in new estates is under 400sqm so it would not be possible to create that many 450sqm lots.
- PO & DTS 9.1 require provision of a stormwater management plan but do not reference rainwater tanks. More criteria or reference to external sources is required in relation to the management plan.
- The Desired Outcomes should include a provision to highlight the need for land division applications to design land use and divisions for compatibility with existing strategic infrastructure.

Commission's Response:

The Land Division General Policies require open space to be provided that allocates or retains evenly distributed, high quality areas of open space to improve residential amenity and provide urban heat amelioration; is suitable for its intended active and passive recreational uses considering its gradient and potential for inundation; and has dimensions capable of accommodating a range of active recreational activities.

A prescriptive approach with additional definitions within the Code is therefore not supported.

The Commission acknowledges that in some outer metropolitan councils, a provision of less than 12.5% open space and a greater proportion of open space comprised of wetlands, watercourses or detention basins has been developed. Each of these has been undertaken where the specific circumstances supported such an outcome, however for infill development and for land division generally, the Commission does not support such a significant change to the configuration of open space. It should be noted that the DTS/DPF requirements serve as the 'starting-point' for open space and that where circumstances support a different approach, the Code will not prevent a developer from negotiating outcomes for a greater provision of wetlands, watercourses and/or steeper land as part of the open space provisions.

The Commission supports the introduction of additional policy to require litter/gross pollutant capture within stormwater systems.

The Commission acknowledges that the solar orientation policy could create unnecessary restriction on the layout and configuration of open space and supports the removal of orientation requirements in order to deliver efficiency in yields, noting that energy ratings for dwellings will still apply.

The provision of rainwater tanks is covered in the Design in Urban Areas General Development Policies.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- P.263** **REPLACE** the Land Division in Urban Areas and Land Division in Rural Areas with a single Land Division module, given the similarity between them.
- P.264** **AMEND** Deemed-to-Satisfy land division criteria (DTS / DPF 1.1) to provide a DTS pathway for residential land divisions that relates to an approved dwelling development or a land division combined with an application for dwellings.
- P.265** **REPLACE** DTS / DPF 8.2 which relates location, size and slope of open space with 'None are applicable' to provide more flexibility in relation to the design of open space, noting open

space will be vested in local councils and there may be a range of local factors that will influence how much land could be sloping or subject to inundation / watercourses / detention basins.

P.266 AMEND policy relating to roads and access to identify that allotments should have access from an all-weather public road and replace references relating to road reserves providing 'for footpaths, cycle lanes and shared use paths' with providing 'for pedestrian and cycling infrastructure', noting that other design solutions / infrastructure can create walking and cycle-friendly environments.

P.267 AMEND water sensitive design policy to refine and improve clarity and ease of use.

Phase Three (Urban Areas) recommendations:

P.268 AMEND DTS/DPF 9.3 to add 90 per cent reduction of litter/gross pollutants compared to untreated stormwater runoff.

P.269 AMEND DTS/DPF 10.1 to remove solar orientation diagrams.

Workers' Accommodation and Settlements General Development Policies

These policies seek appropriately designed and located accommodation for seasonal and short-term workers in rural areas that minimises environmental and social impacts.

Engagement feedback:

Limited feedback was received in relation to the Workers' Accommodation and Settlements General Development Policies.

- Support was provided for provisions that seek to minimise the environmental and social impacts associated with this form of short-term accommodation.
- Reference to both 'workers' accommodation' and 'settlements' within the module was queried, with suggestion that the two terms refer to different types of land uses and levels of intensity.
- It was suggested that parking requirements for workers' accommodation should be reduced as part of the Transport, Access and Parking General Development Policies in order to minimise any clearance of native vegetation where applicable.

Commission's response:

Reference to 'workers' accommodation' and 'settlements' has been formulated with the intent of providing policy guidance for workers' accommodation as well as accommodation groupings forming settlements for seasonal and short-term workers. This terminology may be reviewed as part of future Code amendments.

Amendments to off-street car parking requirements are considered as part of feedback relating to the Transport, Access and Parking General Development Policies module.

Commission's Recommendation:

No changes recommended.

2.2 Productive Economy (E)

Executive summary

The Productive Economy theme encompasses a range of modules in the Code library, including those related to retail (activity centres), employment areas, tourism development and primary industry. The following is a summary of the key issues raised, an overview of the feedback received, the Commission's response and its recommendations.

Retail

Feedback on retail policy provided differing opinions about the suitability of out-of-centre retail and how the centres hierarchy should operate, with some respondents seeking greater flexibility for shops in mixed-use areas and others seeking to preserve the retail hierarchy structure.

A number of stakeholders observed that the Code requires additional policy and principles to guide the assessment of out-of-centre retail and suggested reducing the allowable level and scale of retail and shop developments across the various employment (and neighbourhood) zones in the Code, while still allowing for small shops and cafes to service employment precincts and the local workforce.

Respondents from local government and the community observed a policy gap in the centre hierarchy, with concerns that current Local Centre Zones don't have a policy equivalent in the Code.

It was also suggested that shops which exceed the floor area limit in the zone's policy should always be subject to public notification.

Employment

There were calls to include more tailored policy in both the Innovation Zone and Employment Zone to better recognise the development needs, specialised functions, vision and intent of major strategic development and employment sites such as Flinders Village, the Tonsley innovation precinct and the Osborne Naval Shipbuilding site in Port Adelaide, including the range of supporting uses. Suggestions to carryover Concept Plans applying to these sites also featured strongly, potentially via TNVs.

Many respondents supported the inclusion of policies that reflect the existing parameters found within development plans, including the size and scale of shops and commercial development across employment, business, tourism and innovation zones.

Similar to feedback in the Phase Two Amendment, height was a general topic of debate throughout a number of zones (including the Suburban Employment Zone, Business Neighbourhood Zone, Suburban Business and Innovation Zone and Tourism Development Zone, and for strategic development sites in the Innovation Zone), with recommendations to retain current building height policy. There was also some dissatisfaction with the term 'low to medium rise buildings' in the Business Neighbourhood Zone, where desired outcomes seek low-rise buildings of 1 to 2 storeys.

Tourism development

Similar to feedback in the Phase Two Amendment, some respondents called for policies to reinforce 'environmentally sustainable tourism', including avoiding areas subject to hazard such as bushfire risk. The potential for more contemporary policy and definition of tourist accommodation was also identified to address changing market needs and new or emerging models, including where accommodation options are increasing in residential neighbourhoods.

Primary Industry

Similar to feedback in the Phase Two Amendment, support was expressed for policies that seek to facilitate increased value-adding opportunities within rural communities.

Broad support was also provided for the inclusion of policies that reflect the existing parameters found within development plans and requests were received for amendments to the proposed TNVs to ensure greater consistency.

One issue raised by many respondents related to the proposed Peri-Urban Zone which spatially applies to areas around metropolitan Adelaide. Feedback suggested that the name detracts from the key focus of the zone which is primary production and related activities. This view is supported by the Commission¹.

¹ The *Planning and Design Code: Phase Three (Urban Areas) Code Amendment - Update Report* released by the Commission in December 2019

Changes to Productive Economy framework

The following summarises the zones, subzones and overlays relevant to this section and proposed name changes. The rationale behind these changes is described below.

Intensity	Zones (and Subzones in <i>italics</i>)	Overlays
Capital City	Capital City Zone <i>City Frame Subzone</i> City Riverbank Zone <i>Cultural Institutions Subzone</i> <i>Entertainment Subzone</i> <i>Health Subzone</i> <i>Innovation Subzone</i>	Dwelling Excision Environment and Food Production Areas NEW Gateway NEW Interface Management Limited Dwelling Limited Land Division Resource Extraction Protection Area RENAME Significant Industry Interface to Significant Interface Management
Activity Centres and Main Streets	Urban Activity Centre Zone <i>Port Adelaide Centre Subzone</i> Suburban Activity Centre Zone Suburban Main Street Zone Township Activity Centre Zone Township Main Street Zone NEW Local Activity Centre Zone	General Development Policies
Employment Areas	RENAME Innovation Zone to Strategic Innovation Zone <i>Rehabilitation Subzone</i> NEW <i>Repatriation Subzone</i> NEW <i>Flinders Subzone</i> NEW <i>Activity Node Subzone</i> RENAME Employment Zone to Strategic Employment Zone NEW <i>Significant Industry</i> NEW <i>Gillman Subzone</i> NEW <i>National Naval Shipbuilding Subzone</i> NEW <i>Ports Subzone</i> Employment (Bulk Handling) Zone RENAME Suburban Employment to Employment Zone NEW <i>Retail Subzone</i> NEW <i>Roadside</i> <i>Service Centre Subzone</i> RENAME Suburban Business and Innovation to Suburban Business Zone RENAME Suburban Business Neighbourhood Zone to Business Neighbourhood Zone	Advertisements Animal Keeping and Horse Keeping Aquaculture Beverage Production in Rural Areas Bulk Handling and Storage Facilities Forestry Intensive Animal Husbandry and Dairies Interface Between Land Uses Resource Extraction Tourism Development

	<p>NEW Melbourne West Subzone</p> <p>Home Industry Zone</p> <p>Resource Extraction Zone</p>
Tourism Areas	<p>Caravan and Tourist Park Zone</p> <p>Tourism Development Zone</p> <p>NEW Monarto Safari Park Subzone</p> <p>NEW River Murray Experience Subzone</p> <p>NEW Winery Experience Subzone</p>
Primary Industry Areas	<p>Rural Zone</p> <p>Rural Aquaculture Zone</p> <p>Rural Horticulture Zone</p> <p>Rural Intensive Enterprise Zone</p> <p>RENAME Peri-Urban Zone to Adelaide Country Zone</p> <p>NEW The Cedars Subzone</p>

General matters

City matters

Engagement feedback:

Adelaide City Council requested that the general demolition controls currently applying throughout the city area continue due to concerns that vacant sites may be used as car parking lots.

Commission's response:

The Commission considered this matter and determined to reserve demolition controls for heritage-related matters only. However, inclusion of new policy in relevant zones is supported where urban design outcomes are critical (such as the Capital City Zone and City Main Street Zone) to avoid 'gaps' in the streetscape.

Engagement feedback:

The development plan currently defines 'Adult Products and Services Premises' and 'Adult Entertainment Premises' to enable the council to control their location. Council is concerned that not defining these activities means they will be able to occupy existing 'shop' premises or 'licensed venues'.

Commission's response:

An Adult Products and Services Premises is a shop while an Adult Entertainment Premises would usually be a type of Licenced Venue or Licenced Entertainment Venue. Their suitability would depend on a zone's land use permissibility (a Licenced /Licensed Entertainment Venue is allowed in a small number of zones such as the Capital City and City Main Street Zone). Additional policy to better address interface issues with the City Living Zone in relation to Licenced & Licenced Entertainment Venue is considered warranted.

Engagement feedback:

Council expressed concern that mixed use areas in the city are not adequately covered in relation to noise and requested that current noise-related policy from its development plan be inserted.

Commission's response:

The Interface Between Land Uses General Module which generally addresses 'noise emitters' (noting the policy is based on the Adelaide (City) Development Plan) and the Noise and Air Emissions Overlay, which addresses 'noise sensitive receivers' in mixed use environments, should be applied to relevant city zones (Capital City, City Main Street). Policy in the overlay should be amended to include policy from the Adelaide (City) Development Plan relating to sensitive receivers and music venues.

Engagement feedback:

Council requested that key parts of the current pedestrian priority policy in its development plan (such as limiting the location of stand-alone multi-deck car parks) which is supported through use of a Concept Plan and associated provisions be reinstated.

Council is also of the view that zones need to contain policy that is explicit about activities that are unacceptable and suggests a list similar to the current 'non-complying development list' be included.

Commission's response:

The Commission's view is that the structure and drafting of zone land use permissibility policy is suitable to control land use and that an explicit list of 'non-complying' uses is not needed. It is implicit that activities that are incompatible with a zone's envisaged activities (described in a zone's DOs and POs) would be inappropriate and therefore avoided.

Gateway areas

Engagement feedback:

Requests were received to introduce policy to guide development around key gateways into towns/areas.

Commission's response:

A new 'Gateway Overlay' was created through the Phase Two Amendment and continues to be supported through the Phase Three Amendment. Spatial application of the overlay is considered in the Code Spatial Application section of this report.

Commission's Recommendation:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- E.1** **CREATE** a new Gateway Overlay which provides additional policy addressing:
- (a) the provision of large building setbacks to accommodate generous landscaping between the road frontage and the front of any buildings
 - (b) parking areas not dominating the locality through siting behind buildings and screening and breaking up of expansive parking areas with landscaping strips
 - (c) placing new buildings behind established buildings
 - (d) incorporating space between buildings and side boundaries
 - (e) mitigating the appearance of buildings through high quality design and use of materials.

Retail fuel outlets

Engagement feedback:

Industry feedback observed General Development Policies relating to hours of operation should not be relevant to a retail fuel outlet given other policies address noise, vibration, air quality, light spill and the like.

It was requested to list 'retail fuel outlet' in the Performance Assessed Classification Table 3, but without reference to hours of operation, and adding it to the list of envisaged land uses in a number of zones.

Commission's response:

Classification tables list activities that are typically envisaged and commonly occurring. Activities that are not listed will be assessed on merit, based on the relevant parts of the Code.

While retail fuel outlets may be suitable in certain locations, they are not specifically contemplated in a number of zones. It is therefore not considered necessary to list such uses in Table 3, allowing them to be appropriately performance-assessed as 'All other Code Assessed Development' against the full Code.

In relation to suggestions to remove the reference to hours of operation in Table 3 in favour of other interface policies in the Code, the Commission considers that while the impact of extended trading hours may be low for outlets located more centrally within employment zones, impacts may arise closer to periphery of zones where adjacent to sensitive residential development. It is therefore considered appropriate to retain reference to PO 2.1 of the Interface between Land Uses General policy provisions that seeks to ensure that non-residential development does not unreasonably impact on sensitive receivers or residential areas through its hours of operation as being applicable for retail fuel outlets.

A retail fuel outlet may be listed as an envisaged use in DTS/DPF 1.1 of zones where such a land use is anticipated, and in such cases, will generally be exempt from notification except for sites located adjacent to a dwelling in a neighbourhood-type zone.

Telecommunications facilities

Engagement feedback:

It was requested that telecommunications facilities be included in Table 3: Performance Assessed in a number of zones, and be exempt from notification.

Commission's response:

The Commission notes that part of the reason for requesting telecommunications facilities be listed in Table 3 is to avoid public notification. The Commission agrees that a telecommunication facility shouldn't warrant public notification unless the potential to impact on a sensitive land uses (e.g. due to excess in height or setback from nearby dwellings). A clause exempting these facilities from notification is recommended to be inserted into Table 5 of suitable zones. It's noted that notification would generally not be required for telecommunications facilities in activity centres which don't affect sensitive land uses, by virtue of the exemption that limits notification to sites adjacent to a neighbourhood-type zone.

Telecommunications facilities will be performance assessed as they are not a restricted development type.

The Commission supports listing telecommunication facility in Table 3: Applicable Policies for Performance Assessed Development of zones where such a facility may be reasonably expected, including employment, infrastructure and activity centres zones.

The Commission supports listing telecommunications facility in DTS/DPF 1.1 of zones where such infrastructure is anticipated, including employment, innovation and infrastructure zones.

The Commission also supports creating new policy to guide the scale of telecommunications facilities in suitable zones.

Commission's Recommendation:

- E.2** **AMEND** Table 5 - Procedural Matters to exempt telecommunications facilities from notification in the following zones: Caravan and Tourist Park Zone, Community Facilities Zone, Employment Zone, Employment (Bulk Handling) Zone, Employment (Enterprise) Zone, Infrastructure Zone, Recreation

Zone, Resource Extraction Zone, Rural Intensive Enterprise Zone, Strategic Employment Zone and Strategic Innovation Zone.

- E.3** **AMEND** Table 3: Applicable Policies for Performance Assessed Development to list telecommunications facilities in the following zones: Coastal Waters and Offshore Islands Zone, Employment Zone, Employment (Enterprise) Zone, Infrastructure Zone, Local Activity Centre Zone, Strategic Employment Zone, Strategic Innovation Zone, Suburban Activity Centre Zone, Suburban Main Street Zone, Township Activity Centre Zone, Township Main Street Zone and Urban Activity Centre Zone.
- E.4** **AMEND** DTS/DPF 1.1 to list telecommunications facilities in the following zones: Employment Zone (former Suburban Employment Zone), Roadside Service Centre Subzone, Employment (Bulk Handling) Zone, Employment (Enterprise) Zone, Infrastructure Zone, Strategic Employment Zone, Strategic Innovation Zone and Urban Activity Centre Zone.
- E.5** **CREATE** new policy to guide the scale of telecommunications facilities in the following zones: Employment Zone (former Suburban Employment Zone), Employment (Enterprise) Zone, Resource Extraction Zone, Rural Intensive Enterprise Zone and Strategic Employment Zone.

Change of use to/from a shop, office, consulting room

Commission's response:

Changes based on additional information/investigation

The 2016 Activity Centres Policy Review DPA introduced a number of policy changes to activity centres in the metropolitan area to improve their economic efficiencies and increase competitiveness. This included complying pathways for changes of use between a shop/office/consulting room, subject to meeting relevant criteria.

This pathway was transitioned into the Phase Three Amendment by listing '*Change of use to a shop, office, consulting room or any combination of these uses where the area to be occupied by the proposed development is located in an existing building and utilises existing on-site car parking*' in Table 2 – Deemed to Satisfy Development Classification of for all Activity Centre and Main Street Zones.

In order to simplify the terms in the Classification Table (which are searched on the Online Code enquiry tool), the previous term is proposed to be replaced with the term 'Change of use', and to list the relevant criteria in a new DTS/DPF policy in the relevant zones. .

In addition, an Accepted pathway for 'Changes of use' is also supported, except for a shop in the form of a restaurant, where criteria related to separation distances and exhaust system warrants an assessment.

Commission's Recommendation:

- E.6** **AMEND** the term 'Change of use to a shop, office, consulting room or any combination of these uses where the area to be occupied by the proposed development is located in an existing building and utilises existing on-site car parking' in Table 2 – Deemed to Satisfy Development Classification of for all Activity Centre and Main Street Zones to 'Change of Use'.
- E.7** **CREATE** new PO and DTS/DPF in all Activity Centre and Main Street Zones regarding the criteria for changes of use between a shop, office and consulting room.

E.8

AMEND Table 1 – Accepted Development Classification in all Activity Centre and Main Street Zones to add an Accepted pathway for changes of use between a shop, office and consulting room (except a shop in the form of a restaurant).

Capital City Zone

Feedback on the Capital City Zone was principally received from the City of Adelaide. This zone was established in 2013 so comments raised relate to detailed aspects of the zone's transition. Council's key comments and requests:

- Policy in relation to public realm outcomes; pedestrian comfort and human scale; and activation be strengthened.
- The zone's interface policy that addresses impacts of building mass on the adjacent City Living Zone has been removed and replaced by policy that primarily relates to land use intensity and only requires building massing issues to be addressed in relation to development above the prescribed zone height. Stronger policy commensurate with the current Capital City Zone is therefore requested.
- Some of the detailed design policies from the current Capital City Zone such as policy in relation to building podiums has been omitted, which could possibly result in poorer design outcomes. Reinstatement of these policies is requested.
- Policies to address the human scale and quality of the pedestrian environment and ensure pedestrian movement is given priority over the dominance of vehicles should be reinstated. For example, Core Pedestrian Areas have been excluded from the zone as has the prohibition of multi-level carparks within these areas.
- Local features relevant to good development outcomes for the City of Adelaide need to be included. For example, there is no reference to Adelaide's distinct grid pattern or the roles of North Terrace as a cultural boulevard, King William Street as the commercial spine, and Pulteney Street and Morphett Street as mixed-use commercial boulevards.
- Zone-specific advertising policy needs to be included across all zones.
- Temporary public service depots should be classified as an accepted development.
- A list of inappropriate land uses should be included.
- General demolition controls need to be maintained to ensure unwanted vacant or open lot development does not occur.
- Exemptions should be provided for placement of notices in relation to procedural requirements (Table 5 of zones).

Commission's Response:

Desired Outcomes / Land Use

The Land Use policy is recommended to be refined to ensure the appropriate range of uses are listed and reflect up to date terminology. Criteria in relation to change of land use should also be included, reflecting that used in other commercial zones. However, the Commission is of the view that a list of inappropriate land uses is not required as it is implicit that activities that are incompatible with those that are desired would be inappropriate.

Including Temporary Public Service Depot as an Accepted development is also recommended, given the current development plan contemplates this activity 'as of right' subject to criteria.

Design

Design policy is generally addressed throughout the Design in Urban Areas General Development Policies. However, a range of adjustments and inclusions are recommended to achieve important zone specific outcomes to respond to the intensity of development, its context, and pedestrian orientation. Design policy is recommended to be adjusted as follows:

- Strengthen policy relating to pedestrian comfort and experience, and human scale, and refine the policy relating to night time land uses to better reflect the desired outcome (i.e. incorporating activities at ground level that encourage daytime activation)
- Include policy relating to the need for shopfronts that have security grilles or shutters to have some visual permeability, to ensure pedestrian amenity is not significantly impacted upon when shops are closed (reflecting current policy from the Development Plan)
- Include new policy for design of buildings in relation to podiums and upper level setbacks where height rise development is in a predominantly low rise context. This is considered necessary as the current policy that addressed these issues is suitable for locations where surrounding development is already higher scale, but does not address situations where the immediate context is low rise.
- Include new policy to strengthen requirements in relation to external appearance to reflect the context.
- Strengthen policy regarding new development framing key city boulevards, and providing a sense of arrival into the city and define junctions.
- Adjust policy relating to sunlight access to city main streets so that it is clear that it related to buildings casting shadows on the main street, rather than any development.
- Adjust building height to reflect the intent of the Development Plan
- Include policy requiring minimum ground level floor to ceiling height to assist with flexibility and adaptability While the issue was raised by Council in relation to the City Frame Subzone, the Commission is of the view that the policy ought apply across all of the zone, as it does in other mixed use zones.

Demolition

The City of Adelaide's concern about the demolition of buildings leading to the potential for sites to then be used as open lot carparks (and the like) that can significantly detract from the desired streetscape is acknowledged and policy to address this issue is warranted.

Interface

The Commission agrees that the interface policy should be amended to ensure built form impacts are addressed (i.e. building massing, overshadowing and the like), in addition to land use intensity issues, at the interface with the City Living Zone.

Advertising

Advertising policy is largely addressed through the Advertising General Module, however it is acknowledged that the city has a small number of zone-specific policies. It is therefore considered warranted to update advertising policy to reflect current key zone specific policy, avoiding any duplication with Advertising General Module.

Access / Movement

New policy to ensure new access points minimise interruption operation and queuing on public roads and pedestrian paths is considered appropriate. Council's request to reinstate key aspects of the current pedestrian priority policy to address pedestrian connectivity and pedestrian primacy in the zone is also warranted.

Procedural Matters Table (notification)

The Commission is of the view that there is no need to provide an exemption from the requirement for the placement of on-site notices to be given in the city so this request is not supported.

The Zone's Procedural Matters Table should be updated to reflect the structure and content consistent with other comparable zones, and ensure minor and unnecessary notification is avoided.

Other changes based on additional information/investigation:

It is considered appropriate to refine policy relating to night-time uses to better articulate the outcome and reflect the same wording in the City Main Street Zone to ensure consistency of approach.

General and consequential changes are recommended to the zone to improve expression, avoid any duplication with general policy and the like.

Commission's Recommendations:

- E.1** **AMEND** DTS/DPF 1.1 by adding 'Advertisement', replacing 'Child Care Centre' with 'Pre-school', and deleting 'Apartments'.
- E.2** **CREATE** a new PO and DTS/DPF to address change of use requirements, consistent with change of use policy applied in centre type zones.
- E.3** **AMEND** PO 2.3 (PO 2.2 in the consultation draft) to be clear that the outcome sought is for land uses typically open during night-time hours incorporate activities along street frontages at ground level that encourage day-time activation compatible with surrounding land uses.
- E.4** **CREATE** a new PO relating to human scale, activation and vibrancy, openness to the sky and sense of address to new buildings.
- E.5** **CREATE** a new PO to address streetscape impact of security grilles and doors.
- E.6** **AMEND** DTS/DPF 3.2 so that it also addresses the development of high rise buildings in an existing low rise context, addressing matters such as human scale at street level; a well-defined frontage; contribution to pedestrian interest; relationship to the scale of adjoining built form; and contribution to emphasising and defining street corners to clearly define the street grid.
- E.7** **CREATE** a new PO that transitions current zone policy requiring building façades that are strongly modelled, incorporate a vertical composition which reflects the proportions of existing frontages, and ensure that architectural detailing is consistent around corners and along minor streets and laneways.
- E.8** **AMEND** PO 3.5 to better address outcomes that seek development that reinforces the city's grid layout, frames boulevards, provides a sense of arrival into the city, and defines junctions on corner sites.
- E.9** **CREATE** a new PO with an outcome that seeks to avoid activities that result in a gap (such as an open lot car park) in the built form along a public road or thoroughfare.

- E.10** **AMEND** PO 3.11 (3.9 in the consultation draft) by adding in the words 'to main the prevailing built form patterns and structure' after the words 'is informed by its local context'.
- E.11** **CREATE** a new PO and DTS/DPF relating to adaptability through a minimum ground floor to ceiling level, as is used in some other mixed use zones (such as the Urban Corridor Zones).
- E.12** **AMEND** building height policy so that it achieves the intent of the current (Development Plan) Capital City Zone building height provision.
- E.13** **AMEND** interface policy to address interface issues with the City Living Zone including built form impacts, and more explicitly reference licensed and entertainment premises in regard to higher-impacting land uses:
 - (a) in relation to building proportions, massing and overshadowing and
 - (b) by avoiding land uses, or intensity of land uses, that unduly impact residential amenity (including licensed premises).
- E.14** **DELETE** PO & DTS/DPF 7.2 under 'Access'.
- E.15** **CREATE** a new PO under the heading 'Access' to ensure development is designed so that vehicle access points for parking, servicing or deliveries, and pedestrian access to a site, are located to minimise interrupting the operation of and queuing on public roads and pedestrian paths.
- E.16** **AMEND** PO 8.1 by adding 'and achieve an overall consistency of design and appearance along individual street frontages' at the end of the provision.
- E.17** **CREATE** a new PO to reflect advertising that currently applies in the area; being internally illuminated advertisements only along major streets, and only where it is a projecting display located beneath a verandah or awning extending over the footpath.
- E.18** **CREATE** a new Pedestrian Priority Concept Plan with associated policy that reflect key policy elements in the current development plan such as limiting the location of stand-alone multi storey car parks, location of access points and the like, to apply to relevant parts of the zone.

City Frame Subzone

Engagement feedback:

Council recommended amending the expression in a number of policies through the inclusion or deletion of text in specified DOs and POs. Council also identified a potential gap in policy, whereby the subzone was observed to omit policy concerning floor-to-ceiling height, its interface with the City Living Zone and catalyst site provisions.

Commission's Response:

Land use policy is recommended to be updated to ensure consistent use of terminology and defined uses, and to better reflect the range of desired uses for the subzone. The minimum floor to ceiling level policy has been included in the zone and as such also applies in the subzone.

Commission's Recommendations:

E.19 REPLACE DO 1 with

Primarily medium to high rise residential development supported by a mix of ground level shops, personal services, restaurants and community and hospitality uses, to create an active and visually continuous edge to the Adelaide Park Lands Zone.

E.20 REPLACE PO1.1 and DTS/DPF 1.1 with

PO 1.1

Medium to high rise residential development and other forms of accommodation supported by a mix of shops, personal services, restaurants and community and hospitality uses.

DTS/DPF 1.1

Development in medium-rise or high-rise buildings comprising one or more of the following land uses:

- (a) Dwelling*
- (b) Non-residential land uses at ground level including:*
 - (i) Consulting room*
 - (ii) Hotel*
 - (iii) Indoor recreation facility*
 - (iv) Licensed premises*
 - (v) Office*
 - (vi) Pre-school*
 - (vii) Shop*
- (c) Residential flat building*
- (d) Retirement facility*
- (e) Supported accommodation*
- (f) Tourist accommodation*

City Riverbank Zone

This zone applies to the North Terrace and riverbank areas along the River Torrens that contain a large number of important state institutions and entertainment facilities.

Engagement feedback:

The relatively small amount of comment received from Council and the community in relation to the zone concerned the following issues:

- Removal of key spatial information currently communicated within Figures, such as reference to the 'central pathway' which extends through this zone.
- The loss of built form interface policies between North Terrace and River Torrens Valley across all subzones.
- Lack of recognition of the Park Lands location and the natural environment of the River Torrens Valley.

Council also requested that temporary public service depot be included as an accepted classified development.

Commission's Response:

the Commission supports including additional policy in the zone to ensure that the built form transitions from higher scale development along North Terrace down to low scale adjacent to the River Torrens and Adelaide Park Lands.

The importance of appropriate pedestrian linkages through the area is noted and the Commission agrees the zone policy should contain reference to all the important pedestrian linkages contained in current relevant development plan figures.

Including Temporary Public Service Depot as an Accepted development is also agreed to, given the current development plan policy contemplates this activity 'as of right' subject to criteria.

Other changes based on additional information/investigation:

In relation to development involving a change of use, the Commission notes that the City Riverbank did not have associated assessment criteria, nor did some other zones commented on during consultation. Development involving change of use needs to address assessment criteria, and the Commission is of the view that the issue should be consistently addressed across zones of a similar nature. The same policy that applies in activity centre type zones is therefore recommended in this instance.

General and consequential changes are recommended to improve expression, avoid duplication with general policy and the like. The Land Use policy is also recommended to be refined to ensure the appropriate range of uses are listed and reflect up to date terminology.

Commission's Recommendations:

- | | |
|-------------|---|
| E.21 | AMEND /DTS/DPF 1.1 by deleting 'Motel' and including 'Pre-school' |
| E.22 | AMEND Zone DTS/DPF 2.2 by adding a new part (e) that seek an outcome of transitioning scale from a strong city edge on the southern side of North Terrace to the landscaped setting provided by the River Torrens and Adelaide Park Lands. |

E.23 **AMEND** PO 4.1 to include references to the various connections currently contained on the various Concept Plans and Figures that apply across the zone's area.

Cultural Institutions Subzone

Engagement feedback:

The University of Adelaide's submission requested some refinement to the Cultural and Institutions Subzone to better align with its North Terrace Campus masterplan, including identifying student accommodation as an appropriate use, as well as high-rise buildings in gateway locations or where replacing existing ones.

Council commented that there was no recognition of the vice-regal functions of Government House and that it is inappropriate for Government House to be contained in the Cultural and Institutions Subzone of the City Riverbank Zone and another subzone should be created for it.

Commission's Response:

Government House is covered by the Cultural and Institutions Subzone, which applies between King William Road and Frome Road. A separate subzone is not considered necessary to apply to Government House; however its viceregal function can be recognised in the subzone.

Including student accommodation is warranted given the subzone contemplates serviced apartments and tourist accommodation.

The built form policy in the zone that seeks a transition in scale from the high scale form along North Terrace to low scale adjacent the Torrens is considered suitable. Proposals can be considered on merit in light of the location's context.

Commission's Recommendations:

E.24 **INCLUDE** reference to viceregal in DO1 and PO 1.1

E.25 **INCLUDE** Student accommodation in the subzone's land use policy.

Entertainment Subzone

Engagement feedback:

Council feedback suggested an additional desired outcome to address the layout of public space and additional performance outcomes to guide ground-level activation, interface with significant buildings and pedestrian connectivity. Amending the list of envisaged land uses was also recommended to exclude development considered inappropriate and include additional land uses which council envisages.

Commission's Response:

An additional Desired Outcome is not considered necessary as the outcomes are considered sufficiently addressed, however the envisaged land use list in the zone is considered warranted.

The refinement of built form policy to be consistent with policy that addresses the transition in building scale from North Terrace to the River Torrens, without reference to the central pathway, is recommended, with policy including reference to low-scale development adjacent to the River Torrens.

A list of inappropriate land uses is not supported (refer to Capital City Zone discussion).

Additional policy addressing ground level activation is not considered necessary as is considered to be sufficiently addressed through the zone policy.

Commission's Recommendations:

- E.26** **AMEND** PO & DTS/DPF 2.1, 2.2, 2.3 in the Entertainment Subzone so that it removes reference to the Central Pathway, includes reference to development adjacent to the River Torrens being low scale.

Health Subzone

Engagement feedback:

Council suggested amending policy concerning land use and intensity; retaining two Concept Plans; inserting a new PO, DTS/DPF that relates to buildings along Montefiore Road; and including additional POs that discuss active street frontages and vehicle access points along major pedestrian thoroughfares.

Commission's Response:

Further policy change is not considered warranted as active frontages and access requirements are sufficiently addressed by Transport Access and Parking General Development Module policy.

Innovation Subzone

Engagement feedback:

The only submission from Council on this subzone noted the subsequent approval of the Mixed Use Innovation (Ministerial) Development Plan Amendment applying to Lot 14 (the old Royal Adelaide Hospital site) and that the policies in the Innovation Subzone need to be updated to reflect the policy approved in that DPA.

Commission's Response:

The Commission notes that the Mixed Use Innovation Zone was established over the Lot 14 site and included policy that was different to the policy in the subzone at the time of the Code's consultation. The Innovation Subzone should therefore be updated to reflect the approved Mixed-Use Innovation Zone.

Commission's Recommendations:

- E.27** **AMEND** the Innovation Subzone so that the policy reflects the Adelaide (City) Development Plan Mixed Use (Innovation) Zone, removing any duplication or redundant policy covered by the zone or general development policies in the Code.

Urban Activity Centre Zone

This zone supports the full range of services and facilities required to cater for regional and district scale populations and lifestyle needs. The zone comprises retail, office, community, civic, entertainment, educational, tourist and recreational land uses and activities.

Engagement feedback:

Land Use

Engagement feedback:

A number of requests were made to include a list of envisaged land uses in the relevant DTS/DPF.

Other feedback requested policy amendment to allow for larger scale bulky goods development at the zone's periphery. Alternatively, contrary comments were received noting the allowance of bulky good outlets at the periphery of the zone was considered inappropriate due to the interface with adjacent residential areas.

Commission's Response:

The Commission supports amending DTS/DPF 1.1 to reference the land uses envisaged in the zone. This is consistent with the approach adopted for zones approved through the Phase Two Amendment.

Policy is also recommended to be amended to more generally require development to contribute to vibrant and interesting streetscapes (and identify the sorts of activities that contribute to this outcome such as shops, hotels, licenced premises and the like), rather than only referring to bulky goods development. The potential locations of larger scale bulky goods development at the periphery of a zone, and more vibrant and interesting streetscape in the primary retail areas is considered appropriate. The zone includes new building interface policy that addresses impacts on residential uses in adjoining zones, irrespective of the building's use.

Advertising Signage

Engagement feedback:

There was strong opposition to the application of DTS 5.1 and Advertisements General Development Policies – Table 1, to advertisements in the Urban Activity Centre Zone. An industry submission recommended amending DTS criteria to permit larger signage in both height and area.

Commission's response:

Given the existing and anticipated development of large-scale signage in the Urban Activity Centre Zone, a more contextual policy provision may be appropriate. The Commission therefore recommends amending the advertising policy in the zone to remove DTS/DPF size and instead allow a more contextual on merit assessment that enables advertising signage size that is commensurate with the size of the centre. This is the recommended approach across all activity centre zones.

Residential Development

Engagement feedback:

Reference to residential development in conjunction with non-residential uses is set out PO 1.3 and 1.5. It was requested that reference to residential development also be included in the overarching DOs and PO 1.1 to provide consistency across the zone. Furthermore, it was suggested the zone should provide further guidance for medium to high density residential development. Suggestions to content included:

- Reference to high-density residential development in DO 1 & 2

- Inclusion of residential land uses to PO 1.1.
- Amendment of DTS 1.4 to permit dwellings situated behind non-residential land uses on ground floor
- Revision of PO 1.5 to enable residential developments at greater densities per hectare, consistent with current policy.

Clarification: The submission stated that PO 1.5 does not refer to high density developments and should be amended to do so. However, the Performance Outcome states 'medium to high densities.'

Commentary on the policy content encouraged additional envisaged land uses to be listed, including supported accommodation and aged care facilities. Additional policy relating to interface treatments, setbacks, noise attenuation measures, architectural form and linkages with retail centres was also suggested. An industry submission recommended any height control for the Urban Activity Centre Zone be equal to or greater than the proposed 32.5m height limit TNV applied to the adjacent Urban Neighbourhood Zone.

Commission Response:

Including dwelling in the list of envisaged land uses is recommended and is considered sufficient, along with other existing zone policy, to indicate the zone's allowance for residential uses.

PO & DTS/DPF 1.4 seek residential development located above ground levels as a typical way of achieving/maintaining vibrant street frontages. The request to amend policy to locate residential uses behind buildings is a separate outcome and can be considered on merit. As such the Commission is of the view that such an amendment is not necessary.

General comments

Engagement feedback:

- A number of respondents raised concerns regarding the lack of detail given to policies addressing residential development, design outcomes, interface issues and height requirements.
- Several councils advocated the inclusion of desired land uses in DTS criteria, as featured in other zones.
- Established retail centres expressed concern about the operation of the proposed Procedural Matters – Notification list, seeking clarification on what zone the expression 'neighbourhood' applies to.

Clarification: 'Neighbourhood-type zone' is defined in Part 8 – Administrative Definitions

- An industry body suggested that policy should encourage parking to be located behind buildings to assist with achieving a performance outcome that seeks active street frontages.
- The zone name was queried by one council who considered that the term 'urban' may cause confusion in a regional context and was not reflective of the areas in which the zone is proposed to apply.

Commission's response: The term 'Urban' does not inherently equate to an area within metropolitan Adelaide and the zone can be appropriately applied in regional centres.

Port Adelaide Centre Subzone

Commentary on the Port Adelaide Centre Subzone was received from the City of Port Adelaide Enfield, who argued that the amalgamation of 17 current Policy Areas into 1 Subzone undermines desired development outcomes. The following matters were of concern:

- Current nuanced policy area provisions reference historical development patterns and fine-grain urban landscape. A less distinctive policy framework would hinder the ability of an assessing authority to refuse an inappropriate development and so the transition of existing policy to the subzone is recommended.
- Council also recommended the transition of detailed desired character statements and associated policy measures to ensure the preservation of the historic fabric of Port Adelaide and realise desired development outcomes.

Clarification: The Code does not feature a similar mechanism to Desired Character Statements. Desired Outcomes are succinct paragraphs which provide a high-level guiding statement which can be used to set the vision of an area. In addition, the part of Port Adelaide Centre covered by the Historic Area Overlay could express local area nuancing in the Historic Area Statement.

Commission Response:

While a single subzone has been used, a series of Concept Plans also apply to the subzone area. This approach avoids potential duplication of policy that would otherwise occur, but still provides the local policy nuance requested by Council. The Commission therefore does not support the Subzone being split into seventeen separate Subzones.

Other changes based on additional information/investigation:

Amending the building height policy to be consistent with the Suburban Activity Centre Zone and other comparable zones to give some flexibility by referring to general medium-rise development, plus referencing Building Height Technical and Numeric Variation layers, is recommended.

Consistent with the approach taken for other mixed use infill zones, specific density references are considered unnecessary given the Code provides an administrative definition for medium and high density.

Minor adjustment to the change in use performance outcome is recommended to better reflect the outcome sought to support efficient use and continued operation and vibrancy of activity centres. This amendment should be made to all the activity centre zones to ensure consistency.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

- E.28** **AMEND** land use policy (DTS/DPF1.1) to include a list of envisaged land uses.
- E.29** **AMEND** residential density policy by removing any reference to minimum net dwelling density.

E.30 **AMEND** policy relating to siting of bulky goods (PO & DTS/DPF 1.6) and instead refer more generally to the sorts of activities that contribute to vibrant streets.

E.31 **REPLACE** the advertising policy in the zone with new policy that seeks the following outcomes:

- Advertisements are sited and designed to achieve an overall consistency and appearance along individual street frontages.
- The size of freestanding advertisements is commensurate with the scale of the centre and the street frontage, mitigates visual clutter, and positively responds to the context without dominating the locality.

E.32 **AMEND** the change of use performance outcome in all activity centre type zones to reflect the outcome sought to support efficient use and continued operation and vibrancy of activity centres.

Suburban Activity Centre Zone

This zone accommodates small to medium sized activity centres servicing a local or neighbourhood area. Development will primarily comprise shops, offices and consulting rooms. Residential development will be appropriate only in conjunction with non-residential development.

Engagement feedback:

Feedback on the Suburban Activity Centre Zone focussed on the following key matters:

- allowances for free-standing signs
- land use policy needing to provide more detail about the sorts of residential types allowed, noting that the zone contemplates associated residential activity
- building scale and form in the zone
- building envelope policy
- freestanding advertising sign allowances
- retail floor limits.

A high volume of feedback focussed on the transition of current 'centre' zones, including local, neighbourhood, district and business zones, into one proposed zone.

Councils sought to preserve the current hierarchy structure due to concerns that local centres suited to residential areas will be altered by the introduction of larger-scale retail development. Respondents from local government observed a policy gap in the centre hierarchy with concerns that current Local Centre Zones don't have a policy equivalent in the Code.

It was asserted that Suburban Activity Centres Zones are an inappropriate transition due to the permissible land uses envisaged, the scale and intensity of anticipated development and the fact that no limit is imposed on shop floor areas.

Many local government responses requested amendment or clarification of policy in relation to building heights in activity centres, requesting all heights in development plans be translated into Technical and Numeric Variations (TNVs) in the Code. A further numeric quality sought by councils was the refinement of floor area criteria to provide for better consistency with current policy.

The inclusion of residential development in association with a non-residential land use, tourist accommodation, student accommodation, health facility and service trade premises was proposed in Table 3 – Performance Assessed and DOs/POs. A considerable number of submissions also put forward the need to include residential development as an anticipated land use.

Some submissions raised concern with policy relating to bulky goods outlets, which may be inappropriate in existing local centres. The practicality of achieving bulky goods outlets sited and designed to achieve or maintain a vibrant and interesting streetscape was questioned given their nature and form

The imposition of a maximum gross leasable floor area limit for retail development was advocated by councils.

Several local government responses suggested the inclusion of performance outcomes concerned with site contamination to ensure contamination issues are considered during assessment.

The usage of the term 'medium-rise' was observed to create potential conflict with TNVs that identify lower building heights.

Multiple council submissions encouraged the transition of land uses currently considered non-complying to feature in Table 4 – Restricted Development.

Clarification: *The restricted development threshold is a procedural trigger to require a more comprehensive assessment pathway. Unlike non-complying development in development plans, the restricted development threshold does not indicate that a development is inappropriate or otherwise. The policy itself (DOs, POs and DTS/DPF criteria) are the only matters that should be used to assess the merits of a performance-assessed development. Due to the differences in non-complying and restricted development, it is considered inappropriate to transition all non-complying development to restricted development in the Code.*

In relation to the procedural matters, it was suggested that service trade premises, industry, special industry, adult product and services premises, and telecommunications facility be listed as publicly notifiable.

Council submissions:

- sought a building envelope of 30 degrees (not 45)
- queried how the density of residential development should be considered
- questioned the ability of the Suburban Activity Centre Zone’s policy to cover the current centre zone range which includes local through to district centres
- requested the current development plan retail floor limits be applied
- requested an overall freestanding sign limit in addition to the limits that apply to individual signs.

Commission’s Response:

Zoning

Comments in regard to the range of zones that were proposed to be covered by the Suburban Activity Centre Zone are acknowledged. While it and the Urban Activity Centre Zone are considered suitable to apply to most circumstances, the need for a new activity centre zone to apply to small local centres is acknowledged and supported.

Residential Land Use

The Commission supports requests for additional residential types to be listed as envisaged uses in the zone (such as retirement facility and supported accommodation).

Policy in the zone seeks medium to high density residential development. Administrative definitions are provided for these, so assessment of relevant development would be in light of these.

Retail Floor Limits

The Commission is of the view that a retail limit is unnecessary in centre type zones and that in practice the scale of development in a centre location is largely a function of the size of the zoned area and whether it is comprised of a number of shops or fewer larger ones is largely immaterial.

Location of Bulky Goods

Policy should also be amended to more generally require development to contribute to vibrant and interesting streetscapes, rather than specifically referring to bulky goods outlet, consistent with the approach adopted in other centre zones. The potential location of larger scale bulky goods development at the periphery of a zone and more vibrant and interesting streetscape in the primary retail areas is considered appropriate.

Built Form

Policy addresses built form contextually through PO 2.1, however building siting should also be a consideration in addition to building scale.

The 45 degree building envelope provision is considered appropriate for use in the zone. Current developments don't have building envelope policy applying to centres in most instances, so the inclusion of the policy in the Suburban Activity Centre Zone is an additional (warranted) requirement to address building massing issues at its periphery. Further the Commission is of the view that the 45-degree envelope is generally suitable to address building massing interface issues. It is noted that some current zones policy applies a 30 degree building envelope provision in some locations (e.g. some Urban Corridor Zone locations), however these were established through a previous amendment process that established a lower angle is suitable in the relevant locations, so the Commission supports these continuing.

However, the Commission does support refining policy to address interface impacts on adjoining residential development in neighbourhood-type zone through siting and design in a more general sense.

Comments in regard to building height policy are noted. Similar comments were received through the consultation process on the Phase Two Amendment, and those amendments continue to be supported in the Phase Three Amendment.

Advertising

The Commission agrees that the advertising policy in the zone should be amended by removing DTS/DPF size and instead allowing a more contextual on merit assessment that enables advertising signage size that is commensurate with the size of the centre, given the range of centre sizes where zone applies.

Restricted Development Classification

The Commission does not support the transition of current non-complying zone lists as the restricted classification and non-complying procedures and use are not comparable.

Other changes based on additional information/investigation:

Amending the land use policy to reference a wider range of uses to better reflect the outcomes sought in the zone, consistent with comparable other zones, is recommended.

Consistent with the recommended approach for other mixed use infill zones, specific density references are considered unnecessary given the Code provides administrative definitions for medium and high density.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- E.33** **AMEND** PO/DTS/DPF 3.1 to reference any relevant TNV in the PO, and specify a default building height of up to 3 building levels in the DTS/DPF where a TNV doesn't apply.
- E.34** **REPLACE** 'desired development' with 'adjacent development' in PO 2.1.

Phase Three (Urban Areas) recommendations:

- E.35** **CREATE** a new Local Activity Centre Zone to apply to small local centres.
- E.36** **AMEND** DTS/DPF 1.1 to better reflect the range of residential and non-residential uses contemplated /desired in the zone.
- E.37** **AMEND** residential density policy (DTS/DPF 1.4) by removing any reference to minimum net dwelling density.
- E.38** **AMEND** policy relating to siting of bulky goods (PO & DTS/DPF1.5) to instead refer more generally to the sorts of activities that contribute to vibrant streets.
- E.39** **AMEND** policy relating to compatibility of development (DTS/DPF 2.1) to address building siting in addition to scale and include reference to mitigating impacts on adjoining residential uses in neighbourhood-type zones.
- E.40** **AMEND** Interface built form policy so that a 30 degree building envelope applies to any centre location where the same envelope applies under current development plan policy.
- E.41** **REPLACE** the advertising policy in the zone with new policy that seeks the following outcomes:
 - Advertisements sited and designed to achieve an overall consistency and appearance along individual street frontages.
 - The size of freestanding advertisements is commensurate with the scale of the centre and the street frontage, avoids visual clutter and positively responds to the context without dominating the locality.

Suburban Main Street Zone

This zone accommodates small to medium sized activity centres servicing a local or neighbourhood area. Development will primarily comprise shops, offices and consulting rooms. Residential development is appropriate only in conjunction with non-residential development. Buildings will be oriented towards the main street to create active frontages and reinforce the main street character.

Engagement feedback:

Feedback focussed on the following matters:

- allowances for free-standing signs

- the need for land use and land division policy to provide more detail about the sorts of residential types allowed, noting that the zone contemplates associated residential activity
- concerns over deemed-to-satisfy criteria and the appropriateness of the assessment pathways applying to several classes of development
- concern about the inclusion of bulky good outlets as an anticipated form of development and the need for a reduced floor area limit for these outlets to better fit with the main street nature of the zone
- the need for a 30 degree building envelope to apply on all boundaries (instead of 45)
- the need for a maximum shop floor area limit
- the inclusion of industry in the Restricted Development table. Views on this varied with light industry uses (e.g. service industries including microbreweries and furniture manufacturing) considered appropriate but classified by the Code as a restricted form of development. Several councils advocated for the exclusion of 'light industry' from Table 4
- industries sought greater allowance for building height to achieve the desired main street outcome
- clarification about the application of the public notification table as some terminology is ambiguous.

Commission's Response:

Key issues in relation to this zone were largely addressed through the Phase Two (Rural Areas) Code Amendment.

Policy should also be amended to more generally require development to contribute to vibrant and interesting streetscapes, rather than specifically referring to bulky goods outlet, consistent with the approach adopted in other centre zones.

Current policy in comparable development plan zones typically doesn't have building envelope policy applying to centres so the inclusion of the policy in the Suburban Main Street Zone is an additional (warranted) requirement to address building massing issues at its periphery. It is noted that some current zones policy applies a 30 degree building envelope provision in some locations (e.g. some Urban Corridor Zone locations), however these were established through a previous amendment process that established a lower angle is suitable in the relevant locations, so the Commission supports these continuing.

Maximum shop floor areas are not considered appropriate for centre type zones. Main street built form outcomes are addressed through separate policy so policy seeking small-scale shops from a character perspective is not considered necessary.

Other changes based on additional information/investigation:

Minor changes to the land use policy to reference a wider range of uses to better reflect the outcomes sought in the zone and consistent with comparable other zones is recommended.

Consistent with the recommended approach for other mixed use infill zones, specific density references are considered unnecessary given the Code provides administrative definitions for medium and high density.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- E.42** **AMEND** PO/DTS/DPF 3.1 to reference any relevant Technical and Numeric Variation in the PO, and specify a default building height of up to 3 building levels (or 4 building levels where site frontage is >25m and site depth is >50m) in the DTS/DPF where a TNV doesn't apply.

Phase Three (Urban Areas) recommendations:

- E.43** **AMEND** Land use policy to reflect the desired range of anticipated uses in the zone consistent with other main street zones.
- E.44** **AMEND** PO 1.6 by replacing 'Bulky good outlets are' with 'Development', and DTS/DPF 1.6 to include uses that contribute to vibrancy (such as shops, licensed premises, hotels and the like).

Township Activity Centre Zone

This zone accommodates small to medium sized activity centres in regional areas that are the focus of activity in the district. The zone accommodates a range of retail, office, entertainment and recreational land uses. Housing may be appropriate where it will not prejudice the operation of envisaged non-residential uses.

Engagement feedback:

Limited feedback was received on the Township Activity Centre Zone with commentary focusing on residential development, advertisements and anticipated land uses.

The following comments were received:

- Parking, traffic and access provisions should be included as POs and DTS/DPF criteria.

Clarification: The Transport, Access and Parking General Module addresses these matters.

- One industry submission advocated for the inclusion of dwellings and residential flat buildings as anticipated land uses as they are considered to be envisaged and appropriate in the zone.
- More contextual policy concerning freestanding advertisements was encouraged as the Code was not considered consistent with existing standards of signage in activity centre precincts.
- The 'reference to hours of operation' is considered unnecessary, given the standards specified in relation to noise or vibration, air quality, light spill and other amenity impacts elsewhere in the General Development Policies and the Code.
- Local government considered light industry may be appropriate if there are associated sales but that general and special industry would not be compatible with the zone's desired outcomes.

Clarification: Categorisation as restricted development doesn't imply that a development is not envisaged/appropriate – this is most suitably determined through the zone policy rather than categorisation. In addition, light industry is listed as an exclusion in Table 4.

Commission's Response:

Key issues in relation to this zone were largely addressed through the Phase Two (Rural Areas) Code Amendment.

Other changes based on additional information/investigation:

Minor changes to the land use policy to reference a wider range of uses to better reflect the outcomes sought in the zone, consistent with comparable other zones is recommended.

Similarly, refinement regarding policy requirement development to contribute to vibrant and interesting streetscapes, rather than specifically referring to bulky goods outlet, has been recommended in some other centre zones and should be included in the Township Activity Centre Zone to achieve a consistent approach.

Policy regarding building siting and design to be complementary with development within the zone and to mitigate interface impacts on adjoining residential uses in neighbourhood zones, is contained in

comparable activity centre zones, and is recommended to be included in the Township Activity Centre Zone to achieve consistency.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

- E.45** **AMEND** DTS/DPF 1.1 to reflect the desired range of anticipated uses in the zone consistent with other comparable zones.
- E.46** **AMEND** PO 1.4 by replacing 'Bulky good outlets are' with 'Development', and DTS/DPF 1.4 to include uses that contribute to vibrancy (such as shops, licensed premises, hotels and the like).
- E.47** **INCLUDE** a new PO regarding building siting and design to be complementary with development within the zone and mitigate interface impacts on adjoining residential uses in neighbourhood-type zones, consistent with the same policy in comparable activity centre zones.
- E.48** **AMEND** PO 3.2 regarding building height to remove reference to medium rise and generally seek low rise development that complements the established streetscape and local character, and to reference any relevant TNV.

Township Main Street Zone

This zone provides a focus for regional main streets that service the local community and visitors. Development will primarily comprise retail, office, entertainment and recreational land uses and activities.

Engagement feedback:

A significant volume of local government responses was received in relation to the Township Main Street Zone which focussed on the following key matters:

- allowances for free-standing signs
- the need for land use and land division policy to provide more detail about the sorts of residential types allowed, noting that the zone contemplates associated residential activity
- concern about the inclusion of bulky good outlets as an anticipated form of development and the need for a reduced floor area limit for these outlets to better fit with the main street nature of the zone. It was also put forward that the creation of a floor area limit would provide relevant authorities with a mechanism to control inappropriate retail development
- the amalgamation of existing zones to the zone is not considered appropriate in some areas as it would permit incompatible development outcomes
- the inclusion of industry in the Restricted Development table. Views on this varied, with light industry uses (e.g. service industries including microbreweries and furniture manufacturing) considered appropriate but classified by the Code as a restricted form of development.

- a need for clarification about the application of the public notification table as some terminology is ambiguous
- the need Desired Outcome 1 to be reworded to replace the word 'local' with 'township' as development should be serving the entire town not just a portion

Commission's Response:

Amending land use policy to refine the range of uses to better reflect the outcomes sought in the zone and to ensure better consistency across the range of centre zones is supported.

'Dwelling above ground level' should be changed to simply read 'dwelling' since dwelling is the land use and separate policy in the zone addresses the issue of its location.

Policy should also be amended to more generally require development to contribute to vibrant and interesting streetscapes, rather than specifically referring to bulky goods outlet, consistent with the approach adopted in other- centre zones.

Advertising policy for freestanding signs was included in Phase Two Amendment, and is considered suitable.

The Phase Two Amendment has extensively amended the notification tables and resolved many issues raised concerning the procedural matters section.

Commission's Recommendations:

Phase Two (Rural Areas) recommendation proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

E.49 REMOVE the word 'local' from DO 1.

Phase Three (Urban Areas) recommendations:

E.50 AMEND DTS/DPF 1.1 to reflect the desired range of anticipated uses in the zone by adding 'advertisement' and 'dwelling'.

E.51 AMEND PO 1.5 by replacing 'Bulky good outlets are' with 'Development', and DTS/DPF 1.5 to include uses that contribute to vibrancy (such as shops, licenced premises, hotel and cinema).

E.52 AMEND PO 3.1 regarding building height to remove reference to medium rise and instead reference a height consistent with the form expressed in any relevant TNV, or otherwise low rise.

Innovation Zone

This zone accommodates key education, research and innovation facilities supported by a mix of compatible land uses including tourism, hospitality, cultural, health, entertainment, recreation and small-scale retail activities to meet the needs of residents and visitors.

Engagement feedback:

Feedback on a range of technical matters within the Innovation Zone was received.

Aligning with feedback in relation to the Employment Zone, submissions sought policy in the Innovation Zone that better reflects its specialist development needs, intent and vision for major strategic development and employment sites such as Tonsley and Flinders Village, possibly via introducing a more focussed zone or new subzone. It was suggested that the list of envisaged uses in innovation (and employment) zones be expanded to align with anticipated uses for these strategic sites.

Opportunities for a more tailored approach to shops in the Innovation Zone (e.g. shops greater than 500m² proposed as restricted development) were identified, with suggestions that assessment pathways and policies should reflect existing conditions or allowance for strategic sites, including master plans and the vision guiding development of these sites. Opportunities to carryover existing Concept Plans for these sites was also suggested to further guide their development.

There were also suggestions to:

- provide further clarification regarding building heights in the zone
- include new policies to encourage the use of green infrastructure in open and public spaces for environmental benefits
- provide more detailed policy regarding car parking requirements applying to specific sites or areas within the zone
- include policies to promote design quality and sustainability features for development, similar to those applying in the City of Adelaide, particularly given the potential for taller buildings
- review Table 5 – Procedural Matters in relation to notification requirements to ensure the correct DTS/DPF criteria are applied and to consider amending the quantitative floor space trigger for notification of a shop to align with the maximum floor area identified in DTS/DPF 1.4 (i.e. 250m²).

Clarification: Notification requirements have been reviewed for all zones to identify those uses that are exempt from notification rather than exempting all forms of development other than where listed or fail to meet certain criteria.

Commission's Response:

Given the strategic importance and nature of sites proposed to be included in the zone, it is proposed to amend the name of the zone to the Strategic Innovation Zone.

Further, in recognition of the specialist needs and uses anticipated for the Flinders University and village site at Bedford Park, the Commission also proposes to include this area in a new Flinders subzone of the Code, with policies to guide the development of uses to create a village atmosphere focused around transport and rail improvements as part of the Flinders Link project and to recognise the importance of open space across the site. It is also proposed to expand the range of envisaged uses listed in DTS/DPF 1.1 to better recognise the types of uses anticipated for locations in the zone.

The Commission also proposes to include the Repatriation General Hospital site in a new Repatriation Subzone to recognise the unique needs and the range of uses sought for the site and importance of heritage places.

The Commission's response in relation to more specific feedback relating to the zone is provided under key headings below.

Shops

Recommendations for a more tailored approach to shops in the zone are recognised, including suggestions to remove the restricted floor area trigger for shops in some locations. The restricted development trigger for shops applicable in the zone of 500m² was amended as part of the Phase Two Amendment to 1000m² to allow additional capacity to provide services based on local circumstances and provide additional scope for local planning authorities to consider proposals that are unlikely to impact land use patterns or affect strategic directions expressed in the State Planning Policies (SPPs). The restricted development floor area limit for shop development should be increased in the zone consistent with this approach.

The Commission recognises, however, that several locations proposed in the zone contemplate a level of retail and shop development over this floor area threshold, with many having no current floor area restrictions (except in relation to bulky goods outlets in some instances). These areas include Tonsley, Laffer's Triangle, Flinders Village (proposed in a new Flinders Subzone), Glenside and the Lyell McEwin health precinct. Further, locations such as the Repatriation General Hospital site, which is also proposed in the Rehabilitation Subzone, currently contemplates up to 2000m² of shop floor area across the precinct.

The Commission therefore proposes to amend the restricted development criteria for shops in the following areas of the zone to allow such development to be considered via the performance assessed pathway:

- Flinders Village (in the new Flinders Subzone)
- Repatriation General Hospital (in new Repatriation Subzone)
- Glenside sites (proposed in the Rehabilitation Subzone)
- Tonsley site and Lyell McEwin Hospital precinct (in a proposed new Activity Node Subzone).

Concept Plans and building heights

The Commission acknowledges requests for further clarification regarding building heights in the zone and suggestions to transition a range of existing Concept Plans applying to strategic sites in the zone to better guide their development, including where these plans guide building form, location and height.

While building height limits apply to most sites or areas proposed to be included in the zone under existing development plans, such limits do not currently apply to parts of the Elizabeth Regional Centre. Areas where height limits apply in existing policy are proposed to be included as a height TNV in the zone. This includes locations such as Mawson Lakes and the Repatriation General Hospital site.

There are, however, a number of locations in the proposed zone where existing development plans apply policy in combination with Concept Plans to guide building height, including for Laffer's Triangle, Bedford Park / Flinders, Tonsley and Glenside. These requirements have not transitioned to the Code as a building height TNV given the difficulties in applying a building height limit to a geographical location where a boundary definition is unavailable.

Car parking

Recommendations to retain car parking requirements applying to certain areas in the zone and include these areas within a 'designated area' for the purposes of car parking provision, are acknowledged.

Rezoning of sites at Tonsley, Bedford Park and Flinders University in 2018 recognised their convenient position near the railway line and high-frequency public transport as well as planned improvements to extend the train line to Flinders University as part of the Flinders Link project. Consequently, this rezoning included these areas within a 'designated area' for the purposes of applying more standardised car parking rates across a range of non-residential and residential uses without condition (e.g. proximity to public transport services).

On this basis, it is considered appropriate that the parking rates in *Table 2 - Off-Street Vehicle Car Parking Requirements in Designated Areas* in the Transportation, Access and Parking General policy provisions apply to the Innovation Zone for areas at Tonsley, Laffer's Triangle and Flinders University (as originally intended) without condition, to reflect established development plan requirements and reinstate the intent of Ministerial policy directions. Parts of the Glenside mixed use area and the Repatriation General Hospital site are also currently 'designated areas' for the purposes of car parking without condition as part of recent rezonings and are therefore proposed to also be captured in Table 2.

The criteria included in *Table 1 – General Off-Street Car Parking Requirements* in the Transportation, Access and Parking General policy provisions should continue to apply to other locations in the zone (see associated recommendation in [Integrated Movement Systems and Infrastructure > Transport, Access and Parking General Development Policies](#) section of this report).

Open space and green infrastructure

In relation to suggestions to include new performance objectives to maximise the greening of public realm and open space links to contribute to shading, cooling, air quality and amenity, the Commission draws attention to the General policy provisions of the Code which provide a basis for considering public realm and open space, particularly within intensifying development locations such as areas located in this zone. The Design and Design in Urban Areas General policies in particular, include requirements for landscaping for all developments that seek to achieve similar intent and will be called up as relevant policy for assessment of most performance assessed development in the zone. It is therefore not appropriate or necessary to duplicate or repeat the intent of this policy in the zone.

Design and sustainability

Suggestions to include additional policies in the zone to promote design quality and incorporation of sustainability features in new buildings given the potential for taller buildings on sites in the zone are acknowledged.

It is understood that the suggested policies have been based on policies currently applying in Adelaide's Capital City Zone, which are intended to apply only where buildings are proposed to exceed building height limits to achieve greater levels of design, sustainability and environmental performance than buildings that would meet prescribed height limits. Achieving such higher design and environmental performance standards can also add significant costs to developments. It is therefore not considered practical or appropriate to apply such additional requirements to development in the zone without further detailed investigations and consultation as part of a future Code Amendment process.

Most forms of development in the zone will be performance-assessed, including against a range of General policy provisions promoting quality design of buildings. Further, a height limit is not specified for most locations proposed in the zone, consistent with the existing development plans.

Public notification

Suggestions to require development that exceeds a maximum building height limit in the zone be subject to notification (in particular where located adjacent to another zone) are acknowledged and consistent with the approach used in many other existing and proposed Code zones. It is therefore proposed to amend the notification table to require notification of proposals exceeding maximum building height and interface height when adjoining a neighbourhood-type zone.

The Commission also acknowledges suggestions to consider amending the quantitative floor space trigger for notification of a shop to align with the maximum floor area desired in DTS/DPF 1.4 (i.e. 250m²). Notification should generally extend to circumstances where they may be unreasonable impacts on neighbours, particularly in areas outside the zone where a higher level of amenity may reasonably be expected. In this regard, a standard clause has been used in the Code to limit notification for development generally within mixed use type zones by exempting "Any kind of development that is not located adjacent to a site used for residential purposes in a neighbourhood-type zone".

The Commission recommends applying this clause to the zone, which could also be used to support notification for shop proposals irrespective of any floor area limit. In addition, any class of development at the interface with a neighbourhood-type zone that is otherwise exempt from notification should only be notified where relevant criteria are not met (e.g. proposals that exceed maximum building heights). Adjustments of this type in Table 5 – Procedural Matters – Notification are therefore appropriate.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

- E.53** **RENAME** the zone 'Strategic Innovation Zone' to better reflect the range of strategic development sites where the zone is proposed to apply.
- E.54** **CREATE** the following new subzones in the zone:
- 'Flinders Subzone' to apply to the Flinders Village site to better recognise the range of uses sought to achieve a village atmosphere centred around new railway infrastructure and open space objectives
 - 'Repatriation Subzone' to apply to the Repatriation General Hospital site to better recognise the range of uses sought for the site and importance of heritage places
 - 'Activity Node Subzone' to apply to areas in Tonsley and Lyell McEwin Hospital precinct to better recognise land uses contemplated adjacent road and railway infrastructure.
- E.55** **AMEND** Table 3 – Performance Assessed development to correctly reference the Rehabilitation Subzone.
- E.56** **AMEND** DTS/DPF 1.1 to include a wider range of additional uses in the list of envisaged uses in the Innovation Zone given locations where the zone is proposed to apply, including:
- Indoor recreation facility
 - Retirement facility
 - Shop
 - Student accommodation
 - Supported accommodation
 - Tourist accommodation
 - Workers' accommodation.

E.57 **AMEND** Table 4 – Restricted development to exclude shops in the following areas of the zone from being restricted based on floor area to allow such development to be considered via the performance-assessed pathway:

- Flinders Village (in the new Flinders Subzone)
- Repatriation General Hospital (in the new Repatriation Subzone)
- Glenside (proposed in the Rehabilitation Subzone)
- Tonsley and Lyell McEwin Hospital precinct (in the new Activity Node Subzone).

E.58 **AMEND** Table 5 – Procedural Matters – Notification to:

- require notification of proposals exceeding maximum building height and interface height when adjoining a neighbourhood-type zone
- include a new clause stating 'Any kind of development that is not located adjacent to a site used for residential purposes in a neighbourhood-type zone', other than in relation to demolition of a heritage place
- include a list of uses that are exempt from notification, other than where prescribed criteria are not met (e.g. building height limits).

Employment Zone

This zone supports a range of industrial, high-impact land uses including general industry, logistical, warehousing, storage, research and training.

Engagement feedback:

A significant volume of responses was received from local government and industry in relation to the Employment Zone.

There was a shared view that more tailored policy or the application of a subzone would be appropriate for specialised functions and major strategic employment sites (e.g. a new 'Ship Building Subzone' should be applied to Osborne Naval shipyards). The major industrial areas of Gillman and Edinburgh were also identified as areas where a subzone may be more appropriate.

Conflicts and cross-purposes in policy were observed, with one prominent example being that 'industry' was considered a restricted form of development, with 'special industry' being an exemption.

Clarification: Reference to 'industry' as Restricted in the zone with the exception of 'special industry' was unintended and has been rectified in the Phase Three (Urban Areas) Code Amendment – Update Report and the Phase Two Amendment.

Several councils suggested the need to consider a new zone (or subzone) that provides an interface between sensitive land uses and more significant industry where industry interface areas exist in current development plans and to consider retaining existing bulky goods zones (or creating an equivalent subzone). One council identified that the zone does not provide sufficient guidance for development of a highway service centre, based on recent rezoning and suggested a new subzone to facilitate such a use.

Councils and industry groups raised concerns regarding floor area limits for shops and expressed the view that the proposed zone could undermine small businesses by focusing on the delivery of larger-scale developments. There was also some disagreement between councils as to whether 'shop' should be an anticipated form of development in the Employment Zone.

Clarification: In response to feedback on the Phase Two Amendment, the Commission recognised that DTS/DPF criteria for shops (i.e. gross leasable floor area 500m²), was a significant increase over current development plan policies in similar zones. The desired floor area for shops was subsequently reduced to 250m² in the Phase Two Amendment. The Commission has also determined that 'shop' will remain an envisaged use for the zone.

Additional themes of discussion were the addition of land uses in the restricted development table, clarification of proposed policy, and inclusion of additional policy for landscaping, signage, emissions, site contamination and interface.

Terminology used in the Desired Outcomes and Performance Outcomes was queried, with clarification of policy expression desired.

Specific feedback is set out below:

Deemed-to-Satisfy

- Recommend that a deemed-to-satisfy pathway be provided for a 'shop'. This was a source of contention among councils: one metropolitan council advocated for the inclusion of 'shop' while two peri-urban councils argued for their omission from the list of desired uses.

