
From: Madeleine Frew <[REDACTED]>
Sent: Friday, 29 March 2019 10:40 AM
To: DPTI:Planning Engagement
Subject: City of Adelaide Submission - Phase 1 P&D Code
Attachments: CoA Phase 1 P&D Code Submission.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear DPTI

Please find attached the City of Adelaide's draft feedback on Phase 1 of the Planning and Design Code (Land Not Within a Council Area).

Please note, that this was viewed by City of Adelaide's Strategic Planning and Development Policy (SPDP) Committee at their meeting on Wednesday 27 March 2019. The SPDP Committee has recommended to Council to endorse this submission at their next Council meeting, scheduled for Tuesday 9 April 2019. We are sending through our draft submission in order to meet the feedback deadline of today, but will update you following Council's meeting on 9 April should any amendments be made to the submission.

If you have any questions or would like to discuss, please feel free to contact me.

Kind regards
Maddie

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Think before you print!

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Submission form:

Planning and Design Code in the outback (land not within a council area)



Government
of South Australia
Department of Planning,
Transport and Infrastructure

Please send your completed submission form to:

Jason Bailey, Project Lead Planning and Design Code
Department of Planning, Transport and Infrastructure
Level 5, 50 Flinders Street, Adelaide 5000
GPO Box 1815, Adelaide SA 5001
Email: DPTI.PlanningEngagement@sa.gov.au

Section one: About you

1. Are you a planning, design or building industry professional?

- Yes
 No

If yes, please choose the professional field that best describes you from the drop-down list below:

Planning

2. Are you lodging this submission on behalf of yourself or an organisation?

- Self
 Organisation

If you are lodging a submission on behalf of an organisation, please provide the name of your organisation below:

City of Adelaide

3. What council (or non-council) area do you typically reside in?

Not relevant.

4. If you wish to receive a report on the feedback received during this consultation, please provide your name and email address.

Name: Maddie Frew

Email address: [REDACTED]

Section two: Feedback on the Planning and Design Code in the outback

5. Please provide your feedback on any or all of the Code sections outlined below.

GENERAL COMMENTS

The process to provide this feedback has included workshops with internal staff (Planning assessment, planning policy and heritage). It has predominantly focussed on the structure, framework and mechanics of the P&D Code.

Whilst it is understood that Phase 1 relates to the Outback, as the phased consultation is an iterative process of policy refinement, review of the policy content has been undertaken where the general development policy or overlay may be relevant to the City in a future phase of the Code. City of Adelaide will undertake a more thorough analysis of the policy content in Phases 2 and 3.

Council appreciates that policy relates to Outback areas, however there is an opportunity for improvement, and starting from a good basis will be critical with complex issues which will arise for Phases 2 and 3.

Desired Outcomes often lack effect when attempting to cover a wide scope with simplified and limited content. They are critical to provide the fundamental and clear 'word picture' of the ultimate objective, reasoning and test for development assessment. Accordingly, they should be comprehensive, explicit and clear statements of what is desired to be achieved by development in the applicable context, and readily understandable by all. Additionally, the Rules of Interpretation state that Desired Outcomes (DOs) should apply to all applications, as such, the DOs should be listed within the classification tables against all development types.

The performance outcome policy provisions are generally limited, simple and could lead to misinterpretation. There is inadequate clarity of meaning, actual requirements and outcome. Performance assessment policy needs to be clear on:

- what the issue is and requirement(s);
- why the outcome is sought;
- how the outcome can be achieved;

to enable understanding of reason for particular requirements and the desired outcome (or appropriate alternative for circumstances). Otherwise it is a simple statement without support of purpose or a basis for assessment. The use of language such as 'consider', 'similar', 'preferable', 'where possible', 'promote', 'encourage' is too subjective. Policies need to be clear and definitive on what is required and consistent across the Code.

A range of key design terms are used interchangeably, leading to different scenarios and confusion. A few are defined, but most are not. Most do not have a ready, easy or clear 'common meaning' (Rules of Interpretation) or 'ordinary meaning' (Part 7 Administrative Definitions) as a reference. The variety of administrative, technical and design terms are critical to be singularly defined and then used consistently. Consistent use of such defined terms would then clarify and streamline understanding, interpretation, outcomes and therefore assessment.

The Deemed-to-Satisfy (DTS) provisions are limited in number, however several lack clarity, are qualitative and open to interpretation. The fundamental principle for DTS is that they must be quantitative and unambiguous, i.e. black and white. If a DTS principle cannot be written in such a way, then that component of the development should not have a DTS principle associated with it. Writing ambiguous DTS policies will lead to misinterpretation, which will ultimately lead to poor and possibly detrimental outcomes.

It would be useful if DPTI could release mock DA examples with the next Phase of the Code, to enable Council to follow the process through. It is quite difficult for the community and practitioners alike to clearly understand the mechanics of the Code. Releasing some mock DA examples would assist this understanding and interpretation and ultimately facilitate informed feedback.

Matters against which development must be assessed

It is our understanding that DPTI's legal advice which says that the classification tables are the only principles that apply to a development type listed, relies on the interpretation of section 66(1) of the PDI Act:

66—Key provisions about content of code

(1) The Planning and Design Code must set out a comprehensive set of policies, rules and classifications which may be selected and applied in the various parts of the State through the operation of the Planning and Design Code and the SA planning database for the purposes of development assessment and related matters within the State.

The City of Adelaide does not agree with this interpretation, as section 66(1) of the PDI Act relates to 'content of code', rather than 'matters against which development must be assessed'. This is found at section 102 of the PDI Act and states:

102—Matters against which development must be assessed

(1) Subject to this Act, a development is an approved development if, and only if, a relevant authority has assessed the development against, and granted a consent in respect of, each of the following matters (insofar as they are relevant to the particular development):

(a) —

(i) the relevant provisions of the Planning Rules; and

(ii) to the extent provided by Part 7 Division 2—the impacts of the development, (planning consent);

The PDI Act defines 'planning rules' in section 3 as:

Planning Rules means—

(a) the Planning and Design Code; and

(b) the design standards that apply under Part 5 Division 2 Subdivision 4; and

(c) any other instrument prescribed by the regulations for the purposes of this definition;

Whilst the City of Adelaide supports in principle the use of classification tables within the Zones, we consider that this is a base and that if other principles from the P&D Code are relevant, these can be relied upon, based on the above sections of the PDI Act.

