

OUR
NEW
SYSTEM



SOUTH AUSTRALIA'S PLANNING AND DESIGN CODE – HOW WILL IT WORK?

Technical Discussion Paper
For Consultation



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Government
of South Australia

Department of Planning,
Transport and Infrastructure

THE BLUEPRINT FOR SOUTH AUSTRALIA'S PLANNING AND DESIGN CODE

In March 2018, the State Planning Commission (the Commission) released *The Blueprint for South Australia's Planning and Design Code Introductory Paper* (pictured right). It provides the first formal introduction to the Planning and Design Code (the Code) and its work program. It also sets the scene for a series of discussion papers and engagement opportunities to inform development of the Code.

The Introductory Paper can be downloaded from the SA Planning Portal at: www.saplanningportal.sa.gov.au

The discussion papers fall into two series - Policy and Technical. Together, these papers will make up the Blueprint for South Australia's Planning and Design Code.

This document is the first of the technical discussion papers. It seeks to build understanding of how the Code will work and how users of the system can expect to interact with it. It draws upon research and experiences from across Australia and focuses on the form and structure of the Code; the governing rules and principles for preparing the Code; the ePlanning dimensions of the Code; and the Code's relationship with other planning instruments.





BENEFITS OF THE PLANNING AND DESIGN CODE

Benefits of the Planning and Design Code:

- ✓ A single reference point for state planning and design rules

The Code will consolidate South Australia's 72 Development Plans into one clear planning rulebook for the state.

- ✓ Consistent planning rules to improve certainty in decision making

The Code will enable improved consistency of all development assessment and decisions.

- ✓ Standardised interpretation of legislation will improve assessment and reduce delays

The Code will streamline zones and policy to drive a faster and more efficient development assessment process.

- ✓ Online delivery of the Code provides assessment authorities with only the rules they need

The new ePlanning Portal will automatically determine which planning rules apply to a development application for the assessment authority, saving time and improving consistency.

- ✓ Flexibility to deal with local issues, while ensuring consistency for other issues

Performance-based planning supports consistent policy while allowing decision makers to respond to local context. There will also be a set of Design Guidelines providing advice on best practice design elements and the principles of good design.

- ✓ Significant reduction in paperwork

The online application of the Code will significantly shift our planning system toward paperless operation, reducing the time-consuming flow of physical information.

- ✓ Reduces costs and delays in updating development plans

The Code will be administered centrally and electronically, with amendments implemented more efficiently and consistently.





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THE PLANNING AND DESIGN CODE

– HOW WILL IT WORK? DISCUSSION PAPER

Since the enactment of parts of the *Planning, Development and Infrastructure Act 2016* (the PDI Act), the State Government, the Minister for Planning, and the State Planning Commission have been working through a range of reforms to improve South Australia's planning system.

A cornerstone of the new system is the state-wide Planning and Design Code (the Code). The Code will consolidate the planning rules contained in South Australia's 72 Development Plans into one rulebook. Coupled with an ePlanning solution, the Code will make it simpler and easier for anyone to access planning rules, thereby enabling a more efficient and useable planning system.

The Code will resolve key issues with the current system as identified by the Expert Panel for Planning Reform in 2014, which it described below:

'With more than 2,500 zone combinations spread across 23,000 pages of policy, maps and tables in the state's current 72 Development Plans, the volume of regulation in South Australia's system is unsustainable. It results in planning rules that are unusable, highly variable and out of date, and makes it difficult for many people to meaningfully interact with the planning system. This causes confusion and downstream delays in assessment, resulting in deferred investment, unnecessary development costs, and a lack of community confidence in assessment decisions.'

It is little surprise that users of the planning system find it hard to locate or understand the rules that affect them most.'

This paper has been prepared with practitioners in mind, introducing detailed aspects of the Code. Information such as the Code's operational framework, content requirements as stipulated in the PDI Act and some emerging methodology on writing and translating policy content is presented to encourage feedback from interested parties.

Planning, Development and Infrastructure Act 2016 requires that the first generation of the Code be implemented across the entirety of the state by July 2020. Delivery of this landmark reform in this timeframe requires significant and ongoing collaboration across all sectors. This discussion paper has been prepared to provide information and invite questions and feedback about how the Code will operate and affect you, so that it can be built with future users in mind.

You can provide feedback on this paper via:

- SA Planning Portal: Visit the Have Your Say webpage and lodge a submission at http://www.saplanningportal.sa.gov.au/have_your_say
- Email: DPTI.PlanningEngagement@sa.gov.au
- Post: PO Box 1815, Adelaide SA 5001



A NEW PLANNING AND DESIGN CODE

The state's planning policies and rules need to be delivered in a more contemporary, consistent and understandable way. This was a central recommendation of the Expert Panel for Planning Reform, along with a number of other key recommendations including, the need for:

- A single state-wide set of planning rules should be provided to see more consistent planning rules across the state. This would ensure locations that are similar have the same rules applying to them, irrespective of council area.
- Zones and overlays with both merit-based and complying provisions and standards.
- Updates to policy should flow automatically across the state through the use of online systems.
- Code and planning schemes seamlessly linked online rather than being replicated in multiple documents.

There are a number of core considerations that the Code's structure and format need to ensure and support, including that:

- It achieves consistency of planning rules, so that locations that are similar have the same rules applying to them, irrespective of council area.
- Issues of state importance can be readily incorporated and consistently applied.
- Significant and important local characteristics can be recognised.
- It provides a higher degree of certainty for the more common types of development.
- It provides increased flexibility in design that can better respond to local context for larger and higher impacting types of development.
- It needs to be maintained so that it remains contemporary and able to readily respond to emerging trends or issues.
- It can be delivered digitally so that the system can be easily accessed anytime, anywhere.



There has been a focus in recent years to improve planning systems across Australia, to make them simpler to use, easier to understand and more effective at guiding the delivery of sustainable, liveable places.

Investigation and review of these planning systems and the instruments of other state jurisdictions was therefore undertaken to determine what works well, and importantly perhaps not so well, outside South Australia.

While our system, like all others, is unique, there are some key learnings that can be taken from other systems to inform the development of our Code:

- Schemes that are the easiest to navigate have a clear hierarchy of policy with few levels or tiers – such as a primary zone coupled with overlays or similar to embody and express state interests or specific policy outcomes that apply across broader areas.
- Important local characteristics are recognised judiciously as a mark of significance.
- A focus on the use of standardised zones and policy – achieved by mandating key aspects of schemes that provide for improved understanding of the basic forms of development that can be expected in a locality and the key issues that need to be addressed.
- A clear ‘line of sight’ between state interests at the strategic level through to the detail and application of policy for assessment purposes in the Code.
- Assessment criteria based on performance outcomes (for qualitative ‘on merit’ assessment) and, where possible, acceptable (Deemed-to-Satisfy) standards that provide unambiguous, often quantitative solutions to manage an issue (where the solution is widely accepted to address the issue).
- The use of performance outcomes that are comparatively attractive to encourage innovation and diversity.
- Clear assessment pathways that ensure the level of assessment is appropriate to the complexity and type of development proposed, and that provide clarity around process and assessment requirements.
- Clear identification of development not requiring any kind of approval.
- Interactive spatial information resources (maps) operated via an online planning portal that enhance the accessibility and legibility of planning information.
- Referral of applications generally only when they relate to a state interest and exceed related policy allowances.
- Clear identification of development that requires notification.
- In instances where ePlanning exists, policy drives the delivery information technology – not the other way around.



What does ePlanning mean for the Code?

EPlanning will dramatically alter the way planning rules are stored, retrieved and maintained in South Australia. It also offers the potential to dramatically enhance the collection of data regarding development and assessment outcomes.

Digital storage of the 'Code Library' (the complete set of rules that are available for application across the whole of the state) in a single central database that can be readily accessed through the SA Planning Portal will mean:

- All rules are held in the portal, and can be easily accessed online.
- All maps are held in the portal, and can be easily accessed online.

