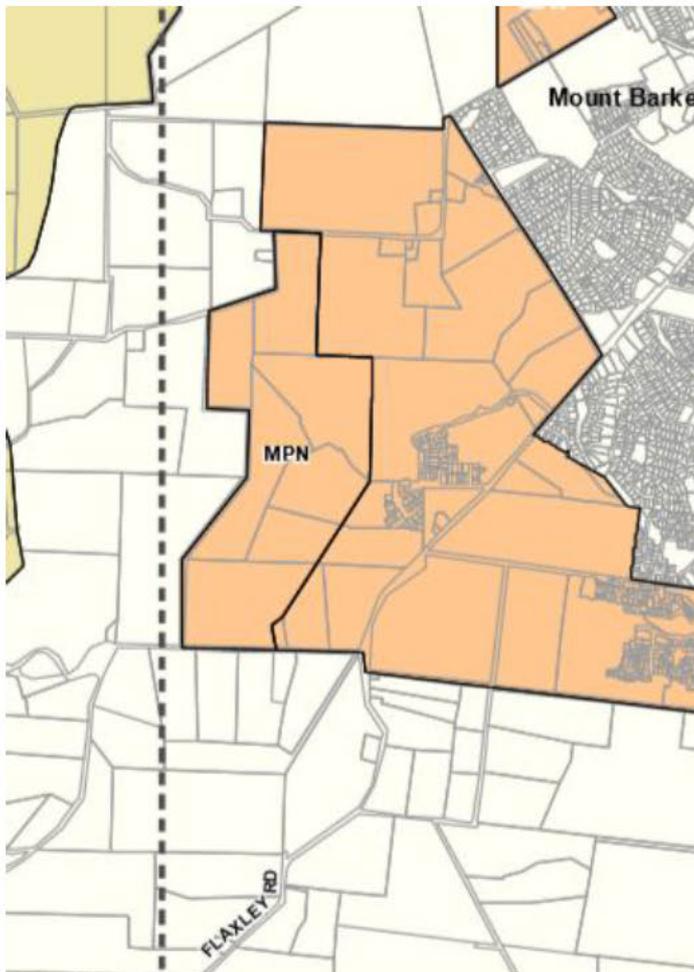

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PlanSA

REVISED PLANNING CODE - PHASE 3 AMENDMENT

DEFERRED URBAN AREA - CODE SUBMISSION

to

DIT.planningreformsubmissions@sa.gov.au

Dear PlanSA

Re: Newenham Residential Growth Area Master Planned Development located within the Residential Neighbourhood Zone of the Mount Barker Development Plan at Flaxley Road, Mount Barker

In February 2020 we made a submission concerning the codes replacement of approximately 46.25 hectares of the existing Residential Neighbourhood Zone with a Deferred Urban Zone.

The revised code makes further changes but does not appropriately address this issue, as follows:

1. It is pleasing to note that the code now changes the Deferred Urban Zone to a Master Planned Neighbourhood Zone.
2. However, in doing so it makes two equally regressive changes, the first transitioning the former Deferred Urban Zone to a Significant Interface Management Overlay (SIMO) with stringent criteria, and
3. The second is the incorporation of Concept Plan 3 for Mount Barker and Littlehampton, identifying the subject areas as Deferred Urban reinforcing the former draft codes contention of unsuitability for development.



Planning and Design Code - Phase 3 Working Master - 4 November 2020



Figure 1 2020 Updated Code Mount Barker Concept Plan 3 – shown across 2 pages

The circular effects of this change is to continue to destroy the residential economic use of the SIMO land, placing in jeopardy our project economics, the timeliness of flexibility of

future residential use and eroding the community benefits of significant investment in urban infrastructure by Newenham and the District Council of Mount Barker.

In addition, this precinct has within it the existing Newenham homestead, cottage and historic barn identified for redevelopment and expansion to accommodate a range of tourism, well-being, gallery, restaurant, paddock to plate produce, wine outlet and permaculture farming activities. These are all activities which are appropriate in a mixed use master planned community and are in accord with the Master Planned Neighbourhood Zone desired and performance outcomes, quoted below, providing for a range needs and lifestyles. Onerous restrictions on land use from a “deferred” status will severely limit our capacity to implement the Newenham Master Plan which connects community from farm to urban lifestyles.

