

Tunnel Protection Overlay Code Amendment

Engagement Report

July 2024

Section 73(7) of the Planning, Development and Infrastructure Act 2016



Government of South Australia
Department for Infrastructure
and Transport

**Build.
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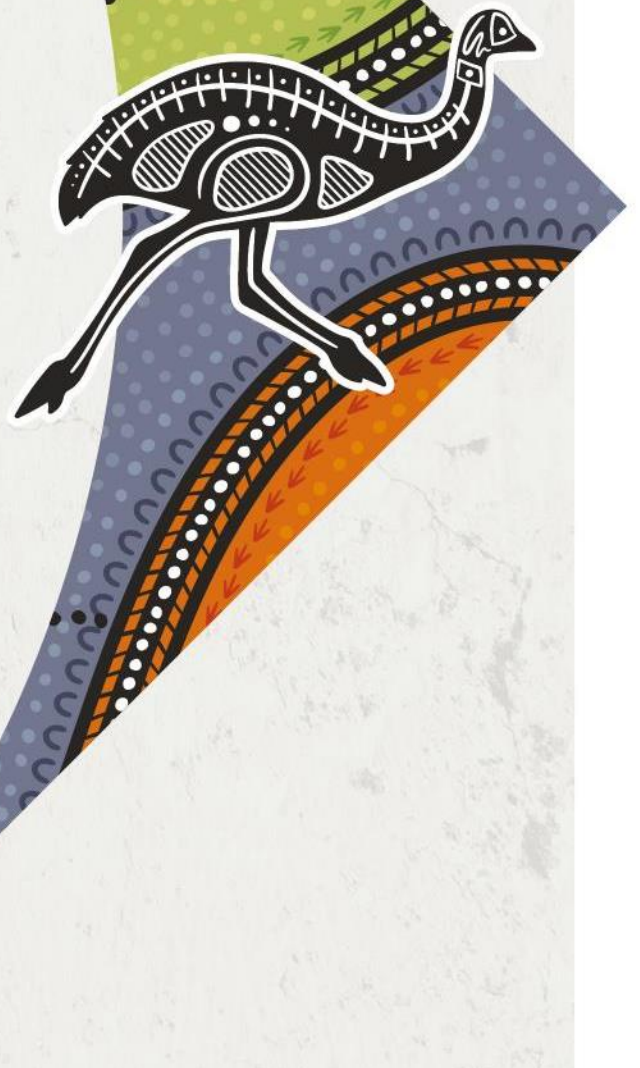
Change history

Version number	Date changed	Nature of amendment
03	29 July 2024	Final for Approval by Designated Entity & Minister for Planning
02	23 February 2024	Revised draft to incorporate independent review by Holmes Dyer and final responses to feedback.
01	23 January 2024	Initial Draft

Approvals record

Approver	Name / Title	Date	Signature
Approved by the Designated Entity	Jon Whelan Chief Executive, Department for Infrastructure and Transport	12 August 2024	Approved

We acknowledge the Traditional Custodians of the Country throughout South Australia and recognise their continuing connection to land and waters. We pay our respects to the diversity of cultures, significance of contributions and to Elders past, present and emerging.



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1. Purpose

This Engagement Report has been prepared by the Department for Infrastructure and Transport (the Department), as the Designated Entity, for consideration by the Minister for Planning (the Minister) in adopting the Tunnel Protection Overlay Code Amendment (the Code Amendment).

The report:

- details the engagement that has been undertaken,
- details the outcomes of the engagement, including a summary of the feedback made and the response to the feedback and the changes to the Code Amendment,
- evaluates the effectiveness of the engagement and whether the principles of the Community Engagement Charter have been achieved, and
- outlines any changes to the engagement plan during the process.

2. Introduction

The Australian and South Australian governments are delivering the most significant transport infrastructure project ever undertaken in South Australia, the 10.5 kilometre River Torrens to Darlington (T2D) Project. Two sets of tunnels will be built in the north (Richmond to Torrensville) and south (Clovelly Park to Glandore) with an open motorway connecting them. When complete, more than 50 per cent of the T2D motorway between the River Torrens and Darlington will be underground tunnels.

The Department has identified several measures to preserve the corridor required for the design and construction of the proposed tunnels, as well as protect the ongoing structural and operational integrity of the tunnels once constructed. One of these measures is the introduction of new planning policies through a Code Amendment.

The amendment to the Planning and Design Code (the Code) is consistent with similar planning measures introduced interstate setting out matters to be considered when designing and building developments near and above the tunnels.

On 28 July 2023 the Minister for Planning approved the Tunnel Protection Overlay Code Amendment for early commencement, pursuant to section 78(1) of the *Planning, Development and Infrastructure Act 2016* (the PDI Act). The amendment:

- introduced a Tunnel Protection Overlay to the Planning and Design Code, and
- applied the Tunnel Protection Overlay to land in the vicinity of the proposed tunnels to be constructed as part of the T2D Project (the 'Affected Area' – see Figures 1 and 2).

Through the Code Amendment investigations, the Department and the Planning and Land Use Services (PLUS) Division of the then Department for Trade and Investment identified that to give full effect to the Tunnel Protection Overlay and mitigate risks of development and building works impacting major tunnels there was a need to:

- amend the Planning, Development and Infrastructure (General) Regulations 2017 (the Regulations) to include activities that pose a risk to the tunnels in the definition of development, including if undertaken by Councils, essential service providers and State agencies (for whom exemptions from the need for development approval would otherwise apply), and
- introduce a new Ministerial Building Standard (MBS) 011 – additional requirements for designated Tunnel Protection Overlay Areas.

In recognition of the interdependencies of the above measures with the Code Amendment, the full suite of measures was brought into effect concurrently on 31 August 2023 and 1 September 2023 and incorporated into the scope of the engagement.



Figure 1: Southern Affected Area

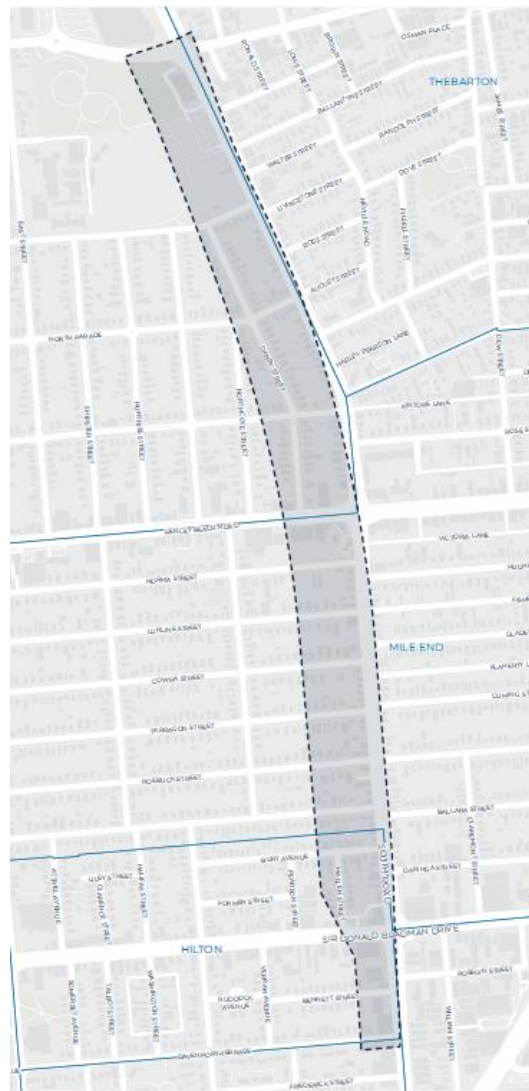


Figure 2: Northern Affected Area

3. Engagement Approach

The approach to engagement was consistent with the process for amending a designated instrument as set out in the PDI Act, including being in accordance with the Community Engagement Charter. On 29 June 2023, the State Planning Commission endorsed the Engagement Plan prepared by the Department to apply the principles of the Community Engagement Charter.

The engagement period for this Code Amendment ran for 10 weeks, from Thursday 31 August 2023 until Thursday 9 November 2023.

The purpose of the engagement was to ensure that individuals, businesses, organisations and communities interested in and / or affected by the proposed Code Amendment are able to provide feedback and influence particular elements of the proposed Code Amendment.

Specifically, the engagement sought to:

- communicate and raise awareness that a Code Amendment is on consultation for a period of 8 weeks commencing on 31 August 2023 (note variance below),
- provide information about what is proposed by the Code Amendment including the location of where the proposed changes will apply,
- allow community and stakeholders to understand the intent of the Code Amendment and implications that the proposed Code Amendment may facilitate,
- provide convenient and easily accessible ways for stakeholders and the community to provide feedback on the Code Amendment,
- close the loop with stakeholders and community to inform them of the outcomes of the engagement process, and how they can access the Engagement Report and final amendment instructions (including the Tunnel Protection Overlay), and
- meet statutory requirements as they relate to engagement on a Code Amendment.

The engagement activities outlined in 4.1 were undertaken in accordance with the Engagement Plan, in addition to the following variance/s:

Variance	Justification
The consultation period was extended from 8 weeks to 10 weeks.	To provide stakeholders and the community with additional time to understand and provide feedback on the proposed Code Amendment.
Notification and consultation with State Members of Parliament for the electorates in which the proposed Code Amendment applies.	Direction of the State Planning Commission under section 73(6)(e).

It is noted that post-consultation activities set out in the engagement plan to 'Inform of outcome' and 'Closing the loop and reporting back' are still in progress, pending final determination of the Code Amendment.

Context

Engagement on the proposed Code Amendment was undertaken in accordance with the broader context of the T2D Project and confidentiality associated with the formal tender process to select the lead contractor / consortium to deliver the project.

The proposed Code Amendment provisions, and supporting Ministerial Building Standard and regulatory amendments, were kept confidential until released for Early Commencement and engagement in August 2023. The intent was to manage the risk of pre-emptive lodgement of development applications by affected property owners that might compromise the design and delivery of the T2D Project.

Scope of Influence

The Engagement Plan noted the scope of influence as follows:

- Aspects which stakeholders and the community can influence:
 - Providing information on the potential impact of the proposed new planning policies on current and future property owners and developers.
- Aspects which stakeholders and the community cannot influence:
 - The initiation of a Code Amendment which seeks to introduce a Tunnel Protection Overlay into the Planning and Design Code and apply it to the proposed Torrens to Darlington tunnels.
 - The extent of the subject land that forms the basis of the Code Amendment.
 - The engineering principles underpinning the triggers for referral to the Commissioner of Highways (the Commissioner).

3.1 Engagement Activities

Summary


Consultation Period - 31 August to 9 November 2023 (10 weeks)

- 1641 Letters / Flyers
- 2 Websites
- Dedicated 1300 Hotline
- 2 Community Information Sessions
- 2 T2D Community Information Centres
- 5 Fact Sheets / FAQs
- 13 Briefings
- Survey form



**Face-to-Face /
Online Briefings**

- 2022-23 **Councils** in T2D project area
– regular updates at monthly T2D Working Group meetings
- August **State Members of Parliament** *
Councils – Cities of Marion, Mitcham and West Torrens
Industry Groups (phone calls)
- September **Council** - City of West Torrens – briefing / Q&A with planning staff
- October Briefing / discussion with **Metropolitan Fire Service**



Letters / Flyers

- September 2023
- **Building Certifiers** (sent by PLUS)
 - **Landowners within TPO (798) * & Adjacent Landowners/Occupiers (792) ***
 - **Councils** – Cities of Marion*, Mitcham*, West Torrens*, Unley, Charles Sturt
 - **Local Government Association***
 - **State Government Agencies**
 - **Utilities / Essential Service Providers*** - SA Power Networks, Australian Gas Networks, Telstra, ElectraNet, APA Group, SA Water, EPIC Energy, NBN Co
 - **Peak Industry Groups** - Property Council, Urban Development Institute, Housing Institute, Engineers Australia, Planning Institute of Australia



**Information
Sessions**

- 26 September T2D Community Hub
Clovelly Park
5pm – 7pm
- 21 October West Adelaide Football Club
Richmond
10am – 12pm
- 2 staffed T2D Community Information Centres throughout consultation period at Clovelly Park (1194 South Road) and Torrensville (Brickworks Market)



**Websites /
Publications**

- Plan SA Portal - published 31 August / 1 September**
- **Consultation materials** Code Amendment, Ministerial Building Standard (MBS)
 - **Fact Sheet and FAQs** Code Amendment, MBS and Regulation amendments
 - **Information Sessions details**
 - **How to provide feedback**, feedback form, survey and dedicated 1300 Hotline
 - **Who to contact** to provide feedback or arrange a meeting
 - **Hard copies** available upon request or at T2D Community Information Centres
- T2D Project Website**
- **Summary of Change** (Code Amendment, Ministerial Building Standard)
 - **Video presentation outlining Code Amendment**

PlanSA Website (screenshot)

Tunnel Protection Overlay Code Amendment – early commencement

Summary of the Code Amendment

Designated Entity:
Department for Infrastructure and Transport

Contact Details:
River Torrens to Darlington Project Engagement Team
T: 1800 572 414
E: T2D@sa.gov.au

Overview:

The Department for Infrastructure and Transport is introducing a Tunnel Protection Overlay that will apply to the River Torrens to Darlington Project (T2D) tunnels.

The Overlay aims to ensure that future development activity and construction work nearby does not impact the tunnels.

As the T2D tunnels are the first major transport tunnels in South Australia, new requirements need to be introduced to guide development near this new type of essential infrastructure.

It's important that the area immediately around the T2D tunnels is protected from intrusion from structures, such as pilings or basements, or works such as deep excavation, and to ensure development activities don't create a change in the loading (or weight or stress) that is beyond what has been factored into the tunnel design.

The new requirements are consistent with similar planning measures interstate outlining what builders and engineers will need to consider when designing and building near the tunnels.

Public consultation on this Code Amendment was held from 31 August 2023 to 9 November 2023.

Initiation documents

- [Proposal to initiate \(PDF, 2356 KB\)](#)
- [Letter from the Minister to the Designated Entity approving the initiation with conditions \(PDF, 377 KB\)](#)

Consultation documents

- [Code Amendment for early commencement \(PDF, 1835 KB\)](#)
- [Engagement Plan \(PDF, 735 KB\)](#)
- [Discussion Paper \(PDF, 710 KB\)](#)
- [Fact sheet \(PDF, 1627 KB\)](#)
- [Frequently asked questions \(PDF, 133 KB\)](#)


Further information

For further information about the T2D Project visit [River Torrens to Darlington – Department for Infrastructure and Transport \(t2d.sa.gov.au\)](#)

Publication details – early commencement

Date: 31 August 2023

Planning and Design Code version number 2023.13

 Subscribe to be notified

T2D Project Website (screenshot) - www.t2d.sa.gov.au/planning-design/protection-measures-overview

[Home](#) > [Planning and design](#) > Protection measures overview

Protection measures overview



What are tunnel protection measures?

The T2D tunnels will run underneath the existing South Road corridor, but in some sections, they will run underneath privately owned properties – at depths of around 10m to approximately 30m below the surface.

Before tunnelling works start, we need to put measures in place to protect the integrity and ongoing operations of the new tunnels including:

- Code Amendment to the State's Planning and Design Code
- Well construction permits.

This project will deliver the first major transport tunnels for South Australia, which is why these new measures are required.

Code Amendment

We are seeking to amend the State's Planning and Design Code to ensure future development activity and construction work nearby doesn't impact the tunnels. The Minister for Planning has also introduced a new Ministerial Building Standard setting out technical matters that builders and engineers need to consider in designing building work near major transport tunnels.

If you plan to renovate or build in the future at a property that is immediately above or adjacent to the alignment of the new tunnels, the Code Amendment means there may be an additional process that will occur as part of the usual approvals required.

Development applications lodged after 31 August 2023 will be subject to the new provisions.

The intent of the changes is not to stop developments, but to ensure they do not impact on the tunnels. In most instances, the Code Amendment is not expected to impact any work a property owner may want to do in the future.

The new requirements are consistent with similar planning measures and standards interstate outlining what builders and engineers will need to consider when designing and building near the tunnels.

The proposed Code Amendment is available on the [PlanSA website](#) for you to provide feedback. Consultation on the proposed Code Amendment and Building Standard is open from 31 August to 9 November 2023.

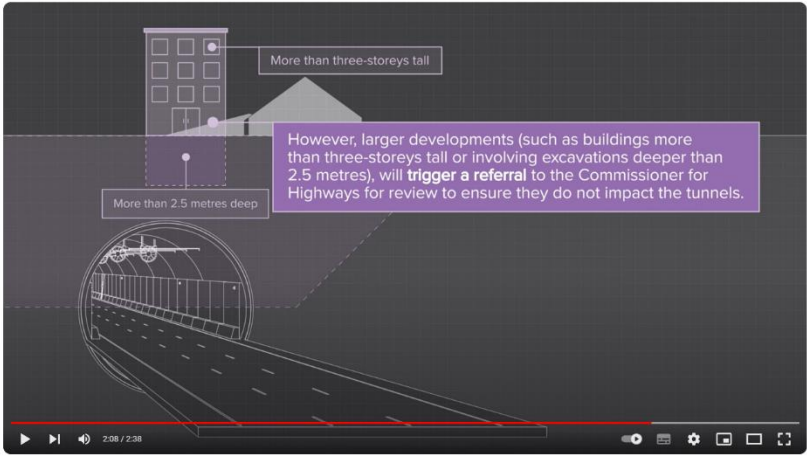
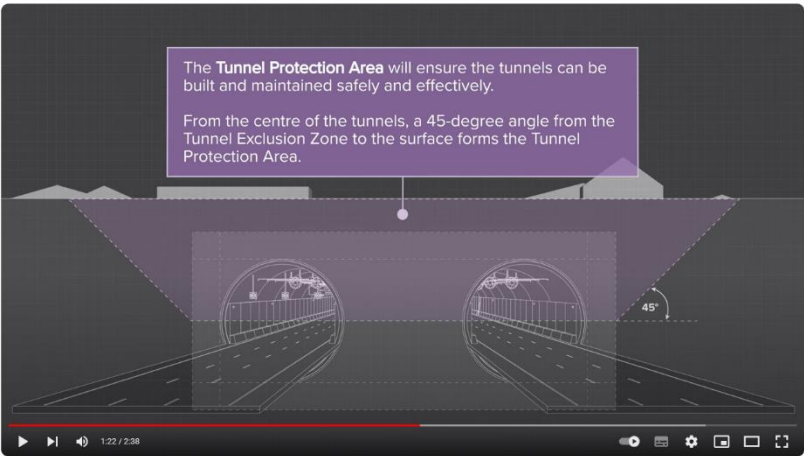
[Code Amendment fact sheet \(PDF 1.61MB\)](#)

Learn more about the proposed Code Amendment to the State's Planning and Design Code

The T2D website video - <https://youtu.be/jkOpSp7qtE8> (example screen shots)

We have introduced new requirements to guide development near the new tunnels. This is called a Code Amendment to the State's Planning and Design Code.

This means that if you plan to renovate or build a property that is on or adjacent to the tunnels, there may be an additional process that will occur as part of the usual approvals required.



Mandatory Requirements

The following mandatory engagement requirements have been met:

Notice and consultation with Local Government

The Community Engagement Charter requires that a council or councils must be directly notified and consulted on a proposed Code Amendment, where the proposed Code Amendment is specifically relevant to a particular council or councils (and where the council did not initiate the proposed Code Amendment).

Prior to gazettal and early commencement of the Code Amendment, MBS and Regulation changes:

- The five Councils located within the T2D Project area – being the Cities of West Torrens, Mitcham, Marion, Charles Sturt and Unley – were provided regular briefings on the introduction of the Tunnel Protection Overlay through monthly T2D Council Working Group meetings, including:
 - May 2022 – briefing on the proposed Tunnel Protection Code Amendment and invitation for Councils to provide feedback on proposed amendments to the Regulations to remove exemptions for Council works.
 - From September 2022, the Tunnel Protection Code Amendment was a standing item on the agenda for T2D Council Working Group meetings.
- Councils were also provided with an opportunity to raise matters related to the proposed Code Amendment at scheduled monthly one-on-one meetings between the T2D Project team and individual Councils.
- On 31 August 2023, prior to gazettal of the amendments and publication of the new Overlay on SAPPA and the MBS on the PlanSA portal:
 - Detailed pre-commencement briefings were held online (via Teams) with Councils within the Affected Area of the Code Amendment – City of Marion, City of West Torrens, City of Mitcham.
 - The briefings were followed up with emails to each Council providing copies of the presentation and materials issued for consultation, a list of affected properties, how to provide feedback, and a dedicated contact person to arrange individual briefings or for any clarifications.

During the consultation period (31 August 2023 to 9 November 2023):

- At the request of City of West Torrens, an additional face-to-face briefing was provided to Council planning staff at Council offices on 7 September 2023.
- Briefings, discussions, and updates on the Code Amendment were held with all Councils within the T2D Project area at standing monthly T2D Council Working Group meetings on 20 September and 18 October 2023.

- Based on feedback from Councils, the Department prepared and issued additional Information Sheets to Councils on 21 September 2023 to assist staff with public enquiries and application of the Tunnel Protection Overlay policies in relation to examples of stockpiling and storage activities, and design measures to mitigate impacts on tunnels.
- Formal letters inviting feedback and individual briefings were sent to Chief Executives of Councils within the Affected Area on 29 September 2023.
- Opportunities for discussions on the Code Amendment provided for all Councils in which the Code Amendment applies at scheduled monthly T2D:Council one-on-one meetings.

Notice and consultation with Local Government Association

The Community Engagement Charter requires that, the Local Government Association must be notified in writing and consulted, where the proposed Code Amendment is generally relevant to Councils.

- A letter was sent to the Local Government Association notifying them of the release of the Code Amendment inviting feedback and an individual briefing, with links to the PlanSA portal for further information on 29 September 2023.

Notice and consultation with Owners and Occupiers of Land which is Specifically Impacted

Section 73(6)(d) of the PDI Act requires that where a Code Amendment will have a specific impact on one or more particular pieces of land (rather than more generally), the Designated Entity must take reasonable steps to provide a notice to Owners or Occupiers of the land (and each piece of adjacent land) as prescribed by the Regulations.

