

Guide

Department of Planning and Local Government



Development Plans and Development Plan Amendments (DPAs)

Land use zoning and rezoning
in South Australia

August 2010



Government of South Australia

Department of Planning
and Local Government

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Purpose

This Guide has been prepared to assist the community, development proponents, councils, government agencies and other organisations in understanding:

- what a Development Plan is and how it fits in South Australia's planning system, and
- how Development Plans can be updated, including how the public can have a say.

Note: This Guide should be read in conjunction with the Development Act. The Development Act and the associated Development Regulations can be found online at the SA Government's legislation website at www.legislation.sa.gov.au

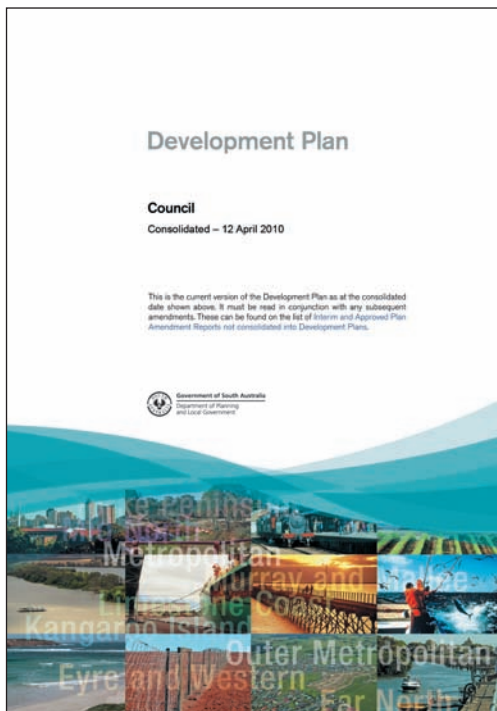
A more detailed Technical Guide to Development Plan Amendments written for policy professionals is available online at www.dplg.sa.gov.au/go/development-plans/practitioner-information (accessing that Guide requires registration)

Copies of the Development Plan for each part of the state can be found online on the DPLG website at www.dplg.sa.gov.au/go/development-plans

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Introduction – what is a Development Plan?



Development Plans are key statutory documents in the South Australian planning and development system.

The Development Act requires there be a Development Plan for each part of the state in order to guide development and inform assessment of development applications.

There is an individual Development Plan for each of the 68 local council areas in South Australia (i.e. 68 Development Plans) plus a handful of Development Plans for remote parts of the state which do not fall within a council area.

Each Development Plan contains **zones**, **maps** and explicit **written rules** ('policies') which guide property owners and others as to what can and cannot be done in the future on any piece of land in the area covered by the Development Plan.

For example, specific zones may exist for residential development, for industry, for shopping, or for open space or community facilities. Policies may include things such as the density or height of expected residential housing, or the type of industry allowed, or the appropriate location and size of shopping centres. Policies may also include direction for the desired character of an area, or a list of local heritage places to be protected.

In effect then, Development Plans:

- inform the community about how an area is expected to be developed
- inform neighbours as to the kinds of development they can expect in their neighbourhood
- inform applicants as to the type of development that is encouraged (and not encouraged) in an area
- provide the basis against which development assessment decisions are made (the zones, maps and policies provide the detailed criteria against which development applications for the relevant area are assessed), and
- provide the basis upon which any appeal decisions are made.

All Development Plans are available online on the DPLG website and usually on the relevant council website, as well as being available in hard copy or CD Rom format from both DPLG and councils.

Policies in Development Plans are changed through a formal statutory **Development Plan Amendment** (DPA) process (formerly known as a Plan Amendment Report or 'PAR' process). This statutory process can be started by either the relevant **council** or – in prescribed circumstances – the State **Minister** for Urban Development and Planning.

The DPA process involves mandatory community consultation and is described later in this Guide. The Minister must ultimately approve all Development Plan Amendments. They are also subject to review by a parliamentary committee.