Currently, retrieval of the planning rules relevant to a kind of development at a particular location is a manual process resulting in different users reaching differing outcomes in respect to what rules are relevant to a development. The use of ePlanning will remove the potential for such inconsistency and deliver the rules and procedures (including level of assessment, notification requirements and referrals) that apply to a development application transparently, consistently, and instantly, irrespective of location or the kind of development proposed.

EPlanning will also enable changes to policy (through a Code amendment process) to flow automatically to wherever the policy applies across the state minimising delays and costs. This is unlike the current system where Development Plans are updated individually, which has led to policy fragmentation over time.

Online delivery will also continue the 'one-stop-shop' ideal by providing a single portal for users that is accessible 24 hours a day, seven days a week, so that information can be delivered consistently and transparently. The single system also enables data and information to be much more easily and readily collected, so that the performance of the system will be clearer, and therefore provide greater visibility to any changes that may be necessary. The Code, or parts of the Code, will still be able to be printed via the SA Planning Portal. For instance:

- A council could retrieve and print all of the parts of the Code Library that apply to its area.
- A developer could retrieve and print the content of a particular zone.
- A home owner who is considering undertaking some kind of development (e.g. building a new shed or a dwelling addition) could print the rules that are applicable to their proposed development.

For more information on ePlanning refer to the SA Planning Portal at http://www.saplanningportal.sa.gov.au/planning_reforms/new_planning_tools/eplanning

HOW WILL THE PLANNING AND DESIGN CODE BE DEVELOPED?

The Code will be developed in four stages as follows:

1. Investigation and drafting – research to inform Code development
2. Testing and engagement on the Discussion Papers
3. Consultation on policy
4. Implementation – applying the Code to geographical areas through the Code Amendment Process.

Each of these stages requires engagement and input from local governments, industry bodies, professionals, community groups, educational institutions and other interested parties in accordance with the Community Engagement Charter (which clearly seeks early engagement on policy considerations).

The first two stages will inform the policies that make up the zones, subzones and overlays within the Code Library. The existing South Australian Planning Policy Library (SAPPL), which is the foundation for most Development Plans in South Australia, will be used as the reference point for this drafting process. In addition, reviews of all of the 72 Development Plans will identify any other important policies not in the SAPPL. The combination of these provides a comprehensive foundation for all of the important planning policies and rules that currently apply across the state and need to be captured.

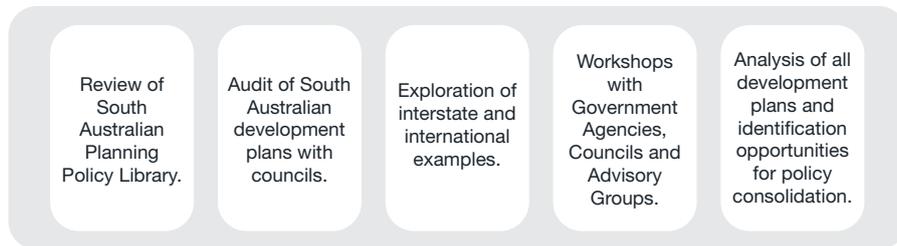
The first generation of the Code will largely be a consolidation of the intent of the current policy environment (informed by the review of the SAPPL and the state's Development Plans). Substantial policy reform elements are not proposed to be included in the first generation of the Code (unless explicitly identified and progressed by the Commission through its Policy Discussion Papers), or where a council is leading a change to its area.

These zones, subzones and overlays will then be applied geographically across South Australia through Code Amendment Processes.

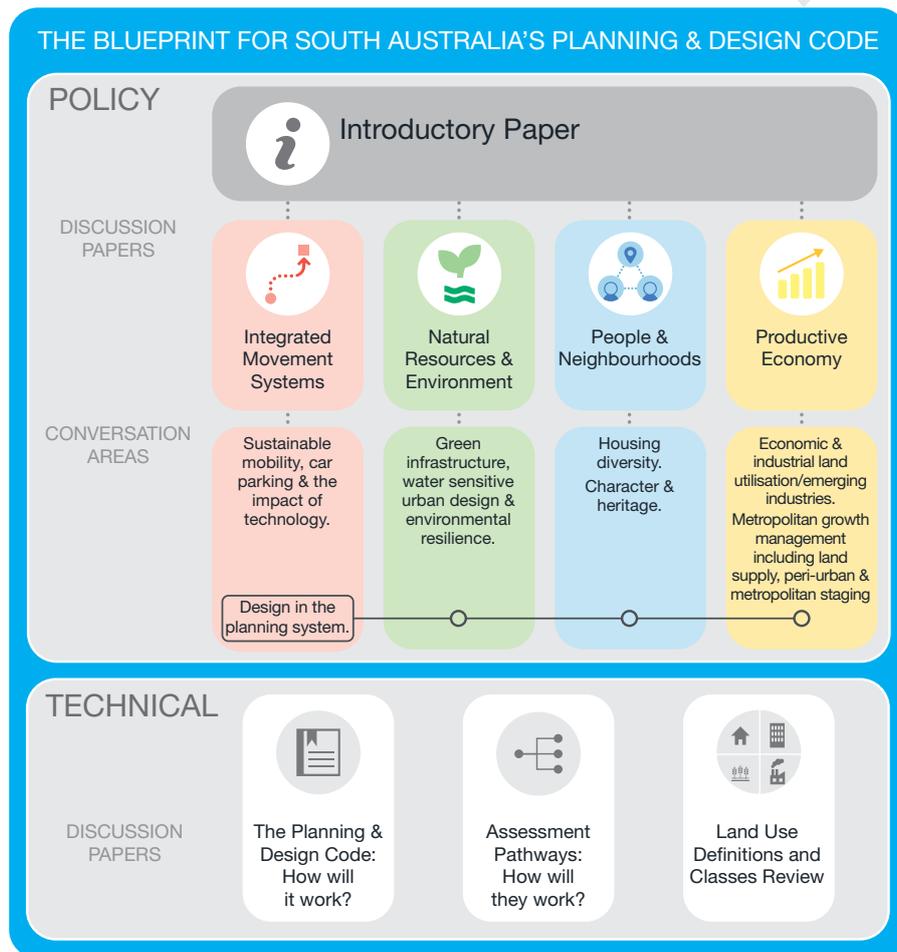
The timing of and how you can get involved in these steps is outlined at the end of this document.



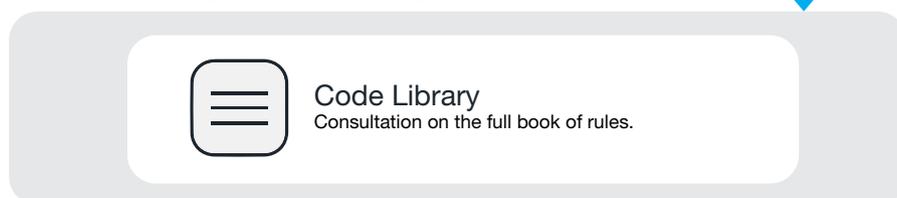
1. INVESTIGATION & DRAFTING



2. TESTING & ENGAGEMENT



3. STATUTORY CONSULTATION



TESTING

4. IMPLEMENTATION



WHAT WILL THE PLANNING AND DESIGN CODE INCLUDE?