- Letters were mailed to almost 800 owners of land within the Affected Area on 15 September 2023 advising them of the land affected; enclosing a Fact Sheet describing the impact; inviting feedback and guiding them to the PlanSA website, email or dedicated phone line for additional information about the Code Amendment and to provide feedback.
- A flyer was letter box dropped to almost 800 property owners adjacent the affected areas on 28 September 2023 inviting people to share their thoughts and guiding them to the PlanSA website, email or dedicated phone line for additional information about the Code Amendment and to provide feedback.

Notice and consultation with State Members of Parliament

In accordance with direction of State Planning Commission (s73(6)(e) of the PDI Act).

Individual face-to-face briefings were held on 31 August 2023 with the following State Members of Parliament in whose electorates the Code Amendment applies:

- Hon. Tom Koutsantonis MP, Member for West Torrens
- Nadia Clancy MP, Member for Elder
- Jayne Stinson MP, Member for Badcoe

Notice and consultation with Utility Service Providers

In accordance with direction of State Planning Commission (s73(6)(e) of the PDI Act).

- Letters were issued to the following utility service providers on 29 September 2023 outlining the consultation underway and how to provide feedback, providing a tailored Fact Sheet describing the impact on utility providers due to the amendments to the Regulations, and a link to the PlanSA portal for further information on the Code Amendment and consultation activities:
 - SA Power Networks
 - Australian Gas Networks
 - Telstra
 - ElectraNet Pty Ltd
 - APA Group
 - SA Water
 - EPIC Energy
 - NBN Co

Additional Stakeholder Engagement

Peak Industry Groups

- The T2D Director, Land, Planning and Environment phoned the following peak industry groups on 31 August 2023, prior to gazettal and commencement of the Code Amendment, notifying them of release for consultation, extending an invitation for an individual briefing, advising how to provide feedback and referring them to the PlanSA portal for further information:
 - Property Council
 - Planning Institute of Australia
 - Urban Development Institute of Australia
 - Housing Institute of Australia
 - Engineers Australia

Formal letters were issued on 29 September 2023.

State Government

- Letters were issued to all South Australian Government agencies on 29 September 2023 outlining the consultation underway and how to provide feedback, providing a tailored Fact Sheet describing the impact on State Agencies due to the amendments to the Regulations which remove some exemptions, and a link to the PlanSA portal for further information on the Code Amendment and consultation activities.

Other

- A one-on-one discussion was held with the Metropolitan Fire Service (MFS) on 23 October 2023 to clarify application of the proposed Overlay and MBS provisions to specific MFS properties within the Affected Area.
- SA Water sought, and was granted, an extension of time for providing a written response on 9 November 2023, with the response to be provided to DIT by 17 November 2023.

General Activities

Web content

- PlanSA Portal webpage – provided a ‘one-stop-shop’ webpage for all engagement collateral and information on the multiple ways we will accept feedback. The Fact Sheets and FAQs on the Code Amendment consultation page included links to the Ministerial Building Standard and outlined the associated amendments to the Regulations.
- T2D Project webpage – provided information about the Code Amendment, a video, a link to register to attend information sessions, and a link to the PlanSA portal webpage. In summary there were:
 - 920 Webpage views
 - 77 file downloads of the Code Amendment Fact Sheet
 - 32 video views completed.

Community Information Sessions

Drop-in Community Information Sessions were held in the northern and southern Affected Areas. Community members were invited to attend and ask any questions they might have about the Code Amendment and provide feedback. T2D Project team members were available to provide information about the Code Amendment, the process, and answer questions from the community.

Sessions were held on:

- Tuesday 26 September 2023 – Clovelly Park T2D Information Centre, South Road, Clovelly Park. There were no attendees at this session.
- Saturday 21 October 2023 – West Adelaide Football Club, Milner Road, Richmond
There were three (3) attendees at this session.

Fact Sheets

Fact sheets were distributed to stakeholders and landowners impacted by the Code Amendment to convey information about what a Code Amendment is, why it is relevant, and clearly explain the potential impacts of the Code Amendment, so that stakeholders are well informed.

An additional Fact Sheet was distributed to councils, state agencies and utility providers detailing amendments to the Regulations to remove exemptions for works posing a risk to the tunnels.

Subsequent Fact Sheets were also developed and distributed during the consultation period specifically for councils in response to a request for further guidance on application of the Code.

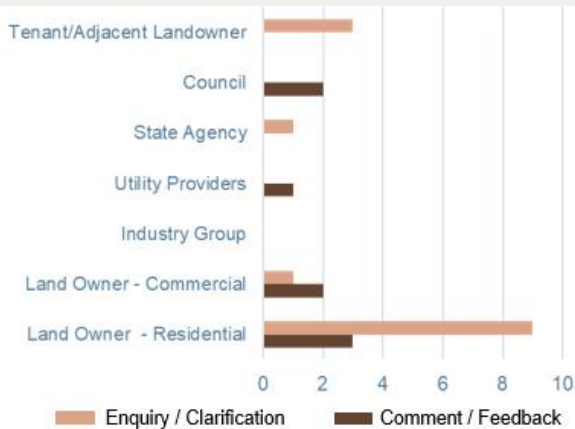
Multiple feedback points

- Submission form/online survey - a submission form and online survey provided the opportunity for the community and stakeholders to provide feedback on the Code Amendment.

- Dedicated phone line and email address - planning and engagement staff were available to receive feedback or respond to enquiries by phone and email throughout the consultation period through dedicated phone and email channels.
- T2D Community Drop-In Hubs at Clovelly Park and Torrensville - planning and engagement staff were available to receive feedback or respond to enquiries in person.

4. Engagement Outcomes

Summary



Responses by Zoning



Responses by Channel

Plan SA Online Form	2
T2D Email Box	7
Letter	1
1300 Hotline	9
Information Session	2
1:1 Meeting	1

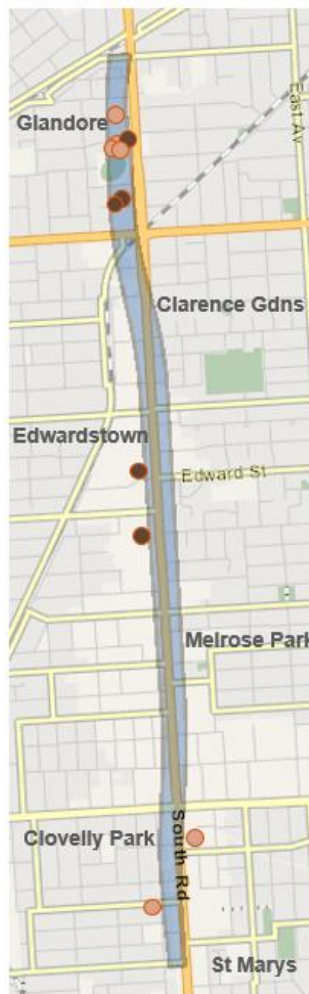
Submissions Received

- A total of 6 written submissions were received – 3 from the public, 2 from Councils and 1 from a utility provider – with an additional 2 residents raising matters via the 1300 hotline.
- In addition, 15 enquiries/clarifications about the Code Amendment or T2D Project in general were made via email, in person or the 1300 hotline.

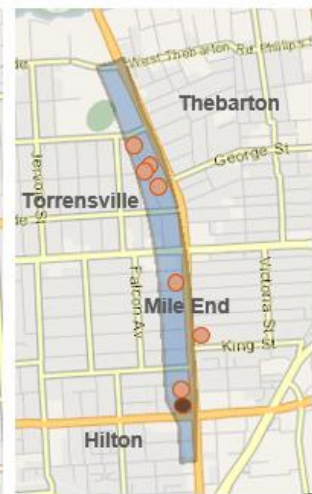
Issues Raised

- 4 respondents **suggested changes to improve application of the Code**, Ministerial Building Standard or Regulations to simplify assessment procedures or guide applicants/assessors.
- 4 respondents opposed the Code Amendment due to **concerns that the Overlay would restrict development potential** and adversely impact on property value.
- Most responses (64%) were either:
 - not related to the Code Amendment**, such as enquiries about the depth of the tunnels and/or impacts of tunnel construction activities on properties (e.g. noise, vibration), or
 - property owners seeking advice** on how the Overlay applies to a specific property, such as will it affect timeframes for my home renovations? or what matters should I consider in designing a non-residential development?

Southern Tunnel



Northern Tunnel



- Enquiry / Clarification
- Comment / Feedback

4.1 Issues Raised, Response and Recommendations

This section provides a summary of the key matters raised through written submissions, phone calls and Community Information Sessions. Written submissions are summarised at Attachment 2 and provided at Attachment 3.

Concerns that the Overlay will restrict future development potential

Two (2) written submissions (Vicinity Centres and Mr Abi Nair) and two (2) callers to the 1300 Hotline were concerned that the Overlay would restrict opportunities for future development or rezoning to more intensive uses and that they should be financially compensated.

Vicinity Centres noted that the Overlay applies to an approximately 30-metre-wide strip along two of their properties fronting South Road at Edwardstown, including Castle Plaza shopping precinct. The respondent considered the spatial extent of the Overlay to be conservative as it was based on the 2022 design and could impact the ability to achieve the development outcomes sought by the Suburban Activity Centre Zone and Urban Neighbourhood Zone. Vicinity Centres requested that the spatial extent be reduced so that it does not impact their properties or financial compensation be provided for loss of development potential.

Vicinity Centres suggested that the Overlay should not be applied until the final location and depth of the tunnels are known to not unreasonably limit development opportunities.

Discussion and Response

These concerns are based on the misconception that the proposed Overlay will prevent development that exceeds the thresholds set out in the Deemed to Satisfy / Designated Performance Features (DTS/DPF). The purpose of the DTS/DPF is to establish thresholds for referrals only and provide guidance on potential ways of achieving the Performance Outcomes of the Overlay.

Investigations undertaken during preparation of the Code Amendment, including a review of interstate and international experience, found that the proposed Overlay is not likely to restrict multi-storey developments, or the development outcomes sought by existing or future zoning.

As documented in the Engagement Plan, the spatial application of the Overlay is not within the 'scope of influence', being matters that can be influenced by feedback received during the consultation period. The spatial application is based on engineering requirements (international and Australian Standards) and the proposed location of the T2D tunnels.

The Overlay seeks to provide protection for the tunnel corridor throughout the detailed design, construction, and operation of the tunnels to provide certainty for investors and delivery partners. The alignment of the tunnels is anticipated to be finalised following Contract Award for delivery of the T2D Project in late 2024. The Overlay will be amended to reflect the final alignment.

Recommendation

No action required.

Consider removal of public notification requirement for Council, State agency and Essential Infrastructure works

The City of Marion and SA Water recommended removing the need for public notification for activities undertaken by Councils, State agencies and essential service providers that other than for the Overlay would not require approval under the PDI Act, such as stormwater works involving deep excavation, noting that public notification mechanisms are already in place for such works.

Discussion and Response

DIT notes that development by State agencies is generally subject to section 131 of the PDI Act, whereby construction cost (\$10 million) dictates public notification rather than the Code.

For Council development, Table 5 – Procedural Matters Notification excludes classes of development from notification including “*Clause 1 - Development which, in the opinion of the relevant authority, is of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development*”. However, in some instances this catch all provision may not be sufficient or appropriate to the circumstances of a development.

Therefore, for the zones impacted by the Tunnel Protection Overlay, it would be appropriate to provide further guidance in Table 5 – Procedural Matters Notification for certain types of developments by Councils that are considered development due to Schedule 3, Clause 10.

Recommendation

Amend Table 5 – Procedural Matters Notification for zones affected by the Tunnel Protection Overlay.

Register the Overlay area with Before You Dig Australia to raise awareness

City of Marion suggested that DIT register the Tunnel Protection Overlay area with Before You Dig Australia (BYDA) to draw people's attention to the presence of the tunnels and their obligations under the PDI Act.

Discussion and Response

DIT will consider further whether to register the T2D tunnels with BYDA following the further design work to occur after contract award.

Recommendation

DIT to consider registering the Tunnel Protection Overlay area with BYDA to raise awareness of obligations under PDI Act.

Clarify application of ‘stockpiling and storage’ provisions of the Code & MBS

The City of West Torrens and SA Water sought clarification of what constitutes ‘temporary stockpiling or storage of material or equipment (Code DTS/DPF 1.1 (b) (ii) and MBS DTS 4.1(b)(iii)).

Discussion and Response

DIT prepared an Information Sheet providing clarification on these provisions of the Code and MBS and provided to Councils to which the Overlay applies in September 2023.

Recommendation

No further action required.

Amend regulations to include minimum information requirements

The City of West Torrens suggested an amendment to Schedule 8 Regulations to include minimum requirements for an assessment of development within the Overlay to ensure referral triggers can be captured early in the assessment process and avoid requests for information.

Discussion and Response

A review of Schedule 8 found that no additional plans or information were required to assess development under the Overlay than that already captured in Schedule 8. DIT notes that guidance could be given regarding use of the Regulated Surface Level for measuring depth and height of developments, but this is provided in the MBS and reference can already be made to Practice Guideline 1 Natural Ground Level for how to interpret ground level. Given the minor nature of the requirement and reference to the Regulated Surface Level throughout the Overlay and MBS, DIT consider that this is appropriate, but the State Planning Commission may consider updating Practice Guideline 1 to reference the Regulated Surface Level.

Recommendation

The State Planning Commission consider amending Practice Guideline 1 to incorporate references to the Regulated Surface Level.

Referral period to be consistent with timeframe for other referrals to the Commissioner of Highways (20 days)

The City of West Torrens suggested the timeframe provided to the Commissioner to respond to a referral under the Overlay be amended from 30 days to 20 days to be consistent with the timeframe for other referrals to the Commissioner under the PDI Act.

Discussion and Response

Supported.

Recommendation

Make the referral timeframe 20 days to be consistent with other referrals to the Commissioner.

Consider matters relevant to the Overlay to be resolved as reserve matters

Franzon's Hilton Hotel expressed concern that the Overlay may increase the burden of information required to obtain planning consent. The respondent suggested that the Code be amended to allow matters relevant to the Overlay to be resolved as a reserve matter, enabling applicants to have the benefit of planning consent before undertaking additional engineering investigations and testing.

Discussion and Response

Introducing an MBS applicable to the Overlay meets the outcome sought by the respondent, enabling planning consent to be granted conditional on meeting the MBS requirements. This means detailed engineering investigations are not required until the building consent stage.

Recommendation

No action required.

Miscellaneous rewording to improve consistency and remove duplication

The City of West Torren suggested the following rewording and/or refinements to improve consistency and remove duplication of the Overlay policies and provisions:

Suggested Rewording / Refinement	Response
Correct the reference to the title of the Code Amendment (from Tunnel Corridor to Tunnel Protection Overlay) under the definition of 'Regulated Surface Level' in the Code (Part 8) to provide policy consistency.	Supported.
Reword Overlay DTS/DPF 1.1(a) to 'Does not exceed 3 building levels above the regulated surface level'. This proposal removes: a) references to land uses as this potentially creates conflict between the relevant zones and the Overlay. The only other Overlay that speaks to land uses (Gas and Liquid Petroleum Pipeline Overlay) has a PO that seeks to reduce community exposure and calls out specific land uses that encourage intensification of people; hence the listing of land uses aligns with the intent of the DO and PO. b) DTS/DPF 1.1(a)(xvii) which introduces a subjective provision to enable relevant authorities to determine that a referral is not necessary; there are already clear parameters in place for the referral trigger to the Commissioner.	Not supported. There is no conflict between land uses in the Overlay and applicable Zones. The reference to land uses in the Overlay is to combine with built form to describe a form of development that meets the Performance Outcome of tunnel protection from excessive loading. This does not infer an appropriateness of certain land uses within a Zone. Removal of DTS/DPF 1.1(a)(xvii) removes the discretion of the relevant authority to consider a development that doesn't fall within the preceding list of land uses to meet the Performance Outcome when considering the wide possibility of undefined land uses. Assessment Managers, Accredited Professionals and Council Assessment Panels already need to make subjective assessments based on professional judgement.
Reword Overlay DTS/DPF 1.1 (b)(ii) to reflect the wording of Regulations (Schedule 3, Clause 10), which also captures storage of vehicles and is more concise. The rewording will provide greater consistency between the Regulations and the Code.	Supported.

Suggested Rewording / Refinement	Response
Remove Overlay DTS/DPF 2.1(b) as it replicates DTS/DPF 2.1 (a).	Supported
At DTS/DPF 2.1 add a hyperlink to the comprehensive definition of ground intruding activity set out in the regulations and include this definition in the Code.	Not supported. Adding a hyperlink to a definition set out in the Regulations would be inconsistent with Code drafting protocols. Hyperlinks are only provided within the Code for terms defined in the Code, not for terms defined in the PDI Act or Regulations.

Recommendation

- Amend the Definition of the term Regulated Surface Level in the Code to reflect the correct name of the Tunnel Protection Overlay Code Amendment to improve consistency.
- Reword DTS/DPF 1.1(b)(ii) to reflect wording within the Regulations (Schedule 3, Clause 10) to remove ambiguity.
- Delete DTS/DPF 2.1(b) to remove duplication.

Concerns that insufficient information and training was provided to Councils prior to commencement of the Code Amendment and MBS

The City of West Torrens raised concerns about the adequacy of early discussion and sharing of policy and legislative changes prior to the Code Amendment going live to ensure relevant authorities were familiar and adept at deploying the policy.

They also suggested that inaccuracies within the policy may have been remedied and information shared with community at the time the Early Commencement began if there was earlier discussion with Council.

They also recommended that all information should be provided on the PlanSA consultation page including the MBS to provide clear line of sight of what the changes are.

Discussion and Response

DIT has noted the concerns raised by the City of West Torrens and provided ongoing support to Council since Early Commencement of the Code.

A T2D Council Working Group was established in 2021 to provide a forum for ongoing information sharing between the T2D Project team and the five Councils within the project area – Cities of West Torrens, Marion, Mitcham, Unley and Charles Sturt. The Tunnel Protection Code Amendment has been a standing agenda item for the working group since September 2022.

DIT provided a detailed briefing and copies of all collateral subject to consultation to each Council within the Overlay area on 31 August 2023, prior to the Code, MBS and regulatory changes going

live when published on the PlanSA portal on 1 September 2023. DIT also made available to Council staff a single point of contact for any enquiries regarding application of the Code.

Upon request of Council, a face-to-face information session was held with City of West Torrens planning and building staff on 7 September 2023 to discuss application of the Code in detail. In response to matters raised by staff, DIT prepared and distributed to all affected Councils additional information sheets on 21 September 2023 to further guide assessment (see Attachment 1).

DIT determined that the likelihood of an application triggering a referral during the consultation period was low given that only one development application lodged in the last five years would have triggered a referral had the Overlay been in place.

No assessment enquiries have been received from any relevant authorities since commencement of the Overlay.

DIT does not consider the minor policy amendments recommended through the consultation period to have a material effect on assessment processes or outcomes as the PO and DO clearly articulate the intent of the Overlay.

The consultation period ran for 10 weeks, which DIT believes provided sufficient time for Council to share the changes to the Code with the community at its Civic Centre and across relevant platforms. DIT made Councils aware that hard copies of the changes to the Code and associated documents were available upon request from DIT, as well as being available at the T2D hubs at Torrensville and Clovelly Park.

DIT notes that the PlanSA portal consultation page reflects requirements set out in the PDI Act regarding the process for amending a designated instrument, in this case the Code. This Code Amendment is unique in that it also involves a new MBS and regulation changes. The processes set out under the PDI Act for amending these instruments does not mandate formal consultation.

Nevertheless, DIT and PLUS consciously sought to ensure the community and stakeholders were made aware of the suite of measures being introduced under the PDI Act associated with the Tunnel Protection Overlay and explicitly invited feedback on the MBS and regulatory amendments as well as the Code Amendment. This included targeted communications (through letters, fact sheets, FAQs and one-to-one briefings – see Attachment 1) for the community and stakeholder groups. In addition, the Fact Sheet and, FAQ provided on the PlanSA Code Amendment consultation page (as well as letters to stakeholders) provided direct links to MBS011 and a summary of the regulation changes enacted, as well as contact details for further information.

Recommendation

DIT and PLUS to continue to support Council and the State Commission Assessment Panel in application of the Overlay.

Ensure technical staff correctly apply DTS / DPF

Future Urban, on behalf of Franzon's Hilton Hotel, requested technical staff involved in responding to referrals correctly interpret DTS/DPF as 'one way' of achieving the corresponding Performance Outcome per Part 1 of the Code, rather than mandatory criteria, to prevent the Overlay from unreasonably restricting development.

Discussion and Response

DIT staff responsible for undertaking technical assessments have been involved in developing the policy and understand the intent is to mitigate risk to the tunnels through design measures which do not unreasonably restrict development within the Overlay.

Recommendation

No action required.

Consider alternative approaches for managing SA Water works to support achieving level of service response times for unplanned high priority works

The regulation amendments introduced to support implementation of the Overlay included removal of exemptions from the need for approval under the PDI Act for essential infrastructure providers, councils and State agencies for activities posing a risk to the T2D tunnels. DIT considered this necessary to ensure the tunnels are protected from high risk activities regardless of the party undertaking the activity.

Most essential infrastructure providers (such as electricity, telecommunications) tend not to have assets located at a depth more than 2.5 metres and/or are already subject to the need for development approval, such as an electricity substation. An exception is SA Water who has a range of water, wastewater and sewer assets located at depths between 1 and 13 metres within the Overlay area. In addition, some new SA Water structures may also have loadings that exceed the 45kPa thresholds.

SA Water has expressed concern that the time required to obtain development approval will impact their ability to achieve level of service standards required under the Essential Services Commission of South Australia (ESCOSA) Water Retail Code. In particular, the ability to meet the 5-hour response time required for high priority unplanned events or interruptions to service (such as burst water or sewer mains) which significantly impact or endanger people, property or the environment.

With respect to planned works, for which approvals can be factored into relevant project approvals, SA Water also expressed concerns regarding additional costs and or timeframes associated with approvals due to the need for public notification when existing processes are already in place and the need to engage a Building Certifier for certification under the MBS.

Discussion and Response

DIT and SA Water met to discuss the matters raised and consider alternative approaches to meeting respective asset management requirements.

DIT and SA Water are working together to develop a protocol for SA Water to notify DIT regarding emergency works within the Overlay, to ensure technical engineering requirements are integrated into SA Water operational practices that mitigates the risk of works impacting the tunnels, during and following construction).

