

Chief Executive's Policy – Service Standards and Code Amendment Fees 2024

Introduction

This Policy establishes services levels, principles and standards for the processing of amendments to the Planning and Design Code (Code Amendments). This Policy also applies to the waiver or reduction of fees charged for Code Amendments under the *Planning, Development and Infrastructure (Fees) Notice* (Fees Notice) published in the Government Gazette from time to time.

This Policy recognises the role of the Department for Trade and Investment (the Department), through the Chief Executive, in providing advice to proponents of Code Amendments while also remaining independent in its assessment and advisory function to the Minister for Planning (the Minister) and the State Planning Commission (the Commission). This Policy in no way binds the Minister or Commission in their statutory functions.

This Policy is not legally binding; however, it does establish a commitment to service levels from the Department in its processing of Code Amendments. The policy also recognises the importance of the public interest in these processes. All public sector employees are bound by the *Public Sector Act 2009* and the *Code of Ethics for the South Australian Public Sector*.

The Department will make best endeavours to achieve the service levels. Code Amendments will be evaluated by complexity, and service standards may vary due to the complexity level.

Service Standards and Fees Policy

Part 1 – Preliminary

1 – Citation

This Service Standards and Fees Policy may be cited as the *Chief Executive's Policy–Service Standard and Code Amendment Fees 2024*.

2 – Commencement of Operation

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

3 – Objectives

The objective of this Policy is to ensure a consistent and transparent approach to the service levels the Department will endeavour to achieve in the processing of Code Amendments and the waiving and reduction of fees for Code Amendments.

4 – Interpretation

In this policy, unless the contrary intention appears –

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

Council means a council constituted under the *Local Government Act 1999*. It also includes the plural of Council.

Code means the *Planning and Design Code*.

Code Amendment means an amendment to the *Planning and Design Code* prepared under section 73 of the Act.

Department means the Department for Trade and Investment.

Designated Entity means a person or entity responsible for leading Code Amendments under section 73 of the Act.

Fees Notice means the *Planning, Development and Infrastructure (Fees) Notice* published in the *Government Gazette* from time to time.

Joint Planning Board means a Board constituted under the Act.

Minister means the Minister for Planning.

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

SA Planning Portal means the *PlanSA Portal*.

Part 2 – Payment of Fees

1. The Fees Notice prescribes a fee for Code Amendments initiated under section 73(2)(b) of the Act, which are to be paid in stages as set out in the Fees Notice and include fees for:
 - a. consideration of a Proposal to Initiate a Code Amendment;
 - b. administration and management of the Code Amendment, which includes the determination of the complexity stream a Code Amendment is assigned to;
 - c. publication of a Code Amendment for the purposes of community engagement;
 - d. consideration of a Code Amendment by the Minister; and
 - e. the implementation of a Code Amendment adopted by the Minister.

Part 3 – Service Principles

2. The Department strives to deliver services in a timely, accurate and consistent manner in accordance with specified service levels. This is facilitated where information provided by proponents is complete, timely and accurate, and where



staff are treated with honesty, respect, and fairness.

3. The following guiding principles underpin this Policy and subsequent operational procedures for Code Amendments:

a. Responsiveness

- We will respond promptly to inquiries through phone and web services.
- We will provide accurate advice on Code Amendment procedures.

b. Transparency

- We are open and transparent about processes.
- We provide consistent and clear information across communication channels.
- We will maintain actions of any briefings to the Code Control Group.

c. Professionalism

- We will conduct ourselves with integrity and honesty and treat others with respect and fairness.
- We will treat all customers equally and without bias.

d. Public interest

- We will always operate in the public interest and maintain our independence.
- We will not provide information that is confidential or information that falls outside our remit to provide.
- We will not speak for or make commitments on behalf of the Minister or Commission unless instructed or empowered to do so.

Part 4 – Determination of Code Amendment Complexity

4. The Chief Executive has introduced three (3) Code Amendment complexity streams – simple, moderate, and complex. The total Code Amendment fee increases relative to the complexity of the proposal.