- One industry group recommended that 'bulky good outlets' be afforded a deemed-to-satisfy pathway, as an anticipated and expected land use in the zone and be exempt from notification.
- Some councils suggested that fencing should be specifically included as deemed-to-satisfy and performance assessed (e.g. where over 2.1 metres) and should not default to 'All other Code Assessed Development' and be notified.
- One respondent commented that Consulting Rooms and an Office are listed as deemed-to-satisfy in Table 2 but are not specifically envisaged in DTS/DPF 1.1.

Clarification: Based on a review of the assessment tables as part of the Phase Two Amendment, both Offices and Consulting Rooms are proposed to be listed as performance assessed development in Table 3 of the zone.

Performance Assessed Development

- One peri-urban council suggested that 'land division' should be included as a performance assessed form of development as the Code contains related provisions (PO 2.1, DTS/DPF 2.1) yet fails to list land division in the table.

Clarification: Land Division has been specifically listed in Table 3 – Performance Assessed development in the zone as part of the Phase Two Amendment.

- Other respondents recommended that the listing of General Industry, Motor Repair Station and Telecommunications Facilities in Table 3 should refer to PO 1.2 (land use and intensity) and that PO 1.1 and PO 1.2 should be applicable policy for all performance assessed development. PO 1.3 is also not referred to within any of Table 3 (except in relation to Advertisements where it is not relevant) and should be called up for a shop or bulky goods outlet.

Clarification: In response to feedback received in Phase Two Amendment, PO 1.1 and PO 1.2 are called up in Table 3 in relation to General Industry in the Phase Two Amendment, as well as in relation to most other commercial, retail and industrial uses listed in Table 3. A Motor Repair Station is no longer specifically listed in Table 3 based on feedback received during the Phase Two Amendment and will be assessed as 'All other Code Assessed Development' against the full Code.

Reference to PO 1.3 associated with an Advertisement was deleted as part of the Phase Two Amendment, with PO 7.1 appropriately called up. Further, PO 1.3 has also been called up for a 'Shop' and 'Restaurant' in the Phase Two Amendment.

Restricted Development

- Significant opposition was received to 'industry' being listed as a restricted form of development, except for 'special industry' and suggested that policies to guide special industry should be included.

Clarification: The Commission's December 2019 Update Report acknowledged this error which occurred in Table 4. 'Industry' is to be deleted from the class of development column, and 'special industry' removed from the exclusions column and reinserted as a restricted class of development.

- One agency recommended that 'special industry' should be performance assessed in the zone when located outside the EPA's recommended evaluation distances, including in relation to areas at Gillman and Edinburgh, however an industry group recommended inclusion of special industry as an envisaged use in DTS/DPF 1.1 to support existing operations.
- Recommendations were received from a number of councils to transition classes of development currently considered non-complying in existing development plans to restricted development in the zone. This included a range of sensitive land uses such as dwellings, nursing homes, pre-schools, primary schools, educational establishments, hospitals and tourist accommodation.

Clarification: *The restricted development threshold is a procedural trigger to require a more comprehensive assessment pathway. Unlike non-complying development in development plans, the restricted development threshold does not indicate that a development is inappropriate or otherwise. The policy itself (DOs, POs and DTS/DPF criteria) are the only matters that should be used to assess the merits of a performance-assessed development. Due to the differences in non-complying and restricted development, it is considered inappropriate to transition all non-complying development to restricted development in the Code.*

- One council suggested that the 1000m² trigger for a 'shop' to be considered a restricted development was too great and may lead to inappropriate development outcomes and consumption of large areas of industrial land. There was also concern that larger scale retail developments may undermine traditional industrial areas as they are now considered an envisaged land use in areas where they are presently non-complying and discouraged. Conversely, one council identified that the floor area limits in the zone are too limiting in areas where a retail centre of up to 20,000m² is currently anticipated.
- Another council suggested that dwellings and education establishments should be restricted in the zone.
- Some respondents suggested that a range of exceptions to restricted development in the zone be included, such as caretaker's residences, alteration/additions to an existing dwelling and short-term accommodation ancillary to and in association with industry.

Bulky Good Outlets

- Some respondents suggested the introduction of a maximum gross leasable floor area policy or TNV for bulky good outlets and retail developments.
- Clarification is required for PO 1.3 and DTS/DPF 1.3, with the DTS criteria seemingly contradicting the PO by the inclusion of 'bulky good outlet.'

Clarification: *The intent of PO 1.3 is to ensure shops, other than a bulky goods outlet and shops not ancillary to industry, cater to the surrounding workforce. The inclusion of bulky goods outlet to DTS/DPF 1.3 is not in conflict with the intent of PO 1.3. The correct interpretation of the performance outcome is that shops should cater for the surrounding workforce and bulky good outlets are exempt from having to meet this test as, by their nature, they cater to a large market which includes communities outside their immediate proximity.*

Shops

- Shops were a source of contention among councils as some advocated for the inclusion of 'shop' to DTS/DPF 1.1 while others argued for its omission from the list of desired uses. There were also some suggestion to reduce the desired development size for shops to 250m², with 500m² applied as the trigger for restricted development.

Clarification: Based on feedback received during Phase Two of the Code, DTS/DPF 1.3 was amended in the Phase Two Amendment to reduce the desired gross leasable floor area for shops to 250m². Further, based on a review of the restricted development tables for most zones as part of Phase Two, the floor area trigger for a shop to be restricted has been increased to 1000m².

Other policy

- Some councils suggested that the reference to 'comprehensive' in the Desired Outcomes for the zone (DO 1) is unnecessary and could be removed.
- Suggestions were received to amend the expression of PO 1.1, which is considered cumbersome and lengthy, to provide greater clarity for authorities (e.g. including a 'break' in the performance outcome, with a sentence dedicated to interface issues).
- One council observed that DTS/DPF 1.2 may conflict with the intent of the zone.

Clarification: It is not considered that the DTS/DPF criteria conflicts with intent of zone. The policy acknowledges that allotments situated on the periphery of the zone are not suitable for all classes of development deemed appropriate elsewhere in the zone.

- Some councils requested that a TNV for building height be applied to the zone.
- Some respondents recommended amending PO 3.2 to remove the word 'facade' and apply the performance outcome to all building elevations and that policy to encourage building openings be located away from sensitive receivers be included.
- Suggestions were received that the term 'neighbourhood zone' in PO 4.1 and PO 4.2 should instead refer to 'an adjacent zone that primarily envisages residential development' to clarify intent.

Clarification: Use of the term 'neighbourhood zone' has been replaced in the Phase Two Amendment with 'at the allotment boundary of a residential allotment within a neighbourhood-type zone'. The term 'neighbourhood-type zone' has also been specifically defined in the Administrative Definitions in Part 8 of the Code to clarify its application.

- Opportunities were identified to include additional policies relating to advertisements (e.g. to reduce proliferation or clutter), setbacks, landscaping, buffer zones and interface treatment (e.g. noise and air emissions) to better guide development outcomes. One agency also recommended inclusion of a specific policy to address site contamination given the nature of uses in the zone and where more sensitive land uses may be proposed.
- Industry suggested that the scale of advertisements in DTS/DPF 7.1 do not align with the size and scale of signs approved in some existing areas and should be reviewed.

Procedural Matters – Public Notification

- Recommendations to review the range of uses and activities subject to notification in Table 5 to exclude uses generally envisaged in the zone were received. There was also a recommendation from one council to review the expression ‘site of the development is adjacent land to land in a different zone’, as it is considered that only development adjacent residential land may be required to undertake public notification.

Clarification: The Public Notification Table has been extensively reviewed and amended as part of Phase Two Amendment and now excludes minor development and a range of performance assessed development from notification where generally envisaged in the zone. Terminology was also updated to refer to an adjacent dwelling in a neighbourhood-type zone.

- Recommendations were received from both industry and councils to remove ‘bulky goods outlet’ from the notification table as it is an anticipated and expected land use in the zone.

Clarification: The Public Notification Table has been extensively amended as part of the Phase Two Amendment and bulky goods outlet has been removed from the notifiable class of development column.

Commission’s Response:

The need for more tailored policy or the application of new subzones to apply to major strategic employment sites and areas in the zone with specialised functions is acknowledged. To address this, the Commission proposes to include the following new subzones for the zone with commensurate policies to guide the development of specialist functions:

- ‘Gillman Subzone’ to apply to land at Gillman in the Port Adelaide Enfield Council area
- ‘Ports Subzone’ to apply to port facilities in the Port Adelaide Enfield Council area
- ‘National Naval Shipbuilding Subzone’ to apply to land in the Osborne Naval Shipyard in the Port Adelaide Enfield council area
- ‘Significant Industry Subzone’ to apply to areas where significant special industry uses are anticipated that require large areas of land for buffering, including at Port Pirie and Whyalla.

In response to comments that the zone does not provide sufficient guidance for development of a highway service centre (in particular based on recent rezoning of land for such purposes near Nuriootpa in the Barossa Valley and at Murray Bridge), the Commission proposes to transition these areas to the new Employment Zone (former Commercial and Business Zone in the Phase Two Amendment) and include a new ‘Road Side Service Centre Subzone’ in the zone to accommodate these specialised activities. In addition, in response to identification that the zone does not provide sufficient guidance for development of a highway service centre (in particular based on recent rezoning of land for such purposes near Nuriootpa in the Barossa Valley), the Commission also proposes to include a new ‘Roadside Service Centre Subzone’ in the Suburban Employment Zone to accommodate these specialised activities (see associated recommendation in the Suburban Employment Zone section of this report).

Other large-scale industrial and urban employment areas such as Greater Edinburgh Parks are considered to be adequately addressed by the zone policies which have been largely based on the existing Urban Employment Zone, and it is not therefore proposed to apply a separate zone or subzone to such areas.

Special Industry

Recommendations that special industry should be performance assessed in areas such as Gillman, the Osborne shipyards and Edinburgh where this form of industry occurs are recognised, in particular given changes made in the *Phase Three (Urban Areas) Code Amendment – Update Report* to specially list ‘special industry’ as restricted development in the zone.

The Commission therefore proposes to include an exclusion to the restricted classification of special industry where located in the new Gillman Subzone or National Naval Shipbuilding Subzone, to allow special industry to be appropriately performance assessed as ‘All other Code Assessed Development’ in these subzones. The Commission will also consider inclusion of special industry as an envisaged land use in the Gillman subzone and National Naval Shipbuilding Subzone where there is appropriate separation to sensitive receivers.

With regard to Greater Edinburgh Parks, special industry is generally discouraged and current policies focus on the establishment of major logistics and manufacturing plants and high technology/research industries and more sensitive land uses to support the local workforce. On this basis, it is not proposed to remove the restricted status of special industry from Greater Edinburgh Parks to ensure a more rigorous assessment for any such proposals.

Desired outcomes

In relation to recommendations to amend DO 1 to remove the reference to ‘comprehensive’, the Commission agrees that this term is unnecessary and can be removed.

Industry interface

In relation to suggestions to include a new zone (or subzone) to provide an interface between sensitive uses and more significant industrial activities, the Significant Industry Interface Overlay is proposed to apply to areas surrounding state significant industrial activities (e.g. within Port Adelaide Enfield, Whyalla and Port Pirie) to ensure sensitive uses such as residential development are located away from, and do not encroach on, these industries.

The Commission recognises, however, that there are situations in existing development plans where an industry interface area or similar applies to provide a transition between core industry and residential areas. Such areas may include policies to encourage development of low impact, light industrial activities to minimise impacts on sensitive residential development. Where such interface areas exist and have been spatially identified in development plans, the Commission recommends that a new Interface Management Overlay be applied to these areas (see associated recommendation in [Productive Economy > Significant Industry Interface Overlay](#) section of this report).

Restricted Development

Suggestions from local government to expand the range of uses listed as restricted in Table 4 of the zone to include sensitive land uses (e.g. residential, educational establishments, hospitals, nursing homes and the like) are acknowledged. However, the restricted development threshold is a procedural trigger to require a more comprehensive assessment pathway and, unlike non-complying development in development plans, the restricted development threshold does not indicate that a development is inappropriate or otherwise. The policy itself (DOs, POs and DTS/DPF criteria) are the only matters that should be used to assess the merits of a performance-assessed development. Due to the differences in non-complying and restricted development, it is considered inappropriate to transition all non-complying development to restricted development in the Code. As these activities are not specifically envisaged in the zone, they will be appropriately performance-assessed as ‘All other Code Assessed Development’ against the full Code, allowing any interface issues to be appropriately considered. This includes consideration of dwellings (e.g. caretaker’s residences or short term accommodation associated with

industry) and uses such as pre-schools that are defined in the Code to include child care facilities, which may be an appropriate and necessary use in some employment areas where they meet policy requirements.

Bulky goods outlets

In relation to suggestions to transition existing bulky goods zones to an equivalent zone (or subzone) in the Code rather than the Employment Zone, areas where a bulky goods or similar zones currently apply (e.g. homemaker or specialist centres at Gepps Cross, Islington and Churchill Road) are proposed to be included in the new Employment Zone (former Commercial and Business Zone in the Phase Two Amendment) and included in a new Retail Activity Centre Subzone to better recognise the nature and land uses anticipated for these centres.

In relation to suggestions from industry that bulky goods outlets should be provided a deemed-to-satisfy pathway in the zone and noting that a number of bulky goods and specialist retail centres will be included in a separate zone and subzone, such uses can vary in scale and intensity (e.g. traffic impacts) and should be performance-assessed. In relation to suggestions to remove this class of development from public notification requirements, the reference to 'bulky goods outlet' was removed from Table 5 – Procedural Matters Notification as part of the Phase Two Amendment. This Table now only refers to a shop (which includes a bulky goods outlet) as being excluded from notification where it meets specific policies in the zone (including height and interface policies).

Suggestions for further clarification of PO 1.3 and DTS/DPF 1.3 in relation to bulky goods outlets were addressed as part of the Phase Two Amendment, resulting in the re-wording of DTS/DPF 1.3.

Shops

The Commission recognises differences in opinion in relation to the treatment of shops in the zone, including suggestions that such uses should continue to be envisaged and potentially afforded a deemed-to-satisfy pathway in the zone, and other suggestions that shops should not be specifically envisaged and that the restricted floor area trigger of 1000m² should be reduced.

It is important to note that the zone is proposed to encompass a greater range of employment-generating land uses than are currently encouraged in a number of traditional industrial zones or areas. This includes opportunities for shops that support local workers. On this basis, it is considered appropriate to retain shops as an envisaged land use in the zone. The desired gross leasable floor area for shops in DTS/DPF 1.3 was, however, reduced from 500m² to 250m² as part of the Phase Two Amendment to encourage shops of this scale that cater for the local workforce.

The floor area thresholds provided in Restricted development table have been set on the basis that shops below this threshold are unlikely to materially impact on locations and can be appropriately assessed by the relevant council rather than requiring assessment by the Commission. The Commission therefore proposes to retain the 1000m² floor area trigger applying to shops in Table 4 – Restricted development.

In relation to suggestions that the floor limits in the zone are too limiting for some specialist retail centres (i.e. such as at Gepps Cross, Churchill Road/Islington and Kings Road at Salisbury), these sites are proposed to be included in a new Retail Subzone of the new Employment Zone (former Suburban Employment Zone of the consulted Phase Three Amendment) to better recognise the nature and land uses anticipated for these specialist centres. It is also proposed to remove the application of the restricted floor area trigger for these areas.

Building heights

In relation to requests to apply a TNV for building height in the zone based on policy in some existing zones or areas where the zone is proposed to apply, it is not considered appropriate or practical to apply height limits given the wide range of significant business and employment activities proposed in the zone and scale of areas where the zone is proposed to apply. Building height limits are also not intended to apply in similar zones such as the Employment (Bulk Handling) Zone or the Employment (Enterprise) Zone for similar reasons.

Interface height provisions will, however, apply in the zone (i.e. PO 4.1 & DTS/DPF 4.1 and PO 4.2 & DTS/DPF 4.2) to mitigate visual impacts of building massing and overshadowing on residential development where a development is proposed adjacent to a neighbourhood-type zone.

Airport building heights

In relation to the suggestion that the Airport Building Heights (Regulated) Overlay should be applied to exempt all classes of development involving structures, the overlay policies have been applied as relevant policy (but only in areas where the overlay spatially applies) to all new development in Tables 2 (Deemed-to-Satisfy) and Table 3 (Performance Assessed). This will ensure the relevant policies in the overlay are considered for development and that referrals to the airport operator or Federal Government occur where building heights exceed the Obstacle Limitation Surface (OLS).

It is not, however, appropriate to apply the overlay to accepted development in Table 1 of the zone given the development listed as accepted is generally excluded from requiring a development application under Schedule 4 of the PDI (General) Regulations and therefore not subject to any such constraints.

Advertisements

In relation to requests to amend DTS/DPF 7.1 to increase the allowable height and scale of free standing advertisements in the zone, the criteria in DTS/DPF 7.1 has been based on allowances provided in existing development plans for areas where the zone is proposed to apply and are considered appropriate. Larger-scale advertisements are generally anticipated in zones such as the Urban Activity Centre Zone where higher-order shopping, business and entertainment uses are anticipated.

With regard to suggestions to include additional policies in the zone to guide other forms of advertising signs, advertisements that do not meet the deemed-to-satisfy criteria in DTS/DPF 7.1 will be performance-assessed against a range of General Advertisements policy provisions that address design/appearance, content, amenity, safety and minimise proliferation of signs. It is therefore not considered necessary to duplicate these policies in the zone.

Site Contamination

While suggestions from an agency to include specific policy in the zone to address site contamination are acknowledged (particularly given the nature of existing uses in areas where the zone is proposed to apply), Part 9 – Referrals of the Code require a referral to the Environment Protection Authority (EPA) for direction where there is a change in use of land to a sensitive or more sensitive use. In such instances, the Site Contamination General provisions will be called up to ensure an appropriate and proportionate assessment of potential site contamination. It is therefore not necessary to duplicate these General provisions across individual zones in the Code.

Other matters

While observations that PO 1.1 (Land Use and Intensity) in the zone is lengthy are recognised, the intent of this policy to encourage higher impact uses to locate in areas of the zone that are not affected by an interface with sensitive uses is considered clear.

Suggestions to list a range of land uses that may be more suited to an interface area as a separate sentence within this performance objective is not considered appropriate (i.e. performance objectives should not be split into more than one sentence to address more than one policy matter, but instead included as separate policies if required). To this end, PO 1.2 was reviewed and amended as part of the Phase Two Amendment to better clarify the range of low-impact uses anticipated at the interface with more sensitive uses in residential or neighbourhood-type zone.

In relation to suggestions for additional policies to address building setbacks, the zone already contains appropriate policies to guide street setbacks (i.e. PO 3.3, DTS/DPF 3.3 and PO 3.4, DTS/DPF 3.4) and side and rear setbacks to provide vehicle access to the rear of sites (i.e. PO 3.5 and DTS/DPF 3.5). Interface height provisions will also ensure that taller building elements are directed away from adjacent low-rise residential areas. Additional setback policies are therefore not considered necessary.

Similarly, with regard to suggestions to include additional policies to guide landscaping in the zone, the range of landscaping policies provided in the zone (i.e. PO 5.1, DTS/DPF 5.1, PO 5.2, DTS/DPF 5.2 and PO 5.3, DTS/DPF 5.3) are considered sufficient. It is also not intended to transition existing landscaping schedules contained in development plans to the Code but councils can continue to provide guidance to proponents of development in relation to appropriate species within the local environment.

With regard to suggestions to include additional policies relating to appropriate separation buffers and interface treatments (e.g. noise and air emissions), most development in the zone, including higher impact industrial uses, will be required to be performance-assessed against a range of General policy provisions. This included the General Interface between Land Uses General provisions which provide guidance to manage a range of interface impacts, including noise, air quality, light spill, operating hours and the like. It is therefore not necessary to duplicate policy at the zone level. There may also be opportunity in the future to expand application of the Noise and Air Emissions Overlay (which is primarily designed to apply to higher density development in transport corridors) to interface areas, although this would require significant investigation and engagement as part of a future Code Amendment process.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

E.59 In relation to Table 2 – Deemed-to-Satisfy Development Classification:

- **AMEND** references to zone policies to clarify correct content is identified for each Class of Development listed in the table.
- **AMEND** the table to include relevant content from General Development Policies, including 'Clearance from Overhead Powerlines' for listed uses.

E.60 In relation to Table 3 - Applicable Policies for Performance Assessed Development:

- **REMOVE** the row commencing with 'Tourist accommodation'.
- **AMEND** the table to require consideration of relevant zone policy content including requirements for built form and character, building height, setbacks and landscaping where appropriate.
- **AMEND** the table by adding 'land division' and identifying relevant zone, overlay and general development policies to guide assessments.

E.61 In relation to Table 4 – Restricted Development to:

- **AMEND** the table to identify 'special industry' as the only form of industry as restricted development in the zone.

E.62 In relation to the zone's policies:

- **AMEND** DTS/DPF 1.1 list to include energy generation, rail and intermodal facilities.
- **AMEND** DTS/DPF floor area limits for shop with the view to introducing a reduced maximum for zones in regional areas (e.g. a gross leasable floor area up to 250m²).
- **AMEND** the land division policy to support a larger minimum allotment size when on-site disposal of wastewater and / or stormwater will be required.
- **AMEND** to include policy referencing Concept Plans, consistent with other Code zones.

E.63 **AMEND** Table 5 – Procedural Matters to identify activities contemplated in the zone and other minor classes of development that should be exempt from public notification.

Phase Three (Urban Areas) recommendations:

E.64 **RENAME** the zone 'Strategic Employment Zone' to better reflect the intent of the zone and development of areas where the zone will apply.

E.65 **CREATE** the following new subzones to recognise major strategic employment sites and areas in the zone with specialised functions:

- Gillman Subzone to apply to land at Gillman in the Port Adelaide Enfield Council area
- Ports Subzone to apply to port facilities, including at Port Adelaide
- National Naval Shipbuilding Subzone to apply to land in the Osborne Naval Shipyard in the Port Adelaide Enfield council area
- Significant Industry Subzone to apply to land in Port Pirie and Whyalla where significant special industrial activities are envisaged and require large areas of land to mitigate impacts.

E.66 **AMEND** DO 1 to remove reference to 'comprehensive'.

E.67 **AMEND** Table 5 – Procedural Matters (PM) – Notification to include a 'fence' as being excluded from notification in the zone.

E.68 **AMEND** Table 4 – Restricted development to provide an exclusion for Special Industry where located in the Gillman Subzone, National Naval Shipbuilding Subzone or Significant Industry Subzone.

Suburban Employment Zone

This zone supports a diverse range of low-impact, light industrial, commercial (including bulky goods) and business activities that complement the role of other zones with significant industrial, shopping and business activities.

Engagement feedback:

A significant number of submissions, predominantly from local government, raised multiple issues with the Suburban Employment Zone. These centred on the inclusion of tourist accommodation as an anticipated

land use in the zone, the omission of warehouse from the anticipated land use list, the absence of uses in the procedural matters (notification) table and other matters.

Similar concerns as discussed in other productive economy zones were also raised, such as the perceived diminishing of existing retail centres if the proposed zoning is applied.

There were also suggestions from some councils that the proposed application of the zone does not align with the intensity of development in some existing business and industry areas, with suggestions for creation of an alternative zone to apply to such areas that seeks lower impact, low scale uses.

There were also recommendations for the creation of a separate zone or a new subzone with a greater focus on bulky goods retailing to apply to areas where this form of land use is the primary focus, and suggestions to review the implications of encouraging bulky goods in township locations (e.g. in The Barossa). Consideration of a new 'Winery Subzone' or similar was also identified to address areas in the zone where policy currently encourages winery development rather than a broader range of other industrial and employment land uses.

The feedback received is outlined under key headings below:

Assessment pathways

- A greater number of land uses should be deemed-to-satisfy in the zone and included in Table 2: Deemed-to-Satisfy, as it is considered the zone does not afford enough opportunity for developments to be assessed via this pathway.
- 'Land division' has not been included in Table 3 (or Table 2) despite policies to guide allotment sizes (e.g. PO 4.1 and DTS/DPF 4.1).

Clarification: Land division was specifically listed as performance assessed in Table 3 as part of the Phase Two Amendment, and calls up PO 4.1 in the zone provisions.

- Land uses currently considered non-complying should be removed from Table 3: Performance Assessed development and/or the list of envisaged uses in DTS/DPF 1.1. These include 'consulting room', 'office', 'hotel', 'place of worship', 'shop' and 'bulky goods outlet.'
- Existing non-complying development should be considered a restricted form of development in the Code.

Clarification: The restricted development threshold is a procedural trigger to require a more comprehensive assessment pathway. Unlike non-complying development in Development Plans, the restricted development threshold does not indicate that a development is inappropriate or otherwise. The policy itself (DOs, POs and DTS/DPF criteria) are the only matters that should be used to assess the merits of a performance assessed development. Due to the differences in non-complying and restricted development, it is considered inappropriate to transition all non-complying development to restricted development in the Code.

- Multiple councils and an industry group advocated for the amendment to the exclusions column for 'shop' and that the exemption criteria should to be lowered from 1000m² to 500m² (to reflect now revised DTS criteria) or 250m², to reflect current approach in development plans. Industry put forward that the limit should be raised to 2000m².

- One council proposed expanding the number of development classes listed in the restricted table to include development incompatible with residential allotments. These include crematoriums, agistment (horse keeping) and intensive animal keeping.

Clarification: *It is not considered that such uses would be proposed in the zone. If an application was to arise, the classes of development listed would not sufficiently satisfy policy criteria to warrant consent, given their incompatible nature with a host of provisions.*

- The Murray Bridge Council raised a specific concern in relation to existing Freeway Service Centre Precinct 4, which accommodates a large integrated service centre and permits a gross leasable area of 2500m². Council considers that the restricted shop criteria of 1000m² may stymie development at this site.
- Removing a 'wrecking yard' from Table 4 was suggested given that it is not a defined land use in the Code, or alternatively, a definition for such a use should be in the Land Use Definitions in Part 7 of the Code.

Assessment provisions

- A number of councils recommended the removal of 'tourist accommodation' from DTS/DPF 1.1, citing the inappropriateness of a residential land use in a dedicated employment area and potential for conflict with existing established zones.

Clarification: *'Tourist accommodation' was removed from the list of uses in Table 3 in the Phase Two Amendment, to allow such uses to be appropriately assessed as 'All other Code Assessed Development' against the full Code. It is also therefore proposed to remove 'tourist accommodation' from the list of envisaged uses in DTS/DPF 1.1, which was also an intended outcome on the Phase Two Amendment.*

- Multiple councils and a community submission recommended the inclusion of 'warehouse' to DTS/DPF 1.1, contending that the class of development featured in Table 3 and other zone policy should be an anticipated land use. 'Service industry' and 'educational establishment' were also considered to be appropriate inclusions.
- DTS/DPF 1.2 is unclear in relation to shops and bulky goods outlets and should be reworded with multiple respondents suggesting that DTS/DPF 1.2 be amended to lower the permitted gross leasable floor area for shops (e.g. from 500m² to as low as 100m²).

Clarification: *DTS/DPF 1.2 was reworded as part of the Phase Two Amendment to better clarify criteria based on similar feedback. Further, the desired floor area for shops was also reviewed and reduced from 500m² to 100m² in the Phase Two Amendment in response to significant feedback.*

- 'Objectionable emissions' in PO 1.1 should be changed to 'unreasonable emissions' or 'emissions that would detrimentally affect the amenity of the locality' to achieve a clearer policy expression.
- DTS 3.4 should be amended to provide consistency with current development plans, which permits boundary to boundary development. In the absence of removal, further rationale for inclusion is needed.

- Multiple submissions recommended the application of a building height/storey TNV to the zone, reflecting existing height controls.
- A gross leasable floor area limit for 'consulting room', 'office' and 'bulky goods outlet' should be introduced to ensure appropriate development outcomes in the zone.
- DTS/DPF 3.5 should be amended to reference a 30 degree plane, consistent with current policy.
- Additional policy guiding landscaping, interface and setback criteria is needed which could be achieved by transitioning existing arrangements and nuanced policy provisions.
- A new subzone to address areas where an interface exists is needed to create a transition between heavier industries and residential areas (e.g. to include lower intensity uses, light industry and the like).
- DTS/DPF 6.1 should be amended to accommodate larger-scale signage in the zone commensurate with existing activities.

Clarification: DTS/DPF 6.1 was amended as part of the Phase Two Amendment to increase the allowable height of freestanding advertisements from 4m to 6m and increase the face from 3m² to 8m² to reflect industry standards in business precincts.

- A performance outcome to discourage the creation of battle-axe allotments in the zone is needed.
- A new performance outcome is required in the zone to allow the transition of existing concept plans where such plans apply.

Clarification: A new PO 7.1 and DTS/DPF 7.1 has been included in the zone in the Phase Two Amendment to ensure development is compatible with the outcomes sought by a relevant Concept Plan.

Procedural Matters

- Table 5 – Procedural Matters – Notification does not reference any performance-assessed uses that may be excluded from notification.

Clarification: The Public Notification Table has been extensively reviewed and amended as part of Phase Two Amendment and now excludes minor development and a range of performance assessed development from notification where generally envisaged in the Zone. Terminology was also updated to refer to an adjacent dwelling in a neighbourhood-type zone, which is now specifically defined in the Administrative Definitions in Part 8 of the Code.

- Shops, consulting rooms and offices in excess of the desired gross leasable floor area in the relevant DTS/DPF criteria should require public notification.

Clarification: Table 5 – Procedural Matters – Notification was amended as part of the Phase Two Amendment to list a shop, office and consulting room as exempt from notification except where it is unable to satisfy certain zone polices. In relation to a shop, this includes the desired floor area in

DTS/DPF 1.2. policies do not, however, provide desirable floor areas for offices or consulting rooms in the zone.

- Bulky goods outlets should be excluded from notification in the zone (and in the Employment Zone and Suburban and Business Innovation Zone).

Commission's Response:

The name of the zone was changed to the 'Commercial and Business Zone' as part of the Phase Two Amendment in response to feedback that the term 'suburban' did not relate well to regional areas. It is now proposed to revise the name of this zone to the 'Employment Zone' with the previous Employment Zone being elevated to the 'Strategic Employment Zone' to apply to major strategic employment areas that generate wealth and employment for the state.

In relation to feedback from the City of Murray Bridge that the zone does not appropriately recognise existing policies to facilitate a large integrated highway service centre adjacent the south-eastern freeway (e.g. with a gross leasable floor area in the order of 2,500m²), it is proposed to introduce a new Roadside Service Centre Subzone to apply to this and other similar sites with more tailored policies to facilitate such development and appropriate floor areas. This includes land recently rezoned for this purpose on the Sturt Highway near Nuriootpa in the Barossa Valley.

In relation to suggestions to create a separate zone or new subzone with a greater focus on bulky goods retailing to apply to areas where this form of land use is the primary focus, the Commission proposes to introduce a new Retail Activity Centre Subzone to apply to these areas.

Suggestions to consider a new 'Winery Subzone' or similar to address areas where policy currently encourages winery and tourism development rather than a broader range of other industrial and employment land uses are acknowledged. This suggestion is understood to primarily relate to an existing winery site in the Marion Council area (which has existing use rights), where policies primarily encourage hospitality and tourist facilities in addition to wine making and storage/sales of wines and other beverages. While the Suburban Employment Zone does not expressly envisage tourism development elements identified in existing policy, future proposals for such uses and activities in the zone can be performance-assessed as 'All other Code Assessed Development' against the full Code. It is therefore considered appropriate to retain this site in the Suburban Employment Zone and, given that the site is already developed and enjoys existing use rights, a separate subzone is not considered warranted.

Deemed-to-Satisfy development

In relation to suggestions that a greater number of land uses should be afforded a deemed-to-satisfy development pathway in the zone, the range of land uses in Table 2 was reviewed and amended as part of the Phase Two Amendment but remains limited. Given the varying intensity of uses anticipated in the zone and need to manage interfaces, it is considered appropriate that most uses in the zone will be performance-assessed.

Performance Assessed development

In relation to suggestions to remove a range of uses that are currently non-complying in similar zones from being listed as performance assessed in Table 3, it must be recognised that the restricted development threshold is a procedural trigger to require a more comprehensive assessment pathway. Unlike non-complying development in development plans, this threshold does not indicate that a development is inappropriate or otherwise. The policy itself (DOs, POs and DTS/DPF criteria) are the only matters that should be used to assess the merits of a performance-assessed development. Due to the

differences in non-complying and restricted development, it is not therefore considered inappropriate to transition all non-complying development to restricted development in the Code.

Table 3 was, however, reviewed and amended as part of the Phase Two Amendment in response to feedback. This resulted in removal of uses such as a 'hotel', 'tourist accommodation', 'motor repair station' and 'retail fuel outlet' from the list of performance-assessed development in Table 3 to allow such uses to be performance-assessed as 'All other Code Assessed development' against the full Code.

Wrecking yards

A definition of 'wrecking yard' has been consistently used in development plans and is considered an appropriate term in the SA planning policy library despite not being defined in Schedule 1 of the *Development Regulations 2008*. The term has also been described in case law and its meaning is generally well understood. It is therefore not proposed to separately define this activity in the Land Use Definitions in the Code.

Restricted floor area trigger for shops

Similar to feedback received in relation to the Employment Zone, the Commission acknowledges significant feedback to consider lowering the Restricted floor area trigger for a 'shop' from 1000m² to where the floor area exceeds the criteria in DTS/DPF 1.2 in the zone (which was set at 500m² in the proposed Phase Three Amendment but has since been reduced to 100m² in the Phase Two Amendment). The Commission considered this matter further following consultation on the Phase Two Amendment. Importantly, the floor area thresholds provided in Restricted development table have been set on the basis that shops below this threshold are unlikely to materially impact on locations and can be appropriately assessed by the relevant council rather than requiring assessment by the Commission. The Commission therefore proposes to retain the 1000m² floor area trigger applying to shops in Table 4 – Restricted development. On this basis, suggestions from industry to increase the restricted floor area trigger to 2000m² is also not considered appropriate.

Envisaged uses

The Commission agrees with multiple suggestions that a 'warehouse' should be specifically listed in the range of envisaged uses in DTS/DPF 1.1, noting that this use is specifically listed in Table 3: Performance Assessed development, is generally encouraged in commercial and employment areas, and a store has been similarly envisaged.

In relation to suggestions to relocate a range of uses that are currently non-complying to the list of envisaged uses in DTS/DPF 1.1, the Commission points out that the zone is intended to support a diverse range of light industrial, commercial and business activities that complement the role of other zones accommodating more significant industrial, shopping and business activities. In this regard, the zone focusses on a wider range of employment activities than strictly industrial or light industrial activities. Recognising this, the range of uses listed as envisaged in DTS/DPF 1.1 includes employment-related activities found in existing light industry, commercial and business areas. This list was not altered as part of the Phase Two Amendment and uses such as bulky goods outlets, consulting rooms, offices, shops and restaurants are proposed to remain in Table 3. A 'hotel' is not, however, envisaged in DTS/DPF 1.1 and was therefore removed from Table 3 as part of the Phase Two Amendment to now be assessed as 'All other Code Assessed Development' against the full Code.

In relation to suggestions that tourist accommodation should not be envisaged in a dedicated employment zone and may give rise to conflict, the Commission advises that 'tourist accommodation' was removed from the list of uses in Table 3 in the Phase Two Amendment, to allow such uses to be appropriately assessed as 'All other Code Assessed Development' against the full Code. It is also therefore proposed

to remove 'tourist accommodation' from the list of envisaged uses in DTS/DPF 1.1, which was also an intended outcome of the Phase Two Amendment.

The inclusion of a 'service industry' as an envisaged use in DTS/DPF 1.1 is noted however, the Commission advises that the Land Use Definitions in the Code have expanded the definition of industry (i.e. as previously included in Schedule 1 of the *Development Regulations 2008*) to include the selling by retail of goods manufactured on site provided the floor area for the sales area does not exceed 250m². A service industry is therefore now a subset of industry in the Code rather than a separately defined land use and may therefore be deemed a light industry where considered to be a low impact, which is already envisaged in the zone. It is therefore not necessary or appropriate to list a service industry in DTS/DPF 1.1.

It is not considered appropriate to include 'educational establishment' in the zone as such activities are not considered to align with its desired outcomes and could give rise to land use conflicts if not appropriately managed. These activities would be performance assessed as 'All other Code Assessed Development' against the full Code.

The suggestion to use alternative wording to 'objectionable emissions' in PO 1.1 is acknowledged. This term has generally been used in the Code to align with the intent for light industry to not detrimentally affect local amenity by way of elements such as emissions but it is recognised that sensitivity and/or level of objection to emissions vary. It is therefore proposed to amend use of this terminology to recognise amenity impacts from any emissions.

Setbacks

Requests to include additional policies to guide building setbacks in the zone are acknowledged however, the zone already contains policies to guide primary and secondary street setbacks, rear and side setbacks and interface height provisions. These policies are considered appropriate for the scale and nature of development envisaged in the zone and it is not considered necessary to amend or provide additional policies to guide setbacks.

The suggestion to amend DTS/DPF 3.4 to permit boundary to boundary development to maximise floor space (e.g. for warehouses), based on existing policy allowances, is recognised. The Commission advises that the intent of PO 3.4 and DTS/DPF 3.4 is to encourage vehicle access to the rear of sites for deliveries, maintenance and emergency purposes (including access for fire fighting vehicles) and to avoid use of the front of sites to accommodate such activities. DTS/DPF 3.4 is considered flexible enough, however, as it allows for development to be built to both side boundaries where a suitable alternative means of vehicle access is provided to the site (e.g. via a rear laneway). It is therefore not considered necessary to amend this policy to specifically encourage boundary to boundary development, which is more suited to main street environments where a continuous frontage is encouraged.

Building heights and interfaces

Multiple recommendations to provide guidance regarding building heights in the zone are acknowledged. Policies regarding building heights do not currently exist for all areas where the zone is proposed to apply, and are varied where such height controls exist (e.g. ranging from 2 to 3 storeys in some locations). Where building height limits currently apply in development plans for areas where the zone is proposed to apply, the Commission supports including building height TNVs to reflect existing heights. It has also been recommended to include a default building height limit of 2 storeys (9m) in the zone to reflect policies in some existing areas, which is appropriate where a building height TNV does not exist.

While it has been suggested to reference a lower inclined plane than the 45 degree plane (i.e. to reference a 30 degree plane), this policy has been successfully applied across a range of corridors and

strategic development sites under existing development plans to minimise impacts for adjoining uses in low rise areas. The 30 degree plane has generally only been applied for sites with a southern boundary adjoining a residential allotment in order to maintain appropriate solar access to the adjoining residence. Where existing policies include a 30 degree plane instead of a 45 degree plane (e.g. within some corridor or activity centre locations) it is proposed to allow for a 30 degree plane for these areas in the Code. Areas where the Suburban Employment Zone is proposed to apply do not generally include such policy and it is therefore proposed to continue to apply the 45 degree plane for the zone. Again, as identified above, building height will be guided through TNVs to reflect existing heights.

Commercial floor areas

Given the core focus of the zone is to accommodate a range of commercial and business activities, it is not considered appropriate to introduce floor area restrictions for uses such as consulting rooms or offices. Such uses will be performance-assessed against a range of policy and General provisions to ensure they are appropriate, including addressing any interfaces with adjacent neighbourhood-type zones or areas. Height maximums proposed to apply to the zone will also limit the scale of such uses.

As identified above, a new Retail Activity Centre Subzone is proposed to apply to existing locations or areas where there is currently a bulky goods or major retailing focus. This subzone will provide greater policy guidance where large format retail and commercial activities are envisaged, including indoor recreation and leisure facilities.

Interfaces

Suggestions to include a new zone (or subzone) to provide an interface between sensitive uses and more significant industrial activities is acknowledged. While a new Interface Management Overlay is proposed, this is more likely to apply to interface areas within the Employment Zone (now renamed Strategic Employment Zone), which anticipates higher order industries such as General Industry.

The Suburban Employment Zone anticipates low-impact light industrial, commercial and business activities that are less likely to generate interface impacts. Most uses in the zone are also proposed to be performance assessed, including against a range of policies contained in the Interface between Land Uses General provisions as well as height interface policies where located adjacent to residential development in a neighbourhood-type zone. Consequently, it is not considered necessary or appropriate to apply a separate subzone or overlay to further manage interfaces.

Land Division

In relation to suggestions from a council to include a separate performance outcomes to discourage creation of battle-axe allotments in the zone, such allotment configurations exist in areas where the zone is intended to apply and may be appropriate in commercial and employment areas where they meet certain criteria. Further, while proposed policies do not specifically encourage this form of division, minimum frontage widths (20 metres) applying in DTS/DPF 4.1 are also likely to limit opportunities for battle-axe formations except for significant larger allotments in the zone. It is therefore not recommended to include policies to specifically discourage this form of division in the zone.

Landscaping

In relation to suggestions to include additional policies to guide landscaping, PO 5.1 & DTS/DPF 5.1 and PO 5.2 & DTS/DPF 5.2 are considered to provide sufficient guidance to enhance the visual appearance of development and amenity of sites. These policies will be called up in relation to all commercial, business and light industrial development listed as performance assessed development in Table 3 of the zone. No additional policies are therefore considered necessary.

Spatial matters

Requests from individual councils to apply a different or new zone to areas proposed to transition to the zone are addressed separately in the Code Spatial Application chapter of this report.

In relation to recommendations from local government to include a new zone to cater for smaller commercial and business precincts within established suburbs, some such areas are now proposed to transition to zones such as the Suburban Business Neighbourhood Zone or Suburban Business and Innovation Zone as appropriate to better reflect the intensity of uses anticipated in existing policies. It is therefore not proposed to introduce a new zone to apply to these areas.

Procedural matters

The Public Notification Table (Table 5) was extensively reviewed and amended as part of Phase Two Amendment and now excludes minor development and a range of performance assessed development from notification where generally envisaged in the Zone.

In relation to suggestions that shops, offices and consulting rooms should be notified where they exceed desired floor area limits in the zone, these have been exempted from notification in the Phase Two Amendment, except where such uses are unable to satisfy certain zone policies. In relation to a shop, this includes the desired floor area in DTS/DPF 1.2. As identified above, however, it is not intended to provide floor area restrictions for offices or consulting rooms in the zone.

Commission's Recommendation:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

E.69 AMEND the zone's policies to:

- Amend DTS/DPF 1.2 to decrease the maximum gross leasable floor area of a shop from 500m² to 100m² and allow for restaurants
- update the size of advertisement contemplated in DTS/DPF 6.1 to a level consistent with other business and commercial areas
- update land division policy to support a larger minimum allotment size if on-site disposal of wastewater and / or stormwater will be required
- include Concept Plans where relevant, consistent with other Code zones.

Phase Three (Urban Areas) recommendations:

E.70 RENAME the Suburban Employment Zone (renamed to Commercial and Business Zone in Phase Two (Rural Areas) Code Amendment) to 'Employment Zone' and elevate the existing Employment Zone to 'Strategic Employment Zone'.

E.71 CREATE a new 'Roadside Service Centre Subzone' to apply to land currently zoned to accommodate large integrated highway service centres.

E.72 CREATE a new 'Retail Activity Centre Subzone' to apply to areas where large format retail and commercial activities are currently anticipated.

E.73 CREATE a new DO which seeks distinctive building, landscape and streetscape design to achieve high visual and environmental amenity particularly along arterial roads, zone boundaries and public open spaces.

E.74 AMEND PO 1.1 to remove reference to 'objectionable emissions'.

E.75 AMEND DTS/DPF 1.1 to:

- remove 'tourist accommodation' from the list of uses specifically envisaged in the zone
- include a 'warehouse' as an envisaged use in the zone.

E.76 CREATE a new PO and DTS/DPF to include building height TNVs to reflect existing building heights where they currently exist and to include a default building height limit of 2 building levels (9 metres) where no TNV exists.

Employment (Bulk Handling) Zone

In this zone, agricultural and other commodities are received, stored and dispatched in bulk to generate wealth and employment for the state.

Engagement feedback:

A small number of issues were raised during consultation on the Employment (Bulk Handling) Zone which included:

- Concerns from one council that 'light industry' and 'general industry' are proposed to be listed in Table 3 – Performance Assessed development but are currently non-complying in its existing development plan.
- The zone should provide a level of protection for uses that support the handling of bulk materials rather than broader industrial activities.
- Recommendations from a state agency that additional policy guiding landscaping requirements should be included in the zone (similar to provisions in the Employment Zone), which may enhance the appearance of key visitor entrance ways such as the bulk handling facilities at Port Lincoln.
- The Department for Environment and Water (DEW) and Regional Climate Partnerships (a partnership of councils, industry groups, landscape boards and the Government of South Australia) recommended that the following classes of development listed in Table 3 should reference Design in Urban Areas / Design in Rural Areas [Water Sensitive Design] as these developments feature large impervious features:
 - General Industry
 - Light Industry
 - Store
- Water sensitive design provisions should apply to development types that typically involve large impervious areas.
- Ancillary dwellings should not be allowed in the zone.

Clarification: The zone currently lists dwellings as restricted except where associated with non-residential uses. For comparison, the Employment Zone treats a dwelling as performance-assessed if it is subordinate in the zone. As such, the policy approach in both zones has similar effect and the policy is considered suitable for this zone.

- Bulk handling facilities should be specifically listed as performance assessed in Table 3 of the zone and not require public notification given it is an envisaged use in the zone.

Commission's Response:

The Employment Zone calls up some Water Sensitive Design policies for development types that typically involve large impervious areas so it is acknowledged the same provisions should apply in the Employment (Bulk Handling) Zone.

In relation to concerns regarding more traditional forms of industry such as general industry and light industry being specifically listed as Performance Assessed development in Table 3 of the zone, these are currently merit uses in the Bulk Handling Zone of the SA Planning Policy Library. While these uses are not specifically envisaged in the zone (e.g. within DTS/DPF 1.1), policies do encourage establishment of

value-adding industries, including the processing and packaging of commodities, that complement bulk handling facilities in the zone (e.g. PO 1.2). It is therefore considered appropriate to allow such industries to be performance-assessed in the zone to meet these policy objectives.

In relation to recommendations requiring proposals for General Industry, Light Industry and a Store to be performance-assessed against the General policy provisions relating to Water Sensitive Design, the Design [All non-residential development [Water Sensitive Design]] General provisions PO 29.1 and PO 29.2 were included as relevant policy in Table 3 of the zone for General Industry as part of the Phase Two Amendment. These policies primarily seek development likely to result in significant risk of export of litter, oil or grease to include stormwater management systems designed to minimise pollutants entering stormwater and ensure that water discharged from a development site meets quality standards.

Given that the definitions for Light Industry in Part 7 of the Code include industries that do not detrimentally affect amenity, including by way of waste water, waste products, grit, oil and the like, it is not considered appropriate to apply these General policies to light industrial uses.

With regard to recommendations to include additional policy in the zone to guide landscaping to enhance the appearance of key visitor entrances, no such provisions are included in the existing Bulk Handling Zone in the SA Planning Policy Library. This is likely due to the practicalities of achieving the landscaping objectives sought in other zones (such as the Employment Zone) in relation to large scale, bulk handling facilities and their operative nature. Notwithstanding this, most forms of development, including bulk handling facilities and the like, will be performance-assessed development in the zone. This includes assessment against a range of General policy provisions, including in relation to the external appearance of buildings and the use of landscaping to screen development where practical. It is therefore not considered necessary or appropriate to include further policy at the zone level for the Employment (Bulk Handling) Zone.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- E.77** **AMEND** the zone to apply Water Sensitive Design Policies to relevant development types consistent with how they have been applied in the Employment Zone.
- E.78** **AMEND** the zone to adjust notification requirements so that a Bulk Handling Facility is added to the list of performance-assessed activities that do not require notification.

Phase Three (Urban Areas) recommendations:

- E.79** **RETAIN** both Light Industry and General Industry as performance-assessed development in the zone, including where they add value to and complement bulk handling activities in the zone.

Suburban Business and Innovation Zone

This zone provides for a mixture of commercial, light industrial, shop and residential land uses. Development will be designed and sited to minimise impacts on adjoining land uses.

Engagement feedback:

Some local government responses were received in relation to the Suburban Business and Innovation Zone. Feedback related to the extent to which residential activity is allowed in the zone noting that while the zone is mixed use, residential activity is secondary and therefore associated deemed to satisfy classifications should be removed. Built form policy was raised particularly in relation to concern around height allowances and zone interfaces.

A small number of comments from industry were received. Of note was the suggestion to include residential flat buildings as an envisaged use in the zone. Comments in relation to residential allowances were also received from industry, echoing those made by local government and freestanding advertising sign allowances were raised, requesting that they be increased.

The following additional matters were raised:

- There is no allowance in Table 3 for 'dwelling' when undertaken in conjunction with another use, as these may not meet the definition of a 'residential flat building'.
- Clarification is needed around expectations for building height as there is no TNV proposed for the zone and policy PO 3.1 contemplates low to medium rise development (e.g. up to 6 building levels) and the corresponding DTS/DPF 3.1 allows up to 3 building levels.
- The list of development types contemplated in the zone should be expanded to include 'residential flat building' and 'retail fuel outlet'.
- The height and area of advertisements in DTS/DPF 5.1 should be increased to reflect industry standards in business precincts. The draft zone contemplates signs being 6m in height and 4m² per side as per DTS/DPF 5.1.

Commission's Response:

The zone's primary role as a commercial zone with allowances for residential activity warrants removing residential-related uses from the deemed to satisfy classification so that these activities can be considered on merit to ensure that such activity is suitably assessed (particularly in relation to interface issues).

Amending the name of the zone to Suburban Business is warranted to better reflect the intent of the zone.

Given the nature of the zone, the gross floor area allowances for shop office and consulting rooms is considered appropriate, as are the freestanding signage allowances.

The interface provisions in the zone have been consistently applied and are considered appropriate.

Built form issues were addressed through the Phase Two Amendment and are proposed to be carried forward into the Phase Three Amendment.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

E.80 **AMEND** Table 2 – Deemed-to-Satisfy Development Classification to remove land division.

E.81 **AMEND** DTS/DPF 1.1 to include 'residential flat building' and 'retail fuel outlet' in the list of uses.

E.82 **AMEND** zone policies to ensure expectations in relation to building height are clear.

Phase Three (Urban Areas) recommendations:

E.83 **RENAME** the zone to 'Suburban Business Zone'

E.84 **AMEND** Table 2 – Deemed-to-Satisfy Development Classification to remove detached, semi-detached and row dwelling.

Business Neighbourhood Zone

This zone envisages a mixed use environment which is of a lower scale and is more residential-focused than the Suburban Business and Innovation Zone. Only low impact, non-residential uses are envisaged in the form of small-scale shops, offices and consulting rooms.

Engagement feedback:

Responses on the Business Neighbourhood Zone raised the following suggestions:

- include residential flat buildings as an envisaged use in the zone
- include all 'advertisements' not just wall-mounted signs to the list of DTS
- exclude minor land division from the DTS pathway when a State Heritage Place / State Heritage Area overlay apply as both overlays include policy to consider the implications of land division on heritage value and should be included for the purpose of excluding a land division proposal from the operation of Table 2.
- include 'dwelling' to the Performance Assessed table to establish the provisions necessary to assess developments that include residential and non-residential elements. Although not essential for Phase Two as mixed use developments are less likely to occur, this amendment would future-proof the zone for assessment of mixed-use developments and establish greater consistency across Code zones contemplating mixed use developments generally (e.g. urban zones in Phase Three)
- remove 'motor repair station' from restricted development
- review the floor area trigger for 'shop', noting the Employment Zone allows performance assessment for shops with a gross leasable floor area less than 1000m²
- replace the phrase 'low impact employment-generating land uses' in DO 1 with more objective phrasing to emphasise compatibility between non-residential and residential uses
- increase the height and area of advertisements in DTS/DPF 5.1 to reflect industry standards in business precincts
- concern of conflict in building height policies.

Commission's Response:

It is appreciated that freestanding advertisements in this zone would benefit from performance assessment, rather than relying on DTS criteria for height and display area, to enable consideration of the sign's suitability in the particular locality.

As motor repair station is a contemplated use in existing areas proposed to be included in the zone and the Mixed Use Zone in the State's Planning Policy Library, its deletion from Table 4 – Restricted Development is supported, noting there are policies in the Code that support performance assessment.

It is acknowledged there is degree of tension between the zone's DO and policy detail on expectations for building height. More specifically, the DO contemplates low-rise buildings (1 and 2 building levels), PO 3.1 contemplates low to medium rise development (e.g. up to 6 building levels) and DTS/DPF 3.1 allows up to 3 building levels. Amendments are proposed to provide consistency.

Table 4 currently lists 'general industry' as a restricted form of development, meaning special and light industries can be determined via a performance assessment. It is expected that 'light industry' is the only form of industry contemplated in the zone as other types would be incompatible with housing. As a result, it is proposed to list 'industry' as restricted development and exclude 'light industry'.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- E.85** **AMEND** Table 2 – Deemed-to-Satisfy Development Classification to:
- reference all 'advertisements' not just wall-mounted ones
 - remove land division.
- E.86** **AMEND** Table 3 – Applicable Policies for Performance Assessed Development by inserting 'Dwelling' to allow policies to be identified for dwellings that form part of a proposal involving non-residential elements.
- E.87** **AMEND** Table 4 – Restricted Development by:
- deleting 'motor repair station'
 - increasing the size of a shop able to be determined as a performance assessed development from 500m² to 1000m²
 - identifying 'light industry' as the only type of industry being determined through a performance assessment.
- E.88** **AMEND** the zone's DO and policies to:
- emphasise compatibility between non-residential and residential uses in place of 'low impact employment generating uses'
 - clarify expectations for building height.
- E.89** **CREATE** policy on Concept Plans (as per other zones on the Code) to correspond with references to this in Table 3 – Applicable Policies for Performance Assessed Development.

Phase Three (Urban Areas) recommendations:

E.90 REMOVE DTS/DPF criteria under 'Advertisements'.

Home Industry Zone

This zone accommodates small-scale and low-impact business enterprises in conjunction with a dwelling to provides opportunities to work from home and contribute to employment diversity.

Engagement feedback:

Aligning with feedback received in relation to the Phase Two Amendment, some submissions identified that minimum lot sizes proposed in the zone are smaller in some cases compared to existing home industry / business areas in development plans, including in areas where on-site waste water disposal is required which generally requires larger sites.

Policies to identify minimum frontages as well as side setbacks for vehicle access were recommended, as well as an opportunity to include policies that ensure vehicle access is maintained to the home business where the activity is located behind the main dwelling.

Some councils identified that a range of uses that are strongly discouraged in home industry zones in existing development plans are now proposed to be performance assessed in the Code with limited policy to guide their assessment. This includes consulting rooms, motor repair stations, and shops and/or offices not associated with a home industry. It was further suggested that such uses should be included in Table 4 – Restricted Development in the zone.

Clarification: *The restricted development threshold is a procedural trigger to require a more comprehensive assessment pathway. Unlike non-complying development in development plans, the restricted development threshold does not indicate that a development is inappropriate or otherwise. The policy itself (DOs, POs and DTS/DPF criteria) are the only matters that should be used to assess the merits of a performance-assessed development. Due to the differences in non-complying and restricted development, it is considered inappropriate to transition all non-complying development to restricted development in the Code.*

One industry group also suggested that a 'retail fuel outlet' should be specifically listed as Performance Assessed development in Table 3 and subject to similar applicable policies as a 'shop', reflecting a similar suggestion in relation to the Phase Two Amendment. There was also a suggestion from another industry group that the floor area cap for shops to be excluded from restricted development classification should align with the desired floor area for shops in DTS/DPF 1.2.

Similar to feedback received in relation to a number of other zones in the Code, one infrastructure provider recommended that a Telecommunications facility should be listed in Table 3 as Performance Assessed development in the zone.

Other submissions recommended that the application of Hours of Operation policy be reviewed, given the operational requirements of contemplated uses within the zone.

Commission's Response:

Comments received during both the Phase Two and Phase Three Amendments that minimum lot sizes proposed in the zone are smaller in some cases compared to existing home industry / business areas in development plans, including in areas where on-site waste water disposal is required which generally require larger sites, are acknowledged. In response to this, DTS/DPF 4.1 was reviewed and amended as part of the Phase Two Amendment to differentiate between appropriate minimum allotment sizes where sites are connected to an approved common waste water disposal service (i.e. minimum 750m²) and where on-site disposal of waste water is required (i.e. minimum 1500m²). Minimum primary street frontages are also provided in this policy. No further changes are therefore recommended to this policy.

Suggestions to include policies that ensure vehicle access is maintained to the home business where the activity is located behind the main dwelling are acknowledged and such policies currently exist in relation to home business areas in the Onkaparinga Council. It is therefore proposed to include a new Performance Objective (PO 2.3) that seeks to ensure that residential and ancillary development or structures are located to allow off-street vehicle access to non-residential buildings that accommodate the home business or home industrial activity. It is also proposed to amend PO 3.3 relating to dwelling setbacks to side boundaries to accommodate access for vehicles to the rear of sites in the zone, with a deemed-to-satisfy requirement for buildings to be set back at least 3m to any one side boundary to allow this access.

With regard to suggestions from some councils to list a range of uses that are currently non-complying in similar zones in existing development plans in Table 3 – Restricted development, the categorisation as restricted development does not imply that development is not appropriate as this is mostly determined through the zone policy rather than categorisation. While there are some differences in existing development plans regarding the designation of land uses such as consulting rooms, motor repair stations, offices and shops, such uses are contemplated across a number of existing home industry or home business zones where in association with an existing dwelling (and in the case of shop, where in conjunction with a light industry) and are therefore specifically contemplated in DTS/DPF 1.1. Such uses will, however, be appropriately assessed as performance assessed development (except for shops with a gross leasable area of 1000m² or more, which are restricted) against a range of policies in the Code, but will generally be exempt from public notification where they meet certain criteria. It is not therefore considered appropriate to designate such uses as restricted development in the zone.

Development classifications and notification

In relation to the suggestion to specifically list a 'retail fuel outlet' as Performance Assessed development in Table 3, such an amendment is not considered necessary as the activity is subject to performance assessment anyway as 'All other Code Assessed Development' against all relevant policies in the Code and subject to notification. In addition, the Code typically contemplates this activity in more intensive business zones where potential impacts from extended hours of operation are less likely to cause conflict. Residential development also remains the predominant use in the Home Industry Zone.

Similarly, in relation suggestions to specifically list Telecommunications facilities as Performance Assessed development in Table 3, such an amendment is also not appropriate given the focus on residential development in the zone. Such facilities are appropriately subject to performance assessment anyway as 'All other Code Assessed Development' against all relevant policies in the Code and are subject to notification.

Further, in relation to suggestions that the Restricted development floor area cap for shops should align with the desired floor area for shops in DTS/DPF 1.2, the restricted development thresholds should not be taken into consideration in the assessment of a performance assessed development, as unlike development plans, there is no relevant policy which indicates that restricted development is inappropriate or otherwise. The floor area thresholds provided in Restricted development table have been set on the basis that shops below this threshold are unlikely to materially impact on locations and can be appropriately assessed by the relevant council rather than requiring assessment by the Commission. It is therefore not considered appropriate to set the Restricted trigger in line with DTS/DPF 1.2.

It is therefore considered appropriate to retain the current exclusion criteria in Table 4 – Restricted Development relating to a shop with a gross leasable floor area less than 1000m².

Commission’s Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- E.91** **AMEND** the Classification Tables to remove the Hours of Operation Assessment Provisions from uses where considered appropriate.
- E.92** **AMEND** the Classification Tables to include additional land uses that are contemplated within the zone.

Phase Three (Urban Areas) recommendations:

- E.93** **CREATE** a new PO 2.3 that seeks to ensure that residential and ancillary development or structures are located to allow off-street vehicle access to non-residential buildings that accommodate the home business or home industrial activity.
- E.94** **AMEND** PO 3.3 relating to dwelling setbacks to side boundaries to provide access for vehicles to the rear of sites in the zone where the business activity is located or proposed to be located behind the dwelling.
- E.95** **AMEND** DTS/DPF 3.3 to require a setback of at least 3m to any one side boundary to provide vehicle access to the rear of the site where the business activity is located or proposed to be located behind the dwelling.

Resource Extraction Zone

This zone supports the provision and protection of land for the extraction, production and/or processing of a mineral, extractive or petroleum resource and ensures that development does not inhibit the future extraction of such resources.

Engagement feedback:

Industry feedback was generally supportive of the application of the Resource Extraction Zone to mining and quarrying activities, including the potential to expand its application over a number of existing extractive industry sites that are proposed within the Rural and Peri-Urban Zone in particular. It was also suggested to apply the zone to some sites located (or partially located) within Adelaide’s Hills Face Zone.

Clarification: *Proposals to rezone specific land or areas to the Resource Extraction Zone are considered in the Code Spatial Application section of this report. Application of the zone to areas currently zoned as Hills Face Zone would, however, require significant investigation, consultation and engagement as part of a separate Code Amendment process given the significance of the zone for metropolitan Adelaide and is not considered appropriate at this time.*

Specific policy issues in relation to the zone included the following:

- Greater clarity should be provided in relation to ‘separation distances’, ‘mounding’ or ‘vegetation’ in respect to minimising adverse impacts from resource extraction activities to sensitive receivers (e.g. in relation to PO 3.1) rather than relying on direction from referrals.
- One council requested that the envisaged land uses in the zone (i.e. DTS/DPF 1.1) should not include development that is currently non-complying in development plans (e.g. all forms of development, except education and training facilities to support remediation and rehabilitation of existing mines and emergency services, or land division in the form of boundary realignments that meet certain criteria).
- Opportunities for the zone to identify a range of uses compatible with, or that can co-exist with or add value to, extractive industry (such as renewable energy facilities) as desired land uses was also identified.
- There was also some suggestion from industry groups for policies to include provisions that relate to the relocation and/or works within watercourses which are fundamental to quarrying, despite other Overlays that are proposed to apply to various quarry sites. Further clarification was also suggested in relation to removal of native vegetation for mining operations in order to avoid potential conflicts with other policies in the Code.
- It was suggested that policies for ‘offices’ associated with resource extraction activities be reviewed to refer to a ‘site’ rather than ‘allotment’ to address situations where a site comprises more than one allotment and again, to avoid a potential assessment conflict. There were also suggestions that floor area caps (i.e. in DTS/DPF 1.3) not apply for associated offices to ensure legislative requirements (e.g. occupational health and safety) can be met.
- One council recommended inclusion of additional policies in the zone to require reduction of scarring of land in scenic or highly visible areas of the zone, reduce interface conflict (e.g. where adjacent to horticulture) and enable development of caretakers/workers accommodation associated with resource extraction activities.

There were broad suggestions from councils to transition uses that are currently non-complying in the zone in existing development plans to restricted development.

Clarification: *The restricted development threshold is a procedural trigger to require a more comprehensive assessment pathway. Unlike non-complying development in development plans, the restricted development threshold does not indicate that a development is inappropriate or otherwise. The policy itself (DOs, POs and DTS/DPF criteria) are the only matters that should be used to assess the merits of a performance-assessed development. Due to the differences in non-complying and restricted development, it is considered inappropriate to transition all non-complying development to restricted development in the Code.*

Other feedback in relation to development classifications and assessment pathways included:

- Suggestions that Prescribed Mining Operations should be included as deemed-to-satisfy development in the zone, or if retained as performance-assessed development, should exempt from public notification where certain criteria are met.
- The zone is more restrictive in relation to the establishment of dwellings, which are proposed to be restricted development except where it is a replacement dwelling, while existing development plans allow dwellings to be considered on merit where they are ancillary to and in association with mining operations (and located on the same allotment). A replacement dwelling should also need to demonstrate a connection with existing or proposed mining operations.

Commission’s Response:

Separation distances and buffers

In relation to opportunities to provide greater clarity and quantifiable standards in the Code about appropriate separation distances and buffering requirements (e.g. mounding or vegetation buffers), quantifiable separation distances between uses have been provided in the Code where appropriate based on existing distances in development plans or recommended separation within the EPA's *Evaluation distances for effective air quality and noise management* guidelines.

In relation to uses anticipated in the Resource Extraction Zone such as extractive industries, mining and associated activities, the EPA guidelines note a range of potential air or noise impacts associated with extractive industry operations (including from excavation areas, haul roads, raw feed and product stockpiles, processing and screening plants, blasting, rock crushers, mobile screening plants, crushing, grinding and milling), which may require management through a range of means rather than relying on buffering or separation distances alone. Consequently, the guidelines do not establish an appropriate separation distance between these activities and sensitive receivers, instead recommending individual assessment. This assessment will occur through formal referral of these activities to the EPA for Direction under Part 9 – Referrals of the Code and it is therefore not practical or appropriate to include quantifiable separation or buffering requirements for such activities in the zone policies.

Brukungu Mine site

The recommendation that the envisaged uses listed in DTS/DPF 1.1 of the zone should not include uses that are currently non-complying in existing development plans relate particularly to the Brukungu Mine site situated adjacent to Dawesley Creek in the Mount Lofty Ranges, which is located in the existing Brukungu Mine Zone in the Mount Barker District Council Development Plan. Policies currently seek the remediation and rehabilitation of the abandoned mine and environs (which is subject to a remediation program devised by PIRSA in 2001) with envisaged uses only including those associated with the management of the abandoned Brukungu Mine site and associated acid neutralisation plant and existing CFS/SAPOL training facilities.

Given the transition of the Brukungu Mine Zone to the Resource Extraction Zone and the special requirements surrounding the abandoned mine and associated neutralisation plant, it is considered appropriate to include a new PO and DTS/DPF criteria to reference remediation and rehabilitation. Further, it is proposed to include a new performance objective (PO 2.2) to facilitate land division to achieve the effective remediation and rehabilitation.

Envisaged uses

In relation to opportunities to expand the range of envisaged uses for the Resource Extraction Zone to include a range of uses compatible with, or that can co-exist with or add value to, extractive industry (such as renewable energy facilities), the desired outcomes for the zone seek to protect land for resource extraction activities. The envisaged uses in DTS/DPF 1.1 therefore focus on uses and activities that are an integral component of, or ancillary to, resource extraction and processing. Importantly, other uses and activities that may consume land set aside for resource extraction and processing should not be specifically encouraged. Notwithstanding this, a range of minor or compatible uses are included as Accepted, Deemed-to-Satisfy or Performance Assessed in the zone, and uses that are not specifically captured in the relevant assessment tables (including as Restricted development) will fall into 'All other Code Assessed Development'. It is therefore proposed to expand the range of envisaged uses in DTS/DPF 1.1.

Works within watercourses and clearance of native vegetation

In relation to suggestions from operators to include provisions that relate to the relocation and/or works within watercourses (despite other Overlays that are proposed to apply to various quarry sites), which are considered fundamental to quarrying, these matters are generally addressed through referral processes under Part 9 of the Code and it is not proposed to duplicate these in the Code.

In relation to requests for further policy clarification about the removal of native vegetation for mining operations, any proposed development involving the clearance of native vegetation will require both a development approval (under the PDI Act) and a native vegetation clearance approval (under the Native Vegetation Act). Under the new planning system however, native vegetation considerations will now be 'up front' in the development application process to better align these two approval processes and ensure that design and siting of development to avoid and minimise the clearance of native vegetation is a fundamental part of the planning process (particularly given past extensive clearance), including in relation to mining operations. Areas of the state where the Native Vegetation Act applies are captured in the Native Vegetation Overlay or State Significant Native Vegetation Areas Overlay. No changes are therefore recommended.

Offices

Suggestions that policies for offices associated with resource extraction activities should refer to a 'site' rather than 'allotment' to address situations where a site comprises more than one allotment and to avoid a potential assessment conflict are acknowledged. The term 'site' is specifically defined in the Administrative Definitions – Part 8 of the Code to mean the area of land (whether or not comprising a separate or entire allotment) on which a building is built, or proposed to be built, including the curtilage of the building. Given that a number of mining and resource extraction sites where the Resource Extraction Zone is proposed to apply are comprised of more than one or a number of allotments, it is considered appropriate to amend part (a) of DTS/DPF 1.3 to instead refer to offices being located on the same 'site' as resource extraction and / or processing operations.

In relation to suggestions to remove floor area caps for offices (currently with a gross floor area of up to 50m²), it is recognised that this cap may not be appropriate to meet the needs of operating mines and resource extraction sites. The existing Mineral Extraction Zone in the SA Planning Policy Library and contained in a number of existing development plans currently includes offices less than 150m² where ancillary to and in association with a mining operation and located on the same allotment as being on merit (i.e. as an exclusion to non-complying development). This floor area cap is considered more appropriate in relation to offices in the Resource Extraction Zone. As the Resource Extraction Zone is not a commercial zone and noting that offices are currently non-complying in some existing Mineral Extraction or Extractive Industry zones in existing development plans (i.e. regardless of proposed floor areas), it is not considered appropriate to encourage larger office development to establish in the zone or remove floor area caps altogether. It is therefore recommended to increase the floor area cap for offices in part (b) of DTS/DPF 1.3 (renumbered DTS/DPF 1.4) to 150m² to better align with existing policy.

