



Agenda Report for Decision

Meeting Date: 06 June 2024

Item Name	Winter Shelter Program
Presenters	Ben Sieben and Cassia Byrne
Purpose of Report	Decision
Item Number	4.4
Strategic Plan Reference	3. Leading on Planning Policy
Work Plan Reference	3.2 Undertake targeted policy improvements for the Code
Confidentiality	Not Confidential (Release Delayed) – to be released following final decision by the Minister for Planning (the Minister) on adoption of <i>Practice Guideline 2 – Place of Worship</i> (Practice Guideline 2) and <i>Ministerial building standard MBS 012 – Temporary accommodation in existing places of worship</i> (MBS 012)
Related Decisions	Nil
Conflicts Declared	Nil
Is the Report author aware of any potential undeclared conflicts?	NO

Recommendation

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

1. Approve the designation of this item as Not Confidential (Release Delayed) – to be released following the final decision by the Minister for Planning (the Minister) on adoption of *Practice Guideline 2 – Place of Worship* (Practice Guideline 2) and *Ministerial building standard MBS 012 – Temporary accommodation in existing places of worship* (MBS 012).
2. Agree to seek the Minister for Planning's (the Minister) approval for the Commission to make draft Practice Guideline 2 provided at **Attachment 1**.
3. Agree to recommend that the Minister make and publish MBS 012 at **Attachment 2**.
4. Authorise the Chair to approve any minor or editorial amendments to draft Practice Guideline 2 or draft MBS 012.
5. Authorise the Chair to sign the Minute at **Attachment 3** that:
 - o seeks the Minister's approval for the Commission to make Practice Guideline 2; and
 - o recommends that the Minister makes MBS 012.
6. Subject to the Minister's approval, authorise the Department for Trade and Investment (the Department) to arrange for Government Gazettal and publication of the final Practice Guideline 2 on the PlanSA website in accordance with section 43(4) of the Act.

7. Note that the Minister's office will arrange for notice of MBS 012 to be published in the Government Gazette, after which the Department will publish the final MBS 012 on the PlanSA website in accordance with section 80(1) of the Act.

Background

In March 2024, the City of Playford (the Council) advised the Department for Trade and Investment (the Department) that it was in discussions with several community groups regarding the 'Winter Shelter' Program (the Program). The Program already operates for 13 weeks over winter in Victoria, where seven churches provide one night of accommodation and meals on rotation for people living without homes.

Given the current housing crisis, the Council see the implementation of the Program in its area as a great initiative to support vulnerable members of the community. The Council's view, however, was that the implementation of the Program would be impeded by each site requiring a separate development application, which would create an unwieldy and expensive process for the community groups.

Discussion

While it is agreed the planning system should have a limited role in these matters and should not be delaying or preventing this initiative from proceeding, it is considered there is scope to clarify the existing land use definition of 'Place of Worship' and how Building Rules should be applied in these circumstances. These changes will make it clear that overnight accommodation for a range of charitable purposes does not constitute a change of use of the existing building. Where a change of building classification arises as a result, MBS 012 must be satisfied in order to grant building consent (and no further assessment against the Building Rules is required).

Practice Guideline 2 – Place of Worship

Section 43 of the Act provides that the Commission may, with the approval of the Minister, make practice guidelines with respect to the interpretation, use or application of the Planning Rules. A practice guideline may make a declaration as to the effect of a provision of the Planning Rules in a particular set of circumstances.

Practice Guideline 2 (**Attachment 1**) clarifies that for the purposes of the definition of 'Place of worship' in the Code, 'social, educational and charitable activities associated with the congregation' includes the place of worship being used as accommodation (which may or may not include the provision of meals), up to two nights a week for no more than 13 weeks per year for homeless people.

Ministerial building standard MBS 012 – Temporary accommodation in existing places of worship

While the Practice Guideline will seek to clarify that a planning consent may not be required, it is necessary to also have a supporting Ministerial building standard to clarify requirements that must be met for a place of worship to be used as temporary accommodation in prescribed circumstances.