The following provides an overview of the key features of the Code:

A new performance-based planning system

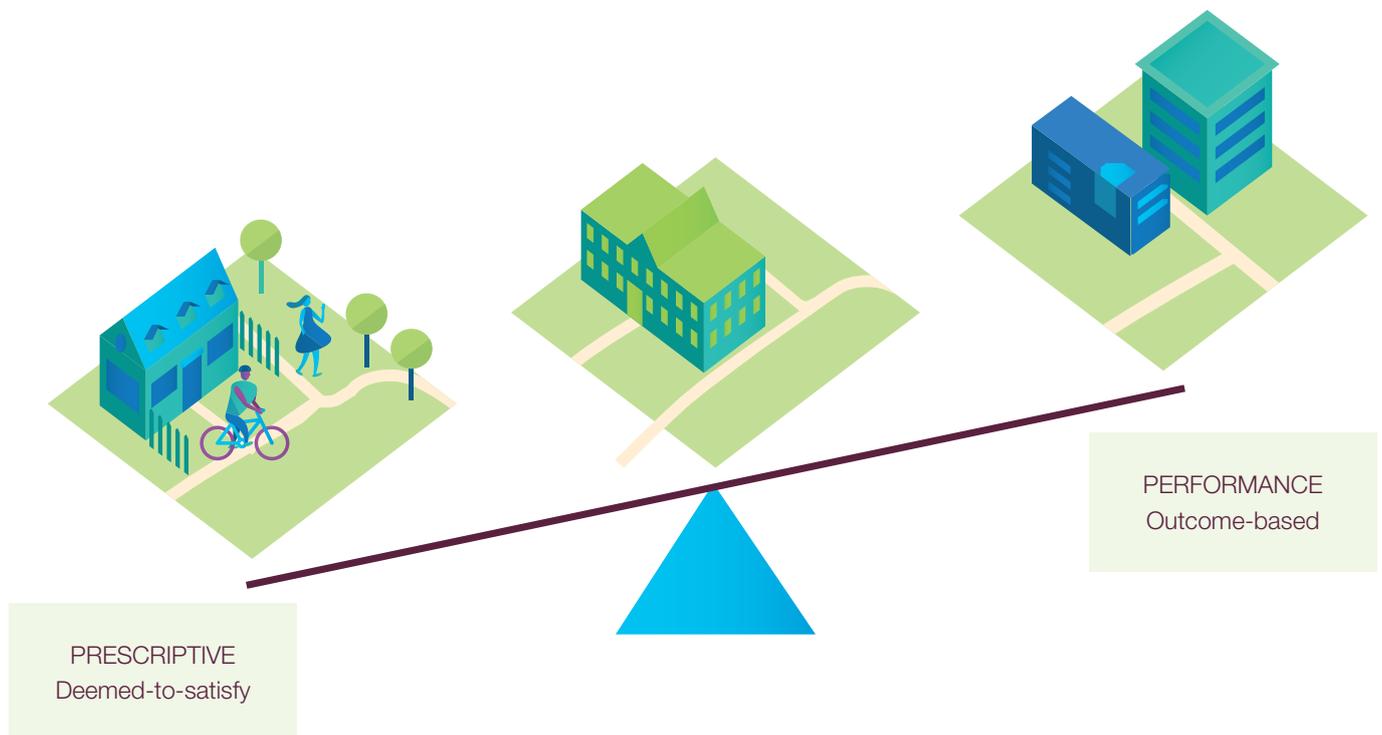
The Code will provide a clear performance-based approach to planning, focusing on policies and rules that address scale, form and design of buildings and their relationship to the public realm as well as providing for tailored and defined land uses.

This performance-based approach will include measurable performance requirements (termed assessment criteria) against which applications will be assessed.

Performance outcomes are, by definition, qualitative and for this reason require subjective evaluation of potential impacts of a development proposal. This provides greater flexibility to explore different design

solutions that can better respond to a location's context and places a greater emphasis on built form through a form-based approach, wherever this is important. However, it should be noted that a more form-based performance approach won't necessarily be suitable in every circumstance. Some zones will have a greater emphasis on land use suitability, such as in heavy industry or primary production zones.

The inclusion of Deemed-to-Satisfy policy provides a mechanism to readily approve low risk and minor development expected for an area thereby ensuring the system provides certainty for lower scale development, while qualitative performance outcomes allow design flexibility to achieve the desired outcomes for more intense and larger scale development. This is illustrated in the following diagram:





The learnings from interstate tell us that it is important to achieve the correct balance in this mix i.e. performance-based assessment criteria are set correctly so that they are attractive when compared to the more routine Deemed-to-Comply, achieve good design outcomes, encourage continued innovation and avoid homogeneous development. However, care needs to be taken with ‘acceptable solutions’ to avoid less desirable design outcomes.

A focus on design

A number of Australian jurisdictions are also moving to form-based codes. Instead of areas being divided into zones based on land uses, areas are defined by zones that indicate suitable density and form of development. This approach enables a stronger emphasis to be placed on the design of buildings and the way buildings interact with the public realm and neighbouring built form (local context). This is in contrast to conventional zoning’s focus on the segregation of land uses and the control of development intensity through abstract and sometimes uncoordinated parameters (e.g. floor area ratios, minimum allotment sizes, parking ratios), to the neglect of achieving an integrated built form.

As mentioned above the Code can be expected to be a blend of conventional zoning where land use is the driver (such as in primary production zones) and form-based zones where a greater emphasis on built form and public realm is required. This could include locations where the desired built form outcome is strongly tied to the existing context and form (e.g. character, the space between the buildings, building size and proportions, and building height), or where the desired outcome is transformational such as the high street part of a mixed use corridor infill zone. In this instance the policy would need to clearly articulate the future form in relation to height, setbacks, active ground uses and so on. This approach responds to the need for the planning system to be less reliant on the separation of land uses as the driver for zoning in relevant locations, and places a greater emphasis on form and design particularly as we shift to a new urban form in some places.

Improved assessment pathways

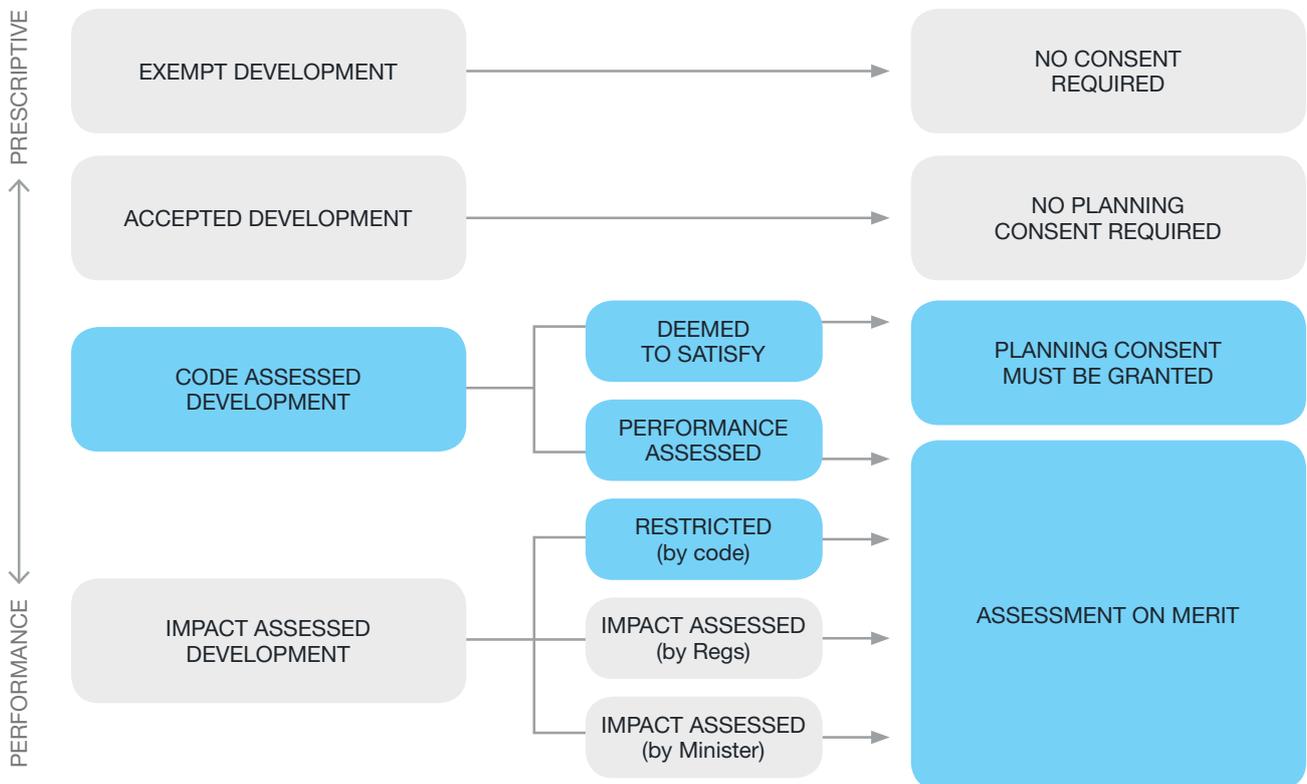
For planning consent, development may be categorised into four Categories of Development (often referred to as ‘assessment pathways’) as set out under the PDI Act. These assessment pathways have been better tailored to respond to the impacts of a development, and will be clearly embedded in the Code and Regulations.