How also will design standards be relied upon to ensure these form part of the assessment?

With regard to the classification tables in their current form, there are some ambiguities within these tables which are concerning. There are examples where a development type is listed as DTS (i.e. dwelling in the Township Zone), but if you do not meet a DTS provision, as per the rules of the P&D Code, the application shifts to a Performance Assessed application. When you then go to the 'Township Zone Table 4 – Relevant Provisions for Performance Assessed Development' the application for a dwelling now involves a much more rigorous assessment, with many other provisions required to be assessed, for example, Design & Siting POs 3.1 and 4.1 – 4.5. All of these POs listed do not have an associated DTS provision. However, it is Councils view that these are relevant considerations for a dwelling. It is confusing as to how a dwelling could go through a DTS pathway, but if they do not meet one DTS provision, then components such as amenity and public realm interface are assessed. This does not make sense and is not a fair process.

Council recommends that 'Zone Table 3 – Deemed-to-satisfy requirements', only lists development types that can follow a DTS pathway. The rules of the Code should then stipulate that if they do not meet a DTS provision, that the assessment automatically shifts to a performance assessed pathway and the associated PO provisions are to be assessed with regard for the associated DTS. No other POs should be called up if the development type shifts pathway, as this is not transparent or fair. If other considerations are required that cannot have a DTS provisions, the development type should not fall within a DTS pathway at all. If the rules of the Code were amended as per detailed recommendation above, the 'Zone Table 4 - Relevant Provisions for Performance Assessed Development' should not list development types already listed under the DTS table, as the assessment should only shift to those associated POs. The Table 4 should only list development types which are not DTS or Restricted.

Another example of ambiguities in the classification tables can be found in the Settlement Zone. Advertisements are listed in both the DTS And Performance Assessment tables, however the Performance Assessment table has removed 'Advertisements 4.1' from the list of relevant provisions. It is concerning that this has now been missed from the performance assessed list, particularly if Council is to share the DPTI's view that the classification tables list the only provisions that can be referred to. Amending the rules of the Code as discussed above, would reduce human error of this nature and ensure consistency.

CITATION AND COMMENCEMENT

Recommend amend the 'Index of South Australian Planning and Design Code to read more easily, to:

- **Part 1** – Rules of Interpretation
- **Part 2** – Zones and Subzones
- **Part 3** – Overlays
- **Part 4** – General Development Provisions
- **Part 5** – Mapping
- **Part 6** – Land Use definitions
- **Part 7** – Administrative definitions
- **Part 8** – Referrals to other Authorities or Agencies
- **Part 9** – Table of Amendments

PART 1 – RULES OF INTERPRETATION

1.3 – Hierarchy

- What happens when overlays conflict with each other? Should there be a way to determine the hierarchy of the overlays or rules of assessment to deal with such conflict?

1.4 – Rules

- Number this section.
- Dot point 3 is confusing. This could be avoided if the second sentence is reworded for greater clarity
- Council supports the interpretation of punctuation which has been provided, ': and', ': or', however, it is noted that on several occasions within the Code, this rule has not been followed. See for example, Advertising General Development Policy – DTS 1.1, 1.2, 5.3. A thorough check of this is required to avoid misinterpretation, confusion and potential undesirable outcomes.

Other comments on Part 1

- Whilst it appears that no diagrams or figures have been used within Phase 1, it is anticipated that these will be part of Phase 2 and 3. Therefore rules and descriptions of these should be within Part 1 of the P&D Code somewhere.

- Will the Code Drafting Principles be made available on the portal also?

PART 2 - ZONES AND SUBZONES

The City of Adelaide has no comments on the Phase 1 Zones.

- Coastal Waters Zone
- Conservation Zone
- Local Infrastructure (Airfield) Zone
- Remote Areas Zone
- Settlement Zone
- Specific Use (Tourism Development) Zone
- Township Zone

PART 3 - OVERLAYS

No comment has been provided on the following overlays:

- Building Near Airfields Overlay
- Coastal Areas Overlay
- Hazards (Acid Sulfate Soils) Overlay
- Hazard (Bushfire Protection) Overlay
- Historic Shipwrecks Overlay
- Key Outback and Rural Routes Overlay
- Key Railway Corridors Overlay
- Marine Parks (Managed Use) Overlay
- Marine Parks (Restricted Use) Overlay
- Murray-Darling Basin Overlay
- Prescribed Watercourses Overlay
- Prescribed Wells Area Overlay
- Ramsar Wetlands Overlay
- River Murray Floor Plain Overlay
- Significant Landscape Overlay
- Water Resources Overlay

Sloping Land Overlay

What will this overlay apply to? Is there a certain level of 'slope' required?

DTS 1.1

- Replace word 'average' with 'should not exceed'. Average may mean that certain sections are unreasonably steep and does not consider the length of the driveway.

Other provisions required

- There is a lack of siting and design criteria. Add minimum siting and design criteria which addresses:
 - o minimization of cut and fill

- achieving a building profile that blends with the topography of the land bulk and scale so that development does not dominate the landscape
- Screening of built form and excavation/or fill from view.
- Set back form boundaries to reduce visual impact
- Stabilization of slope to prevent erosion

State Heritage Area Overlay

City of Adelaide only has one State Heritage Area – West Terrace Cemetery. This overlay does not readily translate for this State Heritage Area.

Many of the POs in this overlay refer to ‘buildings’. However, in the West Terrace Cemetery, and many other State Heritage Areas, it is the objects, such as headstones or tomb monuments and/or landscape features, such as avenues of trees and graves; the landscape is an integral part of the heritage of the place or area. This overlay provides no guidance on managing and protecting these very important landscape features of a State Heritage Area.

These provisions do not consider the integral heritage values as expressed in the landscape, layout and in some cases, structures that are not buildings, of State Heritage Areas. Additional provisions should be included in this overlay to ensure protection of our State’s varied, valuable and unique State Heritage Areas.

State Heritage Place Overlay

Still unclear how the ePlanning solution and/or P&D Code will deal with development on land adjoining a State (or Local) Heritage Place / Area.

PO 2.1

- a) This provisions states that the part to be demolished must be excluded from the heritage value, i.e. the heritage listing. The heritage listing sheets often identify the whole place, so this will require update of all State Heritage Place (SHP) data sheets.
- If demolition of State Heritage Places will be a performance assessed development in the future, the performance outcomes need to be very strong, to ensure our important and unique heritage places are protected and that relevant authorities have appropriate principles.