Ministerial building standards are used to assess a development for building consent and are considered part of the Building Rules for the purpose of the Act. A Ministerial building standard may also modify the Building Code as it applied under the *Planning, Development and Infrastructure Act 2016*.

MBS 012 has been drafted to clarify the assessment requirements where a class 9B building classified as a place of worship under the Planning and Design Code is used as temporary accommodation for homeless people. Those minimum requirements relate to access/egress and fire safety. Notably, access for people with a disability must still be in accordance with disability discrimination requirements.

It is anticipated that where a building is unable to meet those requirements of MBS 012, a comprehensive assessment against the Building Rules will be required for a change of classification assessment.

Next steps

Should the Commission resolve to endorse the Practice Guideline and MBS 012 the following will occur:

- As a Practice Guideline or a Ministerial building standard cannot be operational in the absence of the Minister's agreement, the Chair, on behalf of the Commission, will furnish a copy of both draft documents to the Minister. A copy of the draft Minute to be furnished to the Minister seeking his approval for the Commission to make Practice Guideline 2 and seeking him to approve MBS 012 is at **Attachment 3**.
- If the Minister approves the Commission making Practice Guideline 2, as required by section 43(4) of the Act, the Department will progress a copy of the *Gazette Notice* at **Attachment 4** to the Gazette Office for publication in the next available edition of the *Gazette*.
- If the Minister approves MBS 012, as required by section 80(1) if the Act, his office will be instructed to arrange for publication of the *Gazette Notice* at **Attachment 5**.
- A Minute will be forwarded by PLUS to the delegate of the Chief Executive of the Department to certify that Practice Guideline 2 and MBS 012 are suitable for publication on the SA Planning Portal, as required by section 52 of the Act.
- Once the above steps have been completed, Practice Guideline 2 and MBS 012 will be published on the SA Planning Portal and will commence operation from this date (which will be a date after both Notices have been published in the *Gazette*).

Following the publication and commencement of Practice Guideline 2 and MBS 012, PLUS will coordinate communications to ensure that planning practitioners, building practitioners, agencies, industry members and the public are made aware of the new Practice Guideline and Ministerial building standard.

These communications may include, but will not be limited to:

- presenting to practitioners via the PLUS Monthly Planning and Builder User Forums;
- social media posts from the Commission; and
- a targeted awareness campaign with key stakeholder groups.

Attachments:

1. *Practice Guideline 2 – Place of Worship* (#21485434)
2. *Ministerial building standard 012 – Temporary accommodation in existing places of worship–* (#21542835)
3. State Planning Commission Minute to the Minister for Planning (#21485439)
4. *Government Gazette* Notice – Practice Guideline 2 (#21485421)
5. *Government Gazette* Notice – MBS 012 (#21552297)

Prepared by: Cassia Byrne

Endorsed by: Ben Sieben

Date: 24 May 2024

This Practice Guideline is issued by the State Planning Commission (the Commission) under section 43 of the *Planning, Development and Infrastructure Act 2016* (the Act).

Introduction

Section 43(1) of the Act allows the Commission, with the approval of the Minister responsible for administering the Act, to make practice guidelines with respect to the interpretation, use or application of the Planning Rules or the Building Rules (as those terms are defined under the Act).

Practice Guideline

Part 1 – Preliminary

1 – Citation

This Practice Guideline may be cited as Practice Guideline 2 – Place of Worship.

2 – Commencement of operation

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

3 – Object of Practice Guideline

The object of this Practice Guideline is to clarify activities associated with a ‘place of worship’ land use as defined within the Planning and Design Code.

4 – Interpretation

Act means the *Planning, Development and Infrastructure Act 2016*.

Code means the Planning and Design Code.

Commission means State Planning Commission.

Regulations means the *Planning, Development and Infrastructure (General) Regulations 2017*.

Note: Section 12 of the *Legislation Interpretation Act 2021* provides that an expression used in an instrument made under an Act has, unless the contrary intention appears, the same meaning as in the Act under which the instrument was made.

Part 2 – Place of worship

5 – Background

The Land Use Definitions Table in Part 7 of the Code identifies that *'Place of worship'*:

Means premises used by an organised group for worship and religious activities.