Assessment pathways will be identified by the ePlanning system, as informed by the Code (in relation to Code assessed development) and the Regulations (for activities outside those that will be Code assessed). This will mean that assessment

pathways are consistently applied, and not open to interpretation. This is important as a number of procedural and process matters depend on the assessment pathway – including determining the relevant assessing authority, level of notification, and the assessment process.

The new assessment pathways will be explored further and in more detail in the dedicated *Assessment Pathways – How will they work? Discussion Paper*.

Until then, a snapshot of the new assessment pathways is provided below.



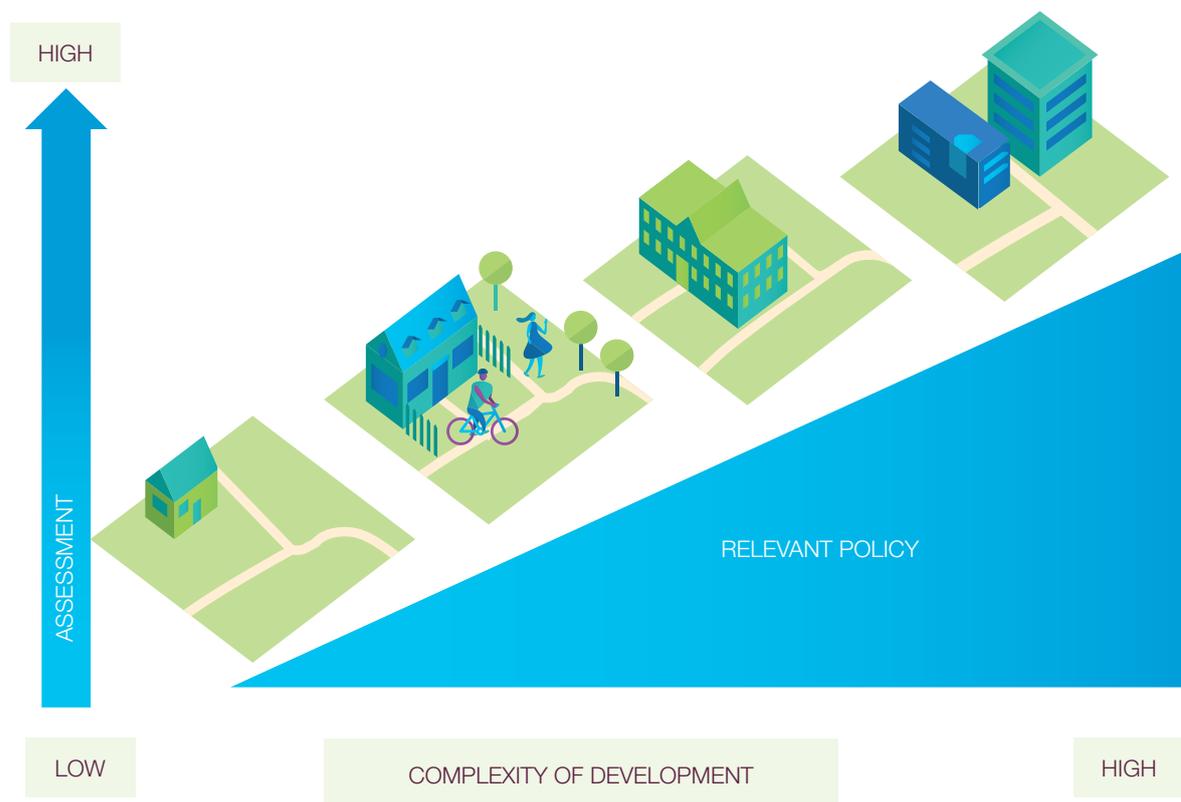


This diagram also highlights a number of similarities and differences when compared to the current system:

- Accepted and exempt development will remain, neither of which will require planning consent.
- Performance assessed development will still require ‘on merit’ assessment.
- The system allows for a Performance Assessed development to have elements that have Deemed-to-Satisfy solutions, which, if met, will be taken to have been granted planning consent.
- Non-complying development has been removed from the system.
- There are three types of Impact Assessed Development – by identification in the Code, identification by the Development Regulations, and as declared by the Minister.

It is also proposed that development types be allocated to assessment pathways based on their intensity and level of impact, and that the planning policies identified for assessment are commensurate with the development type’s complexity. For example, minor development such as a dwelling addition could be expected to have a ‘Deemed-to-Satisfy’ assessment pathway (subject to relatively few rules relating to basic form and functional requirements), while an apartment building would be performance assessed so its interface impacts on neighbouring properties and the streetscape can be evaluated in the location’s context.

This concept of scalability is illustrated in the following diagram:



Consistency with state strategic directions

The Code must align with both State Planning Policies and Regional Plans.

The State Planning Policies (SPPs) will identify the high-level planning priorities of the state and respond to current and future opportunities and challenges. These are an integral part of the system and is consistent with interstate planning systems that have some form of guiding state level policy.

The Commission has commenced preparation of the SPPs, which are expected to be released for consultation in mid-2018. The SPPs will need to be in place before formal consultation on the Code Library occurs.

Notably, unlike other states, SPPs are not used in assessment and provide high level direction in the system.

Regional Plans will provide a long-term vision (15 to 30 years) for a region and include provisions for the integration of land-use, transport infrastructure and the public realm. *The 30-Year Plan for Greater Adelaide – 2017 Update*, along with the other volumes of the *South Australian Planning Strategy* will serve as the state's Regional Plans until new Regional Plans are developed.

Both the SPPs and Regional Plans will inform the directions for policy content in the Code as it is developed and will be a key ingredient in the transition process from the current 72 Development Plans to the Code. In the future, changes to these will be a trigger for the Code to be considered for amendment.

For more information on State Planning Policies and Regional Plans, please refer to the *Blueprint for South Australia's Planning and Design Code Introductory Paper* on the SA Planning Portal.





WHAT WILL THE PLANNING AND DESIGN CODE LOOK LIKE?

The Code will be a comprehensive set of planning rules for development assessment and become the single reference point for development assessment throughout South Australia.

The policies, rules and classifications will be structured within the **Planning and Design Code** as:

- Zones
- Overlays
- Subzones
- General Development Policies
- Land Use Definitions and Land Use Classes
- Assessment Tables.

The three spatial layers used in the Code will principally be used to regulate land use and built form, and each is proposed to be used in a particular manner. No other spatial layers will be able to be introduced. General Development Policies will be called up through the ePlanning system based on a development type, but generally will relate to the functional requirements of the development such as private open space, car parking etc.

The use of these three spatial layers, plus additional General Development Policy modules, picks up key features of interstate Codes that have worked well.

There is no weighting within or between policy levels, except in regard to overlays, which will deliver state interest policy (and may include the need to seek specialist agency advice through referral), and therefore take precedence over zones, subzones and General Development Policies (which effectively become part of the zone through the Assessment Table).

Zones

Zones are the primary organising layer of the Code. All land within South Australia will be included within a zone.

Zones set out policies and rules primarily relating to the land use, land use intensity and built form characteristics (such as building setbacks and height) that are anticipated for an area – in effect outlining ‘what’ can happen in an area.

Zones will also identify envisaged land uses and the relevant assessment criteria, as well as procedural matters (including Categories of Development [assessment pathways], public notification requirements and, where relevant, referrals).

Local variations cannot be included within a zone. Any variation to a zone is achieved through the application of an overlay or subzone. The standardisation of zones is a key feature of many interstate systems and add to the legibility and simplicity of the system.