Additional policies

With regard to suggestions to include a range of additional policies in the zone, the Commission notes that resource extraction activities are to be assessed under the entire Code as 'All other Code Assessed Development', meaning that assessment authorities can call upon relevant General policy provisions of the Code in addition to the zone provisions.

The suggestion from one council to consider additional policies in the zone to require reduction of scarring of land in scenic or highly visible areas of the zone is acknowledged. Resource extraction and mining activities occurring in identified scenic and highly visible areas such as the Hills Face Zone are proposed to be retained in these zones to ensure new activities continue to meet the visual and character objectives of these important zones or areas. Other areas identified as having significant landscape

character have also been included the new Significant Landscape Protection Overlay in the Code to protect these areas from inappropriate development, although it is recognised that this overlay has not generally been applied to areas within the Resource Extraction Zone in Greater Adelaide.

The Resource Extraction General policy provisions in the Code (in particular PO 1.1) also seek to ensure that resource extraction activities minimise landscape damage and provide for the progressive reclamation and betterment of disturbed areas. This policy was expanded as part of the Phase Two Amendment to minimise landscape damage outside of areas necessarily disturbed to access and extract the resource. PO 3.2 in the Resource Extraction General Development Policies additionally require that resource extraction activities are screened from view from adjacent land by perimeter landscaping and/or mounding. On this basis, it is not considered appropriate or necessary to introduce additional policies to further manage disturbance or scarring of land.

With regard to opportunities to include additional policies in the zone to better manage interfaces (e.g. where adjacent horticultural activities), the Resource Extraction General Development Policies include provisions (particularly PO 3.1) to ensure that resource extraction activities minimise adverse impacts upon sensitive uses through incorporation of separation distances, mounding and / or vegetation. The range of policies contained in the Interface between Land Uses General policy provisions can also be applied in the assessment of resource extraction activities. It is therefore not considered necessary or appropriate to duplicate this policy in the zone.

In addition to the above and in response to feedback received during Phase Two, a new performance objective (PO 4.1) was included in the zone as part of the Phase Two Amendment to align development to a relevant Concept Plan where one applies to key resource extraction sites. A new performance objective (PO 5.1) and associated deemed-to-satisfy criteria (DTS/DPF 5.1) were also included to guide the development and placement of freestanding advertisements in the zone.

Assessment pathways

Prescribed mining operations

In relation to suggestions that Prescribed Mining Operations should be included as deemed-to-satisfy development in the zone where they meet certain criteria, given the zone's focus on resource extraction activities, such activities can have significant visual and environmental impacts and should therefore be subject to more rigorous assessment regardless of the zone. It is therefore considered appropriate to allow such activities to be assessed under the entire Code as 'All other Code Assessed Development' to ensure this level of assessment. Further, it is reasonable to expect that applications for potentially higher impact activities such as mining to be subject to notification.

Dwellings

In relation to feedback that the zone is more restrictive with regard to dwellings (including for caretakers) than the existing Mineral Extraction Zone, the restricted development classification (as distinct from non-complying development in current development plans) for dwellings would not preclude consideration of new dwellings where they are ancillary to or in association with mining operations but instead would ensure a more rigorous assessment of such proposals against all relevant provisions of the Code. Given the nature of resource extraction activities and the potential for interface impacts with sensitive uses, it is not considered appropriate to specifically encourage dwellings in the zone.

With regard to suggestions that a dwelling that will replace an existing lawfully erected dwelling should also need to demonstrate a connection with existing or proposed mining operations, a 'replacement building' is proposed to be deemed-to-satisfy in the zone (and in most other zones) where it involves the construction of a new building in the same, or substantially the same, position as a building which was

demolished within the previous 3 years and has the same, or substantially the same, layout and external appearance as the previous building. This is based on the land use definitions in Part 7 of the Code and reflects complying development provisions in Schedule 4 of the current Development Regulations (e.g. to address situations where an existing building may have been damaged by fire or demolished due to structural issues and needs to be replaced) and no deemed-to-satisfy criteria is therefore proposed to apply to such buildings.

Inclusion of policies to require replacement dwellings that do not meet the definition of a 'replacement building' in the Code to demonstrate a connection with existing or proposed mining operations may also disadvantage instances where an existing lawful dwelling exists within the zone (and generally meets separation and buffering requirements) but is not associated or ancillary to existing mining operations. Such proposals would be performance-assessed as 'All other Code Assessed Development' in the zone, allowing an assessment against all policies in the Code that the relevant authority considers appropriate, including to manage interfaces with mining and resource extraction operations. It is therefore not considered appropriate to introduce such policy in the zone.

In relation to opportunities to allow development of workers' accommodation associated with resource extraction activities, the Workers' Settlement Zone has been included in the Code to apply to areas currently zoned to accommodate workers associated with mining. Applications for workers' accommodation within the Resource Extraction Zone be appropriately assessed under the entire Code as 'All other Code Assessed Development', allowing such applications to be assessed against General Development Policies such as Workers' Accommodation and Settlements.

Telecommunications facilities

In relation to suggestions that Telecommunications Facilities should be specifically listed as performance assessed and not be subject to notification, these have been specifically excluded from notification in Table 5 – Procedural Matters (PM) – Notification as part of the Phase Two Amendment in response to similar feedback and on the basis that such uses are currently prescribed as Category 1 in existing Mineral Extraction Zones in Schedule 9 of the *Development Regulations 2008* where they do not exceed 30 metres in height. While Telecommunications Facilities are not specifically listed in Table 3 – Applicable Policies for Performance Assessed Development, they would therefore be considered as 'All other Code Assessed Development' to appropriately enable an assessment against all relevant zone, overlay or general policy provisions in the Code.

An additional performance objective (PO 1.4) and associated deemed-to-satisfy criteria (DTS/DPF 1.4) were also introduced in the Phase Two Amendment to ensure these facilities do not exceed 30 metres in height (in line with the *Development Regulations 2008*) and are appropriately located to mitigate visual amenity impacts on residential areas.

In addition to feedback discussed above, the notification table in each zone was adjusted as part of the Phase Two Amendment to specify land uses that do not require public notification. In relation to the Resource Extraction Zone, this included development of a minor nature that (in the opinion of the relevant authority) is unlikely to impact on the locality as well as a range of 'accepted' or 'deemed-to-satisfy development' in the zone that is unable to meet all relevant criteria in the relevant assessment tables. Uses and activities such as demolitions, farming, horse keeping, horticulture, land division, offices, stores, telecommunications facilities and tree-damaging activities were also included.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

- E.96** **CREATE** a new PO and DTS/DPF criteria to facilitate remediation and rehabilitation where resource extraction is no longer viable.
- E.97** **CREATE** a new PO to allow for land division which achieves the effective remediation and rehabilitation of the site and environs.
- E.98** **AMEND** DTS/DPF 1.3 (renumbered 1.4) part (a) to require offices to be ancillary to and located on the same site as resource extraction and / or processing operations.
- E.99** **AMEND** DTS/DPF 1.3 (renumbered 1.4) part (b) to increase the gross leasable floor area cap for offices from 50m² to 150m² to better align with existing policy provisions in development plans.

Caravan and Tourist Park Zone

This zone supports caravan and camping sites, cabins, transportable dwellings and their associated services and facilities. It primarily caters for short-term residents and visitors.

Engagement feedback:

Feedback on the Caravan and Tourist Park Zone was received principally from local government, however some feedback was also received from industry and government agencies. Key requests included:

- Additional forms of accepted development that are reflective of a wider range of anticipated development within the zone
- Concern regarding DTS criteria for additions and alterations
- Additional classes of development within classification tables, such as alterations or additions to existing tourist accommodation developments and caravan and tourist parks
- Changes to land division policy and more exemptions from restricted development status, including that boundary realignments should be excluded from restricted classification
- Increases to floor area limitations for shops
- Further policy guidance for common ancillary type uses such as light industrial activities
- Clarification and amendments to DTS/DPT 1.5 to create better clarity around the mix of contemplated permanent residents/accommodation within the zone
- Changes to the setback policies
- Better clarity around assessment pathways applying to additions to tourist accommodation
- New provisions to ensure that facilities are not constructed on hazard-prone land
- Amendments to public notification to avoid over-notification, particularly for minor developments.

Commission's Response:

The Commission supports deletion of DTS pathways for dwelling and addition in the zone given these are not envisaged land uses in the zone.

It's noted that a deemed-to-satisfy pathway is provided for tourist accommodation in the zone, which could include additions which comply with the relevant criteria.

The only land division exempt from restricted development is for a lease or licence granted under the *Residential Parks Act 2007*. A request to exempt land division from the restricted development pathway for a boundary realignment was also made in respect to the Phase Two Amendment and that continues to be supported in the Phase Three Amendment.

As part of the Phase Two Amendment, the Commission decided to increase the Restricted floor area limit for 'shop' (other than a restaurant) in this and other zones from 300m² to 1000m². This is intended to allow more shop proposals to be determined by a local planning authority at a scale that is unlikely to have strategic implications for shopping precincts in settlements and towns.

In relation to the Caravan and Tourist Park Zone, DTS/DPF 1.1 contemplates that all shops will be ancillary to tourist accommodation, which is supported by DTS/DPF 1.6 that establishes an upper floor area limit of 150m². While this suggests that shop development up to 150m² is reasonably contemplated in the zone (pending assessment against other relevant criteria), it does not discount the possibility that a larger shop might be reasonable after taking into account the local circumstances. For example, the notion of 'ancillary' development can change depending on the size of the caravan and tourist park and the number of tourists able to be accommodated on site.

All industry is a restricted form of development in the zone except for 'light industry'. Light industry is not identified as a contemplated use in the zone and there are no provisions in the zone that specifically guide such development. Light industry would be performance-assessed if proposed, and because it is not a class of development included in Table 3, the planning authority can determine the relevant provisions from the whole of the Code for the purposes of assessment. This is the same process that can be used to assess many other forms of performance-assessed developments regardless of how likely or unlikely it is expected in the zone. The zone provisions should provide a basis to help determine if a use is appropriate in the zone in the first place.

DTS/DPF 1.5 has an intent to ensure the accessibility of sites for genuine campers instead of permanent residents whilst not precluding permanent residents within such facilities.

A range of overlays in the Code deal with hazards, including flooding, bushfire and acid sulfate soils. The provisions of these overlays will apply to hazard-prone land within the zone.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

E.10(**AMEND** zone policies to include building height provisions to better manage assessment of built form.

E.10' **AMEND** to include additional land uses within classification tables that can be reasonably envisaged within the zone.

E.10(**REMOVE** boundary realignments as a restricted class of development within the zone.

E.10(**AMEND** zone policies to provide additional policy for assessment of flooding issues and **APPLY** Flood Building Level TNVs in areas not currently included within the relevant overlay.

Tourism Development Zone

This zone provides for a range of tourist accommodation and associated services and facilities that enhance visitor experiences and enjoyment.

Engagement feedback:

There were broad suggestions from councils that there may be a need for additional policy in the zone to guide the development of tourist accommodation, which is a key envisaged use, and that the size of advertisements anticipated in the zone (i.e. in DTS/DPF 3.1) may be excessive given the locations where the zone is proposed to apply. Other specific policy matters raised included:

- Recommendations to include uses such as ‘entertainment, cultural and exhibition facility’ and ‘nature or health retreat’ in DTS/DPF 1.1.
- Expectations in DTS/DPF 1.2 that a ‘shop’ must be in association with tourist accommodation is considered restrictive and unreasonable in some areas where the zone applies (e.g. Moana).
- Suggestions from the building industry that PO 1.4 and DTS/DPF 1.4 are overly restrictive and should allow for scenarios where wholly residential land uses are appropriate to support long-term rental and shared accommodation.
- Feedback from one council that an existing building height restriction that applies to an area within the current development plan has not transitioned to the Code zone.
- Consider including ‘retail fuel outlet’ in the list of envisaged uses in PO 1.1 of the zone.
- Recommendations from a state agency that the desired outcomes for the zone should promote environmentally sustainable and innovative tourism development, similar to the Tourism Development General policies in the SA Planning Policy Library.

One council indicated that all developments currently listed as non-complying have been transitioned as Performance Assessed Development and their concern is that these activities are considered ‘unsuitable’ in a tourist-focussed zone. They suggested transitioning the existing non-complying uses in the Tourism Development Zone to Restricted Development.

***Clarification:** The restricted development threshold is a procedural trigger to require a more comprehensive assessment pathway. Unlike non-complying development in development plans, the restricted development threshold does not indicate that a development is inappropriate or otherwise. The policy itself (DOs, POs and DTS/DPF criteria) are the only matters that should be used to assess the merits of a performance-assessed development. Due to the differences in non-complying and restricted development, it is considered inappropriate to transition all non-complying development to restricted development in the Code.*

Other feedback regarding development classifications and assessment pathways included:

- Suggestions from one council that detached dwellings were previously non-complying in existing development plans in some circumstances where the zone now applies but are now proposed to be performance-assessed, which should be addressed.
- Assessment pathways for ‘shops’ requires further clarification, including the rationale for the floor area cap trigger for shops to be performance-assessed being higher (i.e. 500m²) than current non-complying triggers and a suggestion that the floor area cap for shops in DTS/DPF 1.2 be amended to align with the Restricted development trigger. There was also some suggestion that shops that exceed floor area caps should be subject to notification.
- Review the appropriateness of the exclusion of ‘bulky goods outlet’ associated with shop in Table 4 – Restricted Development and consider removing ‘light industry’ as an exclusion to the Restricted classification of industry to reflect existing conditions.
- Suggestions from industry that a ‘retail fuel outlet’ be included as a performance-assessed class of development in Table 3. Similarly, an infrastructure provider recommended the inclusion of ‘telecommunications facility’ in Table 3.

- Suggestions that the comprehensive list of overlays applying to a ‘Caravan and Tourist Park’ as exclusions to Performance Assessed development in Table 3 seems erroneous and should instead be applied to the ‘Overlay’ column in Table 3.
- Suggestions that tourist accommodation should be restricted in areas proclaimed under the *National Parks and Wildlife Act 1972* and the *Wilderness Act 1992*.

Commission’s Response:

Given the varying nature and sensitivities of each location in the Tourism Development Zone, it is anticipated that most forms of development will be performance assessed. While the provisions of the zone may appear to be less comprehensive than some similar zones in existing development plans, the development classification tables call up a range of General policy and overlay provisions to appropriately assess various forms of development in the zone. Tourism development can also involve a range of new, unique and innovative offerings and activities that are not specifically contemplated or envisaged but will appropriately be performance assessed as ‘All other Code Assessed Development’ in the zone.

In this context, while policies relating to key envisaged uses such as tourist accommodation may be limited in the zone, a range of General and overlay policy is called up in Table 3 – Performance Assessed development in the zone to inform assessment of these uses. Accordingly, additional or duplicated policy is not required at the zone level to guide the assessment of such uses.

In relation to recommendations to expand the list of envisaged uses in DTS/DPF 1.1 to include uses currently envisaged in tourist development areas in existing development plans (e.g. entertainment, cultural and exhibition facilities, and nature/health retreats), PO 1.1 specifically seeks a range of complementary entertainment, recreation and service activities that cater for tourists. These activities could again include a range of unique or innovative tourism products and experiences beyond those listed in DTS/DPF 1.1. Land uses listed as envisaged in DTS/DPF 1.1 are primarily those included in the land use definitions in the Part 7 of the Code or uses more commonly anticipated in tourism development areas. It is therefore not appropriate or practical to list all potential uses in the zone, allowing for more unique or innovative tourism development and activities to be appropriately performance-assessed as ‘All other Code Assessed Development’ against all relevant Code policies based on the nature and sensitivities of the particular area or locality.

In relation to suggestions from industry that a ‘retail fuel outlet’ should be included as a performance assessed development, a ‘retail fuel outlet’ has been included as an envisaged land use in the zone in DTS/DPF 1.1 as part of the Phase Two Amendment based on similar feedback. It was, however, considered appropriate to retain such uses as ‘All other Code Assessed Development’ to ensure an assessment against the full Code and require notification of these uses given the focus of the zone.

The reference to ‘Caravan park’ in DTS/DPF 1.1 has been expanded to ‘Caravan and tourist park’ in the Phase Two Amendment to align with the land use definitions in Part 7 of the Code.

Advertisements

Concerns from one council that the size of freestanding advertisements anticipated as deemed-to-satisfy in the zone may be excessive in some locations where the zone is proposed to apply, are acknowledged. The Tourism Development Zone is proposed to apply to a diverse variety of areas across the state, from beachside and waterfront housing and urban areas, to rural areas and areas within or adjacent townships in the Barossa Valley and McLaren Vale wine regions, as well as sensitive environmental areas such as entry of the Flinders Chase National Park and adjacent the Chapman River and Antechamber Bay in the Lashmar Conservation Park on Kangaroo Island surrounded by conservation zones.

Criteria for freestanding advertising signs in DTS/DPF 3.1 generally adopted the criteria applying to caravan and tourist park sites in the Caravan and Tourist Park Zone of the Code, which applies to typically larger sites (and most existing caravan and tourist parks across the state are proposed in the Caravan and Tourist Park Zone rather than the Tourism Development Zone). It is recognised, however, that freestanding signs of this scale may not be appropriate in sensitive environmental areas or residential-type areas where the zone is proposed to apply. The Commission therefore recognises that the 'one size fits all' approach to freestanding and other advertising signs in the zone may not be appropriate given the variety of locations and different scale and sensitivities where the zone is proposed to apply, and noting that size criteria for advertising signs is not provided in similar zones across development plans.

On this basis, it is proposed to remove deemed-to-satisfy criteria for advertisements in this zone to enable appropriate assessments against performance objectives and General Advertising policies.

In relation to clarifying what can be advertised on tourism development and accommodation sites, the Advertisements General Development Policies (e.g. PO 3.1) seek that advertisements primarily relate to the lawful existing or proposed use of land (i.e. as opposed to third party signs). These policies (e.g. POs 2.1 and 2.2) also seek to limit freestanding advertisements to one per occupancy and ensure that advertising signs for multiple tenancy sites or complexes are located on a single structure to avoid proliferation of signs. Given the recommendation above to require freestanding advertising signs in the zone to be performance assessed, these policies can be called up by the planning authority for any assessment. It is therefore not considered necessary or appropriate to duplicate this policy in the zone.

Dwellings

One council is concerned that detached dwellings which were previously non-complying in existing development plans in some circumstances are now proposed to be performance-assessed. This relates primarily to the Tourist Development Zone in the Onkaparinga Council Development Plan in which dwellings are non-complying except where they involve modifying or replacing an existing dwelling or where associated with a predominant commercial use of a site.

The list of envisaged uses in DTS/DPF 1.1 of the zone specifically includes dwellings ancillary to tourist accommodation. PO 1.4 also seeks to facilitate dwellings in the form of a manager or caretaker residence in association with tourist accommodation. Detached dwellings are also no longer specifically listed in Table 3 relating to Performance Assessment development as part of the Phase Two Amendment, and will therefore be appropriately assessed as 'All other Code Assessed Development' against all relevant policies in the Code that the authority considers appropriate. Dwelling additions are, however, specifically listed as Performance Assessed development in Table 3 but require assessment against PO 1.4 in the zone relating to manager's or caretaker's residences.

A replacement building has also been included as deemed-to-satisfy in the zone (and in most other zones) in the Phase Two Amendment based on the land use definitions in Part 7 of the Code, and reflects complying development provisions in Schedule 4 of the current Development Regulations (e.g. to address situations where an existing building may have been damaged by fire or demolished due to structural issues and needs to be replaced).

Given the land uses and intensity of development anticipated in the Tourism Development Zone, the assessment pathways for dwellings in the zone are considered appropriate.

In relation to suggestions from the building industry that PO 1.4 and DTS/DPF 1.4 may be too limiting and should allow for wholly residential land uses (e.g. to support long-term rental and shared accommodation), land in the zone has been set aside to accommodate tourist accommodation and the zone is not intended to be a core residential or neighbourhood-type zone. As identified above, such uses will be appropriately assessed as 'All other Code Assessed Development' against all relevant policies in the Code that the authority considers appropriate. It is therefore proposed to retain the focus in the zone for dwellings and additions to be ancillary to tourist accommodation activities in the zone.

Caravan and Tourist Parks

The suggestion that the comprehensive list of overlays applying to a 'Caravan and Tourist Park' as exclusions to Performance Assessed development in Table 3 seems erroneous, is acknowledged. While land set aside of caravan and tourist parks is generally included in the Caravan and Tourist Park Zone in the Code, they are appropriately included in the list of envisaged development in the Tourism Development Zone (DTS/DPF 1.1). However, given that the sensitivities of each location within the zone can vary considerably, most forms of development will be performance assessed. In recognition of this, a caravan and tourist park is no longer specifically listed as Performance Assessed development in Table 3 as part of the Phase Two Amendment, and instead will be assessed as 'All other Code Assessed Development' against all relevant policies in the Code that the authority considers appropriate (although a range of ancillary uses are listed as deemed-to-satisfy or performance assessed in the zone). Changes to the overlays applying as exclusions to such uses being performance assessed in Table 3 is therefore no longer required. Caravan and tourist parks are also now excluded from notification in Table 5 – Procedural Matters (PM) – Notification of the zone in the operative Code from the Phase Two Amendment.

Shops, restaurants and bulky goods outlets

Opportunities to better clarify assessment pathways for shops in the Tourism Development Zone are acknowledged. Policies in the zone (e.g. POs 1.1 and 1.2) encourage development of shops and restaurants where they complement tourist accommodation and recreational activities for tourists and are of a scale that maintains the tourism values of the particular location.

In relation to shops, a gross leasable floor area of 250m² has been suggested (DTS/DPF 1.2), although there may be locations in the zone where larger shops are appropriate to support tourism development. No such quantifiable scale has been applied to restaurants, which in themselves can be an important attraction in tourism areas. In recognition of this and given different assessment needs, a 'Restaurant' and 'Shop (not being a Restaurant)' have now been separately listed in Table 3 – Performance Assessed development as part of the Phase Two Amendment with separate policy linkages. The floor area cap relating to shops in Table 3 has also been removed, given separate triggers in Table 4 – Restricted development.

With regard to suggestions to align the desired floor area for shops in the zone policies with the Restricted development trigger, the restricted development thresholds should not be taken into consideration in the assessment of a performance assessed development, as unlike development plans, there is no relevant policy which indicates that restricted development is inappropriate or otherwise. The floor area thresholds provided in Restricted development table have been set on the basis that shops below this threshold are unlikely to materially impact on locations and can be appropriately assessed by the relevant council rather than requiring assessment by the Commission. It is therefore not considered appropriate to set the Restricted trigger in line with DTS/DPF 1.2.

In relation to suggestions that shops that exceed floor area thresholds in the zone should be subject to notification, shops that exceed the floor area trigger in Table 4 – Restricted Development Classification (set at 1000m² through the Phase Two Amendment) will appropriately be subject to notification under section 110(2) of the PDI Act. Shops proposed with a lower floor area are therefore proposed to be exempt from notification in the Code based on changes introduced in the Phase Two Amendment. It is considered appropriate to retain current notification requirements introduced through the Phase Two Amendment.

Comments regarding the appropriateness of bulky goods outlets in the zone are acknowledged. The proposed exclusion of 'bulky goods outlet' associated with a shop in Table 4 – Restricted development was reviewed and removed as part of the Phase Two Amendment as this reference was not necessary given that the definition of a shop in the land use definitions (Part 7) of the Code specifically includes

bulky goods outlets. The floor area exclusion relating to shops in Table 4 – Restricted development would therefore also apply to bulky goods outlets. The exclusion relating to shops as performance assessed where it is a bulky goods outlet in Table 3 (Performance Assessed development) of the zone has similarly been removed. Although bulky goods outlets are proposed to be retained as performance assessed development in the zone, policies do not encourage their establishment (e.g. DTS/DPF 1.2).

The suggestion from one council that the expectations in DTS/DPF 1.2 that a ‘shop’ must be in association with tourist accommodation may be restrictive is acknowledged, particularly given some locations where the zone is intended to apply such as the seaside location of Moana in the City of Onkaparinga. The intent of this policy criteria is to encourage shops and restaurants that are associated with tourism development to locate in the zone rather than serving other purposes, which is more appropriate for most areas where the zone is proposed to apply. Notwithstanding this however, shops and restaurants are both specifically included as Performance Assessed development in the zone and there are no situations where they are included as Deemed-to-Satisfy. Therefore, while it is appreciated that there may be instances where a proposal for a standalone shop or restaurant may not meet the criteria in DTS/DPF 1.2 but would be appropriate in the local context, this will not preclude such proposals being considered on its merits against other relevant policies listed in Table 3 of the zone. It is therefore proposed to retain the intent in DTS/DPF 1.2 to facilitate shops and restaurants that are associated with tourism development.

Light industry

Suggestions to remove ‘Light industry’ as an exclusion to the Restricted classification of ‘Industry’ in the zone are not considered appropriate as it is reasonable to expect some forms of light industry to establish in the zone and tourism areas, particularly where the light industrial activity itself is a tourist offering or destination in its own right (e.g. chocolate production or small-scale food and beverage industries). Such activities will be appropriately assessed as ‘All other Code Assessed Development’ against all relevant policies in the Code, including General policies to manage interfaces with sensitive land uses. It is therefore considered appropriate to retain Light industry as an exclusion to the Restricted classification of Industry in the zone.

In relation to suggestions from industry that a ‘retail fuel outlet’ should be included as a performance assessed development, a ‘retail fuel outlet’ has been included as an envisaged land use in the zone in DTS/DPF 1.1 as part of the Phase Two Amendment based on similar feedback. It was, however, considered appropriate to retain such uses as ‘All other Code Assessed Development’ to ensure an assessment against the full Code and require notification of these uses given the focus of the zone. This designation is proposed to be retained as part of the Phase Three Amendment.

Telecommunications facilities

In relation to suggestions from an infrastructure provider that a ‘Telecommunications facility’ should be specifically included as a Performance Assessed development in Table 3 of the zone, such facilities will be performance assessed as ‘All other Code Assessed Development’ to ensure an assessment against the full Code. Telecommunications facilities that do not exceed 30 metres in height have, however, been exempt from notification in the Phase Two Amendment, except where the site is located adjacent to a dwelling in a neighbourhood-type zone. This designation is also proposed to be retained as part of the Phase Three Amendment.

Commission’s Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

E.104 **AMEND** DTS/DPF 1.1 to include 'retail fuel outlet' in the list of uses to provide services in less populated areas.

E.105 **AMEND** Table 5 – Procedural Matters (PM) to exclude telecommunications facilities that do not exceed 30 metres in height and shops (and where not located adjacent to a dwelling in a neighbourhood-type zone) from notification.

E.106 **AMEND** Table 4 – Restricted Development Classification to increase the restricted threshold of 'shop' to 1000m² (except where comprising a restaurant).

Phase Three (Urban Areas) recommendations:

E.107 **CREATE** the following new subzones:

- Monarto Safari Park Subzone
- River Murray Experience Subzone
- Winery Experience Subzone

E.108 **AMEND** PO 3.1 to require that advertisements are sited and designed to complement the scale of buildings and are not visually dominant and **REMOVE** criteria in DTS/DPF 3.1 relating to freestanding advertisements to allow advertising signs to be performance assessed based on local context.

Motorsport Park Zone

This zone is not included in the Phase Three (Urban Areas) geographic area.

Rural Zone

This zone covers vast areas of land between rural towns. It supports a wide range of primary production activities and provides opportunities for value-adding and the use of renewable energy sources, including updated windfarm/solar farm provisions.

Engagement feedback:

A considerable volume of submissions was received about the Rural Zone from a range of interested parties including local government, industry and industry representative bodies and the wider community.

The Rural Zone is recognised as one of the most widely applied zones within the state. Unlike the Peri-Urban Zone, there was a clear understanding from many contributors of the zone's intent and function in transitioning existing Primary Production Zone policy. There was support for the zone's intended purpose to foster primary industry activities as a principal driver, whilst facilitating opportunities to expand and diversify the economic base within communities through value-add and diversification.

Submissions were received about the following:

- Classification Table content
- Zone policy content
- Procedural matters
- Mapping.

Classification Table Content

Table 1 – Accepted Development Classification

Local Government and industry representative bodies requested amendments to Accepted Development Classification Criteria to more accurately reflect the characteristics of the rural setting and facilitate development which meets the intent of the zone. This included:

- Increasing the 15m² total floor area limit imposed on above-ground water tanks
- Facilitation of shops and industry, storage, warehousing and transport distribution as accepted or deemed-to-satisfy classes of development, subject to restrictions relating to setback and floor area.
- Request to include horticulture as an Accepted class of development.

Clarification: *Shops and industry, storage, warehousing and transport distribution are listed as Deemed-to-Satisfy Classes of Development, subject to clarifications.*

Table 3 – Applicable Policies for Performance Assessed Development

Particular matters received from industry applicable to Table 3 related to infrastructure, namely providing clear definition and distinction between small-scale solar power facilities and solar power facilities of larger scale and the inclusion of telecommunications facilities as a listed class of development.

Table 4 – Restricted Development Classification

A large volume of submissions received from the community requested the inclusion of wind farm activities as a Restricted form of development across the entire Rural Zone.

Clarification: *Renewable energy facilities are identified as Restricted Classes of Development where located within either the Significant Landscape Protection Area or Character Preservation District Overlay (Table 4).*

Local government identified a desire to retain a policy approach which limits the proliferation of dwellings on rural allotments where not sited on an allotment with a minimum area.

Commission's Response:

Renewable energy generation is an important part of the South Australian energy mix and is supported by State Planning Policy, namely *State Planning Policy 12: Energy*. This policy specifically seeks to facilitate renewable sources of energy supply, including solar and wind, where the impact on surrounding land uses, regional communities and the natural and built environment can be minimised. Considerable guiding policy is provided within the General Development Policies to assist in the application and assessment of renewable resources.

Additional amendments are recommended to classification criteria within Table 1 – Accepted Development Classification to better identify the unique servicing characteristics of rural areas. Particular attention should be given to the reliance on water tanks for potable water supply and recognition that conventional tanks are not of suitable size to accommodate demand. Amendments are also recommended to the maximum floor area control.

Additional amendments are recommended to Table 1 – Accepted Development Classification to facilitate the development of agricultural buildings with a floor area not exceeding 250m². This policy approach has been taken in recognition of the zone's intent and the integral role that agricultural buildings play in supporting land use and to provide certainty and efficiency to applicants.

The Commission notes that the Code includes the *Minimum Dwelling Allotment Size Technical and Numeric Variation layer*. This data will apply to areas within Phase Three and address concerns relating to the siting of new dwellings on allotments meeting a minimum area.

Restricted classes of development are a procedural matter and restricted development thresholds should not be taken into consideration in the assessment of a performance-assessed development as, unlike development plans, there is no relevant policy which indicates that restricted development is inappropriate or otherwise. It is therefore considered inappropriate to transition non-complying lists into restricted development tables due to these fundamental differences.

Finally, in reviewing the Code content, the Commission recognised a need consider policy which related to the assessment pathway for frost fans. Whilst noting the original intention to identify these structures within the Agricultural Building use class, there is strong merit to make amendments to the land use definitions and facilitate the assessment of frost fans under the 'All other Code Assessed Development'. The Commission is acutely aware of the important supplementary role that frost fans play in providing protection to high value crops, particularly when considering the impact of individual frost events, which can result in substantial crop losses.

Separately, the Commission is also conscious of the potential impact on non-associated sensitive receivers and the need for frost fans to be appropriately sited, and consider the strict controls contained in the *Environmental Protection (Noise) Policy 2007*.

The Commission is confident that proposed amendments to Zone policy and notification pathways take into account the protections afforded by the different policy layers and strength of general modules, namely the Interface between Land Uses General Development Policies.

Zone Policy Content

Engagement feedback:

A range of matters were raised in response to draft zone policy, including:

- Respondents generally supported policy which provides the opportunity to site secondary dwellings, subject to a number of criteria. In a number of local government areas, current policies do not enable the construction of secondary dwellings; primarily to minimise rural living type outcomes. It has been suggested that a future review be undertaken to determine the impacts of additional dwellings and if this is appropriate within this region. Industry highlighted concern with the minimum allotment size requirement, citing that the 40-hectare minimum requirement is too large and limits opportunity.
- Local government responses suggested that certain areas of the Rural Zone could be changed to the Peri-Urban Zone as this seeks smaller scale and less-intensive forms of agricultural industries. These changes are subject to and dependent upon any changes to the Peri-Urban Zone. A number of other zone changes have been identified where it is considered that the proposed zone does not reflect the existing development plan criteria.
- Local government respondents requested the identification of additional land uses within DTS/DPF 1.1. This includes renewable energy facilities, waste facility, stock slaughter works/abattoir, workers' accommodation and caretaker dwellings.
- Local government also identified a range of locations where it would be desirable to insert a Sub-Zone/s to accommodate areas of unique character or development outcomes.
- Multiple submissions recommended the inclusion of setback criteria from the South Eastern Freeway.

***Clarification:** The Non-Stop Corridor Overlay and Major Urban Transport Routes Overlay have been applied to the South Eastern Freeway. Criteria contained within these Overlays provide guidance to the impacts which development must consider.*

- The deletion of the expression 'residential development' in PO 5.3, and replacement with 'Dwellings' to provide more refined guidance as to what class of development is considered permissible.

***Commission's response:** Adjustments to terminology corrected through wholesale consistency review of the Code.*

- Refinement of PO 5.1 and DTS/DPF 5.1 to provide guidance that dwellings should, in addition to not compromising primary production uses, not encroach or impede value adding industries. DTS/DPF criteria to be satisfied if a dwelling meets necessary separation distances from incompatible land uses.
- A range of broad policy improvements suggested by councils related to function centres, shops, tourist accommodation, outbuildings, land division, boundary realignment, public notification and the reduction of restricted land uses.
- The majority of local government respondents supported an increased opportunity for small-scale tourist accommodation where associated with primary production activities. However, it was suggested that a further review of tourism related policies and land use definitions be undertaken to provide greater clarification and assist in the development assessment process and to ensure the primary intent of the zone is not eroded.
- Significant feedback was received from industry concerning 'small-scale ground mounted solar power facility' and more broadly, renewable energy facilities. Clarification as to the definition of,

and what scale of development is considered, 'small-scale ground mounted solar power facility' for the purposes of [Table 3](#) and [PO 9.2](#) is required. The refinement of policy to ensure that solar facilities are not captured by the ambit of PO 10.1 is encouraged.

- It has been suggested that a minimum lot frontage Technical and Numerical Variation be included for areas that currently contain these criteria. This coincides with a desire for the strengthening of policies to ensure allotment sizes within rural areas are not eroded. This also included general support for increased boundary realignment provisions to ensure that allotment boundaries are not realigned to the detriment of productive rural land.

Clarification: *The Code includes provision of the Minimum Allotment Frontage Sizes Technical and Numeric Variation (TNV) which facilitates the inclusion of quantitative frontage measures.*

- A number of submissions received from local government identified that DTS/DPF policy relating to enclosed horticultural buildings, agricultural buildings and industries, storage, warehousing and transport distribution activities is too restrictive, whilst others noted that this policy was too liberal.

This was particularly the case when considering total floor area controls and the requirement to site development of allotments meeting a minimum area.

- The inclusion of 'dam' and 'frost fan' as an envisaged land use within the Zone, with corresponding policy measures in the suitable Classification Table was requested. This is to avoid these forms of anticipated development being captured as 'all other code assessed', triggering public notification requirements and a thorough assessment of appropriate forms of development.
- Key feedback from councils included requests for the introduction of a PO criteria with applicable DTS/DPF consistent with current policy, which prescribes that winery developments have a 'connection-to-place'. It was suggested that this policy addition would encourage existing local wineries to establish cellar doors and ancillary uses.
- Particular local government areas requested the removal of the Limited Land Division Overlay as it triggers land division applications to be Restricted Development.

Clarification: *The Code is a new Statutory Instrument which replaces all development plans. Policy directions contained within the Limited Land Division Overlay largely reflect the current policy framework which often identifies land division as non-complying.*

- Industry representative bodies and the community requested specific policy which seeks to manage interface conflict between primary industry uses (noting broad hectare/grazing and horticulture particularly).
- Not-for-profit groups noted the value and importance of retaining native vegetation and biologically diverse areas from inappropriate development, citing renewable energy facilities particularly and requested that development should be sited in a sensitive manner which limits the need for vegetation clearance.

Clarification: *The General Development Policies provide policy guidance and direction with respect to native vegetation. Policies contained therein support both the retention of areas which exhibit high biodiversity and the need to site development in a sensitive manner.*

- Local government identified a desire to retain policy which seeks minimum separation distances from specific sensitive land uses.

The inclusion of discrete zone policy to address animal keeping/kennels was requested.

Clarification: *The General Development Policies provide specific policy guidance via the Animal Keeping and Horse Keeping Module. This Module will be 'called-up' when considering a development of this nature given the identification of Animal Keeping as 'All other Code Assessed Development'.*

Commission's Response:

The Commission acknowledges the volume of submissions received and the breadth of issues identified and provides the following response:

Policy Expression

The Commission notes respondents' desire for greater clarity on policy expression and as such recommends minor changes and additions to ensure consistency is maintained and ambiguity is removed.

The inclusion of a state-wide policy framework which supports the siting of a second dwelling on an allotment is recognised as a considerable step forward and provides greater ability to farming families to both plan and facilitate ageing in place or to accommodate a manager's residence. In both circumstances, the policy content strikes a balance between fragmentation of primary industry land and business planning.

The DTS/DPF content is intended to guide and assist the assessment of a wide range of development. It is highlighted that the content contained therein is just one means of addressing the particular matters and works in unison with General Development Policies. Applicants for development are afforded opportunity to innovate via the Performance Outcomes and the identification of all possible land use combinations is impractical.

The provision of a Function Centre in association with a primary production use supports the zones value-add intent. Minor modification to DTS/DPF policy expression is supported.

Floor Area Limitations

The Commission acknowledges the concerns relating to maximum floor area controls. The activities occurring within these buildings is mixed and varied, and there is a need to provide flexibility via the Code for these forms of development.

The Commission has taken stock of development statistics and reviewed a series of building configurations and sizes across the state, noting an intention to increase floor area limitations. The Commission remains confident that larger buildings used in relation to agricultural pursuits and ancillary supporting industry are capable of being accommodated across the varied landscapes in a manner which is respectful to the amenity. This is particularly true when working in unison with policies applying to maximum height and minimum allotment area.

Applicable floor area limitations are appropriate to support small-scale, ancillary tourist accommodation, sited in a manner which is sensitive to the core purpose of the zone which remains agricultural pursuits.

Procedural Matters

Engagement feedback:

- Request the removal of detached dwelling as a notifiable development in the Rural Zone.

- Industry representatives and community respondents sought the identification of horticulture, particularly viticulture, as a class of development which requires notification.

Commission's Response:

The Commission supports a procedural framework which simplifies notification. Notwithstanding this, amendments have been made to Table 5 - Procedural Matters which in turn results in the notification of a range of land uses, including horticulture. These amendments better reflect the current policy framework contained in development plans.

The Commission is of the view that a notice on land is not required for performance assessed development where subject to notification in the Rural Zone, given that many properties in this zone are unlikely to be frequently viewed by passing vehicles or foot traffic.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

E.109 In relation to the zone's policies:

- **AMEND** zone policies to include an additional Performance Outcome to provide greater assessment criteria regarding land division and boundary realignments.
- **AMEND** DTS/DPF 1.1 to include dairy, renewable energy facility and stock slaughter works as envisaged uses within the Zone.
- **AMEND** existing dwelling provisions to reference the Minimum Dwelling Allotment Size Technical and Numerical Variation.

E.110 **AMEND** Table 5 – Procedural Matters (Placement Notices – Exemptions for Performance Assessed Development) to exempt the need to place a notice on land in the Rural Zone.

E.111 **CREATE** new Kangaroo Island Subzone.

E.112 **AMEND** Table 4 – Restricted Development Classification to:

- add Commercial forestry within the Kangaroo Island Subzone
- increase the gross leasable floor area of a shop in the 'exclusions' column from 250m² to 1000m².

Phase Three (Urban Areas) recommendations:

E.113 **AMEND** Table 1 – Accepted Development Classification – Water Tank (above ground): Accepted Development Classification Criteria 4 to increase the floor area to **30m²**

E.114 **AMEND** Table 1 – Accepted Development Classification to insert Agricultural building up to 250m² in floor area, subject to various criteria.

E.115 **AMEND** Table 2 – Deemed-to-Satisfy Development Classification land use 'Agricultural Building' by excluding the pathway where the Character Preservation District Overlay applies.

E.116 **AMEND** Table 3 – Applicable Policies for Performance Assessed Development by referencing policies from the Character Preservation District Overlay and River Murray Flood Plain Protection Overlay under 'Agricultural Building'.

- E.117** **AMEND** Table 5 – Procedural Matters – Notification to exclude function centre and dwelling from notification (subject to meeting certain criteria).
- E.118** **AMEND** DTS/DPF 4.1(c) regarding industries, storage, warehousing and transport distribution activities to increase floor area from 250m² to 500m²
- E.119** **CREATE** new PO under 'Rural Industry' heading regarding expansion of established small-scale or new large scale industry.
- E.120** **AMEND** PO and DTS/DPF 5.2 and 5.3 regarding development resulting in more than one dwelling on an allotment to combine the two POs and provide additional DTS/DPF criteria regarding sharing the same access point and not resulting in more than two dwellings on the allotment.
- E.121** **AMEND** DTS/DPF 12.1(d) regarding agricultural buildings to increase floor area from 250m² to 500m²
- E.122** **AMEND** PO 5.1 to reference value-adding industries, or other development that is in keeping with the provisions of the zone, as well as primary production.
- E.123** **AMEND** DTS/DPF 6.3 to reference **Total** Floor Area and clarify that where tourist accommodation is located in more than one building, the cumulative total floor area does not exceed 100m²
- E.124** **AMEND** DTS/DPF 9.2(c) to reference a **combined** panel size exceeding 80m²
- E.125** **AMEND** DTS/DPF 1.1 to insert **Dam** and **Workers' accommodation** as envisaged land uses.
- E.126** **AMEND** DTS/DPF 6.5 (b) to reference **persons** instead of seats for customer dining purposes in function centres.
- E.127** **AMEND** DTS/DPF 13.1 to limit outbuildings on the same allotment to a combined total floor area not exceeding 150m².
- E.128** **AMEND** DTS/DPF 6.2 (c) to increase building height for shops from 7m to 9m above natural ground level.

Rural Aquaculture Zone

This zone supports marine- and land- based aquaculture including facilities, infrastructure, ancillary development and value-adding opportunities.

Engagement feedback:

Feedback was received from industry seeking amendments to Table 3 – Applicable Policies for Performance Assessed Development to include telecommunications facility as an identified Class of Development.

It was requested that a small retail outlet associated with an aquaculture business should have the opportunity to sell seafood where it is sited on the same allotment as the aquaculture activity.

Commission's Response:

The Commission acknowledges the limited submissions received in response to the Rural Aquaculture Zone, noting that a number of matters were addressed as part of the amendments made in response to Phase Two consultation of the Code.

Commission's Recommendation:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- E.129 AMEND** zone policies to include 'shop' in PO 4.1 to support a shop where directly related to an existing aquaculture use and located on the same allotment.
- E.130 CREATE** zone policies under new headings 'Outbuildings, Carports and Verandahs' and 'Advertisements'.

Rural Horticulture Zone

This zone provides for intensive agriculture in the form of growing and processing of produce while supporting a wide range of low-impact rural activities. Value-adding opportunities are envisaged. It applies in areas used for horticulture, such as the Riverland.

Engagement feedback:

A range of feedback was received from local government, industry and government agencies, with a number seeking clarity on the application of the Rural Horticulture Zone across Greater Adelaide, including its status as a zone, rather than a subzone. A number of policy improvements were suggested.

Government agencies support the use of this zone to encourage and foster discrete intensive primary industry precincts (such as the Northern Adelaide Plains region) and extend the opportunities for farm diversification available in the other rural zones to all SA producers.

The key elements raised can be summarised as follows:

- Land Division was recommended to be included in Table 4 – Restricted Development Classification.
- Policy is needed to encourage but also address that interface, visual and noise aspects of frost fans.
- The inclusion of retail fuel outlets as a desired form of development within the zone was requested as they provide a necessary service to rural communities.

Clarification: Retail fuel outlets are not considered to be envisaged use in the Rural Horticulture Zone and are more appropriately situated in other zones therefore DTS/DPF 1.1 will remain unaltered.

- Updates to policy expression relating to tourist accommodation to more accurately reflect circumstances where this form of development will be sited in new built form.

- The inclusion of zone policy to support the development of value-add and rural industries and development within flood affected areas was requested.
- The quantitative floor area trigger allocated to 'Shop' should be increased to 100m² to maintain consistency with associated Zone Policy.

Clarification: *The matter of quantitative floor space triggers and notification were incorporated into the Phase Two Amendment as a result of industry feedback.*

Commission's Response:

The Commission acknowledges the feedback received and supports the retention of the Rural Horticulture Zone, recognising the role that the zone plays in facilitating a range of intensive horticultural and associated value-add enterprises across the state.

Considerable policy is contained within the General Development Policies to support the appropriate development of land where affected by hazards and this continues to play a key guiding role.

Amendments to applicable Performance Outcomes which provide greater clarity and definition to residential land uses and tourist accommodation are proposed to be incorporated.

Other Amendments based on additional information/investigations:

It has been identified that the Rural Horticulture Zone should support value-adding industries, similar to other 'rural' zones. Additional policies are recommended to achieve this.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- E.131 AMEND** Table 4 – Restricted Development Classification to increase the gross leasable floor area of a shop in the 'exclusions' column from 250m² to 1000m².

Phase Three (Urban Areas) recommendations:

- E.132 CREATE** new policies to guide new rural industry and value-adding, to align with the Rural and Peri-Urban zones.
- E.133 AMEND** PO 5.1 to be clearer about the policy intent of dwellings in the zone; to provide a convenient base for landowners to conduct and manage commercial-scale primary production and rural-related value-adding activities without compromising the use of the allotment, adjacent land or long-term purpose of the zone for primary production or related tourism values due to a proliferation of dwellings.
- E.134 AMEND** Table 4 – Restricted Development Classification and Table 5 – Procedural matters – Notification to align with the Rural Zone.

Rural Intensive Enterprise Zone

This zone provides for the large-scale commercial production of animals and animal products (intensive animal keeping, broiler sheds, feedlots and piggeries), and their associated processing facilities and industries. The zone generally contains larger allotment sizes to deal with significant external impacts (noise, odour, waste) and large buffers.

Engagement feedback:

Feedback to the Rural Intensive Enterprise Zone was received from local government, practitioners and the wider community. In general, support was expressed for the intent of the zone to provide areas that protect existing and future clusters of large-scale rural industries and allied services, with recognition that these land uses collectively contribute to the economic and employment success of the state.

A number of policy improvements were suggested which seek the promotion of a greater mix of rural industry and agricultural value-adding land uses, along with requests to consider if the Limited Land Division Overlay should be removed to create greater opportunity for economic investment.

Other comments/requests received:

- Telecommunications facilities should be included in Table 3 – Applicable Policies for Performance Assessed Development
- Amendment/removal of policy which prescribes the siting of Agricultural Buildings on allotments meeting a minimum allotment size was recommended, noting that the intent of the zone is to encourage intensive agricultural uses and supporting ancillary activities which can be accommodated on a range of allotment sizes.
- The insertion of discrete horse keeping policy content was requested, acknowledging that this is a popular activity in rural type zones.
- Local Government identified the need to reconsider the minimum site areas designated to guide land division.
- Policy expression relating to agricultural buildings should be reworded to provide greater clarity.
- Policy provisions should be reviewed to encourage a greater mix of smaller, ancillary and allied land uses in support of the envisaged larger industries.

Commission's Response:

The Rural Intensive Enterprise Zone will be applied to various locations around the state and seeks mixed use intensive agricultural production which supports allied processing and ancillary support industries. The activities supported within the zone are recognised as important economic and employment generators for the state and warrant protection from conflicting land uses.

The Commission recognises the desire from local government, practitioners and the community to insert specific guiding policy within the zone to address anticipated lands uses. It is however noted that there is considerable content included within the General Development Policies which can be called upon to assist in the consideration of such land uses. Further, the Phase Three Amendment implementation carries forward many existing quantitative measures contained in development plans. The Code structure

facilitates the application of discretion via the Performance Outcome measures which ensures that local circumstances can be considered.

Other amendments based on additional information/investigations:

Upon review, there is merit in making amendments to zone policy and the corresponding Procedural Matters – Notification table to provide guiding policy to assist in the assessment of telecommunications facility installation. This addition recognises the importance of telecommunication facilities in rural areas to support access and provide coverage during emergencies.

Further, a detailed review of allotment configuration across the areas to be zoned Rural Intensive Enterprise Zone and consideration of Desired Outcomes supports a reduction in the minimum allotment area required to accommodate agricultural buildings.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- E.135** **CREATE** zone policies under new headings 'Outbuildings, Carports and Verandahs' and 'Advertisements'.

Phase Three (Urban Areas) recommendations:

- E.136** **CREATE** a new DTS/DPF and PO under 'Land Use and Intensity' to guide the location/height of telecommunication facilities to mitigate impacts on visual amenity on residential areas.
- E.137** **AMEND** Table 5 – Procedural Matters – Notification to exempt a telecommunications facility from notification, except where exceeding the relevant height/location criteria.

Peri-Urban Zone

This zone applies to areas in the Mount Lofty Ranges in the Adelaide Hills region, and supports a complex and diverse range of land uses at the appropriate scale and intensity needed to conserve and enhance the zone's natural character, biodiversity, identity and scenic qualities.

A large volume of submissions was received in response to the proposed Peri-Urban Zone with a number of consistent issues raised by local government, government agencies and the wider community.

Naming Convention

Engagement Feedback:

Feedback from all groups suggested that the proposed name of the zone detracts from its key purpose, being for primary production and related ancillary activities, where residential type activities are subservient to these uses. Further, concern was raised as the zone name did not reference the watershed. Various zone name suggestions were proposed by respondents.

Commission's Response:

Consistent with the Commission's proposal outlined in the *Planning and Design Code: Phase Three (Urban Areas) Code Amendment - Update Report* released in December 2019, a new naming convention for the Peri-Urban Zone is supported.

Spatial Extent

Engagement Feedback:

A number of submissions requested clarification and consideration of the extent to which the Peri-Urban Zone should apply in-lieu of the Rural Zone. Submissions noted that there was not a clear rationale provided for the zone's application, particularly when considering that the zone applied in the Barossa region.

Notwithstanding the above, there was a broad understanding that the area on the periphery of metropolitan Adelaide supports a dynamic mix of land uses which is not commonly found in more regional areas of the state.

Commission's Response:

Further analysis of requests for rezoning are considered in the Code Spatial Application chapter of this report.

Value-Add

Engagement Feedback:

The overwhelming majority of respondents supported the introduction of policy to guide the establishment of ancillary value-add activities, citing the absence of such policy within development plans as a continual challenge.

Commission's Response:

The Commission acknowledges respondents' concerns relating to the proposed name and spatial application of the Zone and is actively working with local government to review and amend the spatial extent of the zone. In this respect, the Commission confirms that areas proposed to be zoned Peri-Urban will be replaced by the Rural Zone where:

- Dwellings are only envisaged on allotments over a certain size or where in association with primary production
- Land division is envisaged subject to achieving minimum allotment size.

More information on these spatial changes are contained in the Code Spatial Application section of this report.

Classification Table Content

Engagement Feedback:

Table 1 – Accepted Development Classification

- Some respondents requested the 15m² total floor area limitation imposed on above-ground water tanks be increased.

- Industry and local government recommended amendments to the Exceptions list for a range of land uses to delete reference to the Sloping Land Overlay, Water Protection Area Overlay and Water Resources Overlay. It was considered that the inclusion of these exceptions represents policy regression and will result in unnecessary applications and administrative burden for a number of local government areas.
- Reconsideration of a number of accepted development classification tables was requested to:
 - allow reduced setback requirements for solar photovoltaic panels (ground mounted), citing a requirement to achieve a 100m setback from a dwelling not associated with the system was unreasonable
 - facilitate larger-capacity ground-mounted solar photovoltaic systems
 - facilitate the development of above-ground water tanks on land subject to the Native Vegetation Overlay, State Significant Native Vegetation Overlay, Sloping Land Overlay and Water Resources Overlay.
- The inclusion of additional land uses as Accepted and amendments to the definition of Farming to provide greater clarity was requested.

Table 2 – Deemed-to-Satisfy Development Classification

- Local government requested the listing of protective tree netting at DTS where located within the Sloping Land Overlay.
- Industry requested the inclusion Retail Fuel Outlet as a DTS class of development, subject to largely the same policy as a Shop.
- Government agencies raised their concern with a number of envisaged land uses and the potential impact of such on water quality.

Table 3 – Applicable Policies for Performance Assessed Development

- Local government identified that a number of key hazard overlays have not been included as applicable policy considerations for a range of land uses, not the least beverage production and subclasses contained therein.

Table 4 – Restricted Development Classification

- Local government identified a desire to retain a policy approach which limits the proliferation of dwellings on rural allotments where not sited on an allotment with a minimum area. This was identified as a carry-forward and is supported to reduce any potential for unintended consequence.
- Community respondents sought policy which prevented the fragmentation of peri-urban land, calling for all land division, including boundary re-alignment to be Restricted.
- Agencies and local government requested that a greater number of land uses be identified as Restricted where the development is deemed to have a potential impact on the watershed. It was recommended that a review of the Restricted Development table is needed which would take a risk-based approach to development types and consider the cumulative impact across the Mount Lofty Ranges Catchment Overlay.

Commission's Response:

The Commission supports amendments to Table 1 – Accepted Development Classification which facilitate the reasonable development of ancillary structures in a manner which does not compromise primary production activities and achieves general consistency across the state (where reasonable). In considering the deletion of exception criteria relating to protective tree netting structures, the Commission notes that such amendments are consistent with the criteria listed in Schedule 1A of the Development Regulations 2008.

The inclusion of Retail Fuel Outlet as an envisaged land use and listed Class of Development is considered inappropriate. This form of development is not in keeping with the intent of the zone to support the productive use of these areas for primary industry uses and associated allied services. Whilst recognising that Shop is listed as a DTS class of development, the corresponding DTS/DPF policy is very clear that development for this purpose shall be in association with the use of the land or adjoining land and take the form of value-add.

Hazard Modules play a key role in determining the suitability of land for development and identifying the risks which must be adequately managed. Amendments to all Assessment Tables is supported to ensure hazard overlays are adequately referenced.

The Commission considers current zone, general and overlay controls to be adequate to manage potential risk to drinking water supplies and reservoirs, particularly with the application of the Mount Lofty Ranges Catchment Overlays, Water Resources Overlay and Water Protection Area Overlay.

Zone Policy

Engagement Feedback:

- Agencies raised concern that envisaged land uses identified in DTS/DPF 1.1 could result in detrimental impacts to water quality.
- Local government and industry respondents raised a number of suggested policy wording improvements across the zone and suggestions for alternative quantitative measures within DTS/DPF criteria, including but not limited to agricultural buildings and buildings used for rural industries.
- Changes were recommended to various policies to provide a Deemed-to-Satisfy pathway for a greater number of development types, including horticulture and horticultural buildings and shops within settlements.
- Support was provided from a select number of respondents for the combination of policy relating to breweries, cideries, distilleries and wineries (beverage production) under a single definition and a greater allowance for alternative forms of value-add beverage production (e.g. cordial).
- Local government and industry sought clarification and refinement of DTS/DPF 6.1 and the reference *'produce or goods that are primarily sourced, produced or manufactured on the same allotment or from the region'*.
- The inclusion of **'dam'** and **'frost fan'** as an envisaged land use within the Zone, with corresponding policy measures in the suitable Classification Table, were requested. This is to avoid these forms of anticipated development being captured as 'all other code assessed', triggering public notification requirements and a thorough assessment of appropriate forms of development.

Clarification: In response to feedback received to Phase Two Amendment consultation, the Commission amended Land Use Definitions to list 'frost fan' within the Agricultural Building land

use term. However, the suitability of this may warrant further review as part of the Phase Three Amendment due to amenity and noise concerns.

- Feedback was received from local government and industry concerning 'small-scale ground-mounted solar power facility' and more particularly how such facility is defined.
- Industry sought the inclusion of retail fuel outlets as a Performance Assessed class of development within the zone and a reduction in corresponding policy to remove requirement for connection to land and management of interface conflict.

Clarification: Retail fuel outlets are not generally supported outside of urban boundaries and are considered incongruous with the primary intent of the zone.

- Requests were received from local government to provide policy which incentivises and facilitates the adaptive reuse of buildings for tourist accommodation by providing greater allowances for maximum DTS floor area.
- A number of respondents requested existing non-complying land uses be carried through to the Restricted Development Classification table (e.g. warehouse and industry).
- Support was provided by local government to the inclusion of policy which emphasised the need to prevent fragmentation of primary production land via land division or via the siting of inappropriate residential land uses.
- A community respondent highlighted the need for a localised policy approach to a historic site in proximity to Hahndorf called The Cedars (former home of Hans Heysen). This site is currently zoned Primary Production, however subject to detailed Policy Area and Precinct policy. It was requested that the Code include the insertion of existing Concept Plan Mt/B21 – The Cedars Precinct (Hahndorf).
- Industry called for a review of the DTS/DPF maximum floor area limitations for shops, noting that the proposed gross leasable floor area of 100m² is not sufficient.
- Industry requested clarification of proposed policy and consideration of amended policy to facilitate workers' accommodation on allotments smaller than 2ha, citing that such sites are preferred where adjoining primary production. Further, respondents supported the inclusion of policy to support the siting of a second dwelling on the land, where it facilitated sustainable primary industry outcomes.
- Agencies requested the inclusion of additional Desired Outcome content.

Commission's Response:

The Commission recognises concerns of agencies relating to water quality and notes that the DTS/DPF is just one policy control amongst many applicable zone, general and overlay policy. All policy content seeks to ensure development is orderly and efficient and impacts are avoided or mitigated.

The Commission was encouraged by the support shown by local government to the provision of Deemed-to-Satisfy pathways for a range of different land uses. Improvements have been incorporated to policy expression to ensure consistency across all zones, whilst minor amendments have been made to applicable policy to provide potential for a greater percentage of Deemed-to-Satisfy classes of development within the zone. In undertaking these improvements/amendments, it is important to note that the Peri-Urban Zone applies across a range of regions and local circumstances and that recommended policy improvements may not be appropriate broadly. As such, policy amendments and improvements have been made in this context.

DTS/DPF setback policy within the zone supports the siting of development in a manner which is sensitive to the amenity of the zone and takes into account the corresponding DTS/DPF criteria. Overlay policy which seeks separation of activities from watercourses is a broader control which seeks general water quality improvements and water course protection.

Additional criteria have been included around Rural Industry to provide greater clarity on the envisaged land uses. It is noted that the listed classes of development within the Code is not exhaustive and is intended as a guide only.

The zone is not intended to support the development of shops in a broad sense, rather the intent of policy within the Peri-Urban Zone is to support the development of ancillary land uses to supplement the principle use of the land for primary industry type activities. Policy prepared to support the development of shops is considered appropriate.

Policy amendments have been made to increase the maximum DTS floor area provision where tourist accommodation is to be sited within existing buildings. This amendment has been made in recognition that the built form is established and the likelihood of land use impact is low. It is however emphasised that policies which support the facilitation of ancillary value-add activities, such as shops, as Deemed-to-Satisfy classes of development, need to ensure that the integrity of the zone and its original intent is not compromised. Where DTS/DPF criteria relating to maximum floor area cannot be met, a performance assessment would occur.

The Commission acknowledges respondents' concerns relating to the demonstration that a product is sourced from the local region and a desire for greater definition of this term. In responding to these concerns, it is recognised that in limited circumstances there are systems in place already to manage provenance and this influences how users may 'brand' their product. An example of this is the Geographic Indicators used on wine labelling which is controlled by statute. For the purpose of the Code, reference to 'from the region' is intended to represent the discrete areas of the state. For example, the Barossa region, the Riverland region, the Fleurieu region. It is noted that this reference only appears as a DTS/DPF trigger, therefore providing for a relevant authority to determine provenance as part of an assessment process. The policy is not intended to limit the establishment of new industries which are of a wider scale than the 'region'.

Respondents identified the provision of policy which supports the development of a second dwelling, subject to parameters, would assist in achieving the Zones Desired Outcome. The Commission supports this premise and has inserted policy accordingly.

Support is provided for the preparation of a sub-zone to apply to land comprising The Cedars at Heysen Road, Hahndorf. This comes with the recognition of the Commission that the land is unique, is of historic importance to the state, is listed on the State Heritage Register and is not capable or, or intended to be for primary production purposes.

Restricted classes of development are a procedural matter and restricted development thresholds should not be taken into consideration in the assessment of a performance-assessed development as, unlike development plans, there is no relevant policy which indicates that restricted development is inappropriate or otherwise. It is therefore considered inappropriate to transition non-complying lists into restricted development tables due to these fundamental differences.

Finally, in reviewing the Code content, the Commission recognised a need to consider policy which relates to the assessment pathway for frost fans. Whilst noting the original intention to identify these structures within the Agricultural Building use class, there is strong merit to make amendments to the land use definitions and facilitate the assessment of frost fans under the 'All other Code Assessed Development'. The Commission is acutely aware of the important supplementary role that frost fans play

in providing protection to high value crops, particularly when considering the impact of individual frost events, which can result in substantial crop losses.

Separately, the Commission is also conscious of the potential impact on non-associated sensitive receivers and the need for frost fans to be appropriately sited, and consider the strict controls contained in the *Environmental Protection (Noise) Policy 2007*.

The Commission is confident that proposed amendments to Zone policy and notification pathways take into account the protections afforded by the different policy layers and strength of general modules, namely the Interface between Land Uses Module.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

- E.138** **RENAME** the Peri-Urban Zone 'Adelaide Country Zone'.
- E.139** **CREATE** new 'The Cedars Subzone' seeking a cultural, arts and tourist precinct centred on the former residence and studio of artist Hans Heysen and conservation of the surrounding eucalypt forest.
- E.140** **AMEND** Table 1 – Accepted Development Classification – Water Tank (above ground): Accepted Development Classification Criteria to increase the maximum floor area to **30m²**.
- E.141** **AMEND** Table 4 – Restricted Development Classification to:
- remove dairy, intensive animal husbandry, landfill, stock sales yard and stock slaughter works
 - increase the size of a shop in the 'exclusions' column from 250m² to 1000m²
 - add shop located in The Cedars Subzone in the 'exclusions' column
 - add land division located in The Cedars Subzone in the 'exclusions' column.
- E.142** **AMEND** DO 1 to refer to sensitive environmental areas.
- E.143** **CREATE** new PO under 'Rural Industry' policies to guide the expansion of established small-scale or new large scale industry.
- E.144** **AMEND** PO 4.1 to refer to opportunities for diversification and value-adding to locally sourced primary production activities, and specifically refer to produce grading and packing.
- E.145** **AMEND** DTS/DPF 4.1 (c) to increase the total floor area of industries, etc. from 250m² to **350m²**.
- E.146** **AMEND** PO 5.1 to be clearer about the policy intent of dwellings in the zone to provide a convenient base for landowners to conduct and manage commercial-scale primary production and rural-related value-adding activities without compromising the use of the allotment, adjacent land or long-term purpose of the zone for primary production or related tourism values due to a proliferation of dwellings.
- E.147** **CREATE** new DTS/DPF and PO criteria under the heading 'Dwellings' to facilitate the development of a second dwelling on an allotment in appropriate circumstances, including where it:
- Is located within 20 metres of an existing dwelling on the same allotment

- utilises existing infrastructure and vehicle access used by an existing dwelling
- is located on an allotment not less than 40ha in area
- supports ageing-in-place for the owner of the allotment
- is located within 20 metres of an existing dwelling on the same allotment
- does not compromise primary production or value-adding industries.

E.148 **AMEND** DTS/DPF 6.3 (b) – Tourist accommodation to specify that a total floor area of 100m² applies where in a new building, and where in an existing building, does not exceed 150m².

E.149 **AMEND** DTS/DPF 6.5 (b) – Function Centre to refer to persons instead of seats.

E.150 **AMEND** DTS/DPF 13.1(d) to increase the permissible maximum floor area of agricultural buildings from 200m² to **350m²**.

Dwelling Excision Overlay

This overlay seeks to allow dwellings located on large rural allotments to be excised into a smaller allotment, leaving the balance of the land for primary production uses. It applies to areas where development plans currently anticipate land division that excises existing dwellings onto smaller allotments.

Engagement Feedback:

Limited feedback was received in relation to the Dwelling Excision Overlay, primarily from councils. Key issues included:

- The Overlay appears to contradict the existing Environment and Food Production Overlay (EFPA), which identifies that land division for residential purposes must not be supported.

***Clarification:** Under the PDI Act, the Environment and Food Production Area is subject to additional requirements when undertaking to divide land. In particular, the PDI Act directs the relevant planning authority to refuse to grant a development authorisation in relation to a proposal to create additional allotments to be used for 'residential development'. This does not, however, include a dwelling for residential purposes on land primarily used for primary production.*

- A 'date criteria' needs to be included in the Overlay to ensure that the ongoing fragmentation of rural land is minimised.

Commission's response:

Based on feedback received in relation to Phase Two Amendment, the Dwelling Excision Overlay now proposes to allow a new allotment to be created between 1 hectare and 4 hectares to excise an existing dwelling and the provisions of the Overlay convey the intention of the excisions being for rural living purposes. Therefore, if a dwelling is being excised from a larger whole to accommodate an existing dwelling on an allotment of 4 hectares or less, it could be reasonably presumed the division is for residential purposes. This potentially places the Overlay at tension with PDI Act (although noting that the PDI Act will prevail in such circumstances).

It is considered appropriate to include a date for the excision of an existing dwelling to prevent multiple ongoing excisions or land fragmentation to occur over time. DTS/DPF 1.1(c) of the Dwelling Excision Overlay was amended as part of the Phase Two Amendment to capture dwellings that existed prior to 1 December 2011. This date is considered appropriate based on a review of policies contained in all existing Development Plans, which included dates ranging from 1 December 1972 to 1 December 2011. Importantly, while the selected date may allow some additional dwellings excisions, it will discourage newly constructed dwellings (i.e. constructed since 1 December 2011) to be excised. Further, councils should have better records of recent dwelling constructions compared to older dates contained in some Development Plans, making it easier to track exact dates of construction and apply this policy.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- E.151** **AMEND** to include a 'date' in the Dwelling Excision Overlay to ensure that multiple excisions and ongoing fragmentation of land is minimised.

Environment and Food Production Areas Overlay

This overlay applies to the Environment and Food Production Areas as prescribed under Section 7 of the Planning, Development and Infrastructure Act 2016 and ensures these areas continue to be protected from urban encroachment. Land division that creates one or more additional allotments for residential purposes is prohibited.

Engagement Feedback:

Limited feedback was provided from councils and the community in relation to the Environment and Food Production Areas (EFPA) Overlay. The following matters were raised:

- The need to include referral bodies for development within the EFPA Overlay such as the Environment Protection Authority (EPA) or Department for Environment and Water.
- Clarification of the application of EFPA land division criteria and boundary realignments, including the contradictory nature of the Dwelling Excision Overlay in the Rural Zone and what constitutes a 'new' allotment for residential purposes.

Clarification:

The Environment and Food Production Area (EFPA) was introduced under the PDI Act on 1 April 2017 to protect vital agricultural lands surrounding metropolitan Adelaide from urban encroachment. It is established via a deposited General Registry Office (GRO) Plan, which can be varied by the State Planning Commission in accordance with a legislative process that includes Parliamentary scrutiny. A review by the Commission must be conducted every 5 years.

Under the PDI Act, any division to create one or more additional allotments requires the relevant authority to obtain concurrence from the Commission unless the Commission is the relevant authority in which case the Commission must obtain concurrence from the relevant council.

In relation to the Dwelling Excision Overlay, some overlap occurs with the EFPA Overlay and, in such cases, the requirements of the PDI Act will prevail. Tension between the Dwelling Excision Overlay and the PDI Act is addressed in the preceding section.

Further, the EFPA Overlay does not mention 'new' allotments, but instead refers to land divisions undertaken in accordance with the relevant section of the PDI Act (i.e. section 7) to ensure consistency with the PDI Act. The PDI Act refers to a 'division of land that would create 1 or more additional allotments' and requires a condition to be attached to a division that an additional allotment will not be used for 'residential development'. In relation to 'residential development', the PDI Act also includes a description of this phrase as to mean 'development primarily for residential purposes', but does not include a 'dwelling for residential purposes on land used primarily for primary production purposes'.