The use may include facilities for social, educational and charitable activities associated with the congregation.

A place of worship includes a chapel, church, mosque, synagogue and temple, but excludes a funeral parlour.

6 – Social, educational and charitable activities

For the purposes of the definition of *'Place of worship'* in the Code, *'social, educational and charitable activities associated with the congregation'* includes the following:

- the place of worship being used as accommodation, which may or may not include the provision of meals, up to two nights a week for no more than 13 weeks per year for homeless people.

Issued by the State Planning Commission on 12 July 2024.

Note: This Practice Guideline commences operation in accordance with 'Part 2 – Commencement of operation'.

Versions

Version 1: Commenced operation on 12 July 2024.

Ministerial Building Standard MBS 012

Temporary accommodation in existing places of worship

July 2024



**Government of
South Australia**

Published by:
Minister for Planning
Knet #21542835

1 SCOPE AND APPLICATION

- 1.1 This Standard is published as a Ministerial Building Standard that forms part of the *Building Rules* under Section 80 of the *Planning, Development and Infrastructure Act 2016* (the *Act*) and must be read in conjunction with the requirements of the *Act* and the *Planning, Development and Infrastructure (General) Regulations 2017* (the *Regulations*).
- 1.2 Section 80(1)(a)(i) of the *Act* provides for the publication of Ministerial Building Standards that relate to any aspect of *building work* including the regulation, control, restriction, or prohibition of *building work*.
- 1.3 *Places of worship* have often been used in emergency situations as places where people can seek shelter on a short-term basis due to homelessness caused by natural disasters or significant life events. In most cases the short-term nature of the emergency means that the fundamental use of the building does not change, either through a change in the land use or as a change in building classification.
- 1.4 This Ministerial Building Standard applies to:
- an existing single storey *place of worship* that has previously been classified as, and continues to operate as, a Class 9b *building* under the *Building Code*; and
 - proposes to offer shelter that would ordinarily be classified as a Class 3 *building* under the *Building Code* for a *temporary use*.
- 1.5 Where regulation 3E of the *Regulations* applies and a change of classification arises as a result of the *temporary use* of a *place of worship*, the requirements in **Section 2** of this Ministerial Building Standard must be satisfied to grant *building consent* (and no further assessment against the *Building Rules* is required).

2 TEMPORARY USE REQUIREMENTS

A *place of worship* providing a *temporary use* in accordance with **1.4**, must comply with the following requirements -

2.1 Access and egress

- The area within the *place of worship* providing the *temporary use* must be in accordance with **Table D2D18** (Dormitory) of the *Building Code*; and
- Egress must be in accordance with **D2D3** and **D2D5** of the *Building Code*; and
- Access for people with a disability must be in accordance with requirements under the *Disability Discrimination Act 1992* and Access to Premises (Buildings) Standards 2010.

2.2 Services and equipment

- Fire extinguishers must be in accordance with **E1D14 (2)(a)** of the *Building Code*, and **E1D14 (3)(b)** of the *Building Code* where kitchen facilities are provided; and
- A smoke hazard management system must be in accordance with **E2D8(a)** of the *Building Code*; and
- Exit* and directional signage must be in accordance with **E4D5** and **E4D6** of the *Building Code*.

2.3 Health and amenity

Accessible sanitary facilities must be in accordance with requirements under the *Disability Discrimination Act 1992* and Access to Premises (Buildings) Standards 2010.

APPENDIX A – INTERPRETATION

Accessible has the same meaning as defined in the *Building Code*.

Act means the *Planning, Development and Infrastructure Act 2016*.

Building has the same meaning as defined in Section 3 of the *Act*.

Building Code means the current version, or a previous version of the Building Code of Australia as published by the Australian Building Codes Board.

Building consent has the same meaning as defined in Section 3 of the *Act*.

Building Rules has the same meaning as defined in Section 3 of the *Act*.

Building work has the same meaning as defined in section 3 of the *Act*.

Exit has the same meaning as defined in the *Building Code*.

Place of worship has the same meaning as the Land Use Definitions Table in Part 7 of the Planning and Design Code.