Referrals

- a) what is ‘significant building fabric’?
- b) What does ‘abut’ mean, as opposed to adjoins, adjacent, ancillary. This should be defined. For example if you have a large sign, associated with a petrol station that is across the road from a State Heritage Place, is a referral required?
- C)ii) and d) It is unclear how development adjacent/abutting a State Heritage Place will be referenced.
- e) even if something is ‘like-for-like’, they might not be using appropriate conservation methods and techniques. Without referral for things like this, our State Heritage Place are at risk. It is also unclear how the planner/relevant authority would be certain that it is ‘like-for-like’ maintenance?
- g) and i) agree with these referral triggers.

- h) this is the only reference to fencing within this overlay, performance outcomes are required for fencing affecting State Heritage Places.

Other provisions required

- Performance outcomes are required for:
 - o fencing to State Heritage Places
 - o dilapidated heritage places
 - o access of vehicles in keeping with State Heritage Place
 - o garage doors and their location or undercroft parking
 - o nature of the landscaping to be put in (Adelaide (City) Development Plan says natives)
 - o providing disabled access
 - o on the design of new buildings or additions being modern.
 - o on introducing styles that are out of character
 - o more required on roof lines
 - o open space or car parking on site that works with the SHP.
 - o land division within an existing SHP.

PART 4 - GENERAL MODULES

No comment has been provided on the following General Modules:

- Animal Keeping and Horse Keeping
- Aquaculture
- Bulk Handling and Storage Facilities
- Clearance from Overhead Powerlines
- Forestry
- Infrastructure and Renewable Energy Facilities
- Intensive Animal Keeping and Dairies
- Marinas and On-Water Structures
- Mineral Extraction
- Waste Treatment and Management Facilities
- Workers Accommodation and Settlements

Advertisements

These provisions will not suit the unique circumstances of the City of Adelaide. Council seeks to continue work with DPTI on transition of the Adelaide (City) Development Plan to the P&D Code.

PO 1.1

- This doesn't really make sense. Suggest:
'Advertisements compliment, rather than dominate, the buildings to which they are attached and the land on which they are sited' OR 'Advertisements that do not dominate but are compatible and integrated with the design of the building and land to which it relates'.

DTS 1.1

- This DTS is not qualitative or unambiguous and will create issues in everyday operation.
- Are these all ; and, or ; or?
- a) 'below canopy' level – what if it's a high canopy, or a canopy over a balcony? Is this the intent?
- What about encroachments? What does 'flush' mean? If attached directly to face of building, how

deep can the sign be? There are no quantitative provisions here?!

- d) & e) say 'project'; every sign 'projects' in some way, even if only minor. What does this mean?
- f) how will the decision maker exactly know the finished floor level of the second storey? This will require elevation plans be submitted for these applications, is that necessary of the intent?
- This DTS doesn't allow for under canopy blade signs or freestanding (noting that large freestanding should have an assessment.) Is it intended that all these signs are Performance Assessed? Under canopy blade / box signage could be codified for exemption (See Attachment A - CoA Low Risk Application Study). This has been missed.

DTS 1.2

- City of Adelaide does not support this DTS provision including 'public telephone booth'. This is at odds with DPTI's own letter to Telstra not supporting the roll out of their new public telephone booths which have LED screens displaying second and/or third party advertising.

DPTI is disappointed in the lack of consultation and as a result of this, the unacceptable high level of risk that Telstra has placed on the community and road users of South Australia.

You are directed to immediately stop your current rollout of these payphones with digital billboards that may feature third party advertising.

DTS 2.2

- Given there are no provisions relating to the size of a sign, this DTS is alarming. This would allow a shopping complex to lodge for a coordinated sign of an enormous size, but there would be no opportunity to suggest it is too large and negotiate a better outcome.

DTS 3.1

- What about second party? This is increasingly becoming a problem. Our Development Plan says: 'Second Party of product advertisements illustrating products sold on the premises in conjunction with the business name should not exceed 25% of the area of the advertisement'
- But this provision should also consider second party advertising that is not in conjunction with the business name also. This is a highly relevant component of ensuring good quality streetscapes. Suggest:

Product advertisements illustrating products sold on the premises in conjunction with the business name should not exceed 25 percent of the area of any advertisement.

DTS 4.1

- 'illumination' should be defined. Does this mean top lit, bottom lit, internally lit, behind lit, glow, LED, neon??
- What about under a canopy signs? Do these really need to be performance assessed?

DTS 5.1

- Might be relevant to say clearance between the top of the footpath and base or underside of the signage.
- 'Footway', is a new word. What does it mean? Is it a footpath or could it be a shared area? If it is shared area, signs over these areas need a clearance of 5m so trucks have access.

DTS 5.2

- Define 'illumination', as discussed under DTS 4.1.

- Is there any guidance from DPTI transport on maximum luminance either at the source of or at the point of traffic that can be incorporated to provide certainty?

DTS 5.4

- 'Adjacent' means within 60m. Perhaps this DTS should use the word 'adjoins', as per the PDI Act definitions.
- This DTS should not be related only to roads 80km/h or more. When the Code is switched on in the city context, drivers experience different conditions. Just because the speed limit is slower, doesn't mean there aren't possibly more distractions due to the heavy traffic flows, traffic emerging from side streets, heavy pedestrian areas.

Other provisions required

- City of Adelaide has serious concerns that there are no provisions about the size, type, colour and material of any sign. For example, you can apply for a sign flush on the building wall or fascia of whatever size and the relevant authority would be unable to assess this component? There could be some DTS provisions created for these matters and this should be further explored.
- There appear to be no POs or DTS provisions which relate to animation or duration times for advertisements. This should be included.
- There are no provisions which require structural supports be concealed from public view or of minimal impact. This should be added as structural supports directly affects the quality of the public realm and should be a consideration of any assessment.
- The inter-relationship with the National Construction Code is unclear. For example: If a sign is a flat panel and it is chemically attached to the building instead of mechanically fixed is it not development entirely? This needs clarification between the PDI Regulations and P&D Code.
- No text to restrict advertisements on 'dwellings', suggest:
Advertisements are inappropriate on premises used for a dwelling. This does not include business plates associated with a home activity which does not exceed 0.2 square metres.
- ATMs with their accompanying non-visually permeable film applied to facades occupy a notable extent of street frontage relative to the premises on which they are located, negatively impacting streetscape quality. Provision on ATMs and the like should be included within the P&D Code, suggest:
Development of vending machines, automatic teller machines and fast food outlets should:
 - (a) be consistent with the relevant Zone and Policy Area provisions;*
 - (b) maintain the character and continuity of activity along street frontages;*
 - (c) maintain good visibility from the street or public places for security; and*
 - (d) not impede pedestrian movement.*

AND

Advertisements relating to vending machines and automatic teller machines should be restrained in size and style.