Commission's Response:

Issues associated with overlap between EFPA Overlay and Dwelling Excision Overlay and its implications for dividing land have been addressed in the preceding section, with recommendations to amend

application of the Dwelling Excision Overlay to ensure it does not spatially apply within the Environment and Food Production Area.

In relation to requests for further clarification in relation to division of land (in particular, rural boundary realignments) within the EFPA Overlay, the Commission has issued a Practice Direction on the SA Planning Portal that requires the insertion of a statement on the development approval to the effect that 'additional allotments must not be used for residential purposes'. The Portal also includes a Factsheet that includes a paragraph about boundary realignments, which states that boundary realignments can be lodged for consideration where they comply with policies in the relevant development plan and do not create additional allotments for 'residential development'. It is acknowledged, however, that the PDI Act itself does not specifically encompass boundary realignments and additional clarity is may be warranted in relation to the role of the PDI Act versus the Code in relation to 'boundary realignments' to assist councils and planning authorities. It is therefore proposed to review the content of the Practice Direction and Factsheet relating to the EFPA to better clarify assessment requirements when proposing a boundary realignment that does not result in any additional allotments.

In relation to requests to include referral bodies for proposed activities within the EFPA Overlay, while the EFPA Overlay has been established to protect areas of primary production close to metropolitan Adelaide from urban encroachment, it does not specifically focus on environmental management. Referrals to the EPA and Native Vegetation Council for such matters are addressed elsewhere in the Code (e.g. within the Native Vegetation Overlay, the State Significant Native Vegetation Areas Overlay, Water Protection Area Overlay and a range of activities in Part 9 – Referrals of the Code).

While no recommendations to the Code are proposed, the Commission recommends the Practice Direction and Fact Sheet relating to the Environment and Food Production Areas in the SA Planning Portal to provide greater clarity in relation to division of land within the EFPA, in particular boundary realignments.

Commission's Recommendations:

No changes recommended.

Limited Dwelling Overlay

This overlay seeks to prevent new dwellings being constructed in rural areas where such development may restrict primary production activities. This is evident in various 'paper towns' throughout the state (or adjoining key regional towns/cities) where there is pressure for rural living on existing smaller allotments and a desire to retain productive primary production lands.

Engagement feedback:

Limited feedback was received in relation to the Limited Dwelling Overlay. One council suggested creation of a separate 'Paper Township Overlay' to better reflect the unique circumstances of settlements that exist only on record (such as Currency Creek in Alexandrina and similar settlements in other council areas), where dwellings are not currently envisaged.

Commission's response:

The Limited Dwelling Overlay only contemplates a replacement dwelling on the same allotment. This is considered consistent with the development intent expressed in the existing Alexandrina Council

Development Plan for the Currency Creek settlement, which is currently located in the Primary Production Zone - Currency Creek Precinct 13 and states that 'no additional dwellings should be established within the precinct'. It is also consistent with existing policies for similar settlements such as Leasingham in the Clare and Gilbert Valleys council area where the Overlay is proposed to apply, where policies identify that future housing on vacant allotments is at odds with achieving the precinct's desired character and therefore housing development is not envisaged.

Furthermore, dwellings in the Overlay are classified as restricted development where they fall within Rural and Rural Horticultural Zone, unless it is a replacement dwelling.

On this basis, it is not considered necessary to create a new Overlay for paper townships or settlements.

Commission's Recommendations:

No changes recommended.

Limited Land Division Overlay

This overlay seeks to protect land from ongoing fragmentation by limiting land divisions.

Engagement feedback:

Limited comments were received in relation to the Limited Land Division Overlay. Broadly, the creation of the overlay was supported, and its intent to discourage division that results in an additional allotment was considered to reflect the intent of current Development Plan policies in areas to where the Overlay is proposed to apply. Key issues included:

- A need to revise DO 1 to provide greater guidance as its intent in current policy expression is considered unclear.
- This Overlay needs to be amended to include an additional Performance Outcome to assist in the assessment of boundary realignments to ensure that the number of existing allotments with a site area less than that specified in the relevant zone is not greater than the number that existed prior to the boundary realignment.
- Requests to apply the Overlay to other zones in the Code that similarly seek to discourage the division of land to create additional allotments, such as the Peri Urban Zone.

Clarification: *The Limited Land Division Overlay applies to portions of zones in the Code where existing development plan requirements discourage division creating an additional allotment. The underlying development plan zoning of areas affected by the Overlay includes circumstances ranging from watershed areas and water protection areas to primary production land and township fringes. While these circumstances may seem unconnected, there are underlying concerns about the additional development expectations formed when a new allotment is created. Those concerns (e.g. to reduce potential environmental impacts on water supply areas; support local character or preserve long-term opportunities for agricultural production / changes in demand for commodities) differ between communities and council jurisdictions. The Code provides a basis to recognise those differences, accepting that jurisdictions may have formed an approach based on well-founded experiences and need to respond to different development and community pressures.*

Commission's Response:

DO 1 was revised and amended as part of the Phase Two Amendment to improve policy expression and clarify its intent.

An additional Performance Outcome (PO 1.2) was included in the Overlay as part of the Phase Two Amendment to guide the assessment of boundary realignment proposals. This specifically requires that land divisions involving boundary realignments occurs only where the number of resulting allotments with a site area less than that specified in the relevant Zone is not greater than the number that existed prior to the realignment.

Suggestions to expand spatial application of the Overlay are considered in the Code Spatial Application section of this report.

Commission's Recommendation:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

E.153 **AMEND** to include an additional Performance Outcome to assist in the assessment of boundary realignments.

Resource Extraction Protection Area Overlay

This overlay seeks to protect the current and future extraction of key mineral and other resources by ensuring development has regard to potential environmental and amenity impacts generated by the operation of strategic mines or quarries.

Engagement feedback:

Limited submissions were received in relation to the Resource Extraction Protection Area Overlay.

Feedback included support for the Overlay and the potential to expand its application to identify and protect other strategic resource areas and key quarry sites (including in urban areas) and known economically workable deposits of minerals from incompatible development. This was also suggested in the absence of any rezoning of sites and was viewed as a way to better transition current development restrictions applying to areas surrounding some mining or quarry sites (i.e. by way of existing encumbrances or land management agreements), including the Gulfview Heights Quarry in the Salisbury Council area. In particular, the Code should recognise that residential uses within close proximity of the Gulfview Heights Quarry should be subject to additional policy under an Extractive Industry Area Overlay to reflect the existing encumbrance controls that relate to this area.

Commission's Response:

In relation to opportunities to expand the application of the Resource Extraction Protection Area Overlay, in particular to protect strategic resource areas in urban areas, the overlay has only been applied in greenfield locations at this time to provide a level of protection for mineral resources from encroachment by sensitive uses such as residential development.

The application of more onerous land use requirements to established urban areas within separation distances of existing resources and operating quarries is considerably more complex and may require a

different approach to the one applied in this overlay. Management plans for these mines and quarries also have a role to play in managing potential impacts and mitigating complaints from residents in proximity to mining operations. Further application of the Overlay (or a new Overlay) to strategic resource areas in urban areas would require significant further investigation and is therefore not recommended or appropriate at this time.

With regard to recommendations to include additional or localised policies in the overlay (or a new overlay) to reflect existing encumbrance controls applying to existing quarries such as the Gulfview Heights Quarry in the Salisbury Council area, it is noted that while the existing Salisbury Council Development Plan includes policy in the Residential Hills Zone to the west of the quarry to discourage the creation of additional allotments within 500 metres of the Mineral Extraction Zone, no equivalent policy applies in the adjacent Residential Zones in Salisbury or Tea Tree Gully despite these zones also being within 500 metres of the Mineral Extraction Zone. It is also noted that most land allotments in the existing Residential Hills Zone in this location are already developed and redevelopment opportunities appear limited. This Residential Hills Zone is also proposed to transition to the Suburban Neighbourhood Zone in the Code, which includes minimum site area and frontage Technical Numerical Variations (TNVs) that are likely to curtail further division in the subject area.

On this basis, there is considered to be no substantive benefit in introducing additional requirements via this Overlay (or a new Overlay) to further mitigate intensification of residential development in the location surrounding Gulfview Heights Quarry. Generally, the imposition of additional requirements to limit intensification of residential development near mineral resource operations should be applied based on planning merits and outcomes. The selective application of additional requirements to some residential areas and not others in similar circumstances (e.g. proximity to the same mineral resource) is not considered equitable or likely to help achieve wider objectives such as mitigating the number of residents exposed to mining operations.

In addition, following a review of the overlay based on feedback received on the Phase Two Amendment, there was concern that the referral trigger for development located within a Resource Extraction Zone could result in minor classes of development being referred to the relevant body. The referral as currently drafted in the Phase Three Amendment only excludes a limited range of developments and there is no discretion available to the relevant planning authority. The referral requirements associated with the overlay were therefore amended as part of the Phase Two Amendment by exempting the need for a referral where the development is, in the opinion of the relevant authority, minor in nature and would not warrant a referral when considering the purpose of the referral.

Commission's Recommendation:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- E.154** **AMEND** the referral requirements associated with the overlay by exempting the need for a referral where the development is, in the opinion of the relevant authority, minor in nature and would not warrant a referral when considering the purpose of the referral.

Significant Industry Interface Overlay

This overlay seeks to protect the operations of significant industries by ensuring further sensitive development is precluded due to their potential environmental and/or amenity impacts. It does this by ensuring that land division creating one or more additional allotments for residential purposes is a restricted form of development, and includes policies to guide other sensitive forms of development.

Engagement feedback:

Concern was raised in relation to the absence of policy referencing industrial hazard risks. It was argued the Code has changed the policy emphasis to the management of interface matters (e.g. noise and dust). Council recommend the implementation of a new Overlay that is more suitable to the circumstances present on the Lefevre Peninsula.

Clarification:

The overlay has been introduced to address an existing situation that warrants a land use response to limit development in proximity to identified emissions and hazards. It could be argued that the planning authority has knowledge about the circumstances in question already and is therefore able to monitor the overlay's relevance rather than place requirements on a landowner through amending the overlay provisions.

Commission's response:

It is considered that refinements should be considered to the existing draft Significant Industry Interface Overlay to improve its intent, emphasising the need to mitigate intensification of sensitive receivers within the overlay area to mitigate community exposures to sources of hazard and emissions, rather than the protection of an existing industries (or other activities).

To enable more flexibility in application of the overlay in suitable circumstances, it is recommended that the overlay name not specifically reference significant industry, but rather interface management more broadly.

Furthermore, in areas where more significant controls are warranted to prevent new sensitive receivers located near significant hazards and environmental/amenity impacts, a new overlay is recommended.

Amendments based on additional information/investigation:

It is also considered appropriate to amend the overlay to include requirements associated with the division of land, being an activity not included under the definition of 'sensitive receiver'.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

- E.155 CREATE** new 'Significant Interface Management Overlay' which prevents the establishment of new, and intensification of sensitive receivers to mitigate community exposure to potential adverse hazards and environmental and amenity impacts generated by the lawful operation of proximate significant activities.
- E.156 RENAME** overlay to 'Interface Management Overlay'.
- E.157 DELETE** DTS/DPF 1.1 and adapt for inclusion in DTS/DPF 1.1 and 1.2 of the new Significant Interface Management Overlay.

Advertisements General Development Policies

These policies seek to ensure advertisements are appropriate to their context, efficient and effective in communicating, limited in number to avoid clutter, and do not create hazard.

Engagement feedback:

Extensive feedback on the Advertisements General Development Policies was received from local government, industry, government agencies and the wider community.

Key feedback included:

- Introduction of policy that advertisements and/or advertising hoarding should be sited to avoid damage to, or pruning or lopping of, on-site landscaping and/or street trees.
- More policy is needed on how to deal with third party advertising and clarification of PO3.1 as to the use of the word 'Primarily' and the extent of third party advertisements possible.
- Changes to policy to restrict advertising within residential zones are needed.
- Requests for clarification and/or definition of advertising to include flags, bunting and streamers currently found in Development Plans.
- Policy is missing within the Code for maximum size and height requirements for advertisements and advertising hoardings as it relates to some zones (including Recreation Zone, Community Facilities Zone, Suburban Employment) particularly when it concerns freestanding signs.
- PO and DTS/DPF 2.2 should allow for more than one advertisement on larger sites with long road frontages where additional signs are unlikely to result in a proliferation.
- Numerical values for freestanding signs are needed.
- Provision for illuminated signs in DTS/DPF 4.1 should be made when the signs are separated from a sensitive receiver (e.g. 25m).

Clarification: PO 4.1 aims to address the effects of light spill from advertisements on sensitive receivers. Such effects depend on the size of the advertisement and / or level (brightness) of the illumination, as well as existing background lighting levels. Further work will inform a policy approach to this issue.

- In regard to DTS/DPF criteria, referencing to 'road widening' is difficult to determine objectively and part (b) of DTS/DPF 1.3 should be removed.
- The content of Table 1 is incomplete.

Clarification: Table 1 was intended to consolidate requirements around the scale of advertisements, however, such requirements have been included within relevant zones. As such, the table does not serve its purpose and can be removed.

- There is concern that if the sign area exceeds the DTS, no other criteria is provided within Table 1 that will provide some assessment criteria to what should be deemed as appropriate.
- Amend PO 1.2 as follows: 'Where possible, advertisements in the public realm integrated with existing structures and infrastructure'.
- The design criteria should be more explicit, i.e. signage designed respective of buildings or site of historical significance or heritage value and reference character of the rural or urban landscape.
- Clarification is needed about the permissibility (or otherwise) of A-Frame and moveable signs.
- Signs that primarily use an architectural or sculptural form (rather than text) to identify with the on-site enterprise should have maximum dimensions that approximate with those recommended for free-standing signs.
- Illustrations are needed to support policy and definitions to provide greater guidance to planners.
- Where a Future Road Widening Overlay applies, then (in most circumstances) the proposed property boundary realignment will not be known with any degree of certainty and the provision will be incapable of objective application. Therefore, recommend that DTS/DPF 1.3(b) be deleted.
- Policies that guide temporary advertisement hoardings or shrouds generally and for the screening of construction sites have not been included in the Code.
- Sky signs are undesired and LED signs are lacking detail in the Code and guidance on these structures is paramount in the city.

- Request for additional policy relating to vending machines and automatic teller machines to maintain the character and continuity of activity along street frontages, maintain good visibility from the street or public places for security, and not disrupt pedestrian movement.

Clarification: There are potential implications associated with any policy change that requires some level of investigation to inform policy development and avoid an unintended level of clutter / untidiness across different zones (e.g. allowances for multiple signs might impact rural amenity where an allotment contains multiple businesses).

Commission's Response:

The request for the introduction of policy that advertisements and/or advertising hoarding should be sited to avoid damage to, or pruning or lopping of, on-site landscaping or street trees is acknowledged. Where signage affects a significant or regulated tree, those parts of the Code relating to trees will apply and guide the development. Landscaping that is required by way of a condition of consent or shown as part of a development will affect the ability, or otherwise, of an advertisement to be sited. The Code requires that advertisements and/or advertising hoardings are contained within the boundaries of the site. Where such structures impact a street tree, this will be managed outside the scope of the Code. Accordingly, no additional policy relating to landscaping or street trees is supported by the Commission.

In response to requests for more policy on how to deal with third party advertising and clarification of PO 3.1, this Performance Objective has been amended to clarify the outcome being sought in relation to 'Advertising Content' to better inform performance assessments when advertisements are proposed that are not related to a use on the same site (e.g. assist to mitigate the overall extent and proliferation of advertising material).

In response to feedback requesting changes to policy to restrict advertising within residential zones, this is best placed within each zone, rather than a general policy regarding advertisements. Where appropriate, each zone will address this issue.

Requests to identify numerical values for freestanding signs and policy within the Code for maximum size and height requirements for advertisements and advertising hoardings is acknowledged, particularly as it relates to some zones. This detail appears in each relevant zone, rather than in the general policy regarding advertisements. Table 1 was intended to consolidate requirements around the scale of advertisements, however, such requirements have been included within relevant zones. As such, the table does not serve its purpose and can be removed.

In response to requests that PO and DTS/DPF 2.2 allow for more than one advertisement on larger sites with long road frontages where additional signs are unlikely to result in a proliferation, amendments include an allowance for multiple advertisements to be accommodated on larger sites taking into account different settings (e.g. urban, township, rural).

In response to illuminated signs in DTS/DPF 4.1 should be made when the signs are separated from a sensitive receiver (e.g. 25m), the Commission notes PO 4.1 aims to address the effects of light spill from advertisements on sensitive receivers. Such effects depend on the size of the advertisement and / or level (brightness) of the illumination, as well as existing background lighting levels. Further work will inform a policy approach to this issue in future generations of the Code.

In reference to DTS/DPF criteria, references to 'road widening' in DTS/DPF 1.3 have been removed.

Amendments have been made to PO 1.2 requiring advertisements to conceal their supporting structure.

The Commission acknowledges the request for more explicit design criteria in respect of buildings or sites of historical significance or heritage value. PO 1.1 seeks advertisements that are compatible and integrated with the design of the building and/or land they are located on. This requires regard to heritage values and historic context.

Queries about the permissibility (or otherwise) for A-Frame and moveable signs are noted, however in most instances these signs are not development and are managed by other legislation.

The feedback regarding signs that primarily use an architectural or sculptural form (rather than text) to have maximum dimensions that approximate with those recommended for free-standing signs is acknowledged. The size provisions within each zone will apply to such signage.

The Commission does not support the request to include illustrations to support policy and definitions with regard to advertisements.

The Commission acknowledges feedback regarding the policies that guide temporary advertisement hoardings or shrouds generally and for the screening of construction sites has not been included in the Code. It is acknowledged that such hoardings and shrouds are temporary and in many cases necessary. Notwithstanding the temporary nature of such advertisements, the general policies will still apply including those that require advertisements and/or advertising hoardings of a scale and size appropriate to the character of the locality. Given that these advertisements are not permanent and are removed at the completion of construction, additional specific policy addressing them is not considered warranted.

The Commission notes council feedback that sky signs are undesired and provisions relating to LED signs are lacking detail in the Code. PO 1.1 seeks advertisements are compatible and integrated with the design of the building and/or land they are located on, with the associated DTS/DPF noting that where located above a canopy, advertisements are flush with a wall, do not have any part rising above parapet height and are not attached to the roof of the building. No additional provisions are considered necessary by the Commission.

The request for additional policy relating to vending machines and automatic teller machines to maintain the character and continuity of activity along street frontages, maintain good visibility from the street or public places for security, and not disrupt pedestrian movement is acknowledged. Where these include advertisements, policies will continue to apply relating to proliferation of advertisements being minimised to avoid visual clutter and untidiness.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- E.158** **AMEND** PO 3.1 to clarify the outcome being sought in relation to 'Advertising Content' to better inform performance assessments when advertisements are proposed that are not related to a use on the same site (e.g. assist to mitigate the overall extent and proliferation of advertising material).
- E.159** **AMEND** DTS/DPF 5.3 to remove reference to other DTS policies and instead stipulate that advertisements are not located in a public road or rail reserve, and are located outside of corner cut-off areas.
- E.160** **REMOVE** Table 1 – Maximum Size and Height Requirements, including references to this table (DTS/DPF 1.5) from the Code.

Animal Keeping and Horse Keeping General Development Policies

These policies seek to ensure that animals are kept at a density not beyond the carrying capacity of the land and in a manner that minimises their adverse effects on the environment, local amenity and surrounding development. Note: Policy relating to more intensive animal keeping, including dairies and aquaculture, are contained in Intensive Animal Husbandry and Dairies General Development Policies.

Engagement feedback:

A range of feedback was received from councils, state agencies and the community in relation to the Animal Keeping and Horse Keeping General Development Policy module. Key matters raised included the following:

- A need to address observed administrative errors and relocation of policy to better reflect its content (e.g. PO 2.3 refers to kennelling but falls under the heading of 'Horse Keeping').
- Opportunities are needed to include more tailored or additional policies to guide assessment of emerging activities such as 'doggy day care' (i.e. which may not align with uses such as kennelling) and non-traditional domestic pet keeping (e.g. pigs, goats and llamas).
- There is a need to transition existing policy in The Barossa Council Development Plan regarding fencing for animal keeping and site requirements for horse keeping.
- Queries were raised regarding the need for kennels to be sited in association with a permanent dwelling on the land as required by DTS/DPF 3.3.
- Further clarity is required in terms of the relationship between these general policies and the 'Intensive Animal Husbandry and Dairies' General Development Policies, in particular to ensure appropriate separation of intensive animal keeping activities (e.g. piggeries) from sensitive dwellings and whether intensive animal husbandry should be subject to public notification.

Clarification:

Policy relating to intensive animal keeping activities are contained in the separate 'Intensive Animal Husbandry and Dairies' General policy provisions. The Land Use Definitions in the Code specifically define intensive animal husbandry to include activities such as piggeries, feedlots, poultry hatcheries and batteries, and broiler sheds. The 'Intensive Animal Husbandry and Dairies' General policy provisions therefore cover intensive animal husbandry beyond simply dairies. Applications for many such activities also require referral to the EPA under the Code to provide expert technical assessment, which includes consideration of appropriate separation distances to sensitive residential development depending on local or site-specific circumstances. Intensive animal husbandry is also subject to notification in a number of Zones/Subzones, in particular where sensitive uses are intended.

- Exclusion of criteria outside the scope of a planning assessment, specifically use of the phrases 'carrying capacity of the land' in DO 1 and 'minimise potential transmission of disease' in PO 1.2.

Clarification:

The policy expression, 'carrying capacity of the land' already exists in current development plans and the SA Planning Policy Library, and is applied as a means to control the density of animal keeping. It is considered appropriate to retain and apply this concept in the Code.

- Revision of policy expression to apply to broader contexts in relation to flood events (i.e. to consider rarer flooding and rainfall events in response to climate change) and wastewater land application areas (i.e. as opposed to septic tank effluent disposal areas) is needed.

Clarification:

The term 'septic tank effluent disposal area' or 'septic tank effluent drainage field' has been applied consistently throughout existing development plans, and its meaning is well recognised by practitioners and the community. These terms also appear throughout the Code based on this clear understanding. While it is acknowledged that the term 'wastewater land application areas' is applied in other jurisdictions, it is therefore not considered appropriate to apply this term in the Code at this time.

With regard to rainfall and flood events, the Code generally seeks to ensure that development is designed and sited to manage/accommodate or avoid pollution in a 100-year ARI flood event (or 1% AEP). This is based on contemporary planning standards in most jurisdictions across Australia and baseline information derived from stormwater analysis, scenario planning and flood mapping prepared by a number of Greater Adelaide councils to support Stormwater Management Plans. While some locations (particularly internationally) are moving towards planning for rarer events, such as a 1 in 500 year or 1 in 1000-year event, this has not yet been the case with the SA planning system and requires further review / investigation and establishment of baseline data prior to any future changes to the Code.

Commission's Response:

The Animal Keeping and Horse Keeping General policy provisions in the Code have been drafted to comprise policy from the existing Animal Keeping General policy module contained in the SA Planning Policy Library. Policy relating to more intensive forms of animal keeping, including dairies and aquaculture, are addressed elsewhere in the Code in the 'Intensive Animal Keeping and Dairies' and 'Aquaculture' General provisions.

With regard to suggestions to include additional policies to guide the assessment of the keeping of non-traditional domestic pets (e.g. pigs, goats and llamas), it is acknowledged that policies have traditionally focused on forms of animal keeping that may give rise to greater environmental impacts or land use conflicts such as horse keeping and the kennelling of dogs. While the keeping of less traditional domestic pets may be increasing in popularity, it is not considered practical for the Code to list all potential animals that may conceivably be kept on land. POs 1.1 and 1.2 of the General Animal Keeping and Horse Keeping policy provisions are also intended to guide the assessment of any form of animal keeping, in particular to ensure such activities do not create adverse environmental or amenity impacts or increase potential for transmission of disease. The keeping of various types of animals is also addressed through individual council by-laws and it is not the intent of the Code to override local requirements in this regard.

In relation to requests to remove conflicting policy in DTS/DPF 2.2, the reference stating that no DTS/DPF criteria is applicable was removed as part of the Phase Two Amendment in favour of other criteria included in this provision. Further, reference in PO 2.3 to 'kennel flooring' under the horse keeping provisions was also amended to correctly refer to 'stable flooring' as part of the Phase Two Amendment.

With regard to concerns that DTS/DPF 3.3 requires kennels to be sited in association with a permanent dwelling on the land, the intent of the performance objective (PO 3.3) is to ensure that dogs are regularly observed and managed to minimise nuisance impact on adjoining sensitive receivers from animal behaviour. This outcome is often more likely to be achieved where kennels are established with an associated residence i.e. (caretaker's residence) and the DTS/DPF therefore affords greater opportunity

for the establishment of a kennel in these circumstances. This policy does not, however, preclude the establishment of kennels on an allotment where a permanently occupied dwelling is not located subject to further assessment.

Suggestions to include more tailored or additional policies to guide assessment of emerging activities such as 'doggy day care' (i.e. which may not align with uses such as kennelling) are acknowledged. While such facilities may not align with the definition of 'intensive animal keeping' under the current *Development Regulations 2008*, the Land Use Definitions in the Code now make a distinction between 'Intensive animal husbandry', 'low intensity animal husbandry' and 'animal keeping', with the latter including "the boarding (short or long term), keeping, breeding or training of animals, except horses and/or commercially kept livestock". This definition (Column C) specifically includes dog kennelling, which would have similar impacts to day care facilities for dogs. Applications for dog day care facilities will be Performance Assessed under most zones in the Code and should therefore be assessed against policy provisions contained in the Animal Keeping and Horse Keeping General policy of the Code, including PO 1.1 and PO 1.2 to ensure such activities do not create adverse environmental or amenity impacts, as well as a range of other policies in the Code to manage interfaces with adjacent uses (e.g. within Interface between Land Use General provisions).

With regard to suggestions to transition local policy in the existing Barossa Council Development Plan relating to fencing for animal keeping (e.g. to require fencing to be open and constructed using new materials), it is noted that many forms of fencing are excluded from the definition of 'development' under the *Planning, Development and Infrastructure (General) Regulations 2017*, and therefore do not require lodgement of a development application for approval. It is therefore not considered appropriate to include specific requirements relating to fencing for animal keeping within the Code.

Further, policies in the existing Barossa Council Development Plan relating to site features for horse keeping (i.e. minimum size and dimensions for horse stables, shelters and holding yards) are similarly reflected in a number of other development plans. Notwithstanding this, there are differences between these plans in relation to the preferred / desired minimum sizes and dimensions for stables, shelters and yards based on local circumstances. Given these differences, it is not appropriate or practical to include such provisions or criteria in the Code without more robust review and engagement.

While suggestions that PO 1.2 relating to minimising potential transmission of disease between animal keeping operations is outside the scope of planning assessment are acknowledged, disease transmission between animal species is paramount to manage and mitigate, particularly to protect commercial operations. Existing policy provisions in development plans also seek to address this issue, including for more intensive operations such as aquaculture. Appropriate siting of animal keeping areas through the planning and development system can be an effective means to address this issue, and such policies are considered appropriate to retain in the Code.

Commission's Recommendations:

No changes recommended.

Aquaculture General Development Policies

These policies encourage development of aquaculture facilities in an ecologically, economically and socially sustainable manner to support an equitable sharing of marine, coastal and inland resources and mitigate conflict with other water-based and land-based uses.

Engagement feedback:

A limited amount of feedback on the Aquaculture General Development Policies was received, focussing on references to storm or flood events and the consideration of future flood hazard with regard to the impacts of the projected urban infill and climate change.

Specific feedback included:

- Policy on separation distances for land-based aquaculture from DTS/DPF 1.1 should be removed as such developments are required to be referred to the EPA under Part 9 of the Code (unless 'wastewater is discharged to an approved wastewater management system').

Clarification:

The referral trigger in Part 9 of the Code relates to all land-based aquaculture when it involves the discharge of wastewater to marine or inland waters or onto land. A referral is not required if the disposal of wastewater is to an approved wastewater management facility.

The separation distances in DTS/DPF 1.1 are a combination of the following:

- *the EPA's **Evaluation distances for effective air quality and noise management document**, which establishes evaluation distances for various components of an aquaculture activity, including a 'pump-ashore' (coastal flow through) which attracts the greatest separation distance of 200m – and the Code applies this to any sensitive receiver*
- *established land use policy in Development Plans, which requires land based aquaculture to be located 500m from a township, settlement or urban area.*

The separation distances proposed in the Code appear to be aimed at mitigating potential noise generated by pumps and the like, which does not appear to be the primary reason behind the referral trigger. That is, if wastewater from land based aquaculture were to be deposited to an approved wastewater management facility the referral is not required irrespective of whether a pump-ashore forms part of the proposal.

DTS/DPF 1.1 (a) is the only new requirement and provides additional guidance that is reflective of evaluation distances recognised by the EPA. On this basis it is proposed to be retained pending any clarification from the EPA about how the separation requirement might affect a referral to it for land based aquaculture.

- Policies that are subject to requirements under the *Aquaculture Regulations 2016* should be removed

Clarification:

At this stage aquaculture development outside of an Aquaculture Zone under the Aquaculture Act is not an exempt form of development under the PDI Act. As such, the Code needs to contain enough policy for proper consideration of aquaculture proposals by a relevant planning authority and to defend determinations in the court if needed. This means there may be overlay between planning requirements and licencing requirements from a proponent's perspective. Although this is less than ideal, information provided to PIRSA to inform a licence application might also be used in the planning assessment process and vice versa.

In terms of the administrative arrangement related to this, the Code includes a referral to the Minister for the time being administering the Aquaculture Act 2001 for any aquaculture development.

- One submission noted that existing Development Plan policy content which deals with the siting of aquaculture sites taking into account ‘traditional indigenous and commercial fishing grounds’ has not transitioned to the Code.

Clarification:

The impact of ‘commercial fishing grounds’ should be considered by PIRSA when issuing licences under the Aquaculture Act 2001. Indigenous fishing grounds’ are better considered under other legislation that addresses Aboriginal heritage sites or processes for Native Title determinations.

- Reference to storm or flood events should consider the future flood hazard with regards to the impacts of the projected urban infill and climate change over the likely lifetime of development e.g. 30 years. Therefore, all flood studies that underpin decisions in the Code need to include consideration of climate change and urban infill scenarios so that a relevant scenario can be referenced when assessing for flood risk.
- It is suggested that development should have regard to rarer events (1:500 AEP, 1:1000 AEP) to reflect the general expectation that the rarer events will become more frequent with climate change and/or urban infill. Consider including additional PO to capture rarer events.

Commission’s Response:

The Commission does not support the adoption of reference to rarer events (i.e. 1:500 AEP, 1:1000 AEP), noting that future updates are anticipated as further investigations are completed and data on flooding becomes available.

The Hazards (Flooding) Overlay will be updated in the future as investigations into flooding are undertaken and data regarding flooding becomes available.

Commission’s Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

E.161 REMOVE policies that unnecessarily duplicate licencing requirements under the *Aquaculture Regulations 2016* (PO 2.8 and 3.3).

Note: Other changes to aquaculture provisions in the Code will be a matter of ongoing dialogue between the Department and PIRSA to determine Code content based on responsibilities or changes to responsibilities under the respective legislative instruments.

E.162 AMEND PO 2.2 to clarify the intended outcome (e.g. mitigate environmental harm from the build-up of waste in marine aquaculture sites).

Beverage Production in Rural Areas General Development Policies

These policies seek to mitigate the potential amenity and environmental impacts of value-adding beverage production facilities such as wineries, distilleries, cideries and breweries. The policies are based on existing development plan policies associated with wineries.

Feedback on the Beverage Production in Rural Areas General Development module focussed on the following matters:

- Rewording the general module to drop reference to rural areas, and simply state ‘Beverage Production General Development Policy.’ This would enable Phase Three councils and other relevant areas to apply the policy measures to non-rural areas.
- The inclusion of other beverage facilities which fall outside the ambit of ‘brewery, cidery, distillery and winery’ as explicitly mentioned in DO 1.
- The revision of DTS/DPF 1.5 to remove reference to ‘48 hours’ as it is considered prohibitive and unrealistic by industry.
- The inclusion of 48-hour maximum for solid waste to be removed, to be prescribed in PO 1.5.
- Rewording PO 1.1 policies to refer to sensitive receivers to provide further protection to these land uses.
- Introduction of a ‘connection in place’ policy that reflects current development plans to discourage the establishment of beverage facilities which have no connection to place.
- Inclusion of a definition for ‘Cellar Door’ to Part 8 – Administrative Definitions, to provide guidance as to what constitutes a cellar door.

Commission’s Response:

The policy in this module is primarily intended to address environmental and amenity impacts from alcoholic beverage production and the associated impacts (such as odour and noise) in rural areas, and as such, policy change to widen its intent is not considered necessary.

The module was approved to apply in regional area through the approval of the Phase Two Amendment, and is considered suitable to apply in rural areas that are affected by the Phase Three Amendment.

Commission’s Recommendations:

No changes recommended.

Bulk Handling and Storage Facilities General Development Policies

These policies encourage facilities for the bulk handling and storage of agricultural, mineral, petroleum, rock, ore or other similar commodities to be designed to minimise adverse impacts on transport networks, the landscape and surrounding land uses. It includes minimum separation buffers from sensitive land uses through deemed-to-satisfy requirements for specific bulk handling and storage facilities, such as coal or bulk petroleum storage.

A limited amount of feedback on the Bulk Handling and Storage Facilities General Development Policies was received, focussing on terminology, separation distances and visual impact.

Key feedback included:

- A request to include a definition for Bulk Handling and Storage Facilities to limit future misinterpretation.

Clarification: The ordinary meaning of the term 'building handling and storage facility' is considered sufficient, and as such, a land use definition is not warranted.

- The need to establish minimum separation distances for all bulk handling facilities from sensitive receptors.
- Amendments to bulk handling and storage facilities should incorporate landscaping to assist with screening and dust filtration and to contribute to tree canopy cover throughout metropolitan Adelaide.
- The requirements in DTS/DPF 1.1 should either define 'bulk petroleum storage' or provide detail as to capacity limits within the DTS criteria (similar to coal handling in part (c) of the same policy).
- The DTS/DPF 1.1 criteria should include the nature and extent of requirements that trigger a referral to the EPA for advice.
- DTS/DPF 1.1 potentially misrepresents the intent behind the use of evaluation distances and their referral triggers where separation distances applied to impact-generating uses may vary according to factors like scale, method of storage, facility management and environmental conditions.
- PO 1.1 needs to be redrafted to apply to facilities up to the time a referral is triggered. Visual impacts should be minimised by integrating them into the building design and screening them from public view (e.g. fencing, landscaping and built form).

Commission's Response:

Changes to the Bulk Handling and Storage Facilities General Development Policies were incorporated into the Phase Two Amendment as a result of agency, council and industry feedback. This included provisions requiring that facilities for the handling, storage and dispatch of commodities in bulk (excluding processing) meet minimum separation distances from sensitive receivers.

The Commission acknowledges the comments relating to landscaping and visual impacts associated with Bulk Handling and Storage Facilities. PO 2.1 and 2.2 require bulk handling and storage facilities to incorporate a buffer area for the establishment of dense landscaping adjacent road frontages the incorporation of landscaping to assist with screening and dust filtration.

Commission’s Recommendation:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- E.163 AMEND** DTS/DPF 1.1 to apply to development types in a manner that mitigate the potential for inadequate separation requirements being applied under the Code to developments that are subject to referral to the EPA under the Code for advice.

Forestry General Development Policies

These policies ensure commercial forests are designed and sited to maximise economic benefits whilst managing potential negative impacts on the environment, transport networks, surrounding land uses and landscapes.

Limited feedback on the Forestry General Development Policies was received from local government and agencies, focussing on clearance, watercourse setbacks and guidance for carbon absorption plantings.

Key feedback included:

- Request clarification of watercourse reference locations and definitions
- Amendments to carbon sequestration and carbon capture policy are required to ensure the policy is not unnecessarily restrictive for carbon farming
- Policies used for the assessment of commercial forest operations (e.g. PO 1.2, 1.3 and 1.4) may unduly limit areas that are suitable for carbon planting.
- The setback requirement in PO 1.4 relating to reserves constituted under the *National Parks and Wildlife Act 1972* or wilderness areas constituted under the *Wilderness Protection Act 1992* is queried as it could be taken to apply to fire breaks and access tracks and therefore reduce the amount of land available for forestry activities.

Clarification: The setback requirements in the Code establish a setback expectation for DTS/DPF purposes. Plantation trees, access tracks etc. that do not meet the setback will be determined on a case-by-case basis against the corresponding PO. Land within the 50m reserve buffer area may be used if the application can demonstrate a lesser distance satisfies the outcome.

Commission’s Response:

Existing development plan policies on carbon plantings were not core state-based requirements and only appear in a limited number of development plans. The requirements have not transitioned into the Code as they seek to encourage environmental plantings rather than provide for the assessment of commercial forestry generally, which is the main purpose of the module. No additional changes are proposed to the Forestry General Development Policies.

Commission’s Recommendation:

No changes recommended.

Intensive Animal Husbandry and Dairies General Development Policies

These policies encourage development of intensive animal husbandry and dairies in locations that are protected from encroachment by sensitive receivers in a manner that minimises their adverse effects on amenity and the environment.

A small number of comments were received on the Intensive Animal Husbandry and Dairies General Development policies from councils, industry and members of the public:

- Policies should discourage the establishment of intensive animal keeping and ancillary uses in high-flood risk areas.
- AEP Flood Event referenced in PO 2.1 should include reference to rarer flood events to reflect the increased likelihood of such events in the event of climate change and urban infill scenarios.
- Separation distances related to noise and air emissions should apply to all uses that fall under the ambit of intensive animal husbandry in DTS/DPF 1.4, in addition to dairies.
- Spatial mapping that depicts 'third order or higher streams' as referenced in PO 3.1 and DTS/DPF 3.1 to provide guidance to applicants and relevant authorities is needed.

Clarification: The inclusion of this spatial layer would capture an immense amount of data, which has not been fully surveyed. Definition of third order or higher stream is available from the EPA and is defined as where second order streams join, they form a third order stream.

Commission's Response:

This module is comprised of policy from the existing SAPPL Animal Keeping general policy relating to more intense activities (e.g. poultry sheds, piggeries and dairies) without fundamental change to scope or intent, separate from policy relating to less intensive animal keeping such as kennels and horse keeping.

In relation to requests for specific setback distances to be included for all uses that fall under the ambit of intensive animal husbandry in DTS/DPF 1.4, it is noted that this provision only serves as a Designated Performance Feature (DPF) to guide performance assessment as dairies are not activities which attract a DTS pathway. Other land uses captured under the definition of intensive animal husbandry within Part 7 of the Code would also require performance assessment and in many cases a referral to the EPA or an EPA Licence. As such it is not considered necessary to include specific setback provisions within the Code. For these reasons, no changes are recommended to this module.

Commission's Recommendations:

No changes recommended

Interface Between Land Uses General Development Policies

These policies ensure development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses. It seeks to reduce conflict and protect health by addressing interface issues such as land use separation, overshadowing, noise and vibration, and air quality.

The development industry requested the following:

- Overshadowing requirements should be tempered in relation to higher density and scale zones
- Noise policy should be managed not minimised
- Light spill policy should seek to manage light spill, not eliminate it

Councils requested the following:

- The inclusion of hours of operation in relation to non-residential activity in neighbourhood type zones
- Provision of additional guidance in relation to solar access for solar panels
- Interface issues need to take into account sensitive receivers that have been approved but not yet constructed.

Comments were also received for buffer distances to be included in relation to additional activities or be specified as a DTS/DPF where there isn't one specified.

***Clarification:** The overshadowing provisions specify the requirements for light access for adjacent residential uses in relation to windows and private /communal open space, as well as generally in relation to solar panels. Overshadowing policy will apply to performance-assessed development. It will not apply to development classified as deemed-to-satisfy.*

Commission's Response:

The Interface Between Land Uses General Module is largely considered to be suitable, with a number of key issues addressed through the approval process for the Phase Two Amendment (such as Sunday hours of operation).

However, considering issues in a more intense urban context is important.

Hours of operation

Impacts from commercial activity are as a result of intensity and scale. In residential areas only small-scale intensity activities are envisaged, so impacts will inherently be minor. Standard hours of operation are considered appropriate.

Overshadowing

Standard overshadowing requirements in relation to windows and private / communal open space of adjacent residential uses will be more difficult to meet in infill / medium to high scale zones and may inhibit achieving desired outcomes for those zones, so tempering these requirements in such locations is supported. Accordingly, the Commission recommends adjusting the overshadowing provision in relation to windows and private / communal open space so that overshadowing is 'minimised' in relation to residential uses in neighbourhood zones, and 'managed' in other zones, and related DTS / DPF provisions to qualify their effect in relation to adjacent residential development within a neighbourhood-type zone is also warranted.

Assessment of solar access in relation to solar panels is considered best left as a performance-assessed matter as some subjective evaluation will be needed.

Noise policy

Noise policy is mostly framed around not unreasonably impacting on the amenity of adjacent sensitive receivers, which is considered appropriate. In relation to bedrooms, policy seeks to minimise impacts which is considered appropriate given health considerations and the effect noise can have on sleep. Various comments were received around wording and more prescriptive policy, however outcomes are considered to be sufficiently addressed and enable suitable performance assessment.

In relation to policy addressing noise from a licenced premises, this should be expanded to also deal with licensed entertainment premises (which are envisaged in some zones).

It should also be noted that additional requirements apply to some mixed use locations through the application of the Noise and Emissions Overlay, including in relation to noise from high-volume roads where relevant. Additional policy in relation to music noise is recommended in relation to the Noise and Emissions Overlay.

Light spill

Light spill policy seeks to not cause unreasonable light spill impact on adjacent sensitive receivers (rather than eliminate it), which is considered appropriate.

The suggestion to amend PO 6.5 in the Transport Access and Parking General Module to soften it by replacing the need for floodlit entry points to 'sufficiently lit entry points' is supported.

Separation of land uses

Requests for buffer distances for additional activities (or a numbered DTS/DPF for those that don't currently have one) are acknowledged. However, buffer distances have been included generally for activities where these could be established with some certainty and consistency (typically based on current development plan criteria).

A minor change is recommended to clarify that the intent of the policy also applies to lawfully approved development.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- E.164** **AMEND** DTS/DPF 9.5 to establish separation requirements for sensitive receivers that are equitable with requirements for the siting and referral requirements applied to bulk storage facilities.
- E.165** **AMEND** DTS/DPF criteria relating to hours of operation to include allowances for Sunday trading and differentiate 'restaurant' from the umbrella term 'shop' to recognise different operating requirements.

Phase Three (Urban Areas) recommendations:

- E.166** **AMEND** PO 3.1 & 3.2 so that the outcome is to 'minimise' overshadowing in relation residential uses in neighbourhood type zones, and to 'manage' in relation to residential uses in all other zones.

- E.167** **AMEND** DTS /DPF 3.1 and 3.2 so it only relates to adjacent residential uses in neighbourhood-type zones.
- E.168** **AMEND** PO 4.5 to include licensed premises.
- E.169** **AMEND** policy through the module to refer to 'lawfully approved' activity / use in addition to 'existing' activity / use – for example PO 1.1 would read 'Sensitive receivers are designed and sited to protect residents and occupants from adverse impacts generated by lawfully existing land uses (or lawfully approved land uses) and land uses desired in the zone.
- E.170** **AMEND** DTS/DPF 9.5 regarding separation from sensitive receivers to provide different distances depending on the nature of the commodity.

Resource Extraction General Development Policies

These policies ensure resource extraction activities (i.e. mining) are developed in a manner that minimises human and environmental impacts.

Limited feedback was received regarding the Resource Extraction General Development Policy module:

- A number of councils suggested that additional policy should be included to address site rehabilitation, including through reference to rehabilitation plans.

Clarification: *Site rehabilitation is largely addressed as a condition of planning consent therefore additional general development policies are not considered necessary.*

- It was noted that the Resource Extraction General Development Policy Module did not appear to have been applied to any of the zones within the Code.

Clarification: *Resource extraction activities are mostly regulated under the Mining Act 1971 and as such, planning applications are generally limited to borrow pits or activities where the mined resource will not be sold. These applications are therefore quite rare and unpredictable in nature. As a result, it is considered more appropriate to allow resource extraction activities to be assessed under the entire Code as 'All other Code Assessed Development'.*

- One industry group suggested that very few mining operations do not materially impact the landscape and that it was unreasonable to expect minimal damage. It was considered reasonable however to require the reclamation of disturbed areas.
- One council suggested the need to include policy that identifies and protects known economically workable deposits of minerals from incompatible development.

Clarification: *Policies that identify and protect known economically workable deposits of minerals from incompatible development are provided through application of the Resource Extraction Protection Area Overlay and the Resource Extraction Zone.*

Commission's Recommendation:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

E.171 AMEND PO 1.1 to minimise landscape damage outside of areas necessarily disturbed to access and extract the resource.

Tourism Development General Development Policies

These policies seek tourism development built in locations that cater to the needs of visitors and positively contribute to South Australia's economy.

Limited feedback was received in relation to the Tourism Development General policy provisions, with submissions predominately received from councils:

- It was suggested that additional policies may be needed to guide siting and development of tourism operations where located in areas of environmental significance to manage impacts on native vegetation, biodiversity and landscape amenity.
- Several submissions sought a review of DO 1 and PO1.1 to further reference environmentally sustainable tourism as well as surrounding environmental contexts.
- It was suggested that policy guidance for tourism development in rural areas relating to value-adding activities, processing of farm produce and reuse of existing buildings should be addressed.

Clarification: *Various environmental, landscape, heritage and resource issues are addressed by other components of the Code. In addition, effort has been made to support tourism and value-adding opportunities within rural locations through zone policies.*

- It was suggested that tourism development policy should better recognise changing market needs and desires for unique experiences. Policies could also differentiate the type and scale of tourism development across the state rather than adopting a 'one-size-fits-all' approach.

Commission's response: It is considered that form and scale of tourism development is largely addressed by other components of the Code, including individual zone policies, where applicable. Additional flexibility and guidance is provided through the Tourism Development General Development policies in referencing local, natural, cultural and historic contexts.

- It was also suggested that key tourism segments that are reflected in other strategic tourism documents, particularly in relation to SA's natural landscapes, food and wine produce and events / functions should be captured.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- E.172** **AMEND** DO 1 to read 'tourism development in suitable locations that caters to the needs of visitors and positively contributes to South Australia's visitor economy.'
- E.173** **AMEND** PO 1.1 to read 'tourism development complements and contributes to local, natural, cultural or historical context where:
- a) it supports immersive natural experiences
 - b) it showcases South Australia's landscapes and produce
 - c) Its events and functions are connected to local food, wine and nature.

Phase Three (Urban Areas) recommendations:

E.174 **CREATE** policy to address tourism development in areas of environmental significance, such as areas constituted under the *National Parks and Wildlife Act 1972*.

Note: See associated discussion under [Natural Resources and Environment > Conservation Zone](#) of this report.

2.3 Natural Resources and Environment (N)

A high proportion of submissions received related to our Natural Resources and Environment, with a particular interest in climate change, zoning of National Parks and Wilderness Protection areas, coastal protection, native vegetation and flood mapping.

The following is a summary of the key issues raised, followed by an overview of the feedback received on specific zones/subzones/overlays/general development policies, the Commission's response and associated recommendations.

The key issues identified in the natural resources and environment theme included:

- the need for additional land uses in the restricted tables within Conservation Zones or Parks (i.e. tourist accommodation, renewable energy facilities, farming)
- recommendation for new overlays for 'Critical Habitat Areas'
- the extent of the Native Vegetation Overlay including its application within residential areas and townships
- the need for stronger policy to reduce further loss of tree canopy over the state and greater requirements for more and linked landscaped areas
- concern about the inadequacy of policy to combat urban heat from infill development
- concern regarding the loss of existing policies and level of protection of significant and regulated trees
- concern about the lack of policies to prepare developments for climate change, particularly over the life of the development
- the need for further policy development around stormwater management with increased infill development being more prevalent.

The development / implementation of more policies to mitigate climate change was of great importance to the community. The feedback recommended that policies be developed to guide sustainable development practices within the development industry including:

- measures to protect existing mature trees and mandating the inclusion of trees in any development
- mandating water-sensitive and energy-efficient building design
- large water tanks to be plumbed to the home
- permeable surface areas increased
- inclusion of energy generation i.e. individual or community solar systems
- reduction of heat caused by solid surfaces through the inclusion of more than one tree and increased landscaped cover
- policies to ensure developments are designed for their expected lifetime with regard to the changing climate
- application of energy-efficiency policies to different development types.

Changes to Natural Resources and Environment framework

The following summarises the zones, subzones and overlays relevant to this section and proposed name changes. The rationale behind these changes is described in the sections below.

Intensity	Zones (and Subzones in <i>italics</i>)	Overlays (cont.)
Capital City	<p>RENAME City Park Lands Zone to Adelaide Park Lands Zone</p> <p>DELETE Adelaide Oval Subzone</p> <p>DELETE Eastern Park Lands Subzone</p>	<p>Hazards (Flooding)</p> <p>NEW Hazards (Flooding General)</p> <p>Historic Shipwrecks</p> <p>Marine Parks (Managed Use)</p> <p>Marine Parks (Restricted Use)</p> <p>Mount Lofty Ranges Catchment (Area 1)</p> <p>Mount Lofty Ranges Catchment (Area 2)</p> <p>Murray Darling Basin</p> <p>Native Vegetation</p> <p>State Significant Native Vegetation</p> <p>Prescribed Surface Water Area</p> <p>Prescribed Watercourses</p> <p>Prescribed Water Resources Area</p> <p>Prescribed Wells Area</p> <p>Ramsar Wetlands</p> <p>RENAME Regulated Tree to Regulated and Significant Tree</p> <p>RENAME River Murray Flood Plain to River Murray Flood Plain Protection Area</p> <p>RENAME River Murray Tributaries to River Murray Tributaries Protection Area</p> <p>NEW Scenic Quality</p> <p>Significant Landscape Protection</p> <p>REMOVE Sloping Land</p> <p>NEW Urban Tree Canopy</p> <p>NEW Stormwater Management</p> <p>Water Protection Area</p> <p>Water Resources</p>
Suburban Areas and Townships	<p>Hills Face Zone</p> <p>Open Space Zone</p> <p>Recreation Zone</p>	
Natural Areas	<p>Coastal Waters and Offshore Islands Zone</p> <p>Conservation Zone</p> <p><i>Dwelling Subzone</i></p> <p><i>Small Scale Settlement Subzone</i></p> <p><i>Visitor Experience Subzone</i></p> <p><i>Aquaculture and Recreation Subzone</i></p> <p>NEW Shack Relocation Subzone</p> <p>Remote Areas Zone</p>	
Overlays		General Development Policies
	<p>NEW Adelaide Dolphin Sanctuary</p> <p>Coastal Areas</p> <p>Hazards (Acid Sulfate Soils)</p> <p>Hazards (Bushfire – Outback)</p> <p>Hazards (Bushfire – General Risk)</p> <p>Hazards (Bushfire – Medium Risk)</p> <p>Hazards (Bushfire – High Risk)</p> <p>Hazards (Bushfire – Regional)</p> <p>Hazards (Bushfire – Urban Interface)</p>	<p>Site Contamination</p> <p>Open Space and Recreation</p>

General matters

Loss of tree canopy and urban heat

The community highly values tree canopy cover and significant feedback sought further policy development to reduce further loss of tree canopy, including requirements for more and linked landscaped areas. There was also concern that developments clear all vegetation from sites rather than considering the social and environmental benefits of existing mature vegetation on the land. Policy incentives for retaining existing trees on sites are therefore recommended for inclusion in the Code.

A number of submissions also sought additional policies encouraging the planting of native vegetation in new developments.

Multiple submissions were received from the community seeking strengthened policy to combat urban heat from infill development. This included suggestions such as the retention of mature large trees with canopies and increased percentage of landscaped areas within neighbourhoods (in both the public and private realm). Some feedback suggested that the Code does not currently align with, nor support the Government's 30 Year Plan tree canopy target.

Replacement buildings

Concern was raised about the gap in the ability to assess or apply suitable requirements for 'replacement buildings' in areas of known hazards risk such as coastal or high bushfire hazard. There are many vulnerable coastal areas and medium to high bushfire risk areas, subject to various zones under the Code, where there is no DTS exception for replacement buildings to ensure coastal or bushfire hazards are addressed.

Commission's Response:

The Commission recognises that there are a number of buildings in hazard risk areas, some of which have existed for a considerable period of time and that they, as a result of natural processes and the effects of climate change, may now be more vulnerable than when they were originally developed.

Therefore, the Commission considers it appropriate that where a building is to be replaced in a known hazard risk area, such as where coastal processes occur, or an area subject to medium to high bushfire risk, that an assessment of that risk should be undertaken, rather than an automatic approval being granted that may result in risk to property and life.

Commission's Recommendations

- N.1** **AMEND** '*Replacement building*' in 'Deemed- to- Satisfy Development Classification' Table 2 for all Zones to include the Coastal Areas Overlay as an exclusion.
- N.2** **AMEND** '*Replacement building*' in 'Deemed- to- Satisfy Development Classification' Table 2 for all Zones to include the Hazards (Bushfire – High Risk) and Hazards (Bushfire – Medium Risk) Overlays as an exclusion.

Dolphin Sanctuary

During the consultation it was noted that no specific overlay has been provided for the Adelaide Dolphin Sanctuary and that numerous zones, for example the Coastal Waters and Offshore Islands, Open Space, Infrastructure and Community Facilities and overlays e.g. Coastal Areas, Historic Shipwrecks, State Heritage Places and Water Resources apply over this area.

The submissions raised concern that while general stormwater and water-sensitive urban design policies (called up via the existing zones and overlays) will go some way to protecting receiving waters from pollution and may apply to development within and adjacent the sanctuary, there is only one PO that refers to the sanctuary in the Port Adelaide Centre Subzone. This it is considered that the importance of this area warrants an overlay with corresponding policies that seek to explicitly protect the resident dolphin population and the habitat on which they depend.

Commission's Response:

The Commission recognises the importance of the Adelaide Dolphin Sanctuary and that the Adelaide Dolphin Sanctuary Act is recognised as a Special Legislative Scheme. The Commission therefore supports a specific overlay that provides guidance about stormwater and pollution management (amongst other things) to ensure the dolphin population and habitat is maintained, protected and restored.

Commission's Recommendations:

N.3 **CREATE** an Adelaide Dolphin Sanctuary Overlay to the gazetted Adelaide Dolphin Sanctuary area.

Carbon Planting

A number of respondents in the community, industries and agencies sought greater inclusion of carbon planting/sequestration in the Desired Outcomes and envisaged its use in policies such as the Coastal Waters and Offshore Islands and the Conservation zones.

However, it is also noted in submissions that inclusion of the term 'carbon absorption' in the definition for commercial forestry restricts the ability to promote carbon planting in some of these areas as other types of commercial forestry would not be appropriate.

Subsequently, a request that the definition for Commercial Forestry should include the 'commercial exploitation of the carbon absorption capacity of the forest' (i.e. carbon farming) to not adversely restrict farming for carbon capture and storage.

It was also recommended that the Code include additional policies to guide the establishment of carbon plantings, based on the Kangaroo Island Council Development Plan.

One local government authority raised concerns about the loss of agricultural land to 'biodiversity planting' and requested that biodiversity planting be considered 'development' and therefore able to be assessed and controlled particularly with regard to its effect on agricultural production.

Commission's Response:

The Commission recognises that carbon sequestration or carbon planting is a key element of the Government's Climate Change strategy and that the planning system has a role in achieving the goals in relation to carbon sequestration. However, given the complexities and consequences of changing the definition and the application of new policy, further consideration with key agencies is considered necessary and this will therefore be considered more closely as part of the second generation of the Code.

Commission's Recommendations:

N.4 AMEND the Desired Outcome in the Conservation Zone and Coastal Waters & Offshore Islands Zone to add the words '*carbon storage*'.

Biodiversity and critical habitat

A high number of respondents, primarily from industry and community groups raised concern that there is inadequate policy to protect biodiversity and threatened fauna and species and critical habitat for these species, particularly compared with existing policy.

A number of these respondents called for a critical habitat or threatened species overlay to be applied where known breeding and movement occurs and habitat of critically endangered or threatened species is located. Others requested additional policy throughout the Code, particularly to reflect the role of open space areas in providing for biodiversity and other environmental health-related functions such as mitigating urban heat. The following is a summary of some of the key issues raised:

- There should be a general requirement for any development to avoid or minimise impacts on biodiversity. Although the introduction of the two native vegetation overlays will give some benefit to reducing development impacts on biodiversity, it is noted that the Code is generally light on mentions of species or habitat outside of native vegetation, conservation or coastal overlays or zones. It is important that biodiversity is recognised as being of value in almost every location and therefore it is recommended that more Code policies consider how to protect and enhance biodiversity. A threatened species overlay would be a useful addition for developers to appreciate where impacts on key habitats or species could be avoided.
- The Code has reduced the focus on the preservation of cultural, scientific, geological, natural habitat and ecosystems of the coastal and riverine environments by the promotion of insensitive land uses that may impact on the conservation role of these areas and lack of detailed guiding assessment policy.
- Based on the importance of biodiversity to human health and ecosystems, it was recommended that further work be undertaken to better recognise and protect biodiversity. In particular this work needs to address environmental assets located outside of areas of 'environmental significance' such as roadside vegetation; remnant native vegetation and habitat; urban habitat in trees and gardens; non-vegetated habitat (i.e. mud flats and rocky outcrops); some productive landscapes; and non-recognised native vegetation (i.e. grasslands and sedgeland).
- The lack of policies addressing biodiversity in the Open Space Zone and for open space areas is a significant shortcoming, given the priority focus of providing green space and canopy cover necessary for healthy living conditions. It was recommended that biodiversity value be incorporated in all relevant DOs for open space, with corresponding PO policy.
- The Code does not address State Planning Policy 4 – Biodiversity. Therefore, a 'critical habitat' and a 'threatened species' overlay should be created. This mapping is mostly already available and where it is not available, scientists and professionals in threatened species conservation should be consulted. New development in these areas should demonstrate how proactive efforts will be made to minimise impacts and promote species to recovery.

Commission's Response:

The Commission acknowledges the importance of biodiversity for healthy functioning communities and environments and recognises that the SAPPL Natural Resources General Module contains policies for the protection and enhancement of biodiversity which is subsequently reflected in development plans across the State.

Policies for the protection of biodiversity in the Code are focussed in the Native Vegetation Overlay, the State Significant Native Vegetation Overlay and the Conservation Zone, with other more general policies located in the Land Division general module, seeking that land division retains areas of environmental significance.

However, the Commission recognises the opportunity for additional policies acknowledging the role of our urban and rural open space areas in providing for biodiversity as an immediate improvement and intends to work with the Department for Environment and Water in developing appropriate mapping and policy for the protection of the habitat, breeding areas and movement corridors of threatened or critically endangered species.

Commission's Recommendations:

- N.5** **AMEND** DO 1 of the Open Space Zone to recognise the importance of these areas for their role in biodiversity, tree canopy cover, urban cooling and visual relief.
- N.6** **AMEND** DO 1 of the Open Space and Recreation General Module to recognise the importance of these areas for their role in biodiversity, community health, urban cooling, tree canopy cover, visual amenity, gathering spaces, wildlife and waterway corridors.
- N.7** **AMEND** DO 1 of the Native Vegetation Overlay to reference how native vegetation helps to sustain biodiversity, threatened species and habitat.

Climate Change

A high number of respondents raised concern that there is inadequate policy to explicitly address climate change including highlighting that the words: '*climate change*' are not used in the Code. A number of submissions suggested the inclusion of additional policies to address this. The following summarises the responses received regarding climate change policy in the Code:

- The Code relies on motherhood policy for climate change but real and measurable policy is required to promote better building outcomes.
- It is notable and surprising that the words 'climate change' are not specifically referenced as this does not reflect the urgent need for climate mitigation, adaptation and resilience. Now and in the future, land use choices will be impacted by increasing hazards, health impacts and threats to critical infrastructure.
- The Code must articulate the need for climate resilience in all forms of development including consideration of what, where and how we build to adequately mitigate future climate impacts and reduce carbon emissions.

Natural Hazards

- There is an need to adopt a risk-based approach to hazard management, particularly from threats such as flooding, coastal inundation and bushfires. The 2019/20 summer season's catastrophic fire events have emphasised the need to seriously consider more radical changes in planning and design to keep citizens safe.
- All available hazard data should be included in the Code.
- A Heatwave Overlay should be developed.
- Other than in respect to the Coastal Areas Overlay, current and future risks, which are projected to increase in frequency and intensity as a result of climate change (e.g. heavier rainfall events),

are inadequately considered. There is also a gap how risk is addressed over the lifetime of the development which requires the ability to project risks.

- It will be difficult to achieve the objectives of the State Planning Policy 5 Climate Change without inclusion of clear requirements in the Code that land use planners and developers consider climate change issues and ensure that all natural hazard risks to personal and public safety and property are assessed. It is suggested that reinstating the performance outcomes included in the Phase One draft relating to environmental protection and hazard risk minimisation, with the additional reference to future hazards under a changing climate, could remedy this.
- A general provision PO is needed that promotes hazard-risk minimisation and requires regard for the increasing severity and frequency of hazards (such as bushfire and flooding) associated with climate change. This is consistent with the approach in SAPPL and with State Planning Policy 5.5.
- Climate change risks and ways to mitigate and adapt to them need to be better articulated in Desired Outcomes & POs.
- The impact of increased rain intensity on land slip and soil erosion should be addressed, perhaps through WSUD provisions.

Climate smart development

- The Code needs to ensure that policies relating to climate change mitigation and adaptation (including promoting compact urban form, usable private and communal open space, soft landscaping, tree planting, WSUD and the environmental performance of buildings; minimising transport emissions; encouraging cool urban environments; and minimising energy and water consumption) seek to achieve these outcomes over the lifetime of the development with regard to how the climate will change over time and over the life of the development (e.g. choose plants that can cope, encourage additional shade etc.).
- Opportunities for passive solar design are needed.
- Zone Assessment Tables should reference the full suite of design provisions that contribute to climate-smart developments such as orientation, WSUD, landscaping.
- Electric vehicle charging in the general Transport, Access and Parking provisions should be provided through a new DTS.
- There are good sustainability and urban design quality POs in the city zones that should be applied in other high density zones e.g. the Urban Neighbourhood Zone.
- There is a need to promote shading, cooling, air quality and amenity in the public realm in a way that is functional, amenable and comfortable in current and future climatic conditions.
- Provisions should ensure that development conserves materials, energy and water.
- Landscaping POs should refer to green landscaping and its role in climate control, enhancing biodiversity, retaining rainwater, reusing stormwater and being more resilient to future climatic conditions.
- Residential zones need to ensure development:
 - reduces emissions and promotes resilience
 - enables trees and landscaping
 - maximises efficient use of water
 - provides for street tree planting
 - promotes walking, cycling and public transport use.

Natural Environment

- There are insufficient references to the need to make our natural environment more resilient to the impacts of climate change. The role the natural environment plays in contributing to climate resilience should be articulated, include a PO in the Coastal Areas Overlay.
- A PO that recognises the role of the natural areas including marine and coastal environments as blue and green carbon storage areas is needed.
- New provisions that address the cumulative impact of development and climate change on the natural environment should be included.
- A new overlay for biodiversity, canopy targets and greening priorities should be developed.
- The Regulated Tree Overlay should recognise the role of trees in contributing to places being more climate resilient.
- The Ramsar Wetland Overlay should include a PO that considers the impact of climate change on water quality and quantity.

Commission's Response:

The Commission agrees that the planning system has a key role to play in ensuring that the built and natural environments are able to adapt to and mitigate the impacts of climate change. While many existing policies that promote climate-ready development have been included in the Code it is acknowledged that these achieve climate change outcomes but don't reference climate change specifically. The Commission is making a number of amendments across multiple zones and overlays to make more explicit how future development can adapt to and mitigate the impacts of climate change.

The Commission also acknowledges that further work is required to improve the Code's response to hazards, creating resilient development and recognising the role of the natural environment in supporting resilience.

The Commission recognises the importance of energy efficiency in building orientation and design and policies to address these issues are provided in the Land Division General Module, seeking good solar orientation of allotments and also in the Design General Module which encourages the appropriate siting of buildings and use of eaves, verandahs and other shading structures for example. However, the Commission also acknowledges the significant role that the National Construction Code plays in the energy efficiency of buildings through the energy efficiency rating scheme and subsequently the application of these general design policies is limited where a Deemed to Satisfy pathway is provided for a development type.

Centrally coordinated hazard mapping

This submission sought further collaboration between state and local governments to undertake centrally coordinated mapping of heat, bushfire, flood and coastal erosion and inundation hazards, and to fully integrate these into the planning policies and overlays.

Commission's Response:

The Commission agrees and is currently working with agencies and local government to deliver the best and most accurate mapping that is available in relation to hazards. This is ongoing work.

City Park Lands Zone

This zone comprises a distinctive and culturally significant landscaped park and open space setting (for passive and active recreational uses) which is integral to the form and setting of the City of Adelaide.

A high volume of feedback was received on the City Park Lands Zone, which suggested the following key changes:

- Rename the zone 'Adelaide Park Lands Zone'
- Include the six city squares in the zone
- Delete the Adelaide Oval and Eastern Park Lands Subzone and include zone-wide policies instead
- Include more descriptive Desired Outcomes
- Revise built form and character provisions to provide greater clarity regarding new buildings in the Park Lands, including:
 - a reduction of building floor area, fenced and paved areas
 - progressive return of alienated land to the Park Lands
 - reduction in the number and extent of buildings permitted
 - incorporation of the City of Adelaide's Park Lands Building Design Guideline into the Code (or as a Design Standard)
- Remove Educational Establishment, Hotel, and Public Infrastructure from Restricted classification
- Reinstate concept plans or mapping to identify event locations, heritage places, alienated land to be returned to the Park Lands and bicycle networks
- Include the unique planning considerations of the current Development Plan Park Lands Zone on matters relating to movement and parking, advertising and fencing (rather than the general policy that applies across other zones that does not adequately recognise the unique qualities of the Adelaide Park Lands)
- Re-insert Special Landscape Character policy based on the current Development Plan Zone as it is important in considering the siting of any proposed new development.
- Outline the context of the National Heritage Listing.

Council and the Adelaide Park Lands Authority acknowledged that the Current Park Lands Zone is out of date, and that while the special attributes of the Park Lands are recognised in the City Park Lands Zone, they considered certain aspects are in need of refinement including:

Built Form – The proposed policy allows for new and larger buildings than currently contemplated by the development plan, and a more zone-wide overall approach to built form, rather than specific building directions, should be adopted. Current policy seeks a reduction in building floor area, progressive return of alienated land to Park Lands, reduction in the number and extent of buildings.

Council also commented that current policy seeks to reduce / remove car parking in various locations and reinstate to Park Lands, and requested this policy be reinstated.

Special Landscape character – this policy is important in considering the siting of any proposed new development and should be reinstated.

City Squares – these should be included in the Park Lands Zone.

Subzones - delete the Adelaide Oval and Eastern Subzone and replace with a comprehensive set of zone-wide policies.

Restricted Development - remove educational establishments, hotel and public infrastructure from the 'Restricted' classification.

Feedback from the community largely reflected that put forward by the City of Adelaide and the Adelaide Park Lands Authority. Additional commentary was made in relation to the North Adelaide Aquatic Centre site, seeking policy that would return the site to public Park Lands.

Commission's Response:

Zoning

The suggested zone name 'Adelaide Park Lands' better aligns with other established naming, so it is considered appropriate to rename the zone accordingly. There is no 'policy effect' to this change.

Given the city squares are part of the Park Lands it is appropriate to include them in the Adelaide Park Lands Zone.

Reference to the city squares should be made in the zone's Desired Outcome(s) and a new Performance Outcome regarding new development enhancing visual amenity and increasing the range of uses of the city squares (reflecting current Development Plan policy).

Deleting the Adelaide Oval and Eastern Park Lands Subzones is supported, although reference to Adelaide Oval and the Victoria Park Grandstand should be inserted in the zone's list of existing building and structures. Land use provisions from the Adelaide Oval Subzone relating to activities adjacent to the River Torrens, and Torrens training Depot and Parade Ground, should be retained in the zone.

Park Lands legislative framework

The Commission acknowledges that there is a range of strategic objectives and factors that are considered in relation to the use and management of the Park Lands and that while detailed policy relating to these elements is not supported, including references in the zone to items that are in the legislative framework to ensure high level strategic alignment e.g. returning alienated land to Park Lands, Park Lands National Heritage Values, areas of Landscape Significance and the like, is warranted.