5. The total fees assigned to each complexity stream are as follows:

Complexity Stream	Fee
Simple	\$34,634
Moderate	\$69,268
Complex	\$86,585



6. To ensure the consistent assignment of complexity streams to Code Amendments, the Department has prepared a Fee Determination Matrix. The Fee Determination Matrix indicates what Code Amendment features will be taken into consideration when determining proposal complexity, including the:
- proposal's alignment with the strategic direction of the planning regime, which strategic direction is primarily sourced from the State Planning Policies and Regional Plans;
 - number of interfaces (being types or intensities of land use) created by the proposal;
 - infrastructure and infrastructure negotiations associated with the proposal;
 - environmental, economic and social constraints of the area affected by the proposal; and
 - scope of public interest likely to be generated by the proposal.
7. The Fee Determination Matrix is **Attachment 1** to this Policy and is summarised as follows:

Code Amendment Feature	Simple = 1	Moderate = 2	Complex = 3
Strategic Directions	Aligns with strategic Direction	Partially aligns with strategic direction	Misalignment with strategic directions
Interfaces	None or minor interface issues	Proposes zone change that will create: <ul style="list-style-type: none"> a single sensitive interface; or medium-density / medium-rise (3-5 building levels) adjacent a low-density / low-rise neighbourhood; or a neighbourhood zone adjacent the Employment Zone, the Rural Zone or another employment generating zone. 	Proposes zone change that will create: <ul style="list-style-type: none"> multiple sensitive interfaces; or a high-rise (6+ building levels) interface with a low-rise neighbourhood; or a neighbourhood zone adjacent the Strategic Employment Zone or the Resource Extraction Zone.
Infrastructure	None required or basic infrastructure requirements	Requires infrastructure negotiations	Requires complex infrastructure negotiations
Constraints	No constraints	Possible constraints	Known constraints

Code Amendment Feature	Simple = 1	Moderate = 2	Complex = 3
Scope of Interest	Confined scope of interest	Medium scope of interest	Extensive scope of interest

8. The Fee Determination Matrix has been developed to assign a value between 1 and 3 to each complexity stream, where 1 is a simple proposal and 3 is complex. Each Code Amendment feature is then considered against the likely degree of complexity arising from the proposed Code Amendment, and an overall score is achieved to determine the complexity stream the proposal will be assigned to.
9. The scoring model is as follows:

Complexity Stream	Score Range
Simple	5 - 7
Moderate	8 – 10
Complex	11 +

10. The Department will use the Fee Determination Matrix when determining the complexity stream a proposed Code Amendment is assigned to.

Part 5 – Service Standards for Code Amendments

11. The following standards apply to Code Amendments:

Stages	Description	Service Standard
Stage 1: Lodgement for Initiation	Proposal to Initiate lodged by the Designated Entity on the SA Planning Portal	We will acknowledge receipt within 5 business days of receiving a proposal. Following verification that a proposal meets all mandatory requirements, we will invoice the fee within 5 business days.
Stage 2: Administration and Management (Complexity Determination)	Determination of Code Amendment complexity by the Department	Following payment of the invoiced initiation fee, the Department will consider the proposal against the Fee Determination Matrix to determine the applicable Code Amendment complexity stream within 15 business days. Following determination of the Code Amendment complexity stream, we will invoice the applicable fee together with a

Stages	Description	Service Standard
		brief explanatory document identifying how the complexity stream was determined.
Stage 3: Engagement	Engagement material provided by the Designated Entity to the Department	<p>An invoice will be issued within 5 business days of receiving all required engagement material.</p> <p>Following payment of the invoiced fee, we will seek verification of the content to be published on the SA Planning Portal content from the Designated Entity. Following this verification, we will ensure the SA Planning Portal is live on the day that engagement commences. We will send a test submission to the Designated Entity at the commencement of engagement to ensure the SA Planning Portal is directing submissions correctly.</p> <p>*Additional timeframes may apply in instances where the Minister or Commission have imposed conditions requiring approval to commence engagement for the drafting of Policy by the Department. In such cases, the Department will acknowledge receipt of required information within 5 business days.</p>
Stage 4: Determination	Code Amendment and Engagement Report are lodged by the Designated Entity with the Department for final determination	<p>We will acknowledge receipt within 5 business days of receiving documentation.</p> <p>Following verification (and further complexity determination**) that documentation meets all mandatory requirements and satisfies any requests for additional information, we will invoice the fee within 5 business days.</p> <p>* The Minister may refer to the Commission before making a determination to adopt, alter and adopt or decline a Code Amendment.</p> <p>**The Chief Executive may revise the assigned Code Amendment complexity at this juncture to ensure it continues to be commensurate with the complexity of the proposal.</p>

Stages	Description	Service Standard
Stage 5: Implementation	Consolidation into the Code following determination by the Minister (go live)	An invoice will be issued within 5 business days from the Minister adopting the Code Amendment. *We will publish the Ministers decision on the SA Planning Portal within 5 business days as required by the Act. We will consolidate the Code Amendment into the Code as soon as practicable following the receipt of full payment of the invoiced fee.