THE DEVELOPMENT ACT

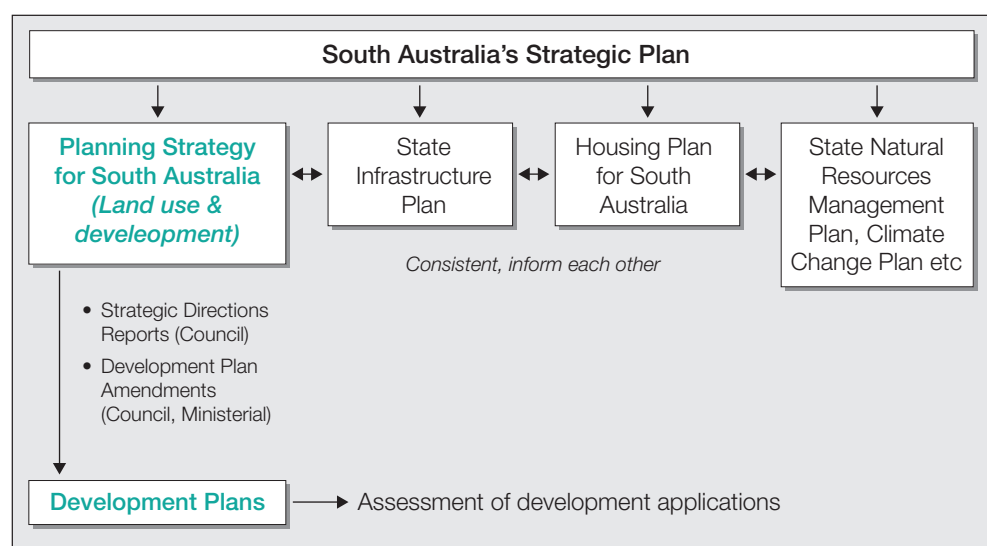
Sections 23 to 31A of South Australia's *Development Act 1993* outline the purpose of Development Plans and the processes by which they can be amended.

In summary:

- section 23 of the Development Act – outlines the role, purpose and nature of content of Development Plans
- section 24 – outlines the circumstances under which a Development Plan can be amended
- section 25 – outlines the processes that councils must follow to initiate amendments to Development Plans
- section 26 – outlines the processes which the Minister must follow to initiate amendments to Development Plans
- section 27 – relates to parliamentary scrutiny of Development Plan Amendments, in particular by state parliament's Environment, Resources and Development Committee
- section 28 – relates to interim development control (that is, giving temporary force to a Development Plan Amendment while consultation is undertaken)
- section 29 – relates to ways in which certain minor changes can be made to Development Plans without following the procedures of sections 25 or 26 (note: there is a separate Guide for this section of the Act)
- section 31 – provides for making copies of Development Plans and Development Plan Amendments available to the public
- section 31A – provides the Minister with the ability to appoint an investigator to look into the discharge of a council's responsibilities regarding a Development Plan Amendment

This Guide is designed to explain in plain English how these sections of the Development Act operate in practice.

Context – how Development Plans fit within the South Australian planning system



A range of policy and strategy documents guide development across South Australia.

a) South Australia's Strategic Plan

The primary directional document for the state is South Australia's Strategic Plan (SASP), prepared by the state government to guide all government actions and priorities. The SASP has six broad objectives:

- Growing Prosperity
- Improving Wellbeing
- Attaining Sustainability
- Fostering Creativity and Innovation
- Building Communities
- Expanding Opportunity

The Plan currently contains 98 specific targets and associated priority actions grouped under those objectives. The SASP can be found online at www.SAplan.org.au

South Australia's Strategic Plan is not a statutory document. However, the Plan's objectives and targets are taken into account in all state government decision-making, driving greater discipline and focus across government. The Executive Committee of Cabinet oversees the implementation of SASP throughout the government and into the community. In particular, it concentrates on ensuring that state government agencies are pursuing the targets in a collaborative, focused and innovative way. The SASP is the main instrument for determining strategic priorities for agencies and is an important element of performance assessment for chief executives. Progress against SASP targets is reported every two years; the Plan will be updated every four years.

Associated with the SASP are specific 'action' plans for various topics, which facilitate reaching the SASP targets.

These include documents such as the:

- Strategic Infrastructure Plan for South Australia
- State Natural Resource Management Plan
- Housing Plan for South Australia, and
- Tackling Climate Change - South Australia's Greenhouse Strategy

The specific state government 'action' document guiding land use and development is the Planning Strategy for South Australia.

b) Planning Strategy for South Australia

The Planning Strategy is a statutory document, required under Section 22 of the Development Act, which presents the South Australian Government's strategic policy directions for the physical development of the state.

There are various volumes of the Planning Strategy, each covering a different geographic region. Each volume of the Planning Strategy must be updated by the state government at least every five years. The Planning Strategy is informed by the directions and targets in the SASP.