In relation to planned works by SA Water, public notification requirements are dictated by Section 131 of the PDI Act, rather than the Code. The requirement for engineering certification of SA Water infrastructure is not considered an additional burden as it is part of general construction requirements.

Recommendation

DIT and SA Water have established a communication protocol and operating practices (outside of the provisions of the PDI Act) to mitigate risks of unplanned SA Water works impacting the tunnels, prior to, during and following construction.

No amendments are required to the Overlay or the Regulations.

5. Recommended Changes

5.1 Summary of Recommended Changes

Recommendation
<p>Regulation Change</p> <ul style="list-style-type: none">Amend referral timeframe to 20 days to make consistent with other referrals to the Commissioner of Highway.
<p>Code Amendment</p> <p>Amend the Definition of the term Regulated Surface Level in the Code to reflect the correct name of the Tunnel Protection Overlay Code Amendment to improve consistency.</p> <ul style="list-style-type: none">Reword DTS/DPF 1.1(b)(ii) to reflect wording Regulations (Sch3 (10)) to remove ambiguity.Remove DTS/DPF 2.1(b) to remove duplication.Remove public notification requirements for works usually excluded under Schedule 4, 4A or 13 of the PDI Regulations from the need for approval under the PDI Act if undertaken by Councils, State Agencies and essential service providers.
<p>Additional Guidance and Awareness Raising</p> <ul style="list-style-type: none">The State Planning Commission consider amending Practice Guideline 1 to incorporate references to the Regulated Surface Level.DIT to consider registering the Tunnel Protection Overlay area with BYDA to raise awareness of obligations under PDI Act.

5.2 Code Amendment Instructions

The following amendment instructions (at the time of drafting) relate to the Planning and Design Code (the Code) version 2024.13 published on 18 July 2024. Where amendments to the Code have been published after this date, consequential changes to the following amendment instructions may be necessary to give effect to this Code Amendment.

Instructions

Amend the Code as follows:

Part 2 – Zones

1. Amend **Table 1 – Accepted Development Classification** of the following zones by replacing text where relevant in the Accepted development Classification Criteria for selected activities to align to the wording of Schedule 3, Clause 10 of the Planning Development and Infrastructure (General) Regulations 2017 and remove duplication:
 - Employment Zone
 - Established Neighbourhood Zone
 - General Neighbourhood Zone
 - Housing Diversity Neighbourhood Zone
 - Local Activity Zone
 - Recreation Zone
 - Strategic Employment Zone
 - Suburban Activity Centre Zone
 - Suburban Neighbourhood Zone
 - Urban Corridor (Main Street) Zone
 - Urban Neighbourhood Zone.

Class of Development	Current Wording within Accepted Development Classification Criteria	Changed Wording
<p><i>Building work on railway land</i></p> <p><i>Private bushfire shelter</i></p>	<p>X. <i>It does not include temporary stockpiling or storage of material or equipment over a designated stockpile or storage area that is larger than 100m² where located in the Tunnel Protection Overlay</i></p>	<p>X. <i>It does not include storage of materials, equipment or vehicles (whether temporary or permanent) over an area exceeding 100 square metres where located within the Tunnel Protection Overlay</i></p> <p>X. <i>It does not include temporary stockpiling of soil, gravel, rock or other natural material over an area exceeding 100 square metres where located within the Tunnel Protection Overlay</i></p>
<p><i>Ground intruding activity</i></p>	<p>1. <i>It does not involve ground intruding activity more than 2.5m below the regulated surface level where located within the Tunnel Protection Overlay.</i></p> <p>2. <i>It does not involve ground intruding activity involving an underground drain, pipe, cable, conduit, tunnel, underground passageway or adit.</i></p>	<p>1. <i>It does not involve ground intruding activity more than 2.5m below the regulated surface level where located within the Tunnel Protection Overlay.</i></p>

2. Remove public notification requirements for works usually excluded under Schedule 4, 4A or 13 of the PDI Regulations from the need for approval under the PDI Act if undertaken by Councils, State Agencies and essential service providers by inserting additional rows to **Table 5 - Procedural Matters (PM) – Notification** of the following zones:

- Employment Zone
- Established Neighbourhood Zone
- General Neighbourhood Zone
- Housing Diversity Neighbourhood Zone

- Local Activity Zone
- Recreation Zone
- Strategic Employment Zone
- Suburban Activity Centre Zone
- Suburban Neighbourhood Zone
- Urban Corridor (Main Street) Zone
- Urban Neighbourhood Zone.

<i>Class of Development (Column A)</i>	<i>Exceptions (Column B)</i>
<i>X. Storage of materials, equipment or vehicles (whether temporary or permanent) over an area exceeding 100 square metres on land within the Tunnel Protection Overlay</i>	<i>Where not undertaken by the Crown, a Council or an essential infrastructure provider</i>
<i>X. Temporary stockpiling of soil, gravel, rock or other natural material over an area exceeding 100 square metres on land within the Tunnel Protection Overlay</i>	<i>Where not undertaken by the Crown, a Council or an essential infrastructure provider</i>
<i>X. Excavation or ground intruding activity at a depth greater than 2.5 metres below the regulated surface level on land within the Tunnel Protection Overlay</i>	<i>Where not undertaken by the Crown, a Council or an essential infrastructure provider</i>

Part 3 – Tunnel Protection Overlay

3. Reword DTS/DPF 1.1(b) to simplify criteria, remove ambiguity and align to the wording of Schedule 3, Clause 10 of the Planning Development and Infrastructure (General) Regulations 2017 as follows:

DTS/DPF 1.1

Development satisfies (a) and (b):

(a) [per existing text].

(b) does not include any of the following:

- (i) filling of land more than 1 metre above the regulated surface level*

- (ii) *storage of materials, equipment or vehicles (whether temporary or permanent) over an area exceeding 100 square metres*
- (iii) *temporary stockpiling of soil, gravel, rock or other natural material over an area exceeding 100 square metres.*

4. Delete DTS/DPF 2.1(b) to remove duplication.

Part 8 – Administrative Terms and Definitions

5. Replace the definition of Regulated Surface Layer in Column B of the Administrative Terms and Definitions Table to the following:

Means the measured ground surface level within the boundaries of the Tunnel Protection Overlay as established at the time of commencement of operation of the Tunnel Protection Overlay Code Amendment, as shown on the Planning Reference layer of the SA Property and Planning Atlas.

6. Evaluation of Engagement

To ensure the principles of the Community Engagement Charter (the Charter) are met, an evaluation of the engagement process for the Code Amendment has occurred.

6.1 Performance Indicators for Evaluation

The minimum mandatory performance indicators have been used to evaluate engagement on the Code Amendment. These measures help to gauge how successful the engagement has been in meeting the Charter's principles for good engagement.

Evaluation of Engagement by Community Members

The minimum mandatory performance indicators required an evaluation of responses from members of the community on the engagement. This includes an evaluation of whether (or to what extent) community members felt:

1. That the engagement genuinely sought their input to help shape the proposed Code Amendment.
2. Confident their views were heard during the engagement.
3. They were given an adequate opportunity to be heard.
4. They were given sufficient information so that they could take an informed view.
5. Informed about why they were being asked for their view, and the way it would be considered.

This evaluation was undertaken by emailing an online survey on 17 November 2023 to individuals and organisations that contacted DIT and provided contact details. No responses were received.

The lack of response to the survey is not considered unusual in the context of the low submission rate. Of the 1600 properties and specific stakeholder groups that were notified, only 6 submissions were received. The low submission rate suggests that the Code Amendment elicited minimal concern amongst the community and stakeholder group.

A 'What We Heard' email has been sent to parties who made a submission, providing a summary of the feedback received during the engagement period and advising of the next steps in the process and anticipated timing.

Following approval of the Code Amendment, DIT intends to 'close the loop' by emailing those that lodged a submission to advise of the outcome of the Code Amendment and provide a link to the published Engagement Report.

Evaluation of Engagement by the Designated Entity

A further evaluation of the engagement process is required to be undertaken by (or on behalf of) the Designated Entity. The minimum performance indicators require an evaluation by the Designated Entity of whether (or to what extent) the engagement:

1. Occurred early enough for feedback to genuinely influence the planning policy, strategy or scheme.
2. Contributed to the substance of the final draft Code Amendment.
3. Reached those identified as communities or stakeholders of interest.
4. Provided feedback to community about outcomes of engagement.
5. Was reviewed throughout the process and improvements put in place or recommended for future engagement.

The evaluation of the engagement was undertaken by Nitsan Taylor, Principal, Holmes Dyer Pty Ltd on behalf of the Designated Entity. The results of the evaluation are contained in Attachment 2 to this Engagement Report.

6.2 Evaluation against the Charter principles

The following is a summary of the evaluation of the engagement against the five principles of the Charter. The full results of the evaluation can be found in Attachment 2 to this Engagement Report.

Charter Principle 1 - Engagement is genuine

Principle in Practice:

All parties are genuine and honest in their participation. Those conducting the engagement use their best endeavours to proactively seek participation of communities and genuinely listen to and understand the range of views. Those participating are open to a range of perspectives and are well informed. Participants respect that their views may not prevail.

Performance Outcome:

People had faith and confidence in the engagement process.

Evaluation Summary

It is considered that the Designated Entity used their best endeavours to reach as many potentially affected persons and stakeholders as possible through a wide range of means. The information that was produced was easy to read and understand and made available through different mediums to encourage engagement.

The three Councils within the Affected Area were briefed regularly and early in the process (from April 2022) and offered the opportunity to meet with the project team on an as-needed basis. Councils were given 10 weeks in which to make a submission.

Briefings were given to the relevant State MPs to provide them with sufficient information to be able to inform/respond to their community.

A letter and fact sheet were sent to nearly 800 landowners deemed to be directly impacted by the Code Amendment, providing them with approximately 7.5 weeks to gain an understanding of the Code Amendment, seek further information and provide feedback. A flyer was distributed to a further 800 households deemed to be generally impacted by the Code Amendment, providing them with approximately 6 weeks to gain an understanding of the Code Amendment, seek further information and provide feedback.

Two community information sessions were held, and a dedicated 1300 hotline was setup for the duration of the engagement period.

It is considered that the engagement occurred at the appropriate stage of the Code Amendment process and allowed sufficient time and opportunity for feedback to be provided and considered.

Additional time in which to make a submission was granted upon request.

The engagement documentation was clear about which aspects of the Code Amendment could be influenced by the community and stakeholders.

The engagement numbers were very low; however, it is considered that this was likely due to the very specific and narrow scope of the Overlay, which will not have a wide-ranging effect on the community, and the clear information that was provided about the Code Amendment.

It is considered that the engagement that was undertaken complies with Principle 1 of the Community Engagement Charter.

Charter Principle 2 - Engagement is inclusive and respectful

Principle in Practice:

Affected and interested people can have their say and be heard, regardless of background or status. People are invited/encouraged to participate early so that they can influence the process and the thinking from the start. All views are acknowledged and considered.

Performance Outcome:

Affected and interested people had the opportunity to participate and be heard.

Evaluation Summary

It is considered that the engagement undertaken by the Designated Entity was appropriately designed to encourage participation from all stakeholders and affected members of the community.

Whilst the number of people who engaged in the process was low, the submissions received and engagement register indicates that those who did engage with the Designated Entity were from the community and stakeholder groups who had been identified in the Engagement Plan as people of interest.

The Councils within the Affected Areas were engaged in advance of the formal consultation period to ensure they were afforded sufficient information and time to make an informed submission.

The engagement activities were tailored to meet the needs of the intended audience, with formal briefings held with Councils, MPs, state agencies and industry bodies; and informal drop-in sessions organised for community members. Informational material and correspondence about the Code Amendment was drafted to be accessible and easy to read and provide the appropriate degree of information for the target audience.

Information about the Code Amendment was made available through a variety of mediums to suit a wide audience. It is noted that all information regarding the Code Amendment included advice about how to access translation services.

It is considered that the engagement that was undertaken complies with Principle 2 of the Community Engagement Charter.

Charter Principle 3 - Engagement is fit-for-purpose

Principle in Practice:

The process matches the significance of the planning change. It is value-for-money, targeted, flexible, scalable and timely. Innovative forms of technology-based public engagement should be considered where appropriate.

Performance Outcomes:

People were effectively engaged and satisfied with the process.

People were clear about the proposed change and how it would affect them.

Having reviewed the engagement activities that were undertaken and the suite of engagement materials, it is considered that the engagement was thoughtfully designed and tailored to ensure it could be readily comprehended by the target audience.

Taking into account the broad spatial extent of the Overlay, the very specific nature of the Code Amendment and the limited forms of development it applies to, and the clearly expressed engagement documentation, it is considered that the length of consultation was appropriate.

It is considered that the engagement that was undertaken complies with Principle 3 of the Community Engagement Charter.

Charter Principle 4 - Engagement is informed and transparent

Principle in Action:

People have access to all relevant information at the time it is needed so that they can participate fully. They understand what is happening, why it is happening, what the consequences are and what they can and cannot influence. When decisions are made, the reasons behind them will be explained. Technology based engagement products can be used to provide digital feedback and evidence based reporting.

Performance Outcomes:

All relevant information was made available and people could access it.

People understood how their views were considered, the reasons for the outcomes and the final decision that was made.

The information pertaining to the Code Amendment was made available on the PlanSA website and the T2D website for the duration of the engagement period. All engagement materials included clear information about how this information could be accessed.

Post-engagement correspondence was sent to members of the community and stakeholders who made a submission, providing a summary of the submissions received ('What We Heard') and an outline of the next steps in the Code Amendment process.

A 'Closing the Loop' letter/email will be sent to members of the community and stakeholders who made a submission, advising of the outcome of the Code Amendment and where a copy of the Engagement Report can be viewed.

It is considered that the engagement that was undertaken complies with Principle 3 of the Community Engagement Charter.

Charter Principle 5 - Engagement processes are reviewed and improved

Principle in Action:

After each engagement exercise, the process is reviewed to see whether the principles have been met and what can be done to improve the process next time.

Performance Outcomes

The engagement was reviewed and improvements recommended.

A number of improvements were made to the engagement in response to ongoing evaluation processes.

Notably, the consultation period was extended by 2 weeks; individual briefings were given to the relevant State Members of Parliament; a FAQ document was released to the Council's within the Affected Areas in response to queries raised by one of the Councils; and one utility provider was given an extension of time in which to make a submission.

It is considered that the engagement that was undertaken complies with Principle 1 of the Community Engagement Charter.

7. Refer to the Minister for Planning and Local Government

On 12 August 2024 the Designated Entity approved the Code Amendment and this Engagement Report to be furnished on the Minister for Planning.

Attachment 1 – Engagement Documents

Online Information

DIT River Torrens to Darlington Project website – www.t2d.sa.gov.au/planning-design/protection-measures-overview, including link to video overview of the proposed Code Amendment – www.youtube.be/jkOpSp7gtE8 .

PlanSA Portal – Have Your Say: Code Amendments - [Code amendments | PlanSA](#)

Engagement Materials Attached

- Fact Sheet – general
- Frequently Asked Questions
- Fact Sheet – State Agencies, Councils and Essential Infrastructure Providers
- Information Sheets – additional information for Councils
- Letters to landowners within overlay and flyer to adjacent landowners / occupiers
- Letters to Councils, Local Government Association, State Agencies, essential infrastructure providers, peak industry groups
- Evaluation survey distributed to respondents



Tunnel Protection – proposed Code Amendment

The Australian and South Australian governments are delivering the most significant infrastructure project ever undertaken in South Australia, the 10.5km River Torrens to Darlington (T2D) Project.

Two sets of tunnels will be built in the north (Richmond to Torrensville) and south (Clovelly Park to Glandore) with an open motorway connecting them. When complete, more than 50% of the T2D motorway will be underground tunnels.

The tunnels will run underneath the existing South Road corridor and, in some sections, underneath properties at depths of around 10m to approximately 30m below the surface.

To protect the integrity and ongoing operation of the new tunnels, we are seeking to amend the State's Planning and Design Code (the Code) to ensure that future development activity and construction work nearby doesn't impact the tunnels.

To complement the policies in the Code, the Minister for Planning has introduced a new Ministerial Building Standard setting out technical matters that builders and engineers need to consider in designing building work and structures near major transport tunnels.

What does this mean for me as a property owner?

If you plan to renovate or build in the future at a property that is immediately above or adjacent to the alignment of the new tunnels, the Code Amendment means there may be an additional process that will occur as part of the usual approvals required.

The assessment pathway for certain types of development will change to ensure that potential impacts on the tunnels are considered in their design. The nature of the development you want to do determines whether this additional process is required or not.

The intent of the changes is not to stop developments, but to ensure they do not impact on the tunnels. In most instances, the Code Amendment is not expected to impact any work a property owner may want to do in the future.



Australian Government



Government of South Australia
Department for Infrastructure
and Transport

Information correct
as of August 2023

What is the Planning and Design Code?

The Code sets out the rules and policies that determine how land can be used in South Australia and what can be built on it.

It includes specific requirements for development near essential infrastructure (such as major roads, airports and pipelines) to avoid interruptions and impacts to this infrastructure.

Changing the requirements in the Code is called a 'Code Amendment'.

Why do you need to change the Code?

As the T2D tunnels are the first major transport tunnels in South Australia, new requirements need to be introduced to guide development near this new type of essential infrastructure.

It's important that the area immediately around the tunnels is protected from intrusion from structures, such as pilings or basements, or works such as excavation, and to ensure development activities don't create a change in the loading (or weight or stress) that is beyond what has been factored into the tunnel design.

The new requirements are consistent with similar planning measures interstate outlining what builders and engineers will need to consider when designing and building near the tunnels.

What change is proposed?

Certain development applications will be referred to the Commissioner for Highways for review to ensure they do not impact the tunnels.

Not all development applications will require this referral, only those that satisfy the following criteria:

- a new building (or alteration of or extension to an existing building) or temporary structure that exceeds 3 building levels
- excavation or ground intrusion at a depth exceeding 2.5m (such as footings, underground carparks, cellars, pipes or drains)
- fill or earthworks that build up the ground level by more than one metre
- storage of material or equipment or temporary stockpiling over a designated stockpiling or storage area exceeding 100m²

How you submit a development application will not change, this is just an additional step as part of the application process.

The intent is not to stop developments but to ensure they do not impact on the tunnels.

Any development applications lodged after 31 August 2023 will be subject to the new provisions.

What will the referral involve?

The referral will involve a technical assessment to ensure what is proposed will not impact the tunnels.

If the technical assessment finds that the work planned is likely to impact the tunnels, guidance will be provided on elements that don't meet the requirements.

What area is affected by the proposed change?

Properties within the affected area map are those near the northern and southern tunnels shown on the plan over the page. From a planning perspective, the affected area is called the 'Tunnel Protection Overlay.'

Will the Code Amendment change what can be built?

In most instances, no.

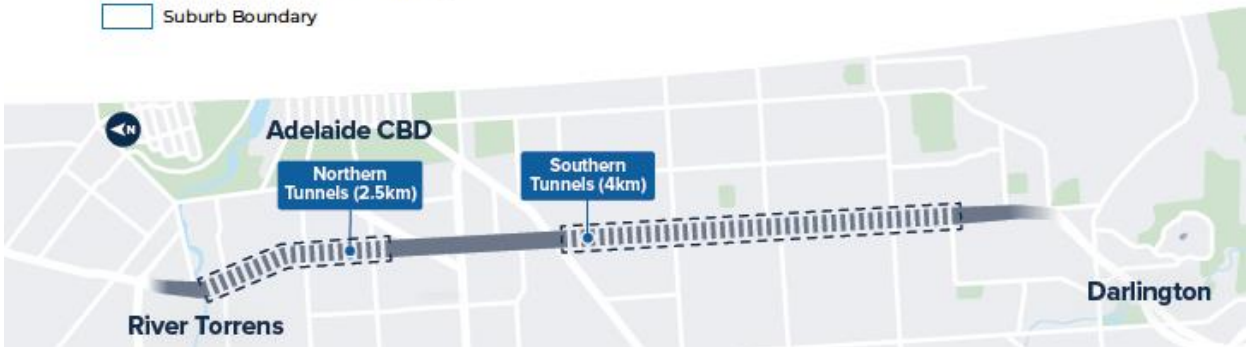
Swimming pools, single storey cellars, as well as footings and foundations associated with buildings less than 3 storeys will generally not require a referral to the Commissioner as they are unlikely to be deeper than 2.5m.

The proposed changes do not change how land is zoned. For example, if a section of land is zoned as residential, the proposed Code Amendment does not change this.

Tunnel Protection Areas (TPAs)



- Tunnel Protection Area Boundary
- Suburb Boundary



Further information and to provide your feedback

The proposed Code Amendment is available on the PlanSA website. Alternatively, please scan the QR code to view this information.

Consultation on the proposed Code Amendment and Building Standard is open for 8 weeks from 31 August 2023 to 26 October 2023.

There are several ways to provide your feedback:

- Via our online survey or submission form available on the [PlanSA](#) website.
- Via email to T2D@sa.gov.au
- In writing, addressed to:
Tunnel Protection Overlay Code Amendment
GPO Box 1533
ADELAIDE SA 5001
- By calling 1800 572 414
- Register to attend a drop-in tunnel protection community information session – please visit [On consultation | PlanSA](#) or scan the QR code for more information.

How will my feedback be used?

Your feedback will be used to better understand the potential impacts of the proposed planning policies so that mitigation strategies can be fully considered.

An Engagement Report will summarise all Code Amendment related feedback received during the consultation process. This will be publicly available on the PlanSA Portal following the Minister's decision.



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For more information



1300 951 145



T2D@sa.gov.au



T2D.sa.gov.au

Meet with the team face-to-face

Visit the T2D Project website for opening times and how to make an appointment to meet the team.



Community Information Centre (southern)
1194 South Road,
Clovelly Park



Community Information Centre pop-up (northern)
Brickworks Marketplace, Shop 24,
(Corner of South Road and Ashwin Parade, Torrensville)



Australian Government



Government of South Australia
Department for Infrastructure and Transport

Proposed Code Amendment

Who is proposing the Code Amendment?

The State Government is amending the Planning and Design Code so that development activity does not compromise the design, construction, and operation of the tunnels being delivered as part of the River Torrens to Darlington (T2D) Project.