Design and Siting

These provisions will need significant work to suit the unique circumstances of the City of Adelaide. Council seeks to continue work with DPTI on transition of the Adelaide (City) Development Plan to the P&D Code.

How do Design Standards link in to the P&D Code. How are they brought up in classification tables to ensure they are part of the assessment?

PO 1.1

- 'where possible', is too vague for a performance outcome of this nature. It gives an out which is not considered necessary or desirable.

DTS 2.4

- What about chimneys, air conditioning, solar panels etc. would this DTS not apply? Is that the intent?

PO 2.6

- What's 'solid' fencing. This could result in some really poor outcomes? How high?

PO 4.4

- 'Perceptible' could be interpreted in several ways. This could be simplified to:
 - o Buildings are designed with safe, direct access from public street frontages and vehicle parking areas.

PO 4.5

- What does 'enhance the appearance' mean, this is quite subjective.

DTS 6.1

- This DTS should also include other design outcomes to alleviate incidental overlooking, such as staggering windows.

Fences, Walls and Retaining Walls

- There is no provisions relating to front fences?

PO 9.2

- Suggest use the word 'permeable' rather than 'pervious'. 'Permeable is the more common and understood term.

Interface between Land Uses

These provisions will need significant work to suit the unique circumstances of the City of Adelaide. Council seeks to continue work with DPTI on transition of the Adelaide (City) Development Plan to the P&D Code.

DO 1

- The words 'minimise adverse effects' is ambiguous. What does this mean exactly?
- Suggest instead of 'reduce', should be 'resolve conflict'.
- Why does the DO only protect 'human health', suggest it should also include plants, animals etc.

DO 2

- Suggest changing the word 'encroachment' to 'impacts'. 'Encroachment' infers something crossing over a boundary but there are other impacts related to interface between land uses. At law, 'encroachment' means encroachment by a building, and includes encroachment by overhang of any part as well as encroachment by intrusion of any part in or upon the soil (*Encroachments Act 1944*).

PO 1.1

- It's good to see that the administrative definitions have defined 'sensitive land use', however this will require broadening to consider the city context. See comments in table AD.

PO 1.2

- 'Adjacent' means within 60m, is this the intent?

DTS 3.1

- It has been stated by DPTI that a DTS provision must be either quantitative or unambiguous and beyond debate. This cannot be a DTS provision in its current drafting using the words 'over a portion'. This could mean a tiny corner and achieve nothing. A percentage should be used. City of Adelaide Development Plan uses 20%.

DTS 3.2

- This is a good example of what we expect a DTS provision will be. Quantifiable and easy to read/interpret/understand. But, what about for balconies? Additionally, in the city or infill areas, this provision will not be achievable. Many dwellings in the City are sited on allotments of very small size comparative to the rest of the state. Adopting the DTS of half of the existing ground level open space or 35m² will push them into performance assessed unnecessarily. Suggest that a new DTS be included for the inner-metro areas that seek direct sunlight to only 20% of the open space rather than ½ the space / 35m².

PO 3.3

- Agree with this provision, but how will this be pickup in assessment table when possibly adjoining/abutting the subject site? It should be applied to most development types so that a check of surrounding solar energy facilities is undertaken, with the relevant authority able to simply write 'not relevant' against this provision when it doesn't apply?
- Although, what does 'unduly' mean?

PO 4.1

- What's a 'suitable level'? Should it not say something along the lines of 'does not unreasonably affect the acoustic amenity of the nearest existing sensitive land uses.'

PO 4.2

- a) remove the words 'with the adjacent sensitive land uses and zones primarily intended to accommodate sensitive land uses', this is not necessary as it has been said in the top part of the PO.

PO 4.4

- it is unclear how the relevant authority would determine if there is service equipment on adjoining sites? A thorough sit inspection would be required. If the application is a standard performance assessed development, the relevant authority only has 20 days to determine whether there is service equipment on adjoining sites and whether the external noise has been suitably minimised. This will be very difficult with the time frames provided.

PO 4.6

- Measuring only at the boundary of an adjacent sensitive land use is not good enough. It needs to be within the sensitive land use, i.e. bedroom. Need to determine impact with windows open and closed etc.
- Can the Code adopt the existing EPA Standard?

DTS 4.6

- Whilst quantifiable, this will require an acoustic report be submitted so planner is clear this provision has been met.
- CoA has acoustic reports peer reviewed which is an essential component of the assessment process. How will this be possible?

PO 5.2

- a) What does 'appropriate treatment technology' mean and include?

PO 6.2

- Adjacent means within 60m. is this the intention, otherwise suggest 'adjoining'.

Other provisions required

- In Phase 2 and 3, POs and DTS provisions should be introduced to address the interface between higher scale zones / non-residential zones etc.
- The CoA Development Plan has the following principle:
To ensure minimal disturbance to residents:
 - (a) ancillary activities such as deliveries, collection, movement of private waste bins, goods, empty bottles and the like should not occur:
 - (i) after 10.00pm; and
 - (ii) before 7.00am Monday to Saturday or before 9.00am on a Sunday or Public Holiday.
 - (b) typical activity within any car park area including vehicles being started, doors closing and vehicles moving away from the premises should not result in sleep disturbance when proposed for use after 10.00pm as defined by the limits recommended by the World Health Organisation.
- A principle of this nature should be transitioned to the P&D Code. Retention is critical in the City and inner-urban / high-density context where residential premises are in proximity to commercial spaces at ground level.
Experience in the City is that servicing of medium to high density developments by large vehicles has a significant impact upon residential amenity.
- Land uses emerging which should be taken into account include small scale light industries located behind retail store-front: small-scale / micro-breweries and distilleries, bicycle manufacturing, small scale ice-creamery, bakery, soap maker, or unusual combined uses: café/bookshop.
- There is no use of the EPA Environment Protection (Noise) Policy criteria (or any similar measurable performance measure) as a DTS for:
 - (a) pool pump and filtration system performance (PO 4.3)
 - (b) protection of bedrooms of adjacent dwellings (PO 4.4)
 - (c) roof mounted plant and machinery (No PO or DTS exists for this subject)
- No requirement to screen roof top plant and equipment.