More about the Planning Strategy can be found online at www.dplg.sa.gov.au/go/planning-strategy

It is a requirement of the Development Act that councils must seek to align the Development Plan for their area with the Planning Strategy volume relevant to their region. This is done through the Development Plan Amendment (DPA) process. All DPAs must outline how they are consistent with the relevant Planning Strategy volume.

In this way, broad state directions outlined within the Planning Strategy are translated to local area Development Plans, and can affect local development outcomes.

c) Development Plans

There is an individual Development Plan for each of the 68 local council areas in South Australia (i.e. 68 Development Plans) plus a handful of Development Plans for remote parts of the state which do not fall within a council area.

Each Development Plan contains **zones**, **maps** and explicit **written rules** ('policies') which guide property owners and others as to what can and cannot be done in the future on any piece of land in the area covered by the Development Plan. The zones, maps and policies provide the detailed criteria against which development applications for the relevant area are assessed.

Recent changes to the Development Act

Throughout 2006/07, the state government introduced a number of key changes to the Development Act. The thrust of these changes has been to increase focus on strategic planning, and ensure such planning is translated in a timely way into Development Plans.

Changes include:

- a requirement for the state government to update the Planning Strategy at least every five years
- a requirement for councils to have a strategic planning and development policy committee
- a requirement for councils to produce a Strategic Directions Report (SDR) at least every five years and, in particular, within 12 months after a significant alteration to the Planning Strategy. Councils are able to integrate this SDR process with the Strategic Management Plan processes which are required under the Local Government Act (note: this requirement is pending proclamation)
- the process of producing the SDR must involve community consultation, with an opportunity for written submissions and public hearings
- the SDR must address specific issues, including infrastructure planning and integration of transport and land use planning, within the council area. It must also outline a program of Development Plan Amendments to translate those strategic directions into Development Plan content
- renaming the Development Plan Amendment (DPA) process (formerly the 'Plan Amendment Report' or PAR process) and introducing a choice of three possible procedural paths to help speed the policy amendment process
- when DPA processes are started there must be an explanation of how the proposed changes relate to the Planning Strategy and relevant council strategic directions; the Minister will consider this before agreeing to a new DPA process
- at the start of a DPA process there will be a clearer and more detailed documentation of the DPA project timelines, and
- at the end of DPA processes, councils and state government will undertake a review of the timelines and report to a parliamentary committee on the reasons for any delays.

The key objectives behind these changes are to encourage:

- councils to place greater emphasis on strategic and policy planning through undertaking comprehensive strategic reviews on a regular basis
- councils to regularly review the policies in their Development Plan so they are responsive to the Planning Strategy and changing community needs and trends, and
- the public to become more involved in strategic and policy planning.

The changes specify a minimum standard of public consultation for both the Strategic Directions Report and Development Plan Amendments. Additional changes allow greater flexibility for those councils that choose to undertake a higher standard of community engagement.

The increased emphasis on council and councillor participation in strategy and policy development is reinforced by recent changes to development assessment procedures and the composition of council Development Assessment Panels (majority independent members).

What does a Development Plan document look like?

Each Development Plan contains **zones**, **maps** and explicit **written rules** ('policies') which guide property owners and others as to what can and cannot be done in the future on any piece of land in the area covered by the Development Plan.

4.1 BASIC STRUCTURE OF A DEVELOPMENT PLAN

The basic structure of each Development Plan document in South Australia is relatively consistent, but the policy content varies depending on local circumstances. Development Plans contain:

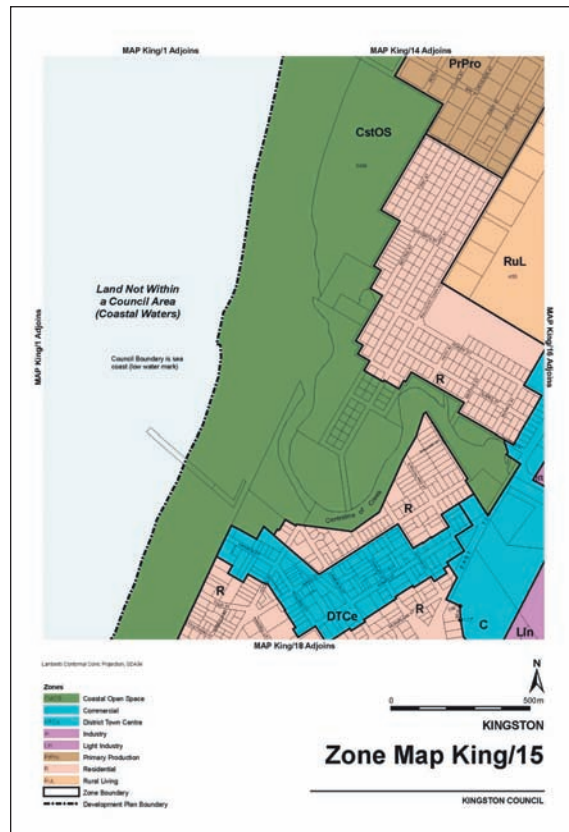
- **An Index or Table of Contents**
The index of the 'General' or 'Council Wide' provisions, zones, tables and zone maps.
- **Policies: General Provisions (applying Council Wide)**
Development Plans generally contain general or broad provisions (usually called *Objectives* and *Principles of Development Control*) which are applicable for development throughout the whole area or region covered by the Development Plan.
- **Policies: Zone Provisions**
Zone provisions provide detailed policy applying to each zone within the Development Plan. They provide a framework for development envisaged within a particular geographic area and provide specific policies for assessing development within that zone. Zone provisions generally list kinds of development that are 'complying' within the zone (either outright or subject to specific conditions) and those developments which are 'non-complying' within that zone. Any form of development which is not included in either list is required to be assessed on its 'merits' by the relevant assessing authority in accordance with the desired character and specific policies for development listed within that zone, and against the broader policies contained within the Development Plan (General or Council Wide provisions). Zones may also contain lists of activities that are subject to certain public notification requirements.
- **Tables**
Tables may be referred to in the zone provisions or general principles. These may provide specific criteria or standards applying to various forms of development; often these apply in more than one zone. Examples could include building set-back distances or lists of local heritage places.
- **Maps**
Maps appear in each Development Plan detailing the location and boundaries of specific zones. Some Development Plans also divide zones into smaller sub-areas, called Precincts or Policy Areas, for which additional policies may apply. Other maps such as Structure Plans or Concept Plans may also be included. An index of maps will appear at the front of the Maps section.

Reading a Development Plan

All Development Plans are available for viewing online on the DPLG website (www.dplg.sa.gov.au/go/development-plans) as well as at the relevant council.

The following steps will help in quickly ascertaining what policies apply on a particular property or location:

- go to the Map Index to identify the zone map on which the property is located
- locate the property on the zone map - this will tell you what specific zone relates to the property
- go to the content index at the front and look up the zone name
- under the zone heading a set of policies will be listed that apply to development in that zone, including policy areas or precincts, if applicable
- depending on the nature of the proposed development or the features of the area in which the property is located, you should also scan the policies listed under key headings in the General or Council Wide section of the Plan. All the relevant General or Council Wide policies and the zone or precinct/policy area policies are considered (with equal weight) when a decision on a development application is lodged.



4.2 BETTER DEVELOPMENT PLANS PROJECT

The Better Development Plans (BDP) project is a collaborative initiative between the state government (through DPLG) and local government to improve existing Development Plans by updating ('converting') them using best practice wording and layouts.

Under the project, 'converted' Development Plans are made easier to read and follow, with a standard format and structure (which can readily incorporate clearly marked local additions, including statements of desired character).

Consistent, clear wording and structure of Development Plans across the state will improve ease of use by industry professionals, stakeholders and the community.

The BDP approach will facilitate consistency with the Planning Strategy (a requirement of the Development Act) and also greatly reduce the time and cost of making future amendments to Development Plans, by providing leading practice policy 'modules' that councils can use as a starting point, with local additions then able to be made.

More about the BDP project can be found online at www.dplg.sa.gov.au/go/bdp

Kingston District Council
Residential Zone

Residential Zone

Refer to the [Map Reference Table](#) for a list of the maps that relate to this zone.

OBJECTIVES

- 1 A residential zone comprising a range of dwelling types.
- 2 Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.
- 3 Development that contributes to the desired character of the zone.

DESIRED CHARACTER

This zone, which comprises the established residential areas of Kingston SE, is intended as the main location for a variety of types of residential development utilising both existing undeveloped allotments and an area to the east of East Terrace, including the area on either side of Call Park Recreation Area. It is intended that the existing major community, educational and recreational facilities continue to be utilised and developed within this area. It is also intended that the visual appearance of residential streets be progressively improved through well designed new dwellings, substantial front garden landscaping and street tree planting.