The Minister for Planning has also introduced a Building Standard to complement the Code Amendment. This will ensure tunnel protection is considered during the assessment of new developments and the detailed assessment of building works.

Is it common to use the planning system to protect major transport tunnels?

Protecting major transport assets and other essential infrastructure, such as gas pipelines, from incompatible development has been a long-standing feature of South Australia's planning system.

The use of planning provisions to protect major underground transport infrastructure is international best practice and a feature of planning systems across Australia.

What happens if there are changes to the tunnel locations?

The current design and location of the tunnels may change once the head contractor is appointed and a detailed design is confirmed. The Tunnel Protection Areas (TPA) are wide and long enough to accommodate these design changes.

Once the design is finalised, the Tunnel Protection Overlay will be updated with the actual tunnel locations which may result in the TPAs becoming narrower and easing of referral thresholds.

What happens if the development is likely to impact the tunnels?

Should the Commissioner of Highways' technical assessment find that the development is likely to have an impact on the tunnels, the Commissioner will provide direction on the design elements to enable the proposed development to proceed without affecting the tunnels. The Commissioner will also refer the applicant to the Ministerial Building Standard for guidance on engineering requirements to be factored into the detailed building and construction plans.

Who will undertake the technical assessment for the Commissioner of Highways?

Tunnel engineers will undertake the technical assessment. For developments that exceed the thresholds, the engineers will assess the potential impact on the tunnels and may provide direction on design changes to mitigate impacts.

Will the Code Amendment change the assessment pathway?

Yes, the assessment pathway for certain types of development will change to ensure that potential impacts on the tunnels are considered in their design. For example, a Deemed-to-Satisfy application for semi-detached dwellings in the General Neighbourhood Zone may default to the Performance Assessed pathway if the land is covered by the Tunnel Protection Overlay and the footings will involve ground intruding activity more than 2.5m below the surface.

The classes of development that are more likely to be affected are those that are already subject to a Performance Assessed pathway. For example, an application for a 4-level residential flat building in the Urban Neighbourhood Zone would currently be subject to the Performance Assessed pathway. The Tunnel Protection Overlay won't change this pathway but will trigger a referral as the development exceeds 3 building levels in height.

Will the Code Amendment change what activities require a development application?

In some instances, yes. The following activities, that didn't previously always require a development application or building consent, will now require these if undertaken in the TPA:

- Ground intruding activities exceeding a depth of 2.5m, which means an activity that intrudes into the ground for the purposes of construction or other activity comprising:
 - building foundations and footings, comprising pile foundations, pad or strip footings;
 - an underground drain, pipe, cable, conduit, tunnel, passageway or adit; or
 - ground reinforcing elements, including ground anchors, soil nails, rock bolts or mechanical stabilising elements as part of a retaining structure.
- Excavation exceeding a depth of 2.5m or filling of land exceeding one metre
- Storage of material or equipment - any storage of materials, equipment or vehicles, whether permanent or temporary, over an area exceeding 100m² on land
- Temporary stockpiling - any temporary stockpiling of soil, gravel, rock or other natural material over a designated stockpile area exceeding 100m²
- Certain essential infrastructure works (e.g. electricity, water), Council works and development by State Agencies.

Will the changes affect what information I need to provide with my application?

Yes, in some instances where a development is likely to exceed the threshold for referral, the Commissioner may seek preliminary engineering information with the application.

In most cases, technical engineering information would not be required until the building consent stage. The Ministerial Building Standard provides details of the additional information that may be required which can also be confirmed in discussions with the Commissioner and/or Council prior to lodging an application.



Tunnel Protection – proposed Code Amendment and Ministerial Building Standard

Additional information about regulatory changes for State Government, Local Government and Essential Infrastructure Providers

The Australian and South Australian governments are delivering the most significant infrastructure project ever undertaken in South Australia, the 10.5km River Torrens to Darlington (T2D) Project.

Two sets of twin tunnels will be built in the north (Richmond to Torrensville) and south (Clovelly Park to Glandore) with an open motorway connecting them. When complete, more than 50% of the T2D motorway will be underground tunnels.

The tunnels will run underneath the existing South Road corridor and, in some sections, underneath properties at depths of around 10m to approximately 30m below the surface.

To protect the integrity and ongoing operation of the new tunnels, we are amending the State's Planning and Design Code (the Code) and Building Rules to ensure that future development activity and building work nearby doesn't impact the tunnels. These amendments involve introduction of a new Tunnel Protection Overlay and referrals to the Commissioner of Highways at both the planning consent and building consent stages of development assessment.

Why have the regulations changed?

To ensure the new Tunnel Protection Overlay applies to all activities that pose a risk to the tunnels, regardless of who is undertaking the works, the Planning, Development and Infrastructure (General) Regulations 2017 (PDI Regulations) have been amended.

The amendments mean that exclusions under Schedule 4 (general), 4A (essential infrastructure) and Schedule 13 (State Agency) of the regulations which negate the need for approval under the PDI Act do not apply within the Tunnel Protection Overlay if the works involve:

- construction of a new building exceeding 3 storeys in height
- an alteration or extension to an existing building which will result in the building exceeding 3 storeys in height
- the construction of a temporary or permanent structure exceeding 9m in height
- excavating or any ground intruding activity exceeding 2.5m below the regulated surface level
- filling exceeding a vertical height of 1m above the regulated surface level
- any storage of materials, equipment or vehicles (whether temporary or permanent) over an area exceeding 100m²
- any temporary stockpiling of soil, gravel, rock or other natural material over an area exceeding 100m².

The changes do not apply to activities undertaken by, or on behalf of, the Commissioner of Highways or the Rail Commissioner as mitigation of impacts on the tunnels will be managed internally by the Department.



Australian Government



Government of South Australia
Department for Infrastructure
and Transport

Information correct
as of August 2023

What will happen if proposed works are found to impact the tunnels?

The Commissioner of Highways will consider mitigation measures on a case-by-case basis. This may include factoring the proposed development activity into the design and construction of the tunnels, or working with the applicant to identify a design solution for the proposed development so that it does not impact on the tunnels.

What should I do if I am planning works within the Tunnel Protection Overlay that may exceed the thresholds in the regulations?

Councils, state agencies and infrastructure providers are encouraged to contact the Department early in the planning of works to discuss potential tunnel impacts, and if necessary, work together to determine how services and infrastructure can best be delivered while mitigating any impacts.

Preliminary agreements can also be established between the Department and the applicant under section 123 of the PDI Act to support fast tracking of the assessment timeframe.

What is the purpose of consultation for Councils, state agencies and essential infrastructure providers?

We are seeking feedback from Councils, state agencies and essential infrastructure providers to identify any unintended impacts that may result from the changes. We would also like to know if you have received enough information and guidance about undertaking works within the Tunnel Protection Overlay.

Further information and to provide feedback

The proposed Code Amendment is available on the [PlanSA](#) website.

The new *Ministerial Building Standard 011 - Additional requirements for designated Tunnel Protection Overlay areas* is available on the [PlanSA](#) website.

Information about changes to the PDI Regulations are set out in the [South Australian Government Gazette](#) published 31 August 2023.

Consultation on the proposed Code Amendment and Building Standard is open for 8 weeks from 31 August 2023 to 26 October 2023.

There are several ways to provide feedback:

- Via our online survey or submission form available on the [PlanSA](#) website
- Via email to T2D@sa.gov.au
- In writing, addressed to:
Tunnel Protection Overlay Code Amendment
GPO Box 1533
ADELAIDE SA 5001
- By requesting a one-on-one meeting with the project team. Bookings can be made by contacting 1800 572 414.

How will feedback be used?

Your feedback will be used to better understand the potential impacts of the proposed planning policies so that mitigation strategies can be fully considered.

An Engagement Report will summarise all Code Amendment related feedback received during the consultation process. This will be publicly available on the PlanSA Portal following the Minister's decision.

We speak your language



Need information in your language? Call the Interpreting and Translating Centre on: 1800 280 203

For more information

- 1300 951 145
- T2D@sa.gov.au
- T2D.sa.gov.au

Meet with the team face-to-face

Visit the T2D Project website for opening times and how to make an appointment to meet the team.



Community Information Centre (southern)
1194 South Road,
Clovelly Park



Community Information Centre pop-up (northern)
Brickworks Marketplace, Shop 24,
(Corner of South Road and Ashwin Parade, Torrensville)



Australian Government



Government of South Australia
Department for Infrastructure
and Transport

TUNNEL PROTECTION OVERLAY INFORMATION SHEET

Mitigating Potential Impacts on Tunnels

Early pre-application discussions between the developer and the River Torrens to Darlington (T2D) team are encouraged to mitigate potential impacts on the tunnels.

Interstate experience has shown that these early discussions between the developer and the referral authority often lead to the design of the development being progressed in such a way that specific tunnel protection measures are not required.

In a minority of cases mitigation measures may be required to provide confidence that the development will not put tunnel infrastructure at risk.

Examples of mitigation measures used in other jurisdictions are set out in the table below.

CONCERN	EXAMPLE DESIGN SOLUTIONS TO MITIGATE IMPACTS
High building loads over the tunnels	<ul style="list-style-type: none"> Configuring the building so that the heavy load bearing structures, such as the core, are at the greatest offset from the tunnels Excavation of ground for basement to limit the net building load increase Use of lighter structural forms such as timber
High local loading effect on the tunnel structures	<ul style="list-style-type: none"> Use of raft slab to minimize peak loadings when close to the tunnels Use of piles to take loads below the tunnels (when the tunnels are relatively shallow)
Unloading from excavations	<ul style="list-style-type: none"> Staging the construction to defer excavation until some of the building loads are applied Use of vertical compensation ground anchors

Note, the mitigation measures outlined above are examples only and should not be relied upon in preparing development applications or designing developments. Appropriate mitigation measures are dependent upon a range of factors, including but not limited to the aspect of the development that is of concern with respect to effect on the tunnels.

If there is potential for a proposed development to meet thresholds for referral under the Overlay or Building Standard, developers are encouraged to contact the T2D project team on 1300 951 145 or T2D@sa.gov.au prior to lodging an application to discuss their proposed development.

The Commissioner of Highways will consider all proposed developments referred under the Tunnel Protection Overlay on a case-by-case basis.

TUNNEL PROTECTION OVERLAY INFORMATION SHEET

Guidance on Stockpiling and Storage Activities

The Tunnel Protection Overlay introduces a requirement for development assessment of activities that pose a risk to the integrity of the River Torrens to Darlington tunnels, including several activities that previously did not require planning or building consent.

This includes, if undertaken in a Tunnel Protection Overlay area, the:

- temporary stockpiling of soil, gravel, rock or other natural material over a designated stockpile area exceeding 100m²
- storage of materials, equipment or vehicles, whether temporary or permanent, over an area exceeding 100m²

The aim is to ensure excessive loading (weight or pressure) is not imposed on the tunnels.

The table below provides examples of stockpiling and storage activities and indicates whether they require assessment / referral to the Commissioner of Highways.

DEVELOPMENT ASSESSMENT / REFERRAL TO COMMISSIONER REQUIRED	DEVELOPMENT ASSESSMENT / REFERRAL TO COMMISSIONER NOT REQUIRED
<ul style="list-style-type: none"> • Industrial sites or large storage yard with heavy material or equipment occupying an area exceeding 100m² • Heavy vehicle or equipment (truck, tractor, earthmoving) storage, rental or sales business with area occupied by vehicles or equipment exceeding 100m² 	<ul style="list-style-type: none"> • Brief periods of loading/offloading before the material or equipment is used or shifted elsewhere • Parking of individual vehicles loaded with material or equipment • Separate/individual stockpiles of construction materials (e.g. soil, gravel, rock or other natural materials) or building materials (e.g. bricks, precast units or frames) associated with typical residential and commercial developments as individually the piles/storage are unlikely to exceed 100m² • Placement of individual generators or individual skip bins as these will have a footprint less than 100m² • Supermarket carpark or service station

At the building consent stage, the threshold for an application and referral to the Commissioner is a surface loading exceeding 20kPa. Clause 4.5.1 of *Ministerial Building Standard 11: additional requirements for designated tunnel protection overlay areas* sets out the following methodology for calculating the loading:

The change to surface loading from storage of material or equipment or temporary stockpiling of materials for earthworks, building work, construction or landscaping can be calculated either similar to a building (i.e., total weight divided by the loaded area) for a relatively uniform loading or by taking the maximum loading and dividing it by the area where it applies. 20kPa is approximately 2 tonnes per square metre.



13 September 2023

Name
Address
Address

Dear [REDACTED]

RIVER TORRENS TO DARLINGTON PROJECT

RE: Description of affected property
CERTIFICATE OF TITLE: [REDACTED] Affected CT

New planning requirement proposed to guide development near the River Torrens to Darlington tunnels

The Australian and South Australian governments are delivering the most significant infrastructure project ever undertaken in South Australia, the 10.5km River Torrens to Darlington (T2D) Project.

Two sets of twin tunnels will be built in the north (Richmond to Torrensville) and south (Clovelly Park to Glandore) with an open motorway connecting them. The tunnels will run deep underground at around 10-30 metres below the surface.

To protect the integrity and ongoing operation of the new tunnels, we are seeking to amend the State's Planning and Design Code (the Code) to ensure that future development activity and construction work nearby doesn't impact the tunnels.

What do you need to know?

We are writing to make you aware that we are proposing to introduce a new requirement to guide development near the tunnels. This is called an amendment to the State's Planning and Design Code.

This means that if you plan to renovate or build in the future, there may be an additional process that will occur as part of the usual approvals required.

The intent of the changes is not to stop developments, but to ensure they do not impact on the tunnels. In most instances, the proposed new requirement is not expected to impact any work a property owner may want to do in the future.

As this project will deliver the first major transport tunnels for South Australia, this proposed change will make us consistent with similar planning measures interstate, outlining what builders and engineers will need to consider when designing and building near the tunnels.

We speak your language



Need information in your language? Call the Interpreting and Translating Centre on:  1800 280 203

What do we need from you?

The South Australian Government is currently seeking feedback on the proposed Code Amendment until 9 November 2023.

The proposed Code Amendment is available on the PlanSA website. Alternatively, please scan the QR code on the following page to view this information.

More information

We encourage you to read the attached Fact Sheet that provides more information about the proposed Code Amendment.

If you have any questions and would like to speak to project team member, please contact us:

- Call: 1800 572 414
- Email: T2D@sa.gov.au
- Visit our website: T2D.sa.gov.au
- Visit us in person:
 - visit a T2D Community Information Centre – check our website for opening times and address details
 - scan the QR code to register to attend a drop-in Community Information Session to learn more about the Code Amendment.



Kind regards,

T2D Project Engagement Team

T2D TORRENS TO
DARLINGTON

Tunnel Protection – proposed Code Amendment

The T2D Project will deliver the first major transport tunnels for South Australia.

Before tunnelling works start, there are measures we need to put in place to protect the integrity and ongoing operations of the planned T2D Project tunnels.

We have introduced new requirements to guide development near the new tunnels. This is called a Code Amendment to the State's Planning and Design Code.

This means that if property owners plan to renovate or build a property that is on or adjacent to the tunnels, there may be an additional process that will occur as part of the usual approvals required.

The intent of the changes is not to stop developments, but to ensure they do not impact on the tunnels. In most instances, the proposed new requirement is not expected to impact any work a property owner may want to do in the future.

You may want the opportunity to provide feedback on the Code Amendment as an adjacent property close to the affected area.



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Government of South Australia

Department for Infrastructure
and Transport

T2D TORRENS TO
DARLINGTON

Share your thoughts


Consultation on the proposed Code Amendment and Building Standard is open until 9 November 2023.



Scan the QR code to view this information on the PlanSA website and provide your feedback.

There are several ways to provide your feedback:

- Via our online survey or submission form available on the PlanSA website
- Via email to T2D@sa.gov.au
- In writing, addressed to:
Tunnel Protection Overlay Code Amendment
GPO Box 1533
ADELAIDE SA 5001
- By calling 1800 572 414
- Register to attend a drop-in tunnel protection community information session via the PlanSA website.

We speak 
your language

Need information in your language? Call the interpreting and Translating Centre on 1800 280 203.

For more
information

-  1300 951 145
-  T2D@sa.gov.au
-  T2D.sa.gov.au



Enquiries to T2D@sa.gov.au
Telephone 1800 572 414

Name

Address

Dear

RIVER TORRENS TO DARLINGTON PROJECT - TUNNEL PROTECTION MEASURES INTRODUCED

As you are aware, the Australian and South Australian governments are delivering the most significant infrastructure project ever undertaken in South Australia, the 10.5km River Torrens to Darlington (T2D) Project.

I am writing to advise you that we are seeking to amend the State's Planning and Design Code (the Code) to ensure that future development activity and construction work nearby doesn't impact the tunnels.

These measures only apply near the location of the T2D tunnels, within the City of West Torrens, City of Mitcham, and City of Marion.

The intent of the changes is not to stop developments, but to ensure they do not impact on the tunnels.

Changes to the Planning and Design Code and Building Rules

To ensure future development activity and building work nearby doesn't impact the tunnels, the Minister for Planning has:

- approved the Tunnel Protection Overlay Code Amendment for early commencement¹
- introduced a new Ministerial Building Standard
- amended the *Planning, Development and Infrastructure (General) Regulations 2017* (PDI Regulations) to ensure the Tunnel Protection Overlay applies to all activities that pose a risk to the tunnels, regardless of who is undertaking the works, including councils, state agencies and infrastructure providers.

¹ pursuant to section 78(1) of the *Planning, Development and Infrastructure Act 2016*

These measures came into effect on 31 August 2023. All development applications received from this date are subject to the new provisions.

The amendment to the State's Planning and Design Code is consistent with similar planning measures interstate outlining what needs to be considered when designing and building near the tunnels.

The new planning and building provisions mean that in the Tunnel Protection Overlay areas:

- some activities that did not previously require development approval and/or building consent will now require approval, including certain essential infrastructure, [council](#) and state agency works
- proposed developments that exceed thresholds that pose a risk to the tunnels will be referred to the Commissioner of Highways for direction on assessment at both the planning consent and building consent stages.

More information

I encourage you to read the attached Fact Sheets that provide additional information about the changes.

The proposed Code Amendment is available on the [PlanSA website](#) as well as the new [Ministerial Building Standard 011 - Additional requirements for designated Tunnel Protection Overlay areas](#).

Information about changes to the PDI Regulations are set out in the [South Australian Government Gazette](#) published 31 August 2023.

Feedback invited

We are seeking feedback on the proposed Code Amendment, Ministerial Building [Standard](#) and regulation changes until 9 November 2023.

There are several ways to provide feedback:

- Via our online survey or submission form available on the PlanSA website
- Email: T2D@sa.gov.au
- In writing, addressed to:
Tunnel Protection Overlay Code Amendment
GPO Box 1533
ADELAIDE SA 5001

If you have any questions or would like to request a briefing with our Project team, please contact us:

- Call: 1800 572 414
- Email: T2D@sa.gov.au

What else is happening?

Well Construction Permit Applications

New applications for certain types of drilling activities near the tunnels will be reviewed by the Department for Infrastructure and Transport to determine any potential tunnel impacts. Further information about drilling activities close to the tunnels can be found on the [T2D website](#).

Yours sincerely,

Wayne Buckerfield
Deputy Chief Executive
Executive Director, North South Corridor
Department for Infrastructure and Transport

September 2023

River Torrens to Darlington (T2D) Project - Tunnel Protection Overlay Code Am...



DIT:T2D

To [REDACTED]



Reply Reply All Forward ...

Fri 17/11/2023 2:29 PM

Hi [REDACTED]

We would like to thank you for your enquiry received during the River Torrens to Darlington (T2D) Tunnel Protection Overlay Code Amendment consultation period.

As the consultation period has now closed we would like to invite you to share your feedback on the Code Amendment consultation by taking this 5-minute [survey](#).

Your feedback will help us to evaluate our consultation process to support continuous improvement.

If you have any questions about the project, please call the T2D Engagement Team on 1300 951 145 or email T2D@sa.gov.au

Kind regards,
T2D Engagement Team

North-South Corridor, River Torrens to Darlington Project

Department for Infrastructure and Transport



Government of South Australia

Department for Infrastructure
and Transport

T 1300 951 145 • E T2D@sa.gov.au

W www.dit.sa.gov.au/torrenstodarlington

Kaurna Country

83 Pirie Street, Adelaide SA 5000 • GPO Box 1533, Adelaide SA 5001 • DX 171



We acknowledge the Traditional Custodians of the Country throughout South Australia and recognise their continuing connection to land and waters. We pay our respects to the diversity of cultures, significance of contributions and to Elders past, present and emerging.

We are committed to creating a diverse and inclusive culture where everyone is valued and respected.

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Tunnel Protection Overlay Code Amendment



Post consultation survey questions

We invite you to share your feedback on the River Torrens to Darlington (T2D) Tunnel Protection Overlay Code Amendment consultation by taking this 5-minute survey. Your feedback will help us to evaluate our consultation process to support continuous improvement.

First Name *	<input type="text"/>
Last Name *	<input type="text"/>
Email *	<input type="text"/>
Organisation	<input type="text"/>
If applicable	<input type="text"/>

Feedback on the engagement process

I feel the engagement genuinely sought my input.

*

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

I am confident my views were heard during the engagement.