Built Form and Character policy

Park Lands policy allows buildings only where it satisfies all of the following:

- it is a replacement building
- it provides complementary recreation, sporting or tourism facilities that could not otherwise have been provided in the zone
- it will be multi-purpose and used by more than one user group.

Policy also identifies key existing development (e.g. Adelaide and Botanic high schools) and allows ancillary development on the site.

Policy generally does not seek a reduction in floor area as such policy creates some tension given the planning system's allowance to have substantially the same replacement buildings 'as of right'. However, reference to replacement buildings being limited to the same footprint is warranted.

Reference to returning alienated land in the zone to provide some alignment with the overall legislative framework for the Park Lands is considered appropriate.

The Park Lands Building Design Guidelines are new and were not part of the consultation on the Code so it is not suitable to consider them for relevance for inclusion on the Code at this point. They could be reviewed as part of a future Code amendment process to determine if any parts have relevance to the Code.

Unique Planning Considerations in the Park Lands

Some of the current policy that is specific to the Park Lands in relation to advertising, car parking and fencing is warranted as they assist in supporting the Park Lands' character, as follows:

- **Advertising** – include zone-specific policy primarily relating to size and permanent signage primarily to assist with interpretation or directions.
- **Fencing** – include policy with an outcome that fencing is open (noting that such policy will only relate to fences that are 'development').
- **Car parking** – include provision that seeks to minimise new car parking or expansion of existing, locate new development in proximity to roads, public transport to minimise the need for new / additional parking, and amend Table 2 Off Street Car parking in the Transport Access and Parking General Module so that off-street parking does not need to be provided in the zone.

General and consequential changes are recommended to the zone to improve expression, avoid duplication with general policy and the like.

Commission's Recommendations:

- N.8** **RENAME** the City Park Lands Zone to Adelaide Park Lands Zone, to apply to the City squares.
- N.9** **AMEND** DO1 to include the words 'including the formal city squares,' immediately following the words 'well connected open space system'.
- N.10** **DELETE** the Adelaide Oval Subzone and Eastern Park Lands Subzone, include 'Adelaide Oval' and 'Victoria Park Grandstand' in PO 1.8 (PO1.7 in the consultation draft of the Code), and include Adelaide Oval Subzone POs 1.2 and 1.4 in the zone under the heading Land Use and Intensity.
- N.11** **INCLUDE** Advertisement in DTS/DPF 1.1
- N.12** **AMEND DTS/DPF** 1.2 (b) by changing 100m² to 50m²
- N.13** **AMEND** PO 1.5 (PO 1.3 in the consultation version) by replacing it with:
'Special events in suitable locations and recreation uses of a temporary or transient nature limiting their impacts on the open and natural character of the Adelaide Park Lands.'
- N.14** **REMOVE** PO and DTS/DPF 1.4 and insert Temporary public service depot and the associated criteria in the Accepted Development Classification Table.
- N.15** **AMEND** PO1.7 (1.6 in the consultation draft of the Code) by adding the words 'and does not increase the overall building footprint' to the end of part (a)

- N.16** **AMEND** 3.1 by adding '(such as formal gardens, significant stands of trees, and the like)' at the end of part (a).
- N.17** **CREATE** a new PO under the Natural /Cultural Landscape Character heading regarding development recognising the Park Lands National Heritage Values.
- N.18** **CREATE** a new PO under the heading Natural Landscape Character regarding development contributing to the return of alienated land to Park Lands where practical.
- N.19** **AMEND** PO 4.1 by replacing the words '*in association with a building*' with '*provide interpretive information or directions relating to features and facilities within the Park Lands*'.
- N.20** **REMOVE** 'Educational Establishment', 'Hotel' and 'Public Infrastructure' from the Restricted Development Classification Table.
- N.21** **AMEND** PO 5.2 by replacing the words '*unless otherwise permitted in the relevant Subzone*' with '*and located close to existing road networks to minimise impact on the Adelaide Park Lands character.*'
- N.22** **CREATE** a new PO to avoid additional car parking by utilising on street parking or shared parking areas, locating close to walking and cycling infrastructure, utilising the existing road network and other such means.
- N.23** **CREATE** a new PO under a new 'Fencing' heading to seek open fencing so that Park Lands character is maintained.

Hills Face Zone

This zone seeks to preserve, enhance and re-establish the natural character of Adelaide's landscape backdrop. Its policies prevent urban areas from extending into the western slopes of the Mount Lofty Ranges; seek to preserve biodiversity and restore locally indigenous vegetation and fauna; and contribute to the provision of areas for open space and passive recreation.

Significant feedback was received from the community, councils and industry groups in relation to the Hills Face Zone which is summarised under key headings below.

Zone Policy

Engagement feedback:

There was general support for the desired outcomes of the zone (in particular DO 1) and associated performance outcomes, which generally reflect existing provisions contained in existing development plans, with opportunities to further strengthen qualitative assessment criteria in respect to protecting the high conservation, biodiversity and environmental aspects of the zone from inappropriate development.

One community member suggested that the description of 'natural character' should expressly recognise primary production, horticultural activities and cropping that feature in the zone's landscape. It was also suggested that existing references to the zone 'not being a residential zone' in existing development plans be transitioned to the Code so as to not create unreasonable expectations regarding residential

development opportunities, and for DO 1 to note the application of the new Mount Lofty Ranges Water Supply Catchment Area 1 Overlay in the zone, replacing the current Watershed policy.

Clarification: Based on the structuring of the Code and that multiple overlays may apply to zones or areas; it is not necessary to list relevant overlays within the desired outcomes of zones in the Code. Relevant overlay policy will be spatially applied and called upon for the assessment of development within an overlay area.

Suggestions for alternative wording to some policy provisions to strengthen, better clarify the intent or capture additional criteria (e.g. PO 11.1 relating to retention of native vegetation) were received. Other feedback relating to specific policy provisions in the Code included:

- Suggestions that olive plantations should be expressly discouraged, as in the current development plan zone, due to their invasive nature and status as a declared pest plant.
- Setbacks prescribed for horticulture to significant native vegetation and watercourses in DTS/DPF 6.1 and DTS/DPF should not apply to olive growing (due to their invasive and flammable nature) and should be increased.
- There is an opportunity to include DTS/DPF criteria to further support PO 8.1 in relation to driveways, access tracks and car parking, potentially based on current non-complying exclusions for dwellings in the zone in existing development plans.
- Flooding policies in the zone (PO 10.6 and DTS/DPF 10.6) should refer to a date of assessment (e.g. 30 years hence) and protection for the life of a development, and address rarer events such as the 1:500 and 1:1000 AEP. This was raised as a general issue across Code policies.
- The Code should apply a consistent reference to the state's 'On-site Wastewater Systems Code' and 'Community Waste Management System Code' rather than broadly referring to SA standards for wastewater management and disposal or simply to 'South Australian Standards'. This includes within the exclusions relating to dwellings in the zone.
- The Significant Landscape Protection Overlay should apply over the entire Hills Face Zone to provide greater policy strength and support the desired outcomes for the zone.

Clarification: The Significant Landscape Protection Overlay has been introduced in the Code to protect areas having significant rural landscape character from inappropriate development. Notably, the overlay has been applied to areas currently located in Rural Landscape Protection Zones in existing development plans. The desired outcomes for the Hills Face Zone, however, refer to the preservation, enhancement and re-establishment of a more unique 'natural character' (as opposed to rural character) that is specific to the zone. Consequently, there is tension between the intent of the overlay and zone.

Commission's response:

Desired outcomes and 'natural character'

The suggestion to amend the description of 'natural character' in DO 1 to expressly recognise primary production, horticultural activities and cropping that feature in the zone's landscape is acknowledged. However, while more intensive agricultural and horticultural activities are present in parts of the zone, they are not considered to define its natural character and further intensification of these activities is not encouraged in the context of the zone's character. It is therefore not considered appropriate to amend or expand the description of natural character in the Code to include these activities.

Driveways, access tracks and car parking

In relation to suggestions to include DTS/DPF criteria to further support PO 8.1 in relation to driveways, access tracks and car parking, exclusion criteria have been retained in relation to new dwellings in the Restricted development table of the Code zone (similar to non-complying exclusion criteria for dwellings in existing development plans). This includes where access to a new dwelling is provided by a private vehicular access track that is less than 30m in length and which has a gradient of less than 16 degrees (1-in-3.5) at any point. This criteria has been modified based on the exclusions applying in existing development plans but removes criteria regarding minimising the need for earthworks to limit disturbance to the natural topography, which is considered too subjective for development classification. Further, PO 8.1 seeks outcomes far beyond minimising the length and gradient of driveways (i.e. requirements to follow land contours, use of appropriate surface materials and treatments, minimising erosion, etc.) which require more extensive assessment. It is therefore not considered practical to apply DTS/DPF criteria in this instance.

Native vegetation, biodiversity and landscapes

With regard to alternative or expanded wording to PO 11.1 to align with policies applying to biodiversity and native vegetation (under natural resources) in existing development plans, PO 11.1 reflects existing policy for the Hills Face Zone in the SA Planning policy Library and Development Plans – and its intent is clear. Suggested wording that *'Development avoids, or where it cannot be practically avoided, should minimise the clearance of native vegetation and endangered plants, wildlife habitat and movement corridors and only be undertaken if it can be located and designed to maximise the retention of existing native vegetation, increase the planting of locally indigenous plant species and take into account the siting of buildings, access points and driveways, bushfire protection measures and building maintenance'* is considered overly complex and would not provide the same strength as existing policy. It is therefore considered appropriate to retain this policy in the Code zone.

With regard to suggestions to transition existing development plan policies applying to biodiversity and native vegetation to the Hills Face Zone in the Code, relevant policies have been elevated to the Native Vegetation Overlay or State Significant Native Vegetation Overlay which covers the areas where the *Native Vegetation Act 1991* applies to enable better alignment between the land use system and native vegetation clearance consent processes. The Native Vegetation Overlay applies to the Hills Face Zone, while the State Significant Native Vegetation Overlay also applies to national parks and selected reserves in the zone. It is not therefore necessary or appropriate to duplicate this policy in the zone provisions.

In relation to opportunities to apply the Significant Landscape Protection Overlay over the entire Hills Face Zone in tandem with other overlays to provide greater policy strength and support the desired outcomes for the zone, is not considered appropriate, given the potential for tension between the zone's policies and the overlay (e.g. different expectations regarding excavation and filling of land) as well as the desired outcomes of the overlay compared to the zone, where 'natural character' is separately defined and tailored to the zone.

Flooding and climate change

In relation to recommendations for PO 10.6 and DTS/DPF 10.6 regarding flooding to refer to a date of assessment and protection of the life of a development, and address rarer events such as the 1:500 and 1:1000 AEP, flood policies in the Code are based on contemporary planning standards in most jurisdictions across Australia and baseline information derived from stormwater analysis, scenario planning and flood mapping prepared by a number of Greater Adelaide councils to support Stormwater Management Plans. The assumptions used to inform this analysis and mapping can vary from one council area or catchment to another. Further, while some locations (particularly internationally) are moving towards planning for rarer events, such as a 1-in-500 year or 1-in-1000-year event, this has not

yet been the case with the SA planning system and requires further review / investigation, and establishment of baseline data prior to any future changes to the Code.

Concept plans

The request to transition the existing Hills Face Zone Buffer concept plan (Figure R/1 (Parts A, B and C) of the Burnside Council Development Plan relating to land immediately adjacent to the Hills Face Zone to the Code is acknowledged. The area to which the buffer applies is located in the existing Residential Zone (and in particular Northern Foothills Policy Area 9, Ferguson Policy Area 17 and Southern Foothills Policy Area 27) in the Development Plan, which is proposed to transition to a wider Suburban Neighbourhood Zone in the Code. Notably, the existing Residential Zone and associated policy area includes additional policy relating specifically to land captured in concept plan and Hills Face Zone buffer to ensure that new development in this area remains sympathetic to and does not detract from the natural character of the zone (e.g. in terms of siting, visual bulk, reflectivity, materials, colours, minimising earthworks, and the like). Based on further feedback, it is proposed to include areas covered by this buffer within a new Hills Neighbourhood Zone, which will include policy to address development in proximity to the Hills Face Zone (see associated recommendation in [People and Neighbourhoods > General Neighbourhood Zone](#) of this report).

Assessment Pathways

Engagement feedback:

There was broad suggestion from councils that additional land uses should be Restricted in the zone to reflect the 'like for like' range of current non-complying land uses in development plans, in particular to discourage inappropriate development occurring in such a sensitive zone with high biodiversity and conservation value and to align with relevant State Planning Policy (SPP) directions.

***Clarification:** The restricted development threshold is a procedural trigger to require a more comprehensive assessment pathway. Unlike non-complying development in development plans, the restricted development threshold does not indicate that a development is inappropriate or otherwise. The policy itself (DOs, POs and DTS/DPF criteria) are the only matters that should be used to assess the merits of a performance-assessed development. Due to the differences in non-complying and restricted development, it is considered inappropriate to transition all non-complying development to restricted development in the Code.*

Feedback relating the classification of specific forms of development in the zone included:

- Concerns that uses such as 'light industry' that are likely to generate impacts will be performance-assessed in the zone but are currently non-complying in development plans. It is also unclear as to whether 'breweries or cideries' fall under light industry, which may require separate definition in the Code.
- The Restricted development table exclusions for 'excavation' and 'filling' refers to excavation of 3m below ground level and filling to a height of up to 3m above natural ground level, which may have implications where a proposal sits between these two values and how they align to PO 3.1(a) in the zone. The rationale for excavation and filling criteria in the Sloping Land Overlay, which applies to most of the zone, is also unclear.

***Clarification:** Based on feedback received in the Phase Two Amendment, the Sloping Land Overlay was removed from the Phase Two (Rural Areas) Code Amendment due to current data limitation, which will result in an inaccurate application of the overlay.*

- The inclusion of telecommunications facilities as Restricted Development is supported by councils, but not industry, given the need for such infrastructure in the zone (e.g. for community and bushfire safety) and based on case law.
- One council suggested that 'prescribed mining operations' should be either deemed-to-satisfy or performance assessed rather than Restricted, in the context of existing operations in the zone, and not be subject to public notification. A more streamlined process for mining operations was also suggested in the zone, potentially though the use of a new subzone.
- Some councils suggested that boundary realignments should be exempt from the ambit of land division, which are captured as Restricted development. Conversely, a member of the community also suggested that boundary re-alignments should be expressly included as 'land divisions' and be Restricted. There was also a suggestion to include performance objectives relating to land division in the Small-scale Settlement Subzone of the Conservation Zone in the Hills Face Zone.
- One submission supported removal of current exclusions to non-complying development in existing development plans relating to landfill operations, ensuring such operations are restricted development.
- The reference to 'lake, watercourse or wetland' in the exclusion criteria in the Restricted development table may be ambiguous with respect to dams and consideration should be given to include the word 'dam' within the exclusion.

Commission's response:

Suggestions from councils that additional land uses should be included in the Restricted development classification in the zone to reflect current non-complying land uses and State Planning Policy directions for the zone and to discourage inappropriate development occurring in such a sensitive zone with high biodiversity and conservation value, are acknowledged. The State Planning Policies, in particular SPP 4 relating to biodiversity, specifically seek to minimise impacts of development on areas with recognised natural character and values, such as Adelaide's Hills Face Zone. This intent is clearly replicated in the desired outcomes and policy provisions for the zone in the Code and was a key consideration in determining development and land use classifications in the zone.

The planning reforms also seek to afford greater opportunities for land uses currently considered to be non-complying, to be considered by a planning authority on its merits. It is not practical for the Code to include all potential development forms or eventualities within the zone tables, and land uses that are not specifically listed in the zone tables will generally default to performance-assessed development and will be assessed against all relevant zone and General policy provisions that the relevant planning authority considers appropriate. Recommendations for changes to development pathways for specific forms of development based on feedback are considered below.

Light industry

Comments regarding the appropriateness of uses such as 'light industry', which have potential to generate impacts and are currently non-complying in the zone in existing development plans, and requests for these to be performance-assessed in the Code, are noted. Importantly, the land use definitions in the Code (part 7) define light industry (as distinct from other forms of industry) as being where the industry is conducted and of a scale that does not detrimentally affect local amenity (e.g. by way of building bulk, emissions and the like). Allowances for light industrial activities to be performance-assessed is therefore considered appropriate, noting that such activities fall under 'All other Code Assessed Development' in table 3, allowing the relevant planning authority to assess such proposals against all zone and General policies provisions that it considers appropriate.

With regard to suggestions to include a separate definition for activities such as 'breweries' or 'cideries' in the Code, these activities are considered to be a form of 'industry' as defined in the land use definitions (part 7) of the Code and again may be considered 'light industry' where they are of a scale and nature that is unlikely to affect local amenity. Consequently, larger-scale activities may not qualify as light industry and as such would be Restricted in the zone, which is considered appropriate. Separately defining such uses without consideration of scale implications is therefore not considered appropriate.

Horticulture and olive growing

Concerns that olive growing is proposed to be Performance Assessed under the Code and suggestions that olive plantations should be expressly discouraged (as in the current development plan) due to their invasive nature and status as a declared pest plant are acknowledged. The current non-complying status for olive growing was introduced as part of the Ministerial Hills Face Zone (Interim Policy) Plan Amendment Report in 2005 due to concerns at the time regarding the impact of olive growing in the zone. Given current restrictions on this form of horticultural activity in the development plan and the need for more stringent assessment of proposals for olive plantations in the zone (in particular where within proximity to national parks, conservation areas and significant areas of native vegetation), it is considered appropriate that olive growing become a Restricted form of development in the Code's Hills Face Zone.

Suggestions from one council that the setbacks prescribed for horticulture to significant native vegetation and watercourses in DTS/DPF 6.1 and DTS/DPF should be increased in relation to olive growing (due to their invasive nature and potential to fuel bushfires) are acknowledged. It has been specifically suggested that olive growing should not be located closer than 500 metres of an area identified in the State Significant Native Vegetation Overlay, or areas adjacent a conservation area, reserve and areas of significant native vegetation and native grasses to minimise its adverse impacts. This generally aligns with General policies in existing development plans relating to natural resources and exceptions to non-complying criteria for olive growing in primary production zones, as well as other rural-type zones in the Code (including the Peri-Urban Zone, Rural Zone and Rural Horticulture Zone). While no such distinction between olive growing and horticulture is included in the existing Hills Face Zone in development plans, this is likely due to their existing non-complying status. Noting recommendations above to make olive growing Restricted development in the Code zone, it is entirely appropriate to include additional separation requirements for olive growing to sensitive areas in the Hills Face Zone to guide future assessments.

With regard to suggestions to exclude olive growing from DTS/DPF 6.2 in relation to distance of horticultural activities from watercourses, no such distinction is currently made in existing development plans. Further, while it has also been suggested that olive growing be excluded from the application of PO 6.3 in terms of distance of such activities from a sensitive receiver, it is considered that olive growing is likely to have similar impacts to other forms of horticulture (i.e. arising from noise, chemical spray-drift and run-off) on sensitive land uses and no such distinction is again made in existing development plans in this regard. Consequently, it is not considered necessary to include any distinction between olive growing and other forms of horticulture in either PO 6.2 (and DTS/DPF 6.2) or PO 6.3.

Excavation and filling

Feedback that the exclusions for both 'excavation' and 'filling' in the Restricted Development Classification table (Table 4) do not align with PO 3.1(a) of the zone policies which may have implications for proposals that sit between the chosen depths/heights are noted. PO 3.1(a) has been based on a like-for-like transition of existing policy from development plans and applies specifically to land outside of townships and urban areas in the zone, while the exclusions for both 'excavation' and 'filling' in the Restricted development table apply across the entire zone (including within townships and urban areas).

The height of filling and depth of excavation specified in the exclusions to Restricted development in the Code have, however, changed the current values in the exclusions to non-complying development for the zone in development plans – with the exclusions for filling increased from a maximum depth of 1 metre up

to 3 metres in the Code and, similarly, excavation increased from a depth of 2 metres to 3 metres below natural ground level. On further review, it is acknowledged that such allowances could have significant visual impacts in the zone. It is therefore recommended to retain the existing non-complying triggers for excavation and filling in existing development plans as restricted triggers.

With regard to suggestions that additional DTS/DPF criteria should be provided to support PO 3.2, this performance objective is broad-reaching and involves a level of discretion in any assessment by a planning authority to ensure that excavation and/or filling meets character objectives of the zone. It is therefore not considered practical to include DTS criteria to support this performance objective.

Telecommunications facilities

With regard to industry concerns in relation to the inclusion of 'telecommunications facilities' as Restricted development, it is noted that this development classification was supported by councils, particularly given that such infrastructure is currently a non-complying form of development in the zone in a number of development plans and advocated as such in the SA Planning Policy Library. While there is an acknowledged need and often a demand for telecommunications infrastructure in the zone, this form of development can significantly impact on the character and visual values of the zone. Retaining such uses as Restricted will therefore ensure that future proposals are appropriately assessed against a wider range of policies in the Code, including to ensure any visual and other impacts are managed through appropriate siting, scale, bulk, screening, colour and the like.

Land division and boundary re-alignments

Suggestions from some councils that boundary realignments should be exempt from the ambit of land division and therefore not be a Restricted class of development in the Hills Face Zone are noted. Conversely, it is acknowledged that at least one member of the community suggested that the Code be amended to expressly include boundary re-alignments as 'land division' to reaffirm that this form of division should be restricted. Under current development plans, land division (including boundary realignments) is a non-complying form of development and therefore strongly discouraged. This is likely due to issues (and costs) associated with providing services to steeper land in the zone. Retention of land division and boundary alignments as Restricted in the zone is therefore considered appropriate in the Code to ensure that any form of division is assessed against wider policies in the Code.

While the suggestion to include performance objectives for land division in the Hills Face Zone based on those contained in the Small-scale Settlement Subzone of the Conservation Zone is noted, PO 3.1 of the subzone primarily seeks to address coastal hazard risks, which is not relevant to the Hills Face Zone. Further, PO 3.2 of the subzone specifically contemplates land division where it accommodates an existing lawful dwelling, which would be in conflict with the intent to retain all forms of land division as Restricted in the zone. It is therefore not considered appropriate to apply these policies to the Hills Face Zone.

Prescribed mining operations

In relation to the classification of 'prescribed mining operations' in the zone, suggestions for a more streamlined process for mining operations (e.g. through a new subzone) and the inclusion of such activities as either deemed-to-satisfy or performance-assessed rather than Restricted (and not thereby subject to notification) are acknowledged. It is also noted that while a number of mining and resource extraction sites exist in the zone and have current use rights, new prescribed mining operations have remained a non-complying of development in development plans and are also discouraged in the zone provisions in the Code (e.g. PO 4.1). Mining operations can have significant visual and environmental impacts on sensitive areas and uses in the zone and therefore require careful planning and assessment. On this basis, it is considered appropriate to retain such activities as Restricted development in the zone to ensure they are comprehensively assessed against a wide range of policies in the Code. It is also not considered appropriate or necessary to include a new subzone in the Hills Face Zone to streamline this assessment.

Other activities and uses

Suggestions that the reference to *'lake, watercourse or wetland'* in the exclusion criteria in the Restricted development table relating to dwellings located in the Mount Lofty Ranges Catchment (Area 1) Overlay may be ambiguous with respect to dams are acknowledged. Given that the intent of this exclusion is to minimise risk of pollution to water sources in the region (and a dam has potential to flow into waterways in the catchment during flood), it is considered appropriate to specifically refer to dams within the exclusion criteria.

While not identified in submissions, a further review has identified that while the Regulated Tree Overlay applies to the zone, a 'tree-damaging activity' has not been specifically listed in the Performance Assessed Development Table and would be subject to notification, which requires correction.

Administrative and Land Use Definitions

Engagement feedback:

Feedback was received regarding the need to better define certain forms of development in the zone, including:

- A need for better definition of a communications tower as referred to in PO 9.1, and whether this is captured as a Telecommunications Facility (i.e. which is Restricted in the zone).
- A need to clarify the distinction between Tourist Accommodation and Tourist Development, including what is deemed 'low-scale' to better assist and guide planning authorities and industry in determining what is an appropriate scale.

Commission's Response:

Communication towers and masts

In relation to opportunities to better define what is meant by a 'communication tower' in PO 9.1 and whether such structures/facilities are classified as a Telecommunications Facility, the land use definitions in the Code (Part 7) define a Telecommunications Facility as a facility within the meaning of the Commonwealth *Telecommunications Act 1997*. This term was recommended for existing development plans by the courts in *Telstra Corp Ltd v City of Mitcham [2001] SASC 1666* and encompasses a range of telecommunications and radio communications devices and facilities under the Commonwealth Act and has therefore been retained in the Code. 'Low-impact facilities' are also exempt from state planning laws, according to the definition in the Commonwealth's *Telecommunications (Low-impact Facilities) Determination 1997* and certain types of aerials and towers are also excluded from being development under the *Planning, Development and Infrastructure (General) Regulations 2017*.

Reference in PO 9.1 to 'communications towers and masts' has been based on a like-for-like transition of existing policy in the Hills Face Zone and, based on the above, is likely to be a form of (or structure associated with) a telecommunications facility within the meaning of the Telecommunications Act that requires development approval. It is therefore considered appropriate to expand the terminology used in PO 9.1 to identify such elements, including telecommunications facilities and aerials where they are considered to be development.

Inclusion of additional DTS/DPF criteria regarding heights, location, use and colour of such infrastructure would require substantive further investigations and engagement and should be reserved for future Code Amendments if appropriate.

Tourist accommodation and development

In relation to suggestions for the Code to provide a clearer distinction between 'Tourist Accommodation' and 'Tourist (or Tourism) Development', 'Tourist accommodation' is defined in the land use definitions in the Code (part 7) to mean 'premises in which temporary or short-term accommodation is provided to travellers on a commercial basis'. This definition was also amended as part of the Phase Two Amendment to add 'campground' to the list of exclusions to avoid confusion with such activities.

'Tourist (or Tourism) development' is not, however, separately defined in the land use definitions in the Code despite being used in a number of zones but would be taken to include tourist accommodation. The Code also includes 'Tourism Development' General policies to provide further guidance about such uses.

In respect to the Hills Face Zone, tourist accommodation, tourist development or tourist facilities are also not specifically listed in the zone tables and therefore fall under "All Other Code Assessed Development", meaning that all relevant zone and General policies can be considered by the planning authority in the assessment of proposals.

With regard to better clarification as to what is deemed 'low-scale' in PO 7.1 of the zone, terms such as low-scale and small-scale are featured throughout the Code in relation to a range of land uses, including shops/retail activities, commercial and industrial uses, offices, community facilities, licensed premises, renewable energy facilities and tourist accommodation. In some cases, appropriate scale has been quantified where practical (such as in relation to the power generation of ground mounted solar facilities), but in the most part it will be up to the planning authority to determine what may be small-scale based on an assessment against other provisions of the relevant zone and Code. The classification of tourist development and accommodation as performance-assessed in the Hills Face Zone will facilitate this level of assessment, including against a range of built form and character provisions to preserve the zone's defined natural character. It is also not considered practical or appropriate to place quantifiable limits (e.g. floor area restrictions) on the scale of tourist development given the various forms that such development may take.

Wastewater systems and standards

Recommendations for the Code to specifically reference other relevant codes/standards such as the 'On-site Wastewater Systems Code' and 'Community Waste Management System Code' rather than broadly referring to SA standards for wastewater management and disposal or simply to 'South Australian Standards' were also raised during consultation on the Phase Two (Rural Areas) Code Amendment. Broader terminology has been applied the Code to allow for changes in relevant standards or other codes to occur without the need for a Code Amendment and to reduce risks that the Code policy becomes outdated based on any such changes to other standards, codes or best practice documents. It is therefore appropriate to retain the wording used in the Code.

Requests for rezoning

Engagement feedback:

Some members of the community requested that the Hills Face Zone be rezoned in the Code.

***Clarification:** Given the cultural significance and long-standing nature of the Hills Face Zone to metropolitan Adelaide, any proposals to rezone land in the zone to a different zone would require significant investigation, consultation and engagement as part of a separate Code Amendment process and are not considered appropriate at this time.*

Commission's Response:

The concept of the Hills Face Zone was first suggested by the State Government in 1962 and now forms an important landscape backdrop to metropolitan Adelaide. The importance of the zone is also

recognised in *The 30-Year Plan for Greater Adelaide*, which seeks to protect its natural and rural character and ensure that land uses in the zone contribute to this landscape backdrop and area of significant biodiversity.

Planning policies for the zone have largely remained unchanged and focus on preserving, enhancing and re-establishing the natural character through accommodating low-intensity agricultural activities, public/private open space and limiting development, including the visual intrusion of new buildings and structures when viewed from the Adelaide plains. Consequently, and as recognised through feedback received on the Phase Three Amendment, transition of the zone and its policies to the new Hills Face Zone in the Code has largely been 'like-for-like' in order to retain this focus, and the general support for the desired outcomes and performance outcomes of the zone are acknowledged.

Commission's Recommendations:

- N.24** **AMEND** Table 4 – Restricted Development Classification to include horticulture involving olive growing.
- N.25** **AMEND** Table 3 – Applicable Policies for Performance Assessed Development to include 'tree damaging activity', including policies from the Regulated Trees Overlay
- N.26** **AMEND** DTS/DPF 6.1 to exclude olive growing.
- N.27** **CREATE** a new PO and DTS/DPF to require that horticulture involving the growing of olives is avoided or is progressively replaced to maintain and improve native vegetation and conservation values within the zone.
- N.28** **AMEND** PO 9.1 to include reference to 'telecommunications facilities, communication towers, aerials and masts' to improve clarity regarding the range of structures to be captured by this policy provision.
- N.29** **AMEND** Table 4 – Restricted Development Classification to include the word 'dam' in the list of exclusions for Dwelling. E.g. 'is situated 25m from any dam, lake, watercourse or wetland' and 'does not have any part of a septic tank effluent drainage field or any other wastewater disposal area (e.g. irrigation area) located within 50m of a dam, lake, watercourse or wetland.'
- N.30** **AMEND** Table 4 – Restricted Development Classification in relation to 'excavation' and 'filling' of land to apply current exemptions for non-complying development from development plans (being exceptions for less than 2m of excavation and less than 1m of filling, rather than 3m for both).

Open Space Zone

This zone seeks areas of natural and landscaped open space to provide visual relief to the built environment for the enjoyment of the community and applies to current open space zones/policy areas/precincts which accommodate sporting ovals, parks, etc.

Engagement feedback:

A number of council submissions requested that the Desired Outcome of the Open Space Zone be revisited to capture the many important functions these areas provide to the community. It was suggested that particular reference be made to their key roles, including the provision of biodiversity, urban greening, urban cooling and public amenity and the protection of native vegetation, flora, fauna and significant habitats. These submissions considered it important that the Desired Outcome specifically identify these roles to ensure that they are achieved.

A technical issue was raised by a number of councils in relation to transitioning the Metropolitan Open Space System (MOSS) to the Open Space Zone, and in particular, the Code's interaction with the *Native Vegetation Act 1991*. Specifically, the *Native Vegetation Act 1991* references land located within the Metropolitan Open Space System (MOSS) area in its definition of where the Act applies for native vegetation protection. Further clarification was sought as to whether the rezoning proposed in the Code will result in a severance from the *Native Vegetation Act 1991*, meaning the native vegetation currently on this land may no longer be protected.

A policy gap was observed in the assessment tables and the apparent contradiction that has occurred with the anticipated land uses listed in a DTS/DPF provision not featuring in the table. This would inadvertently lead to anticipated uses being considered 'all other Code assessed' and subject to public notification, argued to be an unintended outcome.

An agency submission encouraged the inclusion of additional performance objectives that promote conservation practices and provide guidance as to what open space areas should achieve functionally. Additional detail and scope for proposed policy provisions were recommended by multiple responses. Furthermore, amendments to expression and terminology were discussed.

The creation of a 'Metropolitan Beach Subzone' was encouraged to be spatially applied to urban beach settings. It was argued that the subzone would more appropriately cater for and accommodate land uses and development anticipated in such settings and the submission included a comprehensive suite of suggested performance objectives.

Assessment Tables

Multiple councils queried the absence of any restricted development classes and strongly encouraged the inclusion of land uses which would not be appropriate in the open space zone or incompatible with regional open space objectives. There were also suggestions that a range of inappropriate forms of development will be considered 'all other Code assessed' for the purposes of Table 3 and, while councils currently have the right to not proceed with a non-complying assessment, this right is lost for performance-assessed development. It was also suggested to:

- remove 'all other Code assessed development' from Table 3
- include discouraged land uses in Table 4
- include classes of development currently considered 'non-complying' as Restricted Development.

Clarification: The restricted development threshold is a procedural trigger to require a more comprehensive assessment pathway. Unlike non-complying development in development plans, the restricted development threshold does not indicate that a development is inappropriate or otherwise.

Other suggestions relating to the assessment tables included:

- Given that Advertisements are deemed-to-satisfy, criteria is required to guide their scale and maximum height and size in the zone.
- The deemed-to-satisfy criteria for shops and offices should be expanded to ensure that such uses are subordinate to the principal use of the land.
- The envisaged uses in DTS/DPF 1.1 should be listed in the assessment tables (e.g. fences) and not be subject to notification.
- Minor ancillary structures associated with open space facilities should be provided with a DTS pathway and feature in Table 2: Deemed-To-Satisfy. These include toilets and general facilities.
- Shops and offices should be included as 'All other Code Assessed Development' given that they are not explicitly envisaged in the zone.
- A Telecommunications Facility should be included as performance-assessed development in Table 3.
- Conversely, there was some suggestions that Telecommunications Facilities should be Restricted in the zone citing that they are non-complying where over 40m in a number of existing areas where the zone is proposed to apply.

Zone Policy

- Considerable feedback suggested expanding DO 1 to consider a wider range of themes.
- Policies to facilitate beach management and the continued implementation of the Coast Park shared pathway (including potential for a new Subzone to be applied to the 'Adelaide beach area' stretching from Kingston Park to Outer Harbour) should be included.
- PO 1.1 should be expanded to include 'small-scale low impact development'.
- The Sloping Land Overlay or relevant policy concerning topography should be included to enhance protection measures for the natural environment and topography of the land.

Clarification: Based on feedback received in Phase Two Amendment, the Sloping Land Overlay was removed from the Phase Two Amendment due to current data limitations, which may result in an inaccurate application of the overlay.

- The Native Vegetation Overlay should apply to the zone.
- Additional policy guidance should be provided in relation to the scale of shops and offices anticipated in the zone and where commensurate with sporting/recreation clubs. One council also suggested that commercial activities be discouraged in the zone.

- Limiting the scale of playground equipment in DTS/DPF 2.2 was queried, noting that current development plans do not apply such limits.
- Policy concerning existing educational facilities should be transitioned to the zone.
- Additional policy suggestions included the encouragement of favourable environmental and biodiversity outcomes, natural features, flora and fauna, enhanced access for pedestrian and cycle paths and modes of active transport.
- Important elements of the MOSS policy, including creation of a continuous linear park and shared cycle/bikeway along areas such as the Gawler River, should be retained.
- Suggestions to include policies relating to short term tourist accommodation in the zone.
- PO 3.1 should be amended to reference 'public open space' and expanded to include areas of existing native vegetation, habitat and biodiversity.
- Clarification is needed about the appropriate height of telecommunications towers in the zone and the continued use of Land Management Agreements (LMAs) to regulate land use outcomes.
- The application of building height TNVs should occur in the zone where height policy currently exists.
- Two new POs are needed to reflect the expanded function of open space areas:
 - PO X:** High quality and publicly accessible natural and semi-natural open space, linked to other open space, that:
 - (a) provides for a variety of both passive and active uses appropriate to the location and community needs
 - (b) conserves sites of scientific, cultural or heritage interest
 - (c) conserves and restores remnant native vegetation
 - (d) creates corridors for the movement of people and native fauna
 - (e) protects water bodies and assists with urban water management
 - (f) provides a buffer to adjoining areas of conservation significance.
 - PO X:** Development is sited and designed to be compatible with the conservation and enhancement of the natural environment.
- PO 2.1 should be amended to include the need for development to be designed unobtrusively so not to spoil the open space character or interrupt views of natural or landscape features.
- Procedural Matters should be amended to include a greater scope of developments and exemptions to avoid unnecessary notifications for minor developments.

Commission's Response:

Assessment Tables

In relation to suggestions from local government to consider listing uses as Restricted development, the zone encompasses a variety of land with different sensitivities. This includes a range of natural reserves, sporting facilities, recreation grounds, coastal open space, linear parks, and tourist gateways. In recognition of these variations, most forms of development will be performance-assessed in the zone. Notwithstanding this, the Commission considers that intensive or high impact uses such as industry and intensive animal husbandry should be listed as Restricted in the zone and subject to notification.

With regard to suggestions to remove 'All other Code Assessed Development' from Table 3 in favour of listing all forms of development in the assessment tables, including as restricted development in Table 4, it is not practical or appropriate to comprehensively identify all land uses that may be proposed in the zone. This allows developments that are not specifically listed as accepted, deemed-to-satisfy, performance assessed or restricted to be performance assessed against the full Code. It is therefore appropriate to retain reference to 'All other Code Assessed Development' in Table 3.

In relation to suggestions from local government that minor ancillary structures associated with open space facilities should be provided a deemed-to-satisfy pathway in Table 2 (e.g. recreation facilities and toilets), a range of works undertaken by councils in open space and recreation areas are excluded from being 'development' under the PDI (General) Regulations and would not be subject to a development application. This includes a range of structures/shelters, recreation buildings and the like. Notwithstanding this, the classification tables were reviewed and amended as part of the Phase Two Amendment to reflect the range of uses envisaged for the zone and allows for minor forms of development to be accepted or deemed-to-satisfy in the zone.

While suggestions that envisaged uses in DTS/DPF 1.1 should be listed in the assessment tables and not be subject to notification are noted, uses generally listed in DTS/DPF 1.1 can comprise a range of elements, which can have a variety of different impacts and require different levels of assessment. For example, lighting, advertisements, clubrooms, licensed premises and the like associated with 'Sporting ovals and fields'. It would therefore be appropriate for some such elements to be performance-assessed as 'All other Code Assessed Development' against the full Code. Table 5 – Procedural Matters (PM) Notification was, however, comprehensively reviewed and amended as part of the Phase Two Amendment to exclude notification for a range of minor and anticipated performance-assessed development.

Shops and Offices

Suggestions from local government to discourage commercial activities in the zone or that shops and offices should be included as 'All other Code Assessed Development' rather than be specifically listed in Table 3 given that they are not explicitly envisaged in the zone, are noted. While such uses are not specifically listed with the principal open space and recreation type uses in DPF/DTS 1.1, policies facilitating these uses are included in the zone (i.e. PO 1.3 and PO 1.4) where they are of a scale that is subordinate to the principal open space use of the land. Small-scale shops and restaurants in particular are reasonably expected in certain areas in the zone to complement open space and recreational uses and add to visitor experiences. The Phase Two Amendment has also separately listed a 'restaurant' as a performance-assessed development in Table 3 to provide greater clarity for assessment of such uses and to align with the land use definitions in Part 7 of the Code.

It is also not considered necessary to replicate the intent in PO 1.3 and PO 1.4 for these uses to be subordinate to the principal open space use of the land in the DTS/DPF criteria. The DTS criteria also provides direction on desired floor areas for such uses, which is of low-scale.

Similar to the Recreation Zone and Community Facilities Zone, which both anticipate small-scale shops ancillary to the principal use of land, it is considered appropriate to list a Shop as Restricted development in the zone where it has a floor area of 1000m² or greater, but excluding restaurants.

Advertisements

In relation to suggestions to include criteria to guide the scale of advertisements in the zone (i.e. given that an Advertisement is proposed in Table 2 – Deemed-to-Satisfy), an appropriate scale for advertisements is variable given the range of environments and sensitivities of land in the zone. Consequently, Advertisements were removed from Table 2 in the Phase Two Amendment and instead included in Table 3 – Performance Assessed with references to appropriate Advertisements General Development Policies.

Telecommunications facilities

In relation to suggestions to specifically list a Telecommunications facility in Table 3 – Performance Assessed development, the zone encompasses a variety of land and open space areas with different sensitivities. It is therefore considered appropriate to continue to allow such facilities to be assessed as 'All other Code Assessed Development' against the full Code. With regard to suggestions to make telecommunications facilities Restricted development where over a certain height, this is also not considered appropriate based on the variety of areas to which the zone applies and given that such facilities can be appropriately located in open space, sporting and recreation areas subject to meeting policies in the Code.

Technical and legislative matters

Metropolitan Open Space System (MOSS)

The Commission acknowledges that the removal of the MOSS Zone has had implications for the application of the Native Vegetation Act in some areas of metropolitan Adelaide. The Department for Environment and Water is currently progressing an amendment to the Native Vegetation Regulations to ensure that areas currently covered by the Native Vegetation Act will continue to be subject to native vegetation clearance controls despite any zoning changes. The regulation amendment will remove any ambiguity and ensure that the original intent of the Native Vegetation Act to apply to these areas, such as the MOSS Zone, is retained. It will also ensure that any future rezoning proposals don't impact the application of the Native Vegetation Act. For this reason, it is not necessary to retain the MOSS Zone for this purpose.

In relation to suggestions to retain important policies from the existing MOSS Zone in development plans within the Open Space Zone in the Code, important elements applying to land in the existing MOSS Zone from the SA Planning Policy Library have been transitioned to the Open Space Zone and Open Space and Recreation General policy provisions or the Native Vegetation Overlay where appropriate. This includes policies that encourage pedestrian and cycle links, visual elements, wildlife corridors, habitat protection and the like. It is not, however, intended to include localised policy in the zone that may not apply to other areas (e.g. specific references to a shared pedestrian/cyclist pathway along the Gawler River).

Land Management Agreements

In relation to requests for clarification regarding use of land management agreements (LMAs) under the Code to achieve the desired outcomes and performance objectives of the zone, section 192 of the PDI Act still allows authorities the ability to enter into agreements relating to the development, management, preservation or conservation of land with the owner of the land, including for greenways. Section 193 of the PDI Act also guides land management agreements where part of a development application.

Policy matters

Suggestions that the Desired Outcomes (DO 1) for the zone are less comprehensive than the objectives in the existing Open Space Zone in the SA Planning Policy Library and should be expanded are noted. However, the desired outcomes in the Code are intended to provide more concise, high level direction regarding outcomes sought for a particular zone compared to the range of objectives found in existing development plans.

Significant areas of open space across Greater Adelaide and the state are under the care and control of local councils or are Crown land. Policies in the zone have therefore been developed in recognition that the design or re-design of open space and recreation areas by these authorities is often undertaken without the need for development approval. Indeed, a range of uses, activities or components in the development of open space areas is excluded from being 'development' under the PDI (General) Regulations. This includes works carried out by local councils in recreation and open space areas such as infrastructure works, construction/alteration of recreation buildings under a certain size, shelters, building of playgrounds (or exercise or recreation equipment), street furniture, signage, lighting and the like, as well as similar works undertaken by state agencies. Consequently, a limited range of open space activities will require assessment against the Code. It is, however, recognised that many of these elements may require approval for open space areas on private land.

Further, most uses and activities that constitute 'development' will be performance-assessed in the zone, with more significant development to be assessed as 'All other Code Assessed Development' against the wider Code. This includes against the Open Space and Recreation General provisions. It is therefore not necessary or appropriate to duplicate these General policy provisions in the zone where specific matters are addressed.

Expanded function of open space

In relation to recommendations to amend DO 1 to better reference the range of key functions provided by open space, it is proposed to expand the desired outcomes to recognise other functions such as biodiversity, tree canopy and urban cooling in particular.

The recommendations from a state agency to include a new performance objective in the zone to further reflect the expanded function of open space areas is acknowledged. However, the Open Space and Recreation General provisions are considered to adequately address matters such as linkages between areas of open space and habitats and provision of wildlife corridors (e.g. PO 2.3 and PO 8.3), and promotion of pedestrian (and cycle) linkages (e.g. PO 3.1). Support for passive/unstructured and active recreation uses is already facilitated in PO 1.1 of the zone policies.

The protection of areas of scientific, cultural or heritage interest are also generally addressed through application of overlays in the Code and/or covered by other legislation. Similarly, relevant policies relating to conservation of native vegetation and protection of areas of conservation significance have been elevated to the Native Vegetation Overlay or State Significant Native Vegetation Overlay to apply to areas where the *Native Vegetation Act 1991* applies (the latter including national parks and selected reserves) to enable better alignment between the land use system and native vegetation clearance consent processes. The planting and retention of large trees and vegetation is also encouraged in the General policy provisions (e.g. PO 8.1). Protection of important water bodies and watercourses is also afforded by a number of separate overlays in the Code, including the Prescribed Watercourses Overlay and Prescribed Water Resources Area Overlay, among others.

Metropolitan beach management

Identification by a state agency that the proposed Open Space Zone does not reflect the outcomes and uses envisaged in the government's '*Securing the future of our coastline*' for Adelaide's managed beach

system, and suggestions to consider a new subzone (e.g. Metropolitan Beach Subzone) with policies to facilitate this management, are acknowledged.

It has been recommended that policies be included to facilitate the provision of a sand recycling pipeline (which is being progressively implemented) and associated infrastructure, large-scale beach replenishment, sand movement and dune restoration. Policies to facilitate the ongoing implementation of a coastal linear park along the length of the metropolitan coastline (i.e. as part of the Coast park initiative) have also been suggested. While such policies do not generally feature in the Open Space Zone, beach areas in the zone are also included in the Coastal Areas Overlay of the Code which contains a range of additional policies to protect coastal land and maintain public access to beach areas and requires referral to the Coast Protection Board for a range of activities.

In relation to suggestions to include policies in the zone (or a new subzone) to facilitate beach management, certain development undertaken by state agencies is exempt from requiring development approval under Schedule 13 of the PDI (General) Regulations. This includes the excavation, removal or placement of sand and other beach sediment by, or as authorised by, the Coast Protection Board. Further, dune restoration activities in the form of revegetation and clearance of pest plants along the metropolitan coast are generally undertaken by local councils with assistance from the State Government and community volunteers and are not subject to development assessment. Repairs, maintenance or replacement of seawalls or other structures associated with coastal protection are also excluded from being development in many cases under Schedule 4 of the PDI (General) Regulations, although it is acknowledged that new state infrastructure may require approval in some cases.

In relation to suggestions to include policies to facilitate the ongoing implementation of a coastal linear park along the length of the metropolitan coastline, significant areas of the Coast Park shared pathway have been completed along the metropolitan coastline, with sections between Grange and Semaphore Park being the only areas remaining between Outer Harbor and the City of Marion's southern boundary. These are currently in the planning phase. While sections are yet to be completed in the City of Onkaparinga, these are primarily located within the Conservation Zone, which includes specific policies relating to recreation trails and access ways.

Notwithstanding this, recreation paths undertaken by a council, public authority or the Crown (including on coastal land) and ancillary development (such as landscaping, safety features, directional signs and street furniture) are exempt from requiring approval under the Planning, Development and Infrastructure (General) Regulations 2017. Consequently, it is not considered necessary to include policies in the zone (or in any subzone) to continue to facilitate the coast park shared pathway.

Scale of development

While suggestions to expand to expand PO 1.1 to refer to 'small-scale low impact development' are acknowledged, the zone is proposed to apply to a diverse variety of land with varying sensitivities. Further, the list of envisaged uses in DTS/DPF includes a variety of sporting and recreation facilities, which may not be small-scale and can vary in terms of impact and intensity of use. Most uses will, however, be assessed as 'All other Code Assessed Development' against the full Code to ensure any impact or managed. On this basis, it is not appropriate to limit the scale of envisaged uses.

Design and siting of buildings

In relation to suggestions to amend PO 2.1 to include the need for development to be sited and designed to be unobtrusive and not to spoil the open space character or interrupt views of natural or landscape features, the Commission supports this recommendation.

Building heights

Requests to apply a building height TNV to areas where a building height is currently prescribed in open space and recreation areas in existing development plans are acknowledged. However, it is noted that many development plans do not currently contain prescriptive building height criteria in open space zones. The policies in the zone regarding built form and character are considered sufficient to guide the suitable scale of buildings, which may vary depending on the context of the development.

Playgrounds

Queries regarding policy that limits the scale of playgrounds in the zone are acknowledged, in particular given that no such limits exist in the zone in the SA Planning Policy Library or development plans. This policy is considered unnecessary, particularly given that the placement, installation or construction of a playground (or exercise and recreation equipment) by a council or state agency is exempt from requiring approval under the PDI (General) Regulations. Consequently, it is recommended that PO 2.2 and DTS/DPF 2.2 be deleted from the zone.

Towers and telecommunications facilities

In relation to suggestions to provide clarification regarding the height of communication towers in the zone, no such clarification is provided in the SA Planning Policy Library for the zone or similar zones. While such policies are included in highly visible and sensitive locations such as the Hills Face Zone, land to be included in the Open Space Zone is far more diverse. As identified above, it is considered appropriate for telecommunications facilities and towers to be performance-assessed as 'All other Code Assessed Development' against the full Code, allowing for careful consideration of such facilities in more sensitive areas in the zone.

Native vegetation

In relation to recommendations to apply the Native Vegetation Overlay to the zone, this overlay has been applied in the Code to areas where the *Native Vegetation Act 1991* applies to enable better alignment between the land use system and native vegetation clearance consent processes. This includes land in the Open Space Zone in areas such as the Onkaparinga Council area, which is subject to the Native Vegetation Act. It is not therefore intended or appropriate to apply this overlay to land where the Act does not apply.

Educational establishments

Suggestions to transition existing development plan policy that recognises existing educational uses in the zone relate primarily to the TAFE SA, Investigator College and Victor Harbor High School campuses, which enjoy existing use rights. These uses are currently recognised in the desired character statement in the zone, which is not intended to transition to the Code. Notwithstanding this recognition in policy, educational establishments are non-complying in the existing zone. While it is not intended or appropriate to include policies in the Code to facilitate educational establishments in the zone, the zone allows for recreation, open space and sporting facilities associated with educational establishments. Educational establishments will also be appropriately performance-assessed as 'All other Code Assessed Development' against the full Code.

Tourist Accommodation

Suggestions to include policies relating to short-term tourist accommodation based on such uses being envisaged in existing areas where the zone is proposed to apply are recognised. This is understood to relate to areas such as the Fort Glanville precinct, which includes a caravan park in the Coastal Open Space Zone. This precinct is now proposed to be located in the Conservation Zone based on an existing

management agreement that exists under the *National Parks and Wildlife Act 1972*, which contemplates tourist accommodation within these reserves.

Land Division

Suggestions that PO 3.1 relating to land divisions in the zone be amended to reference 'public open space' and expanded to include areas of existing native vegetation, habitat and biodiversity are acknowledged and agreed. The Commission therefore proposes to amend this policy accordingly.

Other policy matters

Suggestions to include additional policies concerning favourable environmental and biodiversity outcomes, natural features, flora and fauna are acknowledged. Notably, however, the zone is not intended to be a conservation zone, which is reserved for the Conservation Zone in the Code. Notwithstanding this, however, most development in the zone will be assessed as 'All other Code Assessed development' against the full Code. This includes the ability for authorities to assess proposals (particularly within more sensitive areas in the zone) against the Open Space and Recreation General policies, which include provisions relating to environmental and biodiversity outcomes. It is therefore not necessary or appropriate to duplicate this policy in the zone.

Similarly, the Open Space and Recreation General provisions are considered to adequately address pedestrian and cycle linkages (e.g. PO 3.1) and promote design features conducive to active travel. It is again, not therefore necessary or appropriate to duplicate this policy in the zone.

Procedural Matters and notification

In relation to recommendations to review the notification requirements applying to a range of uses in the zone, the 'Procedural Matters – Notification tables' were reviewed and amended for all zones as part of the Phase Two Amendment to ensure that development generally envisaged in the zone or considered of a minor nature is not subject to notification, except where acceptable standards of built form or intensity may be exceeded and/or the development is likely to result in impacts on the amenity of adjacent dwellings located on land in another zone.

Commission's Recommendations:

- N.31** **AMEND** DO 1 to reflect the wider range of functions provided by open space.
- N.32** **AMEND** PO 2.1 to ensure that developments are designed and sited to be unobtrusive to protect open space character and not interrupt views.
- N.33** **CREATE** a new PO to ensure that developed is sited and designed to be compatible with the conservation and enhancement of the natural environment.
- N.34** **AMEND** Table 4 - Restricted Development Classification to include the following uses:
- Industry*
- Intensive animal husbandry*
- Shop (except for a shop with a gross leasable floor area less than 1000m² or a shop that is a restaurant).*
- N.35** **REMOVE** PO 2.2 and DTS/DPF 2.2 relating to playgrounds in the zone.

N.36 **AMEND** PO 3.1 and DTS/DPF 3.1 relating to land division to reference 'public' open space and be expanded to include land division which contributes to the preservation of native vegetation, habitat or biodiversity improvements.

Recreation Zone

This zone seeks the provision of a range of accessible recreational facilities and applies to current recreation zones/policy areas/precincts which accommodate recreational facilities such as golf courses, sporting clubrooms, etc.

A significant amount of feedback was received in relation to the Recreation Zone. Feedback primarily related to the following key matters:

Shop floor area

Engagement feedback:

- Support was provided regarding the zone's DTS/DPF shop floor area provision of 80m². It was suggested that this was appropriate to ensure that any retail land use is subordinate to the principal recreation use of the land.
- It was suggested that additional policy could be added in the zone to further strengthen and guide retail development that sits outside of Deemed-to-Satisfy criteria.

Commission's Response: The Recreation Zone provides policies that seek retail development to be subordinate to the principal recreation use of land. In addition, as noted in the Rules of Interpretation, the Designated Performance Feature (DPF) provides a guide to the relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, nor does it derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

Envisaged Land uses and Classification Tables

Engagement feedback:

- All envisaged land uses contained within DTS/DPF 1.1 should be included in zone classification tables 2 and 3 where considered appropriate
- Additional policy should be provided to further strengthen the intent of the zone in accommodating only those uses directly associated with recreational land uses.

Commission's Response: Land use and Intensity Performance Outcome 1.1 provides that development is associated with or ancillary to the provision of structured, unstructured, active and / or passive recreational facilities. It is considered that this along with the Desired Outcome of the zone provide sufficient guidance in seeking that development is primarily undertaken for the purpose of recreational uses.

Restricted Development

Engagement feedback:

Some concern was expressed regarding the limited amount of restricted land uses contained within the zone. It was suggested that protection from inappropriate forms of development would be weakened where such uses are currently non-complying.

Commission's Response: Restricted classes of development are a procedural matter. Unlike development plans, there is no relevant policy which indicates that restricted development is inappropriate or otherwise. The suitability of a use or form of a development will be assessed against the relevant Desired Outcomes and Performance Outcomes in the zone. As such, it is considered that uses which are clearly incompatible with relevant policies in the zone would not necessarily warrant a state-level assessment.

Built Form Guidance

Engagement feedback:

- It was queried whether the zone's 50m setback policy applies to structures such as light towers and fencing, and whether light towers require specific policy guidance given they are more likely to impact on adjacent land. It was also suggested that the draft 50m setback policy should be amended to better reflect existing conditions.

Commission's Response: It is considered that impacts of light spill associated with external lighting are managed through the Code's Interface between Land Uses General Development Policies. It is acknowledged that the draft 50m building setback policy should be further reviewed and amended accordingly to better reflect existing development plan policy conditions.

- Additional height limit policy and built form guidance should be provided to guide appropriate built form, particularly in relation to surrounding residential land uses.

Commission's Response: No change to building height policy within the Recreation Zone is recommended as this is considered largely consistent with the majority of existing policy conditions for recreation-type zones. However, it is considered that additional guidance regarding interface height surrounding residential development may be provided in the zone, as well as policy guiding the visual impact of buildings along public roads and open spaces.

- Maximum size and height requirements for advertisements should be provided.

Additional policy should be provided in the zone regarding the provision of appropriate landscaping to be incorporated to address appearances to road frontages, car parking areas and the like.

Commission's Response: It is considered that policy relating to landscaping to address car parking areas and road frontages is included as part of the Code's General Development Policies.

Creation of Subzones

Engagement feedback:

Several councils requested the creation of subzones to address unique policy conditions across the state involving varying intensities of recreation-type land uses. These included locations accommodating racecourses, stadiums, motorsport tracks and showgrounds, as well as associated uses such as animal keeping, tourist accommodation and vehicle maintenance activities.

Commission's Response: It is considered that the Recreation Zone is capable of accommodating a wide range of recreation-type uses, including complementary and associated uses subject to the incorporation of policy guidance to support varying circumstances. It is not considered preferable to isolate specific recreational land uses through the creation of individual subzones as any future change to these land uses may warrant a rezoning of land. It is preferable that a variety of recreation-type land uses is accommodated within the zone and that sufficient policy guidance is provided in order to accommodate complementary activities and varying land use intensities.

It is considered that appropriate policy guidance within the zone can be incorporated to address facilities capable of attracting larger numbers and/or longer-term spectators such as racecourses, showgrounds and motorsport tracks, as well as associated activities such as animal keeping, vehicle storage, and tourist accommodation where appropriate.

Public Notification

A number of submissions suggested that additional public notification exemptions should be provided in the zone for envisaged and contemplated land uses to avoid unnecessary and onerous notifications.

Commission's Recommendations:

- N.37** **AMEND** DTS/DPF 1.1, Table 2 – Deemed-to-Satisfy Development Classification, and Table 3 – Applicable Policies for Performance Assessed Development to include additional land uses contemplated within the zone.
- N.38** **CREATE** new built form PO to guide the visual amenity of development, particularly along public roads and open spaces.
- N.39** **AMEND** setback policy contained in DTS/DPF 2.2 (former 2.1) to seek buildings to align with adjoining buildings, or 8m where no adjoining building exists or where adjoining a sensitive receiver.
- N.40** **CREATE** new interface height POs and DTS/DPF policy within the zone to address development in locations adjacent to residential development.
- N.41** **CREATE** policy to address facilities capable of attracting larger numbers of spectators (such as racecourses, motorsport tracks and showgrounds) and their associated activities such as animal keeping, maintenance of vehicles and tourist accommodation.
- N.42** **CREATE** policy within the Recreation Zone to guide the size and height of advertisements.
- N.43** **AMEND** public notification requirements in the zone to incorporate additional notification exemptions for envisaged and contemplated uses in the zone.

Coastal Waters and Offshore Islands Zone

The zone seeks to protect the state's coastal waters, including marine parks and offshore islands, and recognises the importance of these areas for commercial, tourism, recreation and navigation activities.

Engagement feedback:

A range of submissions were received regarding the Coastal Waters and Offshore Islands Zone some of which were resolved as part of the Phase Two Amendment. There were recommendations for additional improvements to policy in regard to avoiding pollution and harmful effects on the marine environment as well as the following comments:

- Prioritising the preservation of unique coastal and offshore environments is vitally important.
- Recognition should be made of the natural marine and coastal environment for (blue) carbon storage, particularly associated with mangroves and saltmarshes
- Attention should be given to:
 - Marine pest biosecurity
 - Sensitive location of small-scale tourism
- Recreational pontoons should be classified as DTS.
- There is concern around fisheries and aquaculture activities including the duplication in assessment processes under aquaculture and planning legislation; public notification arrangements for development proposals in Coastal Waters and other aquatic settings, including the mechanism for ensuring holders of aquaculture leases and licences are contacted; and referral fees.

Commission's Response:

The Commission undertook a number of improvements to the Phase Two Amendment release of the Code and supports further improvements to policy to change the emphasis from minimising to avoiding pollution in these sensitive localities.

The Commission is of the view that a notice on land is not required for performance-assessed development where subject to notification in the Coastal Waters and Offshore Islands Zone, given that many properties in this zone are unlikely to be frequently viewed by passing vehicles or foot traffic.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- N.44 AMEND** DO 2 to seek small-scale, low impact development for the purpose of conservation, navigation, science, recreation, tourism, aquaculture or carbon storage.
- N.45 AMEND** PO 3.1 to address biosecurity risks.
- N.46 AMEND** PO 2.3 to read: '...small scale tourist accommodation such as ~~caravan~~ camping grounds, huts and cabins avoids delicate or environmentally sensitive areas.'
- N.47 AMEND** Table 2 – Deemed-to-Satisfy Development Classification Criteria to add '*Recreational Pontoons*' as a Deemed-to-Satisfy class of development and include a new DTS / DPF with relevant minimum criteria.
- N.48 AMEND** Table 5 – Procedural Matters (Placement Notices – Exemptions for Performance Assessed Development) to exempt the need to place a notice on land in the Coastal Waters and Offshore Islands Zone.

Phase Three (Urban Areas) recommendations:

N.49 AMEND PO 3.2 as follows:

'Development ~~minimises the potential for harmful effects of~~ avoids pollution (including turbidity, and sedimentation), ~~pollution~~, shading and effects on water flows of harming the marine environment both inside and outside of the zone.'

Conservation Zone

This zone seeks the conservation and enhancement of the natural environment and natural ecological processes for their historic, scientific, landscape, faunal habitat, biodiversity, carbon storage and cultural values and provision of opportunities for visitors to experience these through low-impact recreational and tourism development. It provides for a limited mix of development/land uses, including signage related to conservation and tourist information, small-scale recreational facilities/amenities, campgrounds and structures for conservation purposes.

A high number of submissions were received regarding the Conservation Zone, with particular concern raised about the wording used in Park Management Plans about tourist accommodation. A number of submissions raised concerns that the number of land uses provided for in the zone do not reflect the conservation purpose of the zone.

Tourist Accommodation & development

Engagement feedback:

- the restricted pathway for tourist accommodation in areas protected under the *Wilderness Protection Act 1992* should be retained.
- The word 'contemplated' is too vague in regard to tourism accommodation being 'performance-assessed' rather than 'restricted' if it is contemplated in a relevant Park Management Plan, which may lead to tourist accommodation being considered without public scrutiny.
- All tourism proposals on reserves should be classified as the highest category of assessment (i.e. 'restricted') and that assessment should include consideration of 'public good'.
- Tourist accommodation in public parks should be publicly notified and undergo public scrutiny
- Additional policy is needed to address tourist accommodation.

Clarification: Tourism accommodation is currently contemplated in a number of existing Conservation Zones in development plans.

Commission's Response:

The Commission supports a restricted pathway for tourist accommodation in these environmentally sensitive areas, except where it is located in the Visitor Experience Subzone or where the relevant Park Management Plan identifies tourist accommodation as an envisaged land use. It is proposed to remove the word 'contemplated' to provide greater clarity.

Updates to the public notification table are supported to only exclude from notification land uses which are envisaged in the zone, consistent with the principle expressed in [Procedural and Technical > Public Notification](#) section of this report.

Purpose of Zone/ Envisaged Land Uses/Development Types

Engagement feedback:

- A high number of respondents suggested that anything other than minor development should either not occur or should require the highest level of assessment (be 'restricted' development types) in the Conservation Zone. This was particularly raised in respect to tourist accommodation, large-scale renewable energy facilities, farming and signage.

- The creation of a Wilderness Protection Subzone for the fourteen areas currently proclaimed under the *Wilderness Protection Act 1992* with policy that mirrors the provisions of that Act should be considered.
- When campgrounds become commercialised and provide for semi-permanent structures, these should be called up as restricted and undergo public notification.
- There is concern that recreation and visitor facilities might result in additional recreation trails/paths to access them.
- Management Plans are not up to date and not usually specific enough.
- There is concern that the word 'amenity' in DTS 1.1 is too broad and the word 'toilet' should be used instead.
- The details of Granite Island's management plan are not yet known and without knowledge of the detail, there is concern about its significance on, and implications for, future development assessment under the Code.
- Additional wording that reflects the importance of conservation areas for their role in combatting climate change is needed.
- The Code does not allow the replacement of a detached dwelling where development plans currently allow it e.g. in some parts of the River Murray Flood Zone and certain Policy Areas within the River Murray Zone.
- 'Carport' should be added to Table 3 Performance Assessed types of development
- The words '*wastewater system*' should be used instead of '*Waste control system and effluent disposal*' .
- Regarding DO 1 of the Small-Scale Settlement Subzone of the Conservation Zone, it is unclear why 'faunal habitat' is identified separately. Suggest removing 'faunal' or add 'and floral'.
- The treatment of all forms of renewable energy facilities as performance-assessed rather than restricted is of concern as it relates to wind farms and large scale solar farms as most of the zone applies to sensitive areas along the River Murray and designated Conservation Parks. It is noted that the Significant Landscape Protection Overlay has not been applied to the Conservation Zone in the Riverland, meaning that Overlay PO 1.2 that restricts wind farms and large scale solar farms would not apply.

Commission's Response:

It is considered important to provide an appropriate balance of land uses within the Conservation Zone that reflects existing development plan policy through the use of policy within the zone and the application of subzones where appropriate.

As a response to submissions raised for Phase Two as well as Phase Three, the Commission supports recognition of concerns about renewable energy facilities within these environmentally sensitive areas and has implemented a restricted development pathway for renewable energy facilities, allowing a state-level assessment by the Commission.

As part of a future 'generation' of the Code, the Commission may consider the creation of a Wilderness Protection Subzone for areas currently proclaimed under the *Wilderness Protection Act 1992* with policy that mirrors the provisions of that Act, i.e. that prohibits roads, tracks, buildings or structures except those that are specifically authorised by the management plan.

Carbon Storage

Engagement feedback:

- The DO should be broadened to recognise the (green and blue) carbon storage values of conserving the natural environment and natural ecological processes, consistent with State Planning Policy 5.7.
- An additional PO is needed to protect blue carbon ecosystems for their biodiversity value and carbon storage potential.
- An additional PO is needed which ensures development avoids seagrass, mangroves and saltmarshes for their biodiversity value and carbon storage potential.
- PO and DTS Criteria Land Use PO 1.1 should include carbon storage.
- DTS 1.1 should include carbon planting.

Commission's Response:

The Commission agrees with the recommendation for additional policy to reflect the carbon storage role of Conservation Zones and subsequent amendment to the DO. Further, the Commission supports the addition of carbon planting with locally indigenous species to the DTS/DPF 1.1 and an additional PO to reflect the importance of seagrass, mangroves and saltmarshes for biodiversity and carbon storage potential.

Land Division

Engagement feedback:

The restriction on the creation of additional allotments in the zone was supported. However, it was noted provision (b) of DTS 2.1, which refers to minor boundary re-alignments, refers solely to the boundaries affecting the location of existing structures. The new policy does not include management of native vegetation as directed in current zone policy. Boundary realignments should not occur unless to assist in the management of native vegetation.

Commission's Response:

The Commission recognises that a majority of development plans containing the Conservation Zone provide for 'merit' based land division (boundary realignment) where it is to assist in the management of native vegetation as well as to adjust anomalies with respect to existing structures and therefore considers an amendment to include this in DTS 2.1 is reasonable.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

N.50 In relation to the Zone's policies:

AMEND the DO to read: '*The conservation and enhancement of the natural environment and natural ecological processes for their historic, scientific, landscape, ~~fauna~~-habitat, biodiversity,*

carbon storage and cultural values and provision of opportunities for the public to experience these through low-impact recreational and tourism development.'

N.51 In relation to Table 4 – Restricted Development:

AMEND to refine the wording for the exception to 'restricted development' in relation to tourist accommodation where 'contemplated' in certain locations (refer to the note below in relation to further investigations regarding Park Management Plans).

AMEND to make the replacement of an existing dwelling 'performance assessed'.

AMEND to include 'renewable energy facilities' as restricted in the Conservation Zone.

N.52 **AMEND** DTS/DPF 2.1 to insert a TNV field for minimum site area.

Phase Three (Urban Areas) recommendations:

N.53 **AMEND** the DO to add words to reflect the climate change role of conservation areas and to remove the word 'faunal'.

N.54 **AMEND** DTS/DPF 1.1 by replacing the word 'amenity' with the word 'toilet':

N.55 **AMEND** DTS/DPF 2.1 to refer to allotments with frontage to the coast and for the purposes of native vegetation management.

N.56 **CREATE** new PO 3.2 to reflect the importance of seagrass, mangroves and saltmarshes for biodiversity and carbon storage potential.

N.57 **AMEND** PO 4.3 by adding the word 'existing' before the words 'recreation trails'.

Aquaculture and Recreation Subzone

No specific comments were received regarding this subzone, however it is considered appropriate to update the DO to align with terminology changes in the Conservation Zone.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

N.58 **AMEND** DO 1 by deleting the word 'faunal'.

Dwelling Subzone

The Dwelling Subzone was designed and applied to areas with the Conservation Zone or Coastal Conservation Zone where existing policy provides for (limited) dwellings.

Bushfire risk

One local government respondent suggested adding the words 'particularly that of bushfire' after the word 'risk' in PO 3.1(d) (Environment Protection and Hazard Risk Minimisation) in Dwelling Subzone of the Conservation Zone.