DO 1

A new or expanding community with a diverse range of housing that supports a range of needs and lifestyles located within easy reach of a diversity of services, facilities and open space

PO 1.1

A range of residential, recreational, community services and other land uses support a growing community and create a pleasant place to live.

The Desired Outcome of the Significant Interface Management Overlay (SIMO) states:

DO 1 The prevention of 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.

Performance Outcomes and deemed to satisfy criteria state:

DTS/DPF 1.1

Development does not comprise a sensitive use and / or sensitive receiver unless:

(a) it is a replacement dwelling where the total floor area is no greater than the existing or previous dwelling.

(b) each source of hazard and /or emissions has ceased to operate or has been superseded by another use such that it cannot be revived.

PO 1.1

Intensification of sensitive uses and / or sensitive receivers is not undertaken to avoid increasing resident or community exposure to potential adverse hazards or emissions unless:

(a) each source of adverse hazard or emission has ceased operation

or

(b) it can be demonstrated that the site of the proposed development is not unreasonably impacted by the hazard or emissions from a relevant source, including as a result of environmental or operational improvements that have been or will be made to reduce the hazard or emissions from each source to an acceptable level.

PO 1.2

Alterations and additions to sensitive receivers support ongoing activity without leading to an increase in resident or community exposure to unacceptable levels of hazard, noise, dust, odour or other emissions.

DTS/DPF 1.2

Alterations and additions where:

(a) associated with a dwelling, do not increase the total floor area by more than 10% taking into account any previous alteration or addition

(b) associated with any other sensitive receivers, do not increase the on-site capacity of the service or facility

The effect of these changes is to establish a Deferred Urban Zone in another name.

Our key points remain:

- Present restrictions on urban use are not absolute and are complementary, protecting both existing farming and importantly urban use from encroachment by new agricultural uses. Please refer to the following provisions of the existing Restricted Urban Policy Area which should form the basis of any new policy to be consistent with the existing development plan preference for the land to be used for urban purposes.

Objectives

1 The continuation of existing uses until the potential for impacts from nearby poultry broiler activities is removed.

2 Development not to compromise THE FUTURE USE OF LAND FOR INTENSIVE URBAN ACTIVITIES.

The new provisions should recognise that it is a desired outcome that the land is for future urban per objective 2 above

Desired Character

This policy area is located in proximity to significant intensive animal keeping activities in the form of poultry broiler sheds. Development likely to be sensitive to poultry broiler shed operations should not occur to ensure THAT ADEQUATE SEPARATION DISTANCES ARE MAINTAINED BETWEEN THE POULTRY BROILER SHEDS AND NEW URBAN AREAS.

The existing desired character recognises that the appropriate criteria is that of determination of “adequate” separation distances, not arbitrary distances as presently determined by the broad scope and definition of the policy area.

Existing dwellings and agricultural activities are expected to continue until the potential for impacts from the poultry broiler sheds no longer exist, after which THE AREA IS EXPECTED TO BE DEVELOPED FOR URBAN ACTIVITIES WITH A FOCUS ON RESIDENTIAL DEVELOPMENT.

Principles of Development Control

Land Use

1 Development should provide for the maintenance of existing residential and agricultural development until it can be PROGRESSIVELY REPLACED BY INTENSIVE URBAN ACTIVITIES.

2 Development for intensive urban activities should only occur:

(a) when it can be DEMONSTRATED THAT THE POTENTIAL IMPACTS FROM POULTRY BROILER SHED OPERATIONS identified as ‘Intensive Animal Keeping (Poultry)’ as shown on Overlay Map(s) MtB/1, MtB/13, MtB/22 - Development Constraints, NO LONGER EXIST

(b) in a manner that does not interfere with existing agricultural uses.

3 Rural activities, including expansion or intensification of existing rural activities, should not result in disturbance to adjoining landowners or prejudice the future urban development.