Regulations means the *Planning, Development and Infrastructure (General) Regulations 2017*.

Storey has the same meaning as defined in the *Building Code*.

Temporary use means the premises is used for accommodation purposes, which may or may not include the provision of meals, for up to two nights a week for no more than 13 weeks per year.



TO: MINISTER FOR PLANNING

RE: SEEKING APPROVAL OF STATE PLANNING COMMISSION PRACTICE GUIDELINE 2 (PLACE OF WORSHIP) AND MINISTERIAL BUILDING STANDARD MBS012 – TEMPORARY ACCOMMODATION IN EXISTING PLACES OF WORSHIP

PURPOSE

To seek your approval for the State Planning Commission (the Commission) to make *Practice Guideline 2 – Place of Worship* (Practice Guideline 2) and to recommend that you approve and publish *Ministerial building standard MBS012 – Temporary accommodation in existing places of worship* (MBS 012).

BACKGROUND

In March 2024, the City of Playford (the Council) advised the Department for Trade and Investment (the Department) that it was in discussions with a number of community groups regarding the 'Winter Shelter' Program (the Program). The Program already operates for 13 weeks over winter in Victoria, where seven churches provide one night of accommodation and meals on rotation for members of the local homeless community.

Given the current housing crisis, the Council see the implementation of the Program in its area as a great initiative to support vulnerable members of the community. The Council's view, however, was that the implementation of the Program would be impeded by each accommodation site requiring a separate development application, which would create an unwieldy and expensive process for the community groups.

DISCUSSION

While it is agreed the planning system should have a limited role in these matters and should not be delaying or preventing this initiative from proceeding, there is scope to clarify the existing land use definition of 'Place of Worship' and how Building Rules should be applied in these circumstances. These changes will make it clear that overnight accommodation for a range of charitable purposes does not constitute a change of use of the existing building if not exceeding two nights a week.

Legislative Provisions

The *Planning, Development and Infrastructure Act 2016* (the Act) provides:

43 – Practice Guidelines

(1) *The Commission may, with the approval of the Minister, make practice guidelines with respect to the interpretation, use or application of—*

(a) *The Planning Rules*

and

80 – Ministerial building standards

(1) *The Minister may, after consultation with the Commission, by notice published in the Gazette, publish standards (**Ministerial building standards**), that -*

(b) Modify the Building Code as it applies under this Act.

Practice Guideline 2 – Place of Worship

Section 43 of the Act provides that the Commission may, with the approval of the Minister, make practice guidelines with respect to the interpretation, use or application of the Planning Rules. A practice guideline may make a declaration as to the effect of a provision of the Planning Rules in a particular set of circumstances.

Practice Guideline 2 clarifies that for the purposes of the definition of ‘*Place of worship*’ in the Code, ‘*social, educational and charitable activities associated with the congregation*’ includes the place of worship being used as accommodation (which may or may not include the provision of meals), up to two nights a week for no more than 13 weeks per year.

Ministerial building standard MBS 012 – Temporary accommodation in existing places of worship

While the Practice Guideline will seek to clarify that a planning consent will not be required, it is necessary to also have a supporting Ministerial building standard to clarify requirements that must be met for a place of worship to be used for temporary accommodation in prescribed circumstances.

Ministerial building standards are used to assess a development for building consent and are considered part of the Building Rules for the purpose of the Act.

MBS 012 has been drafted to clarify the assessment requirements where a class 9B building classified as a place of worship under the Planning and Design Code is used as temporary accommodation for homeless people. Those minimum requirements relate to access/egress and fire safety. Notably, access for people with a disability must still be in accordance with disability discrimination requirements.

It is anticipated that where a building is unable to meet those requirements of MBS 012, a comprehensive assessment against the Building Rules will be required for a comprehensive change of classification process.

Procedural considerations

In accordance with section 43 and 80 of the Act, a practice guideline and a Ministerial building standard must be notified in the *Government Gazette* and published on the SA Planning Portal. No other consultation or engagement on the matter is required under this section of the Act.