Commission's Response:

The Commission does not consider this necessary and is concerned that individually listing hazards may have the unintended consequence of other hazards not being considered in this regard.

Limiting dwellings

One local government respondent advised of general support for the transition of their existing zones to the Conservation Zone with the appropriate subzones and the Coastal Areas Overlay applied. However, they question whether there is a mechanism to limit the number of dwellings within the Dwelling Subzone.

Commission's Response:

The Commission considers that the proposed Dwelling Subzone provides adequate policy to limit the number of dwellings to be developed in these areas, including with the Desired Outcome being for '*Replacement dwellings and limited new dwellings*' and through DTS/DPF 2.1 which limits detached dwellings to '*no more than one dwelling on an allotment*', coupled with land division policies not providing for any new allotments.

Duplication of hazard policy

DTS 2.1 outlines design criteria to minimise coastal hazard risks, e.g. no closer to a water frontage than the existing dwelling. One submission suggested that this is unnecessary because the Coastal Areas and the River Murray Flood Plain Protection Area Overlays provide performance-based policy to help determine site and setback recommendations or suitable requirements, which is often a site-by-site assessment.

Commission's Response:

The Commission agrees that policy regarding hazard should be retained in the relevant Overlay and therefore the hazard reference in the PO and the DTS should be deleted.

DO 1 wording

The following issue has been included in the Dwelling Subzone as it is equally relevant to DO 1 of this subzone as it is to the subzone DO it was raised for:

One local government respondent questioned why the word '*fauna*' is used in respect to protection of habitat, while not including '*flora*' in the Desired Outcome (DO) for the Small Scale Settlement Subzone.

Commission's Response:

The Commission notes that while the wording is a reflection of existing SAPPL and development plan policy, that it is unnecessary to include the word '*fauna*' and therefore agrees to its removal, leaving 'habitat' referring to that of plant or animal.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

N.59 AMEND DO 1 by deleting the word '*fauna*'

N.60 AMEND Dwelling Subzone PO 2.1 by removing the reference to hazards and including the requirement limiting development to one dwelling per allotment (currently in DTS/DPF 2.1 to be deleted).

N.61 DELETE Dwelling Subzone DTS/DPF 2.1

N.62 AMEND Dwelling Subzone PO 3.1 by:

- adding the words *'Replacement dwellings and'*:
- replacing the words *'waste control system and effluent disposal'* with the words: *'wastewater system'*; and
- by removing the words *'increased setbacks from coastal hazards'* (part (2)).

Small Scale Settlement Subzone

Engagement feedback:

- Limited submissions were received in relation to the Small Scale Settlement Subzone with feedback suggesting it is not necessary due to its similarity to the Dwelling Subzone. A further submission raised concern about the intention and application of Performance Outcome 3.1 (Land Division) which recognises that there may be need to undertake land division to accommodate the relocation of shacks.

Commission's Response: The Small Scale Settlement Subzone was created to apply to those areas currently zoned Coastal Conservation or Conservation where land division and dwelling (under certain circumstances) are 'merit' forms of development. The Commission considers it prudent to recognise the potential effects of climate change resulting in the need for relocation of some shacks into the future and the performance outcome was included for that purpose.

- DTS 2.1 outlines design criteria to minimise coastal hazard risks, e.g. no closer to a water frontage than the existing dwelling. One submission suggested that this is unnecessary because the Coastal Areas and the River Murray Flood Plain Protection Area Overlays provide performance-based policy to help determine site and setback recommendations or suitable requirements, which is often a site by site assessment.

Commission's Response: The Commission agrees that policy regarding hazard should be retained in the relevant Overlay and therefore the hazard reference in the PO and the DTS should be deleted.

Note: The Commission notes that while the wording is a reflection of existing SAPPL and development plan policy, that it is unnecessary to include the word *'fauna'* and therefore agrees to its removal, therefore 'habitat' referring as it should to that of plant or animal.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

N.63 AMEND DO 1 by removing the word 'faunal'

N.64 AMEND Dwelling Subzone PO 2.1 by removing the reference to hazards and including the requirement limiting development to one dwelling per allotment (currently in DTS/DPF 2.1 to be deleted).

N.65 DELETE Small Scale Settlement Subzone DTS/DPF 2.1

N.66 AMEND Small Scale Settlement Subzone PO 2.3 by:

- adding the words '*Replacement dwellings and*';
- replacing the words '*waste control system and effluent disposal*' with the words: '*wastewater system*'; and
- removing the words '*increased setbacks from coastal hazards*' (part (2)).

Visitor Experience Subzone

A limited number of submissions were received regarding the Visitor Experience Subzone of the Conservation Zone.

There were opposing views regarding PO 2.4 which seeks that tourist accommodation is designed to prevent easy conversion to permanent occupation, with one view suggesting that this PO and particularly the required minimum number of accommodation units, might hinder the development of small-scale exclusive and luxury accommodation and discourage designs that minimise the overall footprint of accommodation, whilst others supported the provision for its role in appropriately guiding tourist accommodation design to prevent conversion to dwellings, which was seen as an ongoing assessment issue.

The following summarises the other issues raised:

- The Visitor Experience Subzone should be applied to the Conservation Zone to promote tourist accommodation and investment in key areas.
- For consistency of policy, shops that exceed the maximum gross leasable floor area identified in DTS/DPF 1.1 should be subject to notification and the following clause should be included under the Procedural Matters, Notification table: '(a) shops, consulting rooms or offices in excess of the gross leasable floor area specified in DTS/DPF 1.1'.
- One local government respondent questioned why the word '*faunal*' is used in respect to protection of habitat, while not including '*floral*' in the Desired Outcome (DO) for the Small Scale Settlement Subzone.

Commission's Response:

In respect to PO 2.4 the Commission recognises the concerns around tourist accommodation and dwelling conversion and is satisfied that the proposed policy is based on existing working policy from a number of development plans which currently include non-complying limitations on number of accommodation units, as part of the policy response.

Public notification requirements were updated for the Phase Two Amendment which resulted in notification for shops in this zone.

In respect to the wording of DO 1, the Commission notes **that** while the wording is a reflection of existing SAPPL and development plan policy, that it is unnecessary to include the word 'fauna' and therefore agrees to its removal, therefore 'habitat' referring as it should to that of plant or animal.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

N.67 AMEND PO 2.1 to read: "*Tourist accommodation avoids delicate or environmentally sensitive areas such as sand dunes, cliff tops, estuaries, wetlands or substantially intact strata of native vegetation (including regeneration areas of native vegetation lost through bush fire)*".

N.68 AMEND DO 1 by removing the word 'faunal'.

Coastal Areas Overlay

This overlay seeks to conserve and enhance the natural coastal environment (including environmentally important features such as mangroves, wetlands, saltmarsh, sand dunes, cliff tops, native vegetation, wildlife habitat, shore and estuarine areas). Provision is made for natural coastal processes and recognition is given to current and future coastal hazards including sea level rise, flooding erosion and dune drift to avoid the need, now and in the future, for public expenditure on protection of the environment and development.

There were a number of submissions providing comment on the Coastal Areas Overlay including suggestions for improved policy wording, particularly in relation to the role that coastal areas play in climate resilience and carbon storage, some of which were resolved as part of the Phase Two Amendment. Some submissions raised concern about the application of the Coastal Areas Overlay, leaving areas prone to natural coastal processes without adequate policy to address. The following summarises issues raised:

Climate Change/coastal processes

Engagement feedback:

- The DO needs to be refined to better reflect State Planning Policy 5.7 requiring the protection of areas for their contribution to climate resilience to provide biodiversity and ecological services and maximise opportunities for carbon storage.
- A minor amendment is needed to provide greater clarity on the state's sea level rise allowance (1 metre).
- The sea level rise policy needs to be expanded and strengthened in response to climate change mapping.
- PO 3.1 anticipates that no development will necessitate the implementation of protection measures. There will be instances where protection measures are warranted in order to deliver a much-needed piece of infrastructure, for example, a boat ramp or a marina. It is recommended that PO 3.1 be amended as follows: 'Development will not necessitate unreasonable protection measures against coastal erosion, sea or stormwater flooding, sand drift or the management of other coastal processes.'
- PO 3.3 implies that the developer of a facility that requires coastal protection will fund all ongoing management and maintenance. Many facilities will generate community benefits that warrant a broader management/ maintenance cost base. It is recommended that PO 3.3 be amended as follows: 'Necessary coastal protection measures may be the subject of binding agreements to

cover the cost of future construction, operation, maintenance and management measures and will not: (a) have an adverse effect on coastal ecology, processes, conservation, public access and amenity; (b) require commitment of public resources including land; and (c) present acceptable risk of failure relative to potential hazard resulting from failure.'

- Consideration of a risk-based assessment such as the Hazards Overlay for bushfires may be an alternative solution for assessment of developments near the coast (i.e. Low, Med and High) and to provide greater clarity and consistency in the application of this policy.
- With regard to PO 3.1, should/could other development techniques and principles be listed here to avoid the need for coast protection works?
- Hazard mapping needs to be updated regularly, including coastal hazard maps.
- The Code should recognise and expand policy that is currently reflected in the development plan, particularly for low-lying areas of land in areas such as Moana (Esplanade, Nashawk Crescent) and Port Noarlunga. The Code goes some way to consider the possible impacts of sea levels and storm surges and intense weather events but additional updated policy concerning site levels, management of building setbacks, height guidelines, open space and FFLs of buildings is required.
- Clarification is sought on the design criteria that must be achieved before a referral is triggered. This should guard against coastal erosion, sea and storm water flooding and the need for management of other coastal processes.

Commission's Response:

In respect to suggestions for amended wording of the desired outcome relating to the coastal environment's role in climate resilience, whilst the Commission agrees that it is an important role, it is considered that the words of the DO that these areas be conserved and enhanced in and of themselves rather than listing the reasons is preferable.

The Commission recognises the complexity of providing for development in areas where coastal processes are present and is committed to providing Practice Guidelines for clarity for assessing authorities and applicants for development where the Coastal Areas Overlay applies.

The Commission recognises that there may be circumstances or developments that do result in the need for coast protection works, however, it is considered reasonable to include a performance outcome that seeks that development avoids the need for this in the first instance. This performance outcome on its own should not result in the refusal of developments that can demonstrate achievement of other desired and performance outcomes of the overlay or underlying zone. Further, it is considered that the agreement process for necessary coast protection works itself would reflect the level of community benefit.

In respect to containing additional policies about sea level rise and storm surge, it is considered that this policy is contained within the Coastal Areas Overlay. Changes to spatial application of that overlay are considered in the Code Spatial Application section of this report.

Waste disposal

Engagement feedback:

- PO 4.1 and PO 4.5 contain mandatory provisions relating to the discharge of certain pollutants into any waters or onto land in a place from which it is reasonably likely to enter any waters. Such provisions could form the basis of a Deemed-to-Satisfy criterion for development that is not referred to the EPA. SA Health's 'On-site wastewater systems code' (2013) provides for a setback of 100m between land application for an on-site wastewater system and the mean high

water spring tide along coastal foreshore areas. Such a distance could form the basis of a Deemed-to-Satisfy criterion.

- The position / location of waste water and sewerage infrastructure particularly in areas in danger of sea level rise (residential and community) should be considered.

Clarification:

A query was received about whether there should be an additional performance outcome relating to the size of allotments and their ability to have on-site wastewater disposal without causing adverse off-site impacts on the marine environment, including cumulative impacts. The size of allotments and their ability to accommodate on-site wastewater disposal without negative impacts is an issue considered at the zone level. Therefore no change is recommended for this overlay on this issue.

Commission's Response:

The Commission supports changes to reflect SA Health's 'On-site wastewater systems code' including the introduction of a new DTS criteria as recommended.

Other

Engagement feedback:

- Policies are needed to support the enhancement of the coastal environment.
- Coastal Areas Overlay Beneficial policy contained within the current SAPPL, including erosion buffers, protection of economic resources and development in appropriate locations and maintaining of public access, appears to be missing. Council recommends a review of the South Australian Planning Policy Library (SAPPL) and implementation of more relevant policy that seeks to protect and enhance coastal areas.

Commission's Response: The Commission considers that these policies are covered by policies in the Coastal Areas Overlay under the subheadings of 'Environment Protection' and 'Access'.

- Coastal Areas Overlay - DO 1 is supported, but it is suggested the wording 'flooding erosion' should also include 'wind erosion' or simply refer to 'erosion' more generally.

Commission's Response: Amendment to the DO is supported.

- If the Coastal Areas Overlay boundary is adjusted to capture foreshore development, referral provision (b) (ii) should be amended to read: areas within 100m of the mean high water mark, excluding land adjacent the 'metropolitan beach subzone' (also subject to subzone being adopted -see open space zone subzone recommendations).

Commission's Response: The Commission does not support the introduction of a Metropolitan Beach Subzone and therefore this policy change is not supported.

- Higher densities in the Coastal Areas Overlay are requested.

Commission's Response: The Coastal Areas Overlay is applied to areas subject to coastal processes and often fragile environments. The Commission does not support higher density development in these localities.

Commission's recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

N.69 AMEND the Index of TNVs to contain site and building floor level requirements to allow development that meets these levels to retain their assessment pathways and to ensure that necessary referrals to the Coast Protection Board occur.

Phase Three (Urban Areas) recommendations:

N.70 CREATE a new Coastal Flooding Overlay to apply to areas subject to coastal hazard risk but where the Coastal Areas Overlay does not apply.

Note: See associated recommendations in the Code Spatial Application section of this report.

N.71 AMEND DO 1 by separating it into two DOs to better reflect the role of coastal areas in climate change resilience and carbon storage and to ensure that 'erosion' is considered a separate issue to 'flooding'.

N.72 AMEND PO 4.5 to reflect the wording of the Environment Protection (Water Quality) Policy.

N.73 CREATE a new DTS/DPF that requires on-site wastewater systems to be set back from the Mean High Water Mark at spring tide.

Hazards (Acid Sulfate Soils) Overlay

This overlay seeks to protect the environment from the release of acid water resulting from the disturbance of acid sulfate soils.

Limited feedback was received in relation to the Hazards (Acid Sulfate Soils) Overlay which included.

- amending PO 1.1 to avoid disturbance of acid sulfate soils in the first instance, followed by measures to minimise any resulting impacts
- linking the policy to relevant Deemed-to-Satisfy and Performance Assessed classes of development in applicable zones
- removing the Hazards (Acid Sulfate Soils) Overlay as an exception for protective tree netting structures as Accepted Development in applicable zones.

Commission's response:

The Hazards (Acid Sulfate Soils) Overlay seeks for development to avoid excavation of land or change to a water table. The overlay captures areas that have previously been unidentified in the planning system under the *Development Act 1993*. While it is important to ensure that development does not disturb acid sulfate soils, there are also some types of minor and expected development which are unlikely to involve

substantial excavation that should continue to follow streamlined assessment pathways. Accordingly, the Commission supports review of the applicability of the overlay in classification tables to be identified as applicable policy only to land uses where disruption of acid sulfate soils is likely.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

N.74 AMEND PO 1.1. to read: 'Development that involves excavation or a change to a water table where potential or actual acid sulfate soils are present is undertaken to minimise soil disturbance or drainage, prevent or minimise oxidation, and contain and treat any acid drainage to prevent harm or damage to the environment, primary production, buildings, structures and infrastructure, and public health'.

Phase Three (Urban Areas) recommendations:

N.75 AMEND links for applicable Deemed-to-Satisfy and Performance Assessed classes of development to include Hazards (Acid Sulfate Soils) Overlay policy in applicable zones.

N.76 REMOVE the Hazards (Acid Sulfate Soils) Overlay as an exception to Accepted and Deemed-to-satisfy pathways for development which is unlikely to involve substantial excavation, and those development types which are ancillary to an already established land use (e.g. carport, verandah).

Hazards (Bushfire) – All Overlays

These overlays ensure development, including land division, respond to the level of bushfire risk by siting and designing buildings in a manner that mitigates the threat and impact of bushfires on life and property taking into account the increased frequency and intensity of bushfires as a result of climate change. It ensures access for emergency service vehicles is facilitated to aid the protection of lives and assets from bushfire danger. The overlays include:

- *Hazards (Bushfire – General Risk) Overlay*
- *Hazards (Bushfire – Medium Risk) Overlay*
- *Hazards (Bushfire – High Risk) Overlay*
- *Hazards (Bushfire – Outback) Overlay*
- *Hazards (Bushfire – Regional) Overlay*
- *Hazards (Bushfire – Urban Interface) Overlay*

There were a number of responses received in relation to the suite of Hazards (Bushfire) modules within the Code. The following key matters were raised:

- Asset protection zones, bushfire buffer zones and native vegetation loss
- Bushfire mapping
- Deemed-to-satisfy pathways for minor developments
- Land division in Urban Interface Overlay
- Additional referral requests
- Policy clarification and improvements:
 - Recognition of climate change on bushfire events

- Land division policy
- Incorporation of bushfire attack level (BAL) ratings into planning policy
- Terminology.

Asset protection zones, bushfire buffer zones and native vegetation loss

Engagement feedback:

The extent of asset protection zones was of interest to many stakeholders and various perspectives were offered. Industry emphasised importance of effective asset protection zones, citing recent bushfires in the Adelaide Hills and Kangaroo Island and observing the impact of vegetation and terrain on the intensity and speed of bushfires. Other submissions raised concerns with native vegetation loss particularly when bushfire buffer zones are an added requirement. Opportunities for greater alignment with the relevant Australian Standard for Construction in Bushfire Prone Areas (AS3959) were put forward as a possible improvement to Code policy. Strengthened policies aimed at avoiding significant impact on, and the unnecessary clearance of, native vegetation, significant trees, regulated trees and mature vegetation were suggested.

Clarification: The consultation version of the bushfire overlays sought to include policy aimed at minimising the clearance of native vegetation. On reflection, this is taking on the role of the native vegetation overlays, which is not the job of bushfire overlays. The same applies to regulated trees and the Regulated and Significant Trees Overlay.

Commission's response:

The Commission understands that the issue of native vegetation conservation versus clearance to support bushfire protection is complex and sensitive. The bushfire overlays and native vegetation overlays should, however, be able to do their job without influencing one another. Instead, they should be considered together when a development proposal is assessed by a relevant authority. In some cases, vegetation protection will win out over clearance for bushfire protection and vice versa. It will then be up to the proponent to explore alternative solutions. It is therefore recommended that the bushfire overlays be updated to focus on their primary role of protecting lives and property from loss rather than including policy on native vegetation clearance as originally drafted.

With respect to asset protection zones, the Commission acknowledges the request to increase the minimum DTS/DPF standard to 100m for all overlays² (except the Outback), particularly in light of recent fires in the Adelaide Hills and on Kangaroo Island. Instead of a 'cover all' approach, the Commission is of the view that the minimum asset protection zone distances should be broken down to a basic level of vegetation type (grasslands versus hazardous bushland vegetation) and slope (less than 6 degrees), to allow greater flexibility when site circumstances allow. It is recommended that further explanation on asset protection zones and their relationship with native vegetation legislation be provided by way of a Practice Guideline.

Bushfire mapping

Engagement feedback:

The following comments were received in relation to bushfire mapping:

² Currently only the Hazards (Bushfire – High Risk) Overlay requires a minimum asset protection zone width of 100m

- Industry submissions sought a reduction in the number of bushfire hazard overlays for simplification and a reduction in the impact of overlays on deemed-to-satisfy pathways for new dwellings.
- Many councils expressed that bushfire mapping must consider recent bushfire events and sought assurance that this was included in the proposed mapping.
- Many councils considered that the Hazards (Bushfire – Regional) Overlay shouldn't be applied to established settlements.

Clarification:

When developing the Regional Overlay and to ensure a level of consistency with current Development Plan policy, it was proposed that townships be excluded from the Regional Overlay, similar to those areas of the state that are currently mapped in terms of bushfire risk. Using the existing urban areas/township boundary data set was considered the most logical option for defining the excluded areas. As identified, this data layer hasn't necessarily kept pace with on ground development, meaning that some areas of the state that have experienced township growth haven't yet been captured in the data layer.

- General commentary around high, medium and general categorisation of bushfire hazard risk was also received, with cropping fire risk raised as a key gap in the current mapping methodology.

Commission's response:

The bushfire overlays and hazard mapping proposed in the first generation of the Code are transitional and generally reflect existing development plan mapping. This represents the first stage of a broader bushfire hazard mapping project undertaken by the Department in conjunction with SAFECOM, which will be progressively implemented in future generations of the Code, after the Phase Three Amendment has come into effect.

The overlay is a transitional policy measure to cover a current gap in development plan mapping and will eventually be replaced with formal bushfire risk mapping and urban interface areas as part of the subsequent generational change to the Code, as mentioned above. It is therefore recommended that the mapping for the Hazards (Bushfire – Regional) Overlay remain as per the consultation version, other than those smaller settlements that abut areas of vegetation/bushfire risk which warrant inclusion into the overlay.

Deemed-to-Satisfy pathways for minor development

Engagement feedback:

Inconsistencies have been identified in the Code regarding the application of bushfire overlays and their impact on accepted and Deemed-to-Satisfy pathways for minor forms of development such as carports, verandahs and outbuildings.

Clarification:

Under the Development Regulations, such activities (subject to meeting size and some locational requirements) are either exempt from development or do not require planning approval as they are unaffected by bushfire mapping or referral requirements. These arrangements have now been 'grandfathered' over to the Code.

Commission's response:

Allowance for minor development pathways has been allowed for in the Code and no further action will be taken at this juncture.

Land Division in Urban Interface Overlay

Engagement feedback:

Many councils considered that the Hazards (Bushfire – Urban Interface) Overlay may impact council resources and efficiency relating to the assessment of land division and will affect the performance assessment for dwellings and non-residential uses in Township Zones. Councils also raised the importance of the ‘Deemed to Satisfy’ pathway in townships and that this should not be precluded.

Commission’s response:

When the overlay was originally drafted, its intent was not to capture larger land divisions where they would be designed into the proposal. It was not the intent of the Commission to capture small, i.e. 1 into 2 land divisions in areas where traditional residential development is supported. For these reasons, the Commission agrees that small-scale land divisions (fewer than 10 allotments) should be offered a DTS pathway in areas designated for residential development and not be limited by the Land Division in Urban Interface Overlay.

Additional referral request

Engagement feedback:

There was general support for the nature of uses that would require referral to the CFS in the High Risk Overlay. In addition, it was requested that the Commission consider establishing a referral to the CFS in the Medium Risk Overlay for land division that is proposed adjacent to a High Risk Overlay. This would allow the CFS to undertake more detailed assessment of land division applications that abut high risk areas and provide direction in relation to safety of future residents.

Commission’s response:

Without a head power in the PDI Regulations, the Commission is unable to action additional referrals outside of the High Risk overlay. This is a decision for the government.

General policy clarification and improvements

Engagement feedback:

The following general matters of policy clarification and improvement were raised.

- Greater acknowledgement in the Desired Outcomes on how bushfire hazards will change as the climate changes is needed.
- Amendments to driveway design and an increase in building distance to a public road from 30m to 60m before the requirements kick in is supported.

Clarification:

The CFS have advised that fire fighting vehicles are now fitted with additional equipment and hoses thus enabling the increase in distance, provided that a safe and unobstructed path of travel to the building is available.

- Policy is needed enable people to be evacuated to a Bushfire Safer place (rather than just anywhere)

- Bushfire attack level (BAL) ratings should be incorporated into Code policies.
- DTS and performance assessed criteria for rainwater tanks that are dedicated to firefighting purposes are needed.
- The relevant bushfire overlays should clarify the distinction between Asset Protection Zones (0-100m), bushfire buffer zones (up to 1000m) and defensible space (0-20m).
- Changes to bushfire policy were generally supported but it was suggested that the Desired Outcomes (where relevant) need to include greater clarity around land division and its role in bushfire protection.
- Clarity was also sought around what is meant by 'unacceptable bushfire risk'.
- There were suggestions around policy expression including those which speak of facilitating access for emergency service vehicles to protect assets and lives from bushfire danger. This was considered to be aspirational / unachievable in that fire crews can only 'assist', not 'protect'.

Commission's Response:

Addressing and mitigating the effects of climate change is of paramount importance and policies to assist to address these issues are included in the State Planning Policies. Recent bushfire events in South Australia and Australia have particularly highlighted the importance of protecting lives and property from damage and loss and have drawn the public's attention towards what can be done from a policy perspective.

Incorporating BAL levels into Code policy would require a BAL assessment to be carried out for each individual application and would potentially complicate the planning and building assessment processes that are currently in play. Such an approach is not considered appropriate for the first generation of the Code but should be further considered as part of a separate mapping review.

The Commission considers that a Practice Guideline or similar would complement and benefit the interpretation of Code policy by practitioners and the general public. A guideline of this nature would be able to provide greater detail on matters of bushfire protection and how it relates to Code policy, including:

- Suitable siting and design approaches, taking into account vegetation cover, type and terrain
- Asset protection zones: what they can contain in terms of vegetation and how they are calculated based on slope and vegetation type
- Bushfire buffer zones and land division applications
- Vegetation clearance and how it ties in with requirements/approvals needed under the Native Vegetation Act.

The Commission has also undertaken a secondary review of the Bushfire Overlays to ensure consistency in writing with other Code modules. A lot of the bushfire module policies try to cover multiple topics in the one PO. There are also a number of examples where the same issue is covered by multiple policies. Consideration should be given to refining these policies to focus on single issues (the 'what') with detail and explanation on the 'how' being shifted to accompanying DTS/DPF policy or the Practice Guideline.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- N.77** **AMEND** Desired Outcomes to clarify the role land division plays in bushfire protection and to take into account climate change and its potential to increase the frequency and intensity of bushfires.

N.78 In relation to the areas of the Regional Overlay, **SPATIALLY APPLY** smaller settlements that don't have sufficient urban buffer within the overlay. Larger settlements will remain as currently mapped.

N.79 **AMEND** relevant zones to ensure minor forms of development such as carports, outbuildings and verandahs remain accepted and Deemed-to-Satisfy regardless of the application of bushfire overlays.

Note: this amendment maintains consistency with current provisions of the Development Regulations 2008.

Phase Three (Urban Areas) recommendations:

N.80 **AMEND** all bushfire overlays to ensure that all policies are concisely written and, where possible, focussed towards single policy topics.

N.81 **AMEND** policies of the Urban Interface Overlay to limit (as a general rule) its application to land divisions creating 10 or more new allotments or public roads.

N.82 **AMEND** 'asset protection zone policy' to support the increase in minimum distances to 100m but only in relation to distances to hazardous bushland vegetation. 50m to be retained in relation to unmanaged grasslands or for sites that have an average slope of less than 6 degrees (other than the High Risk overlay).

N.83 **AMEND** all bushfire overlays to remove policy addressed by the native vegetation overlays.

N.84 **AMEND** DTS/DPF 5.2 of the General, Medium and Regional Overlays, DTS/DPF 2.2 of the Outback Overlay and DTS/DPF 6.2 of the High Overlay to increase, from 30m to 60m, the minimum acceptable distance that the furthest point of a building can be from a public road before specific driveway requirements need to be met.

N.85 **AMEND** DTS/DPF 5.2 of the General, Medium and Regional Overlays, DTS/DPF 2.2 of the Outback Overlay and DTS/DPF 6.2 of the High Overlay to include the option of a 'U' shaped drive design as another alternative.

N.86 **CREATE** a new PO addressing fire tracks in all bushfire overlays (except the Outback):

Development does not rely on fire tracks as a means of evacuation or access for fire-fighting purposes unless there are no safe alternatives available.

N.87 **AMEND** PO 1.2 of the High Overlay to encourage evacuations to Bushfire Safer Places:

Pre-schools, educational establishments, hospitals, retirement and supported accommodation are sited away from areas of unacceptable bushfire risk and locations that are remote from or don't have a safe path of travel to a Bushfire Safer Place.

N.88 **AMEND** the administrative definitions for Asset Protection Zone and Bushfire Buffer Zone to include the following note:

Note: this term has been defined for use in the Code. Other organisations or legislation may use the same term but with different meaning and for different purposes.

Hazards (Flooding) Overlay

This overlay seeks to minimise impacts on people, property, infrastructure and the environment from exposure to flood hazard risk through the limitation of development intensification.

Engagement feedback:

- The Desired Outcome appears to focus mainly on urban infill development rather than development in peri-urban or greenfield sites.
- The term ‘unacceptable’ risk needs clarification and greater emphasis should be given to access and safety requirements.
- The scope of the policy should be more clearly defined to relate only to terrestrial flooding (i.e. removing reference to setbacks etc. which relate more to coastal/riverine environments and are dealt with via other overlays).
- Clarity is needed about thresholds for development appropriate within the overlay.
- Specific reference to flood areas other than 1% AEP, such as 5% AEP (1 in 20) or 0.1% AEP (1 in 1000) is needed to reflect policy approaches currently contained in some development plans.
- There is concern about the loss the general provisions that would otherwise act as a safeguard for flood-affected areas which are not mapped and additional general policy should be included.
- There is concern about the applicability of a single overlay covering flood-affected areas, which does not reflect the structure of policy in some development plans.
- The rationale for the change in terminology referring to flood events with a 1% AEP (Annual Exceedance Probability) instead of 1 in 100 ARI (Average Return Interval) is questioned.

Clarification: The change from ARI to AEP was incorporated in the Phase One Amendment as a result of Agency feedback.

- The Phase Two Amendment refers only to flood mapping currently contained within development plans which is often outdated or incomplete. Overlay mapping should be expanded to incorporate flood mapping currently held by councils outside of development plans.

Clarification: The Hazards (Flooding) Overlay may be updated in the future as investigations into flooding are undertaken and data regarding flooding becomes available.

Commission’s Response

Transitioning flood hazard policy for development plans presents challenges given the variability in available mapping-related data and policy content.

It is acknowledged that the proposed approach of applying a Hazard (Flooding) Overlay over known flood-prone areas and then having general flooding policy in the Design General Modules available for all other locations requires some modification to enable effective transition of the various flood-related policy approaches contained in development plans into a single structure in the Code

Implementing a robust structure that is fit-for-purpose for ongoing use is also important. The approach adopted in some development plans that have incorporated more recent flood hazard policy and mapping that identifies areas of high risk, areas subject to low flood risk and moderate inundation, and areas identified as not at risk (based on a 1 in 100-year event), is considered the most desirable approach and suitable for ongoing purposes. Reflecting this approach into the Code would involve require two overlays:

1. **Overlay 1 – Hazards (Flooding General) Overlay** would apply to locations that are prone to inundation (i.e. areas subject to 300mm or less flood water depth or areas mapped as low or medium flood hazard) but not more serious flooding. Policy in this overlay would require:
 - raised finished floor levels for most buildings (through a DTS/DPF criteria)
 - suitable design of buildings housing hazardous materials
 - buildings housing vulnerable people, community services, key infrastructure and emergency services be located away from highly affected areas.

The application of this overlay will preserve Deemed-to-satisfy pathway for relevant development (such as dwellings, additions etc.) in affected areas.

2. **Overlay 2 – Hazard (Flooding) Overlay** would largely reflect the current Hazard (Flooding) Overlay applying in hazardous locations and have additional requirements relating to development to not impede flows (with development located outside of the 5% AEP principal flow path) and consider the impacts on adjoining properties, fencing controls, access requirements as so on. Development in this overlay would be expected to be performance assessed, with DTS/DPF criteria guidance on acceptability on certain matters such as raised floor levels and open-sided structures (which were included through the approval of the Phase Two Amendment).

In addition, areas that are known not to be subject of inundation or flooding (i.e. suitable investigations have been undertaken and mapping has been produced to verify locations are not affected) would not be affected by either overlay.

The inclusion of the new Hazards (Flooding General) Overlay would also remove the need for general flood-related policy in the Design and Design in Urban Areas General Development Policies.

In council areas where flood mapping / data is not available, an intermediate approach is required where the overlays would be applied based on an approach of 'best fit' so that flood hazard risk and general inundation issues could be addressed on a precautionary basis. In these circumstances the Hazard (Flooding) Overlay is recommended to apply along watercourses, and the Hazards (Flooding General) Overlay apply otherwise (to the same effect as the general design policy of a raised finished floor level requirement it replaces).

The proposed structure enables the spatial application of the overlays to be adjusted over time following suitable flood-related investigations, ultimately resulting in unaffected areas being able to be excluded altogether.

The content of the Hazard (Flooding) Overlay is generally considered suitable for relevant locations, as was approved to apply in regional areas through the Phase Two Amendment. However, in relation to comments received on land division policy in the overlay, the Commission is of the view that criteria (PO 1.2 & 1.3) may be impractical to apply and be unnecessarily onerous, particularly in an urban context, and therefore are recommended to be deleted. The more general land division policy in the Overlay (PO 1.1) is considered sufficient to address land division matters for the purposes of flood-prone areas and applied only as a performance outcome (given the more limited areas where this overlay is recommended to apply).

Areas that are flood-prone in relation to coastal processes are addressed by Coastal related modules. The application of the Hazard (Flooding) Overlay will typically be in relation to terrestrial processes, so policy refinement is considered unnecessary.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

N.89 CREATE a new Hazards (Flooding - General) Overlay that has a requirement for buildings to have a raised finished floor level through DTS/DPF criteria, includes requirements for development in which hazardous material are stored to be suitably designed, and requires buildings housing vulnerable people, community services, key infrastructure and emergency services to be located away from highly affected areas.

N.90 Apply the Hazards (Flooding General) Overlay in locations:

- identified as low and medium flood risk or areas subject to 300mm or less flood water depth (as identified either in development plans or through suitable flood management mapping or data)
- where flood or inundation risk is unknown (i.e. where flood management mapping or data is unavailable), except for locations where the Hazard (Flooding) Overlay applies.

N.91 DELETE PO and DTS/DPF 1.2 & 1.3, and DTS/DPF 1.1 from the Hazard (Flooding) Overlay.

N.92 APPLY the Hazard (Flooding) Overlay:

- in locations identified as high and extreme flood risk or areas subject to greater than 300mm flood water depth (as identified either in development plans or through suitable flood management mapping or data)
- along identified water courses where development plan or flood management mapping or data is not available.

Historic Shipwrecks Overlay

This overlay maps the indicative location of historic shipwrecks to protect and conserve these important artefacts and sites.

Engagement feedback:

Submissions queried why a referral trigger to the Australian Government Heritage Minister under the new *Underwater Cultural Heritage Act 2018* was not included in the Code.

Commission's Recommendation:

N.93 AMEND to include the referral trigger to the Australian Government Heritage Minister under the *Underwater Cultural Heritage Act 2018*.

Marine Parks (Managed Use) Overlay

This overlay seeks to protect marine habitats and biodiversity through limiting development to coastal infrastructure (jetties, marinas, pontoons), aquaculture, tourism, recreation and renewable energy facilities.

Engagement feedback:

Limited feedback was received from the community and councils in relation to the Marine Parks (Managed Use) Overlay. Key issues included:

- Suggestions that the overlay policies (DO 1 and PO 1.1) could encompass an expanded suite of environments and other considerations beyond the marine environment given the nature of areas where the overlay is proposed to apply (e.g. a portion of the Onkaparinga River in the Onkaparinga Council area). This could include protection of archaeological, geological and cultural elements, areas of scientific significance, and riverine / estuarine environments as currently referenced in current development plan policy.
- Opportunities to include additional policy to enable the development of unstructured passive and active recreation, providing the activity does not detrimentally affect the conservation and preservation of the natural environment.
- Suggestions to incorporate additional elements such as the conservation of 'functioning ecosystems' and 'biological diversity' within DO 1.
- The wording of the performance outcomes in the Overlay was considered imprecise and potentially open to interpretation (e.g. use of the term 'not unduly harm').

***Clarification:** The Marine Parks (Managed Use) Overlay and Marine Parks (Restricted Use) Overlay are intended to reflect the network of 19 marine parks which were proclaimed in 2009 under the Marine Parks Act 2007 to protect and conserve marine biological diversity and marine habitats. A multiple-use zoning scheme containing four identified Marine Park Zones (including general managed use, habitat protection, sanctuary and restricted access zones) provides for varying levels of conservation, recreational and commercial use.*

The Marine Parks (Managed Use) Overlay is intended to specifically apply to areas within both the General Managed Use and Habitat Protection Marine Park zones, given that development (under the current Development Act 1993) deemed to be consistent with the objectives of these zones is identical.

Performance-assessed development within the area of the overlay includes marinas, jetties, pontoons, break walls, outfalls and pipelines, renewable energy infrastructure and specific purpose development identified under the terms of the applicable marine park management plan. All other development within the overlay is restricted.

Commission's response:

The Marine Parks (Managed Use) Overlay and Marine Parks (Restricted Use) Overlay are intended to reflect and be consistent with zoned marine parks under the *Marine Parks Act 2007* with a clear focus on protecting the marine environment.

With regard to issues raised in relation to language and policy expression in the performance objectives of the Marine Parks (Managed Use) Overlay, the wording of PO 1.1 was revised and amended as part of the Phase Two Amendment to improve interpretation. This included replacing the term 'not unduly harm'

with stronger wording consistently applied in the Code to ensure that development avoids or minimises harm to marine habitats, biodiversity or the functioning of ecosystems.

In relation to suggestions to incorporate additional elements such as the conservation of functioning ecosystems and biological diversity within DO 1, it is considered that these elements are already sufficiently captured in PO 1.1 of the overlay.

With regard to suggestions that DO 1 and PO 1.1 could encompass an expanded suite of environments and other considerations beyond the marine environment, in particular given its application to the Onkaparinga River environment in the Onkaparinga council area, the Onkaparinga River and its environs will also be subject to the Coastal Areas Overlay. Notably, the Coastal Areas Overlay seeks to conserve and enhance an expanded range of environments including mangroves, wetlands, saltmarsh, sand dunes, cliff tops, native vegetation, wildlife habitat, shore and, importantly, estuarine areas associated with river systems such as the Onkaparinga River. It is therefore not considered appropriate or necessary to reference and duplicate this expanded range of environments in the Marine Parks (Managed Use) Overlay.

Similarly, areas where significant scientific, historic, scientific, landscape, faunal habitat, biodiversity and cultural values exist and should be conserved or preserved are generally located with the Code's Conservation Zone and its subzones which provide a range of polices for the protection of these elements. Notably, the Conservation Zone is proposed to apply to the western portion of the Onkaparinga River located west of Commercial Road / Saltfleet Street in the Onkaparinga Council area. Therefore, duplication of these elements in the Marine Parks (Managed Use) Overlay in the context of the Onkaparinga River is also not considered necessary or appropriate.

In relation to suggestions to include additional policy in the Marine Parks (Managed Use) Overlay (in particular, again as it applies to the Onkaparinga River) to enable the development of unstructured passive and active recreation that does not detrimentally affect the conservation and preservation of the natural environment, the Conservation Zone specifically provides opportunities for such activities, in particular, low-impact recreational and tourism development that offers public experiences.

Areas surrounding the Onkaparinga River east of Commercial Road / Saltfleet Street in the Onkaparinga council area that are affected by the Marine Parks (Managed Use) Overlay are proposed to be located in the Open Space Zone, which similarly and specifically encourages development associated with or ancillary to the provision of unstructured outdoor passive and active recreation facilities. Duplication of these activities or elements within the Marine Parks (Managed Use) Overlay is also therefore not considered necessary or appropriate.

Commission's Recommendations:

No recommended changes.

Marine Parks (Restricted Use) Overlay

This overlay ensures high-value marine habitats and biological diversity are protected and provides tighter development controls than the Marine Parks (Managed Use) Overlay.

Engagement feedback:

Limited feedback was received from one council in relation to the Marine Parks (Restricted Use) Overlay as it relates to the western portion of the Onkaparinga River in the Onkaparinga Council area.

This feedback generally reflected similar comments received in relation to the Marine Parks (Managed Use) Overlay, including suggestions to amend to the Desired Outcome (DO 1) to incorporate riverine and estuarine environments in the context of its application to the Onkaparinga River and include reference to additional elements such as the conservation of functioning ecosystems and biological diversity within the overlay's desired outcome.

The relevance of the reference in PO 1.1 regarding ports and harbours to the Onkaparinga River system was also queried given the low likelihood of such developments occurring within the river system.

Clarification: The Marine Parks (Managed Use) and Marine Parks (Restricted Use) overlays are intended to reflect the network of 19 marine parks which were proclaimed in 2009 under the Marine Parks Act 2007 to protect and conserve marine biological diversity and marine habitats. A multiple-use zoning scheme, containing four identified Marine Park Zones (including general managed use, habitat protection, sanctuary and restricted access zones), provides for varying levels of conservation, recreational and commercial use.

The Marine Parks (Restricted Use) Overlay is intended to specifically capture both the Sanctuary and Restricted Access Marine Park zones (both of which are included in the Onkaparinga River), given that development (under the current Development Act 1993) deemed to be consistent with the objectives of these zones is identical. The 'Marine Parks (Restricted Use) Overlay' provides tighter development controls than the Marine Parks (Managed Use) Overlay.

Performance-assessed development within the area of the overlay includes specific purpose development identified under the terms of the applicable marine park management plan and aquaculture. All other forms of development within the overlay are generally restricted.

Commission's response:

Both the Marine Parks (Managed Use) Overlay and Marine Parks (Restricted Use) Overlay in the Code are intended to reflect and be consistent with zoned marine parks under the *Marine Parks Act 2007*, with a clear focus on protecting the marine environment.

The overlay is one component of a broader zoning and policy framework applying to the Onkaparinga River environs in the Code, which is also proposed within the Conservation Zone and Open Space Zone and subject to application of the Coastal Areas Overlay. These zones, additional overlays and policy frameworks provide reference to an expanded range of environments akin to the Onkaparinga River. It is therefore not considered necessary or appropriate to duplicate policies from these zones or overlays within the Marine Parks (Restricted Use) Overlay (or the Marine Parks (Managed Use) Overlay), particularly given their focus on protecting and conserving marine biological diversity and marine habitats.

In relation to suggestions to incorporate additional elements such as the conservation of functioning ecosystems and biological diversity within DO 1, it is considered that these elements are already sufficiently captured in PO 1.1 of the overlay.

With regard to the relevance of references to ports and harbours in PO 1.1 in the context of the Onkaparinga River system, the overlay has been applied to both the Sanctuary and Restricted Access Marine Park zones declared under the *Marine Parks Act 2007*, both of which form part of this river system. While it is accepted that the likelihood of ports or harbours being proposed landward of the river mouth may be low, this may not be the case for the seaward portion of the overlay that is located within a marine park sanctuary zone. Retention of references to such development in the overlay is therefore considered appropriate.

Commission's Recommendations:

No recommended changes are proposed.

Mount Lofty Ranges Catchment (Area 1) Overlay

The new Mount Lofty Ranges Catchment (Area 1) Overlay applies to Mount Lofty Ranges Water Protection Area 1. Potentially high-risk or high-impacting uses are restricted in this area and there are fewer opportunities for deemed-to-satisfy pathways due to its sensitive nature and importance.

Engagement feedback:

Feedback on the overlay can be summarised as follows:

Overlay Name

- The EPA suggested amending the overlay name to read 'Mount Lofty Ranges Water Supply Catchment (Area 1)' as it is considered important that the name reference water to more clearly reflect the overlay's intention.

Overlay Policy Content

- Consistent terminology is recommended in DTS/DPF 2.1 and PO 5.2, with the inclusion of 'SA Health's On-Site Wastewater Systems Code' and 'Community Waste Management System Code' in place of 'South Australian standards for wastewater management and disposal' and 'South Australian standards', which are considered ambiguous.
- Noted that the setback specified in DTS/DPF 2.2 may not be the standard separation recommended in the future and a slope greater than 1 in 5 can be appropriately developed with engineering intervention.
- Suggested that DTS/DPF 2.2 include reference to compliance legislation, e.g.:

(e) compliant with the relevant South Australian regulations and standards.

- Rarer flooding events should be considered in the absence of accurate mapping to accommodate more frequent damaging events and be applied to DTS/DPF 2.2
- The perceived restrictive nature of DTS/DPF 3.8 was queried with the submission arguing that the 50m separation and 20% gradient requirements do not reflect current horticultural practice.
- The cumulative impact of development and climate change on natural features should be included through the addition of a new PO that may read (if adopted):

PO X: Development designed to minimise the cumulative impacts on landscapes and natural features from vegetation clearance, changing climatic condition and human disturbance.

- DO 1 should be amended to include reference to the spatial application of overlay and the following content may be appropriate:

DO 1: Safeguard greater Adelaide's public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from primary reservoir or diversion weir catchments in the Mount Lofty Ranges.

- PO 5.2 does not adequately address a concern regarding boundary realignments creating additional residential allotments and the addition of 'where no such potential currently exists' at the conclusion of the performance outcome is considered appropriate. In addition, PO 5.2 should be amended to reference 'on-site wastewater system.'
- A review about minimum allotment sizes in unsewered areas within the catchment is needed to ensure that current minimums are retained to discourage residential development in inappropriate areas.

Further guidance is required for a relevant authority to determine whether a development will result in a neutral or beneficial effect on water quality as stipulated by PO 1.1. A measurable quality that would enable an authority to determine if a development is having a negligible impact to water quality is encouraged. This may be in the form of a Practice Guidelines and/or a water management and stormwater assessment tool. An online assessment tool, similar to the InSite Water Tool developed by Water Sensitive SA, may provide the support required.

Procedural Matters – Referrals

- Within the Class of Development column, it has been suggested that (b) (ii) should refer to the total number of persons (capacity) instead of seat numbers.
- (b) (iii) ((b)) should be amended to refer to 'a restaurant with more than 30 seats and in association with a cellar door' to provide clearer policy expression.
- More concise policy expression is needed in the Purpose of Referral column and the following guidance should be provided in place of the current explanation:

To provide direction to the relevant authority on measures to prevent or mitigate harm from pollution from the development.

Commission's Response:

The Mount Lofty Ranges Water Supply Catchment (Area 1) Overlay is a specific overlay designed to protect Adelaide's water supply catchment, in particular land that drains directing into primary reservoirs and weir catchments. The Commission recognises that there was no distinction between Area 1 and Area 2 and have redrafted the desired outcome to reflect this distinction.

In addition, the Commission recognises that referrals to the Minister responsible for the *Landscape South Australia Act 2019* as addressed under the Prescribed Water Resources Overlay are able to be removed from this overlay as they are a duplicate.

DTS/DPF criteria reflect industry standard and as a result remain unchanged.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

N.94 AMEND the name of the Overlay to 'Mount Lofty Ranges Water Supply Catchment (Area 1)'

- N.95 AMEND** the DO to distinguish between Area 1 and Area 2 by adding 'from primary reservoirs or diversion weir catchments' to Area 1.
- N.96 AMEND** PO 1.1 to provide further detail and examples of development which may impact on water quality, and seek development to be connected to a sewerage system or community wastewater management system.
- N.97 AMEND** PO 5.2 to add '...where no such potential currently exists' to ensure like-for-like policy transfers from the Development Act.
- N.98 REMOVE** the referral to the Minister responsible for the *Landscape South Australia Act 2019* for dam walls and other structures.

Mount Lofty Ranges Catchment (Area 2) Overlay

The new Mount Lofty Ranges Catchment (Area 2) Overlay applies to Mount Lofty Ranges Water Protection Areas 2 and 3. The policy safeguards Greater Adelaide's water supply within these overlays by ensuring development has a neutral or beneficial effect on the quality of water harvested.

Engagement feedback:

The feedback received for Area 2 comprised the same recommendations, amendments and points of discussion raised in relation to Area 1. It should be considered that the above content relating to Area 1 applies to Area 2.

There were also several specific comments in relation to Area 2:

- The EPA suggested amending the overlay name to read 'Mount Lofty Ranges Water Supply Catchment (Area 2)' as it is considered important the name reference water to more clearly reflect overlay's intention.
- Amend DTS/DPF 3.5 to refer to 'dwellings' in place of 'dwelling additions'.
- Amend DO 1 to reference spatial application of Area 2. Text could read as follows:

DO 1: Safeguard greater Adelaide's public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from primary reservoir or diversion weir catchments in the Mount Lofty Ranges.

- More concise policy expression is needed in the Purpose of Referral column. The following guidance could be provided in place of the current explanation:

To provide direction to the relevant authority on measures to prevent or mitigate harm from pollution from development.

Commission's Response:

The Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay is a specific overlay designed to protect Adelaide water supply catchment, in particular land that drains directing into secondary reservoirs and weir catchments. The Commission recognises that there was no distinction between Area 1 and Area 2 and hence have redrafted the desired outcome to reflect this distinction.

In addition, it recognises that referrals to the Minister responsible for the *Landscape South Australia Act 2019* as addressed under the Prescribed water resources overlay are able to be removed from this overlay as they are a duplicate.

DTS/DPF criteria reflect industry standard and as a result remain unchanged.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

N.99 AMEND the name of the Overlay to 'Mount Lofty Ranges Water Supply Catchment (Area 2)'

N.100 AMEND the DO to distinguish between Area 1 and Area 2 by adding 'from secondary reservoirs or diversion weir catchments' to Area 2.

N.101 AMEND PO 1.1 to provide further detail and examples of development which may impact on water quality, and seek development to be connected to a sewerage system or community wastewater management system.

N.102 AMEND PO 5.2 to add '...where no such potential currently exists' to ensure like-for-like policy transfers from the Development Act.

N.103 REMOVE the referral to the Minister responsible for the *Landscape South Australia Act 2019* for dam walls and other structures.

Murray-Darling Basin Overlay

The overlay seeks to protect the Murray-Darling Basin by ensuring activities involving the taking of water are undertaken in a sustainable manner.

Limited feedback was received on the Murray-Darling Basin Overlay.

Commission's Recommendations:

No recommended changes.

Native Vegetation Overlay

This overlay seeks to protect, retain and restore areas of native vegetation to enable better alignment between the land use planning system and native vegetation clearance consent process. Where an application involves native vegetation removal, it may trigger the need for expert input into the development assessment process via an accredited consultant's report and/or referral to the Native Vegetation Council. It applies to areas of the state which are subject to the Native Vegetation Act 1991 (excluding those areas covered by the State Significant Native Vegetation Overlay).

Engagement feedback:

Considerable feedback was received about the Native Vegetation Overlay. Many submissions supported the overlay and considered that alignment with the native vegetation clearance consent process would

result in better outcomes. Some submissions thought the overlay doesn't go far enough in protecting biodiversity while conversely, other submissions consider that the overlay is applied too broadly and the Native Vegetation Council shouldn't have the power of direction.

A number of submissions considered that the overlay has been applied too liberally, including over township and residential areas where it restricts simple and what would otherwise be deemed-to-satisfy development from occurring. It was suggested that the overlay be reviewed to remove its impact on townships and residential areas to enable deemed to satisfy developments to occur.

Submissions from industry representatives suggested that the procedural arrangements associated with the Native Vegetation Overlay will require specialist advice and expense up front. These submissions suggested that the data report containing specialist advice be required at the Native Vegetation Act approval stage only, not at the planning consent stage. Concern was also expressed that the referral to the Native Vegetation Council is for 'Direction' and the preference is that the referral be for 'Regard'.

Many respondents that supported the overlay don't think it goes far enough in addressing the impact of new development on other areas of biodiversity e.g. other types of valued vegetation (such as grassland and samphire) and threatened species. There were recommendations for SAPPL policies to be mirrored in Code, particularly those addressing biodiversity, habitat, climate resilience and revegetation using locally indigenous plant species. If such policies are not transitioned, additional policy measures reflecting biodiversity was encouraged (see the separate section Biodiversity and critical habitat policy gap in General section).

A number of submissions pointed out that there was an absence of policy that sought to enhance and restore native vegetation, as envisaged by the Desired Outcome, and suggested the inclusion of additional policies requiring the planting of locally indigenous native vegetation.

The responses received can be themed as follows:

Overlay Name

The overlay name was considered too narrow and it was suggested by local government that it be amended to 'Biodiversity and Native Vegetation Overlay' to better reflect its intent to protect habitat and biodiversity.

Commission's response:

The Native Vegetation Overlay was created primarily to align the native vegetation clearance consent process with the development assessment process. The overlay was not designed to consider the impacts of development on biodiversity more broadly, although it will do this in relation to how the clearance of native vegetation will impact biodiversity. It is not considered appropriate to amend the name of the overlay because the current name already reflects its intent. The Commission intends to work with the Department for Environment and Water to develop an appropriate policy and mapping response for biodiversity (for further information see the separate Biodiversity and critical habitat policy gap section).

Overlay Content

- A number of submissions said that the overlay did not go far enough in addressing the impacts of new development on biodiversity more broadly, including in relation to impacts on threatened species, habitat and climate resilience.
- One council submission advocated for the topic of biodiversity to be referred and discussed in PO 1.1 - 1.3, as current POs are limited in scope and do not consider the fundamental issue of biodiversity.

Commission's response:

The Commission agrees that the overlay could better recognise the role that protecting native vegetation plays in supporting biodiversity and will recommend that the Desired Outcome be amended to reflect this. As mentioned above, the Commission intends to work with the Department for Environment and Water to develop a policy and mapping response to address the impact of development on biodiversity more broadly, including on habitat and threatened species and communities.

- A repeated suggestion was the inclusion of additional POs which facilitate restoring areas of native vegetation. This is consistent with the Desired Outcome, so it was suggested that POs in support of achieving the intent of the outcome with regard to restoring native vegetation be adopted and implemented.
- One local government requested that existing development plan policies concerned with revegetation measures be mirrored in the Code. This included specific comments about the need to use locally indigenous plant species, which is the current approach in SAPPL.
- Multiple submissions suggested the inclusion of an additional PO that encourages/prescribes the planting of native and indigenous species.

Commission's response: The Commission agrees that existing PO 1.4 should be expanded to better reflect the intention of the Desired Outcome and SAPPL policies.

- An environmental cross-sectoral group recommended that the cumulative impact of development and climate change should be considered by POs.

Commission's response: The Commission intends to look at the issue of cumulative impact and climate change as part of the policy response to addressing biodiversity more broadly.

- DTS/DPF 1.1 may undermine the intent of PO 1.1 by requesting a declaration stating no vegetation is to be removed while the PO anticipates removal in circumstances where such removal cannot be avoided.

Clarification:

The PO is not considered to be undermined by the application of the DTS/DPF. The DTS/DPF can apply to developments that involve Level 1 clearance as determined by the data report provided with the development application.

- PO and DTS/DPF 1.3 should be reviewed and refined to ensure the separation of inappropriate land uses from the boundaries of all native vegetation areas, not just those in State Significant Native Vegetation Overlay Areas (SSNVAO).

Clarification:

Such measures are considered difficult to spatially identify. The intent of this DTS is to recognise that the interface between the two overlays is likely to be an area where there is greater native vegetation coverage and therefore the impact from more intense rural land uses would be greater. No change is considered necessary.

- A question was raised about the inconsistent use of terminology in DTS/DPF 1.1 of the SSNVAO and PO 2.1 of Native Vegetation Overlay. 'Minor' clearance is used in PO 2.1 and 'low level clearance' in DTS/DPF 1.1.

Commission's response: References to minor and low level clearance have been updated to 'Level 1 clearance' in both the Native Vegetation Overlay and State Significant Native Vegetation Areas Overlay.

- One council submission commented that the issue of planting pest/weed species is not addressed.

Commission response: A new PO will be included in the landscaping section of the general Design module to ensure that landscaping does not result in the spread of pest plant or weed species.

- One industry submission suggested that PO 2.1 be amended to accommodate instances where large-scale land division developments would inevitably lead to native vegetation being fragmented.
- Concern held in adopting a 'risk-based approach' to native vegetation clearance, and the appropriateness of certain classes of development (i.e. tourist accommodation) in clearing any area of vegetation.
- Local government and public submission recommended a requirement for land divisions, tourism accommodations and critical infrastructure to be situated in areas already substantially cleared. An amendment to PO 1.1 has been suggested. One community group suggested that clearance approvals be prescribed for all assessment pathways.

Commission's response: No changes are considered necessary as the policies in the overlay are adequate to determine if the clearance of native vegetation has been avoided and where it hasn't that it has been minimised, thus ensuring that the development has been sited where it will have the least impact. This is consistent with the approach of assessing native vegetation clearance applications under the Native Vegetation Act.

- Clarification is sought about whether the Regulated Trees Overlay or Native Vegetation Overlay take precedence when applied to the same spatial area.

Clarification: PDI Regulation 3F(4)(d) states that the significant/regulated tree requirements do not apply to a tree that may not be cleared without the consent of the Native Vegetation Council under the Native Vegetation Act

- One community submission suggested two sub-categories of native vegetation be adopted, similar to the tier system in the Hazard modules. The categories are recommended to be 'High Conservation Area' and 'Management Plan Assessed' to restrict development within open space systems.

Clarification: Such measures are considered difficult to spatially identify and may not lead to better land use outcomes.

Procedural Matters

- Multiple submissions requested clarification on Schedule 9 of the PDI Regulations (which doesn't identify the Native Vegetation Council as a prescribed referral body) and confirmation that referrals to the Native Vegetation Council are in accordance with legislative requirements.

- Several respondents advised that the draft overlay is incorrectly listed in the 'Except where any of the following apply' section within the DTS classification tables and some Accepted Development tables within many zones.
- Numerous submissions considered that the Native Vegetation Overlay has been applied too liberally, including over township and residential areas where it restricts simple, what would otherwise be deemed-to-satisfy development, from occurring.

***Clarification:** Schedule 9 has been amended to include the Native Vegetation Council as a referral body. The classification tables have been updated to ensure that Accepted and Deemed-to-satisfy pathways are maintained where no clearance is proposed and the Native Vegetation Overlay applies to locations where the Native Vegetation Act 1991 currently applies.*

- Industry groups are opposed to the notion that a declaration/report is required prior to approvals or consents being granted, arguing the costs incurred are detrimental to applicants.
- Industry groups queried the Native Vegetation Council being granted the power of direction, advocating that this raises native vegetation to the paramount planning consideration, and would require dual approval to clear native vegetation. Request the referral should be for 'regard' and remove requirement for applicant to provide a 'data report'.

***Clarification:** The lodgement of a data report prepared by an accredited consultant is an essential part of the new referral process for development that also involves the clearance of native vegetation. The data report will provide the information required by the relevant planning authority to determine if a referral is required and whether specialist advice is needed to assist in the assessment process. This is no different from a relevant planning authority seeking specialist advice on matters such as noise and traffic. The data report is also used in the Native Vegetation Act clearance consent process meaning only one report is required for the two assessment processes. A referral to the Native Vegetation Council is triggered only where the application proposed Level 3 or 4 clearance (the level of clearance is determined by the data report). The Native Vegetation Council has been given the power of direction consistent with other prescribed referral bodies and in recognition of the approval powers it has under the Native Vegetation Act.*

- Further supporting information is needed to explain the greater alignment between the planning system and the Native Vegetation Act.

Commission's response: The Commission agrees with this comment and native vegetation information documents will be released to support applicants, councils and accredited consultants in understanding the process for development applications that do and don't involve the clearance of native vegetation.

Commission's response:

The purpose of the Native Vegetation Overlay is to provide a process for better alignment between the development assessment process and the native vegetation clearance consent process. Where native vegetation is being cleared as part a development proposal then the impact of that clearance should be considered up front. Where native vegetation is not being cleared this is confirmed by a declaration and the Accepted development and Deemed-to-Satisfy pathways are maintained. The majority of submissions supported the Native Vegetation Overlay and recognised the benefits of considering siting and design up front at the development assessment stage in order to avoid and minimise the clearance of native vegetation.

Where native vegetation is being cleared the provision of the data report is essential to provide the relevant planning authority with the information needed to make an assessment to determine the level of clearance being proposed and to identify whether a referral to the Native Vegetation Council is required.

The data report is also required during the native vegetation clearance consent process so the one document is able to be used in both assessment processes. The Native Vegetation Council has also advised that it will only require one application fee so that if a development application is lodged then the native vegetation clearance consent fee will be waived. For this reason, the two application fees have been set at the same amount.

A number of submissions were concerned about the large area covered by the overlay and that the Native Vegetation Council has the power of direction. The application of the Overlay mirrors the application of the Native Vegetation Act which is appropriate in order to align the two systems. As a result, no amendment to the spatial application of the overlay is recommended. The Native Vegetation Council has been given the power of direction in accordance with the approach under the Planning, Development and Infrastructure Act that referral bodies have the power of direction and recognises the approval process the Native Vegetation Council has under the Native Vegetation Act. Where the Native Vegetation Council has already considered the native vegetation clearance as part of the development application, the native vegetation clearance consent process will simply be about determining the offset (significant environmental benefit).

The new process is not a significant change in practice. Native vegetation clearance will require referral and approval from the Native Vegetation Council for more significant clearance of native vegetation (Level 3 & 4)

A DTS pathway will be available for Level 1 and Level 2 clearance, while Level 3-4 clearance requires referral and approval by the Native Vegetation Council. The overlay policy provides a 'hook' to the Native Vegetation legislation but enables low and moderate level native vegetation clearance (Level 1 & 2) to be addressed through the planning system without referral.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

N.104 **AMEND** to include an additional PO: *Development enhances biodiversity and habitat values through revegetation (PO 1.4).*

N.105 **AMEND** the assessment tables to add DTS 1.1 of the Overlay to ensure that Accepted development and Deemed-to-Satisfy development can continue on these pathways when accompanied by a declaration that development will not involve clearance of native vegetation.

Note: The Commission recommend a Practice Guideline be prepared to support the implementation of this Overlay.

Phase Three (Urban Areas) recommendations:

N.106 **AMEND** DO 1 of the Native Vegetation Overlay to reference how native vegetation helps to sustain biodiversity, threatened species and habitat.

N.107 **AMEND** PO 1.4 to better reflect the Desired Outcomes to restore native vegetation.

N.108 **CREATE** a new PO under 'Landscaping' in the Design General Development Policies to ensure that landscaping avoids the spread of pest plants and weed species.

State Significant Native Vegetation Area Overlay

This overlay seeks to protect, retain and restore significant areas of native vegetation. Where an application involves native vegetation removal it may trigger the need for expert input into the development assessment process via an accredited consultant's report and/or referral to the Native Vegetation Council. It applies to selected reserves, national parks and heritage agreements which contain significant stands of native vegetation. A 50 metre buffer area is included in the overlay to capture development in close proximity to these areas.

Feedback received focused on the spatial application of the overlay, additional policy recommendations, amendments to policies and queries regarding referral to Native Vegetation Council. These are summarised below:

Overlay Name

An environmental group suggested a more appropriate name for the overlay would be 'Reserves and Heritage Agreement Native Vegetation Overlay' given it is spatially derived from tenure/administrative categories and not from a biodiversity inventory of state significance.

Commission response: The overlay name is appropriate as it is intended to eventually include areas of state-significant native vegetation.

Overlay Policy Content

- One agency requested that DO 1 be amended to better reflect State Planning Policies, the overlay scope be expanded and that the overlay's intention be more detailed.
- One community submission recommended the overlay scope be expanded to consider vegetation corridors used by identified species.
- One agency suggested that threatened ecological communities be identified and for policies to be introduced on threatened flora and fauna to provide guidance to applicants and relevant authorities.

Commission response: The Commission recognises the opportunity for additional policies to address biodiversity more broadly and will work with the Department for Environment and Heritage to develop appropriate mapping and policies via a critical/threatened species overlay for the protection of habitat, breeding areas and movement corridors of threatened or critically endangered species.

- A service provider commented that the overlay is more prescriptive than current requirements and may lead to higher costs incurred by applicants to meet vegetation clearance requirements.

Clarification: *The new process is not considered a significant change in practice. Native Vegetation clearance will require approval from the Native Vegetation Council. Level 1 clearance for land division maintains a DTS pathway, while all other clearance will require referral and approval by the Native Vegetation Council.*

Spatial Extent

One agency recommended the overlay be spatially applied to forest reserves in the south-east of the state.

Commission response: The Commission will work with the Department for Environment and Water and other agencies and groups to determine whether this overlay can be applied to additional areas that contain State significant native vegetation.

Procedural Matters – Referrals

Industry suggested imposing a requirement that the Native Vegetation Council should issue a clearance approval under the Native Vegetation Act in tandem with the issuing of a development consent. They also argued that the purpose for referral required clarification and noted a potential inconsistency in the application of DTS criteria and the referral trigger.

Commission response:

As with approvals under other legislation, applicants can choose in which order approvals are obtained. Once an applicant has a development approval it should be a quick and simple process to obtain a native vegetation clearance consent. The purpose of the referral accurately reflects the role of the Native Vegetation Act and therefore does not require alteration. The Accepted and Deemed-to-satisfy pathways have been amended to ensure those pathways are available for applicants that are not clearing native vegetation.

Commission’s Recommendations:

No recommended changes.

Prescribed Surface Water Areas Overlay

The overlay seeks sustainable water use in prescribed surface water areas that maintains the health and natural flow paths of watercourses. It applies to prescribed surface water areas under the Natural Resources Management Act 2004 (replaced by the Landscape South Australia Act 2019).

Engagement feedback:

- It was suggested that the draft Desired Outcome did not align with the purpose of the referral and should include the natural flow paths of watercourses in moving water across landscapes and meeting ecological needs. It was suggested that the desired outcome be amended to broaden its context and reference watercourses and their function.
- It was noted that the retention of the requirement for all dams to be assessed under the NRM Act through a mandatory referral was supported.
- Feedback was also received regarding procedural matters, including amendments to referral content and purpose.

Commission’s Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

N.109 AMEND the DO to elaborate on the purpose of the overlay, i.e. the maintenance of the health and natural flow paths of watercourses.

N.110 AMEND to include a DTS (1.2) to provide an easier pathway for proposals not requiring a new or amended licence:

‘Development satisfies either of the following:

- a) The applicant has a current water licence in which sufficient spare capacity exists to accommodate the water needs of the proposed use
- or
- b) The proposal does not involve the taking of water for which a licence would be required under the *Landscape South Australia Act 2019*.’

N.111 AMEND the purpose of the referral to provide additional detail about its focus.

Prescribed Water Resources Area Overlay

This overlay seeks to protect prescribed water resources by ensuring the taking of water in such areas is avoided or undertaken in a sustainable manner. It applies to prescribed water resource areas under the Natural Resources Management Act 2004 (replaced by the Landscape South Australia Act 2019).

Engagement feedback:

- It was suggested that the Desired Outcome statement relating to the taking of water does not align with the purpose of the referral. It was suggested that the desired outcome be amended to broaden its context and to reference watercourses and their function.
- It was suggested that the Performance Outcome related to dams, as per the Prescribed Surface Water Overlay, should be included.
- Amendments to referral triggers contained within the overlay were also suggested.

Commission’s Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

N.112 AMEND the DO to elaborate on the purpose of the overlay i.e. the maintenance of the health and natural flow paths of watercourses.

N.113 AMEND the referral triggers to include a referral for the ‘erection, construction, modification, enlargement or removal of a dam, wall or other structure that will collect or divert, or collects or diverts surface water flowing over land’ to the relevant authority under the *Landscape South Australia Act 2019*.

Note: policy protecting the banks of watercourses is included in the Water Resources Overlay which applies more broadly across the state.

Prescribed Watercourses Overlay

This overlay seeks to protect watercourses by ensuring activities involving the taking of water are avoided or undertaken in a sustainable manner. It applies to prescribed watercourses under the Natural Resources Management Act 2004 (replaced by the Landscape South Australia Act 2019).

Engagement feedback:

- It was suggested that the Desired Outcome should include reference to protecting the natural flow paths of watercourses in moving water across landscapes and meeting ecological needs.
- It was also suggested that the Desired Outcome should be amended to reference the taking of water for environmental benefit.
- Spatial application of the Prescribed Watercourses Overlay was queried, noting that some portions of the overlay captures centrelines of watercourses compared to larger extents of land parcels being captured in other locations.

***Clarification:** The Prescribed Watercourses Overlay delineates the portion of the South Australian section of the River Murray gazetted as a prescribed watercourse, and includes several other watercourses prescribed under the Water Resources Act 1997. The overlay contains the line work delineating the watercourses which have been prescribed through legislation utilising data provided by the Department for Environment and Water.*

Commission's Recommendation:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

N.114 AMEND the Desired Outcome to elaborate on the purpose of the Overlay i.e. the maintenance of the health and natural flow paths of watercourses.

N.115 CREATE a new PO regarding dams to ensure they are undertaken in a manner that maintains the quality and quantity of flows required to meet the needs of the environment as well as downstream users.

Prescribed Wells Area Overlay

The overlay seeks to protect wells by ensuring activities involving the taking of water are avoided or undertaken in a sustainable manner. It applies to prescribed wells areas under the Natural Resources Management Act 2004 (as replaced by the Landscape South Australia Act 2019).

Engagement feedback:

- Clarification was sought as to the application of PO 1.1, including whether the Performance Outcome applies to all development or only development where water is sourced from a well.