*

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

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I was given sufficient information so that I could take an informed view. *

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

I was given an adequate opportunity to be heard. *

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

I felt informed about why I was being asked for my view, and the way it would be considered. *

Strongly agree

Agree

Neutral

Disagree

Strongly disagree

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Attachment 2 - Engagement Evaluation Report

HOLMES DYER

Engagement Evaluation

The engagement undertaken by the Designated Entity has been evaluated by Nitsan Taylor, Principal Consultant, Holmes Dyer Pty Ltd, against the 5 Principles of the Community Engagement Charter – Version 1 (April 2018):

- 01 Engagement is genuine
- 02 Engagement is inclusive and respectful
- 03 Engagement is fit for purpose
- 04 Engagement is informed and transparent
- 05 Engagement processes are reviewed and improved

The Evaluation had regard to the following documents:

- *Community Engagement Charter – Version 1 (April 2018)*
- *Guide to the Community Engagement Charter (April 2018)*
- Tunnel Protection Code Amendment Engagement Plan (August 2023)
- Tunnel Protection Code Amendment Engagement Report (draft – 15 Jan 2024)
- Tunnel Protection Code Amendment Engagement Register
- Tunnel Protection Code Amendment Engagement Activity Register
- Submissions received in response to the Tunnel Protection Code Amendment
- Letter sent to directly impacted landowners
- Letter sent to Councils, state agencies and other stakeholders
- Tunnel Protection Code Amendment Flyer sent to generally impacted landowners
- Tunnel Protection Code Amendment Fact Sheet
- Tunnel Protection Code Amendment FAQ document (21 Sept 2023)
- Online Evaluation Survey

Evaluation statement	Response options
1 Engagement occurred early enough for feedback to genuinely influence the planning policy, strategy or scheme (<i>Principle 1</i>)	<input type="checkbox"/> Engaged when there was opportunity for input into scoping <input type="checkbox"/> Engaged when there was opportunity for input into first draft <input checked="" type="checkbox"/> Engaged when there was opportunity for minor edits to final draft <input type="checkbox"/> Engaged when there was no real opportunity for input to be considered

Comment:

The Designated Entity commenced early engagement with the five Councils located within the T2D project area in April 2022. This took the form of a briefing to the T2D Council Working Group on the proposed Code Amendment, MBS and regulations changes. From September 2022, the Code Amendment was a standing item on the agenda of the monthly T2D Council Working Group meetings.

The Councils were also offered the opportunity to raise matters relating to the Code Amendment at scheduled one-on-one meetings with the T2D project team. This offer was accepted by one Council (City of West Torrens), who met with the project team on one occasion (7 September 2022). As a result of this meeting and the queries raised, an FAQ document was prepared and circulated to the three Councils within the Affected Areas to provide them with further information on the Code Amendment.

Formal engagement on the Code Amendment commenced on 31 August 2023. On this same day, prior to the Code Amendment being published in the Planning and Design Code and gazettal of the amendments, pre-commencement briefings were provided to the Councils within the Affected Areas of the Code Amendment. Briefings were provided to the relevant State MPs on the day the Code Amendment was released for consultation, to provide them with sufficient information to be able to inform/respond to their community.

A letter and fact sheet were sent to nearly 800 landowners deemed to be directly impacted by the Code Amendment (landowners within the Affected Areas) on 15th September 2023 advising them of the Code Amendment and offering the opportunity to provide feedback. This provided the landowners with approximately 7.5 weeks to gain an understanding of the Code Amendment, seek further information and provide feedback.

On 28th September, a flyer was distributed to approximately 800 households deemed to be generally impacted by the Code Amendment (landowners adjacent the Affected Areas), advising them of the Code Amendment and how they can provide feedback. This provided the landowners with approximately 6 weeks to gain an understanding of the Code Amendment, seek further information and provide feedback.

Two community information sessions were held on Tuesday 26th September and Saturday 21st October 2023. No attendees were recorded for the first session, with 3 attendees recorded for the second session. The poor attendance at the first session could be attributed to the relatively

Evaluation statement

Response options

short notice provided (approximately 5 days by the time letters were received). However, given the second session also generated minimal interest and only 9 enquiries were received via the dedicated 1300 hotline for the duration of the engagement period, it is considered more likely that the general public had no concerns with the Code Amendment or deemed it to be of limited relevance to them.

The letters and flyers distributed to the community and other relevant stakeholders were written in a clear and concise manner and provided information about how the Code Amendment will affect them, how they can find out more about the Code Amendment, and how to provide feedback.

It is considered that the engagement occurred at the appropriate stage of the Code Amendment process and allowed sufficient time and opportunity for feedback to be provided and considered. Additional time in which to make a submission was granted on request.

The engagement numbers were very low; however, it is considered that this was likely due to the very specific and narrow scope of the Overlay, which does not have a wide-ranging effect on the community, and the clear information that was provided about the Code Amendment.

Evaluation:

It is considered that the engagement complies with Principle 1 of the Community Engagement Charter (Engagement is genuine)

- | | | |
|---|---|--|
| 2 | Engagement contributed to the substance of the Code Amendment (Principle 1) | <input type="checkbox"/> In a significant way
<input type="checkbox"/> In a moderate way
<input checked="" type="checkbox"/> In a minor way
<input type="checkbox"/> Not at all |
|---|---|--|

Comment:

The Tunnel Protection Overlay and Affected Areas has been guided by a significant body of technical investigations into the structural and operational requirements of the proposed T2D tunnels. As such, the scope of influence was limited to the policy content of the proposed Overlay and feedback on how the policy might affect the development of land within the Affected Area.

Of the 6 submissions received during the engagement period, some recommended changes to the policy content of the Overlay. A number of amendments have subsequently been made to the policy content of the Overlay in response to feedback received during the engagement period.

The engagement documentation and Engagement Plan was clear about which elements of the Code Amendment could be influenced by the community and stakeholders.

Evaluation:

It is considered that the engagement complies with Principle 1 of the Community Engagement Charter (Engagement is genuine)

Evaluation statement	Response options
<p>3 The engagement reached those identified as the community or stakeholders of interest (<i>Principle 2</i>)</p> <p>The engagement was fit-for-purpose and designed to match the significance of the planning change (<i>Principle 3</i>)</p>	<p><input checked="" type="checkbox"/> Representatives from most community groups participated in the engagement</p> <p><input type="checkbox"/> Representatives from some community groups participated in the engagement</p> <p><input type="checkbox"/> There was little representation of the community groups in engagement</p>
<p><u>Comment:</u> The Designated Entity maintained a register of the phone calls, emails and conversations with engagement staff held at drop-in sessions for the duration of the consultation period.</p> <p>Whilst the number of people who engaged in the process was low, the register indicates that those who did engage with the Designated Entity were from the community and stakeholder groups who had been identified in the Engagement Plan as people of interest. This is also reflected in the submissions received, with 2 being from Councils within the Affected Areas, 3 from members of the community/landowners within the Affected Areas, and 1 from a utility provider who had been specifically contacted by the Designated Entity.</p> <p>Having reviewed the engagement activities that were undertaken and the suite of engagement materials, it is considered that the engagement was thoughtfully designed and tailored to the ensure it could be readily comprehended by the target audience.</p> <p>Taking into account the broad spatial extent of the Overlay, the very specific nature of the Code Amendment and the limited forms of development it applies to, and the clearly expressed engagement documentation, it is considered that the length of consultation was appropriate.</p> <p><u>Evaluation:</u> It is considered that the engagement complies with Principle 2 and Principle 3 of the Community Engagement Charter (Engagement is genuine; Engagement is fit for purpose)</p>	
<p>4 Engagement included the provision of feedback to community about outcomes of engagement (Principle 4)</p>	<p><input checked="" type="checkbox"/> Formally (report or public forum)</p> <p><input checked="" type="checkbox"/> Informally (closing summaries)</p> <p><input type="checkbox"/> No feedback provided</p>
<p><u>Comment:</u> Post-engagement correspondence was sent to members of the community and stakeholders who made a submission, providing a summary of the submissions received ('What We Heard') and an outline of the next steps in the Code Amendment process.</p> <p>Once a decision has been made on the Code Amendment, the Designated Entity has committed to sending out a 'Closing the Loop' letter/email to members of the community and stakeholders who made a submission, advising of the outcome of the Code Amendment and where a copy of the Engagement Report can be viewed.</p>	

Evaluation statement	Response options
<p><i>It is considered that the 'Closing the Loop' strategies undertaken and proposed to be undertaken as part of the engagement were/are appropriate.</i></p>	
<p><u>Evaluation:</u> <i>It is considered that the engagement complies with Principle 4 of the Community Engagement Charter (Engagement is informed and transparent).</i></p>	
<p>5 Engagement was reviewed throughout the process and improvements put in place, or recommended for future engagement (Principle 5)</p>	<p><input checked="" type="checkbox"/> Reviewed and recommendations made in a systematic way <input type="checkbox"/> Reviewed but no system for making recommendations <input type="checkbox"/> Not reviewed</p>
<p><u>Comment:</u> <i>A number of improvements were made to the engagement in response to ongoing evaluation processes.</i></p> <p><i>Notably, the consultation period was extended by 2 weeks; individual briefings were given to the relevant State Members of Parliament; a FAQ document was released to the Council's within the Affected Areas in response to queries raised by one of the Councils; and one utility provider was given an extension of time in which to make a submission.</i></p> <p><u>Evaluation:</u> <i>It is considered that the engagement complies with Principle 5 of the Community Engagement Charter (Engagement processes are reviewed and improved).</i></p>	

Attachment 3 - Summary of Written Submissions and Response

Respondent	Feedback	Response
Mr Abi Nair	<p>Does not support the proposed Code Amendment as they are concerned that the Overlay will adversely impact on property values due to restrictions on future rezoning to provide for multi-storey development. Suggests property owners be compensated.</p>	<p>The proposed Overlay policies do not restrict the potential for future rezoning to provide for multi-storey developments.</p> <p>The Overlay policies introduce triggers for referral to ensure the Commissioner is aware of development activity near the proposed T2D tunnels and can work with developers to ensure multi-storey developments proceed without adversely impacting the tunnels.</p> <p>The T2D community engagement team phoned Mr Nair and explained the above.</p>
Vicinity Centres	<p>The Overlay applies to an approximate 30 metre strip of two properties owned by Vicinity Centres (Castle Plaza and portion of former Hills Site).</p> <p>Opposes the spatial application of the Overlay and seeks a reduction in the extent so that it does not cover these properties. If the spatial extent is not reduced, Vicinity will seek financial compensation for any loss of development potential. Makes reference to the Metropolitan Adelaide Road Widening Plan (MARWP) Act in the discussion on compensation.</p> <p>Suggests the Overlay has the potential to impact on the ability to achieve the development outcomes sought by the Suburban Activity Centre Zone and Urban Neighbourhood Zone which seeks to facilitate medium rise, mixed use development, including buildings greater than 3 levels.</p>	<p>As set out in the Engagement Plan, the spatial extent of the Overlay and the engineering principles underpinning the triggers for referral to the Commissioner are not within scope of the consultation on the Code Amendment.</p> <p>The extent of the TPO is based on the proposed location of the T2D tunnels and international and Australian engineering standards regarding areas in which activities pose a risk to materially impacting on the ability to construct the tunnels and/or the structure and operation of the tunnels once constructed.</p> <p>No compensation is applicable under the MARWP Act; properties are acquired under the Land Acquisition Act and compensation provisions are set out in that Act.</p> <p>The Overlay does not impact on the development potential of the site.</p>

Respondent	Feedback	Response
	<p>Contends that the spatial application is conservative as:</p> <ul style="list-style-type: none"> • based on December 2022 design, suggest should not be applied until final location and depth of tunnels are known to not unreasonably limit development opportunities on adjacent land. • seeking clarification as to why a generic 45-degree angle has been chosen to determine width. • considers the referral triggers extremely restrictive. 	<p>Investigations undertaken during preparation of the Code Amendment, including a review of interstate and international experience, found that the proposed Overlay is not likely to restrict multi-storey development, or the development outcomes sought by existing or future zoning.</p> <p>The December 2022 Reference Design is the current approved design for the T2D Project. As noted in the Code Amendment discussion paper, the final alignment of the tunnels will be known following detailed design to be announced following Contract Award. The Overlay may be amended to reflect the final alignment.</p> <p>Landowners considering multi-storey development or deep excavation prior to release of the final alignment are encouraged to contact DIT to discuss the specific requirements for their proposed site.</p> <p>The tunnel is anticipated to be at a depth that will not constrain the envisaged uses of the zone.</p>
Franzon's Hilton Hotel	<p>Franzon's Hilton Hotel Pty Ltd have Planning Consent for a proposed multi-storey development within the TPO. The new MBS provisions will apply to their application for Building Consent.</p> <p>Overall, the intent of the Overlay is supported, with reservations with respect to how the Overlay will work in practice.</p> <p>Notes that the new policies could increase the burden of information</p>	<p>Introducing an MBS applicable to the Overlay meets the outcome sought by the respondent, enabling planning consent to be granted conditional on meeting the MBS requirements. This means detailed engineering investigations are not required until the building consent stage.</p> <p>DIT staff responsible for undertaking technical assessments have been involved in developing the policy and understand the intent</p>

Respondent	Feedback	Response
	<p>required at the planning stage, such as detailed design, without knowing if a project will receive planning consent.</p> <p>It is requested that DIT consider amending the Code to allow for the matters relevant to the Overlay to be resolved as part of a reserve matter, to enable the applicant to have the benefit of Planning Consent before undertaking additional engineering investigations and testing.</p> <p>Requests that DIT ensure technical staff involved in responding to referrals correctly interpret DTS/DPF as 'one way' of achieving the corresponding Performance Outcome per Part 1 of the Code, rather than mandatory criteria to prevent the Overlay from unreasonably restricting development.</p>	<p>is to mitigate risk to the tunnels through design measures which do not unreasonably restrict development within the Overlay.</p>
City of Marion	<p>Suggest that DIT register the Tunnel Protection Overlay area with Before You Dig Australia (BYDA) to draw people's attention to the presence of the tunnels and their obligations under the PDI Act.</p> <p>Remove the need for public notification for activities undertaken by Councils, utility providers or State agencies to be consistent with public notification requirements for Councils outside of the Overlay. Other public notification mechanisms are already in place for such works.</p>	<p>DIT will consider registering the T2D Tunnel Protection Overlay area with BYDA.</p> <p>Table 5, Clause 1 negates the need for public notification of activities that do not impact on neighbouring properties, such as Council stormwater works. However, amendments to Table 5 for impacted zones is recommended to remove public notification requirements for certain works.</p>
City of West Torrens	Code - Amend wording of definition of Regulated Surface Level to correct reference to title of Code Amendment (from Tunnel Corridor to Tunnel Protection)	Amend wording of definition as suggested for consistency.

Respondent	Feedback	Response
	<p>Code- Reword DTS/DPF 1.1(a) to 'Does not exceed 3 building levels above the regulated surface level'.</p> <p>This proposal removes:</p> <ul style="list-style-type: none"> - references to land uses as this potentially creates conflict between the relevant zones and the overlay. The only other overlay that speaks to land uses (Gas and Liquid Petroleum Pipeline Overlay) has a PO that seeks to reduce community exposure and calls out specific land uses that encourage intensification of people; hence the listing of land uses aligns with the intent of the DO and PO. - DTS/DPF 1.1 (a)(xvii) which introduces a subjective provision to enable relevant authorities to determine that a referral is not necessary; there are already clear parameters are in place for the referral trigger to CoH. 	<p>Amendments to DTS/DPF 1.1(a) are not supported.</p> <p>There is no conflict between land uses in the Overlay and applicable Zones. The reference to land uses in the Overlay is to combine with built form to describe a form of development that meets the Performance Outcome of tunnel protection from excessive loading. This does not infer an appropriateness of certain land uses within a Zone.</p> <p>Removal of DTS/DPF 1.1(a)(xvii) removes the discretion of the relevant authority to consider a development that doesn't fall within the preceding list of land uses to meet the Performance Outcome when considering the wide possibility of undefined land uses. Assessment Managers, Accredited Professionals and Council Assessment Panels already need to make subjective assessments based on professional judgement.</p>
	<p>Code - Reword DTS/DPF 1.1 (b)(ii) to reflect the wording of Regulations, which also captures storage of vehicles and is more concise. The rewording will provide greater consistency between the Regulations and the Code.</p>	<p>Amend as suggested to improve consistency.</p>
	<p>Code - Remove DTS/DPF 2.1(b) as it replicates DTS/DPF 2.1 (a).</p>	<p>Amend as suggested to remove duplication.</p>
	<p>Code - At DTS/DPF 2.1 add a hyperlink to the comprehensive definition of ground intruding activity set out in the regulations, and include this definition in the Code.</p>	<p>No change. Adding a hyperlink to a definition set out in the Regulations would be inconsistent with Code drafting protocols. Hyperlinks are only provided within the Code for terms defined in the Code, not for terms defined in the PDI Act or Regulations.</p>

Respondent	Feedback	Response
	Regulations - suggest amend referral timeframe from 30 days to 20 days to be consistent with the timeframe for other referrals to CoH.	Amend as suggested for consistency.
	Regulations - suggest include minimum requirements for an assessment of development that is within the Overlay to ensure that referral triggers can be captured early in the assessment and avoid RFIs.	<p>No change. No additional plans or information is required for assessment of development in the Overlay than is already set out in Schedule 8.</p> <p>DIT has prepared a Technical Guide for assessment bodies and applicants and made available on DIT/T2D website. DIT will consider providing through Before You Dig Australia (BYDA) to raise awareness of requirements.</p>
	MBS - seek clarification of 4.1 (b) to provide clearer understanding for applicants and assessors of what constitutes 'temporary stockpiling or storage of material or equipment'.	An Information Sheet was issued to affected Councils in September 2023 regarding the meaning of 'temporary stockpiling and storage'. Note, this term is used in both the Code and MBS.
	<p>Consultation & Training - Early discussion and sharing of policy and legislative changes to ensure at go live relevant authorities are familiar and adept at deploying the policy.</p> <p>Early discussion may have enabled greater visibility of the Code Amendment amongst the community through sharing the Code Amendment at its Civic Centre and relevant platforms; this has not been easily facilitated by DIT during this Code Amendment.</p>	<p>Since mid-2022, DIT has provided Councils with regular updates on the forthcoming Tunnel Protection Code Amendment through a standing agenda item at T2D Council Working Group Meetings.</p> <p>DIT briefed Council and provided digital copies of the Code, MBS and all Fact Sheets on 31 August 2023, prior to commencement of the Code and MBS when they were published on the PlanSA Portal on 1/9/2023.</p> <p>DIT also made available to Council staff a single point of contact for any enquiries regarding application of the Code.</p> <p>A face-to-face briefing was held with Council planning staff on 7 September 2023 to discuss</p>

Respondent	Feedback	Response
		<p>application of the Code in detail. In response to matters raised at this briefing, additional Information Sheets were issued to Councils to guide assessment.</p> <p>The consultation period ran for 10 weeks. DIT considers this sufficient time for Council to share with the community the Code at its Civic Centre and via relevant platforms.</p> <p>Council were advised that hard copies of the Code and associated documents were available upon request from DIT, as well as being available at the T2D hubs at Torrensville (Brickworks) and Clovelly Park.</p> <p>No assessment enquiries have been received from Councils since commencement of the Code.</p>
	<p>Consultation & Training - Inaccuracies within the policy may have been remedied and information shared with community at the time the early commencement began if there was early discussion with Council.</p>	<p>The minor policy amendments recommended by Council do not have a material effect on assessment processes or outcomes as the PO and DO clearly articulate the intent of the Code.</p>
	<p>Consultation and Training - All information should be provided on the consultation page including the MBS to provide clear line of sight of what the changes are.</p>	<p>The PlanSA portal has not been designed for the unique nature of the Tunnel Protection Overlay Code Amendment which introduced new policies and required concurrent amendments to the Regulations and a new Building Standard.</p> <p>DIT and PLUS consciously sought to ensure the community and stakeholders were made aware of the suite of measures being introduced under the PDI Act associated with the Tunnel Protection Overlay. This included targeted communications (through letters, fact sheets, FAQs and one-to-one briefings) for the community</p>

Respondent	Feedback	Response
		<p>and stakeholder groups. The Fact Sheet and FAQ provided on the Plan SA Code Amendment consultation page provided direct links to MBS011 and a summary of regulation changes enacted.</p> <p>DIT also explicitly invited feedback on the MBS and regulatory amendments beyond the legislative need to do so.</p>
SA Water	<p>Sought clarification on how the Code and MBS apply to SA Water works as many of their assets are located at a depth of more than 2.5 metres along the length of the T2D alignment and are usually exempt under the PDI Act.</p> <p>Sought clarification of temporary stockpiling and storage of equipment that may impact the tunnels.</p> <p>Seeking to work with DIT to consider alternative mutually agreeable approach for unplanned works to address concerns regarding meeting level of service response times and cost penalties due to assessment and consultation timeframes under Overlay.</p>	<p>DIT met with SA Water in January 2024 to discuss the application of the Overlay to specific SA Water assets.</p> <p>DIT prepared a Technical Guide to provide further guidance to applicants and assessment bodies.</p> <p>The Code Table 5 Clause 1 exempts the need for public notification for activities not impacting on neighbouring properties, which would include SA Water planned infrastructure works. Development by SA Water is also subject to Section 131 of the PDI Act, whereby public notification requirements are dictated by development cost.</p> <p>DIT is working with SA Water to implement an approach outside of the PDI Act to manage unplanned works that meet DIT and SA Water asset management requirements.</p>

Attachment 4 – Submissions Received

Mr Abi Nair

River Torrens to Darlington Project Engagement Team,

Submission Details

Amendment: Tunnel Protection Overlay Code Amendment - early commencement

Customer type: Member of the public

Given name: nair

Family name: Abi

Organisation:

Email address: abinair@outlook.com

Phone number: 0414153023

My overall view is: I do not support the Code Amendment

Comments: This is disadvantage to the property owners, imagine after 20 or 25 years this area become different zone and only these owners can't build anything above 3 stories where the next door neighbour can do. This is not factored in this proposal. Putting a tunnel under the property is degrading the value of the property and make it less desirable to the buyers. This need to be compensated. I want to know what is the approach here

Attachment 1: No file uploaded

Attachment 2: No file uploaded

Attachment 3: No file uploaded

Attachment 4: No file uploaded

Attachment 5: No file uploaded

Sent to proponent email: T2D@sa.gov.au



Level 1, 74 Pirie Street
Adelaide SA 5000
PH: 08 8221 6511
W: www.futureurban.com.au
E: info@futureurban.com.au
ABN: 76 651 171 630

November 9, 2023

River Torrens to Darlington Project Engagement Team
Via the PlanSA Submission Form

To whom it may concern,

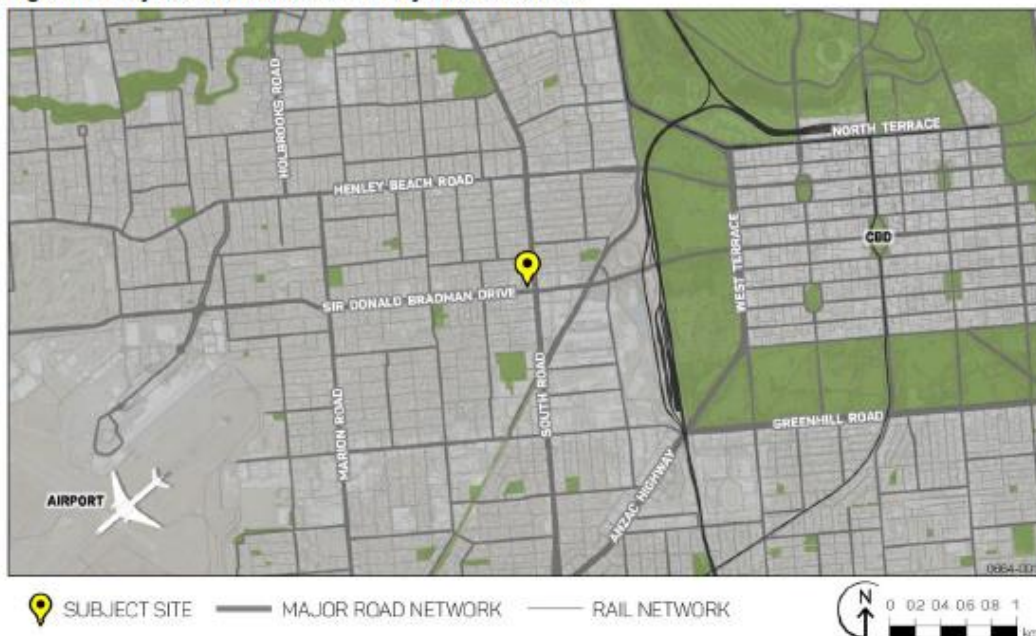
SUBMISSION REGARDING THE TUNNEL PROTECTION OVERLAY CODE AMENDMENT

We write on behalf of Franzon's Hilton Hotel Pty Ltd (the 'Proponent') in response to the Department for Infrastructure and Transport's request for feedback on the Tunnel Protection Overlay Code Amendment (the 'TPOCA').