The Commission considered the draft Practice Guideline 2 and MBS 012 at its meeting of 6 June 2024 and resolved to:

- Agree to seek your approval for the Commission to make draft Practice Guideline 2; and
- Agree to recommend that you make and publish MBS 012.

Implementation

Following your approval, the following matters will be finalised before Practice Guideline 2 and MBS 012 are published on the SA Planning Portal:

- a) Subject to your approval, on behalf of the Commission the Department will arrange for notice of Practice Guideline 2 to be published in the Government Gazette.
- b) Subject to your approval, your office will need to arrange for notice of MBS 012 at **Attachment 3** to be published in the Government Gazette.
- c) A minute will be forwarded by PLUS to the delegate of the Chief Executive of the Department to certify that Practice Guideline 2 and MBS 012 is a complete and accurate record to be published on the SA Planning Portal, pursuant to section 52 of the Act (no action required by you or your office).
- d) Once steps (a), (b) and (c) above have been completed, Practice Guideline 2 and MBS 012 will be published on the SA Planning Portal and will commence operation from that date.

RECOMMENDATIONS

It is recommended that you:

- | | |
|---|-------------------------|
| 1. Approve the Commission making <i>Practice Guideline 2 – Place of Worship (Attachment 1)</i> under section 43(1)(a) of the <i>Planning, Development and Infrastructure Act 2016</i> . | APPROVED / NOT APPROVED |
| 2. Approve <i>Ministerial building standard 012 - = <u>Temporary accommodation in existing places of worship</u> (Attachment 2)</i> under section 80(1) of the <i>Planning, Development and Infrastructure Act 2016</i> . | APPROVED / NOT APPROVED |
| 3. Agree to sign the <i>Government Gazette Notice (Attachment 3)</i> . | AGREED / NOT AGREED |
| 4. Note that your office will need to arrange for publication of the notice in the <i>Government Gazette</i> . | NOTED |

NICK CHAMPION MP
/ / 2024



CRAIG HOLDEN
Chair, State Planning Commission
11 / 06 / 2024

Attachments:

1. *Practice Guideline 2 – Place of Worship (#21485434)*
2. *Ministerial building standard 012 – Temporary accommodation within specified 9B buildings (#21542835)*
3. *Government Gazette Notice – MBS 012 (#21552297)*

Contact: Ben Sieben
Tel No: [REDACTED]

MENTAL HEALTH ACT 2009

Authorised Mental Health Professional

Notice is hereby given in accordance with Section 94(1) of the *Mental Health Act 2009*, that the Chief Psychiatrist has determined the following person as an Authorised Mental Health Professional:

Stuart Jones
Vadim Kuznetsov

The determination will expire three years after the commencement date.

The Chief Psychiatrist may vary or revoke these determinations at any time.

Dated: 22 May 2025

DR JOHN BRAYLEY
Chief Psychiatrist

PETROLEUM AND GEOTHERMAL ENERGY ACT 2000

Partial Surrender of Petroleum Retention Licence—PRL 189

Notice is hereby given that I have accepted the partial surrender of the abovementioned retention licence under the provisions of the *Energy Resources Act 2000*, pursuant to delegated powers dated 19 August 2024

No. of Licence	Licensee	Locality	Effective Date	Reference
PRL 189	Bass Oil Cooper Basin Pty Ltd	Cooper Basin	1 November 2024	F2015/000527

Description of Licence Area Remaining

All that part of the State of South Australia, bounded as follows:

Commencing at a point being the intersection of latitude 26°52'20"S GDA94 and longitude 140°39'35"E GDA2020, thence east to longitude 140°40'50"E GDA94, south to latitude 27°00'00"S AGD66, west to longitude 140°40'00"E GDA2020, north to latitude 26°55'20"S GDA2020, west to longitude 140°39'35"E GDA2020 and north to the point of commencement.

AREA: 23 square kilometres approximately.

Dated: 8 May 2025

BENJAMIN ZAMMIT
Executive Director
Regulation and Compliance Division
Department for Energy and Mining
Delegate of the Minister for Energy and Mining

PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016

SECTION 42

*Practice Directions**Preamble*

The State Planning Commission may issue a practice direction for the purposes of this Act.