We consider it desirable and helpful in the circumstances that two additional Desired Outcomes be added to the policy as follows:

DO 2 Development of Mount Barker Overlay Area is contemplated for master planned residential development on management of the potential impacts from poultry broiler shed operations.

DO 3 Rural activities within the Mount Barker Overlay Area, including expansion or intensification of existing rural activities, should not result in disturbance to adjoining landowners or prejudice the future urban development.

- The proposed Master Planned Neighbourhood Zone qualified by a Significant Interface Management Overlay is another name for a Deferred Urban Zone, preventing rational and measured assessment of poultry farm operational circumstances with the alignments of residential use at any phase of growth. Land use flexibility is crucial to the economic development of the land within the residential growth area.
- 36 residential allotments have been approved pursuant to the existing Residential Neighbourhood Zone in conflict with Significant Interface Management Overlay, all of which are sensitive receivers according to PO 1.1.
It is inappropriate to require that each source of or emission has ceased operation. It is a very wide and extensive “management” overlay, not a “restriction” overlay so that development in a broad management area may occur compatibility with current potential sources.
- There is significant risk for developer and approving agencies here should a deferred status be imposed. The 36 allotments that have been sold to third party owner occupiers, in good faith, within an approved land division plan, may be at risk of challenge if the deferred urban restriction overlay is enforced.

Crucially if the current draft is not amended bank valuers will have to acknowledge that restriction, and purchasers may not be able to receive home construction funding. Understandably purchaser reaction would be justified.

- It is evident that the amended provisions of the new planning code have made insufficient reference to the Mount Barker City local variations which take precedence, eventually

permitting residential development.

Accordingly, we propose the following amendments to this policy.

DO 1 The prevention of 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

Additional desired outcomes 2 and 3 requested are:

PROPOSED DO 2 Development of Mount Barker Overlay Area is contemplated for master planned residential development on management of the potential impacts from poultry broiler shed operations.

PROPOSED DO 3 Rural activities within the Mount Barker Overlay Area, including expansion or intensification of existing rural activities, should not result in disturbance to adjoining landowners or prejudice the future urban development.

DTS/DPF 1.1

Development does not comprise a sensitive use and / or sensitive receiver unless:

(a) it is a replacement dwelling where the total floor area is no greater than the existing or previous dwelling.

Sub paragraph (b) should be further qualified by including a provision that recognises that an activity may be sited, located, managed or operated in a way that does not impact on urban development in its area. It should not be required to cease operation.

(b) each source of hazard and /or emissions has ceased to operate or either its potential impacts are mitigated or it is managed to acceptable levels, or has been superseded by another use. ~~such that it cannot be revived.~~

Prevention of revival of a hazard that is mitigated or managed, although unlikely, is not required.

PO 1.1

Intensification of sensitive uses and / or sensitive receivers is not undertaken to avoid increasing resident or community exposure to potential adverse hazards or emissions unless:

~~(a) each source of adverse hazard or emission has ceased operation~~

~~or~~

Sub paragraph (a) above should be deleted.

(b) it can be demonstrated that the site of the proposed development is not unreasonably impacted by the hazard or emissions from a relevant source, including as a result of environmental or operational

improvements that have been or will be made to reduce the hazard or emissions from each source to an acceptable level.

Sub paragraph (b) remains as it is consistent with the granting of approval for urban development within the existing policy area, given a rational assessment of impact from the poultry operation.

PO 1.2

~~***Alterations and additions to sensitive receivers support ongoing activity without leading to an increase in resident or community exposure to unacceptable levels of hazard, noise, dust, odour or other emissions.***~~

We do not consider this outcome necessary and consider it should be deleted.

DTS/DPF 1.2

~~***Alterations and additions where:***~~

~~***(a) associated with a dwelling, do not increase the total floor area by more than 10% taking into account any previous alteration or addition***~~

~~***(b) associated with any other sensitive receivers, do not increase the on-site capacity of the service or facility***~~

We do not consider this satisfaction or performance feature for urban development, addressing mostly dwellings or land division for dwellings already approved, is required, and it too should be deleted.