***Clarification:** The prescribed Wells Area Overlay is principally included in the Code as a mechanism to spatially apply the referral trigger for activities that draw water from underground water resources.*

- It was queried whether additional / alternative spatial layers derived from other programs will be incorporated or referred to in Code, in order to ensure consistency regarding Water Allocation Plans.

Clarification: *The spatial data contained within the Prescribed Wells Area Overlay delineates the boundaries of prescribed wells (groundwater resource areas) within South Australia. The overlay contains the line work of the groundwater resource areas which have been prescribed through legislation, with data provided by the Department for Environment and Water. The overlay contains a referral allowing Water Allocation Plans to be considered in appropriate circumstances.*

- The inclusion of additional provisions that refer to the ‘injection of water’ for environmental benefits and later recovery was suggested.

Commission’s response: It is considered that activities involving the injection of water for environmental benefits and later recovery would not be precluded by policies contained within the Prescribed Wells Area Overlay, providing that activities are undertaken in a sustainable manner and do not place undue strain on water resources.

Commission’s Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

N.116 CREATE an applicable DTS/DPF policy within the overlay to accommodate development that does not involve the taking of water for which a license would be required.

Ramsar Wetlands Overlay

Engagement feedback:

The Commission received a small number of submissions regarding the Ramsar Wetlands Overlay, primarily from affected local government areas and agencies. The suggestions were largely recommendations for policy improvement, concern regarding loss of policy, or policy considered unnecessary:

- Mapping identifying areas designated as Ramsar reserves within the Ramsar wetland has not been undertaken for other Ramsar sites in South Australia and therefore:
 - PO 1.3 (which references reserves) is redundant and should be removed
 - PO 1.4 should be removed on the basis that, in the Alexandrina Development Plan, policy to not locate buildings or structures related specifically to mapped key habitat areas, rather than the entire Ramsar wetland.
- There is a need to be consistent with policy and mapping so that areas with additional mapping are not subject to additional policies and areas with less mapping are subject to fewer policies.
- The Ramsar wetlands are not about restricting development per se, they are about minimising impact from development on the wetlands values e.g. hydrological regime, habitat and vulnerable species and the policies in the overlay adequately do that. This PO can be deleted.

- Specific Ramsar policies have been generalised and concern is raised that significant content has been lost. Additional policies that reflect existing PDCs 45-49 of the Natural Resource Module in the Alexandrina Council Development Plan are needed.
- Key Ramsar Habitat Area not reflected within the overlay need to be updated and/or provide additional layer for 'key habitat areas', provide new administrative definition for 'key habitat areas' and include policies to ensure adequate protection of the key areas identified.
- The word 'significant' in PO 1.1 of the Ramsar Wetlands Overlay should be removed to ensure development which leads to negative impacts on Ramsar wetland habitats is precluded and to be consistent with PO 1.3.
- PO 1.6 of the Ramsar Wetlands Overlay needs to better define/clarify what is meant by 'frequent jetties' i.e. what is the intent/meaning of a multiple number of jetties?
- The term 'ecologically significant proportion' in PO 1.7 is considered too vague and should be defined/supported by a quantitative figure to be applied with rigour and confidence.
- The State Government's Blue Carbon strategy includes action to support protected wetland management under the Ramsar Convention on Wetlands blue carbon resolution (4.3). In keeping with this:
 - The DO could be amended to promote the restoration of recognised Ramsar Wetlands as follows: 'Protection and restoration of recognised Ramsar Wetlands.'
 - An additional PO is needed: 'Development promotes the restoration and sustainable management of wetlands habitat.'
 - PO 1.1 should be amended as follows: 'Development does not lead to significant negative impacts on Ramsar wetland habitat and its carbon capture and storage potential.'
- Projected reductions in rainfall and runoff and warmer air temperatures are likely to have adverse impacts on water quality across South Australia. PO 1.5 should therefore refer to the need to consider the effect of climate changes on water quality.

Commission's Response:

The Commission recognises the importance of these areas, including for their ability to store carbon and thus contribute to climate change resilience. For these reasons, the Commission agrees to policy changes that will contribute to supporting these outcomes.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

N.117 REMOVE Performance Outcome 1.3.

N.118 REMOVE Performance Outcome 1.4.

Phase Three (Urban Areas) recommendations:

N.119 AMEND DO 1 by adding the words '*and restoration*'.

- N.120** **CREATE** a new PO 1.1 to ensure development provides restoration and/or sustainable management of wetlands habitat.
- N.121** **AMEND** existing PO 1.2 (PO 1.1 in the original consultation version) by adding the words: *'and its carbon capture and storage potential'*.
- N.122** **AMEND** existing PO 1.4 (PO 1.5 in the original consultation version) by adding words to recognise climate change.
- N.123** **AMEND** existing PO 1.5 (PO 1.6 in the original consultation version) by deleting the word 'frequent'.

Regulated Tree Overlay

This overlay captures the area within which trees may be classified as 'regulated' or 'significant' by virtue of their trunk circumference in accordance with the PDI Act, and sets out the policies against which tree-damaging activity (including pruning or removal of a regulated/significant tree) is assessed.

Engagement feedback:

Retaining existing protections for significant and regulated trees is an important topic for the community. A number of respondents suggested that the policy be reviewed to ensure that the Code transitions current regulated and significant tree policy in a like-for-like manner.

Submissions generally sought to strengthen proposed policy measures perceived to diminish existing protections for significant trees. The following comments were received from local government and community members/groups:

- The decision not to differentiate between regulated and significant trees affords less protection to significant trees than current policy is of concern. It is recommended that the Commission reinstate such differentiation with the inclusion of a Significant Tree Overlay or register, to permit greater protection measures.
- PO 1.1 be reworded simply to state 'Significant trees are retained/should be preserved.'
- PO 1.2 be reworded to: 'Regulated and significant trees should be preserved, particularly if they are indigenous to the locality, important habitat for native fauna, part of a wildlife corridor of a remnant area of native vegetation and/or are important to biodiversity of the local area.'
- The inclusion of the following to PO 1.3: 'all reasonable remedial treatments and measures must first have been determined to be ineffective' is requested.
- Removal of a regulated tree should automatically trigger public notification with the requirement of a public notice on subject site.
- Grey Box Gum (*Eucalyptus Moluccana*) has a narrow trunk, which does not satisfy regulated tree criteria, possesses a significant canopy which should be afforded the same level of protection.

***Clarification:** The addition of Grey Box Gum to the definition of 'regulated tree' would require amendment to definition of a regulated tree in the PDI Act and Regulations, which is outside of scope of this Code Amendment.*

- Policy should make reference to tree canopy and the positive impacts of preserving such canopies, including microclimate management and shade.

- Trees should be valued economically, as the City of Melbourne does, to reinforce their importance both economically as well as environmentally/socially.
- Criteria in DTS/DPF 2.1 should permit the protection of trees' roots and structure as a means to satisfy PO 2.1.
- Stronger, distinct policy is needed to encourage the preservation of significant trees as a separate entity to regulated trees.
- Current protection measures from development plans should be reinstated into the Code.
- The proposed policy measures relating to regulated trees should be strengthened to ensure retention of such trees where possible.

Commission's Response:

In relation to requests for public notification to apply for all instances where a regulated tree is proposed to be removed, it is noted that only tree-damaging activity on land owned or occupied by a council where the council is also the relevant authority, is required to be given notice under the current Development Regulations 2008. Given that council will no longer be a relevant authority in relation to the granting of planning consent (and an assessment manager is likely to be the relevant authority) it is not considered necessary to carry forward this notification trigger.

In relation to requests to reference tree canopy benefits in the policy, it is appreciated that the retention of tree canopy can have a positive impact on streetscapes and minimises the urban heat island effect. PO 1.1 seeks to retain regulated trees where they make an important visual contribution to local character and amenity, which enables consideration of tree canopy. In addition, it is noted that tree planting policy has been incorporated into the Code, particularly in urban infill areas, which assists in realising the benefits of increased tree canopy cover.

It is considered appropriate to update policy in the overlay to achieve better alignment with standard policy in current development plans and the SA Planning Policy Library.

It is not considered appropriate to include deemed-to-satisfy criteria in the overlay's policies, given that tree-damaging activity will be performance assessed, and the manner in which the POs can be assessed is difficult to quantify.

Requests for the inclusion of a Significant Tree Overlay are noted, however the outcome sought by such requests can be accommodated by the following:

- a. The Regulated Tree Overlay, being the 'designated regulated tree overlay' for the purposes of regulation 3F of the Planning, Development and Infrastructure (General) Regulations 2017 (the Regulations) already captures significant trees (being those trees with a trunk circumference exceeding 3 metres).
- b. A register of significant trees is contained in Part 10 of the Code pursuant to section 68 of the PDI Act.
- c. Policies in the Regulated Tree Overlay can be clarified to refer to significant trees where appropriate.
- d. Renaming the overlay to reference significant trees.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

- N.124** **RENAME** 'Regulated *and Significant* Tree Overlay'
- N.125** **AMEND** PO 1.1 to update the criteria for regulated tree retention to also reference rare/endangered species and habitat for native fauna (consistent with current standard Development Plan general policy).
- N.126** **AMEND** PO 1.2 to relate only to retention criteria for significant trees and include reference to habitat for native fauna; notable visual element in the surrounding area; the wildlife corridor; remnant area native vegetation; and the biodiversity of the local area (consistent with current standard Development Plan general policy).
- N.127** **AMEND** PO 1.3 to acknowledge that tree-damaging activity should only be undertaken in relation to a significant tree where all other reasonable remedial treatments and measures have been determined to be ineffective.
- N.128** **AMEND** notification tables in zones to exempt performance assessed tree-damaging activity from notification.

River Murray Flood Plain Overlay

This overlay seeks the conservation and protection of water quality and the riverine environment, provision for environmental water flows, the protection of life and property against flood risk, and recognition of the riverine environment as an important ecological, tourist and recreational resource. It anticipates development for the purpose of recreation (e.g. landings, jetties, houseboat moorings), water extraction, wetland management and irrigation management (e.g. channels, pumping stands, flood gates).

Engagement feedback:

Many submissions from industry groups, local government and agencies were received about this overlay:

1956 Flood Plain

The 1956 flood plain extent was advocated by multiple submissions to be reinstated within the overlay. Its inclusion was argued as an additional element to improve assessment in relation to potential flooding impacts, and the flood plain is currently considered a crucial tool to ensure accurate assessment of development captured by the mapping.

Wastewater Management

- The inclusion of additional PO and DTS/DPF criteria to outline that wastewater management systems have a neutral or beneficial impact on water quality was encouraged.

Jetties, pontoons and wharfs

- Specific policy provisions as to the appropriate siting and scale of river structures should be transitioned to Code from the Mid Murray Council Development Plan.

Other Overlay Matters

Queried the practical reality of development satisfying DTS/DPF 7.4, which provides a figure of how water pumping infrastructure is to be designed and constructed. It was argued that infrastructure providing a public water supply would be required to be delivered in a different configuration and the DTS/DPF assumes identical conditions along the river. It was therefore suggested that:

- the phrase 'generally in accordance with' be included to DTS/DPF 7.4.
- infrastructure providing public water supply be exempt from achieving DTS/DPF criteria, given the operational and functional requirements of such infrastructure.
- 'Dwelling additions' and 'outbuildings' be encouraged to reference the Overlay in Table 3 of the Rural Shack Settlement Zone.

Clarification: The Phase Two Amendment has added references to the overlay for these classes of development in the Rural Shack Settlement Zone.

- DTS/DPF 2.2 (b), which stipulates that a reserve of 50m or more in width along the water frontage be provided in boundary realignments, cannot be achieved by a large volume of allotments. This provision could be amended through the inclusion of '50m or as wide as practically possible' to accommodate dwellings situated within the 50m buffer.

- Floor area limits and average underfloor clearance height to DTS/DPF 3.1, 4.2 and 4.3, consistent with current provisions should be imposed.
- The addition of 'not within 100m of Rural Shack Settlement Zone' to DTS/DPF 7.9 is recommended to avoid conflict between houseboats and recreational users and any impact on council wastewater infrastructure.
- The inclusion of additional policy guiding appropriate façade lines and setbacks from the river is encouraged and amending PO 3.1 to achieve this purpose by referencing façade lines is recommended..
- Transmission infrastructure is considered to be at a disadvantage in proposed system as the overlay potentially leads to higher costs in vegetation clearance requirements.

Procedural Matters – Referrals

- An exemption should be included to allow for 'farm buildings' or 'outbuildings' up to 100 square metres located above the flood plain to be exempt from a referral to the Department for Environment and Water. For this to be applicable the mapping needs to show the 1956 flood plain.
- Blanchetown and Swan Reach should be exempt from having to refer to the Department for Environment and Water for all development located in the River Murray Protection Area.
- Dwellings within the overlay that are not connected to a CMWS or sewer are proposed to not require a referral to the EPA. This is supported, but it was recommended that stringent wastewater policy be provided to afford the relevant authority the ability to refuse an application if wastewater is not considered to be adequately managed.
- A 10m³ of excavation trigger should be adopted for a referral to the EPA, which will reduce the number of referrals inconsequential to the riverbank.
- A referral to the Department of Health and Wellbeing regarding the *Safe Drinking Water Act 2011* and the *South Australian Public Health Act 2011*, for human wastewater referrals is recommended.
- Clarification is needed about whether referral to EPA is for regard or direction.

Commission's Response:

The River Murray Flood Plain Protection Area Overlay has been drafted to reflect the water protection areas protected through the Environment Protection Act and the River Murray Act with the primary focus on maintaining water quality and river health. In addition to referrals to the Minister responsible for the River Murray Act and the Environment Protection Authority, policy contained within the overlay aims to provide an overarching set of policies specific to the iconic River Murray.

The 1956 flood plain is an important historical reference used in the application and assessment of many policies. The 1956 Flood plain extent is located in several mapping platforms including SAPPA and Location SA and therefore will remain readily available.

A declared water protection area development within the overlay area must be neutral or beneficially affect the river environment. Much of the form and function of development is addressed within the Rural Shack Settlement Zone or through General provisions. This overlay's objective is to ensure additional policy emphasising the protection of water quality and the river's important ecological, tourist and recreational resource. As a result the Commission has adopted additional specific policy to ensure water quality is appropriately addressed and the river's unique character is maintained.

The overlay includes policy, including figures, relating to the design of jetties, pontoons and wharfs specific to the overlay area. In addition, the General Development Policies: Marinas and On-Water structures are applicable and provide a comprehensive set of assessment policy.

The Commission has made several minor amendments to the Performance Outcome and Deemed-to-satisfy/Designated Performance Feature criteria to improve assessment considerations such as policy referencing façade lines and setbacks.

Referrals to the Minister responsible for the River Murray Act and the Environment Protection Authority (EPA) are a primary result of the overlay. Referrals and the power for direction or advice is detailed in Regulation 41 and Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017. Referral required for Water Protection Areas to the EPA were wrongly not reflected in this overlay. In addition, referrals to the Minister responsible for the River Murray Act have been amended to ensure development likely to potential impacts from development on the health of the River Murray system, its natural flow regime (including floodwaters), water quality and cultural heritage. Creating a new referral to the Department of Health and Wellbeing is not supported at this time.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- N.129** **AMEND** the name of the Overlay to 'River Murray Flood Plain Protection Area Overlay'.
- N.130** **AMEND** DO 1 to acknowledge the ecological importance of the River Murray.
- N.131** **AMEND** DTS/DPF 4.1 (3.1 in the original consultation version) to ensure consistency with Accepted Development outbuilding policy on cladding.
- N.132** **REMOVE** DTS/DPF 5.4 as storage of chemicals within an outbuilding is not a form of development and wholly locating an outbuilding within a bund is impractical.
- N.133** **AMEND** DTS/DPF 7.5 to ensure jetties or pontoons are only constructed in association with a dwelling.
- N.134** **AMEND** DTS/DPF 7.6 to remove the reference to missing Figures 5 and 6.

Phase Three (Urban Areas) recommendations:

- N.135** **CREATE** a new PO that relates to the need for wastewater management systems resulting in a neutral or beneficial effect on the quality of water draining the site (PO 1.1).
- N.136** **CREATE** new PO that relates to outbuilding design which may be viewable from the River Murray.
- N.137** **CREATE** a new PO to allow for assessment of setbacks from river frontage.
- N.138** **AMEND** PO 5.3 (4.2 in the original consultation version) to include additions and alterations of dwelling.
- N.139** **AMEND** DTS/DPF 5.3(b) (4.2(c) in the original consultation version) that relates to enclosed areas from 10 m² to 15 m²
- N.140** In relation to the referrals:

AMEND the referral to the Minister responsible for the River Murray Act exclusions item 10(3)(2) that relates to shed, garages or similar outbuilding from 60 m² to 100 m² and add agricultural building to the list of buildings exempt from referral.

CREATE relevant referrals to the Environment Protection Authority that relate to water protection areas that were missed, namely composting works, wastewater treatment works, feedlots, piggeries, and dairies.

River Murray Tributaries Area Overlay

This overlay seeks sustainable water use and conservation of riverine environments within the River Murray Tributaries area.

Engagement feedback:

Only a limited amount of feedback was received in relation to this overlay. These are summarised below:

- The overlay considered to be unduly restricting Accepted and Deemed-to-Satisfy development in residential type zones.
- One industry group considered that 'land division creating 4 or more additional allotments' in a residential or township type zone should be afforded an exemption from being referred to the Minister responsible for the River Murray Act. The submission recommended deleting (d) from the class of activity/development column.

Commission's Response:

The River Murray Tributaries Area Overlay has been drafted to reflect the tributaries area defined by the River Murray Act. The tributaries are an important network of water courses that feed into the main stream of the River Murray. The inclusion of 'protection' in the overlay name emphasises this importance.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

N.141 AMEND the name of the Overlay to 'River Murray Tributaries Protection Area Overlay'.

Significant Landscape Protection Overlay

The overlay seeks to protect areas identified as having significant landscape character. Wind farms and large-scale solar farms may be a restricted form of development within the area of the overlay and require a more stringent assessment of their visual impacts.

Engagement feedback:

A reasonable number of submissions were received in relation to the Significant Landscape Protection Overlay with some common themes including the retention of current development plan policies for the Rural Landscape Protection Zone and Conservation Zone.

Several suggestions were made by multiple councils to carry over current development plan policies to preserve the natural character of the Rural Landscape Protection Zone, and specifically, to retain setback requirements relating to development associated with the South Eastern Freeway. It is evident that feedback on this topic is mostly concerned with the requirements within relevant zones to discourage development that is likely to be inappropriate (dwellings, light industry, fuel depot etc.). Importantly, it has been suggested that farming, solar photovoltaic panels and horticulture be excluded from accepted and deemed-to-satisfy development classifications within this overlay for the reasons listed above.

Clarification:

Spatial changes and changes to zone assessment pathways should be addressed by amendment relevant zones. However, changes to overlay policies could be reasonably justified as the broad intent of the overlay is to provide additional requirements to manage the appearance of development in a variety of settings, be it rural or natural environments.

There was also council support for the overlay to cover the Hills Face Zone but it was also suggested to strengthen policies in the overlay to closer align with Hills Face Zone policies and incorporate design criteria such as built form, protection of native vegetation and siting for development etc.

The following actions were also requested by councils:

- Reword PO 2.2(b) to 'are required to support existing pastoral or rural activities' to allow for new dwellings on smaller allotments.
- Introduce a 'River Murray International Dark Sky' Overlay to offer additional protection and official recognition within the Code to ensure its future protection from light pollution.
- Review and clarify what constitutes 'significant landscapes' and their spatial extent as the overlay is not extensive enough to confer sufficient protection to the wide-ranging agricultural landscapes.
- Implement the equivalent Rural Landscape Protection Zone in the Code as a Conservation Zone with the overlay.
- Review policy conflict within Mount Remarkable's Conservation Zone where renewable energy is an envisaged form of development as the overlay indicates otherwise.
- Review the inconsistency of approach for application of the overlay in the Flinders Ranges Conservation Zone.
- Consider wind farms as restricted development within the Conservation Zone.

Separate to the above matters, a recommendation was put forward by a community group to include the overlay over the Adelaide Park Lands and city.

Commission's Response:

Additional limits to allowable types of development are not considered necessary (and are a zone matter). The overlay provides additional requirements to manage the appearance of development in a variety of settings, be it rural or natural environments.

Commission's Recommendation:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

N.142 AMEND polices in the Overlay to include references to 'natural character' (not just rural character) and built form criteria to include 'low-scale'.

Sloping Land Overlay

The primary purpose of this overlay is to guide development which occurs on land that contains steep slopes and/or unstable soils. The mapping dataset was based on spatial layers provided by the Department for Environment and Water.

Engagement feedback:

Feedback on the Sloping Land Overlay raised the following matters:

- The sloping land overlay does not apply to some sloping land in locations where there is policy in development plans relating to design of development to respond to slope.
- The overlay should be expanded to capture land that has a slope of 1:8 or greater rather than 1:4.
- Limiting the height of retaining walls to 1.5m is too restrictive.
- The overlay does not adequately cover areas susceptible to very high or extreme soil water erosion or land slip.
- The sloping land requirements should not be applied to the delivery of electricity infrastructure.
- Greater guidance for the permissible extent of cut and fill is needed.
- PO 1.1 should be amended to include additional criteria for the consideration of increased frequency of heavy rainfall events.
- Industry submissions advocated for the deletion of the overlay, citing inconsistencies.

Commission's response:

It is appreciated that there are data limitations in the application of the Sloping Land Overlay which is used to capture the average gradient of an area thus the overlay may include certain properties with a minor land gradient and may not include others with a significant gradient. It is therefore recommended that policies guiding development on sloping land are instead applied through:

- (a) Design in Urban Areas / Design General Development Policies
or
- (b) A new Hills Neighbourhood Zone.

This will allow sloping land policies to be applied more flexibly through general policies and enable it to be applied as relevant depending on land gradient (and not defined by a particular spatial area). In addition, existing zones/policy areas specific to 'hills' or 'foothills' areas can be represented in a new zone which carries forward the current policy intent (e.g. to provide a transition between denser built-up areas and elevated areas comprising escarpments, steep hillsides and gullies).

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

N.143 REMOVE the Sloping Land Overlay from the Planning and Design Code due to the current data limitation which may result in its inaccurate application.

N.144 AMEND the Design General Development Policies modules to include policy content regarding cut and fill, retaining walls, driveway gradients and the like to replace the content of the Sloping Land Overlay.

Water Protection Area Overlay

This overlay seeks to safeguard South Australia's public water supplies by protecting regionally and locally significant surface and underground water resources from pollution in ecologically significant Water Protection Areas. It applies to Water Protection Areas under the Environment Protection Act 1993 (except where covered by other relevant overlays).

Engagement feedback:

The limited amount of feedback from councils, industry and an industry body on this overlay covered the following discussion points:

- Inconsistent setback requirements exist between the Water Protection Area Overlay and Water Resources Overlay. Recommend review and clarification for consistency.
- EPA considers additional classes of development may be appropriate in the Accepted and/or Deemed-to-Satisfy column in circumstances where the overlay applies.
- Wastewater treatment works should be referred to the Department of Health and Wellbeing under the provisions of the *SA Public Health (Wastewater) Regulations 2013* as these systems require approval by DHW regardless of the volume of water treated.
- The 'purpose of referral' column should be amended to provide more concise policy expression.

Commission's Response:

The Water Protection Area Overlay reflects those areas prescribed as Water Protection Areas by 61A of the Environment Protection Act. As a result, the Water Protection Area Overlay and the Water Resources Overlay are inherently different and setback requirements may be stricter within the Water Protection Area Overlay as the waters protected by this overlay are commonly used for drinking.

Referrals to the EPA in Water Protection Area Overlay relate to those transferred across from the Development Act. Creating a new referral to Department of Health and Wellbeing will be considered in the next generation of the Code.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

N.145 AMEND the overlay to include a PO that lists fuel depot and special industry as undesirable land uses within this overlay.

N.146 AMEND the overlay to include wastewater management policies.

N.147 **AMEND** PO 3.1 to *'Irrigated areas sites to ensure that theydo not increase the salinity levels of groundwater'*.

Phase Three (Urban Areas) recommendations:

N.148 **AMEND** DO 1 restructure the DO to read *'Safeguard South Australia's public water supplies and ecologically significant areas by protecting regionally and locally significant surface and underground water resources in Water Protection Areas from pollution. This includes considering adverse water quality impacts associated with projected reductions in rainfall and warmer air temperatures as a result of climate change.'*

Water Resources Overlay

This overlay seeks the protection of the quality of surface waters taking into account the projected reductions in rainfall and warmer air temperatures as a result of climate change. It also seeks to maintain the conveyance function and natural flow paths of watercourses to assist in the management of flood waters and stormwater runoff.

Engagement feedback:

Feedback received was varied and broad in nature. Amendments to Desired Outcomes and Performance Outcomes were suggested, as were the introduction of new DOs and POs relating to setbacks from watercourses, inappropriate development and urban-related watercourses. The responses are summarised as follows:

- One submission advocated for the inclusion of a DO that encourages the restoration of native vegetation.
- POs and DTS/DPF criteria for watercourses located in an urban context should be included as submissions perceived that the proposed policy considers a rural context but cannot be easily applied to an urban setting. DTS/DPF 1.5 and PO 1.6 were specifically mentioned as being difficult to apply in urban environment and it was recommended they be amended or an additional PO be created.
- Further guidance is needed about the measured outcomes or criteria for 'hydrology/water-regime' in the application of PO 1.2.
- Clarification is required as to whether PO 1.6 interacts with the Natural Resource Management Act, and if so, whether a referral is required for water-affecting permits.
- Guidance is required for which criteria is to be used to ensure development satisfies PO 1.7 - PO 1.9.
- Clarification is needed as to whether water quality control is dictated by the relevant authority.
- Additional policy which promotes retention of onsite stormwater to mitigate negative effects on biodiversity, erosion, erosion and issues for downstream properties encouraged.
- Additional setback guidance is required as it is considered that there is a lack of guiding criteria in relation to this. If adopted, criteria could read:

PO X: Maintain character and uniformity of development along the water's edge.

DTS/DPF X: Development shall not occur within 25 metres of the edge of the watercourse with the exception of jetties, landings and structures that are required to stabilise the water's edge.

- Amend PO 1.1 to include 'or for an integrated stormwater solution and strategy in a master planned community' at the end of the provision.
- A new PO is needed to explicitly discourage buildings, with exemptions, over watercourses.
- Clarification is needed to explain why the overlay is spatially applied as a buffer in place of individual allotments being captured as inappropriate allotments are being captured by the buffer approach.
- Similar to the Water Protection Area Overlay, the overlay is considered to hinder appropriate Accepted and DTS applications where spatially applied.
- The application of the overlay to a number of man-made structures is questioned, including two ornamental lakes at Regency Park Golf Course, Encounter Lakes at Encounter Bay and a drainage creek at Trinity College in Gawler. Is this appropriate or an oversight?
- A review and refinement of classification tables and applicable assessment provisions is recommended.
- The reinstatement of referral to DEW is recommended for consideration of watercourses and banks as they would otherwise be considered under 'water-affecting activities permits.'

Commission's Response:

The Water Resources Overlay replaces policy previously located in the SAPPL Natural Resources General Module and other policy contained throughout a number of different zones across the state. It covers water resources that are not covered by a Water Protection Area Overlay or a Prescribed Watercourses Overlay. This distinction has caused some confusion and hence questions with regard to referrals that are covered under the separate overlays. Water-affecting activities relate to prescribed water courses or areas so are picked up under the Prescribed Watercourses Overlay.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

N.149 **AMEND** to include the following Desired Outcome: *'Maintain the conveyance function and natural flow paths in watercourses to assist in the management of flood waters and stormwater runoff.'*

N.150 **AMEND** to include the definition of 'floodplain' to PO1 to ensure clarity, such as:
Watercourses and their beds, banks, wetlands and floodplains (1:100 AEP flood extent) are not damaged or modified and are retained in their natural state, except where modification is required for essential access or maintenance purposes.

Phase Three (Urban Areas) recommendations:

N.151 **AMEND** DO1 to replace *'taking into account the'* with *'considering adverse water quality impacts associated with...'*

N.152 **AMEND** PO1.2 to reference improving the existing conditions to enhance environmental values.

Open Space and Recreation General Development Policies

These policies seek pleasant, functional and accessible open space and recreation facilities provided for active and passive recreation.

Engagement feedback:

Significant feedback on the Open Space and Recreation General Development Policies was received from local government, industry, government agencies and the wider community.

Key feedback included:

- policy amendments to provide greater clarity and direction
- inclusion of new policy to consider future climate change implications
- minor changes to policy expression
- additional policy to provide guidance for larger open space areas
- amendments to better differentiate between intended uses and types of open space
- improvements for better consistency between open space policies
- policies that could be strengthened or refined within the Open Space and Recreation module to make clear the importance of incorporating natural features and settings within public open spaces, including large and medium trees that provide good shade, natural grasses and soft landscapes
- increased recognition of the need for linkages between open spaces.

Commission's Response:

In response to various requests to policy changes and refinements, an analysis of the open space and recreation general provisions was undertaken. This analysis revealed a number of appropriate amendments and inclusions considered appropriate for this first generation of the Code.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

- N.153** **AMEND** DO1 to identify the range of functions for which open space could be used and the range in size appropriate to these different functions.
- N.154** **AMEND** policy relating to play equipment to provide greater clarity regarding passive surveillance.
- N.155** **CREATE** a new PO to seek landscaping to be passively watered with local rainfall run-off, where practicable.

N.156 **CREATE** a new PO to seek open space to include landscaped areas which use locally indigenous plant species and large trees.

Site Contamination General Development Policies

These policies seek to ensure land is suitable for the proposed use in circumstances where it is, or may have been, subject to site contamination. It will apply to most applications for sensitive uses (dwellings, pre-schools, etc.), to check that the previous use of the land does not pose risk of site contamination, or if it does, to require appropriate investigations and documentation to remediate any contamination

Engagement feedback:

- PO 1.1 and DTS/DPF 1.1 contain inconsistencies with the wording and terminology used in the Draft Practice Direction and the risk-based framework agreed to by the Department, the EPA and the joint industry/practitioner reference group.
- Submissions raised some confusion around the use of a Site Contamination Audit Report (SCAR) to fulfil DTS/DPF 1.1.
- Further clarity was requested on how the EPA's online register of contaminated sites in SA can work with the State Atlas to assist assessments against the policy criteria in this module.
- Further engagement and capacity building was requested to help upskill practitioners on the correct application of site contamination aspects of the Code, the practice direction and the regulation changes which, taken together, will give effect to the new site contamination procedures.
- More time was needed to consider and work through the policy amendment and proposed referrals.
- The general policies should be enhanced to take into consideration the issue of potential contamination which arises but is not subject to a formal contamination register or audit process.
- Mapping on sites and linking it to an overlay was suggested by several submissions.
- Concern was expressed for the need to provide an audit report and a site history should suffice. Additionally, comments suggested that the provision of detailed reports and possibly remediation plans as part of the development assessment process is not required.
- Several comments offered suggested policy expression aimed at simplifying reading and interpretation.
- Industry bodies were concerned that referrals to the EPA will compound the issue and result in the over-use of consultants and over-prescription of audits.
- Several submissions raised concern with the use of the term 'adjacent use' and its meaning and the potential for this term to significantly increase the number of impacted sites.
- Submissions contended that site contamination was not a planning issue, suggesting that the planning system should not require any site contamination assessment prior to the grant of approval.

Clarification:

Responses to this module should be considered alongside submissions received on the Draft Site Contamination Practice Direction which contains proposed procedural guidance for practitioners on how

to apply a risk-based assessment framework for consideration of site contamination. The Draft Code and practice direction were placed on concurrent consultation, with the practice direction remaining on consultation until 28 February 2020.

Discussion and recommendations on the referral trigger to the EPA related to these policies are located in the [Procedural and Technical > Referrals](#) section of this report.

Commission's response:

A Site Contamination Reference Group (SCRG) was established by the EPA in 2017 on the understanding that site contamination is, and remains, a complex issue in need of reform through the planning system. The SCRG's work involves planning and industry bodies and it has met regularly since that time to provide feedback and oversight of the establishment of a framework for the assessment of site contamination in the planning system.

Submissions raised concern with the current imprecise concept of using the term 'adjacent or other land'. In response the Commission has worked with the EPA to map three site contamination data sets on the South Australian Property and Planning Atlas (SAPPA):

- Groundwater Prohibition Areas (GPA)
- EPA Assessment Areas (AA)
- Notifications of site contamination of underground water (s.83A *Environment Protection Act 1993* notifications).

In mapping these records, those circumstances where offsite contamination is a relevant consideration for a development site will be defined.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

N.157 AMEND PO 1.1 to simplify by stating 'Land is suitable for use when land use changes to a more sensitive use'.

N.158 AMEND DTS/DPF 1.1 to simplify wording to ensure that the DTS pathway can be used where development does not involve a change of use or where it does involve a change of use. The DTS pathway can still be used in certain circumstances where site contamination has been assessed or the use of the site is already a sensitive use and the site is considered suitable for the land use proposed.

2.4 Integrated Movement Systems and Infrastructure (M)

Executive Summary

The following is a summary of the key issues raised on Integrated Movement Systems and Infrastructure, followed by an overview of the feedback received on specific zones/subzones/overlays/general development policies, the Commission's response and associated recommendations.

Infrastructure/Community facilities

Broad support was provided for the infrastructure policies and their intent at the general and zone level. Significant concern was however raised for the potential for conflict where policies and DTS within the Code do not mirror mandatory industry standards for certain infrastructure.

A consistent issue raised by local government, the development industry and the wider community related to the envisaged uses within the Infrastructure and Community Facilities zones and ensuring these zones promote appropriate infrastructure uses. In particular, there was broad support from all submissions that the list of envisaged uses could be expanded. A number of submissions also raised the need to consider the provision of uses such as aged care facilities.

Transport Routes and Parking

Various comments were received in relation to policy detail in transport policies and overlays and suggested improvements. In particular, there were a large number of comments in relation to off street parking requirements and feedback around the DTS/DPF criteria used in some of the transport overlays generally being excessive.

Aviation

Consistent with the feedback received during the Phase Two Amendment, concern was raised that the suite of policies and associated mapping related to aviation within the Code is inconsistent in application. Feedback typically focussed on the suite of aviation-related overlays with limited suggestions for improvement to be made to the Infrastructure (Airfield) Zone and no feedback provided for the Residential Aviation Estate Subzone.

Although little feedback was received from the development industry or community members, multiple submissions were received from all levels of government as well as the aviation industry. These suggested amendments to overlay mapping as well as a number of policy and procedural refinements to improve the development assessment process. Each of these proposed changes will be considered by the Commission.

Gas Pipelines

Consistent with the feedback received during the Phase Two Amendment, there is support for the refinement of the Strategic Infrastructure (Gas Pipelines) Overlay. However, concern has been expressed relating to the spatial application of the overlay in terms of the rules governing how mapping was generated as well as the objectives of the overlay policy.

Renewable Energy

A consistent issue raised by local government, government agencies, energy providers and the development industry relates to the limitations on the types of land uses which are envisaged within the overlay, as well as the lack of clarity regarding the alignment of the overlay with the requirements of Australian Standard (AS) 2885 Pipelines - Gas & Liquid Petroleum. A range of amendments to the overlay policy and mapping were thus proposed and each of these will be considered by the Commission.

A number of submissions from a wide range of community members, councils, and industry groups were received in relation to the renewable energy theme with a particular focus on those policies that guide the development of wind turbines (wind farms) and solar facilities (solar farms).

In summary, the feedback received across multiple submissions addressed the following policy areas as they relate to renewable energy facilities:

- Setbacks and separation distances
- Turbine height and blade length
- Siting, topography and cumulative effect
- Noise and its impact on communities
- Visual amenity
- Impacts/clearance of native vegetation, habitat and fauna
- Decommissioning of facilities
- Appropriateness of renewable energy facilities within certain zones (rural) and overlays
- Conflict with primary production and crops
- Procedural matters such public notification, referrals to government agencies and third party appeal rights.

Changes to Integrated Movement Systems and Infrastructure framework

The following summarises the zones, subzones and overlays relevant to this section and proposed name changes. The rationale behind these changes is described in the sections below.

Zones	General Development Policies
<p>Commonwealth Facility Zone</p> <p>Community Facilities Zone</p> <p>NEW <i>St Andrew's Hospital Precinct Subzone</i></p> <p>NEW <i>Women's and Children's Hospital and Memorial Hospital Precinct Subzone</i></p> <p>NEW <i>Neighbourhood Subzone</i></p> <p>Deferred Urban Zone</p> <p>Infrastructure Zone</p> <p>Infrastructure (Airfield) Zone</p> <p>Infrastructure (Ferry and Marina Facilities) Zone</p>	<p>Clearance from Overhead Powerlines</p> <p>Infrastructure and Renewable Energy Facilities</p> <p>Marinas and On Water Structures</p> <p>Transport, Access and Parking</p> <p>Waste Treatment and Management Facilities</p>
Overlays	
<p>Advertising Near Signalised Intersections Overlay</p> <p>Aircraft Noise Exposure Overlay</p> <p>Airport Building Heights (Aircraft Landing Area) Overlay</p> <p>Airport Building Heights (Regulated) Overlay</p> <p>Building Near Airfields Overlay</p> <p>Defence Aviation Area Overlay</p> <p>Future Road Widening Overlay</p> <p>NEW Future Local Road Widening Overlay</p> <p>Key Outback and Rural Routes Overlay</p> <p>Key Railway Crossings Overlay</p> <p>Major Urban Transport Routes Overlay</p> <p>Non-stop Corridor Overlay</p> <p>RENAME Strategic Infrastructure Gas Pipelines Overlay to Gas and Liquid Petroleum Pipelines Overlay</p> <p>NEW Gas and Liquid Petroleum Pipelines (Facilities) Overlay</p> <p>Traffic Generating Development Overlay</p> <p>Urban Transport Routes Overlay</p>	

Commonwealth Facility Zone

This zone accommodates nationally significant aviation and defence-related activities.

Engagement feedback:

Limited feedback was received from council and industry which focused on Adelaide Airport and the important function it serves. The application and exclusion of overlays to the zone was a further source of discussion. Commentary encompassed the following points:

Assessment Tables

- Telecommunications Facility should be included in Table 3 – Performance Assessed
- Industry, petrol filling stations, road transport terminals, service trade premises, shops and warehouses should be included in Table 4 – Restricted Development Classification
- Overlays to the boundaries of Adelaide Airport and Parafield Airports should be removed given that an exemption exists under the *Airports Act 1996* and the application of overlays may influence the development of airport land.

Zone Policy

Adelaide Airport Limited (AAL) is generally supportive of the zone and the acknowledgement by the Code that significant exemptions apply within the Commonwealth Facility Zone whereby development does not require approval under the *Planning, Development and Infrastructure Act 2016*. AAL did however advocate for an additional Desired Outcome and associated Performance Outcome, DTS/DPF criteria on the following subject matter:

- DO 2: A zone that includes a range of employment, community, aviation, educational, innovation, recreational, tourism and entertainment facilities.
- PO 2.1: A mix of employment, retail, community, health, aviation, educational, recreational, tourism and entertainment facilities.
- DTS/DPF 2.1: None are applicable,

West Torrens Council is of the opinion that greater recognition of the significance of Adelaide Airport in the Code is required, with policy to support and reinforce the airport as the international, national and regional gateway of South Australia. AAL and the council share the opinion that an additional DO and PO that lists envisaged land uses is required to better guide the development of Adelaide Airport.

Charles Sturt Council is supportive of the zone and agrees with the absence of Deemed-to-Satisfy classes of development. Their submission recommended the following inclusions to the Code:

- Transition of PDC 4 of the General Section - Building near Airfields, which lists aeronautical considerations that development must consider
- Building height limitations made visible on overlay maps.

Commission's Response:

The Commission acknowledges the interest in this zone however it also recognises that land in the zone is subject to Commonwealth laws where development may occur without the need for an approval under the *Planning, Development and Infrastructure Act 2016*.

The strategic importance of these facilities is considered to be best recognised within planning strategies, rather than within the Code which is the single source of planning policy for assessing development applications across the state.

In relation to a range of employment, community, aviation, educational, innovation, recreational, tourism and entertainment facilities identified within the zone, these are best addressed via alternative methods. As the operator of Adelaide Airport, Adelaide Airport Limited (AAL) is required to prepare a master plan in accordance with the *Airports Act 1996* for approval by the Commonwealth Government.

The master plan is the primary planning document for the airport and presents the long-term strategic plans. These plans are required to be reviewed and submitted to the Commonwealth Minister for approval every eight years and includes a range of consultation with stakeholders and the community.

Commission's Recommendations:

No changes recommended.

Community Facilities Zone

This zone provides for a range of community and institutional developments. These include social, health, welfare, educational and recreation facilities that service the community.

Engagement feedback:

A considerable number of responses were received in relation to the Community Facilities Zone, predominantly from local government with input from industry groups and community members also recorded.

Submissions from community groups and local councils encouraged the application of height TNVs broadly across the zone to reflect existing height controls. Conversely, an aged care provider supported the omission of TNVs.

Other feedback is outlined below:

- Suggestions to review the range of uses in Table 1: Accepted and Table 2: Deemed-to-Satisfy to include additional classes of development where appropriate.
- Recommendations from an education provider to include an 'educational establishment' in Table 3 – Performance Assessed as they consider 'all other Code assessed' to be inappropriate for all classes of educational development, including minor associated development (e.g. shelters and playgrounds). It was also suggested that schools/educational establishments be subject to reduced notification requirements.
- Suggestions from a number of councils to include a 'shop' in Table 4 – Restricted Development and for shops to be actively discouraged by its omission from the envisaged land use table. It was also suggested that a shop with a gross leasable area of less than 50m² should be envisaged. There were also some suggestions to restrict the gross leasable floor areas for commercial uses such as offices, consulting rooms and health care facilities.
- Suggestions from one council that 'dwelling' should be classed as a Restricted Development unless in conjunction with non-residential development. In the event this suggestion is not adopted, council desires additional guidance as to appropriate residential outcomes in the zone.
- Suggestions from an infrastructure provider that Telecommunications facilities should be added to Table 3 as performance assessed development.

- General recommendations to expand the range of Restricted development in the zone to safeguard it from inappropriate development.
- Suggestions from councils to expand the list of envisaged uses in DTS/DPF 1.1 to include uses such as a community facility, library, civic centre or public administration office; emergency services facility; health facility and hospital; and tourist accommodation, based on local circumstances.
- An aged care provider recommended the inclusion of 'Retirement and Supported Accommodation' to desired land use list in DTS/DPF 1.1.
- There was also a request from some councils to remove 'Consulting room' and 'Office' as envisaged land uses in 1.1 as such uses may not align with the desired outcomes for the zone. Another council suggested discouraging commercial uses where they are not associated with community facilities.

Clarification: *Additional land uses have been included in the list of envisaged uses as part of the Phase Two (Rural Areas) Code Amendment, including 'community facility', 'hospital' and 'emergency services facility.'*

- Suggestions from an education provider to provide greater clarity in relation to PO 1.2 as they consider the intent of the provision and its application unclear. It was also requested to elevate PO 1.3 to the General policy provisions as it was considered this should apply to all development in any zone.
- Recommendations from an agency to include an additional PO that considers hazard risk-minimisation strategies.
- Recommendations to amend DTS/DPF 3.1 to reference a lower inclined plane than the 45 degree plane proposed, as the policy would lead to 'profound impacts' on development yield in sites with a shallow depth.
- Broad recommendations for additional policy promoting greenspaces and landscaping, and building setbacks. There was also suggestions from councils for policies to encourage flexible and adaptive use of open space and facilities to restrict residential development from occurring at ground level and to better address development near zone boundaries.
- Recommendations to include setback policies in the zone.
- One industry response advocated for the review and refinement to zone policy with regard to Desired Outcomes to give greater weight to residential development. They also consider the proposed zone is in conflict with an existing 8-storey student accommodation tower. There were also suggestions to allow residential development to be considered on merit in the zone based on existing zoning and as allow for medium-density residential development.
- Suggestion from one council that the zone is overly restrictive and not reflective of current zone which encourages mixed use development. Another council considered the zone to be a significant policy change from existing arrangements and recommended applying additional policy measures and height TNV to reflect current controls and policy guidance.
- Suggestions to include an additional PO under 'Land Use and Intensity' to facilitate temporary use of vacant or underdeveloped land in the zone.
- Recommendations to include additional performance objectives on demolition control and car parking provision as such inclusions are considered to lead to better development outcomes.
- Identification that St Andrews Hospital, which is currently specifically catered for through a tailored zone, is not referenced in the Code has been omitted.
- Suggestions from industry that the zone be identified as a 'Designated Area' for the purposes of parking.
- Identification by industry groups that provisions relating to catalyst or significant development sites (i.e. sites greater than 1500m²) have been removed in some areas where the zone is proposed to apply, with recommendations to reintroduce these.

- Recommendations to include a definition in the Code for a 'public community facility' or 'private community facility' to better clarify such uses.

A number of submissions recommended a review of notification requirements applying to a range of uses including suggestions to:

- Increase the scope of development listed in Table 5 and remove notification requirements for minor uses and activities.
- Remove the 'all development adjacent to land in a different zone' clause.
- Remove the 'all other Code assessed development' clause.
- Increase the scope of the exclusion column to exclude anticipated development.

Commission's Response:

In relation to suggestions to better define a 'public' versus 'private' community facility as referred to in the desired outcomes (DO 1) of the zone, no such distinction exists in the objectives existing Community Zone in the SA Planning Policy Library. Further, it is inconsequential whether the range of envisaged uses in the zone are private or public uses. The Commission therefore recommends to remove these references in DO 1. It is also proposed to include a definition of 'community facility' in the land use definitions of the Code to provide greater clarity in relation to such uses (see associated recommendation in [Procedural and Technical > Land Use Definitions](#) section of this report).

Assessment Tables

Suggestions to review the range of land uses to be classified as 'accepted' or 'deemed to satisfy' in the zone are acknowledged. Table 1 and Table 2 were reviewed and amended as part of the Phase Two Amendment to include a range of minor and expected uses across all zones.

With regard to broader suggestions to expand the range of restricted development in the zone to safeguard it from inappropriate development, most forms of development will be performance-assessed as 'All other Code Assessed Development' in the zone, enabling the authority to call up all relevant policy provisions in the Code. Further, it is not appropriate to list uses that are currently non-complying in development plans as restricted as these classes of development are a procedural matter and there is no relevant policy indicating that restricted development is inappropriate or otherwise.

Shops and Offices

With regard to suggestions that a shop should be restricted and questions regarding the appropriate scale of shops in the zone, shops have been included as restricted development in the zone as part of the Phase Two Amendment except where below an established floor area (i.e. 1000m²) or where they involve a restaurant. The list of envisaged land uses in DTS/DPF 1.1 was also amended to require a shop to be associated with a community service (rather than a standalone use) and a new performance objective (PO 1.2) has been included to ensure shops and restaurants are subordinate to the community use of land, with new deemed-to-satisfy criteria limiting them to 250m². Suggestions to limit shops to 50m² is not considered appropriate in the context of multi-purpose community facilities and hubs.

Similarly, in relation to suggestions to limit the floor areas for offices in the zone, a new performance objective (PO 1.3) and associated DTSDPF 1.3 was included in the Phase Two Amendment to ensure uses are subordinate to the principal community use of the land and limiting these uses to 250m².

With regard to suggestions to limit floor areas for health care facilities and consulting rooms in the zone, such uses are anticipated in the zone and will generally respond to community needs or identified gaps in services. These uses will also appropriately be performance-assessed as 'All other Code Assessed

Development' against the full Code, and it is not considered appropriate to limit or 'cap' floor areas for these anticipated uses.

Educational facilities

Suggestions to specifically list an educational establishment in Table 3 – Performance Assessed development are acknowledged. However, while these are envisaged in the zone, classes of development which can vary in scale or intensity have not been specifically identified in the Performance Assessed Development classification tables given the complexity of capturing all relevant assessment criteria in a variety of different circumstances. It is therefore appropriate to enable such uses and developments to be performance-assessed as 'All other Code Assessed Development' to enable assessment against the full Code and be subject to notification.

Dwellings and mixed use development

In relation to suggestions that a 'dwelling' should be classed as a Restricted development unless in conjunction with non-residential development, dwellings will be appropriately performance-assessed as 'All other Code Assessed Development' against the full Code. Further, as the zone provisions do not specifically envisage or encourage development of dwellings, it is not necessary to include additional policies to guide their assessment.

Concerns from local government that the zone does not facilitate residential (including medium-density residential) and mixed use outcomes that are currently anticipated in areas where the zone is proposed to apply are acknowledged. It is not intended or appropriate to change the focus of the zone to accommodate a wider range and mix of uses, noting that most forms of development will be performance-assessed as 'All other Code Assessed Development' against the full Code. Alternative zoning will be considered for areas where the zone has been inappropriately applied given the range of uses currently envisaged in such areas.

In relation to concerns that the zone does not recognise existing multi-level buildings in areas where the zone is proposed to apply, the intent of the Code is to apply to new development. Notwithstanding, it is proposed to include a new Neighbourhood Subzone under the zone or alternative zoning for areas where the zone has been inappropriately applied and more intensive forms and higher-scale residential development may be anticipated.

Telecommunications facilities

In relation to suggestions from industry that Telecommunications facilities should be added to Table 3 as performance-assessed development in the zone, such facilities are not specifically envisaged in the zone (i.e. in DTS/DPF 1.1). It is therefore considered appropriate for such facilities to be performance-assessed as 'All other Code Assessed Development' against the full Code. Following a review of the Table 5 – Procedural Matters (PM) – Notification as part of the Phase Two Amendment, a telecommunications facility that does not exceed 30m in height has been excluded from notification in the Phase Two Amendment where not located adjacent to a dwelling in a neighbourhood-type zone.

Policy matters

Envisaged uses

In relation to suggestions to expand the list of envisaged uses in DTS/DPF 1.1 of the zone, a range of additional land uses have been included in the list of envisaged uses as part of the Phase Two (Rural

Areas) Code Amendment based on uses generally anticipated in similar existing zones. This includes a community facility, cemetery, health care facility, hospital and emergency services facility.

Suggestions to include further uses such as civic centres / public administration offices and libraries are acknowledged, given that these uses are common to areas where the zone is proposed to apply. While use of the term 'Library' has been applied as a standalone use in current policies and the SA Planning Policy Library, civic centres have generally been included as a subset of a 'community centre' or 'community facility'. Further, a 'public administration office' has not been defined in either the current Development Regulations 2008 or in the Code. On this basis, it is therefore recommended to specifically include 'Library' in DTS/DPF 1.1, with civic centres and public administration offices being captured as either a 'community facility' or 'office associated with community service', which are already captured in DTS/DPF 1.1.

In relation to tourist accommodation, such activities are not considered to align with the range of uses anticipated in the desired outcomes of the zone and are therefore not considered appropriate to include in the list of uses in DTS/DPF 1.1. This does not, however, preclude such uses from being performance-assessed as 'All other Code Assessed Development' in the zone against the full range of policies in the Code.

Similarly, while there may be areas in the zone where uses such as retirement and supported accommodation may be appropriate (e.g. where aligned to hospital or health care facilities), such uses are not generally anticipated and are therefore not recommended to be included as envisaged uses in DTS/DPF 1.1. In response to suggestions as part of the Phase Two Amendment to specifically include these and similar uses as Performance Assessed development in Table 3, the Commission recommended that classes of development which can vary in scale or intensity should not be identified in the Performance Assessed Development classification tables, given the complexity of capturing all relevant assessment criteria in a variety of different circumstances.

In relation to suggestions to remove 'Consulting room' and 'Office' as envisaged land uses in 1.1, such uses are considered to align with the range of uses and facilities in the desired outcomes in DO 1 of the zone. Reference to offices was, however, expanded in the Phase Two Amendment to clarify that these should be associated with a community service and not a standalone facility.

Clarification of policy

Suggestions that the intent of PO 1.2 may be unclear is acknowledged. This policy was derived, in part, from a similar policy in the Community Zone in the SA Planning Policy Library that sought to ensure that development does not inhibit or prejudice the integrated development of land within the zone for further community and institutional uses (e.g. through creating fragmented, unrelated uses). The focus was clearly on achieving integrated development outcomes in the zone to improve efficiency in the delivery of services. It is also noted that elements of this policy have also now been included in PO 1.3 with exception to referencing integrated development outcomes. Therefore, on further review, it is proposed to reword PO 1.2 to remove reference to 'adjoining' uses and better clarify the zone's intent to enhance the accessibility and efficiency of service delivery.

In relation to suggestions to elevate PO 1.3 to the General policy provisions to apply to all development in any zone, this policy is focused on delivery of uses specifically anticipated in the Community Facilities Zone. Consequently, it is appropriate to retain this policy in the zone.

Hazard risk minimisation

Recommendations from a state agency to include additional policy in the zone to manage the risk of hazards due to the potential vulnerabilities of use anticipated in the zone are acknowledged. The range of potential hazards (including from bushfires and flooding) are captured in the Hazards overlays in the Code, which is spatially applied to known hazard risk areas. These overlays contain policies to ensure impacts on people, property, infrastructure and the environment are minimised from exposure to hazard risk, including through limiting development intensification in identified areas. It is therefore considered appropriate to address potential hazards through overlay policies rather than individual zone policy.

Building heights and interfaces

Identification that the building interface height provisions (i.e. DTS/DPF 3.1) in the zone may significantly impact on development yield of sites with a shallow depth is acknowledged. While it has been suggested to reference a lower inclined plane than the 45-degree plane, this policy has been successfully applied across a range of corridors and strategic development sites under existing development plans to minimise impacts for adjoining uses in low rise areas. It is therefore not proposed to amend this policy in the zone.

Notwithstanding this, building height TNVs are proposed to apply to sites or areas where existing Development Plan policies allow for taller buildings.

Building setbacks

Recommendations to include policies to guide building setbacks in the zone are acknowledged, particularly with regard to rear boundary setbacks to minimise impacts on neighbouring properties. While the interface height provisions (i.e. PO 3.1 and DTS/DPF 3.1, PO 3.2 and DTS/DPF 3.2) provide some guidance in respect to development adjacent a neighbourhood zone, no guidance is provided where adjacent to other development in the zone.

In terms of rear setback policies, it is noted that the Suburban Main Street Zone anticipates a similar range of land uses to the Community Facilities Zone as well as retail and entertainment uses. On this basis, it is considered appropriate to apply the same rear setback policies that exist in the Suburban Main Street Zone to development in this zone.

Temporary use of vacant land sites

In relation to feedback from one council to include policy facilitating the temporary use of vacant or underdeveloped sites in the zone, such policy is not specific to the Community Facilities Zone. While some zones such as the City Park Lands Zone are established to accommodate temporary events and associated infrastructure, this is not the intended function of other zones. Further, a range of temporary uses for vacant sites may not qualify as development and certain activities on council land are also excluded from being development under the PDI Act and its Regulations. Where temporary uses are development, these should be appropriately assessed in the same way as permanent land uses. It is not therefore recommended to include additional policy in the zone or Code for the temporary use of land.

Demolition

In relation to suggestions to include policies in the zone to prevent demolition of buildings from occurring until a replacement development has been approved, the demolition of buildings is excluded from development or is complying building work in most cases under the PDI (General) Regulations (e.g. except where it involves a heritage place or is in a heritage area). The heritage overlays in the Code will be used to provide demolition control for heritage areas. It is therefore not appropriate or necessary to include such policies in the Community Facilities Zone or other zones in the Code.

Car parking

In relation to suggestions to include additional policies in the zone relating to car parking, the General Transport, Access and Parking provisions include car parking requirements applying to land uses (including uses anticipated in the Community Facilities Zone) or designated areas in the Code. Most uses in the zone will be performance assessed against the full Code, allowing authorities to call up these General policy provisions. It is therefore not necessary to duplicate car parking requirements for specific uses in this zone.

Further, in relation to suggestions to include the zone as a 'designated area' for the purpose of car parking, areas designated for this purpose have generally focused on higher density, significant mixed use or corridor zones and locations in Greater Adelaide located close to high frequency transport. Given the focus of the Community Facilities Zone and the various locations in which it applies, it is not considered appropriate to include the zone as a designated area for the purposes of off-street vehicle parking requirements in Table 2 – Off-Street Vehicle Parking Requirements in Designated Areas.

Significant Development Sites

The identification by industry groups regarding the removal of provisions relating to catalyst or significant development sites (i.e. sites greater than 1500m²) in some areas where the zone is proposed to apply, is recognised. This policy currently applies to sites in areas where high density mixed use development outcomes are anticipated such as central Adelaide and Glenelg.

Given the land uses and intensity anticipated in the Community Facilities Zone, it is not considered appropriate to apply this policy in the zone.

Other policies

In relation to suggestions to include a range of additional policies in the zone, most forms of development will be performance-assessed as 'All other Code Assessed Development' against all relevant policies in the Code that the authority considers appropriate. It is therefore not necessary or appropriate to duplicate General policy provisions (e.g. relating to elements such as landscaping) in the zone policies.

Notwithstanding this, it is recognised that some General policies applying specifically to community facilities in the SA Planning Policy Library and development plans have not transitioned to the Code but are important to guide the development of such facilities. This includes policies that seek the design of community facilities to encourage flexible and adaptable use of open space and facilities for a range of uses and it is recognised that such facilities need to respond to changing demographics and community needs. It is therefore recommended to include such policy in the zone.

In relation to suggestions to restrict residential development from occurring at the ground level of buildings in the zone, residential development is not specifically envisaged in the zone. Consequently, it is not considered appropriate or necessary to include policies to guide the location of such development in the zone. Any proposals involving residential development would also performance assessed as 'All other Code Assessed Development' in the zone against the full Code.

Procedural Matters – Public Notification

In relation to recommendations to review the notification requirements applying to a range of uses in the zone, the 'Procedural Matters – Notification tables' were reviewed and amended for all zones as part of the Phase Two Amendment to ensure that development generally envisaged in the zone or considered to be minor is not subject to notification, except where acceptable standards of built form or intensity may be exceeded and/or the development is likely to result in impacts on the amenity of adjacent dwellings located on land in another zone. This included removal of the clauses relating to 'All Other Code Assessed Development' and 'all development adjacent to land in a different zone'.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

- M.1** **AMEND** DTS/DPF 1.1 to include additional land uses within zone that may be contemplated within the zone (e.g. community facility, emergency services facility, cemetery, indoor recreation facility).
- M.2** **AMEND** to include additional classes of development within Deemed-to-Satisfy and Performance Assessed development classification tables where appropriate.
- M.3** **AMEND** to include additional Assessment Provisions within the zone relating to floor area of shops and offices.
- M.4** **AMEND** building height Assessment Provisions to reference any relevant TNV and acknowledge prevailing character.

Phase Three (Urban Areas) recommendations:

- M.5** **CREATE** the following new subzones:
 - St Andrews Hospital Precinct Subzone which specifically seeks hospital, clinical and health training, and allied research and educational facilities, along with independent medical and allied health facilities, supported by a mix of compatible accommodation and retail activity.
 - WCH and Memorial Hospital Precinct Subzone which seeks provision of health care and associated facilities.
 - Neighbourhood Subzone which seeks community, educational and health care land uses complemented by residential development at medium densities as an alternative land use.
- M.6** **AMEND** DO 1 of the zone to remove reference to 'public' and 'private' community, educational, recreational and health care facilities.
- M.7** **AMEND** the list of envisaged uses in DTS/DPF 1.1 to include 'Library' given the locations where the zone is proposed to apply.
- M.8** **AMEND** PO 1.2 to improve clarity of intent, to read '*Integration and coordination of land uses to enhance the accessibility and efficiency of service delivery.*'
- M.9** **AMEND** the heading 'Built Form and Character' to 'Building Height and Setbacks' and **CREATE** a new PO and DTS/DPF criteria to guide rear setbacks in the zone.
- M.10** **REMOVE** the heading 'Interface Height' and relocate policies under this heading to new heading 'Building Height and Setbacks'.
- M.11** **CREATE** a new PO under the heading 'Land Use and Intensity' to encourage flexible and adaptable use of open space and facilities.

Deferred Urban Zone

This zone allows for a limited range of low-intensity land uses and activities needed to support the existing use of land without impeding the ability of the land to be developed for alternative forms of urban development in the future.

Engagement feedback:

Feedback was received from local government and industry group, with key issues being raised by multiple responses. The restriction on land division was queried, as it was argued to be inconsistent with current policy arrangements. Council submissions suggested the transition of existing policy measures to discourage residential development and provide further guidance as to appropriate built form outcomes in specified settings.

Local government and industry submissions advocated for the existing development plan policy on land division be transferred to the Code's Deferred Urban Zone, which permits land divisions with a minimum 4ha allotment size unless the division is for public infrastructure purposes, in which case the allotment can be smaller. Onkaparinga Council raised the need to ensure that land proposed as *Deferred Urban Zone* along the verge of the Southern Expressway is discouraged from being used for dwellings.

The development industry advocated for the inclusion of a clause that would permit development that facilitates the provision of public or private services or amenities to existing and future communities where the development is not materially inconsistent with any applicable Concept Plan.

Concern was raised by Mount Barker District Council that the *Deferred Urban Zone* captures allotments located within the Mt Barker Growth Area. This was considered inappropriate, given the restrictions it will impose on development that will occur in the foreseeable future. They proposed that Suburban Neighbourhood Zone, with the existing Restricted Urban Policy Area, would be more suitable to transition as a subzone.

A local government and industry submission are of the opinion that land divisions should be excluded from the ambit of Table 4 – Restricted Development if the allotments proposed are a minimum 4ha in area.

Feedback on the Deferred Urban Zone focussed on the following key matters:

- A council and industry submission suggested the inclusion of the following text to the 'exclusions' column of Table 4 – Restricted Development:

Land division that does not create additional allotments less than 4 hectares in size other than for the purpose of providing public infrastructure.

Clarification: Proposed policy is guided by the South Australian Planning Policy Library (SAPPL), which does not prescribe a quantitative measure for minimum allotment sizes.

- Greater detail is needed to ensure the preservation and retention of character in existing areas currently afforded such measures in the applicable development plan.
- A limited number of desired land uses should be included to enable use of the land in the intermediate period until it is developed for urban use.
- A PO that imposes a requirement that structure planning is a requirement for any large-scale urban development was recommended.

Commission's Response:

The Deferred Urban Zone has been drafted to afford protection to peri-urban areas which are anticipated to be developed as urban settlements in the long-term future. A limited number of land uses are envisaged to safeguard the future expansion of urban centres.

The strengthening of DO 1 to provide greater detail and guidance as to the qualities of the area that should be preserved and reinforced, is considered unnecessary. Specifically, the submissions suggested the transition of SAPPL – Deferred Urban Zone – Objective 1, which mentions that development should 'maintain the rural appearance of the zone'. Given that the zone has been spatially applied to areas of Metropolitan Adelaide and other settlements (Port Willunga, Victor Harbor), the test of rural appearance cannot be achieved and is inappropriate. It has been determined that the inclusion of a built form assessment element to PO 2.2 will not be adopted as it undermines the intent of the zone to discourage undesired built form outcomes.

In relation to an industry request for land division that create allotments of a minimum 4ha in size to be listed as an exemption in Table 4 – Restricted Development, this request is considered inappropriate. The text proposed has its foundations in SAPPL and accommodating land divisions undermines the intent of the zone. A local government response which requested an exemption to permit consolidating allotments into larger allotments or undertaking minor boundary re-alignments that do not result in the creating of allotments less than 4 hectares in area, is achieved by the proposed policy content and is not considered necessary to adopt. There appears to be a misinterpretation that land divisions would not be permitted under any circumstance due to its listing as Restricted, whereas what the classification consequently triggers is an assessment by the Commission.

Regarding the development industry submission which recommended minimum site area requirements be avoided, it is appreciated that such requirements may hinder a range of private development activity. However, the intent of the Deferred Urban Zone is for only a limited number of land uses to be facilitated. Although the provision of public or private services and amenities may provide benefits to the surrounding community, such services would already exist in established local centres that the local population can access. The Deferred Urban Zone is to remain vacant of any development which could hinder the future development of the area for urban expansion and this is reinforced by the inclusion of land division as Restricted Development.

It is appreciated that the Deferred Urban Zone conflicts with the strategy of Mount Barker's Growth Area and has been applied spatially to allotments which are in such growth areas. After reviewing the request, replacing the Deferred Urban Zone with the Master Planned Suburban Neighbourhood Zone is recommended.

It is considered appropriate for a limited range of land uses, including farming and low-intensity animal husbandry, to be listed as DTS / DPF criteria. These activities do not compromise the future development of the area and enable the valued use of allotments until such time they are required to be developed for urban purposes.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

M.12 **AMEND** DTS / DPF 1.1 to read:

Development comprising farming (broad acre cropping, grazing) and/or low-intensity animal husbandry.

Infrastructure Zone

This zone provides for the protection, provision, maintenance and expansion of infrastructure services and facilities, whilst ensuring that development, vehicular movements and infrastructure services and facilities manage environmental impacts.

Engagement feedback:

Feedback was received from councils, agencies and industry with submissions centred on additional policy recommendations, refinement of proposed criteria and retention of passages from desired character statements. The feedback can be summarised as follows:

- Telecommunications facilities should be explicitly encouraged in the zone through their inclusion in Table 2 – Deemed to Satisfy and Table 3 – Performance Assessed Classification Tables.
- Recreation area should be included in Table 2 – Deemed to Satisfy
- Conflict exists between PO 2.1 and functional security requirements of fencing in substations.
- Clarification is needed as to the application of this policy in conjunction with Schedule 13 of the Planning, Development and Infrastructure (General) Regulations 2017.

Clarification: Schedule 13 will take precedence over the Code policy measure in question. PO 2.1 is relevant to fencing development undertaken by non-crown agencies, within the Infrastructure Zone.

- Expansion of DO 2 to reference impacts of climate change in addition to environmental impacts is requested.
- Policy relating to building height is needed.
- Inclusion of Correctional Facility as an envisaged land use, as the Zone has been spatially applied to a site accommodating such a use, is requested.
- Refinement of public notification table referencing Practice Direction 3 and exclusionary criteria for notification requirements is needed.

Commission's Response:

The Commission acknowledges the feedback received, noting the zone supports a range of utility and infrastructure facilities. Telecommunications towers are a specifically envisaged development within the zone.

The Commission notes that further consideration is required for any future reference to climate change, however DO 2 specifically relates to managing environmental impacts from infrastructure services and facilities.

Specific building height policy is not contemplated for this zone as the range of facilities and resultant height will be guided by the technology and type of infrastructure facility being developed.

A recreation area is not consistent with the intent of the zone and has not been included in Table 2.

Commission's Recommendations:

No changes recommended

Infrastructure (Airfield) Zone

This zone caters for air transport movements and associated development that will not impede aviation operations.

Engagement feedback:

Limited feedback was received which included the following requests:

- Envisaged forms of development listed in DTS/DPF 1.1 to feature in the Assessment Table 1 & 2 (Deemed-to-Satisfy and Performance Assessed) to enable such developments and avoid public notification requirements.
- Reference within the Code to the National Airports Safeguarding Framework (NASF) guidelines for development in proximity to airfields.
- Inclusion of retail fuel outlet and telecommunications facility to Table 3 - Performance Assessed Development.

Commission's Response:

The Commission acknowledges the feedback received, noting the zone provides for aviation operations together with allied and complementary activities as well as aviation-related recreational pursuits. Telecommunications facilities and retail fuel outlets beyond those required for aviation operations are not specifically envisaged within the zone considering the accessibility of more appropriate zones and the height of telecommunications facilities could conflict with overlay criteria that seeks to protect airfields from obtrusive developments.

Amendments to the public notification table are supported to ensure that performance assessed development of a type envisaged in the zone is not subject to notification, in accordance with the recommendation in the [Procedural and Technical > Public Notification](#) section of this report.

Based on review of Restricted development thresholds throughout the Code, the Commission recommends that the size of a shop excluded from Restricted classification in this zone is increased to 1000m².

Commission's Recommendations:

M.13 **AMEND** Table 4 – Restricted Development Classification to increase the size of a shop excluded from Restricted classification from 250m² to 1000m².

Infrastructure (Ferry and Marina Facilities) Zone

This zone supports the development of marinas, on-water structures, ferry facilities, complementary uses to enhance passenger transport services, tourism and ancillary services.

Engagement feedback:

Limited feedback comprised the following:

- The list of envisaged land uses should be reduced and inclusion of all other land uses not comprising a marina, boat repair or slipping facilities should be listed as Restricted Development.
- The inclusion of retail fuel outlet as a specifically envisaged form of development within the zone is requested.
- Formatting error in numbering requires correction.
- The inclusion of additional land uses to Table 3 – Performance Assessed is requested.
- Proposed policy which captures development situated adjacent another zone is of concern in relation to Mannum Waters which actively markets land uses ancillary to the marina.
- Telecommunications Facility should be performance assessed and not subject to notification.
- The zone should be amended to specifically reference off-water land uses including port and harbour facilities and residential development.