Land Division

DO 1

- Should include (e) reinforces existing historic patterns if necessary.

Open Space and Recreation

PO 5.5

- Should this be more general to accommodate other facilities also?

PO 5.6

- How does this work? Can't all be 'after dark'?

Residential Liveability

The City of Adelaide believes that Phase 2 will see the introduction of another 20 odd General Development Policy Modules. The City of Adelaide looks forward to seeing policies which relate to medium to high-scale development, i.e. residential apartment living. City of Adelaide seeks to continue work with DPTI on transition of the Adelaide (City) Development Plan to the P&D Code.

PO 1.1

- 'living rooms', this is not defined and could be argued to be living/lounge rooms rather than bedrooms also. This should include bedrooms. PO 1.2 suggests that artificial light intrusion is all that is required for bedrooms which is a terrible base performance outcome for bedrooms.

DTS 5.4

- To prevent developers from passing off bedrooms as storage areas, it is suggested that the provision is rewritten to state "*Each dwelling is provided a storage area (excluding bedrooms) at least 8m³ of storage*"

DTS 6.1

- The length of a 2019 Ford Ranger (i.e. the 4x2 XLT Double Cab Pick-up Hi-Rider 3.2 Diesel model) is 5.426 metres. If a driver of this vehicles parks in a front driveway, the vehicle will extend onto the road reserve, unless the driver leaves a gap smaller than 8 centimetres between the front of the vehicle and the front wall of the garage door. This is considered unrealistic, so in order to avoid the obstruction of footpaths by long vehicles, it is suggested that the Deemed-to-Satisfy requirement is increased to 6 metres.

PO 7.1

- Why don't you define 'supported accommodation' in the land use definitions so you don't need to list out?

PO 8.1

- This won't work against the National Construction Code. As soon as something is to be used as temporary accommodation, the building code requires certain upgrades, which makes it habitable, which then makes it a 'dwelling' for planning purposes.

Site Contamination

Why does this relate only to 'human health', site contamination can impact on plants, crops, animals etc. and should be a consideration also.

DTS 1.1

- (b) is difficult to understand. It would make more logical sense if this DTS started with in circumstance where (i) and (ii), then go back to the applicant to furnish a report which shows that the site contamination doesn't exist or has been dealt with previously.

Tourism Development

Will this module include 'short term accommodation' in phase 2 and 3? Or where will this fit?

PO 2.1

- Potential conflicts between long-term residents and short-term tourists are minimised through suitable siting, design and management measures.

Transport, Access and Parking

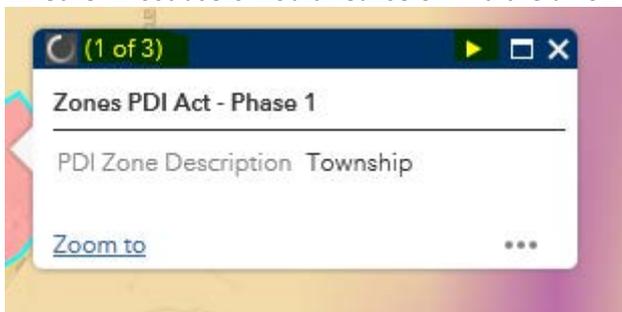
PO 6.6

- This is strongly supported for amenity purposes, and to help offset the urban heat island effect. However, this provision is not reinforced by a Deemed-to-Satisfy provision. A suggested provision is *one tree planted at an interval of every 6 parking spaces (and the tree species to have a mature height of at least 3 metres)*.
- This interval is used at Gepps X Home HQ shopping centre.

PART 5 - MAPPING

The address of the mapping website is considered to be impractical. If Councils wished to advise residents of the website (in a phone call), it would be difficult to quote the address of: <https://dpti.geohub.sa.gov.au/portal/apps/webappviewer/index.html?id=5fcfc772bf7d4c279ad9bb11c15bf419>. Consideration should be given to a more 'quotable' address.

Secondly, the mapping webpage is considered to be unintuitive to a non-technical user. The default view simply shows a beige shaded area (presumably the Remote Areas Zone) without any labelling. You have to manually switch on every overlay one by one. It is also quite slow to load. When a user does find a property to make an enquiry a box comes up, however, even when the dialogue box comes up, it doesn't tell you much. It was difficult also to see that it was actually trying to show the user multiple layers. This was quite unclear in the dialogue box and you had to locate the 'arrow' to find out what other layers apply to your property. It is unclear whether most users would realise or find the arrow to find out more information:



PART 6 – LAND USE DEFINITIONS

The land use definition table is predominately a transfer from the Development Act and/or SAPPL library. It does not reflect comments received through submissions on land use definitions and is considered a missed opportunity of the planning reform.

Whilst DPTI have said that generation 1 of the P&D Code will be a transitional document, rather than a reform document, the need to get the fundamentals right from the start is critical. Amending land uses in future generations of the P&D Code is not a suitable solution. A holistic and thorough examination of land use definitions should be undertaken now to set strong foundations for the future of the P&D Code.

Feedback received following the land use discussion paper provided detailed responses about misinterpretations or outdated definitions not in keeping with the impacts of technological advancements. They suggested that case law should be looked to to assist with clarifying definitions. There are also a number of definitions which could have been simplified, for example, to P&D Code has maintained four definitions for different types of industry. Whilst there may be need for different definitions based on the intensity of the industry, the current definitions for these are unclear and outdated and should be updated with reference to feedback made on the earlier land use definitions discussion paper.

Additionally, it was previously understood that an umbrella term for 'residential' was being explored. But we see still, detached dwelling, dwelling, group dwelling, row dwelling etc. The P&D Code could utilise a form-based model such that these different definitions are not required.

It should be noted that the format of the table, having columns for 'includes' and 'excludes' is a good approach and supported. Although in some instances this hasn't been followed. For example, 'educational establishment', appears to list the 'inclusions' within the definition itself.