This zone comprises all of the former Residential (Coastal) Zone at Wyomi and Pinka Beach. This is in two parts, the northern part stretches along the coast to the south of the developed parts of the town and contains a variety of residential uses, a caravan park and numerous vacant allotments.

The southern portion contains a number of permanently occupied dwellings together with numerous holiday houses and a large number of vacant allotments. Some of the land is low-lying adjacent to the coast and may be affected by coastal flooding, development will need to be built to specific levels to minimise the risk from coastal flooding.

Vacant allotments in the southern portion of the zone are suitable for development should a demand arise. The zone comprises land adjacent to the District Centre within close proximity of Maria Creek, consistent with the existing residential zoning fronting the creek. It also includes an area of Rosestown which has already been divided into roads and allotments and the residential component of the Cape Jaffa settlement.

PRINCIPLES OF DEVELOPMENT CONTROL

Land Use

- 1 The following forms of development are envisaged in the zone:
 - domestic outbuilding in association with a dwelling
 - domestic structure
 - dwelling
 - dwelling addition
 - small scale non-residential uses that serve the local community, for example:
 - child care facilities
 - health and welfare services
 - open space
 - primary and secondary schools
 - recreation areas
 - shops, offices or consulting rooms
 - supported accommodation

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DPA for Consultation - 11 October 2007

Amending Development Plans

Development Plans should be updated regularly to ensure they reflect the needs of the community, the economy and the environment.

Development Plans are updated through a formal statutory Development Plan Amendment (DPA) process, specified in the Development Act.

This part of the Guide summarises:

- who can amend a Development Plan;
- the processes for amending a Development Plan (including the community consultation processes required, which involve receipt of written submissions and a public meeting);
- the potential use of interim (temporary) operation of a Development Plan Amendment; and
- what a Development Plan Amendment document looks like.

5.1 WHO CAN AMEND A DEVELOPMENT PLAN?

Only a council or the Minister for Urban Development and Planning can formally initiate and conduct a process to amend a Development Plan. The process cannot be initiated by, or conducted by, a private landowner or business. Ultimately the Minister must approve all Development Plan Amendments.

A council may prepare a Development Plan Amendment (DPA) where the amendment relates solely to the whole or part of that council's area. The Minister must formally agree to the broad subject matter of the amendment at the beginning of the process.

A DPA affecting land within more than one council area may be undertaken jointly by the affected councils, with the approval of the Minister.

The Minister can also initiate an amendment to a Development Plan under certain circumstances described in the Development Act (for example if it is a matter of significant social, economic or environmental importance).

The processes for amending Development Plans are described in section 5.3 below, and involve mandatory community consultation.

5.2 INTERIM OPERATION

Development applications are assessed against the Development Plan content which exists at the time an application is lodged.

In the normal course of events, Development Plan content is not changed until the completion of a Development Plan Amendment process (including the community consultation) and the gazettal of final Ministerial approval for the DPA.

The Development Act does make provision, however, for cases where a Development Plan Amendment can be brought into operation with immediate effect on a temporary (interim) basis, while community consultation is conducted and subsequent consideration given.

Use of interim operation is infrequent, and must be agreed to by the Minister. Additionally:

- interim operation cannot take effect before the date a DPA is placed on public consultation
- interim operation cannot last more than 12 months.

Interim operation is most often used in situations where it is felt important to put in place updated Development Plan content while community debate is occurring (most commonly for Heritage DPAs). This avoids development applications being lodged for assessment against *existing* policy during the consultation period in an attempt to pre-empt or compromise the *proposed* policy change contained in the DPA.

Interim operation gives effect to *all* the policy changes proposed by a DPA, not just parts of the DPA.

5.3 WHAT IS THE PROCESS FOR AMENDING DEVELOPMENT PLANS?

There are some minor differences in process between DPAs initiated by a council and those initiated by the Minister. The processes are outlined in detail below, but the main steps are the same in each case:

- agreement on the subject matter or scope of the DPA
- investigations and formal DPA document preparation
- consultation with key government agencies and the public on the DPA, including receiving written submissions and holding a public meeting (there are three possible process options for consultation – Process A, B or C, described below)
- review of the consultation outcomes and refinement of the DPA if required
- decision by the Minister (which may include approving or refining all or part of the DPA)
- gazettal of the approved DPA
- republishing the relevant Development Plan with the DPA changes incorporated
- parliament's Environment, Resources and Development Committee undertakes a review of the DPA process and outcomes

5.3.1 DPAS INITIATED BY A COUNCIL

The process for a council-initiated Development Plan Amendment is outlined in *Figure 2*, with further explanation provided below.

