



# WHAT WE HAVE HEARD REPORT

## PHASE ONE OF THE PLANNING AND DESIGN CODE (LAND NOT WITHIN A COUNCIL AREA)



### Purpose of this report

The purpose of this report is to summarise the written responses received by the State Planning Commission on Phase One of the Planning and Design Code (the Code). Phase One of the Code contains planning policy that relates to land not within a council area, i.e. the outback and coastal waters.

This report captures the methods of engagement used, the number and type of respondents who provided feedback, the key themes of this feedback, and important next steps.

### What is the role of the Planning and Design Code?

The Planning and Design Code (the Code) is the cornerstone of South Australia’s new planning system, and will become the single source of planning policy for assessing development applications across the state. The Code will replace all South Australian Development Plans by mid-2020.

The State Planning Commission is leading the implementation of the Code in collaboration with the Department of Planning, Transport and Infrastructure (the Department). The Code will be implemented over three consecutive phases, moving from less complex to more complex planning environments between now and 1 July 2020. This approach will allow the Commission to minimise risk and apply key learnings along the way, adjusting the deployment approach as required.

The three implementation phases are outlined below:

1. **Phase one** (mid-2019): Code introduced to land not within a council area (outback and coastal waters)
2. **Phase two** (late-2019): Code introduced to regional council areas
3. **Phase three** (mid-2020): Code introduced to metropolitan council areas

By 1 July 2020, the full Code will be in effect across the entire state and made available to all South Australians via the SA Planning Portal at [www.saplanningportal.sa.gov.au/](http://www.saplanningportal.sa.gov.au/).





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## PHASE ONE OF THE PLANNING AND DESIGN CODE (LAND NOT WITHIN A COUNCIL AREA)



### Engagement approach

#### Early involvement of industry practitioners

A Code Working Group was established in early 2018 to assist with the development of the Code and consider planning policy related to medium density and mixed-use developments; residential neighbourhoods; employment lands; and primary production. The working group comprised 45 council planners and private planning practitioners and met five times between May and November 2018. Feedback from this working group greatly assisted the Commission and the Department in preparing Phase One of the draft Code that was issued on public consultation.

#### Public consultation

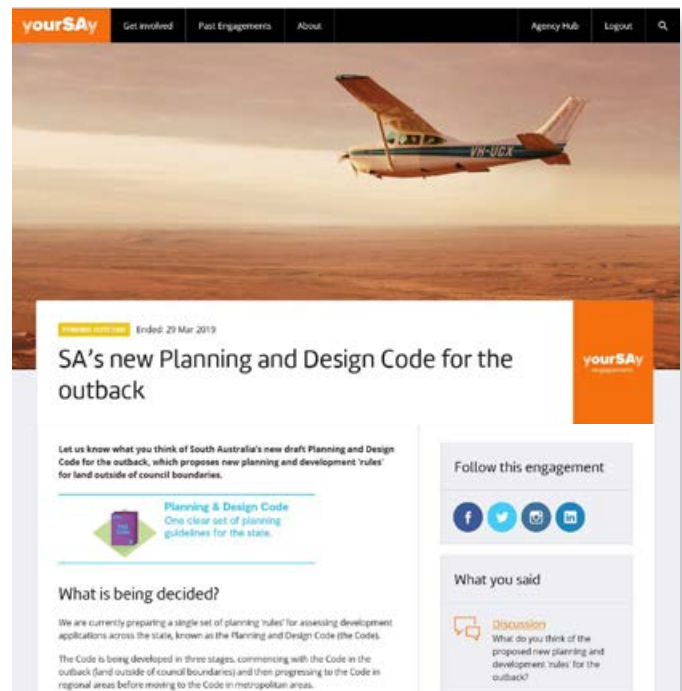
Consultation on Phase One of the Code was conducted between 5 February 2019 and 29 March 2019 (7.5 weeks). All written submissions were published on the SA Planning Portal.

This consultation represents only the second time the Community Engagement Charter has been applied under the *Planning, Development and Infrastructure Act 2016*. The Community Engagement Charter outlines a set of five key principles that must be taken into consideration when planning for and conducting consultation and engagement on designated instruments such as the Planning and Design Code.

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

*The five key principles of the Community Engagement Charter*

There were numerous opportunities for industry practitioners and members of the community to learn about Phase One of the Code and contribute to discussions on planning policy for the outback and coastal waters.



#### YourSAy site

The Department launched a YourSAy site on 5 February 2019 to facilitate feedback on Phase One. This site featured the following resources:

- Draft policy for Phase One of the Planning and Design Code
- *Community Guide to the Planning and Design Code in the Outback and Coastal Waters*
- *Practitioner's Guide to the Planning and Design Code in the Outback and Coastal Waters*
- Map of proposed zones and overlays in Phase One of the Code

#### Public Notices

To promote awareness of the Phase One Code consultation period, 12 Public Notices were run in outback, regional and metropolitan newspapers between 13 – 21 February 2019.