We reiterate our earlier comments that the reform goal of consolidating of South Australia’s 72 complex development plans into one set of easy-to-understand planning rules has significant merit but has not been achieved by standardisation in this case. A State Government introductory reform paper entitled “Blueprint for South Australia’s Planning & Design Code - Working Together to Develop the Code” stated.

We recognise that many councils and communities have a strong sense of ownership over policies that apply to their area. The State Planning Commission does not want to see positive policy discarded when drafting the Code and acknowledges the importance of policies that help implement the vision for local areas. However, we are also aware that we can streamline areas of policy conflict or constricting and duplicated policy.

Summary

The establishment of a Significant Interface Management Overlay (SIMO) with stringent controls is to establish a Deferred Urban Zone in another name. We request that the Significant Interface Management Zone either be removed in its entirety, instead relying on the general interface provisions of the Code when referencing urban development controls, or be modified substantially.

We welcome the partial re-emphasis of the plan with the base zoning reinstated to a Suburban Master Planned Zone but note that this is further undermined by Mount Barker Concept Plan 3, identifying it as Deferred Urban.

We consider it desirable and helpful in the circumstances that two additional Desired Outcomes be added to SIMO policy to state clearly that the Overlay Area is contemplated for master planned residential development, that can occur in the context of rational management of the potential impacts from poultry broiler shed operations, and the other, recognition that existing rural activities in an urban area should not intensify. This is a needed policy re-emphasis consistent with existing provisions.

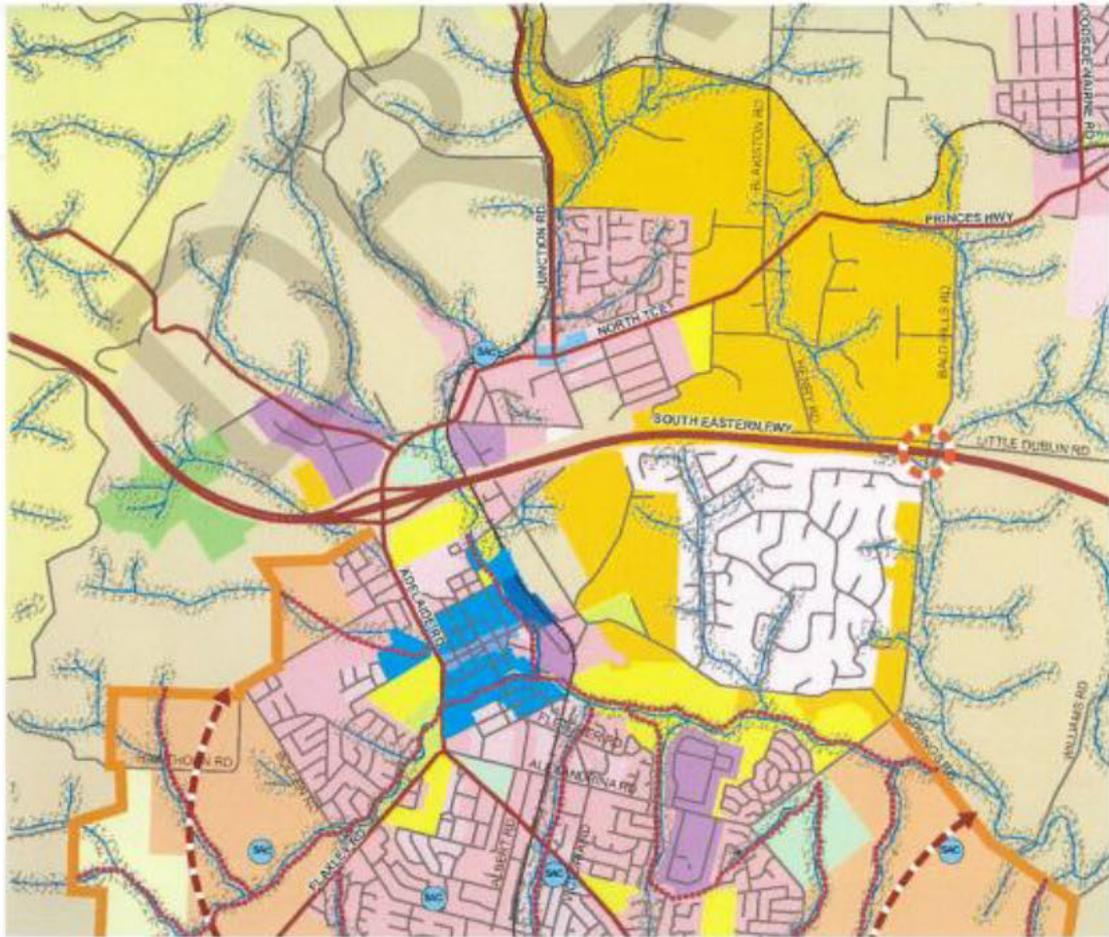
It is also considered that DTS/DPF 1.1 in Sub paragraph (b) should be recast by including a provision that recognises that potential sources of hazards do not need to cease if they are sited, located, managed or operated in a way that does not impact on urban development in its area.