ZONES

- Principal organising layer.
- Applied consistently across the state.
- Zone policy will relate to spatial attributes (e.g. built form and character, land envelopes) and identify suitable uses.
- Assessment Table

SUBZONES

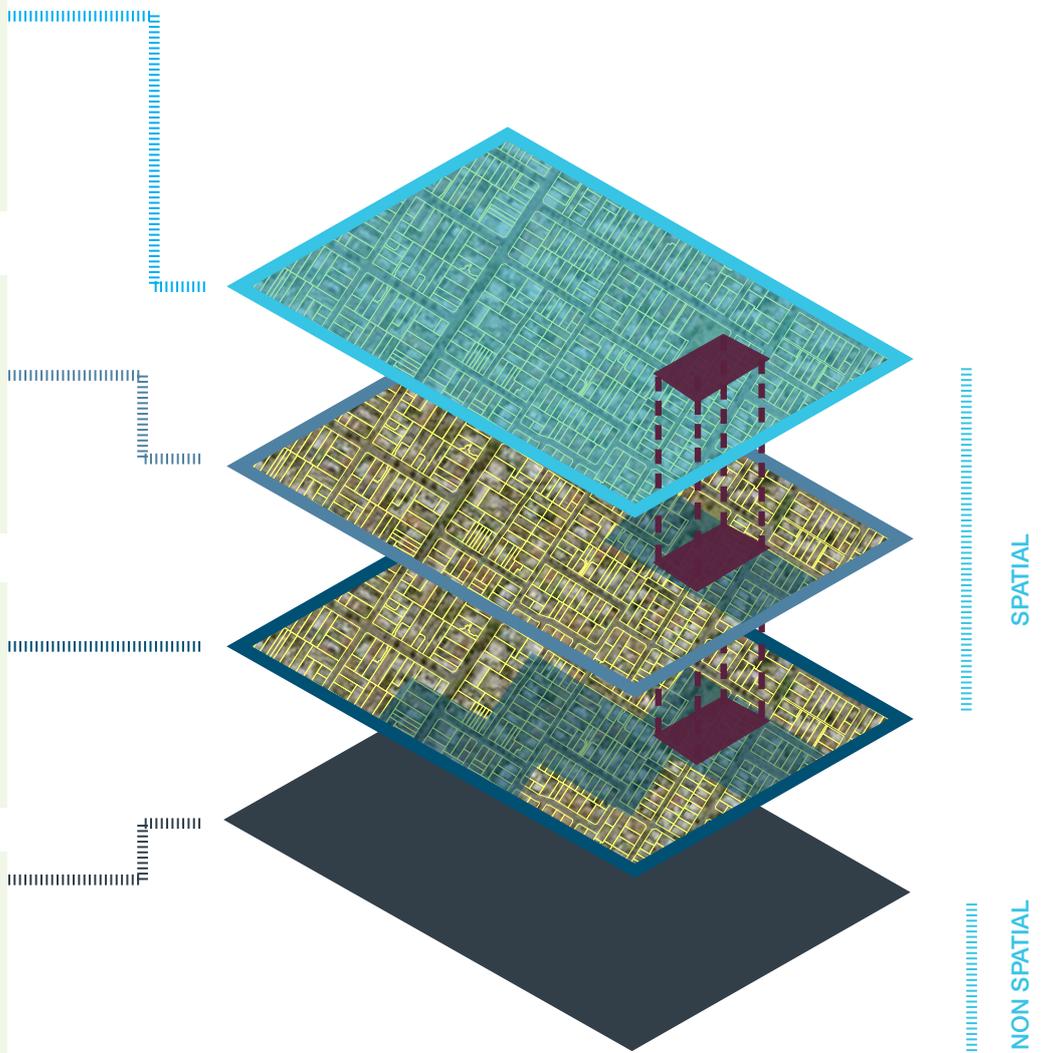
- Enables variation to policy with a zone.
- Variations may reflect local characteristics.
- Intent of the zone must still be achieved.

OVERLAYS

- Mechanism for state interests, such as bushfire, flooding and watershed.
- Can be applied to span multiple zones.

GENERAL MODULES

- Function use and development policies also provided at zone level, based on the type of development.



Overlays

Overlays address defined issues applying to any zone or subzone, identifying areas where there is a particular sensitivity to development (e.g. a heritage place), a constraint on land or development outcomes (e.g. bushfire risk), or where a particular opportunity or outcome for development is sought.

Overlays are the primary mechanism to spatially express State Planning Policies and are the mechanism to pick up planning issues of state interest. Referrals can largely be expected to be contained in overlays where specialised assessment expertise is required to protect a matter of state interest.

A secondary use for overlays may also be to achieve a particular policy outcome that is found in more than one zone (e.g. locationally specific design policy, such as for a 'high street', that applies across a number of different zones could be achieved through use of an overlay).

Overlays can add or remove envisaged development types (including altering the assessment pathway) as well as the policies and rules applying to development types.

- Overlays are pre-eminent and cannot be varied by a zone or subzone.
- More than one overlay may apply to a single location area.
- Local variations to an overlay will not be permitted.
- Certain overlays (e.g. those relating to state interests) may trigger referrals to other agencies/government departments. Under the new system referrals will be for direction, and generally only where the intent of an overlay's policies is not met and therefore warrant the referral agency's consideration.

Subzones

Subzones can be created for areas where there is an exceptional unique difference from the zone to warrant the need for additional policy. The policies in the 'parent' zone will still apply except where varied through the application of any additional policies introduced by the subzone.

- A Subzone may incorporate a local variation, or variations (within defined parameters), to reflect a clearly special unique attribute or characteristic, provided it does not conflict with the Desired Outcome(s) of the zone. If it is different to the parent zone's Desired Outcomes then a different zone would be required.
- Subzones will be consistent with the zone's land use intent or desired outcomes.
- A Subzone can change the assessment pathway for a development type from Deemed-to-Satisfy to Performance Assessed (but not to Restricted). This will accommodate those instances where an element of a development requires 'on merit' consideration in the subzone area.

It is important to note that the new performance-based approach will require local context to be considered concerning the impacts of a development proposal and will require design to respond to its context. Subzones will therefore not be applied to create policy to reflect individual local context. In addition, as overlays may be used to pick up policy issues that are found in multiple locations, it is anticipated that the need for Subzones will be substantially reduced.

With this in mind, feedback from councils and stakeholders through the transition to the Code will be imperative to identify any important unique local characteristics that warrant application of a subzone.



General Development Policies

While zones outline ‘what’ can occur in an area, General Development Policies broadly relate to ‘how’ a development should occur. These policies will address the functional requirements for a development type or class, e.g. car parking and open space for a two-storey dwelling in a residential zone. This separation of ‘what’ and ‘how’ is a feature of a number of interstate schemes in different forms and is considered to add to the legibility of these schemes.

Only General Development Policies linked to a development type listed in an Assessment Table (discussed later in this paper) can be applied to the assessment of a development.

Land use definitions and land use classes

Implementing a digital platform where policy information is gathered and distributed electronically places greater emphasis on the role of land use definitions and the need for clarity and certainty.

A clear understanding of the Code’s terminology and the accompanying instruments such as Regulations and practice directions will assist in ensuring that development policy, assessment pathways and other elements such as public notification are included in the new system with clarity, accuracy and certainty.

Moving towards a digital platform where policy information is gathered and distributed electronically places greater emphasis on the role of land use definitions and the need for clarity and certainty. A review of land use definitions is therefore underway and will consider:

- What definitions are working well in the current planning system.
- What improvements or adjustments could be made to better reflect today’s development trends.
- What gaps or major areas of conflict exist with the current definitions.
- Long standing case law.

Land Use Definitions may be grouped by:

Land use classes: The PDI Act facilitates the establishment of land use classes, which comprise the grouping of land uses with similar impacts and spatial requirements to determine whether a change of use application is necessary. The investigation of land use definitions will need to reconcile the relationship between land use for planning consent and land use for building rules consent (where no change of land use for planning consent purposes may still constitute a change of building class).

Nesting: Refers to the grouping of land use definitions into common umbrella terms to determine assessment pathways for the consistent processing of applications. This is principally a mechanism to reduce word content and simplify Code writing.

Land use definitions and land use classes are linked with general policies and rules for the purpose of development assessment and are linked to assessment pathways which determine the relevant authority. They will also be used as the basis for listings of development types in Assessment Tables.

