



Snapshot of changes made post-community engagement

Miscellaneous Technical Enhancements Code Amendment

The Miscellaneous Technical Enhancement (MTE) Code Amendment is primarily focused on addressing technical and operational elements within the Code, as opposed to changing policy intent or outcomes. It represents the first of what will be a regular review and “tune-up” of any technical or operational aspects of the Code based on stakeholder feedback.

Areas covered by this Code Amendment include:

- technical matters
- policy clarity and interpretation
- consistency with drafting principals
- system efficiency and procedural matters.

Initiated by the State Planning Commission, this Code Amendment is informed by valuable feedback received from local council, planning industry professionals and other users of the Code in its first year of operation.

The Amendment affects policy relevant to the whole of South Australia and is not limited to a specified spatial location. While it broadly affects the whole Code, its scope is limited to matters and issues of a technical nature. It was not the intent of the Amendment to make a substantial change in policy positions that would affect the underlying intent.

This snapshot aims to highlight key changes made to the draft Code Amendment released for community engagement in response to the outcomes of engagement to assist stakeholders prepare for and adapt to the effect of the Code Amendment.

What are the key changes since community engagement?

The MTE Code Amendment was further edited and refined following feedback received during community engagement which ran from July to September 2022. To see the detail of all changes to the Amendment post-engagement, refer to the Engagement Report available on the PlanSA Portal.

Key changes to the Amendment since community engagement are outlined below:

Rules of Interpretation

In response to feedback received relating to the update of spatial layers in the SA Property and Planning Atlas (SAPPA), the Amendment builds a policy mechanism which relates to section 71 of the Act into Part 1 – Rules of Interpretation of the Code. This section enables a designated instrument to provide that:

... any matter or thing is to be determined, dispensed with or regulated according to the discretion of the Minister, the Commission, the Chief Executive or any other specified body or person.

Building this policy mechanism into Part 1 of the Code clarifies how and when the Code's spatial layers in SAPPa may be updated without a section 73 amendment to realise changes that are responsive to 'changes on the ground'. Such changes include those resulting from updated survey and cadastral data and, in certain specified circumstances now detailed in Part 1, changes to signalised intersections, State maintained roads and changes to heritage places that would affect heritage adjacency policy.

To see the full list of Overlays addressed via the policy mechanism, refer to Section 2.3.1.2 of the Engagement Report.

Public Notification

Partial Demolition

The draft amendment proposed a change to notification triggers relating to proposals to demolish buildings in the SHP Overlay having no heritage value or that aren't in keeping with features of heritage value.

In response to feedback received, a new administrative Definition for 'excluded building' has been added post-engagement to ensure that the policy clause does not inadvertently undo the intent to notify applications that involve the demolition of State and/or Local Heritage Places. The use of the excluded building clause is at the discretion of the relevant authority and assessment and an approval process remains for the demolition of State Heritage Places, Local Heritage Places and buildings in the Historic Area Overlay.

Minor Variations

The draft Amendment included a 'minor variation' clause in public notification tables in all zones to enable a relevant authority to exempt a development from notification where it departs from notification triggers in a minor or trivial way. An example of this could be a dwelling wall proposed to be built on an allotment boundary that exceeds the notification trigger of 11.5m by 100mm. The relevant authority can now consider this variation in context, determine whether it is minor and, if so, exempt the development from notification. No Changes were made to this particular amendment post-engagement.

None of the changes to notification introduced by the Amendment fundamentally alter the process for public notification, i.e., by creating additional categories of notification or the type of notification required, but rather provide greater clarity around when specified development types will require notification. To see the full list of changes made to public notification, refer to Section 2.3.2.10 of the Engagement Report.

Restricted Development

To see the full list of changes made to restricted development classifications, refer to Section 2.3.2.9 of the Engagement Report. Key changes include:

Land Division – Limited Land Division Overlay

In response to feedback received, and the recognition of the cumulative impacts of fragmentation of strategic productive lands, the Amendment maintains Land Division as a restricted form of development in the Productive Rural Landscape Zone and Rural Zone where the Limited Land Division Overlay applies. Additional refinements have been added post-engagement to policy within the Rural Shack Settlement Zone to make clear the limited circumstances in which a land division may be considered appropriate within the Zone.