For further information please refer to the first submission paper detailing these concerns.

K A Burke

Director

14 December 2020



1026

ing and Design Code - Phase 3 Working Master - 4 November 2020



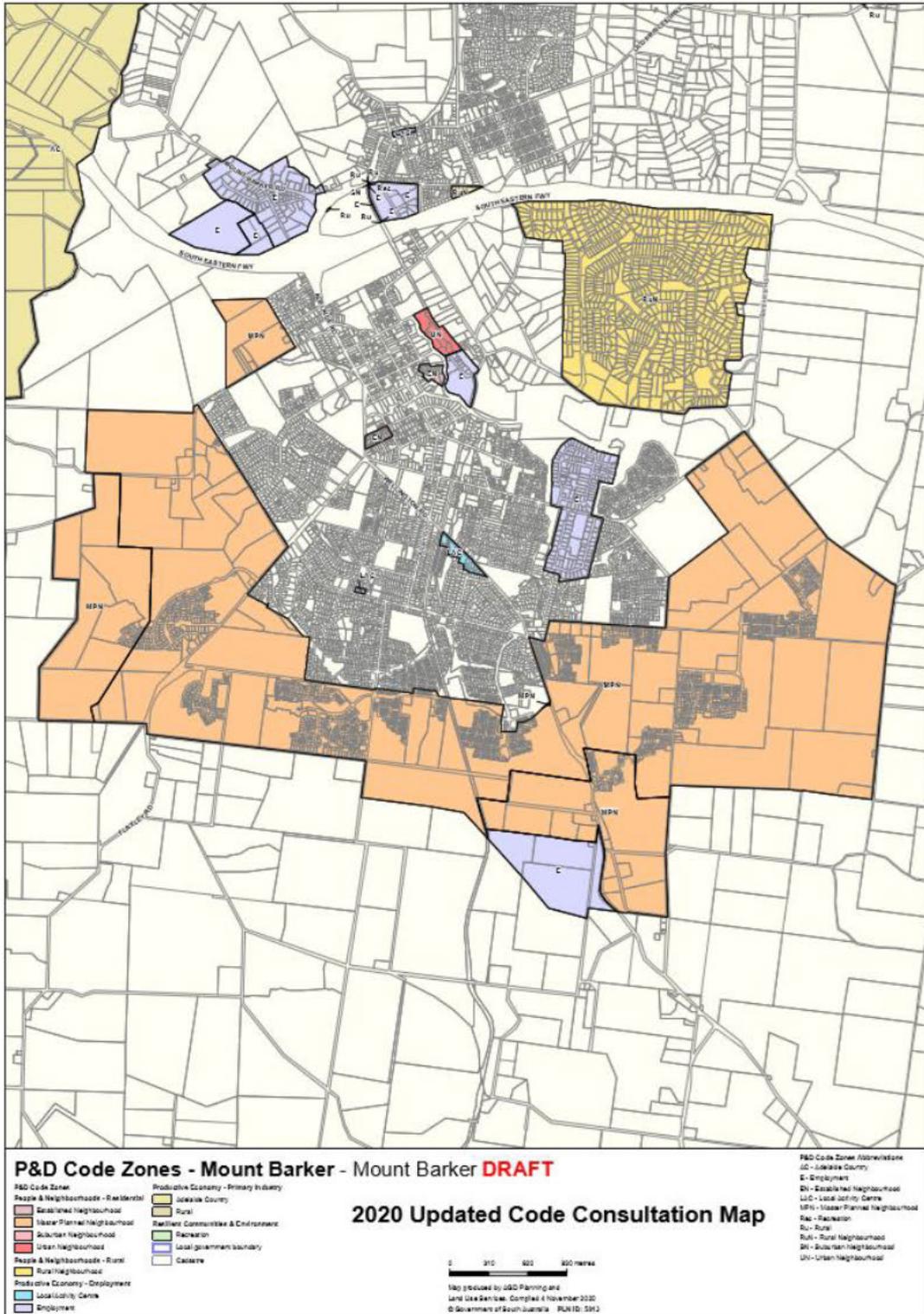
- Community Facilities
- Deferred Urban
- Housing Diversity Neighbourhood
- Residential Neighbourhood
- Suburban Neighbourhood
- Suburban Masterplanned Neighbourhood
- Rural Living
- Suburban Activity Centre
- Suburban Business and Innovation
- Suburban Main Street
- Urban Activity Centre
- Suburban Employment
- Peri-Urban
- Rural
- Conservation
- Open Space
- Recreation