For context, the Proponent owns land adjacent South Road which will be affected by the proposed Tunnel Protection Overlay, including 264-270 South Road, Hilton and 3 and 5 Mallen Street, Hilton.

The location of the land, relative to the major road network, is shown in Figure 1 below.

Figure 1 Subject Site relative to the major road network





The Proponent has planning consent for the following development on the land:

'Demolition of existing dwellings (2) and bottle shop, and construction of a residential flat building containing 4 dwellings and a 5 storey residential building containing 30 dwellings and 1 shop (including a 2 level basement car park)'

The planning consent is valid until 9 February 2027. The development is a type of development that this Overlay would seek to control, noting the height of the building and the extent of the development proposed below ground level.

The development does not have building consent. As a result, the Proponent has engaged a structural engineer to review the impact of the Tunnel Protection Overlay and the new Ministerial Building Standard MBS 011 Additional requirements for designated Tunnel Protection Overlay Areas ('MBS 011') on the feasibility for delivering the proposed development. If MBS 011 impacts the ability to deliver the development, a new application will need to be lodged for a varied development. Accordingly, the TPOCA has been reviewed in this context.

The TPOCA seeks to protect the integrity and ongoing operation of the River Torrens to Darlington (T2D) Project tunnels by amending the State's Planning and Design Code (the Code) to ensure that future development activity and construction work nearby doesn't impact the tunnels. The TPOCA seeks to achieve this by inserting the Tunnel Protection Overlay into the Code and adding new classes of development which would require a referral to the Commissioner of Highways, including any development which does not meet the deemed-to-satisfy criteria of the proposed Overlay.

Overall, the intent of the Overlay is supported. However, there are reservations with respect to how the Overlay will work in practice, noting that:

- It could increase the burden of information required at the planning stage, such as detailed design, without knowing if a project will receive planning consent; and
- The Department of Infrastructure and Transport have been applying the deemed-to-satisfy criteria in other Overlays (such as the Urban Transport Routes Overlay) as 'mandatory' criteria, rather than as 'one way' of achieving the corresponding Performance Outcome per Part 1 of the Code, and the continuation of this approach would unreasonably restrict development within the Overlay.

As a result, we request that the Department consider the following as part of the implementation of the TPOCA:

- 1) Amend the Code to allow for the matters relevant to the Overlay to be resolved as part of a reserve matter, to enable an Applicant to have the benefit of a planning consent before undertaking additional engineering investigations and testing. This could be achieved by amending Table 2 in Part 5 of the Code to include the following:

Introduction (Column A)	Specified matters / identified areas (Column B)
Pursuant to section 102(4) of the <i>Planning, Development and Infrastructure Act 2016</i> , a matter specified by the Planning and Design Code to be reserved on the application of the applicant	Any matters relating the Tunnel Protection Overlay



- 2) Ensure that technical staff involved in responding to referrals on behalf of the Commissioner of Highways are informed of the role of deemed-to-satisfy criteria, which are synonymously referred to as 'designated performance features' to prevent the Overlay from unreasonably restricting development. More specifically, staff should be aware of the following within Part 1 of the Code:

'In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.'

We trust that you will consider the above prior to finalisation of the Code Amendment.

Should you have any questions regarding the matters raised in this letter, please do not hesitate to contact me on 0421 957 656.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kayla Gaskin-Harvey', with a stylized flourish at the end.

Kayla Gaskin-Harvey
Associate Director

SSA - CSG
30 OCT 2023
RECEIVED



OFFICE OF THE MAYOR

25 October 2023

Tunnel Protection Overlay Code Amendment
GPO Box 1533
ADELAIDE SA 5001

PO Box 21, Park Holme
South Australia 5043

245 Sturt Road, Sturt
South Australia 5047

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E council@marion.sa.gov.au

Draft Tunnel Protection Overlay Code Amendment

Thank you for notifying Council of the Draft Code Amendment, which is under Early Commencement, including the staff briefings provided to explain the proposal and allow for questions.

We note that the Code Amendment affects 421 properties within the Marion Council area, including one Council property being the Glandore Recreation Ground.

I wish to advise that Council, at its 24 October 2023 meeting, resolved to advise the Department for Transport and Infrastructure it has no objection to the Code Amendment, subject to the following alteration to the policy as it applies to the Zones across the affected area:

- activities by Councils, utility providers or state agencies associated with:
 - a) excavation or intrusion of the ground exceeding 2.5 metres below ground level, including underground drains, pipes, conduits, tunnels, underground passageway, or adit; or
 - b) temporary stockpiling over an area exceeding 100 square metres;

are listed as activities that are exempt from public notification.

These activities have previously not required approval or notification under the act and, in most cases, undergo separate engagement processes as part of the project planning and delivery. Additional consultation as part of the development application process is seen as unnecessary.

Council also recommends that the Department have the Tunnel Protection Areas covered by the Overlay registered against the Dial Before You Dig service, which will draw people's attention to the presence of the tunnels and allows the Department to make people aware of their obligations under the *Planning, Development and Infrastructure Act, 2016*.

Council would be happy to further participate in clarifying our submission and resolving the desired exclusion from public consultation suggested. Please contact David

The City of Marion acknowledges we are situated on the traditional lands of the Kaurna people and recognises the Kaurna people as the traditional custodians of the land.



City of Marion



@CityofMarion



City of Marion



@CityofMarion

marion.sa.gov.au

Barone, Senior Strategic and Policy Planner on 8375 6667 or via email david.barone@marion.sa.gov.au

Yours faithfully

KRIS HANNA

Kris Hanna

Mayor, City of Marion

The City of Marion acknowledges we are situated on the traditional lands of the Kaurna people and recognises the Kaurna people as the traditional custodians of the land.



City of Marion



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City of Marion



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31 October 2023

Tunnel Protection Overlay Code Amendment
T2D Engagement Team
Department for Infrastructure and Transport
GPO Box 1533
ADELAIDE SA 5001

Via email: plansasubmissions@sa.gov.au

Dear Madam/Sir

Tunnel Protection Overlay Code Amendment

Please find enclosed Council's submission on the proposed Tunnel Protection Overlay Code Amendment.

Council considered this matter at its meeting of Tuesday, 17 October 2023. A number of recommendations were discussed resulting in Council resolving to submit the enclosed feedback as Council's formal submission to the proposed Code Amendment.

For your reference, I have also included a copy of the Administration's report presented at the Council Meeting.

If you would like to discuss this matter further, please contact Gordon Andersen, Manager Strategy and Business on 8416 6291 or via email gandersen@wtcc.sa.gov.au

Yours sincerely

Terry Buss PSM
Chief Executive Officer

Attachments:

- *City of West Torrens submission on the Tunnel Protection Overlay Code Amendment*
- *Council report regarding the Tunnel Protection Overlay Code Amendment from 17 October 2023*



Tunnel Protection Overlay Code Amendment West Torrens Council Submission



Introduction

The Department for Infrastructure and Transport (DIT) has introduced a Tunnel Protection Overlay (the Overlay) within the Planning and Design Code (the Code) that will apply to the River Torrens to Darlington Project (T2D) tunnels, whilst it is currently on consultation, the amendment came into effect through early commencement. The Overlay aims to ensure that development activity and construction work nearby does not impact the tunnels. To complement the Code Amendment changes were made to the *Planning, Development and Infrastructure (General) Regulations 2017* (the Regulations), and the creation of a new Ministerial Building Standard (MBS 011 Additional requirements for designated Tunnel Protection Overlay Areas).

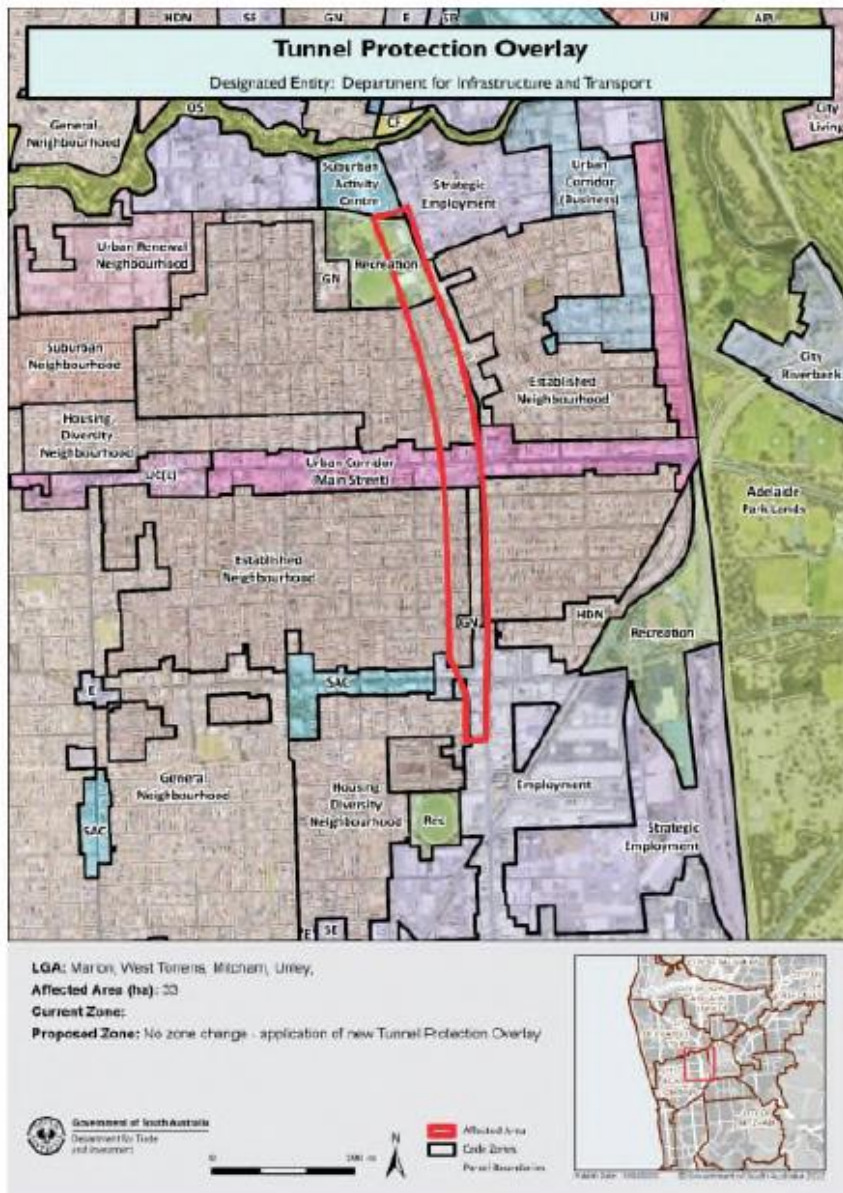


Image 1: Affected Area - Map A (southern affected area)

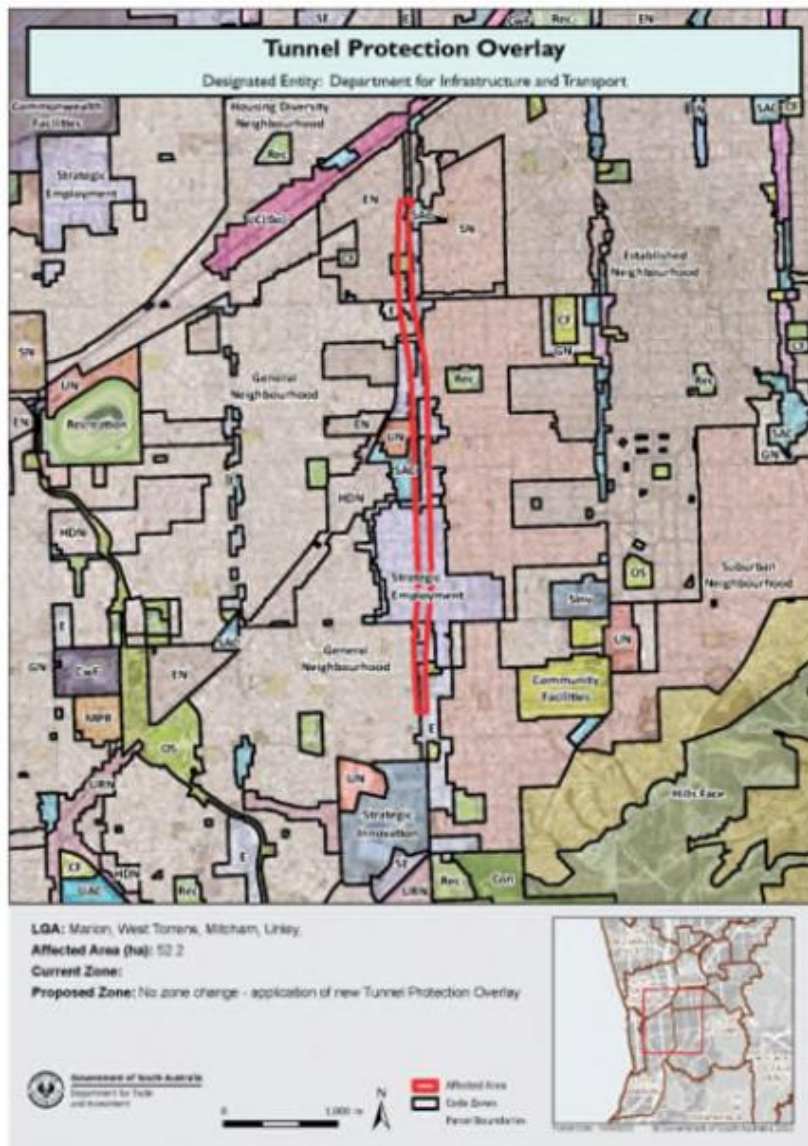


Image 2: Affected Area- Map B (northern affected area)

Looking at the various components introduced to the Code, the Regulations and through the introduction of MBS011 the following points are identified and recommendations are made for the submission to DIT:

Code Amendment

Further amendments to the Code include amendments to Table 1 - Accepted Development Classification, Table 2 - Deemed-to-Satisfy Development Classification and Table 3 - Applicable Policies for Performance Assessed Development to the following Zones:

- Employment
- Established Neighbourhood
- General Neighbourhood
- Housing Diversity Neighbourhood
- Local Activity Centre
- Recreation
- Strategic Employment
- Suburban Activity Centre
- Suburban Neighbourhood
- Urban Corridor (Main Street), and
- Urban Neighbourhood.

This is to ensure that the tables now reference the Overlay, which may change the assessment pathway. This will ensure that development is appropriately assessed and referral trigger captured.

This will apply to the followings types of development:

- a new building (or extension to an existing building) or temporary structure exceeding 3 levels or has an increase in total loading exceeding 45kPa at the foundation level;
- development involving excavation at a depth exceeding 2.5 metres or results in significant removal of material (or overburden) above the tunnels, such as underground carpark, major water mains;
- footings and foundations that do not meet design criteria in relation to proximity to the tunnels;
- ground intruding activities (such as drilling, bores, anchors) at a depth exceeding 2.5 metres (to prevent potential intrusions into the Tunnel Exclusion Area during the design & construction phases; once the final alignment/depth of the tunnel is known this will be refined to reflect the actual Tunnel Exclusion Area);
- fill or earthworks that build up the ground level by more than one metre above the regulated surface level (or equivalent to surcharge loading exceeding 20kPa); or
- temporary stockpiling or storage of material or equipment over an area greater than 100 square metres (or equivalent to surcharge loading exceeding 20kPa).

Swimming pools, single storey cellars, as well as footings and foundations associated with buildings less than 3 storeys will generally not require a referral to the Commissioner of Highways (CoH) as they are unlikely to be deeper than 2.5m.

Introduction of the Overlay to the Code will see a limited number of new activities requiring development applications that previously were not considered to constitute development, these are captured within the Regulations.

The Code Amendments also introduce a new Administrative Term and Definition:

Regulated surface level: Means the measured ground surface level within the boundaries of the Tunnel Protection Overlay as established at the time of commencement of operation of the Tunnel Corridor Code Amendment, as shown on the Planning Reference layer of the SA Property and Planning Atlas.

No fundamental issues are raised with this definition; however the name of the Code Amendment should be consistent or remove this reference.

The Code Amendment will not change existing public notification requirements or application of Zones.

The policy contained in the newly implemented Tunnel Protection Overlay is problematic. A number of issues are raised, as follows:

- DTS/DPF 1.1 (a): the introduction of land uses within an overlay that applies over a number or various and different zones, without a performance outcome that speaks to land use (nor is it necessary too, the zone provides guidance on appropriate land use). This should not include land uses; this creates conflict between the relevant zones and this overlay.

On review of other overlays that speak to land uses e.g. Gas and Liquid Petroleum Pipeline Overlay, it would appear that the PO (PO1.1) seeks to reduce community exposure and the corresponding DTS/DPF 1.1 calls out specific land uses that encourage intensification of people as not being appropriate and is therefore aligned with the desired outcome and performance outcome sought for that overlay.

It is recommended that the DTS/DPF 1.1(a) be reworded to:

- Does not exceed 3 building levels above regulated surface level.

This rewording appears to capture the trigger more appropriately for the overlay intent.

- DTS/DPF 1.1 (a)(xvii) introduces a subjective provision to enable relevant authorities to determine that a referral is not necessary. This should be removed, given clear parameters are in place for referral trigger to CoH.
- DTS/DPF 1.1 (b) (ii) suggest that this be reworded to reflect the Regulations wording, which also captures storage of vehicles, and is more concise and will provide greater consistency between the Regulations and the Code.
- DTS/DPF 2.1 (b) replicates DTS/DPF 2.1(a) without acknowledging the trigger of ground intruding activity at a depth greater than 2.5 metres, suggest removing DTS/DPF 2.1(b). The Regulations include a definition that is more comprehensive for *ground intruding activity*, suggest a hyperlink to this definition and inclusion of this definition within the Code.

Recommendation

On review of the Code Amendment, the inclusion of the Tunnel Protection Overlay provides a mechanism during planning assessment that seeks to preserve the integrity and operation of underground tunnel corridors and associated infrastructure. It provides appropriate performance outcomes and a referral trigger to the CoH when development does not meet the deemed to satisfy criteria. The purpose of the referral to CoH is to provide expert technical assessment and direction to the Relevant Authority in relation to the potential for development to adversely impact upon the safety and structural integrity of tunnels and associated underground infrastructure. There are no issues raised with the intent of the Code Amendment. However, there are a number of concerns raised with the DTS/DPF within the overlay as identified above, and it is recommended that this be raised in Council's submission to provide for clear, consistent and concise policy. This will require a review of the wording by the Department in the affected Zones too.

Another consideration should be given to the title of the Overlay, does the title adequately reflect that these are tunnels for the purpose of transport. Tunnels exist in a variety of forms in many locations across the State and it appears the difference here is to protect road transport tunnels. The Desired Outcome could speak of this intent more precisely too.

The Regulations

To complement the Code Amendment changes were made to the *Planning, Development and Infrastructure (General) Regulations 2017*, as outlined below:

- Part 1 - Preliminary:
 - Additions to 3C - Exclusions from definition of *Development* - general
 - Additions to 3CA - Exclusions from definition of *Development* - essential infrastructure
- Additions to Part 12 - Crown development, 106 - Developments excluded from approval and notice
- Schedule 3 - Additions to definition of development, 10- Activities within Tunnel Protection Overlay
- Schedule 9 - Referrals, 8 - Tunnel Protection Overlay

The proposed timeframe for referrals stated in the discussion paper will be 20 business days, which is consistent with the timeframe for other referrals to the CoH. However the Regulations sets this as 30 business days.

DIT will have ongoing services of a professional tunnel engineer, either employed by the Department or through contractual arrangements, available to undertake the necessary assessments within the regulated timeframe.

Developers also have the option to make an application to the Department for a preliminary agreement under section 123 of the *Planning, Design and Infrastructure Act*, which will fast track the assessment timeframe and identify early on what additional information might be required by the Commissioner to assess the application.

The discussion paper (page 26) identifies that Schedule 8 will be amended to include details of additional plans to be provided at time of lodgement. There have been no changes to Schedule 8- Plans, which identifies required minimum information for an assessment to be undertaken. It is sought that Schedule 8 include the requirements for an assessment to be undertaken in the Overlay, to ensure that referral triggers can be captured early in an assessment, referral undertaken and avoid toing and froing between Relevant Authority and applicant during the assessment.