There is concern about the very broad inclusions list for 'indoor recreation centre'. The difference between yoga studio and an indoor trampoline centre is significant, how will this be handled by the P&D Code?

On a technical note, it is suggested that all land uses in the 'includes' and 'excludes' columns are listed in alphabetical order, for ease of reference.

City of Adelaide also seeks clarity that their own unique definitions, found within Schedule 1 of the Adelaide (City) Development Plan will be included within the land use definitions table by Phase 3.

It is difficult to comment too much further as not all land use definitions have been included in Phase 1. However, it is concerning that Phase 1 does not radically change the definitions and we hope to see larger changes in phases 2 and 3.

PART 7– ADMINISTRATIVE DEFINITIONS

It is excellent that this section has been provided in the P&D Code.

Building Height – measures from finished ground level to finished roof height, however, finished ground level can easily be changed.

Building level – again it measures to finished ground level. That can be changed and also this is very difficult to apply on sloping sites.

Density (low, medium and high density) – is worked out in terms of dwellings per hectare. This will be very difficult to apply in metropolitan setting.

Private Open Space – does not define whether it is covered. There is also not a definition for 'landscaped open space'.

Site – talks of curtilage but then doesn't define what the extent of the curtilage.

Wall Height – talks of walls which are hidden behind eaves and not visible externally not be included in the measurement. That's not practical as what is visible changes as the viewer moves either closer too or further away from the building. It's not a finite measurement.

There is no definition of second-party or third-party advertising.

'Ancillary' and 'abut' should be defined, as opposed to adjacent and adjoining?

Other administrative words that are used throughout the P&D Code that should be considered to be defined for consistency of interpretation:

- In proximity to
- Adaptive reuse
- Non-conforming
- Development v new buildings
- Actions and unforeseen events beyond the control of the owner
- Irredeemably beyond repair
- Architectural treatments
- Heritage values
- Minor works that don't need referral
- Substantive physical impact
- Conservation repair works that are 'like for like' maintenance
- Ancillary development
- Visible from a public street
- Visually dominant

PART 8 – REFERRALS TO OTHER AUTHORITIES OR AGENCIES

No comments.

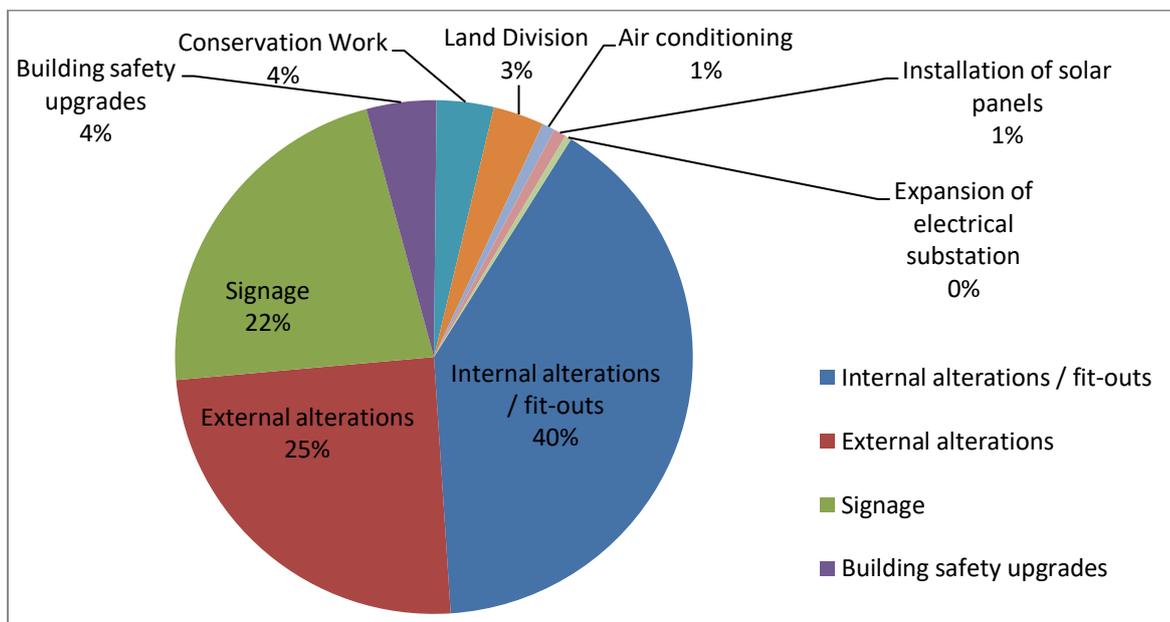
PART 9 — TABLE OF AMENDMENTS

No comments.

LOW RISK APPLICATIONS STUDY

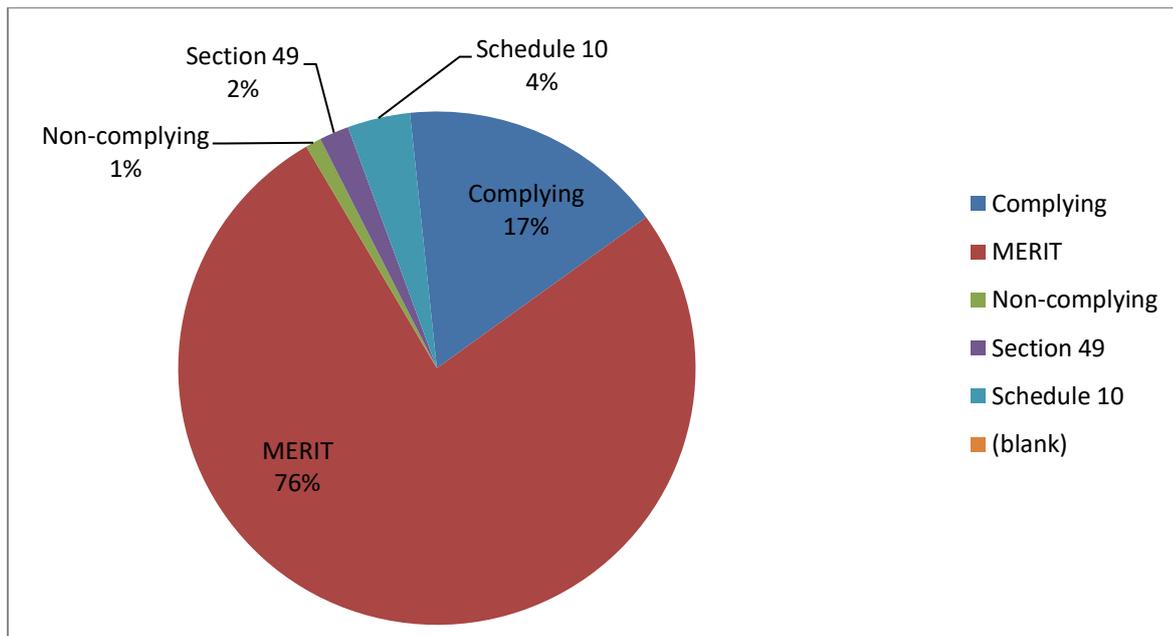
1. A primary purpose for the planning reform process is to significantly reduce the volume of development applications in the State planning system that are subject to a full assessment process with the stated aim to improve the overall efficiency of the planning system. The Expert Panel on Planning Reform suggested that a new 4 stream approach to development be adopted consisting of: Exempt, Prohibited, Standard assessment and Performance-based assessment.
2. The Development Indicators work presented to Council in March 2015 identified a number of current applications that were deemed to be of minor impact (see Figure 1 below). These could be suitable candidates for consideration of a simpler approval path without significant risk of not adequately assessing important planning considerations.