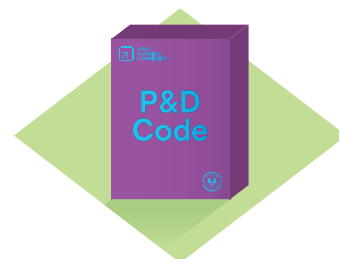
An article was also published in the March issue of *Planning Ahead* (newsletter of the Division of Planning and Land Use Services), which was distributed to more than 1,700 internal and external stakeholders.





# WHAT WE HAVE HEARD REPORT

## PHASE ONE OF THE PLANNING AND DESIGN CODE (LAND NOT WITHIN A COUNCIL AREA)



### Industry events

The list below summaries the key industry events that were undertaken to educate practitioners about the Code and involve them in its development and adoption.

#### 4 May 2018

Code Drafting Workshop (1)  
Audience: Code Working Group

#### 1 June 2018

Code Drafting Workshop (2)  
Audience: Code Working Group

#### 27 July 2018

Code Drafting Workshop (3)  
Audience: Code Working Group

#### 10 August 2018

Code Drafting Workshop (4)  
Audience: Code Working Group

#### 13 September 2018

Briefing to the Local Government Association (LGA), hosted by the LGA  
Audience: Local government planning staff

#### 23 November 2018

Code Drafting Workshop (5)  
Audience: Code Working Group

#### 18 December 2018

Briefing to the Local Government Association (LGA), hosted by the LGA  
Audience: Local government planning staff

#### 14 February 2019

Briefing and Q&A session (1) hosted by the State Planning Commission  
Audience: Council mayors, chief executives and elected members

#### 21 February 2019

Briefing and Q&A session (2) hosted by the State Planning Commission  
Audience: Council mayors, chief executives and elected members

#### 26 February 2019

Livestreamed workshop, hosted by the Department  
Audience: Industry practitioners across the state

#### 28 February 2019

Briefing and Q&A session (3) hosted by the State Planning Commission  
Audience: Council mayors, chief executives and elected members

#### 27 March 2019

Briefing to the Local Government Association (LGA), hosted by the LGA  
Audience: Local government planning staff

#### 2 April 2019

Breakfast and workshop hosted by the Minister for Planning  
Audience: CEOs of local councils

### Community drop-in-sessions

A series of five community drop-in sessions were hosted by the Department between 7 August 2018 – 18 January 2019 to enable South Australian residents (and planning professionals) to ask questions about new planning policy in the Code.





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## Tour of outback communities

The diagram below summaries the week-long tour of outback towns that the Department undertook in collaboration with the Commission, the Outback Communities Authority and local progress associations. The aim of the tour was to inform local community members about Phase One of the Code and how it

would impact planning in their region. The tour was supported by a week-long social media campaign on the Department's Facebook site.

In addition to the formal tour below, the Department also made impromptu visits to Pimba, Glendambo, Lyndhurst and Copley.





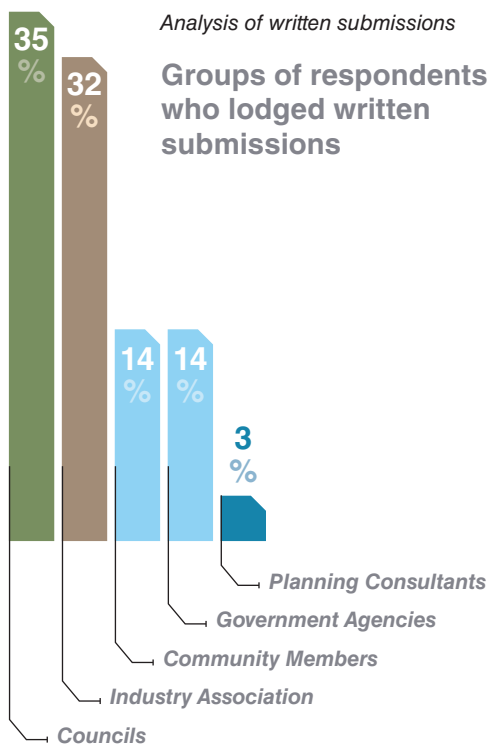
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### Written submissions

During the consultation process on Phase One of the Code, a total of 58 written submissions were received.



