



**TO: MINISTER FOR PLANNING AND LOCAL GOVERNMENT**

**RE: LOCAL DESIGN REVIEW CODE AMENDMENT ENGAGEMENT REPORT  
AND FINALISATION**

## **PURPOSE**

To provide you with:

- The Local Design Review Code Amendment Engagement Report (the Engagement Report) (**Attachment 1**) pursuant to section 73(7) of the *Planning, Development and Infrastructure Act 2016* (the Act).
- The Local Design Review Code Amendment (the Amendment) (**Attachment 2**) as it is recommended to be adopted under section 73(10)(c) of the Act.
- Advice from the State Planning Commission (the Commission) outlining the steps available to you to in finalising the adoption and implementation of the Amendment.

## **BACKGROUND**

The Amendment seeks to give effect to the Local Design Review Scheme (the Scheme) by enabling councils to specify classes of development to be eligible for Local Design Review in their area. The Amendment will also require the Chief Executive of the Attorney-General's Department (the Department) to publish and maintain a register of participating councils and their selected classes of development on the PlanSA portal.

Pursuant to section 73(2) of the Act, on 13 May 2021, the Commission initiated the Amendment.

In accordance with the principles of the Community Engagement Charter, pursuant to section 73(6) of the Act, the proposed Amendment was released for a six-week period of public consultation from 12 August 2021 to 27 September 2021. In response to the feedback received, the Amendment had a minor update to improve early proponent access to Local Design Review, reduce potential administration by council staff and improve customer service. This update was supported as it aligns with the intent and principles of the Scheme and is reflected in the updated Amendment.

Pursuant to the requirements prescribed in section 73(7) of the Act, and in the Commission's *Practice Direction 2 – Preparation and Amendment of Designated Instruments*, the Commission has prepared an Engagement Report for your consideration in adopting the Amendment.

## **DISCUSSION**

### Engagement Report

On 11 November 2021, the Commission approved the Engagement Report, and now furnishes you with a copy for your consideration in adopting the Amendment, pursuant to Section 73(10) of the Act.

The Engagement Report details the engagement process and outcomes, including a summary of the feedback received and a change made in response to the feedback. Overall, 22 responses were received in relation to the proposed Amendment:

- 14 formal written submissions:
  - nine from councils
  - five from industry bodies within the planning, design and development sectors
- seven survey responses were submitted via YourSAy
- one comment was posted on the YourSAy forum.

Of the 14 written submissions:

- Most respondents (10) supported the proposed Amendment or made no comment or objection in relation to the draft provisions.
- One respondent did not support the proposed Amendment as it “would potentially see it [Local Design Review] used for such a wide class of developments.”
- Two respondents suggested a change be made to a proposed provision in order to improve early proponent access to Local Design Review, reduce administration by council staff and improve customer service:
  - this change is supported as it aligns with the intent and principles of the Scheme and is reflected in the updated Amendment.
- One respondent did not specify whether or not they supported the proposed Amendment.

A copy of each written submission, along with a summary of the feedback, is attached to the Engagement Report.

### Changes to the draft Amendment resulting from the engagement

Two respondents (a council and an industry body) suggested a change to the wording in clause 2(b) of the proposed Amendment that would improve early proponent access to Local Design Review. The respondents also believed this change would avoid the need for council staff “to undertake a quasi-verification to determine whether the development is performance assessed or restricted,” which could result in “an administrative burden and substandard customer service.”

This suggestion is supported as it aligns with the intent and principles of the Scheme:

- ‘Design Review is most effective when undertaken early in the planning and design process to effect positive change during design development’ (Introduction, page 1).
- ‘Design Review should take place as early in the design process as possible so as to effect positive change during design development and to avoid reworking’ (Principles of Design Review, page 2).

The following table details how the Amendment provisions have been updated as a result of this feedback.

Wording in the proposed Amendment	Suggested change by respondents	Wording in the updated Amendment
<p>Clause 2(b)</p> <p><i>a form of development that is—</i></p> <p><i>i. either restricted development or performance assessed development that has been selected by the council as a class of development for the purposes of this clause; and</i></p> <p><i>ii. specified by the Chief Executive by a notice published on the SA planning portal for the purposes of this clause.</i></p>	<p>Clause 2(b)</p> <p><i>a form of development that is, or has the potential to be a class of development that is—</i></p> <p><i>i. either restricted development or performance assessed development that has been selected by the council as a class of development for the purposes of this clause; and</i></p> <p><i>ii. specified by the Chief Executive by a notice published on the SA planning portal for the purposes of this clause.</i></p>	<p>Clause 2(b)</p> <p><i>a form of development that is, or has the potential to be, either performance assessed development or restricted development that is within a class of development that has been—</i></p> <p><i>i. selected by the council as a class of development for the purposes of this clause; and</i></p> <p><i>ii. specified by the Chief Executive by a notice published on the SA planning portal for the purposes of this clause.</i></p>

### Next steps in the implementation of the Amendment

Having received the Commission’s Engagement Report (**Attachment 1**) which satisfies section 73(7) of the Act, under section 73(10)(a) of the Act, you may:

- Adopt the Amendment (**Attachment 2**) under section 73(10)(c) of the Act.
- Make alterations to what is outlined in the Engagement Report and then proceed to adopt the Amendment as altered under section 73(10)(d) of the Act.
- Divide the Amendment into separate parts and proceed to adopt one or more of those parts under section 73(10)(e) of the Act.
- Determine that the Amendment should not proceed under section 73(10)(f) of the Act.