Dwelling – Limited Dwelling Overlay

Dwellings within the Limited Dwelling Overlay have been removed from being listed as a restricted class of development. Although it was initially considered that the policy intent of the Limited Dwelling Overlay is clear for a relevant authority to make an appropriate decision for a dwelling without the need for the use of a restricted development classification, further refinements to PO 1.1 of the Overlay were made post-engagement to read *'Development does not result in the establishment of a dwelling'*.

Industry

Industry (with the exclusion of Light Industry) is listed as a restricted class of development in the majority of activity centre and employment type zones (except for the Strategic Employment Zone). In all these zones, Special Industry is to remain as a restricted form of development. With other forms of industry (General or Light Industry) being removed as restricted development as they can be more appropriately assessed on their merits against the relevant Code policies.

In zones where industry has been removed from being listed as a restricted class of development it is not proposed to establish any new assessment pathway (be that deemed-to-satisfy, or performance assessed) for any form of industry. This means that industry / general industry will be 'All other Code Assessed Development', making the entirety of the Code's policies (inclusive of any/all sections within Part 4) available in assessment.

Assessment Pathways: Decks

The Amendment introduces deemed-to-satisfy and performance assessed pathways for decks in a range of zones, as well as specific policies within the Design and Design in Urban Areas General Development Policies to guide the assessment of these structures.

In response to feedback received, further policy refinements were made to the proposed policy provisions for decks to address floor height, retention of soft landscaping, and the height and nature of privacy screening treatments.

To see all changes relating to decks, refer to Section 2.3.4.4 of the Engagement Report.

Swimming Pool or Spa Pool and Associated Safety Features

The Amendment has refined assessment pathways for swimming pools and spa pools to include reference to associated safety features in order to ensure that pool fences are not 'tripped out' of the Accepted Development pathway as a result of the inclusion of these elements (which, of course, are standard in many swimming pool and spa pool developments). In response to feedback received, accepted development criteria were refined to clarify that the minimum setback from boundary fences does not apply to the location of a swimming pool safety feature.

To see all changes relating to decks, refer to Section 2.3.2.25 of the Engagement Report.

Overlay Relevance: Minor Development Types

The Amendment reviewed and refined the applicability of overlays to common development types to simplify assessment pathways for standard and high frequency applications while ensuring that an overlay's policy outcomes are applied where relevant. This review largely related to the application of overlays as a means of excluding certain development types from accepted and deemed-to-satisfy assessment pathways in areas where these overlays apply.

In response to feedback received, further refinements to applicable overlay policies were made post-engagement to ensure that the Performance Outcomes of the Noise and Air Emissions Overlay are applied to performance assessed detached dwellings, semi-detached dwellings and row dwellings.

To see the full list of changes made to overlay relevance, refer to Section 2.3.2.14 of the Engagement Report.

Dwellings in Master Planned Zones

The Amendment reviewed the accepted development pathway for detached dwellings within the Master Planned Zones and proposed removing unnecessary overlay exclusions for overlays which would have already been considered via the approval process for a Building Envelope Plan. In response to feedback received, the changes made in relation to detached dwellings were also extended to semi-detached and row dwellings to ensure consistency across these dwelling types in the Master Planned Zones.

For more information, refer to Section 2.3.2.15 of the Engagement Report.

Definitions: Adult Entertainment Premises and Adult Products and Services Premises

In response to feedback received, definitions for 'Adult entertainment premises' and 'Adult products and services premises' were incorporated post-engagement. The utility of including such definitions in the Code is principally to enable procedural triggers that seek to direct these activities to or away from specified areas. These definitions could potentially support inclusion of additional policy in the Code about how these activities should/should not be conducted through future Code Amendments.

To see the full list of changes made to Land Use Definitions, refer to Section 2.3.7 of the Engagement Report.

When will the MTE Code Amendment become operational?

The Miscellaneous Technical Enhancement Code Amendment will come into effect on the day that it is deployed into both the electronic Planning and Design Code and the South Australian Property and Planning Atlas. It is anticipated that this will occur in June.

Where can I find out more?

All information on the MTE Code Amendment can be found on the PlanSA portal: [Miscellaneous Technical Enhancement Code Amendment](#)

- Approved Code Amendment
- Engagement Report – includes submissions received during engagement
- Draft Amendment for Consultation
- Frequently Asked Questions
- Fact Sheet
- Engagement Plan

If you have any further questions, please contact Planning and Land Use Services:

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Visit: plan.sa.gov.au/en/code_amendments