Figure 1: Applications deemed 'minor' works lodged in F.Y. 2013/14 in the City of Adelaide (not including change of land use applications)



3. Generally the complying category of development is designated by the Development Plan as comprising of internal building work and fit-outs.

Figure 2: All Development by Category: F.Y. 2013/14



4. The March report identified that given the distinctive range of applications lodged within the City of Adelaide, that any proposed legislative change that is aimed broadly at the State may not necessarily identify the low impact applications undertaken in the City of Adelaide. For example, the Residential Code changes that sought to simplify approvals processes for a range of residential applications had no real impact within the City of Adelaide given the type and number of residential applications received.
5. Under the current planning system, the trigger point for determining what works require approval is set by the definition of 'development' in the Development Act, 1993, as well as through a number of other parts of the Act which either exempt from approval or specifically identify certain works as requiring approval. The planning reform process will review these trigger points.
6. Further opportunities for streamlining applications processes may occur with review of future draft legislation as well as through further discussion on a State Planning Code (the topic of **Attachment B** to this report).
7. Further analysis of the 'minor' applications types identified above has been undertaken to assist Council's participation in next stage of planning reform process, being the release of draft legislation.
8. The table below identifies those application types that could be considered for exemption from the need to obtain a consent or for a simplified assessment process. To date the focus has been on those application types that are of high volume or are unique in the City of Adelaide so as to lead to the greatest possible efficiency improvement.

Topic	Current Situation	Recommended Direction
<p>Change of Land Use</p> <ul style="list-style-type: none"> ➤ The current legislation defines that a change in land use is 'development' requiring planning consent. ➤ The current trigger for when an application is required takes a cautious approach with regard to considering impact. For example approval for a change of use is required for a change between an office and consulting room. 	<ul style="list-style-type: none"> ➤ Changes of use applications (excluding those combined with associated building work) comprise 8% of total applications in the City of Adelaide. ➤ Current trigger point means that a high volume of applications lodged have no, or very limited, planning consequence. ➤ Currently change of use proposals are merit or non-complying¹ in nature in all zones with the following exceptions where they are complying: <ul style="list-style-type: none"> - Capital City Zone: non-residential to office, shop or consulting room². - Main Street (Adelaide) Zone and City Frame Zone: residential to office on ground or first floor; residential to shop less than 250 square metres³. <p><u>Notes</u></p> <ol style="list-style-type: none"> 1. Where the Development Plan currently identifies a particular use as non-complying it is envisaged that these situations would continue in 'performance-based' assessment pathway. 2. Excludes any retail showroom, adult entertainment premises, adult products and services premises or licensed premises 3. Excludes retail showroom or licensed premises. 	<ul style="list-style-type: none"> ➤ Make exempt or complying change of use applications for changes to and between; office, consulting rooms, shop, bank in those zones which support a mix of land uses. It is envisaged that this could include the following existing zones; <ul style="list-style-type: none"> - Capital City Zone - City Frame - Main Street zones - Mixed Use (Melbourne West) Zone - Institutional (University/Hospital) Zone ➤ Review of land use definitions for 'shop' to better control specific activities that have varying levels of impact such as: <ul style="list-style-type: none"> - retail showroom - bulky goods outlet - adult entertainment premises - adult products and services premises - personal services establishment - café - restaurant - licensed premises. ➤ Consider greater use of 'umbrella' definitions which capture a number of land uses under a single definition to remove the need for change of use between uses within the grouping.

Topic	Current Situation	Recommended Direction
<p>Signage/Advertising Displays</p> <ul style="list-style-type: none"> ➤ The Development Regulations defines what forms of signage require approval. It defines in detail the kinds of displays, lighting, lettering and structures that are included within the definition of a sign. ➤ The regulations contain a number of specific instances which are more stringent for the City, taking into account the intense density of development and character which distinguish the City from the rest of the state. This allows Council to exercise a considered assessment of the impacts of signs through the planning assessment process. ➤ In the City changes to the content of signs, their type, size and addition of illumination or animation are included as requiring approval in addition to murals, screens, projections, illumination (globes, lamps, floodlights), banners, bunting and streamers. 	<ul style="list-style-type: none"> ➤ 14% of all applications lodged are exclusively for signs⁴. ➤ Through a review of a sample of these applications, 59% are deemed minor in nature or simple in terms of planning assessment; being fascia signs, replacement signs, banners, artistic displays and under canopy signs. These applications are processed on average within 8 days. ➤ 9% of sign applications in 2013/14 would not require consent if they were located outside of the City of Adelaide. ➤ There is no place-based distinction for when approval is required – i.e. the same approach applies within the central city area as the residential zones. ➤ Banners, artistic displays, hoardings and event/festival signs are temporary in nature and are deemed to be low-risk in terms of impact upon the public realm and general amenity due to their temporary nature. <p><u>Notes</u></p> <p>4. Figures based on calendar years 2006 to 2014</p>	<ul style="list-style-type: none"> ➤ Amend Part 8 of Schedule 2 of the Development Regulations 2008 to remove current City specific requirements that makes change in the content of a sign development. ➤ Amend Regulation 9 of Schedule 2 of the Regulations to remove current city specific requirements that makes addition of illumination or animation development (subject to place specific controls). ➤ Adopt more place-based response to the need to obtain approval for minor signage, supported by a signage code to streamline assessment for low risk signage. ➤ Recommend Planning Consent codification for low-risk types of signs in the central business area (excluding heritage places), possibly including: <ul style="list-style-type: none"> - signs on hoardings - replacement signs (like for like) - under canopy signs - canopy fascia signs - parapet signs. ➤ Signage for events, temporary activities and similar on public land be dealt with solely under the Local Government Act which provides a more responsive legislative framework to appropriately manage the impact of such activities (provided ability to consider structural matters is retained)