In the first generation of the Code it is unlikely that land use classes will feature much, as the implications of activities in a land use class not requiring development approval (i.e. not requiring planning or building approval) for a change of land use need to be carefully considered.

In addition to land use definitions, the Code could provide definition around terminology that is used in policy – such as adjacent, directly adjacent – to ensure that these terms are used consistently.

Assessment Table

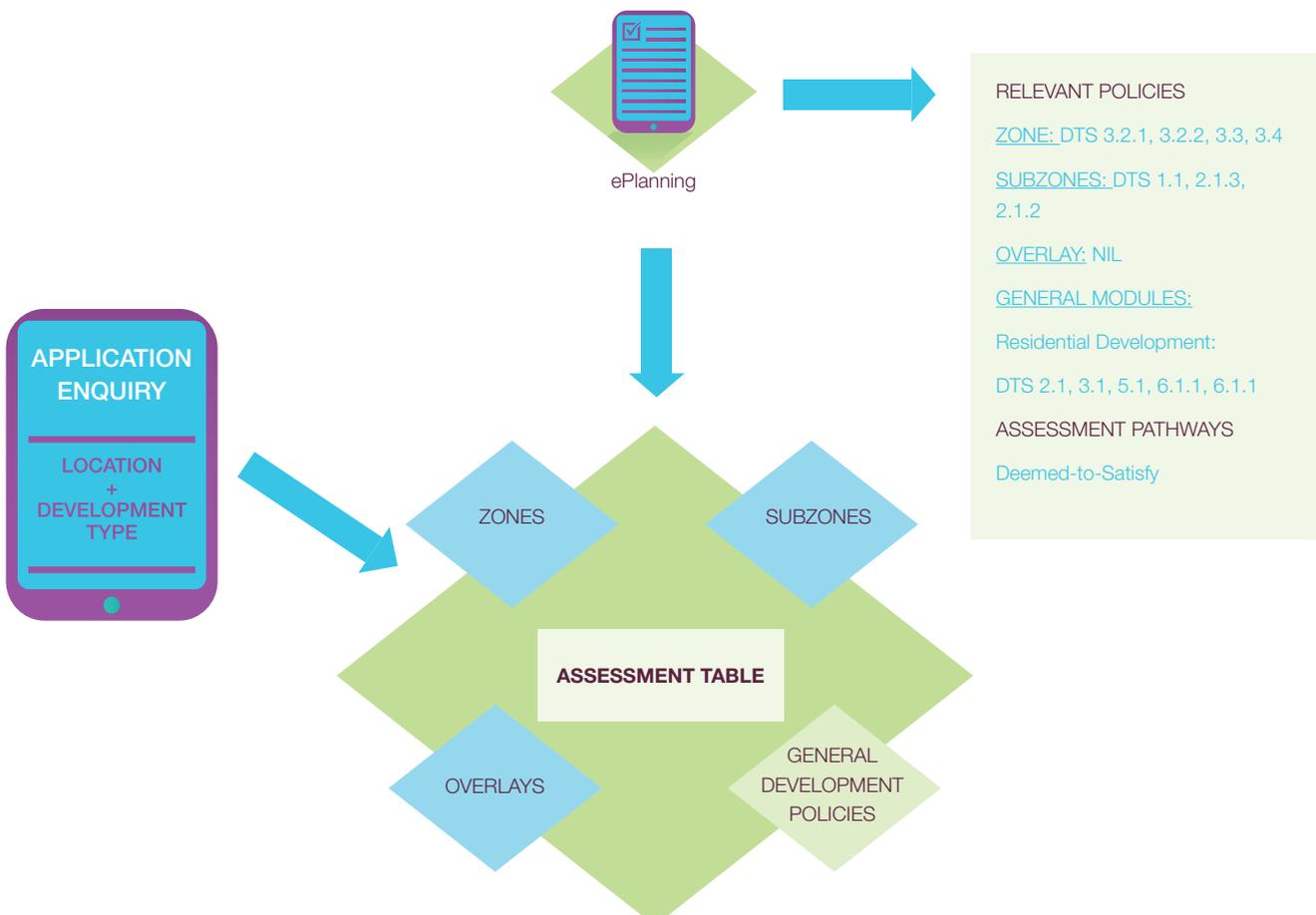
The Assessment Table will be a crucial new feature of the Code. It will be the organising feature that brings together all the various parts of the Code and enables them to be delivered digitally. These tables have been successfully used in some interstate Codes (notably Queensland) as a mechanism to link types of development to assessment pathways and relevant assessment criteria. In the new Code they will perform this task and also act as the mechanics or ‘sign posts’ for the ePlanning system.

Assessment Tables will only be contained in zones and will comprise a matrix that assigns development types to the Categories of Development (assessment pathways) and identifies the assessment criteria that

are applicable to each development type. Only the assessment criteria that are identified can be applied to a development type – there will be no discretion to call up additional policies.

The list of development types and assessment pathways will be similar to the lists that many zones in Development Plans currently contain, i.e. the identification of complying development, generally envisaged land uses/activities and non-complying uses. The Assessment Table will contain ‘land use suitability’ information consistently in one place in a zone.

The diagram below illustrates how the Assessment Table will bring together the various elements through the ePlanning system.





HOW WILL THE PLANNING AND DESIGN CODE BE STRUCTURED?

Zones, subzones, overlays and General Development Policies will all share a common structure, based around the following components as required:

- **Desired Outcomes**
- **Assessment Criteria**
- **Procedural Matters**
- **Assessment Table (described on page 22)**

Desired Outcomes

Desired Outcomes will outline the broad objectives, purpose and envisaged form of development to describe the essential desired future character for a zone. A similar approach is followed in the Queensland and Tasmania where each zone has a defined purpose and stipulates this purpose as part of the assessment criteria thereby providing a high level direction if there is a need to interpret policy.

As Desired Outcomes will primarily provide broad guidance in relation to land use and built form intensity allowances, it is anticipated that General Development Policy Modules will typically not need to contain desired outcomes. Overlays will be able to modify these (as required), and any subzones will also need to be consistent.

Assessment Criteria

Performance Outcomes – These will be the performance-based policy used clearly to describe the outcome sought in relation to a particular issue. Performance outcomes should align with the Desired Outcomes.

Deemed-to-Satisfy Criteria – These are the measurable criteria deemed to achieve a performance outcome. For this reason, a Deemed-to-Satisfy criteria will be required to have an associated performance outcome and will be assigned where the impact issues are understood and are able to be addressed through accepted prescriptive criteria. As a result, not all performance outcomes will have a Deemed-to-Satisfy solution.

The following diagram is an illustrative example of a performance outcome and an associated Deemed-to-Satisfy solution:



Procedural matters

Some development types in certain circumstances will be required to be referred to a prescribed body/person, undergo consultation, or be subject to a design review process. Zones, overlays and subzones will contain the 'trigger points' for these as relevant.

Referrals

Agency referrals will still be required for certain development types. The Code will provide information on the relevant referral required and this will usually be listed at zone level or within the overlays. Referrals will be for direction and only where policy thresholds are exceeded.

This will work differently to the current system where there are a relatively high number of referrals to agencies for 'regard' i.e. the assessing authority still makes the final decision based on the Development Plan policy. In the new system these will disappear, and referrals will typically be triggered where specialist agency advice is essential and policy intent is not met.

Notification

Public notification and appeal rights requirements are set out in the PDI Act and determined by the Category of Development.

Referrals and notification requirements prescribed in the PDI Act are as follows:

Category of Development	Referral	Notification	Appeal Rights
Exempt (Development approval not required)	X	X	N/A
Accepted (Planning approval not required)	X	X	N/A
Code Assessed – Deemed-to-Satisfy (Planning approval must be granted)	X	X	N/A
Code Assessed – Performance Assessed	Only for certain development in specified locations (e.g. Bushfire affected) or for specific land uses (activities of major environmental significance), as prescribed in the Regulations.	Notification of adjoining land owners together with a notice on the subject site. The Code can specify where certain developments do not require notification.	Applicant appeal only.
Impact Assessed - Code Restricted	Only for certain development in specified locations (e.g. Bushfire affected) or for specific land uses (activities of major environmental significance).	Notification of adjoining land owners, others affected, together with public notice and a notice on the subject site.	Applicant appeal to representor or third party appeal.
Impact Assessed – Minister or Regulations	Regulations prescribe persons and bodies for referrals. The Minister may also require referral to other bodies or persons, as prescribed in the Regulations.	Notification of adjoining land owners, others affected, together with public notice and a notice on the subject site. The Minister may also require additional consultation.	No appeal rights.