You may also consult with the Commission if you think that the matter is significant before proceeding to any of the above under section 73(10)(a).

Pursuant to section 73(11) of the Act, within five business days of making a decision to adopt, amend or not proceed with the Amendment, you must cause to be published on the PlanSA portal a copy of the Commission's final advice (this Minute), the Engagement Report (**Attachment 1**) and the Amendment (**Attachment 2**).

Pursuant to section 73(12)(b) of the Act, should you choose to adopt the Amendment, with or without alterations, it will not come into effect until it is published on the PlanSA portal. Section 73(12)(c) allows you to specify that the Amendment be given effect on a later date to the date of publication on the PlanSA portal.

Should you resolve to adopt the Amendment, it is anticipated that it will be published on the PlanSA portal by 31 January 2022. This timing is to allow for the finalisation of guidance material, training programs and other operational matters required by the Scheme.

Pursuant to section 74(2) of the Act, within 28 days of the Amendment taking effect, you must refer it to the Environment, Resources and Development Committee (ERDC) of Parliament for review. This referral must be accompanied by a report prepared by the Commission that sets out:

- the reason for the Amendment
- information about the consultation that was undertaken in the preparation of the Amendment
- any other material considered relevant by the Commission.

Should you choose to adopt the Amendment, with or without alterations, the Commission would be pleased to prepare the supporting documents required for you to refer it to the ERDC, along with the Engagement Report, within the statutory time frame, and ensure that the report required by the Act is provided to the ERDC.

A suggested letter to the Commission is at **Attachment 3**.

## RECOMMENDATIONS

It is recommended that you:

1. Note the Local Design Review Code Amendment Engagement Report (**Attachment 1**).  
NOTED / NOT NOTED
2. Agree to adopt the Local Design Review Code Amendment, as endorsed by the Commission, pursuant to section 73(10)(c) of the *Planning, Development and Infrastructure Act 2016* (**Attachment 2**).  
AGREED / NOT AGREED
3. Note that, should you decide to adopt the Local Design Review Code Amendment (**Attachment 2**) pursuant to section 73(10)(c) of the *Planning, Development and Infrastructure Act 2016*, the following steps are required to be undertaken:  
NOTED / NOT NOTED
  - a) Pursuant to section 73(11) of the Act, within five (5) business days of making a decision to adopt the Amendment, you must cause to be published a copy of the Commission's advice (this Minute) and the Engagement Report (Attachment 1) on the PlanSA portal.
  - b) Pursuant to section 73(12)(b) of the Act, your adoption of the Amendment will not come into effect until it is published on the PlanSA portal (anticipated to occur by 31 January 2022).
  - c) Pursuant to section 74(2) of the Act, within 28 days of the Amendment taking effect, you must refer it to the Environment, Resources and Development Committee for review. It must be accompanied by a report from the Commission under section 74(3).
4. Note that, should you choose to adopt the Local Design Review Code Amendment, with or without alterations, the Department will undertake recommendations 3(a) and 3(b) as outlined above within the statutory time frames.  
NOTED / NOT NOTED

5. Note that, should you choose to adopt the Local Design Review Code Amendment, with or without alterations, the Commission will prepare a report for you to refer to the Environment, Resources and Development Committee, along with the Engagement Report, as outlined in recommendation 3(c) above within the statutory time frame (28 days from the Amendment taking effect).

NOTED / NOT NOTED

6. Agree to sign the attached letter in **Attachment 3** addressed to me, as Chair of the State Planning Commission, notifying me of your decision regarding the Local Design Review Code Amendment, and requesting for the Commission to prepare the abovementioned report for the Environment, Resources and Development Committee.

AGREED / NOT AGREED

7. Note that the Commission will send letters to all respondents, South Australian councils, and key stakeholders, to inform them of your decision regarding the Local Design Review Code Amendment.

NOTED / NOT NOTED

**JOSH TEAGUE MP**  
/ / 2021



**Craig Holden**  
**CHAIR, STATE PLANNING COMMISSION**  
3 / 12 / 2021

**Attachments:**

1. Local Design Review Code Amendment Engagement Report (#17931388).
2. Local Design Review Code Amendment – For approval (#17931476).
3. Suggested letter to the Chair of the State Planning Commission (#17956015).

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