Commission's Response:

Amendments to the performance outcomes to provide greater clarity surrounding envisaged land uses, including port and harbour facilities and residential development, are supported and a range of specific off-water development classes will provide greater clarity.

Commission's Recommendation:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

M.14 AMEND Performance Outcomes to provide greater clarity surrounding envisaged land uses, including port and harbour facilities and residential development.

Advertising Near Signalised Intersections Overlay

This overlay maps the areas in which a referral to the Commissioner for Highways applies for certain advertisements. The overlay area represents land within 100 metres from any signalised intersections or crossings which intersect state-maintained roads.

Engagement feedback:

Feedback noted that the referral is slightly different to the current referral in the Development Regulations which refers to certain colours of illumination for signage.

Commission's Response:

The referral in the overlay requires any advertisement or advertising hoarding within 100m of a signalised intersection or signalised pedestrian crossing that will be internally illuminated and/or incorporates a moving or changing display and/or a flashing light be referred to the Commissioner for Highways. The current referral is considered appropriate.

Upon review of the overlay policies, it is recommended that wording in the PO be clarified, and that a DTS/DPF criteria be created to enable DTS pathways for advertising which does not incorporate illumination, moving displays or flashing lights.

Commission's Recommendation:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

M.15 AMEND PO 1.1 to remove reference to excessive size and instead reference illumination, flashing lights, or moving or changing displays or messages.

M.16 CREATE DTS/DPF criteria 1.1 which supports advertising that is not illuminated, does not incorporate a moving or changing display or message, does not incorporate a flashing light(s).

Aircraft Noise Exposure Overlay

This overlay seeks to ensure that sensitive land uses exposed to documented aircraft noise are designed and constructed appropriately.

Engagement feedback:

Issues surrounding like-for-like transition of development plans to the Code are particularly noteworthy in relation to the Aircraft Noise Exposure Overlay. Although feedback recognised that current mapping of areas where aircraft noise policy applies is deficient in some locations, issues have arisen from the fact that mapping has been transitioned like-for-like, however policy content has not.

In particular, this relates to a reference to Australian Standard (AS) 2021- Acoustics- Aircraft Noise Intrusion- Building Siting and Construction, which is contained within current development plans, however has not been transitioned to the Code. The provision referencing AS 2021, which in turn references the *Australian Noise Exposure Forecast (ANEF)*, allows a relevant authority to utilise up-to-date ANEF mapping in the assessment of aircraft noise exposure even where current mapping has not been incorporated within a development plan.

A range of policy and procedural improvements has also been suggested, including:

- Provision of up-to-date ANEF mapping within the Code, particularly in relation to Adelaide and Parafield airports
- Amendment of Ministerial Building Standard 10 - Construction requirements for the control of external sound (MBS 10) to include requirements for noise-sensitive development in relation to aircraft noise exposure as well as reference to AS 2021 Acoustics – Aircraft noise intrusion – Building siting and construction and its associated ANEF Australian Noise Exposure Forecast (ANEF) system.
- Creation of a Deemed-to-Satisfy pathway for noise-sensitive development within the ANEF 25 contour where it can meet the requirements of the updated MBS 10 at the building rules assessment stage.

Aviation Industry Feedback / Key Issues

Aviation industry feedback suggested that noise-sensitive development should be assessed via the Restricted Assessment Pathway rather than Performance Assessment where such development is proposed within the ANEF 30 contour and above. Feedback expressed that Adelaide Airport in particular should not be subjected to further constraints on passenger numbers or freight growth which could potentially arise due to additional population and housing within this noise contour.

Commission's Response:

The Aircraft Noise Exposure Overlay has been drafted to reflect current assessment processes for minimising the impacts of aircraft noise on sensitive receivers including dwellings, educational facilities, tourist accommodation and hospitals. In many cases, the mapping of noise-affected areas for this overlay has been carried over from current development plans. Numerous requests were received to update this mapping to reflect the latest ANEF contours for Adelaide and Parafield airports given that mapping contained within current development plans is often inconsistent or incomplete. For this reason, it is considered appropriate to update noise exposure mapping for these airports. There are currently other airports which do not have noise mapping which reflects the ANEF, but rather indicate areas where noise impacts exist. In the absence of detailed mapping, it is considered appropriate to require the performance assessment of sensitive receivers within these areas.

As many development plans do not currently include noise mapping but instead only include a reference to AS 2021-2015, there is no clear guidance for applicants as to where noise policies will apply in relation to a development, the types of noise mitigation measures required or the assessment pathways that may be available. It is considered that the approach outlined above would result in a net improvement to current assessment processes as the inclusion of ANEF mapping for airports within the overlay (Adelaide, Parafield and Edinburgh) will provide greater clarity about where noise policy is relevant to an assessment.

In relation to requests for strengthening of policy related to aircraft noise exposure, it is considered appropriate to create additional policy to better guide the development of noise-sensitive land uses and to facilitate a DTS assessment pathway for sensitive receivers within the ANEF 25 contour.

Given the importance of ensuring that noise-sensitive land uses are appropriately designed and located, it is considered appropriate to also require the performance assessment of land division applications for the purposes of accommodating noise-sensitive land uses in areas where noise impacts are higher.

Although the achievement of a DTS pathway within lower-impacted areas of this overlay is desirable, it is considered that an alternative approach whereby sensitive receivers require performance assessment within the ANEF 25 contour and above (as opposed to DTS) would reflect current assessment processes undertaken by council planners, whereby aircraft noise is assessed on merit, requiring in many cases for an applicant to furnish an acoustic report and comply with requirements for noise mitigation.

The Commission supports amendments to Ministerial Building Standard 10 Construction requirements for the control of external sound to incorporate appropriate building requirements related to aircraft noise to support the creation of a DTS pathway for sensitive receivers within the ANEF 25 contour.

In relation to requests for sensitive receivers to be classified as Restricted forms of development within the ANEF 30 contours and above, this could be assessed against the relevant Desired Outcomes and Performance Outcomes in the overlay. Such uses which are clearly incompatible with the desired outcomes of the overlay would not necessarily warrant a state-level assessment. For this reason, it is not considered appropriate to require the assessment of noise-sensitive development within the ANEF 30 contour via the Restricted Assessment Pathway.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

M.17 **AMEND** Desired Outcome to reflect the appropriate location of development in noise affected areas, rather than just design.

Phase Three (Urban Areas) recommendations:

M.18 **SPATIALLY APPLY** updated ANEF contours for Adelaide and Parafield airports

M.19 **CREATE** new policies within the overlay to provide greater clarity regarding the assessment of sensitive receivers within the ANEF 25 contours and above.

Note: Further improvements to facilitate a DTS pathway for sensitive receivers within the ANEF 25 contour, whilst retaining Performance Assessment for noise sensitive development (including land division for such purposes) ANEF 30 contour and above to be considered once Phases 2 and 3 of the Code are operational.

Airport Building Heights (Aircraft Landing Area) Overlay

This overlay maps the location of unregulated aircraft landing sites with no specific registration or CASA regulation, but which operate as an airfield. The overlay seeks to ensure the appropriate height and setback of adjacent developments to ensure the long-term operational and safety requirements of the landing sites are not compromised.

Engagement feedback:

Limited feedback was received on the Airport Building Heights (Aircraft Landing Area) Overlay and focussed on the following key matters:

- The Overlay should consider the impacts of building heights on Strategic Helicopter Landing Sites to more closely align with the National Airport Safeguarding Framework.
- The Overlay should include a referral to the Aircraft Landing Area Operator for development which exceeds height thresholds set out by the Overlay

Commission's Response:

The Airport Building Heights (Aircraft Landing Areas) Overlay has been drafted to potential impacts of Management of potential impacts of building heights on the operational and safety requirements of aircraft landing areas.

In relation to requests for a referral to be given to Aircraft Landing Area Operators in relation to buildings which exceed height limits, there is no regulatory requirement in place for the management of obstacles in relation to Aircraft Landing Areas. As such, the Overlay policy was based on an advisory circular provided by the Civil Aviation Safety Authority. For this reason, it is not considered appropriate to refer development applications that may exceed height limits within this Overlay for direction to the Aircraft Landing Area Operator.

In response to various requests to further reflect the National Aviation Safety Framework (NASF) guidelines through the inclusion of policy requirements related to Strategic Helicopter Landing Sites (not located on an aerodrome) within this Overlay, an analysis of current development plans was undertaken. This analysis revealed that very few Development Plans currently consider Helicopter Landing Sites in detail, or include appropriate mapping to inform the spatial application of the Overlay for this purpose. In order to accommodate such a policy response, a wider reaching study involving the identification and mapping of Strategic Helicopter Landing Sites, as well as associated building height limits would be required to appropriately spatially apply this policy. Therefore, such an approach is not considered appropriate for the first 'generation' of the Code.

Commission's Recommendation:

No changes recommended.

Airport Building Heights (Regulated) Overlay

This overlay ensures the appropriate height and setback of development adjacent to regulated airports to ensure their long-term operational and safety requirements are not compromised. It includes areas surrounding commercial and military airfields, airports, airstrips and helicopter landing sites.

Engagement feedback:

Feedback related primarily to ensuring that airport building height mapping is up to date and that referral triggers are directed to airport operators, particularly in relation to Adelaide and Parafield airports:

- Mapping for Adelaide and Parafield airports should be updated to reflect the latest Obstacle Limitations Surface (OLS) data to ensure consistency
- Building-generated plume impacts should be considered in addition to buildings
- Application of overlay policy should be further considered to ensure that unnecessary referrals are not triggered for low-impacting forms of development including swimming pools and fences.
- The referral for over-height development should be amended to include the airport operator as a referral authority for matters covered by this overlay to ensure consistency with Commonwealth legislation.

Commission's Response:

The Airport Building Heights (Regulated) Overlay has been drafted to reflect current assessment processes to manage potential impacts of buildings and generated emissions on the operational and safety requirements of registered and certified commercial and military airfields, airports, airstrips and helicopter landing sites.

In relation to requests for updated airport building height mapping to reflect OLS data around Adelaide and Parafield airports, the OLS mapping data was unable to be incorporated due to significant areas where the OLS heights were below natural ground level. This would have resulted in unnecessary referrals for development where currently no such referrals exist, creating an administrative burden for the referral agency and effectively removing Accepted and Deemed-to-Satisfy pathways for development within these areas. As such, mapping for this Overlay continues to be based on maps from existing development plans.

It is considered appropriate to include reference to AHD in the mapping where appropriate.

It is appreciated that current referral processes should require the relevant airport operator to be contacted in the first instance thus it is considered appropriate to amend the referral trigger to ensure referrals are directed to the relevant airport operator first.

In response to various requests to ensure that the overlay does not result in unnecessary referrals being sent in relation to minor- or low- risk ancillary developments (including swimming pools, domestic fences, outbuildings associated with a dwelling, etc.), it is considered appropriate to update the list of land uses to which this Overlay applies to ensure that unnecessary referrals are not being sent in relation to minor or low risk ancillary developments.

Clarification:

Although ultimately the referral body for development which intrudes on an airport's Obstacle Limitation Surface (OLS) is the Commonwealth Secretary for the Department of Infrastructure, Transport, Cities and Regional Development (DITCRD), it is intended that referrals for OLS intrusions are sent to the relevant airport operator

Commission's Recommendation:

Phase Three (Urban Areas) recommendations:

- M.20 AMEND** the referral body in the Airport Building Heights (Regulated) Overlay to 'The airport-operator company for the relevant airport within the meaning of the Airports Act 1996 of the Commonwealth or, if there is no airport-operator company, the Secretary of the Minister responsible for the administration of the *Airports Act 1996* of the Commonwealth'.
- M.21 AMEND** mapping to indicate reference to metres AHD where the Overlay is spatially applied to the City of Adelaide.
- M.22 RELOCATE** policy relating to turbulence and windshear to the Building Near Airfields Overlays.
- M.23 CREATE** policy to specifically address plume impacts.
- M.24 UPDATE** the list of land uses to which this overlay applies to ensure that unnecessary referrals are not being sent in relation to minor- or low- risk ancillary developments.

Building Near Airfields Overlay

This overlay seeks to manage non-residential lighting and wildlife attraction impacts on the operational and safety requirements of certified commercial and military airfields, airports, airstrips and helicopter landing sites.

Engagement feedback:

Feedback obtained during the Phase Three Amendment was largely consistent with that given during the Phase Two Amendment and again highlighted concerns that the spatial application of this overlay could result in significant impacts on the potential for development to be considered as Accepted or Deemed-to-Satisfy. It was suggested that more detailed requirements and greater clarity surrounding the land uses which this overlay relates be considered to achieve the intended purpose of the overlay without limiting development opportunity. In particular, feedback related to policy concerning outdoor lighting and wildlife strike, as well as policy relating to aircraft noise which duplicates provisions contained within the Aircraft Noise Exposure Overlay.

It was also noted that there is opportunity within this overlay to address a number of additional aviation-related issues such as those currently outlined within existing development plans. These include:

- Lighting glare
- Smoke, dust and exhaust omissions
- Air turbulence
- Reflective surfaces (including large windows, roofs)
- Inclusion of policy that relates to safeguarding navigational aids
- Materials that affect aircraft navigational aids.

State and Commonwealth Agency Feedback / Key Issues

Feedback from all levels of government highlighted opportunities to further incorporate the *National Airports Safeguarding Framework* into the Code. Key suggestions included incorporating NASF Guidelines G Communications, Navigation and Surveillance (CNS) and Guideline I Public Safety Areas.

Development Industry Feedback / Key Issues

Development industry feedback reiterated concerns about the spatial application of aviation-related overlays potentially impacting Accepted or Deemed-to-Satisfy development.

Commission's Response:

The Building Near Airfields Overlay has been drafted to manage potential impacts of non-residential lighting, turbulence and activities that may attract or result in the congregation of wildlife.

In response to various requests to further reflect the National Aviation Safety Framework (NASF) guidelines through the inclusion of policy requirements related to Communication and Navigation Systems, or Public Safety Areas within this overlay it is considered that a wider-reaching study involving the identification and mapping of these facilities and/or areas, as well as the development of an appropriate policy framework would be required. Therefore, such an approach is not considered appropriate for the first generation of the Code.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

M.25 **AMEND** the application of the overlay in various zone Classification Tables where appropriate to ensure that it is not applied unnecessarily to development types that will not impact airport operations.

M.26 In relation to the overlay policies:

- **AMEND** policy content relating to lighting to ensure greater clarity about the types of development to which it applies.
- **AMEND** policy relating to minimisation of bird strike to minimisation of wildlife strike.
- **REMOVE** PO 1.3 relating to airport noise from the overlay and instead apply the Airport Noise Exposure Overlay to noise-affected areas where appropriate.

Phase Three (Urban Areas) recommendations:

M.27 **AMEND** policy to include policy related to turbulence and windshear (See comments related to Airport Building Heights (Regulated) Overlay and Defence Aviation Area Overlay).

Defence Aviation Area Overlay

This overlay manages the potential impacts of buildings on the operational and safety requirements of surrounding Defence Aviation Areas.

Engagement feedback:

Limited feedback was received on the Defence Aviation Area Overlay which focussed on the following key matters:

- Consideration of a consistent mapping approach to airport building heights, as the Defence Aviation Area Overlay currently uses a maximum height system, whilst Obstacle Limitations Surface (OLS) has been used for Adelaide and Parafield airports.
- Consideration of temporary structures (e.g. cranes), as well as tall vegetation and gas or exhaust plumes which may exceed height limits within Airport Building Heights and Defence Aviation Area overlays.
- Transition of additional defence-related policy from current development plans to the Code, including specific mapping of outdoor lighting constraints.

Commission's Response:

The Building Near Airfields Overlay has been drafted to manage potential impacts of buildings on the operational and safety requirements of Defence Aviation Areas, in particular the Edinburgh RAAF base.

Given that the Defence Aviation Area Overlay and Airport Building Heights (Regulated) overlays contain different approaches to mapping for metropolitan airports, it is appreciated that a desire to create a consistent approach to mapping has been expressed. However, as the mapping of the Defence Aviation Area Overlay reflects that contained within the Defence (RAAF Base Edinburgh Defence Aviation Area) Declaration 2018, it is not considered appropriate to pursue a change to mapping approaches at this stage.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

M.28 RELOCATE policy relating to turbulence and windshear to the Building Near Airfields Overlay.

Future Road Widening Overlay

This overlay identifies where development should be limited to facilitate the widening of key state-maintained roads.

Engagement feedback:

A small number of councils commented on the need for this overlay to apply to local roads, noting that they have similar policy in their development plans.

Commission's Response:

The overlay applies only to Commissioner for Highway roads and triggers referral, so it not suitable for local roads. However, the need for a similar overlay to apply to certain local roads is acknowledged and a Local Road Widening Overlay is recommended to be created.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

M.29 **CREATE** a new Future Local Road Widening Overlay and apply it to relevant local roads.

Key Outback and Rural Routes Overlay

This overlay maps the location of freight routes, tourist routes and other key outback routes, and ensures development does not interfere with the safe and efficient operation of these roads.

Engagement feedback:

- DTS policy should be aligned to the Australian Standards / AustRoads Guidelines rather than codifying the requirements such as access spacing and sight lines.
- Additional DTS policy could be developed to support the satisfaction of DTS criteria, e.g. where a qualified and experienced traffic engineer has designed / investigated whether the proposed access, sight lines and/or vehicle queueing are appropriate, and the AustRoads Guidelines / Australian Standards are satisfied.
- Minor wording changes are needed to avoid ambiguity in the Performance Outcomes.
- The numerical value placed on DTS provisions is too conservative.
- An access point servicing more than 60 vehicle movements per day should not preclude the development from being classified as a DTS provided it has been designed to allow for access in accordance with applicable Australian Standards/ Guidelines.
- Development should not be precluded from DTS if left-turn-only entry and exit movements are not able to be satisfied. As long as the right turn movements are safe, they should be considered to be provided for.

Clarification:

The applicability of requirements allowing for qualified and experienced traffic engineers to provide designs / investigations to show that AustRoads / Australian Standards are satisfied will be investigated during development of Phase Three.

Reference to Australian Standards was not included in the Code as some aspects require subjective consideration and therefore are not suitable as measurable criteria for Deemed-to-Satisfy requirements.

The Commission will consider the use of Practice Guidelines or similar technical guidelines to assist in place of Australian Standards.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

M.30 In relation to the policies:

- **AMEND** DTS/DPF1.1 to contemplate right-turn-only access to the site in a limited capacity.
- **AMEND** DTS/DPF2.1 to provide clarity around on-site queueing and access point width requirements.
- **AMEND** DTS/DPF3.1 to provide clarity around traffic volume numbers, vehicles per day entering the site and class of vehicles using existing access points.
- **AMEND** PO4.1 to change 'widely spaced' to 'appropriately spaced'.

Key Railway Crossings Overlay

This overlay ensures development on key roads in close proximity to a crossing does not interrupt or affect the safe operation of the crossing.

Engagement feedback:

Limited feedback on the overlay was received, including:

- DTS/DPF 1.1 refers to certain distances from railway crossings relative to speed limits but fails to include 40km/hr roads which should be addressed.

Clarification:

DTS/DPF 1.1 (vii) accommodates roads of speeds 50km/h or less which addresses roads with a sign-posted speed of 40km/h.

- Should a referral body be listed when development is contrary to DTS/DPF 1.1.?

Clarification:

Development on state-controlled roads will be referred to the Commissioner of Highways regardless, negating the requirement for a referral body to be listed.

Commission's Recommendation:

No changes recommended.

Urban Transport Routes Overlay and Major Urban Transport Routes Overlay

The Urban Transport Routes Overlay covers all land abutting state-maintained roads and any intersecting local roads up to a distance of 25m from the state-maintained road within the Greater Adelaide Region.

The Major Urban Transport Routes Overlay transitions the freight and major traffic routes from the 'Functional Hierarchy for South Australia's Land Transport Network', and applies to land abutting selected state-maintained roads within the Greater Adelaide Region and any intersecting local roads up to a distance of 25m from state-maintained roads.

Engagement feedback:

Some councils and industry commented that a number of DTS requirements in relation to on-site queuing, sight lines and the like are too onerous and in excess of those sought by the relevant Australian / Austroads standards. It was suggested that these be reviewed to reflect Australian / Austroads standards.

Clarification: Reference to Australian Standards was not included in the Code as some aspects require subjective consideration and are therefore not suitable as measurable criteria for Deemed-to-Satisfy requirements.

Other feedback sought clarification of several policy provisions, queried the maximum measurements applied and advocated for the removal of prescriptive references considered to be covered by other standards.

A definition of Urban Transport Route and what differentiates 'Major Urban Transport Route' was requested by one council which considered that a definition would assist authorities in determining how the overlay has been spatially applied. A definition of 'roadside infrastructure' was also suggested to provide assistance in interpreting a deemed-to-satisfy policy.

Overlay Content

Submissions requested:

- The inclusion of access widths
- Amendment of DTS/DPF 1.1 (b) (iii) C. to read 'vehicles exceeding 8.9m in length'
- The inclusion of illustrations/diagrams to assist in interpreting DTS/DPF 2.1
- Clarification about whether 2.1 (b) is to be applied only to non-residential developments and whether it should read 'more than 60 vehicle movements per day' in place of 'less than 60'
- More concise expression for specified policy provisions
- Amendment of policy to include developments that will generate more than 60 vehicle movements a day, affording them a DTS pathway where appropriate
- Amendment of DTS/DPF 3.1 to capture development that will result in increased traffic volume by industry
- Clarification about what is considered a 'Controlled Access Road'
- Revision of separation distances proposed for new access points and intersections as they are considered excessive
- Clarification of the assessable component of DTS/DPF 4.1
- Deletion of access spacing and sight distance requirements as they are outlined in AustRoads Guide to Road Design.

Clarification: Reference to Australian Standards was not included in the Code as some aspects require subjective consideration and therefore are not suitable as measurable criteria for Deemed-to-Satisfy requirements.

- Clarification of the term 'unobstructed' and whether street trees would be considered an obstruction
- Reduction of the sight line distances as they are considered excessive
- Use of AustRoads design guidelines in place of policy in Code.

Procedural Matters – Referrals

One submission sought a definition or practice direction for the term 'minor', in relation to the expression 'minor in the opinion of the relevant authority.' Clarification is also required about whether Urban Traffic

Route has the same meaning as Urban Transport Route. Industry suggested providing a more concise 'Purpose of Referral' column and that the word 'management' be deleted.

Commission's Response:

The intention of the overlays is to support development along state-maintained roads to ensure their ongoing operation and management is not impacted. The policy in each overlay is intended to be largely the same with variation relating to some of the technical requirements for sight lines and the like and are spatially mapped to ensure the correct criteria is clearly defined. As such a definition for each overlay is not considered necessary.

The volume of feedback received in relation to the low likelihood that development would meet the DTS criteria prompted the Commission to review the proposed policy. A revised structure that addresses minor development types (6 or fewer dwellings and small-scale commercial developments) and enables their use of existing access points subject to simple criteria is suggested, which, if met, can preserve a DTS pathway for these types of development.

Higher-intensity development that is more likely to impact on the function of state-maintained roads should be subject to suitable requirements and evaluation via referral by the Commissioner for Highways. Development requiring new access points should also be structured around minor development types and higher impacting activities described above, with calibrated criteria for each.

A clearer structure by listing all relevant criteria in relation to a particular issue by development where possible is recommended to simplify reading and understanding.

It is acknowledged that a development industry response advocated for a number of amendments to simplify requirements for lower-impacting development and where possible provide Deemed to Satisfy criteria that can be more readily achieved. This would result in stronger alignment for the criteria to the Australian Standards and AustRoads Guidelines. Accordingly, the following changes are considered warranted:

- removing the requirement for left turn only entry and exit for development involving 6 or fewer dwellings in relation to the Urban Transport Routes Overlay
- qualifying that access criteria are on the basis of a single access point serving a site
- simplifying and splitting the requirements for on-site queuing relating to development under 6 dwellings into parts relating to vehicles 6.4m in length or less, and greater than 6.4m in length
- amending criteria relating to existing access points to include criteria relating to small-scale, non-residential land uses instead of criteria relating to an allowable percentage increase in traffic volumes, and a criteria that the access point is not on a Controlled Access Road
- simplifying criteria in relation to the location (spacing) of new access points for 6 or fewer dwellings so that access can be achieved away from high-speed environments so that separation distance criteria need not apply to this type of development (including aligning criteria with AS/NZS 2890.1 as reflected in the included diagram); and where local road access is not available having less onerous separation distance criteria (one set applying to 6 or fewer dwellings [AustRoads Part 4 – left turn overlap] and another for all other development [ASD/SSD AustRoads Part 4A]) adjusted to suit each overlay
- providing more clarity regarding sightline requirement for access point locations for drivers and pedestrians with less onerous criteria (split into two categories 6 or fewer dwellings and all other development) and reducing requirements in relation to the 6 or fewer dwellings dwelling category
- including diagrams where relevant to assist in simplifying criteria.

The outcome of these recommended changes is a greater likelihood of minor development being able to maintain a deemed to satisfy pathway (where relevant) as well as reduced referrals (noting that not meeting DTS/DPF criteria would trigger a referral).

Upon review of the overlay policies, policies relating to mud and debris, stormwater, building on the road reserve, public road junctions and corner cut offs contained in the Major Urban Transport Routes Overlay are applicable to all state-maintained roads and therefore should also be included in the Urban Transport Routes Overlay.

In relation to referrals, a Statutory Reference column is required with relevant statutory reference. The referral requirements and information are otherwise considered suitable.

Commission's Recommendations:

Note: Recommendations are in relation to both overlays unless otherwise stated.

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

M.31 In relation to the Overlay policies:

AMEND PO 4.1 to change 'widely spaced' to 'appropriately spaced'.

AMEND PO 2.1 to include the phrase 'when entering the site'.

AMEND DTS/DPF 2.1 to include the word 'enter'.

AMEND DTS/DPF 3.1 to support a marginally higher rate of vehicle movements through an existing access.

Phase Three (Urban Areas) recommendations:

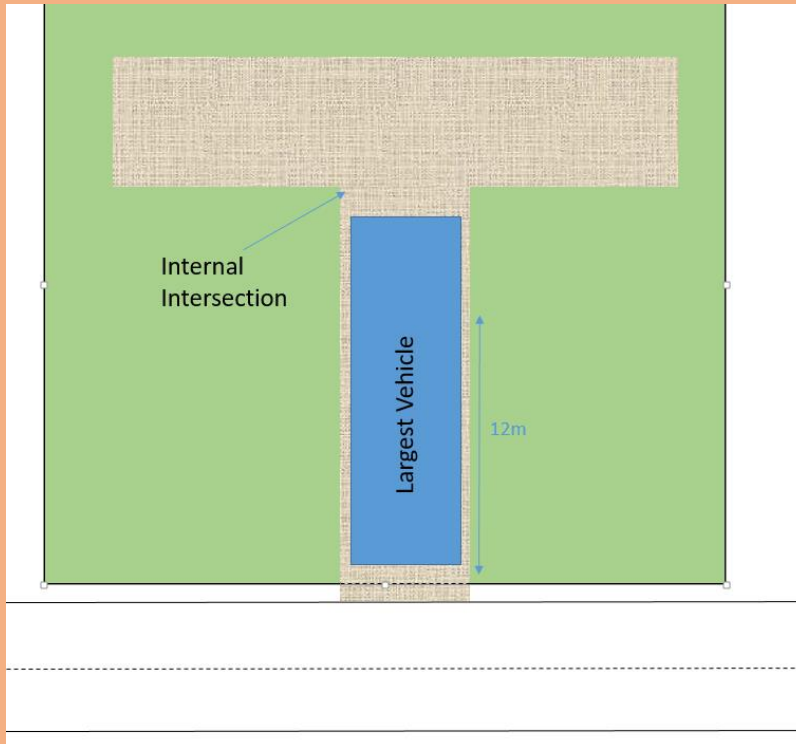
M.32 **AMEND** the structure of the overlays so that all relevant criteria are specified in relation to a particular category of development to simplify their intent, including diagrams where possible to assist in understanding, and refine policy to generally improve clarity and understanding of the intent of the overlays as required.

M.33 **AMEND** DTS/DPF 1.1 by including a criteria for each category of development (i.e. single dwelling, 2-6 dwellings, 7+ dwellings, and non-residential land uses) so that development will not result in more than one access point servicing the site; and remove the requirement for a left turn entry and exit only in relation to 6 or fewer dwellings in the Urban Transport Routes Overlay.

M.34 **AMEND** DTS/DPF 2.1 part (b) so that criteria are simplified and split two parts relating to access points servicing small vehicles (6.4m in length or less, or greater than 6.4m in length) by replacing it with the following:

- (a) will service, or is intended to service, development that will generate fewer than 60 vehicle movements per day, and:
 - (i) is expected to be serviced by vehicles with a length no greater than 6.4m
 - (ii) there are no internal driveways, intersections, parking spaces or gates within 6.0m of the access point (measured from the site boundary into the site)
- (b) will service, or is intended to service, development that will generate fewer than 60 vehicle movements per day, and:

- (i) is expected to be serviced by vehicles with a length greater than a 6.4m small rigid vehicle
- (ii) there are no internal driveways, intersections, parking spaces or gates within 6.0m of the access point (measured from the site boundary into the site)
- (iii) any termination of or change in priority of movement within the main car park aisle is located far enough into the site so that the largest vehicle expected on-site can park fully within the site before being required to stop
- (iv) all parking or manoeuvring areas for commercial vehicles are located a minimum of 12m or the length of the longest vehicle expected on site from the access (measured from the site boundary into the site) as shown in the following diagram:



M.35 AMEND DTS/DPF 3.1 to include criteria relating to small scale non-residential land uses instead of criteria relating to an allowable percentage increase in traffic volumes, and a criteria that the access point is not on a Controlled Access Road, by replacing it with the following:

DTS/DPF 3.1

An existing access point satisfies (a), (b) or (c):

- (a) it will not service, or is not intended to service, more than 6 dwellings
- (b) it is not located on a Controlled Access Road and will not service development that will result in a larger class of vehicle expected to access the site using the existing access
- (c) is not located on a Controlled Access Road and development constitutes:
 - (i) a change of use between an office <500m² gross leasable floor area and a consulting room <500m² gross leasable floor area or vice versa
 - (ii) a change in use from a shop to an office, consulting room or personal or domestic services establishment

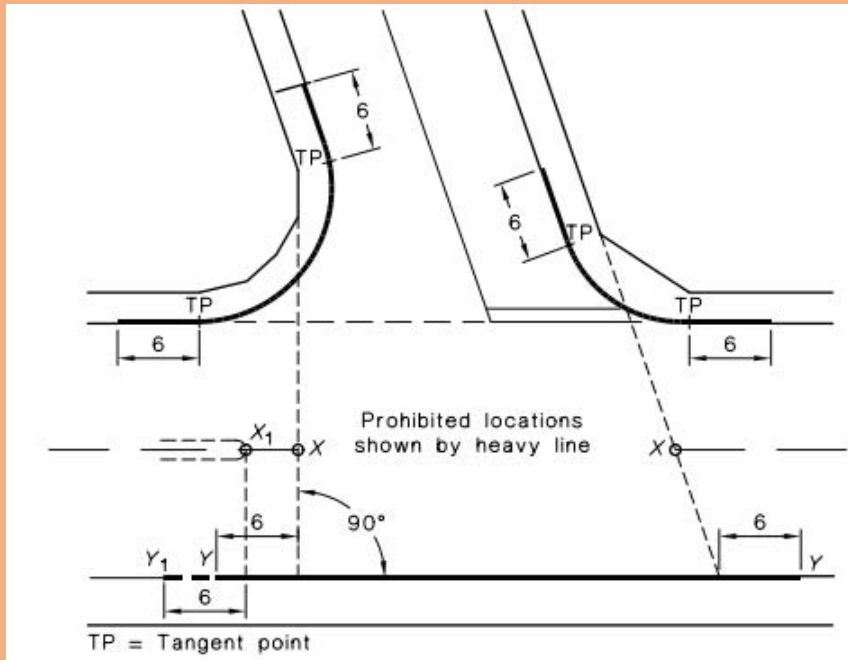
- (iii) a change of use from a consulting room or office <math><250\text{m}^2</math> gross leasable floor area to shop <math><250\text{m}^2</math> gross leasable floor area
- (iv) a change of use from a shop <math><500\text{m}^2</math> gross leasable floor area to a warehouse <math><500\text{m}^2</math> gross leasable floor area
- (v) an office or consulting room with a <math><500\text{m}^2</math> gross leasable floor area.

M.36 AMEND DTS/DPF 4.1 to include simplified criteria in relation to 6 or fewer dwellings so that access can be achieved (either to a local road, or otherwise) away from high-speed environments so that separation distance criteria need not apply and where local road access is not available having less onerous separation distance criteria (one set applying to 6 or fewer dwellings and another to all other development) by replacing it with the following:

DTS/DPF 4.1

A new access point satisfies (a), (b) or (c):

- (a) where a development site is intended to serve between 6 or fewer dwellings and has frontage to a local road (not being a Controlled Access Road) with a speed environment of 60km/h or less, the new access point is provided on the local road and located a minimum of 6.0m from the tangent point as shown in the following diagram:



- (b) where the development site is intended to serve 6 or fewer dwellings and access from a local road (being a road that is not a state-maintained road) is not available, the new access:
 - (i) is not located on a Controlled Access Road
 - (ii) is not located on a section of road affected by double barrier lines
 - (iii) will be on a road with a speed environment of 70km/h or less
 - (iv) is located outside of the bold lines on the diagram shown in the diagram following part (a)
 - (v) located a minimum of 6m from a median opening or pedestrian crossing.

(c) where DTS/DPF 4.1 part (a) and (b) do not apply and access from an alternative local road at least 25m from the Urban Route is not available and the access is not located on a Controlled Access Road, the new access is separated in accordance with the following:

[In the Urban Transport Routes Overlay]:

Speed Limit	Separation between access points	Separation from public road junctions and merging/terminating lanes
50 km/h or less	No spacing requirement	20m
60 km/h	30m	73m
70 km/h	40m	92m
80 km/h	50m	114m
90 km/h	65m	139m
100 km/h	80m	165m
110 km/h	100m	193m

[In the Major Urban Transport Routes Overlay]:

Speed Limit	Separation between access points	Separation from public road junctions and merging/terminating lanes
50 km/h or less	no spacing requirement	20m
60 km/h	40m	123m
70 km/h	55m	151m
80 km/h	70m	181m
90 km/h	90m	214m
100 km/h	110m	248m
110 km/h	135m	285m

M.37 AMEND PO and DTS/DPF 5.1 to provide more clarity regarding sightline requirements for access point locations for drivers and pedestrians with less onerous criteria split into two categories (1-6 dwellings and all other development) with further reduced requirements in relation to the 1-6 dwelling category as follows:

PO 5.1

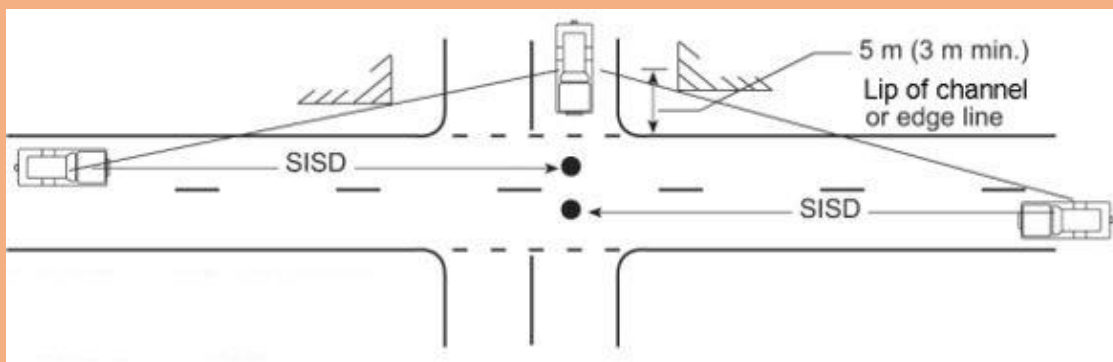
Access points are located and designed to accommodate sight lines that enable drivers and pedestrians to navigate potential conflict points with roads in a controlled and safe manner.

DTS/DPF 5.1

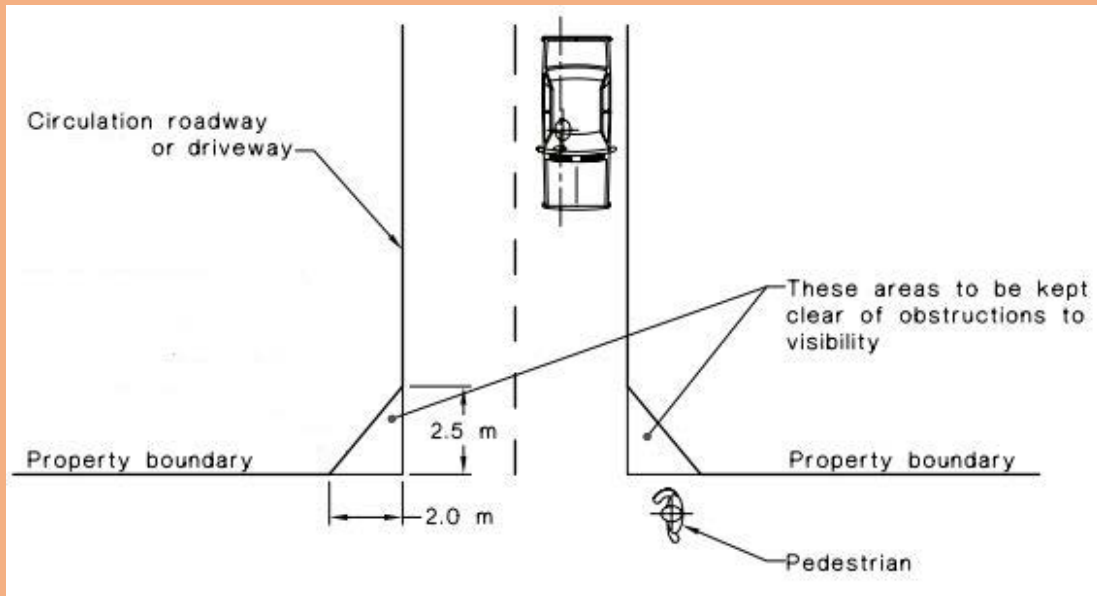
An access point satisfies (a) or (b):

- (a) drivers approaching or exiting an access point have an unobstructed line of sight in accordance with the following (measured at a height of 1.1m above the surface of the road):

Speed Limit	Access point serving 1-6 dwellings	Access point serving all other development
40km/h or less	40m	73m
50km/h	55m	97m
60km/h	73m	123m
70km/h	92m	151m
80km/h	114m	181m
90km/h	139m	214m
100km/h	165m	248m
110km/h	193m	285m



- (b) pedestrian sight lines in accordance with the following diagram:



AMEND the Urban Transport Routes Overlay by including the Access – mud and debris, access – stormwater, building on road reserve, public road junctions and corner cut-offs provisions from the Major Transport Routes Overlay.

M.38 AMEND the Procedural Matters Table by including the 'Statutory Reference' column, containing the following: *Development of a class to which Schedule 9 clause 3 item 7 of the Planning, Development and Infrastructure (General) Regulations 2017 applies.*

Non-Stop Corridor Overlay

This overlay ensures the safe and efficient operation of non-stop corridors (e.g. major expressways and highways) where free-flowing traffic movement is prioritised.

Limited feedback was received on the overlay.

Commission's Recommendation:

No changes recommended.

Strategic Infrastructure Gas Pipelines Overlay

This overlay seeks to provide guidance for the assessment of development within the measurement length of high-pressure gas pipelines to ensure that impacts relating to public safety, property and the environment can be managed in the event of an emergency.

Engagement feedback:

Feedback generally supported the Strategic Infrastructure Gas Pipelines Overlay, however concern was expressed relating to its spatial application in terms of the rules governing how the mapping was generated and about the objectives of the overlay policy.

A consistent issue raised by local government, government agencies, energy providers and the development industry relates to the limitations on the types of land uses envisaged within the overlay as well as the lack of clarity regarding the alignment of the overlay with the requirements of Australian Standard (AS) 2885 *Pipelines - Gas & Liquid Petroleum*. A range of amendments to the overlay policy and mapping were proposed.

Clarification:

Measurement length is the radius of the 4.7kW/m² radiation contour for an ignited rupture, calculated in accordance with AS/NZS 2885.6, applied at all locations along a pipeline. This distance is larger than easements for access and maintenance purposes.

A range of procedural amendments were suggested to improve the development assessment process.

State Agency and Local Government Feedback / Key Issues

State agency feedback indicated support for the refinement of the overlay mapping to reflect where different sections of high-pressure gas transmission pipelines are designed to accommodate high sensitivity, high density, residential or rural development areas. Similarly, it was suggested that the overlay policy be refined to align with the requirements of Australian Standard AS 2885. This would ensure that new development within the vicinity of such pipelines is consistent with a relevant Safety Management Study on potential safety issues relating to the development, or the potential for the development, to impact the ongoing operation of pipeline infrastructure. It was also requested that referral powers to be granted to the Department of Energy and Mining so an assessment could be made of the impact of the land division or development against the provisions for safety and security of supply in AS 2885.

Relatively few local government submissions were received on the overlay. In line with the feedback given by state agencies and the pipeline industry, some feedback indicated support for the strengthening of overlay policy with regard to the obligations of the pipeline operator in accordance with Australian Standard AS 2885. This feedback also expressed support for referral powers to be granted to the Department of Energy and Mining for proposals. In particular, this related to proposals seeking the division of land for the purposes of the land uses outlined in Overlay DTS/DPF 2.1.

Other councils expressed caution that the application of the overlay may have implications for development in certain underutilised areas where uplift would be favourable, even expressing a desire for the overlay to be removed from certain sites.

Pipeline Industry Feedback / Key Issues

Feedback from the pipeline industry expressed concern that the proposed overlay does not provide enough clarity for developers or relevant authorities and may afford less consideration to pipeline safety risk than existing processes. As such, strong support was given for the refinement of both the policy and mapping components of the overlay to more appropriately recognise the requirements for pipeline safety under the South Australian Petroleum and Geothermal Energy Act 2000 (PGE Act), yet allow for a reduced footprint in certain locations where pipelines already have sufficient design safeguards to coexist with densely populated areas. Similarly, support was given for referral powers to be granted to the Department of Energy and Mining as well as a suggestion that a practice direction be drafted to ensure

consultation processes will be more efficient for all parties involved. Key suggestions for improvement include:

- A referral trigger to the Department of Energy and Mining should be included for rezoning and specific land uses within the overlay area.
- The overlay should be renamed the Gas and Liquid Petroleum Pipelines Overlay to better reflect the nature of the infrastructure it addresses.
- The mapping should be updated to reflect where current pipeline safety management studies are in place, as well as the location of sites where noise may impact on adjacent sensitive development.

Development Industry Feedback / Key Issues

In line with some council feedback, submissions from the development industry expressed concern that the overlay would restrict development in areas where zoning currently enables, or has been rezoned to enable, urban development. In particular, this concern related to the wording of overlay provisions which refer to the preservation of access to high-pressure gas transmission pipelines for maintenance and emergency response purposes despite the overlay being spatially applied to an area much larger than the statutory easement surrounding a pipeline. Similarly, concern was raised that policy wording could effectively render some land undevelopable for uses which are appropriate and permissible in certain locations and result in confusion or inappropriate decision-making on the part of a relevant authority without specialist understanding of gas pipeline regulation. Greater clarity was therefore requested surrounding the purpose of the overlay and the types of development permissible.

Commission's Response:

The Strategic Infrastructure (Gas Pipelines) Overlay has been drafted to manage risk to public safety, the environment and security of energy supply from the encroachment of development on gas and liquid petroleum pipelines and associated infrastructure.

In relation to requests for mapping to better reflect areas where current Safety Management Studies and pipeline rating may allow for a decrease in the overlay buffer width, it is noted that updated mapping data has been provided for this overlay which is a substantial decrease in the spatial application of the overlay to areas where a smaller buffer distance is acceptable. Similarly, requests to include the location and noise buffer requirements of pipeline vent facilities are acknowledged and it is recommended they be incorporated within a secondary Overlay – the Gas and Liquid Petroleum (Facilities) Overlay. It is considered that the proposed mapping and policy updates will provide greater clarity to councils and the development industry as to where sensitive development may not be appropriate within the overlay area, whilst ensuring that a Deemed-to-satisfy pathway is available for low-risk land uses and in areas where a higher level of urban development already exists.

It is considered that the inclusion of a referral trigger to the Department of Energy and Mining to provide expert technical assessment to the relevant authority where additional safety measures are required as part of a Safety Management Study will provide greater clarity at the early stages of development whilst ensuring relevant safety standards are met. It is also recommended to develop advisory material to provide guidance on rezoning of land within proximity of gas pipelines to ensure that these matters can be addressed at a strategic level.

Commission's Recommendation:

Phase Three (Urban Areas) recommendations:

- M.39 CREATE** additional policies to provide greater guidance for the types of development that are appropriate within the overlay.
- M.40 CREATE** referral to the Department of Energy and Mining for development which does not satisfy DTS requirements or where a pre-lodgement agreement is not in place.
- M.41 UPDATE** mapping and buffer widths to reflect where pipelines have been designed to accommodate high sensitivity, high density, residential or rural development.
- M.42 RENAME** the Strategic Infrastructure (Gas Pipelines) Overlay to the Gas and Liquid Petroleum Pipelines Overlay.
- M.43 CREATE** an additional Gas and Liquid Petroleum (Facilities) Overlay to address the noise impacts of gas pipeline facilities and main-line vents.

Traffic-Generating Development Overlay

This overlay ensures the development of large-scale commercial, industrial or educational uses and greenfield subdivision developments in close proximity to main roads is referred to the Commissioner of Highways.

Engagement feedback:

Feedback on the Traffic-Generating Development Overlay focussed on the referral trigger to the Commissioner of Highways. The following matters were raised:

- Referral should refer to gross leasable floor area
- Referral trigger only relates to creating additional allotments and doesn't include development with 50+ dwellings - e.g. apartment, retirement etc.
- The overlay should be amended to remove the Commissioner of Highways' referral for retail development which exceeds 2000sqm
- The referral should incorporate a clause that states referrals are required 'except where the development is, in the opinion of the relevant authority, minor in nature and would not warrant a referral...' and the referral be for regard purposes and not for direction, particularly given referrals will be required for many developments that do not directly affect an arterial road.
- Attention should be given to the Traffic Generating Development Overlay referral triggers to assist in interpretation, in particular, whether:
 - the new access points trigger relates only to those proposed on the arterial road network (or within 25m of a junction)
 - the floor areas identified for commercial and retail development is additional (i.e. proposed) or overall. If overall, this will result in automatic referrals for existing shopping centres

- Is the reference to '250m of an Urban Traffic Route or Major Urban Traffic Route' within clause (f) of the trigger meant to apply to all criteria listed or just part (f)?

Commission's Response:

Minor changes to the referral are supported, including reference to the gross leasable floor area and deleting text in part (f) to ensure consistency with other Transport Overlays as the spatial application of the overlay determines its extent of application.

Adjusting the referral in relation to the retail threshold (or not applying it to centre zones) is not supported as development exceeding this could still have a significant impact and requires consideration by the Commissioner of Highways. Amending the referral to include additional types of development is not supported.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

M.44 **AMEND** the referral to:

- a) refer to gross leasable floor area
- b) delete the text in part (f) relating to development 'that is on, or is to be located within 250m of an Urban Traffic Route Road or Major Urban Traffic Route Road'

Clearance from Overhead Powerlines General Development Policies

This module seeks to reinforce established practices under the Development Regulations 2008 to ensure development near overhead powerlines is suitably sited for safety reasons.

Engagement feedback:

Limited comments were received on the Clearance from Overhead Powerlines General Development Policies, which included the following requests:

- More detail in relation to clearance requirements and permissible vegetation in proximity to powerlines through the inclusion of policies imposed by the Office of the Technical Regulator.

Clarification: *DTS 1.1 references Section 86 of the Electricity Act 1996 which prescribes the regulations. The inclusion of such regulations in the Code is therefore not appropriate considering these controls are directly referenced by DTS 1.1.*

- Reference to both underground and overhead powerlines as separation distances apply in both instances.

Commission's Response:

In relation to requests by councils to include the criteria listed in Section 86 of the *Electricity Act 1996*, a proponent is required to provide a declaration that the development is not contrary to the Act to satisfy DTS / DPF 1.1. The inclusion of such detail to the Code is not appropriate.

It is considered appropriate for reference to be made to both underground and overhead powerlines to avoid a potential misunderstanding in the application of the Code.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

M.45 **AMEND** PO 1.1 to read:

'Buildings are adequately separated from aboveground and underground powerlines to minimise potential hazard to people and property.'

Infrastructure and Renewable Energy Facilities General Development Policies

This module seeks to ensure development is provided with electricity, water and gas supply, drainage, stormwater and effluent disposal systems, roads, and telecommunications services.

Renewable Energy Facilities

Engagement feedback:

A number of submissions from a wide range of community members, councils, and industry groups were received in relation to renewable energy, with a particular focus on those policies that guide the development of wind turbines (wind farms) and solar facilities (solar farms).

The submissions received reflect a diverse and often opposing, range of positions covering need, appropriateness, siting, landscaping and amenity issues.

In summary, the feedback received across multiple submissions addressed the following policy areas as they relate to renewable energy facilities (REFs):

- Setbacks and separation distances
- Turbine height and blade length
- Siting, topography and cumulative effects considered in site location and assessment
- Noise and its impact on communities
- Visual amenity
- Impacts/clearance of native vegetation, habitat and fauna
- Decommissioning of facilities
- Appropriateness of renewable energy facilities within certain zones (rural) and overlays
- Conflict with primary production and crops
- Procedural matters such public notification, referrals to government agencies and third party appeal rights.

Multiple submissions raised the following key themes and suggestions:

- Setback criteria should be amended to the effect that non-associated (non-stakeholder) dwellings are afforded the same setback requirements as those dwellings within the zones listed in DTS/DPF 8.1.
- Why differences in separation exist, as it is perceived to place rural residents at a disadvantage to those who reside in settlements.
- The 1.2km setback DTS/DPF criteria for non-associated dwellings is considered inadequate.

Clarification: The Phase Two Amendment increased the separation distance to 1.5km.

- Impacts to visual amenity should be guided by the adoption of criteria within the 'NSW Wind Farms Visual Assessment Bulletin'
- Additional protection measures for specified species under threat, birds and bats should be included.
- Productive and arable land should be protected through the inclusion of policy that discourages renewable developments in such areas.
- The impact of low-frequency noise on amenity and health should be considered.

Clarification: Such a consideration is outside the scope of the Code.

- Cumulative impact of wind farms should be considered in assessments.
- Specific policy provisions concerning decommissioning requirements need to be implemented.
- PO 9.2, concerning security fencing requirements, should be amended to provide further guidance to 'extensive' and the operational requirements of security fencing which may require 'extensive' fencing.
- Policy conflict exists between the application of PO 4.3, PO 2.3 and 5.1. PO 4.3 requires a cleared area of vegetation around infrastructure while the other two POs encourage the retention of natural vegetation.
- The perceived potential and casual observation of frost resulting from wind turbines should be considered.
- 'Topple Height' provision that prescribes setback minimums for turbines adjacent property lines, public places and roads should be included.
- Increased policy emphasis should be given to the management of environmental, health and amenity impacts of large renewable energy facilities, particularly wind and solar farms by e.g.:
 - increasing setback distances from wind farms to townships, dwellings and other sensitive receptors
 - re-examining setback distances for solar farms to implement a scaled-approach, whereby the size and scale of a proposed solar farm determines its setbacks
 - adding a policy to discourage the establishment of solar farms on intact native vegetation and areas of high environmental value
 - incorporating specific noise policy for wind farms
 - reducing environmental impacts such as dust and vegetation clearance through landscaping, under-planting and wildlife corridor policy without compromising the security of a facility.

Respondents also requested:

- revisiting the land use definition for 'Renewable Energy Facility' to better define and categorise differences between large and small-scale solar power facilities

- listing renewable energy facilities as envisaged land uses in PO 1.1 and DTS/DPF 1.1 of the Rural Zone to support the Desired Outcomes of the zone
- categorising all wind farm and pumped hydro applications as Impact Assessed Developments due to their state interest and significant size, scale and potential environmental impacts.
- Policy for buffers surrounding infrastructure facilities should be amended and there should be more requirements to ensure visual impacts are reduced to adjacent sensitive land uses, while managing bushfire risk to key services.

Opponents of wind farms argue that this form of electricity generation should fall within the ambit of the land use definition for industry.

Clarification: The decision to classify development as Impact Assessed must be declared by the Minister or prescribed through regulations. Accordingly, this matter is beyond the scope of the Code.

Wastewater

Engagement feedback:

Feedback from local government primarily focused on wastewater and powerline infrastructure requirements, particularly where existing mandatory requirements were not reflected in the Code.

Concern was expressed on the ability for allotments to be approved without appropriate consideration of the wastewater infrastructure requirements in the future.

In particular, local government submissions requested that:

- All On Site Wastewater Code requirements including setbacks be referenced in the Code
- Guidance, possibly through a TNV or other mechanism, be used for minimum allotment sizes when on-site wastewater is required
- Terminology when referencing certain types of infrastructure (such as wastewater) is consistent
- Provisions for the augmentation of council services within land divisions, particularly to assist with connections to council-operated (non SA Water) CWMS systems, is allowed
- Reference to the requirements of the Wastewater Regulations and Wastewater Code in PO 12.1 and DTS/DPF 12.1 is included.

Commission's Response:

The Infrastructure and Renewable Energy General Development Policies seek to transition the current general sections on Infrastructure, Renewable Energy Facilities and telecommunications Facilities in the SAPPL, with additions introduced in Phase One of the Code which address:

- the rehabilitation of decommissioned infrastructure sites and corridors
- hazard management and new overlay policy to enable battery storage facilities
- on-site water supply and wastewater services
- temporary facilities such as borrow pits, concrete batching plants and worker amenity areas
- large-scale windfarms, solar photovoltaic arrays, solar thermal plants, grid-scale batteries, biofuels facilities and pumped hydro systems

- concerns such as dust, noise and amenity.

In response to feedback related to windfarms, the Commission does not propose to include numerical limits on the size, scale and distribution of wind turbines and wind farms in the Code. This is considered to be inappropriate due to the potential impact on investment, rapidly changing technology, extended project timeframes and inconsistency with projects with current approvals under the *Development Act 1993*. Nor does the Commission propose to include specific noise policy for wind farms in the Code as this is considered to represent an unnecessary duplication of processes conducted by the EPA under the normal agency referral process for such facilities. It is however considered appropriate to amend policies to incorporate increased minimum setback distances to townships, settlements and non-associated dwellings for wind farms as well as solar power facilities.

In response to requests for the inclusion of additional setbacks related to wind turbine topple distances, it is considered that PO 1.1, 4.1 and 4.2 of the Infrastructure and Renewable Energy Facilities General Development Policies can be used to address hazards relating to renewable energy facilities through performance assessment. Further investigation would be required in order to appropriately apply standards related to the catastrophic failure of a wind turbine and as such is considered to be inappropriate for inclusion in the first generation of the Code.

It is appreciated that there is a desire for policy to minimise the visual impacts of infrastructure development on surrounding areas. However, due to fire and security risks related to vegetated buffers in electricity substations, it is considered inappropriate to reference substations in PO 2.2. Similarly, as high voltage transmission lines are by their nature visible and that obscuring transmission lines using vegetation or topography is often impractical, it is considered that this should be excluded from PO 2.1 in the same way as wind turbines.

In response to various requests to include policies from the *On-site Wastewater Systems Code*, PO/DTS 12.1 of the Infrastructure and Renewable Energy Facilities General Development Policies require that wastewater systems comply with the requirements of the *South Australian Public Health Act 2011 (SAPH Act)*. As the *On-site Wastewater Systems Code* was developed pursuant to the provisions of the SAPH Act 2011 and the regulations made under that Act deal with wastewater (*Wastewater Regulations*), it is considered inappropriate to duplicate that content within the Code.

It is considered appropriate to amend DTS / DPF 12.1 to remove specific requirements relating to the location of waste disposal systems and instead reference the requirements of the *South Australian Public Health Act 2011*. The previous technical requirements would be difficult for a planning authority to determine and these matters are assessed separately as part of a wastewater works approval under the *South Australia Public Health Act 2011*.

Amendments to the land use definition for 'Renewable Energy Facility' are supported to lower the 5MW exclusion threshold from this definition for smaller-scale solar PV facilities, and separately define 'Small-scale ground mounted Solar Power facility'. Amending the definition of Industry to explicitly exclude Renewable Energy Generation facilities such as wind and solar farms is also supported. Recommendations regarding these changes are contained in the [Procedural and Technical > Land Use Definitions](#) section of this report.

The Commission supports amending the Rural Zone to add renewable energy facilities as envisaged land uses in PO1.1 and DTS / DPF 1.1 and thereby align these with the reference to renewable energy generation in DO 1. Given the restrictions placed on the development of such facilities in significant landscapes, coastal areas, conservation areas and character preservation areas, it is considered appropriate for Rural Zone policy to reference and align with the uses sought for the zone in the Desired Outcomes. Recommendations regarding these changes are contained in the [Productive Economy > Rural Zone](#) section of this report.

Commission's Recommendations:

Phase Two (Rural Areas) recommendations proposed to be carried forward in the Phase Three (Urban Areas) Code Amendment:

M.46 AMEND polices to incorporate increased minimum setback distances to townships, settlements and non-associated dwellings for wind farms and solar power facilities by:

- **AMENDING** DTS/DPF 8.1 (Wind Farms) to increase minimum setbacks to non-associated dwellings and tourist accommodation from 1.2km to 1.5km.
- **RETAINING** a minimum 2km setback and additional 10m setback per additional metre over 150m turbine height.
- **AMENDING** DTS/DPF 9.3 (a) to ensure National Parks and Conservation Parks are captured within the meaning of 'conservation areas'.

M.47 AMEND DTS/DPF 9.3 to include different adjoining land setback distances for solar farms. This could be achieved through use of a scaled-setbacks approach based on the approximate size of the ground mounted solar field, e.g. by:

- amending setback distances in DTS/DPF 9.3 (Solar Power) from 100m from townships and settlements to the following:

Generation Capacity	Setback from boundary	Approx. size of array	Sensitive zone Setback*
50MW>	30m	80ha+	2km
10MW<50MW	25m	16ha-<80ha	1.5km
5MW<10MW	20m	8ha to <16ha	1km
1MW<5MW	15m	1.6ha to <8ha	500m
100kW<1MW	10m	0.5ha<1.6ha	100m
<100kW	5m	<0.5ha	25m

**Policy intent is to ensure largest solar farms are not established next to townships for future land availability, landscape character and rural amenity reasons (or having such facilities being 'gateway' developments).*

M.48 AMEND the wording of PO 9.4 to encourage better management of the environmental impacts of solar farms, balanced with the need to maintain access to infrastructure and ensure bushfire safety and operational efficiency.

M.49 AMEND DTS / DPF 12.1 to remove specific requirements relating to the location of waste disposal systems and instead reference the requirements of the *South Australian Public Health Act 2011*.

Phase Three (Urban Areas) recommendations:

M.50 AMEND PO 2.1 to remove reference to high-voltage transmission lines.

M.51 AMEND PO 2.2 to remove reference to substations requiring vegetated buffers due to security and fire risk.

Marinas and On-Water Structures General Development Policies

This module seeks to ensure marinas and on-water structures are located and designed to minimise impairment of commercial, recreational and navigational activities and adverse impacts on the environment.

No specific feedback was received on these policies.

Commission's Recommendation:

No changes recommended.

Transport Access and Parking General Development Policies

This module retains the intent of the existing SAPPL Transportation and Access general policy, and seeks to ensure development is provided with sufficient on-site parking and vehicle access.

Engagement feedback:

Feedback on the Transport Access and Parking General Module focussed on the following key matters:

- A number of comments stated that the proposed rates of off-street car parking requirements for various activities are excessive.
- Others commented that in some instances proposed rates are lower compared to current development plan requirements, particularly in relation to residential development in Neighbourhood Zones and requested that all dwellings should have room for 2 cars (and for at least one covered carpark located behind the main face of the dwelling).
- Some also suggested reduced rates to encourage more active modes of transport and movement.
- Comments were received in relation to bicycle parking criteria. This included a request for additional categories and to widen the circumstances where bike parking is required.
- The need for a corner cut-off policy, similar to the one that is in the Urban Transport Routes Overlay, to be available to apply on local roads.
- Queries in relation to how existing car parking funds would link to car parking requirements in the Code.

Clarification: *Car parking funds apply to designated locations in some council areas where a monetary contribution can be made to offset a shortfall in the provision of car parking, which then goes towards the purchase of land within the designated area to provide additional car parking.*

- DTS/DPF criteria for distances for and access point from a level crossing should be included.
- The policy in relation to the requirement for lighting of open car parking areas should be softened.

Commission's Response:

Off-Street Car Parking Rates

Proposed car parking rates in *Table 1- General Off-Street Car Parking Requirements* are based on relatively long-standing rates and common feedback that these do not reflect more contemporary understanding is acknowledged. Car parking rates have been reviewed using contemporary data and understanding. The review is based on best available data but does not extend to investigating activities or issue where data is not available (including in relation to emerging technologies - e.g. electric car charging which requires investigation). Adjustments are recommended to a number of rates where recent data is available to support an adjustment.

Current statistics demonstrate that 2-bedroom homes typically own 1 car or less. As such, it is considered appropriate to retain a rate of 1 on-site car park for a 2-bedroom dwelling. All other car parking rates for infill dwellings remain consistent with the ResCode³.

It is not considered necessary for all on-site car parks to be covered to enable great flexibility for homeowners.

It is noted that some city-specific car parking criteria in Table 2: Off Street Vehicle Parking Requirements in Designated Areas to reflect certain city parking aspects should be included as follows:

- Include City Riverbank, Adelaide Park Lands Zone, Business Neighbourhood (within the City of Adelaide) and City Subzones of the Community Facilities Zone under the heading 'Development Generally'
- Include the City Living Zone as a Designated Area in the non-residential development classes (the category not subject to Table 2 Criteria) and Tourist Accommodation, plus in the Residential Development classes.

The inclusion of the additional Table 2 Criteria that is currently in development plans (i.e. is within 200 metres of any section of a road reserve along which a high frequency bus service operates) is supported to ensure all of the relevant criteria for Designated Areas are transitioned across to the Code.

A reference to DTS/DPF to enable a lower rate through the operation of a lawfully operating carparking fund is also recommended.

Car Parking Area Lighting

A minor change to soften the requirements car park lighting (in PO 6.5), to require 'sufficient lighting' rather than 'floodlit' is recommended.

Corner Cut-off

The Commission is of the view that a corner cut-off requirement is contained in Urban Transport and Major Urban Transport Routes Overlays. Including this policy in the Transport Access and Parking General Module so it is available to apply to local roads.

Access Separation from Level Crossings

Separation distances for access points from a railway crossing is contained in the Key Railway Crossings Overlay as DTS/DPF criteria. Transport Access and Parking PO 3.7 addresses the same issues, however does not have any separation distances specified. These are recommended to be included as a DTS/DPF, based on those in the Key Outback and Rural Routes Overlay.

Bicycle parking rates

The Commission supports the inclusion of some additional categories for bicycle parking for more common uses. Including additional classes in Table 3 - Off-Street Bicycle Parking Requirements in relation to classes of development is considered warranted to apply in all of the designated areas to ensure consistency in the classes of development that require bicycle parking, including:

- Licensed premises
- Pre-schools
- Recreation areas
- Residential flat buildings and residential components of a multi-storey building.

³ Complying dwellings under Schedule 4 clause 2B of the Development Regulations 2008

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

- M.52** **CREATE** new DTS/DPF 3.7 to reflect the same criteria used in the Urban Transport Overlay with relevant speed categories used on local roads.
- M.53** **AMEND** DTS/DPF 5.1 to include reference to, and offset through, the operation of a lawfully established car parking fund.
- M.54** **AMEND** PO 6.5 to read 'Vehicle parking areas that are likely to be used during non-daylight hours are provided with sufficient lighting to entry and exit points to ensure clear visibility to users'.
- M.55** **CREATE** new 'Corner cut-off' PO & DTS, using the same provision from Urban Transport Routes Overlay and include it in the Transport Access and Parking General Module.
- M.56** **AMEND** Table 2 Off-Street Car Parking Requirements in Designated Areas by:
- Under the heading 'Development Generally', amending the maximum rate applying to 'All classes of development' to read:

No maximum, except in the Primary Pedestrian Area identified in the Primary Pedestrian Area Concept Plan, where the maximum is:

1 space for each dwelling with a total floor area less than 75 square metres

2 spaces for each dwelling with a total floor area between 75 square metres and 150 square metres

3 spaces for each dwelling with a total floor area greater than 150 square metres.

1 visitor space for each 6 dwellings in a residential flat building or residential component of a multi-storey building.
 - Including the City Riverbank Zone, Adelaide Park Lands Zone, Business Neighbourhood (within the City of Adelaide), the St Andrews Hospital Precinct Subzone and the Women's and Children's Hospital Precinct Subzone of the Community Facilities Zone as Designated Areas in relation to 'All classes of development'
 - Including City Living Zone as a Designated Area relation to the Non-residential classes of development (the category not subject to Table 2 criteria) and residential classes of development
 - Including a new criterion in Table 2 – 'Is within 200 metres of any section of road reserve along which a high frequency bus service operates as a public transit service' with the following note 'A high frequency public transit service is a route serviced every 15 minutes between 7.30am and 6.30pm Monday to Friday and every 30 minutes at night, Saturday, Sunday and public holidays until 10pm.'
 - Including the Strategic Innovation Zone as a Designated Area for areas within the City of Burnside, City of Marion and City of Mitcham.

M.57 **AMEND** Table 3 Off-Street Bicycle Parking Requirements by:

- Including 'Licensed Premises: 1 per 20 employees, plus 1 per 60 square metres total floor area, plus 1 per 40 square metres of bar floor area, plus 1 per 120 square metres lounge and beer garden floor area, plus 1 per 60 square metres dining floor area, plus 1 per 40 square metres gaming room floor area.'
- Including 'Pre-school: 1 space per 20 full time employees plus 1 space per 40 full-time students'
- Include 'Recreation Area: 1 per 1500 spectator seats for employees. 1 per 250 visitor and customers.'
- Replace the bicycle parking rate for residential flat buildings and residential components of a multi-storey building with 'Within the City of Adelaide 1 for every dwelling for residents with a total floor area less than 150 square metres, 2 for every dwelling for residents with a total floor area greater than 150 square metres, plus 1 for every 10 dwellings for visitors, and in all other cases 1 space for every 4 dwellings for residents plus 1 space for every 10 dwellings for visitors.'

Waste Treatment and Management Facilities General Development Policies

This module seeks to ensure the mitigation of potential environmental and amenity impacts of waste treatment and management facilities through considerations such as siting, soil and water protection, protection of amenity, access, fencing and security.

Engagement feedback:

Feedback on the Waste Treatment and Management Facilities General Development Policies was received from Local Government, Industry, Government Agencies and the wider community.

Key requests included:

- Policy to facilitate development within specific travel times from markets and end users
- Inclusion of new policy to consider future climate implications
- Minor changes to policy expression
- Additional policy to change references to high water marks and watercourse setbacks
- Amendments to exclude sensitive uses adjacent to existing facilities
- Incorporation of EPA criteria
- Additional policy relating to the protection of water quality and minimisation of public and environmental health risks.

Commission's Response:

Given the importance of waste treatment and management facilities within our existing and future communities, the Commission values the feedback received.

In response to various requests to policy changes and refinements, it is noted that a number of submissions related to matters outside the scope of the Code amendment.

The Commission notes that where possible, consistency with other parts of the Code is preferred, particularly with regard to setbacks and reference points. This includes references to a high water mark.

It is noted that in many instances, referral to the EPA will be required and accordingly the inclusion of current EPA guidelines and criteria is not supported, particularly as these may change over time and this would necessitate an amendment to the Code.

Amendments to policy that identifies specific areas and relates to specific land uses not directly associated with waste treatment and management facilities are not agreed to as the Commission considers these issues are more appropriately dealt with at the zone level.

Future flood hazards and the impacts of the projected urban infill and climate change over the likely lifetime of development are not available for incorporation into this generation of the Code. Future flood studies and climate modelling to include consideration of climate change and urban infill scenarios may be incorporated into future generations of the Code.

Commission's Recommendations:

Phase Three (Urban Areas) recommendations:

M.58 AMEND PO 8.1 to include minimising risk to public and environmental health and water quality.

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