- Open Space / Stormwater Management
- Proposed Freeway Interchange
- Rural/Urban Interface Treatment
- Suburban Activity Centres
- Proposed Major Local Road
- Key Pedestrian/Bicycle Network
- Primary Roads
- Secondary Roads
- Other Roads
- WaterCourses
- Railways

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Concept Plan 3 MOUNT BARKER AND LITTLEHAMPTON



Significant Interface Management Overlay

Assessment Provisions (AP)

Desired Outcome (DO)

| Desired Outcome | |
|-----------------|---|
| DO 1 | The prevention of 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. |

Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

| Performance Outcome | Deemed-to-Satisfy Criteria / Designated Performance Feature |
|---------------------|---|
|---------------------|---|

770

Planning and Design Code - Phase 3 Working Master - 30 November 2020

| Land Use and Intensity | |
|--|---|
| <p>PO 1.1</p> <p>Intensification of sensitive uses and / or sensitive receivers is not undertaken to avoid increasing resident or community exposure to potential adverse hazards or emissions unless:</p> <ul style="list-style-type: none"> (a) each source of adverse hazard or emission has ceased operation or (b) it can be demonstrated that the site of the proposed development is not unreasonably impacted by the hazard or emissions from a relevant source, including as a result of environmental or operational improvements that have been or will be made to reduce the hazard or emissions from each source to an acceptable level. | <p>DTS/DPF 1.1</p> <p>Development does not comprise a sensitive use and / or sensitive receiver unless:</p> <ul style="list-style-type: none"> (a) it is a replacement dwelling where the total floor area is no greater than the existing or previous dwelling (b) each source of hazard and /or emissions has ceased to operate or has been superseded by another use such that it cannot be revived. |
| <p>PO 1.2</p> <p>Alterations and additions to sensitive receivers support ongoing activity without leading to an increase in resident or community exposure to unacceptable levels of hazard, noise, dust, odour or other emissions.</p> | <p>DTS/DPF 1.2</p> <p>Alterations and additions where:</p> <ul style="list-style-type: none"> (a) associated with a dwelling, do not increase the total floor area by more than 10% taking into account any previous alteration or addition (b) associated with any other sensitive receivers, do not increase the on-site capacity of the service or facility. |

Procedural Matters (PM) - Referrals

The following table identifies classes of development / activities that require referral in this Overlay and the applicable referral body. It sets out the purpose of the referral as well as the relevant statutory reference from Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

| Class of Development / Activity | Referral Body | Purpose of Referral | Statutory Reference |
|---------------------------------|---------------|---------------------|---------------------|
| None | None | None | None |