A practice direction may specify procedural requirements or steps in connection with any matter arising under this Act.

A practice direction must be notified in the Gazette and published on the SA planning portal.

A practice direction may be varied or revoked by the State Planning Commission from time to time by a further instrument notified in the Gazette and published on the SA Planning Portal.

NOTICE

Pursuant to Section 42(4)(a) of the *Planning, Development and Infrastructure Act 2016*, I, Craig Holden, Chair, State Planning Commission:

- issue *State Planning Commission Practice Direction 19 (Minor Variations)*; and
- fix the day on which the *State Planning Commission Practice Direction 19 (Minor Variations)* is published on the SA Planning Portal as the day on which the practice direction will come into operation.

Dated: 22 May 2025

CRAIG HOLDEN
Chair
State Planning Commission

PROFESSIONAL STANDARDS ACT 2004

The Chartered Accountants Australia and New Zealand Professional Standards Scheme

Pursuant to Section 14 of the *Professional Standards Act 2004*, I authorise the publication in the Gazette of the Chartered Accountants Australia and New Zealand Professional Standards Scheme.

Pursuant to Section 15(1)(a) of the *Professional Standards Act 2004*, I specify 13 July 2025 as the date of commencement of the Chartered Accountants Australia and New Zealand Professional Standards Scheme.

Dated: 10 April 2025

HON KYAM MAHER MLC
Attorney-General

PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016

SECTION 80

*Ministerial Building Standard**Preamble*

The Minister may, after consultation with the State Planning Commission, publish a Ministerial building standard that relates to any aspect of building work or that modifies the Building Code as it applies under the *Planning, Development and Infrastructure Act 2016*.

A Ministerial building standard must be notified in the Gazette and published on the SA planning portal.

NOTICE

Pursuant to Section 80(3) of the *Planning, Development and Infrastructure Act 2016*, I, Nick Champion MP, Minister for Planning:

- (a) issue Ministerial Building Standard MBS012—Temporary accommodation in existing places of worship.
- (b) fix the day on which the Ministerial building standard is published on the SA Planning Portal as the day on which the Ministerial building standard will come into operation.

Dated: 23 June 2024

HON NICK CHAMPION MP
Minister for Planning

PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016

SECTION 42

*Practice Directions**Preamble*

The State Planning Commission may issue a practice direction for the purposes of this Act.

A practice direction may specify procedural requirements or steps in connection with any matter arising under this Act.

A practice direction must be notified in the Gazette and published on the SA Planning Portal.

A practice direction may be varied or revoked by the State Planning Commission from time to time by a further instrument notified in the Gazette and published on the SA Planning Portal.

NOTICE

Pursuant to Section 42(4)(b) of the *Planning, Development and Infrastructure Act 2016*, I, Lisa Teburea, Acting Chair, State Planning Commission:

- (a) vary *State Planning Commission Practice Direction 12 (Conditions) 2020*; and
- (b) fix the day on which the varied *State Planning Commission Practice Direction 12 (Conditions) 2020* is published on the SA Planning Portal as the day on which the varied practice direction will come into operation.

Dated: 21 June 2024

LISA TEBUREA
Acting Chair
State Planning Commission

PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016

SECTION 42

*Practice Directions**Preamble*

The State Planning Commission may issue a practice direction for the purposes of this Act.

A practice direction may specify procedural requirements or steps in connection with any matter arising under this Act.

A practice direction must be notified in the Gazette and published on the SA Planning Portal.

NOTICE

Pursuant to Section 42(4)(a) of the *Planning, Development and Infrastructure Act 2016*, I, Marc Voortman, Director Planning, as delegate of the State Planning Commission:

- (a) give notice of a variation to State Planning Commission Practice Direction 15 Building Envelope Plans 2021; and
- (b) fix the day on which the varied State Planning Commission Practice Direction 15 Building Envelope Plans 2021 is published on the SA Planning Portal as the day on which it will come into operation.

Dated: 25 June 2024

MARC VOORTMAN
Director, Planning
Delegate of the State Planning Commission