### Key themes

#### Deemed-to-satisfy requirements

Feedback indicated that there were a lack of deemed-to-satisfy requirements for simple development in the outback, i.e. there were not enough development types that had a deemed-to-satisfy pathway, which would make it harder for outback applicants to undertake minor, low-risk development. Respondents indicated that they would like to see the deemed-to-satisfy pathway attributed to more low-risk land uses, in order to ensure greater certainty around decision-making, as well as quicker, easier and more consistent development assessment.

Conversely, many respondents felt that some existing deemed-to-satisfy requirements were too detailed, with some such requirements comprising

multiple components that could be simplified. For example, it was felt that deemed-to-satisfy requirements for overshadowing were unnecessarily onerous, requiring applicants to not only meet height and setback requirements but also provide shadow diagrams.

Some deemed-to-satisfy requirements were also considered to be too subjective and open to interpretation. Additionally, some respondents indicated that there needed to be more clarity around referral triggers related to deemed-to-satisfy developments, i.e. what types of deemed-to-satisfy developments should be automatically referred to an external agency for expert advice and what are the appropriate referral triggers?

Similarly, and respondents expressed a desire for greater clarity around how an assessment authority could demonstrate that it had 'shown regard' to deemed-to-satisfy requirements during performance assessment.

#### Performance outcomes

Respondents believed that a number of performance outcomes could be re-worded for greater clarity, e.g. where it was stated that "landscaping is to be coordinated and integrated with the character of the locality" it was not necessarily clear if landscaping was actually required in the first instance, or what was meant by "integrated" within this context.

To this end it was further noted by respondents that many words in the policy vocabulary should be more clearly defined, as terms such as 'desirable', 'minimise', 'where appropriate', 'sensitive', 'harm' and 'minor' were considered to be open to significant interpretation and not easily measured.

Feedback also indicated that there needed to be improved alignment between some performance outcomes and their corresponding deemed-to-satisfy requirements, such that once all deemed-to-satisfy requirements were met, the performance outcomes were likewise achieved.

Respondents believed that certain development types in areas of environmental sensitivity should always be performance-assessed and that deemed-to-satisfy requirements should never apply in these circumstances. This was supported by policy in the Phase One suite.







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William Creek Hotel,  
South Australian Tourism Commission

### Land use definitions

Respondents called for an expanded list of land use definitions, particularly around common land use types, such as outbuildings; tourist accommodation; renewable energy (as opposed to renewable energy facility); market; gym; apartment; and Airbnb.

Respondents also highlighted the need for some existing land use definitions to be reviewed and where appropriate, revised e.g. the current definition of a 'shop' also includes 'restaurants' which may in fact have different parking requirements.

Additionally, respondents suggested that any new or revised land use definitions should correspond to the land use definitions used by the courts, as this was where such definitions were commonly tested.

### Administrative definitions

Feedback indicated a need for greater clarity around the definitions of measurements, e.g. should building line include or exclude open structures (pergolas, etc.) over a certain size threshold? It was further noted that such definitions should align with contemporary terminology, e.g. when referring to flooding, the term '1% AEP (Annual Exceedance Probability)' should be used instead of '1 in 100 ARI (Average Return Interval)'.

### Opportunities for rationalisation

Many written submissions highlighted the need to remove duplication from related policy areas, such as policy related to the Coastal Waters Zone, the Coastal Areas Overlay and the Aquaculture General Module. To this end it was also felt that policy that effectively duplicated the requirements of other legislation should be removed. Respondents further identified opportunities to amalgamate related overlays.





# WHAT WE HAVE HEARD REPORT

## PHASE ONE OF THE PLANNING AND DESIGN CODE (LAND NOT WITHIN A COUNCIL AREA)



*Anna Creek Painted Hills – Wrightsair Ground Tour  
South Australian Tourism Commission*

### Next steps

Based on the outcomes of the engagement on Phase One of the Code, the State Planning Commission will prepare an engagement report for consideration by the Minister for Planning. This report will expand on this ‘What We Have Heard Report’ and recommend policy changes to Phase One of the Code. It will also evaluate the success of the engagement against the Community Engagement Charter principles.

The engagement report will be published on the SA Planning Portal after the Minister approves the Code as it applies to land not within a council area.

Any policy decisions made by the Minister will be used to inform subsequent phases of the Code, namely Phase Two (regional council areas) and Phase Three (metropolitan council areas). These phases will be released on public consultation over the course of the next 12 months.

### Acknowledgements

The State Planning Commission would like to thank all those who participated in the engagement for Phase One of the Code and who provided valuable input and insights to help inform South Australia’s new planning system.

For further information visit:  
[www.saplanningportal.sa.gov.au](http://www.saplanningportal.sa.gov.au) or  
[www.saplanningcommission.sa.gov.au](http://www.saplanningcommission.sa.gov.au).