Preliminary investigations - how does the DPA process start?

The need to change a Development Plan starts with an idea or concept that may have arisen from any of a number of sources, including:

- direction from the Planning Strategy
- recommendations made in a Strategic Directions Report or a Strategic Management Plan prepared by the council
- recommendations made in a study that council has undertaken
- a suggestion or request from an Elected Member or the council, or from the public
- the need to address an issue or improve a policy that is identified by staff or the council Development Assessment Panel to be inadequate.

Preliminary investigations should be undertaken by council staff to work out whether changing the Development Plan is the appropriate action to implement the idea and, if so, the DPA's likely nature and scope. Such investigations may not only identify actions that are required in respect to Development Plan policy, but may also highlight other ways in which council could achieve its objectives.

If a DPA is the best option, the council's Strategy and Policy Committee should endorse this approach, and begin preparing a Statement of Intent.

Figure 2 – Development Plan Amendment (DPA) processes for council-initiated DPAs

All council-initiated DPAs	<p>Statement of Intent (SOI) agreed between the Council and Minister (including whether Process A, B or C will be followed)</p> <p>Research/investigations conducted by/for Council regarding subject matter agreed in SOI</p> <p>(The process then varies, depending on whether Process A, B or C is adopted)</p>
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Process A	Process B	Process C
Draft DPA document prepared for <i>agency</i> consultation (maximum of 6 weeks allowed for agency submissions)	<p>DPA document prepared and Council CEO Certification issued</p> <p><i>Submit DPA to Minister for approval to release for public consultation (this extra step will apply only in limited circumstances, as agreed in SOI or if new issues arise in investigations)</i></p>	DPA document prepared and Council CEO Certification issued
<p>DPA finalised following agency consultation and Council CEO Certification obtained</p> <p>Submit DPA to Minister for approval to release for public consultation</p>	* Conduct concurrent agency and public consultation (at least 8 weeks allowed for written submissions)	* Conduct concurrent agency and public consultation (at least 4 weeks allowed for written submissions; direct notification of adjoining landowners)
* Conduct public consultation (at least 8 weeks allowed for written submissions)		

All council-initiated DPAs	<p>Council conducts Public Consultation Meeting</p> <p>After the Public Consultation Meeting Council prepares a <i>Summary of Consultations and Proposed Amendments</i> Report (SCPA Report); Council CEO Certification is obtained; and the documentation is submitted to the Minister</p> <p>Minister considers for approval The DPA may be approved; altered and approved; refused; or divided into parts, with some approved and others refused or altered</p> <p>Parliament’s ERDC Committee reviews the amendment process</p>
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* **Interim operation** – can be requested at any time but cannot come into effect before the DPA is placed on public exhibition

Statement of Intent – agreement between council and Minister

Once council has determined that a DPA is required, it must reach a formal agreement with the Minister regarding the matters to be considered and the processes to be undertaken when changing the Development Plan.

This agreement is called a Statement of Intent (SOI).

The Statement of Intent is effectively a 'project brief' which:

- describes why the DPA is needed and what is being proposed
- confirms the relevant Planning Strategy policies that will be addressed through the DPA
- identifies the link between the proposed DPA and council's Strategic Directions Report
- identifies the current policies in the Development Plan and related policies that will be considered through the DPA
- outlines the nature of the investigations and who will be consulted on the DPA
- outlines the DPA's proposed process and timetable
- gives assurance that the documentation standards in the DPA will be produced to an acceptable technical standard.

Ideally, the DPA's proposed scope will be concise and manageable, by addressing a single issue or confining the proposed amendment to a single area.

Once the SOI is agreed by the council and the Minister, the DPA process can commence.

Transparency and avoiding unacceptable conflicts of interest

Given that Development Plan policy fundamentally provides development opportunities or constraints by describing assessment criteria, it is imperative all DPA processes be conducted in a transparent manner. This is particularly important if the council is approached by a third party to prepare a DPA. Council must ensure that the investigations are fair and manifestly seen to be so. Council should also ensure that the merits of all reasonable options are openly assessed.

When proposing the preparation of a DPA, a council should make sure that it does not have an unacceptable conflict of interest. If a council is in doubt, it should seek legal advice. In some cases a council may identify that it does have a conflict of interest which prevents it from conducting the process. In such cases the council has the option of asking the Minister to prepare the amendment. Council should ensure that any request of this nature is accompanied by an explanation (and legal opinion if available) of the conflict of interest.