Code Drafting Principles

The PDI Act aims to introduce simple, clear and easy to understand planning policy to improve legibility and provide greater consistency in interpretation and application. With this in mind, the following 10 guiding principles are proposed to set the foundation for the format and content of the Code:

1. Code policies are the key development assessment tool and address only those matters that require development approval under the PDI Act. This will mean all of the Code's content must be directly applicable to development assessment.
2. Code policies do not reproduce other guidelines, standards, information or issues more appropriately managed under other legislation.
3. The Code does not contradict the National Construction Code.
4. Code policies guide the 'point in time' assessment of a planning application. They do not seek to control the ongoing management of a land use (which is more appropriately managed in a licensing arrangement or compliance with the relevant Development Approval and conditions).
5. Code policies implement the State Planning Policies and Regional Plans (including any subregional parts).
6. Code policies are clearly worded, concise and easily understood, and provide consistency in interpretation and application.
7. Code policies do not contradict each other.
8. General Development Policies are written once: the same policy will not be repeated in a different General Development Policy Module. If a policy is relevant to a development type, then it will be called up through a Zone Assessment Table.
9. Code policies use consistent terminology.
10. Procedural matters (including Deemed-to-Satisfy, referrals and notifications) are principally based on measurable criteria.

HOW WILL THE PLANNING AND DESIGN CODE WORK?

The ePlanning portal will host and operate the Code. It will allow applicants to lodge, monitor and receive decisions on development applications online at any time. It will also provide assessing authorities with the relevant policies from the Code that apply to a development application. Therefore, it is critical that we develop the Code in a way that enables digital functionality.

Under the current system, an assessing authority determines which policies from a council's Development Plan are relevant to a development application. This allows varying interpretations on which policies are relevant and can affect the consistency of planning decisions. An electronic system will remove this process, and bring all relevant policies within zones, subzones and overlays to the attention of the assessing authority.

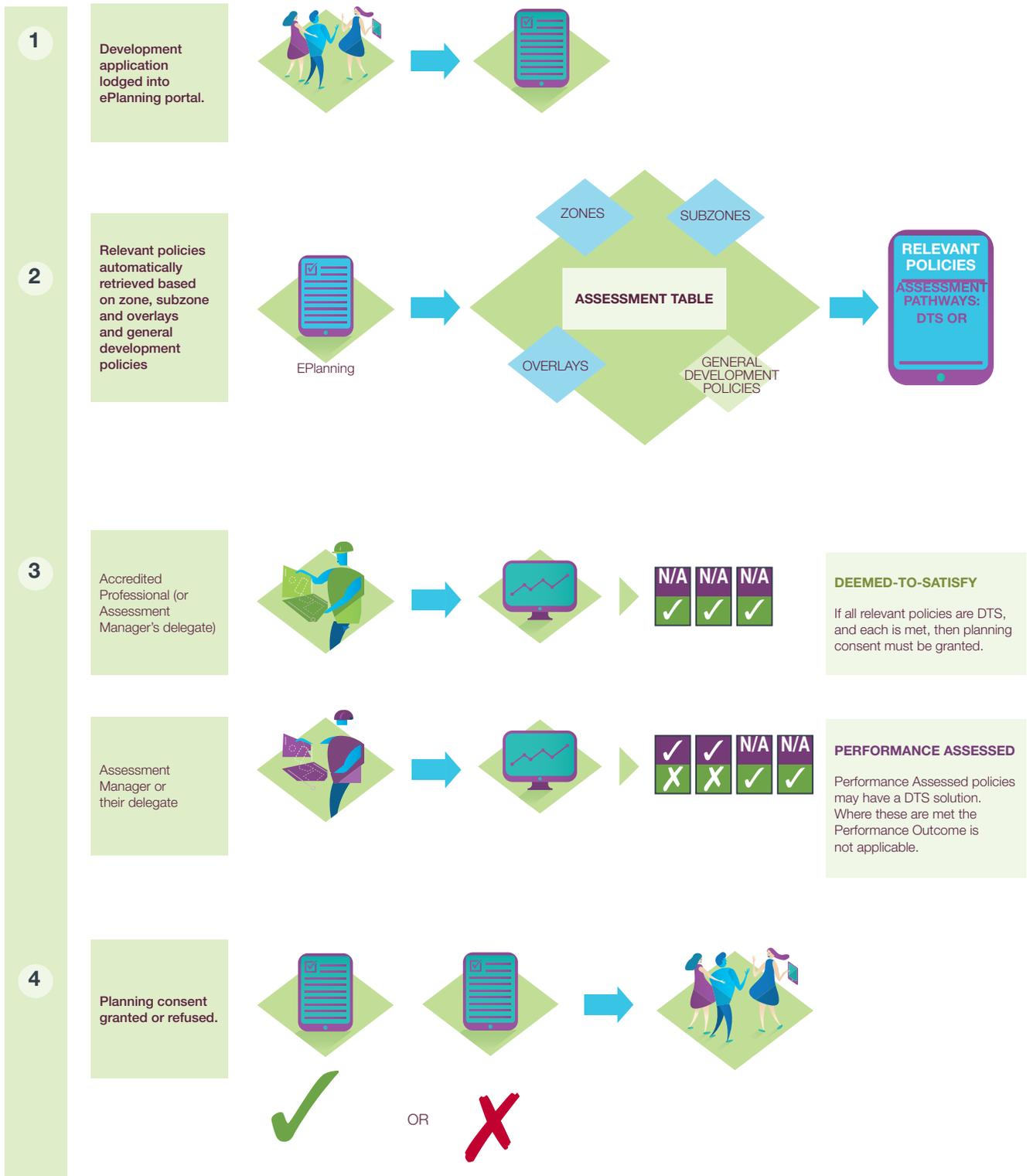
This is a significant improvement to the current system. It also means an applicant or interested person can access the planning portal to instantly receive the relevant planning rules (if any) for a particular development type at a specified location, from a dwelling extension in a residential zone to a

new multi-storey mixed use development in an urban corridor zone.

The diagram on the following page illustrates how the Code will operate within ePlanning for development applicants and assessing authorities:

- Applicants lodge their development application electronically.
- The Assessment Table automatically identifies the relevant policies within the Code Library based on the type and location.
- The system determines the assessment pathway and assessing authority and notifies the authority of the pending application.
- Once the authority makes a decision, the applicant receives electronic notification of the outcome.

Note: this diagram is for illustrative purposes only. It does not show the actual stylisation or interface of the ePlanning portal or the Planning and Design Code.



KEEPING THE PLANNING AND DESIGN CODE CURRENT

In order to maintain its relevance, a regular process for modernising the policy suite is proposed, similar to that used to update the Building Code.

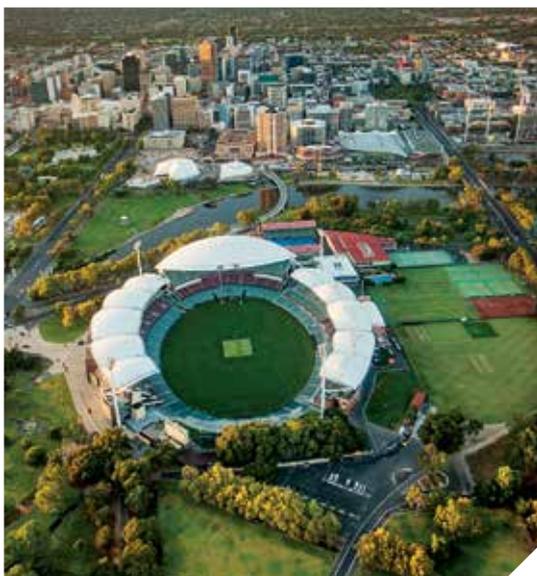
Role of the Commission

Under the PDI Act, the Commission will be responsible for preparing and maintaining the Code and will therefore have an important role in ensuring the Code is contemporary and responsive to emerging trends. The Code will therefore be the subject of regular review.