Topic	Current Situation	Recommended Direction
<p>Internal Building Works / Fit-outs</p> <ul style="list-style-type: none"> ➤ The Development Regulations define that building work is 'development' and requires approval. Building Work includes non-structural changes to the inside of a building in the nature of 'fit-outs'. ➤ The Development Regulations require all internal building works to gain planning consent in the City of Adelaide, unlike the rest of the state where only building rules consent is required. ➤ The majority of internal building works consist of non-structural internal fit-outs to offices, consulting rooms and shops. 	<ul style="list-style-type: none"> ➤ Comprise 19% of all applications approved from 2005-2015, representing a significant proportion of activity in the City. The value of internal works and fit outs from financial year 2005/06 to-2014/15 is \$1.47 billion dollars. ➤ Current trigger point means that high volume of applications lodged have no, or very limited, planning consequence. ➤ Internal Alterations and Fit-outs typically have planning impacts only if located on ground floor at street interfaces, thereby impacting on presentation to the street. ➤ Currently internal alterations and fit-outs are only complying development in the Capital City and Riverbank zones (exempting heritage places). ➤ The majority of internal building works occurs within the Capital City Zone and the Institutional (University/Hospital) Zone, and to a lesser extent in the Main Street Zones within commercial premises. 	<ul style="list-style-type: none"> ➤ Make complying internal alterations and fit-outs by deleting Development Regulation Schedule 1A, Part 11. Consent would still be required for works within State and Local heritage places ➤ Recommend Building Rules Consent codification for limited building classes representing the majority of applications: office, shop, assembly building, health care building and laboratory/production/assembly premises (5,6,8,9)⁵. ➤ Ensure as a minimum, that such works will be complying in the Capital City Zone, Mixed Use Zone (Melbourne Street), Main Street Zones and City Frame Zones. <p><u>Notes</u></p> <p>5. Subject to exceptions where full assessment against the National Construction Code is required to ensure minimum requirements of internal amenity, equitable access, fire safety are met. [For example limitations may be based around (a) maximum floor area limit or (b) limited to single storey buildings or (c) maximum internal population numbers.]</p>

Topic	Current Situation	Recommended Direction
<p>Festivals and Special Events</p> <ul style="list-style-type: none"> ➤ The City receives a high number of applications for Festivals and Events, all of which are temporary in nature and many of which are located in the Park Lands or Squares. 	<ul style="list-style-type: none"> ➤ In the 2014/15 financial year 480 small events and 95 medium/large events were held in the City. Of these many were located in the Park Lands and Squares. Many of these events require some form of development approval – either for land and/or building approval for associated structures. ➤ Festival activities and special events where located on public land currently undergo a double assessment process whereby assessment against the Development Plan occurs as well as assessment under relevant Council Events policies and guidelines for events occurs. ➤ Section 6 of the Development Act, 1993 exempts the requirement to obtain approval for land uses deemed to be ‘trifling and insignificant’. Through case law and practice, there is some ambiguity when this clause can be used for temporary occupation of land. 	<ul style="list-style-type: none"> ➤ Streamline assessment process for temporary changes of land use for community, cultural, arts, entertainment, recreational and sporting uses in the Park Lands Zone, Riverbank Zone, Institutional Zones and in the City Squares. This may include making complying temporary events over 30 days provided they are for public or community purpose ➤ Investigate alternative building rules assessment processes for moveable / temporary structures such as use of external certification from recognised engineers. ➤ Temporary activities such as festivals and special events on public land be dealt with solely under the Local Government Act which provides a more responsive legislative framework to appropriately manage the impact of such activities and negotiate a satisfactory outcome.

Topic	Current Situation	Recommended Direction
<p>Temporary Building Occupation</p> <ul style="list-style-type: none"> ➤ There is increasing demand to use vacant buildings for temporary or short term occupation to accommodate cultural and artistic events and for temporary 'pop-up' businesses. ➤ Such short term occupation can only occur if the approved land use and building class is not changing. ➤ Established case law indicates that even temporary use of a building for a single event requires a change of land use application. ➤ Proposals for temporary use which change the building occupant population and building class often trigger the requirement for significant building upgrades relating to emergency egress, disabled access, toilet provision and fire safety. 	<ul style="list-style-type: none"> ➤ Applications for temporary events in existing buildings are trending upwards, being driven by initiatives from Renew Adelaide. ➤ Given that the proposals often involve the use of a small proportion of a building's total floor space and/or are for limited lengths of time, the National Construction Code requirement for building upgrade limits opportunities for temporary revitalisation. ➤ Assessment times for temporary changes of land use within buildings impacts upon timelines for applicants and acts as a disincentive for entrepreneurial start-ups and event organisers. ➤ For example many start-up businesses established through Renew Adelaide are on 30-day rolling leases which enables businesses to 'test the water' regarding business viability. How this needs to be aligned with need to initially obtain and extend temporary development approvals. 	<ul style="list-style-type: none"> ➤ Examine strategies to fast-track planning and building assessment for temporary land uses. ➤ Examine broadening discretionary powers for qualified Building Surveyors to determine required compliance against the National Construction Code for temporary building occupation⁶. ➤ And/or alternatively, seek that temporary changes of land use within buildings be deemed 'trifling' or insignificant' (subject to caveats regarding matters such as maximum floor area, maximum occupant population limit, maximum periods of time and location). Locations would most likely be limited to the following zones which do not contain a high proportion of sensitive land uses (i.e. residential) – e.g. limited to: <ul style="list-style-type: none"> - Institutional zones - Capital City Zone - Riverbank Zone - Park Land Zone <p><u>Notes</u></p> <p>6. Will require the ability to address unsuitable building classification and lack of certificate of occupancy.</p>