12. The fee stages for each complexity stream are identified in the following table:

Complexity Stream	Stage 1 - Lodgement	Stage 2 – Administration and Management (Complexity Determination)	Stage 3 – Engagement	Stage 4 - Determination	Stage 5 - Implementation
Simple	\$5,879	\$4,490	\$9,300	\$4,489	\$10,476
Moderate	\$5,879	\$21,807	\$9,300	\$21,806	\$10,476
Complex	\$5,879	\$30,465	\$9,300	\$30,465	\$10,476

Revised Fee Determination

13. At the Stage 4: Determination stage, if the Chief Executive determines a Code Amendment has been, to that point, more complex than was initially anticipated at the Stage 2: Complexity stage, the Chief Executive has the discretion to re-assign the Code Amendment to a more complex complexity stream.
14. If the Chief Executive determines to alter the complexity stream, the Designated Entity will be:
- advised in writing explaining the basis for the alteration; and
 - provided with an invoice for fees relative to the revised complexity stream.
15. If a Code Amendment is revised to become 'moderate' or 'complex', stages of Code Amendment fees already paid will not be altered, but the increased fees will be payable for all stages thereafter. For example, if a Code Amendment is revised from being 'simple' to 'moderate' at the Stage 4: Determination stage, only the Stage 4: Determination fee for a 'moderate' proposal is payable and the



Designated Entity would not be retrospectively liable to pay the 'moderate' proposal fees for the earlier Stage 2: Complexity Determination stage.

16. In the alternative, if a proposal is initially designated as 'moderate' or 'complex' but turns out to be less complex than anticipated, the Code Amendment fee may be reduced to the rate commensurate with the Code Amendment's complexity, at the discretion of the Chief Executive. Any Code Amendment revised to a reduced complexity will be entitled to a refund for the difference between the complexity fees charged at Stage 2.

Other

17. The Department will keep records of timeframes for Code Amendments and identify any 'stop clocks' required when further information is requested or payment of fees is outstanding. Designated Entities will be informed of any stop clocks.
18. The Department will endeavour to complete an adequacy check and send out any request for further information within 15 business days following the receipt of full payment of the invoiced fee.
19. The Department will produce quarterly reports on the progress of Code Amendments. These will be published on the SA Planning Portal.

Part 6 – Fee waivers and reductions

20. The fee to be paid under the Fees Notice will be waived in full where:
- a. The Designated Entity is the Chief Executive; or
 - b. There is no funding agreement in place with a private developer and the Designated Entity is:
 - i. A Council;
 - ii. A Joint Planning Board;
 - iii. An Agency;
 - iv. An Instrumentality of the Crown; or
 - c. The proposal is for a public purpose and not a commercial or revenue-generating purpose.
21. The fee to be paid under the Fees Notice may be reduced where the Designated Entity is:
- a. a not-for-profit or charity organisation (as recognised by the Australian Charities and Not-for-profits Commission, or Consumer and Business Services) and the Code Amendment is demonstrated to have overall community benefit (i.e. provision of community housing);
 - b. required to repeat stages of the Code Amendment process; or



- c. a Scheme Coordinator or a provider of essential infrastructure and the Code Amendment is for a public purpose and not for a commercial or revenue-generating purpose.
22. The Chief Executive has the discretion and the right to waive or reduce any fee where the request does not clearly fit within the criteria of this Policy (refer to regulation 7 of the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*). Code Amendments lodged prior to the introduction of fees (November 2021) will be charged the fee for any remaining stages of the Code Amendment process.
 23. For the avoidance of doubt, any Code Amendment proposal lodged prior to 2 April 2024 (being the commencement date of the Code Amendment complexity streams) will not be subject to a complexity assessment and will be processed in accordance with the Fees Notice as was in effect at the date of lodgement. In order for a Code Amendment to be deemed lodged for the purposes of being processed in accordance with the Fees Notice as was in effect at the date of lodgement, the proposed Code Amendment must be in a form satisfying *Practice Direction 2 – Amendments to Designated Instruments*.

Part 7 – Review of Complexity Determination

24. If a Designated Entity is aggrieved by the Chief Executive’s complexity determination, the Designated Entity may:
 - a. request a review of the initial complexity determination made at Stage 2 of the Code Amendment process; or
 - b. if a subsequent determination is made to increase the Code Amendment’s complexity at Stage 4 of the Code Amendment process, request a review of that subsequent determination.
25. If a Designated Entity intends to request a review, they must write to the Chief Executive within 7 business days of the complexity determination:
 - a. explaining why they are aggrieved with the decision; and
 - b. explaining what they consider the correct complexity determination should be as measured against the Fee Determination Matrix in **Attachment 1**; and
 - c. acknowledging the Code Amendment will be placed on hold pending the outcome of the review; and
 - d. requesting the Chief Executive review the decision.
26. The request for a review should be addressed to the Chief Executive and emailed to the Code Amendment team email (CodeAmendmentCoordination@sa.gov.au).
27. The process for reviewing the complexity determination is as follows:



- a. the Code Amendment's complexity determination will be reviewed by a panel (the Panel) comprised of:
 - i. the person holding or acting in the position of Director of Planning, Planning and Land Use Services (the Director) (as Chair); and
 - ii. no less than two additional planning officers employed by the Department who (as far as reasonably practicable) did not take part in the initial complexity determination.
 - b. the Panel will review the determination of the Code Amendment's complexity stream as measured against the Fee Determination Matrix in [Attachment 1](#);
 - c. the Panel will furnish a report to the Chief Executive which will:
 - i. attach the Panel's final Fee Determination Matrix;
 - ii. provide written reasons for the Panel's allocation of the characteristics of the Code Amendment against the Fee Determination Matrix;
 - iii. recommend whether the Code Amendment complexity should be revised or maintained; and
 - iv. include any additional information the Panel deems appropriate;
 - d. following consideration of the Panel's report, the Chief Executive:
 - i. retains absolute discretion to accept the Panel's recommendation to revise or maintain the complexity determination; and
 - ii. will advise the Designated Entity in writing of the outcome of the review.
28. A Designated Entity is entitled to a copy of the Panel's report to the Chief Executive upon request.
29. The Department will use its best endeavours to:
- a. complete the review within 4-6 weeks from receipt of the request for review; and
 - b. keep the Designated Entity informed as to the progress of the review.

Part 8 – General Communication Service Standards

As the Department values a positive customer experience, there are a number of avenues made available in which correspondence is able to be received, including:

- PlanSA Service desk (1800 752 664)
- PlanSA Portal (plan.sa.gov.au/development_applications/getting_approval/support)
- Code Amendment team email (CodeAmendmentCoordination@sa.gov.au)

An officer will be assigned to respond to each query based on seniority and availability. Once an officer is assigned, direct contact is supported.



Part 9 – Reporting and Review

This policy will be reviewed 12 months from the commencement date of the latest version (or sooner should the Department see fit), based on data collected to monitor the Department's performance against the service standards.

Endorsement

This policy is endorsed by:



David Reynolds

CHIEF EXECUTIVE, DEPARTMENT FOR TRADE AND INVESTMENT

27/03/2024

Attachment 1: Code Amendment Fee Determination Matrix



ATTACHMENT 1

CODE AMENDMENTS FEE DETERMINATION MATRIX – COMPLEXITY

CODE AMENDMENTS FEE DETERMINATION MATRIX - COMPLEXITY					
Code Amendment Features		Simple = 1	Moderate = 2	Complex = 3	Score
Strategic Directions	Relevant strategic directions are sourced primarily from State Planning Policies and Regional Plans but may be sourced from other State Policies	Aligns with strategic Direction	Partially aligns with strategic direction	Misalignment with strategic directions	
Interfaces	An interface is where different types or intensities of land use meet or are in close proximity to each other, and where there may be conflict resulting from this.	None or minor interface issues	Proposes zone change that will create: <ul style="list-style-type: none"> a single sensitive interface medium-density / medium-rise (3-6 building levels) adjacent a low-density / low-rise neighbourhood; or a neighbourhood zone adjacent the Employment Zone, the Rural Zone or another employment generating zone. 	Proposes zone change that will create: <ul style="list-style-type: none"> multiple sensitive interfaces a high-rise (6+ building levels) interface with a low-rise neighbourhood; or a neighbourhood zone adjacent the Strategic Employment Zone or the Resource Extraction Zone. 	
Infrastructure	Road, utility infrastructure (water, electricity, gas), stormwater management etc	None required or basic infrastructure requirements	Requires infrastructure negotiations	Requires complex infrastructure negotiations	
Constraints	The extent to which there are social, economic or environmental features that require in-depth investigation, resolution or mitigation and that present a barrier to the outcomes sought through the Code Amendment.	No constraints	Possible constraints	Known constraints	
Scope of interest	The extent to which the proposed Code Amendment is likely to be of interest to the public.	Confined scope of interest	Medium scope of interest	Extensive scope of interest	
				Total	
<p>Scoring: 5 - 7 = Simple 8 - 10 = Moderate 11+ = Complex</p>					
<p>Notes:</p> <ul style="list-style-type: none"> This matrix is a guide only and the outcome will be dependent on the circumstances in any particular situation. Legislative requirements relate to the requirements of the <i>Planning, Development and Infrastructure Act 2016</i> Where a particular complexity is indicated, that does not preclude any other complexity being applied at another stage of a Code Amendment in accordance with the Chief Executive's Policy – Service Standards and Code Amendment Fees 2024. <i>For example:</i> a Code Amendment may be assigned as a complex Code Amendment but may change to a moderate Code Amendment at a later stage (or vice versa). 					