Investigations and preparing the Development Plan Amendment document

Once the Statement of Intent has been agreed, detailed investigations into the subject matter agreed in the SOI will begin. These investigations may be conducted by council policy staff or may be outsourced by council to consultants.

The investigations stage of the DPA may include preliminary consultation with key government agencies (i.e. those that have a primary interest). This may highlight issues, concerns or research held by those agencies at an early stage.

Some DPAs require special expertise in their investigations, most notably:

- Local heritage — the Act specifies a set of criteria for the identification of local heritage items; investigations should be undertaken by suitably qualified experts and this set of criteria should form the basis of the heritage assessment
- Significant urban trees — the Act specifies a set of criteria for significant trees and suitably qualified experts should be involved in evaluating trees against these criteria where listing is proposed.

Specialist advice may also be required for DPAs which involve other specific issues (e.g. land contamination assessment, infrastructure capacity assessment, traffic and parking, and noise impacts). It is recognised that in some instances past reports may be used, but it is important such reports are still current.

When preparing Development Plan Amendments, care should be taken to identify any Ministerial policies previously inserted into the Development Plan that may be affected by a proposed DPA. Ministerial policies should be retained unless sound justification can be provided for their amendment or deletion (early discussion with DPLG's Planning Division is recommended where changes to Ministerial policies are being contemplated).

Once the investigations are complete, the information will be used to prepare a formal DPA document (see below for description).

It is a requirement of the Development Act that council must consider the advice of a person with prescribed planning qualifications when preparing the DPA document.

Prior to release for consultation, the DPA document must be endorsed by council's Strategy and Policy Committee (on behalf of the council) and 'certified' by the council's Chief Executive Officer.

What does a DPA document look like?

The DPA document consists of:

- An Executive Summary (to help people understand the intent of the DPA)
- Analysis (a discussion of the investigations)
- Conclusions and Recommended Policy Changes
- References and Bibliography
- Certification by council's Chief Executive Officer
- Appendices
- The Amendment (the actual technical policy changes that will be made to the Development Plan document; it is only this part that will be incorporated into Development Plan once the final DPA is approved)

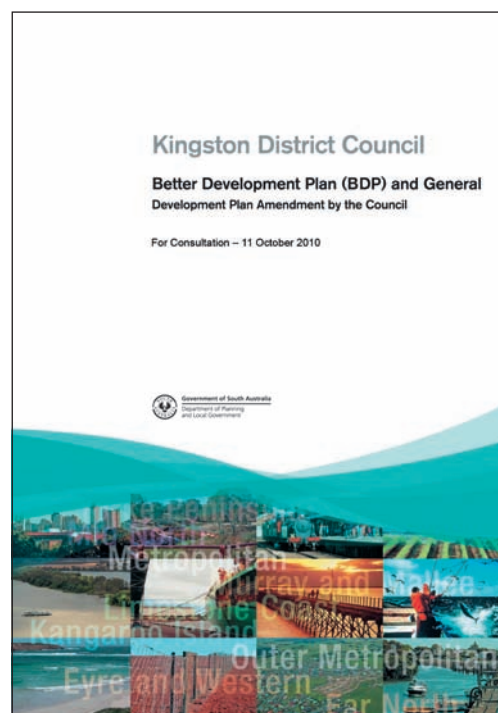
The DPA must also include an assessment of how the proposed changes accord with the Planning Strategy and council's and the state government's infrastructure planning (for both physical and social infrastructure).

Examples of DPA documents can be obtained from DPLG Planning Division and – if on consultation – found online on the DPLG website.

Consultation

Once the DPA document has been prepared there are three consultation process options (Process A, B or C), as set out in Figure 2.

The consultation process to be used is agreed by the council and Minister in the Statement of Intent at the start of the DPA process (this agreement can be varied if required). The consultation process chosen will depend on the complexity of the issues being addressed or the nature of the proposed amendments.



Process A

This is a **three-step** process in which:

1. identified government agencies are consulted on a draft DPA (for 6 weeks, or less if agreed in the Statement of Intent)
2. the results of this consultation and a revised DPA (if required) are then submitted to the Minister for public consultation approval, and
3. the DPA is released for public consultation (for a minimum of 8 weeks).

This process is most appropriate when there is reasonable potential for agencies to have opposing views or where, following agency comment, substantial changes to the DPA are likely to be required.