Recommendation

It is recommended that Council's submission identify that there is a discrepancy between discussion paper and the Regulations and seek a 20-day referral to CoH and that Schedule 8 needs to be updated to include minimum requirements for an assessment of development that is within the Tunnel Protection Overlay.

MBS 011 Additional requirements for designated Tunnel Protection Overlay Areas

MBS 011 contains provisions for loading changes and clearance requirements for development and building work within a Tunnel Protection Overlay to protect the structural integrity and performance of planned and existing tunnel assets.

The DTS provision in MSB011 are generally straightforward to follow. There is one query for further clarification, which relates to 4.1 (b) as follows:

Development or building work satisfies the performance requirements if:

b) it does not:

- i. impose a surcharge loading at the Regulated Surface Level of more than 20 kPa or 2 tonnes per square metre; or*
- ii. involve temporary stockpiling or storage of material or equipment over an area greater than 100 square metres;*

An example of this may be car parking. Some clarification on what is storage of material or equipment would assist in applying this MBS.

Recommendation

It is recommended that clarification be sought on 4.1(b) of the MBS011.

Consultation and Training

Documents provided by DIT identified that the introduction of the Tunnel Protection Overlay would be supported by training for Council planners and key Department personnel to mitigate potential for unnecessary referrals to CoH. Council was not provided adequate information to ensure that when the Code Amendment and related legislative and policy changes were implemented under early commencement that they were equipped to undertake an assessment.

Relevant authorities, including the Council should be provided with Code Amendment documents prior to early commencement due to the implications to assessment pathways and process.

Training should be deployed to relevant authorities, specifically Council prior to the early commencement.

It is also noted that there are a number of inconsistencies within the now implemented policy and the implications on an assessment are disadvantageous. Earlier insight to the Code Amendment and other legislative changes may have enabled minor changes to improve the policy prior to its release.

Early discussion may have enabled greater visibility of the Code Amendment amongst the community. Council has shared the Code Amendment undertaken by a variety of Designated Entities in its Civic Centre and relevant platforms; this has not been easily facilitated by DIT during this Code Amendment.

Lastly and to improve user experience all information, including MBS011 should be located on the consultation page to provide clear line of sight across all new policy and legislation, rather than spread over several pages.

Recommendation

Early discussion and sharing of policy and legislative changes to ensure at go live relevant authorities are familiar and adept at deploying the policy. Inaccuracies within the policy may have been remedied and information shared with community at the time the early commencement began if there was early discussion with Council. All information should be provided on the consultation page including the MBS to provide clear line of sight of what the changes are

16.3 Tunnel Protection Overlay Code Amendment - Early Commencement

Brief

This report presents feedback on the *Tunnel Protection Overlay Code Amendment* and associated legislative changes that are currently on community consultation and that has also been put on early commencement.

RECOMMENDATION

It is recommended to Council that the recommendations contained in the body of this report be submitted to PlanSA as its formal response to the *Tunnel Protection Overlay Code Amendment*.

Introduction

The *Tunnel Protection Overlay Code Amendment (Attachment 1 - under separate cover)*, is currently subject to community consultation. The consultation commenced 31 August 2023 and closes at 5:00pm on 26 October 2023 (8 weeks). The Designated Entity is the Department for Infrastructure and Transport (DIT) and submissions are made online via the PlanSA submission form.

DIT has introduced a Tunnel Protection Overlay (the Overlay) within the Planning and Design Code (the Code) that will apply to the River Torrens to Darlington Project (T2D) tunnels, whilst it is currently on consultation, the amendment came into effect through early commencement. The Overlay aims to ensure that development activity and construction work nearby does not impact the tunnels.

To complement the Code Amendment changes were made to the *Planning, Development and Infrastructure (General) Regulations 2017* (the Regulations), and the creation of a new Ministerial Building Standard (MBS 011 Additional requirements for designated Tunnel Protection Overlay Areas) (**Attachment 2 - under separate cover**).

DIT have identified that the T2D tunnels are the first major transport tunnels in South Australia, and that new requirements need to be introduced to guide development near this new type of essential infrastructure. The Code Amendment identifies that it's important that the area immediately around the T2D tunnels is protected from intrusion from structures, such as pilings or basements, or works such as deep excavation, and to ensure development activities don't create a change in the loading (or weight or stress) that is beyond what has been factored into the tunnel design.

DIT advise that the new requirements are consistent with similar planning measures interstate outlining what builders and engineers will need to consider when designing and building near the tunnels.

Relevant consultation documents are:

- Engagement Plan (**Attachment 3 - under separate cover**)
- Discussion Paper (**Attachment 4 - under separate cover**)
- Fact Sheet (**Attachment 5 - under separate cover**)
- Frequently Asked Questions (**Attachment 6 - under separate cover**)

Discussion

The Overlay does not seek to alter existing zones, but rather it applies an overlay over the affected area shown in red in images one and two below (reflecting the location of the two tunnels). This Code Amendment is being applied across the Cities of Marion, Mitcham, Unley and West Torrens.

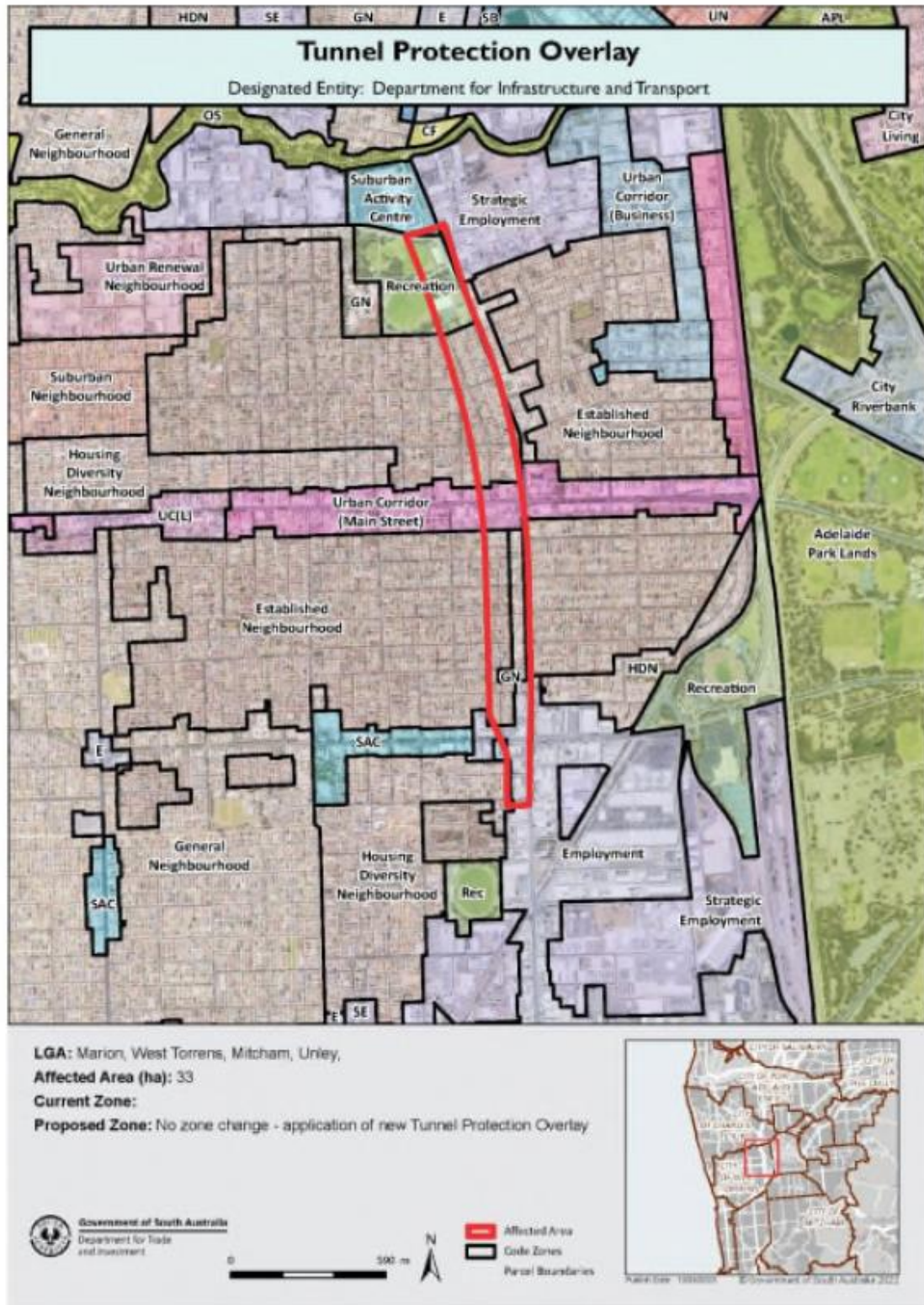


Image 1: Affected Area - Map A (southern affected area)

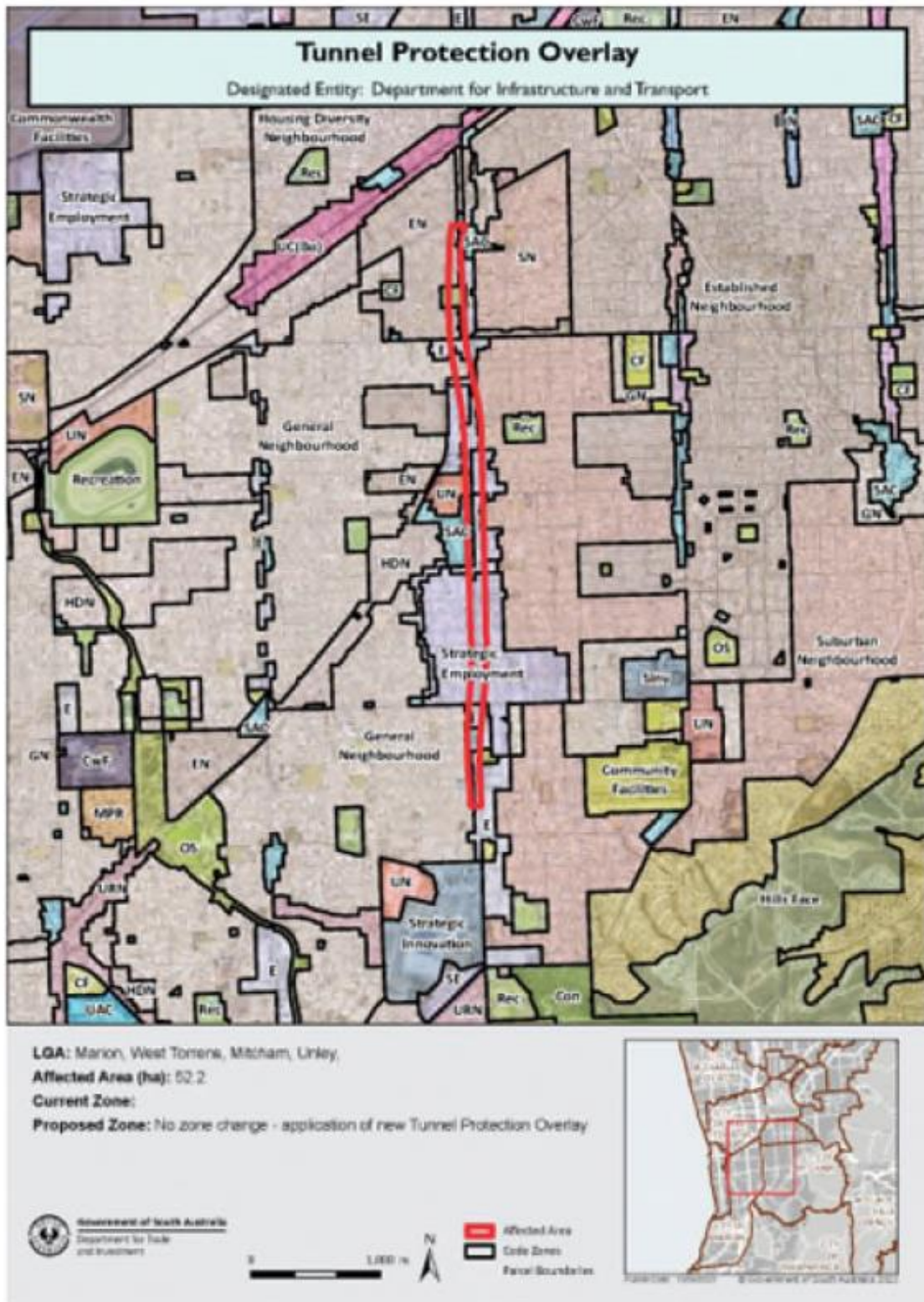


Image 2: Affected Area- Map B (northern affected area)

The width of the Affected Areas has been based on:

- engineering specifications of the tunnel and the geological conditions of the surrounding soils, and relate to the depth of the tunnels;
- a review of the area above the tunnels in which future development poses the greatest risk of causing a change in loading beyond the design limits of the tunnels; and
- a measurement determined by drawing a line that extends from the centreline, and five metres horizontally from the outer edge, of the tunnels at an angle of 45 degrees to where it intersects with the regulated surface level, as illustrated in Figure 2 below. Based on this approach, the Affected Area narrows as the tunnel depth decreases.

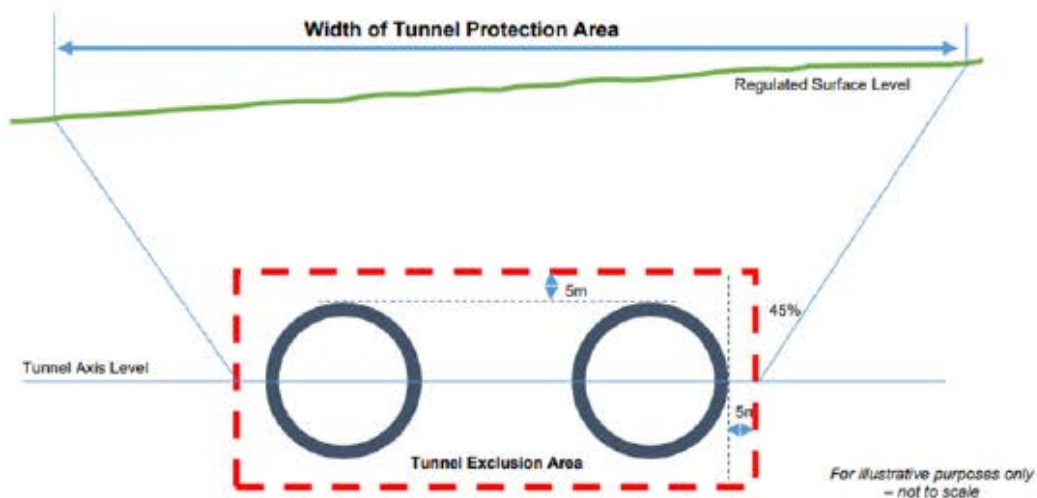


Image 3: Width of Affected Areas is determined by the depth of the tunnels and engineering standards

For the most part, the tunnel protection area will comprise land located directly above the tunnels and up to approximately 50 metres either side of the tunnel exclusion area. The exception to this is the northern affected area which extends a minimum of 80 metres to the west of the tunnel exclusion area. This additional offset is required to provide for a potential change to the alignment of the northern tunnels from the reference design alignment between their northern and southern portals. The Affected Areas are based on the design for the T2D Project released in December 2022. The areas will be refined following detailed design in 2024-25, at which time the exact tunnel alignment and depth will be known.

The northern tunnel extends from Hilton to Torrensville and will be applied to 377 properties as seen in image four within West Torrens and 421 properties for the Southern Tunnels (Clovelly Park to Glandore) as seen in image five and not located within West Torrens.

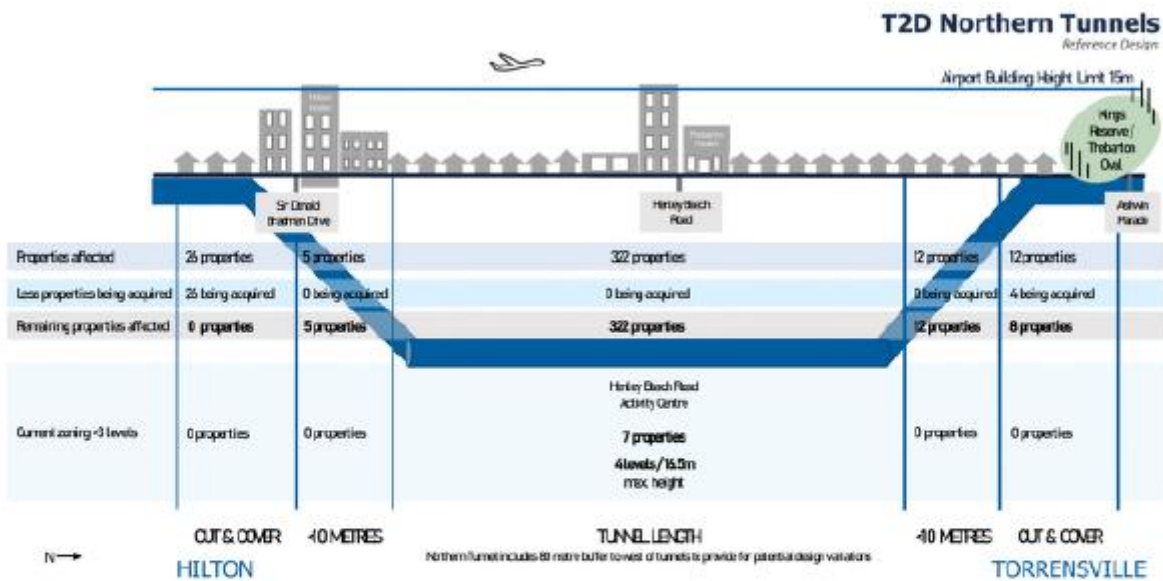


Image 4: T2D Northern tunnels reference design

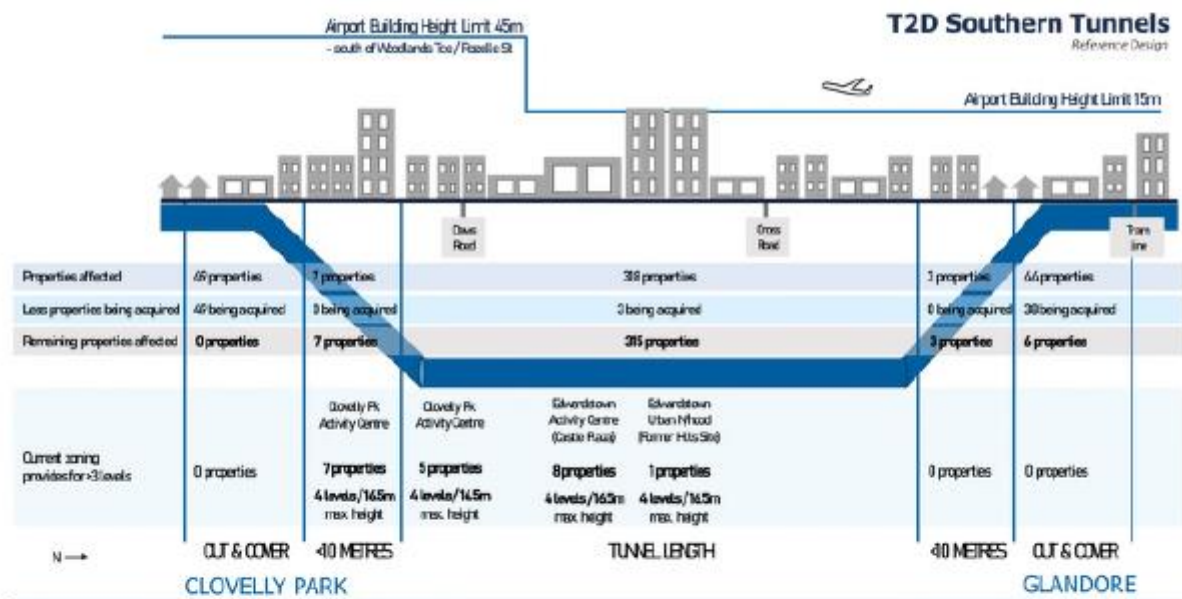


Image 5: T2D Southern tunnels reference design

Looking at the various components introduced to the Code, the Regulations and through the introduction of MBS011 the following points are identified and recommendations are made for the submission to DIT:

Code Amendment

Further amendments to the Code include amendments to Table 1 - Accepted Development Classification, Table 2 - Deemed-to-Satisfy Development Classification and Table 3 - Applicable Policies for Performance Assessed Development to the following Zones:

- Employment
- Established Neighbourhood
- General Neighbourhood
- Housing Diversity Neighbourhood
- Local Activity Centre
- Recreation
- Strategic Employment
- Suburban Activity Centre
- Suburban Neighbourhood
- Urban Corridor (Main Street), and
- Urban Neighbourhood.

This is to ensure that the tables now reference the Overlay, which may change the assessment pathway. This will ensure that development is appropriately assessed and referral trigger captured.

This will apply to the followings types of development:

- a new building (or extension to an existing building) or temporary structure exceeding 3 levels or has an increase in total loading exceeding 45kPa at the foundation level;
- development involving excavation at a depth exceeding 2.5 metres or results in significant removal of material (or overburden) above the tunnels, such as underground carpark, major water mains;
- footings and foundations that do not meet design criteria in relation to proximity to the tunnels;
- ground intruding activities (such as drilling, bores, anchors) at a depth exceeding 2.5 metres (to prevent potential intrusions into the Tunnel Exclusion Area during the design & construction phases; once the final alignment/depth of the tunnel is known this will be refined to reflect the actual Tunnel Exclusion Area);
- fill or earthworks that build up the ground level by more than one metre above the regulated surface level (or equivalent to surcharge loading exceeding 20kPa); or
- temporary stockpiling or storage of material or equipment over an area greater than 100 square metres (or equivalent to surcharge loading exceeding 20kPa).

Swimming pools, single storey cellars, as well as footings and foundations associated with buildings less than 3 storeys will generally not require a referral to the Commissioner of Highways (CoH) as they are unlikely to be deeper than 2.5m.

Introduction of the Overlay to the Code will see a limited number of new activities requiring development applications that previously were not considered to constitute development, these are captured within the Regulations.

The Code Amendments also introduce a new Administrative Term and Definition:

Regulated surface level: Means the measured ground surface level within the boundaries of the Tunnel Protection Overlay as established at the time of commencement of operation of the Tunnel Corridor Code Amendment, as shown on the Planning Reference layer of the SA Property and Planning Atlas.