The Commission will consider broad strategic issues influencing the planning process on an annual (or possibly bi-annual) basis. This is an inherent role of the Commission, to ensure updated planning policy is delivered reflecting strategic goals and targets. Furthermore, updates or Code amendments to future policy contained in the Code will be ongoing as new technologies and lifestyles influence the way we wish to live and work.

This process could comprise:

1. Call for Amendments
2. Consideration and drafting of Amendment/s
3. Consultation
4. Implementation.



Who can initiate changes to the Code?

The PDI Act allows for a wider range of persons or entities to undertake amendments to the Code compared to the current system – including:

- the Commission (on its own initiative or at the request of the Minister)
- agencies
- the Department of Planning, Transport and Infrastructure (DPTI) Chief Executive
- a joint planning board
- infrastructure providers
- councils
- private land owners.

This will enable the Code to be more readily and efficiently updated, particularly where important proposals may sit outside council or Ministers priorities or capacity. Any proposal to amend the Code still requires the agreement of the Minister (which may include conditions), and only after receiving advice from the Commission.

As is the case currently, councils will be able to seek funding for amendment processes from private parties with an interest in the change(s) being sought. In these instances the State Planning Commission must still be consulted on the proposed changes.



What is the amendment process and how is it different from a Development Plan Amendment?

Once the Minister has agreed to a proposal to initiate a Code amendment, the person or entity can prepare the draft proposal.

After a draft has been prepared, the proposal will be progressed through consultation, which must be undertaken in accordance with the Community Engagement Charter. Consultation will be undertaken by the relevant entity or person, with the exception of amendments undertaken by infrastructure providers and private land owners in which case oversight will be provided by the DPTI Chief Executive. If the proposal has specific impact on a particular piece or pieces of land, then the owner/occupier of the land, as well as owner/occupier of adjacent land, must be given notice. The Commission may also specify additional persons or bodies that need to be consulted.

The exception to this process will be for amendments to zone boundaries or application of an overlay where it is consistent with a specific recommendation of the relevant Regional Plan. In instances where statutory consultation on the Regional Plan has included clear detail on the proposed change, then a direct Code amendment without further consultation may be made.

The Community Engagement Charter provides flexibility to adapt engagement activities to suit the individual case. For instance, it is likely that the extent of the proposed change; its likely impacts; and the size of the community affected will determine the extent of the engagement e.g. the extension of an Employment Zone over a few allotments would require more targeted and simplified engagement (quicker) than rezoning over a number of streets.

After consultation has finished a report will be written for the Minister regarding the consultation undertaken.

The Minister is responsible for adopting the amendment (with changes if required) and will publish the amendment on the SA Planning Portal.

The amendment process will be described in the portal so that information on any amendment will be readily accessible as it progresses.

A Practice Direction will be prepared by the Commission to guide all aspects of the Code amendment process in detail, and ensure it is undertaken consistently.

NEXT STEPS

The *Blueprint for South Australia's Planning and Design Code Discussion Papers* (Policy and Technical) will be released progressively, with each available for public comment and accompanied by opportunities for industry and community engagement.

The Introductory Paper was released by the Commission in March 2018.

Policy Discussion Papers

Four Policy Discussion Papers will be released over the coming months:

- Integrated Movement Systems
- Environment and Natural Resources
- People and Neighbourhoods
- Productive Economy.

Policy Conversation Areas

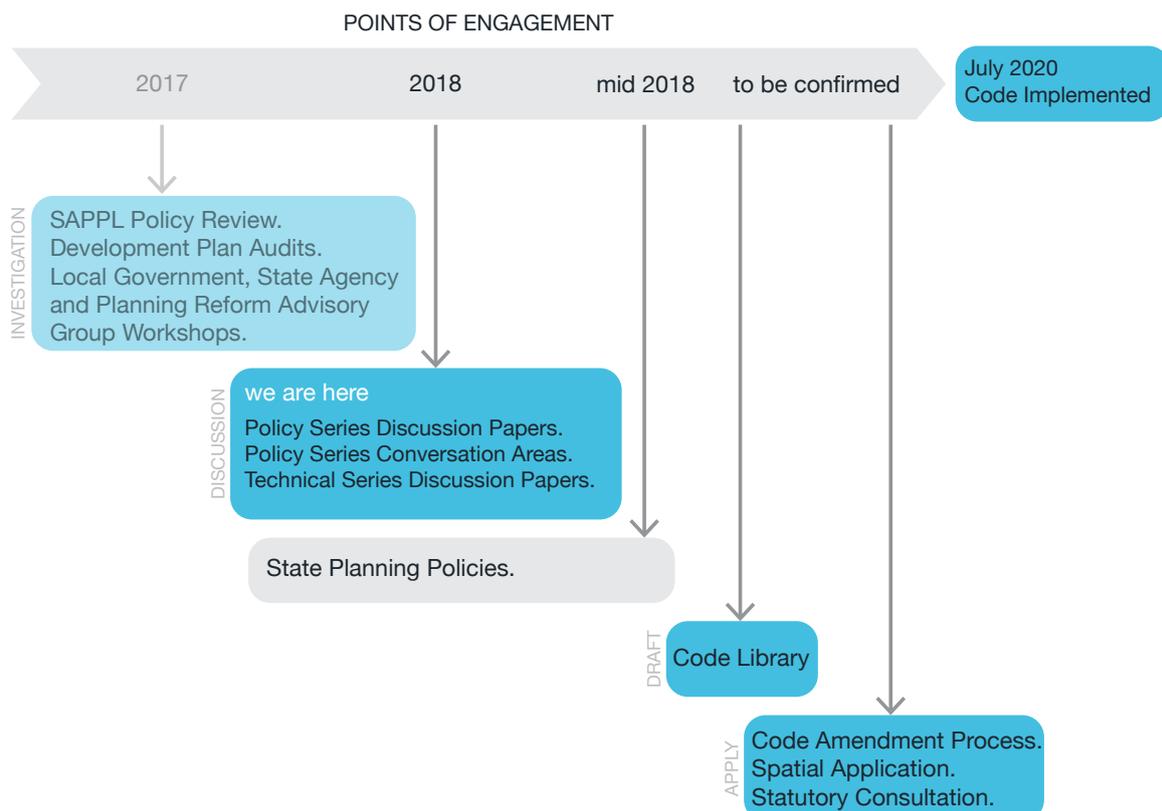
The Policy Conversation Areas will work through some of the more significant policy issues that will be a focus for reform in mid-2018 and onwards. These will be aligned to one or more of the Policy Discussion Papers and will be a key part of their engagement process.

Technical Discussion Papers

There are three Technical Discussion Papers as follows:

- *The Planning and Design Code – How will it work?* – this document
- *Assessment Pathways – How will they work?*
- *Land Use Definitions and Classes Review – What are they?*

These papers will be available for download and public comment in the coming months. Other technical papers will also be prepared to support the development of the new planning system.





The PDI Act requires the first generation of the Code to be implemented across the state by July 2020. Delivery of this landmark reform in this timeframe requires significant and ongoing collaboration across all sectors. This discussion paper has been prepared to provide information and invite questions and feedback about how the Code will operate.

We invite you to participate and share your opinions as we shape and progress development of the Code.

Your feedback is encouraged via:

- **SA Planning Portal: Visit the Have Your Say webpage and lodge a submission at http://www.saplanningportal.sa.gov.au/have_your_say**
- **Email: DPTI.PlanningEngagement@sa.gov.au**
- **Post: PO Box 1815, Adelaide SA 5001**

HOW YOU CAN GET INVOLVED

We invite you to participate and share your opinions as we shape and progress development of the Code.

For further details about the engagement process and to get involved visit:

saplanningportal.sa.gov.au



**Government
of South Australia**

Department of Planning,
Transport and Infrastructure