No fundamental issues are raised with this definition; however the name of the Code Amendment should be consistent or remove this reference.

The Code Amendment will not change existing public notification requirements or application of Zones.

The policy contained in the newly implemented Tunnel Protection Overlay is problematic. A number of issues are raised, as follows:

- DTS/DPF 1.1 (a): the introduction of land uses within an overlay that applies over a number of various and different zones, without a performance outcome that speaks to land use (nor is it necessary too, the zone provides guidance on appropriate land use). This should not include land uses; this creates conflict between the relevant zones and this overlay.

On review of other overlays that speak to land uses e.g. Gas and Liquid Petroleum Pipeline Overlay, it would appear that the PO (PO1.1) seeks to reduce community exposure and the corresponding DTS/DPF 1.1 calls out specific land uses that encourage intensification of people as not being appropriate and is therefore aligned with the desired outcome and performance outcome sought for that overlay.

It is recommended that the DTS/DPF 1.1(a) be reworded to:

- Does not exceed 3 building levels above regulated surface level.

This rewording appears to capture the trigger more appropriately for the overlay intent.

- DTS/DPF 1.1 (a)(xvii) introduces a subjective provision to enable relevant authorities to determine that a referral is not necessary. This should be removed, given clear parameters are in place for referral trigger to CoH.
- DTS/DPF 1.1 (b) (ii) suggest that this be reworded to reflect the Regulations wording, which also captures storage of vehicles, and is more concise and will provide greater consistency between the Regulations and the Code.
- DTS/DPF 2.1 (b) replicates DTS/DPF 2.1(a) without acknowledging the trigger of ground intruding activity at a depth greater than 2.5 metres, suggest removing DTS/DPF 2.1(b). The Regulations include a definition that is more comprehensive for *ground intruding activity*, suggest a hyperlink to this definition and inclusion of this definition within the Code.

Recommendation

On review of the Code Amendment, the inclusion of the Tunnel Protection Overlay provides a mechanism during planning assessment that seeks to preserve the integrity and operation of underground tunnel corridors and associated infrastructure. It provides appropriate performance outcomes and a referral trigger to the CoH when development does not meet the deemed to satisfy criteria. The purpose of the referral to CoH is to provide expert technical assessment and direction to the Relevant Authority in relation to the potential for development to adversely impact upon the safety and structural integrity of tunnels and associated underground infrastructure. There are no issues raised with the intent of the Code Amendment. However, there are a number of concerns raised with the DTS/DPF within the overlay as identified above, and it is recommended that this be raised in Council's submission to provide for clear, consistent and concise policy. This will require a review of the wording by the Department in the affected Zones too.

Another consideration should be given to the title of the Overlay, does the title adequately reflect that these are tunnels for the purpose of transport. Tunnels exist in a variety of forms in many locations across the State and it appears the difference here is to protect road transport tunnels. The Desired Outcome could speak of this intent more precisely too.

The Regulations

To complement the Code Amendment changes were made to the *Planning, Development and Infrastructure (General) Regulations 2017*, as outlined below:

- Part 1 - Preliminary:
 - Additions to 3C - Exclusions from definition of *Development* - general
 - Additions to 3CA - Exclusions from definition of *Development* - essential infrastructure
- Additions to Part 12 - Crown development, 106 - Developments excluded from approval and notice
- Schedule 3 - Additions to definition of development, 10- Activities within Tunnel Protection Overlay
- Schedule 9 - Referrals, 8 - Tunnel Protection Overlay

The proposed timeframe for referrals stated in the discussion paper will be 20 business days, which is consistent with the timeframe for other referrals to the CoH. However the Regulations sets this as 30 business days.

DIT will have ongoing services of a professional tunnel engineer, either employed by the Department or through contractual arrangements, available to undertake the necessary assessments within the regulated timeframe.

Developers also have the option to make an application to the Department for a preliminary agreement under section 123 of the *Planning, Design and Infrastructure Act*, which will fast track the assessment timeframe and identify early on what additional information might be required by the Commissioner to assess the application.

The discussion paper (page 26) identifies that Schedule 8 will be amended to include details of additional plans to be provided at time of lodgement. There have been no changes to Schedule 8-Plans, which identifies required minimum information for an assessment to be undertaken. It is sought that Schedule 8 include the requirements for an assessment to be undertaken in the Overlay, to ensure that referral triggers can be captured early in an assessment, referral undertaken and avoid toing and froing between Relevant Authority and applicant during the assessment.

Recommendation

It is recommended that Council's submission identify that there is a discrepancy between discussion paper and the Regulations and seek a 20-day referral to CoH and that Schedule 8 needs to be updated to include minimum requirements for an assessment of development that is within the Tunnel Protection Overlay.

MBS 011 Additional requirements for designated Tunnel Protection Overlay Areas

MBS 011 contains provisions for loading changes and clearance requirements for development and building work within a Tunnel Protection Overlay to protect the structural integrity and performance of planned and existing tunnel assets.

The DTS provision in MSB011 are generally straightforward to follow. There is one query for further clarification, which relates to 4.1 (b) as follows:

Development or building work satisfies the performance requirements if:

b) it does not:

- i. impose a surcharge loading at the Regulated Surface Level of more than 20 kPa or 2 tonnes per square metre; or
- ii. involve temporary stockpiling or storage of material or equipment over an area greater than 100 square metres;

An example of this may be car parking. Some clarification on what is storage of material or equipment would assist in applying this MBS.

Recommendation

It is recommended that clarification be sought on 4.1(b) of the MBS011.

Consultation and Training

Documents provided by DIT identified that the introduction of the Tunnel Protection Overlay would be supported by training for Council planners and key Department personnel to mitigate potential for unnecessary referrals to CoH. Council was not provided adequate information to ensure that when the Code Amendment and related legislative and policy changes were implemented under early commencement that they were equipped to undertake an assessment.

Relevant authorities, including the Council should be provided with Code Amendment documents prior to early commencement due to the implications to assessment pathways and process.

Training should be deployed to relevant authorities, specifically Council prior to the early commencement.

It is also noted that there are a number of inconsistencies within the now implemented policy and the implications on an assessment are disadvantageous. Earlier insight to the Code Amendment and other legislative changes may have enabled minor changes to improve the policy prior to its release.

Early discussion may have enabled greater visibility of the Code Amendment amongst the community. Council has shared the Code Amendment undertaken by a variety of Designated Entities in its Civic Centre and relevant platforms; this has not been easily facilitated by DIT during this Code Amendment.

Lastly and to improve user experience all information, including MBS011 should be located on the consultation page to provide clear line of sight across all new policy and legislation, rather than spread over several pages.

Recommendation

Early discussion and sharing of policy and legislative changes to ensure at go live relevant authorities are familiar and adept at deploying the policy. Inaccuracies within the policy may have been remedied and information shared with community at the time the early commencement began if there was early discussion with Council. All information should be provided on the consultation page including the MBS to provide clear line of sight of what the changes are.

Climate Impact Considerations

(Assessment of likely positive or negative implications of this decision will assist Council and the West Torrens Community to build resilience and adapt to the challenges created by a changing climate.)

Appropriate policy implementation has the ability to promote a climate resilient built form.

Conclusion

This report presents items for further clarification and consideration from the Designated Entity on the draft *Tunnel Protection Overlay Code Amendment*. It is recommended that the content of this report be provided as feedback to PlanSA on the consultation.

Vicinity Centres (1)



6 November 2023

River Torrens to Darlington Project Engagement Team
 Department for Infrastructure and Transport
 GPO Box 1533
 ADELAIDE SA 5001

Via email: T2D@sa.gov.au

To whom it may concern,

RE: SUBMISSION ON THE TUNNEL PROTECTION OVERLAY CODE AMENDMENT

Thank you for allowing us to comment on this proposed Code Amendment.

Vicinity Centres own and operate the Castle Plaza Shopping Centre located at 992 South Road, Edwardstown (the 'Site').

Our property is directly affected by the implementation of the Tunnel Protection Overlay (the 'Overlay') which we understand applies to an approx. 30m wide area of our land along South Road (since early commencement on 31 August 2023).

We wish to advise that we are opposed to the current spatial application of the Overlay. We contend that the Overlay is conservative in its spatial application, noting the Overlay area has been calculated based on the tunnel design from December 2022. The Discussion Paper released with the Code Amendment states that *"The areas will be refined following detailed design in 2024-25, at which time the exact tunnel alignment and depth will be known."* Therefore, the application of the Overlay is potentially inaccurate, and arguably, the Overlay should be introduced at that time that the exact location and depth is known to not unreasonably limit development opportunities of adjacent land.

We understand that the Tunnel Protection Overlay applies to land located directly above the future tunnel, extending out at a 45-degree angle (measured 5m horizontally from the tunnel) to where it intersects with the Regulated Surface Level. Following a review of the Discussion Paper, it is currently unclear why a generic 45-degree angle has been chosen.

The Overlay imposes a referral to DIT for new buildings exceeding 3 levels or excavation of a depth of 2.5m. The wording in DTS/DPF 2.1 including *"ground intruding activity involving an underground drain, pipe cable, conduit"* is extremely ambiguous and unclear at best, or if to be interpreted literally, extremely restrictive.

The Overlay has the potential to impact the ability to achieve the development outcomes currently sought by the Suburban Activity Centre Zone which seeks to facilitate the development of medium rise, mixed use development, including building heights of greater than three levels. The ability to deliver a comprehensive

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 and Vicinity Centres RE Ltd
 ABN 88 149 781 322
 As responsible entity for:
 Vicinity Centres Trust ARSN 104 931 928



development on a strategic site comprising a large land holding under the control of one landowner in proximity to rail and road connections may now be severely hindered.

In summary, we do not support the spatial application of the Overlay and the limitations it potentially poses for future development which aligns with that sought in the Planning and Design Code. Accordingly, we request that the extent of the Tunnel Protection Overlay is reduced to avoid any encroachment into 992 South Road.

If despite our submission, the Code Amendment is endorsed, Vicinity Centres is seeking confirmation on the process for financial compensation for any loss in land value or development potential of the site, due to the application of the Overlay (not dissimilar to the financial compensation received by land owners negatively affected by the land acquisition process for road widening under the *Metropolitan Road Widening Act 1972*).

We look forward to the opportunity to discuss our submission with you further. Please contact the undersigned in regard to this matter at the details below.

Regards,

A handwritten signature in black ink, appearing to read "W Taylor".

Warren Taylor
General Manager Property Investment Analytics
Vicinity Centres

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Vicinity Centres (2)



9 November 2023

River Torrens to Darlington Project Engagement Team
 Department for Infrastructure and Transport
 GPO Box 1533
 ADELAIDE SA 5001

Via email: T2D@sa.gov.au

To whom it may concern,

RE: SUBMISSION ON THE TUNNEL PROTECTION OVERLAY CODE AMENDMENT

944-958 SOUTH ROAD, EDWARDSTOWN (ADDITIONAL SUBMISSION)

I refer to our previous submission letter dated 6 November 2023 which provided comment on this proposed Code Amendment with respect to the Castle Plaza Shopping Centre located at 992 South Road, Edwardstown (Vicinity Centres owned and operated).

Please accept this letter as an addendum to the Vicinity submission dated 6 November 2023.

Vicinity also owns land at 944-958 South Rd, Edwardstown which is approximately 200 metres north of the Castle Plaza Shopping Centre. The land is also known as the Former Hills Industries Site and it represents a relatively substantial landholding for the area. Located west of South Road and with a depth of over 250 metres to the western railway line boundary, the land presents significant development potential in a strategic location.

This property is also directly affected by the implementation of the Tunnel Protection Overlay (the 'Overlay') which we understand applies to an approx. 30m wide area of our land along South Road (since early commencement on 31 August 2023).

We seek to advise that the concerns raised in our submission letter dated 6 November 2023 remain applicable for our land located at 944 South Rd, Edwardstown. These concerns are repeated below for completeness:

We wish to advise that we are opposed to the current spatial application of the Overlay. We contend that the Overlay is conservative in its spatial application, noting the Overlay area has been calculated based on the tunnel design from December 2022. The Discussion Paper released with the Code Amendment states that *"The areas will be refined following detailed design in 2024-25, at which time the exact tunnel alignment and depth will be known."* Therefore, the application of the Overlay is potentially inaccurate, and arguably, the Overlay should be introduced at that time that the exact location and depth is known to not unreasonably limit development opportunities of adjacent land.

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 As responsible entity for:
 Vicinity Centres Trust ARSN 104 931 928



We understand that the Tunnel Protection Overlay applies to land located directly above the future tunnel, extending out at a 45-degree angle (measured 5m horizontally from the tunnel) to where it intersects with the Regulated Surface Level. Following a review of the Discussion Paper, it is currently unclear why a generic 45-degree angle has been chosen.

The Overlay imposes a referral to DIT for new buildings exceeding 3 levels or excavation of a depth of 2.5m. The wording in DTS/DPF 2.1 including *“ground intruding activity involving an underground drain, pipe cable, conduit”* is extremely ambiguous and unclear at best, or if to be interpreted literally, extremely restrictive.

The Overlay has the potential to impact the ability to achieve the development outcomes currently sought by the Suburban Activity Centre Zone which seeks to facilitate the development of medium rise, mixed use development, including building heights of greater than three levels. The ability to deliver a comprehensive development on a strategic site comprising a large land holding under the control of one landowner in proximity to rail and road connections may now be severely hindered.

In summary, we do not support the spatial application of the Overlay and the limitations it potentially poses for future development which aligns with that sought in the Planning and Design Code. Accordingly, we request that the extent of the Tunnel Protection Overlay is reduced to avoid any encroachment into 944-958 South Road.

If despite our submission, the Code Amendment is endorsed, Vicinity Centres is seeking confirmation on the process for financial compensation for any loss in land value or development potential of the site, due to the application of the Overlay (not dissimilar to the financial compensation received by land owners negatively affected by the land acquisition process for road widening under the *Metropolitan Road Widening Act 1972*).

We look forward to the opportunity to discuss our submission with you further. Please contact the undersigned in regard to this matter at the details below.

Regards,

A handwritten signature in black ink, appearing to read 'W Taylor', is positioned above the typed name.

Warren Taylor
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Vicinity Centres

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17 November 2023

T2D Engagement Team

North-South Corridor, River Torrens to Darlington Project

By email: T2D@sa.gov.au

1 Introduction

- 1.1 On 29 September 2023, SA Water was invited to comment on the Ministerial Building Standard (MBS) 011 - Additional requirements for designated Tunnel Protection Overlay Areas, August 2023.
- 1.2 As the River Torrens to Darlington Project (T2D) tunnels are the most significant transport infrastructure in South Australia, new regulation changes outlining the design and building requirements near the tunnels are to be introduced.
- 1.3 The Department for Infrastructure and Transport (DIT) is introducing a Tunnel Protection Overlay that will apply to the (T2D) tunnels. The protection overlay intends to ensure future development activities and construction works nearby does not adversely impact the integrity and operation of the new tunnels, due to factors that have not been accounted for in the design, such as but not limited to load changes.
- 1.4 This document outlines the SA Water's feedback collected from various internal stakeholders to the proposed Tunnel Protection Overlay Code amendments. The likely impact of the proposed regulation changes was considered from various aspects including delivery of planned as well as unplanned works. The commentary is provided in the following sections.
- 1.5 A more detailed review of the clauses in MBS 011 was also undertaken by SA Water Engineering. The findings are further detailed in Section 4.
- 1.6 While SA Water is considered by the Planning, Development and Infrastructure Act as a Crown agency and therefore SA Water developments are exempted, this Memo outlines the adverse effects of the proposed regulations on SA Water activities.

2 Delivery of Planned Works

- 2.1 The SA Water assets involving Water, Wastewater and Recycle water infrastructures are generally installed at depths ranging from 1 m to 6 m along the North South Corridor. This is mainly governed by the traffic loading, maintaining mandatory clearances with existing Service Provider assets (APA, SAPN, Telstra) including local council storm water assets.
- 2.2 There are approximately 13 km of existing gravity sewer along the tunnel alignments, 9 km of which is 2.5 m or greater in depth.
- 2.3 The proposed changes require SA Water to go through a Development Application Process for excavations deeper than 2.5 m for Capital Works. Such process will prolong the delivery of planned works incurring costs and time penalties due to the associated consultation and approval criteria.

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- 2.4 Adherence to the application process will also impact the timeframe to respond to customer generated requests for new water and sewer connections and main extensions within the tunnel protection areas.
- 2.5 SA Water is required to comply with service standards set by our economic regulator, the Essential Services Commission of South Australia (ESCOSA) that govern the timeframes for managing applications and construction of extensions and connections. This additional application process will mean SA Water are unlikely to be able to meet these requirements within the defined areas.
- 2.6 As part of the SA Water's involvement with DIT T2D project, SA Water T2D Team and DIT T2D Civil and Tunnelling Team have been working together to identify the impacted SA Water assets along the construction corridor due to TBM operations. Based on the concept design tunnel alignment and the settlement contour mapping which have been communicated to the prospective tenderers, SA Water has identified and created a Critical Asset Register for all SA Water assets in the corridor (Refer to Attachment 1). The criticality rating has been based on the SA Water document 'Asset Criticality Rating – Assessment Procedure' published by SA Water Engineering (Refer to Attachment 2).

3 Delivery of Unplanned Works

- 3.1 While the planned work may be managed through the relevant project approvals, the largest concern is to manage SA Water's reactive work within regulated response (ESCOSA) timeframes.
- 3.2 SA Water's Levels of Service (LoS) to customers are mandated by Legislation, Standards and Australian Codes of Practice. This LoS is measured by frequency of disruption, response times and restoration times (including operational maintenance works). Therefore, unhindered access to SA Water assets, for unplanned emergency maintenance works, is essential.
- 3.3 As SA Water assets are generally installed at depths ranging from 1 m to 6 m along the North South Corridor, the requirement for a lengthy Development Application process when SA Water needs to carry out an excavation for urgent Maintenance Works is an area of concern. Delays in seeking approvals may hinder SA Water's ability to access its pipework, at short notice, to maintain, repair and restore services within 5 hours to deliver its regulatory commitments to the South Australian community. We would like to discuss this further to identify a mutually agreeable solution that meets the needs of both DIT and SA Water.

4 Detailed Review

- 4.1 The table below identifies detailed areas that we seek further discussion on the proposed additional requirements for designated Tunnel Protection Areas in MBS 011 Ministerial Building Standard.

Table 1 SA Water Engineering Comments

Item	MBS 011 Clause	Issue	SA Water Engineering Concern
1	2.2 to 2.4	Length of approval process could impact our ability to achieve Regulated Levels of Service	SA Water assets, Water, Wastewater and Recycle water, are installed at depths ranging from 1 m to 6 m along the North South Corridor. SA Water's Levels of service to customers are mandated by

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Item	MBS 011 Clause	Issue	SA Water Engineering Concern
			<p>Legislation, Standards and Australian Codes of Practice.</p> <p>As SA Water's Level of Service is measured by frequency of disruption, response times and restoration times (including operational maintenance works), unhindered access to SA Water assets, for unplanned emergency maintenance works, is essential.</p> <p>Delays in seeking approvals may hinder SA Water's ability to access its pipework, at short notice, to maintain, repair and restore services within 5 hours to deliver its regulatory commitments to the South Australian community.</p>
2	4.1 (a) (i)	Limiting loading at foundation level to 45 kPa	<p>Some of SA Water structures, such as maintenance holes and wet well, may have loading that exceeds the specified 45 kPa over a small footprint.</p> <p>How will the Commissioner of Highways deal with existing assets of loads larger than specified?</p> <p>In addition, to limit new assets loading to 45 kPa, a much larger footprint will be required increasing the capital costs to SA Water.</p>
3	4.1 (b) (i)	Limiting surcharge loading at the Regulated Surface Level to 20 kPa	<p>Surcharge loading of 20 kPa is usually used to account for traffic load surcharges and it is equivalent to 1.0 m height of fill. There are instances where SA Water works may impose larger loads, such as:</p> <ul style="list-style-type: none"> • Soil stockpiling when trench excavating; 2.0 m high of loose fill is approximately 24 kPa. • Surcharge loading underneath equipment such as excavator track and crane pads. <p>How will the Commissioner of Highways consider such business-as-usual work activities and how it can be controlled on site?</p>
4	4.1 (b) (iii)	Limiting temporary stockpiling of material/equipment to 100 m ²	<p>Similar to 4.1 (b) (i), SA Water seeks clarification on the position of the Commissioner of Highways as well as the expectation for site control measures.</p>
5	4.1 (c) (i)	Limiting excavation depth to 2.5m.	<p>SA Water's gravity sewer network has a nominal depth of 6.0 m. In some cases, pressured pipes (water and sewer) could be deeper than 2.5 m to avoid clashes with existing services. This 'No go zone' contains majority of SA Water Wastewater</p>

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Item	MBS 011 Clause	Issue	SA Water Engineering Concern
			assets and some Water Trunk Mains serving city of Adelaide and beyond. Again, SA Water seeks clarification on this requirement.
6	4.1 (c) (ii)	Limiting underground pipe to 1.5m in diameter	SA Water major water pipeline and trunk mains may exceed 1.5 m in diameter. Further clarification is requested.
7	4.2	Engagement of a Building Certifier	It is not a common practice to engage a Building Certifier for buried infrastructure.
8	5	Verification Method	In emergency unplanned work activities, which may increase due to DiT work, SA Water is concerned about the associated timeframes for this process. Refer item #1 above.

5 Further Clarification

- 5.1 In addition, SA Water is seeking clarification on a number of items, such as but not limited to those listed below:
1. The ambiguity in the wording, specifically where "or other activity" was used.
 2. The interpretation of words (i.e., adjacent) and requirements, such as "DA exemptions for like-for-like".
 3. Where the existing SA Water assets that are unaffected by the T2D project, is SA Water's ability to excavate to these for the purposes of replacement or maintenance exempt from this application process?

6 Summary and future meeting

- 6.1 The Ministerial Building Standard (MBS) 011 appears to be intended more for building development (residential, industrial, etc.). SA Water would appreciate the opportunity to meet with Department for Infrastructure and Transport to seek greater understand of the code intent, application, wording and the responses highlighted in this memo. Further discussion will assist in the development of a mutually agreed position relating to the amendments to the Ministerial Building Standard (MBS) 011.

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