This has the following advantages:

- it allows council to test issues associated with the DPA policy direction with government agencies before embarking on the public consultation process
- it minimises the risk of the DPA not being consistent with the Planning Strategy, and
- it minimises the risk of having to re-release the DPA for a second public consultation if there are substantial agency changes required.

Process B

This process is likely to be suitable for the majority of DPAs.

Process B can be a **one-step** or **two-step** process, depending on whether the Minister requires the DPA to be referred to him/her for approval before it is released to the public:

1. DPA referred to the Minister for consultation approval before it is released for concurrent agency and public consultation. This would only be used where the scope of the changes is not entirely clear at the SOI stage or there are specific sensitivities that require resolution with the Minister but which do not require separate agency consultation.
2. DPA is released for concurrent agency and public consultation (minimum of 8 weeks).

Process C

This process is best suited to DPAs that propose changes of a relatively minor or specific nature where:

- the number of allotments affected and the number of adjacent allotments are limited
- the extent of impact is relatively localised (i.e. not of broad public interest).

This is a **one-step** process, where the DPA is released for agency and public consultation at the same time, but with the consultation timeframe reduced to four weeks.

Under Process C, the affected properties and those adjacent to the affected properties must be given *direct* notice of the DPA.

Written submissions and public consultation meetings

Regardless of which DPA consultation process is used (A, B or C), councils will need to consult with a range of individuals and organisations including:

- Government agencies (these will be listed in the Statement of Intent) and relevant regional boards
 - Local Members of Parliament
 - Neighbouring councils
 - The public or 'community of interest'
- Determining the community of interest will in part assist the council in deciding which DPA process to follow (A, B or C). If the community of interest is broad, the DPA process will be either A or B. If the community of interest is limited to a small area or even one site, process C is likely to be appropriate.

There are two main parts of the public consultation:

- Receipt of **written submissions** (for process A and B this is a minimum of 8 weeks; for process C it is a minimum of 4 weeks)
- **Public meeting** – this is a formal statutory opportunity for those who have made written submissions to present their views verbally. The public meeting may be cancelled if no submitter indicates they want to be heard at the scheduled meeting.

Consultation Notices

Regardless of which consultation process is used, there are minimum requirements for notifying the public about a DPA and the opportunity to comment.

The minimum statutory requirement is for a newspaper advertisement that details:

- the intent of the DPA
- where and when the DPA document can be obtained
- invites any interested persons to make a written submission
- where and when submissions will be made available for viewing
- where and when a public meeting is scheduled to be held (if required by submitters).

A similar notice is also required in the *Government Gazette*.

The newspaper advertisement will appear in *The Advertiser*, unless an alternative method of notification is agreed in the SOI. If alternative methods are chosen, the information program will be agreed in the SOI.

Alternatives could include things such as advertisements, public notices or articles in local papers and/or interest groups' newsletters, community information sessions, fact sheets, and/or displays in shopping centres and the public library. These means of notification may of course also be voluntarily adopted in addition to the statutory minimum for any DPA.

Receiving written submissions

Submissions can be received by email or written letter.

At the conclusion of the written submission period, the council is required to make all written submissions available for public inspection until the date of the public hearing. This might be done in hard copy form at the council offices and/or on a website.

Public Consultation Meeting

The public consultation meeting is usually scheduled for between two and three weeks after the close of submissions.

A public meeting is not required if no written submissions are received, or if no one has indicated a wish to be heard.

Council can delegate the running of the public meeting to a committee of elected members or, alternatively, a group made up of elected members and staff members.

The public consultation meeting is an opportunity for people or their agents to inform the council/committee members of their concerns about or support for the DPA, to suggest amendments, and for the council/committee members to ask questions of those who made submissions.

Those people who indicated in their written submissions that they want to speak at the meeting may appear and speak about the DPA or about other written submissions. The council/committee may also consider additional verbal submissions if it chooses.

Each verbal submission and any questions from the council/committee and the relevant response must be recorded as an official submission. The public meeting should be managed so the ability to accurately record these verbal submissions is not compromised.

To ensure fair opportunity for all speakers, a speaker should not be curtailed without a reasonable prior warning and those present with substantially similar interest should be given approximately equal time should they wish to speak. However, it is reasonable to request, on a voluntary basis, that large groups with similar interests nominate a spokesperson or agent to speak on behalf of the whole group.

After the public consultation meeting

Following the public consultation period, the council has the option of proceeding with, proposing to amend, or declining to proceed further with its DPA.

Council must prepare a *Summary of consultations and proposed amendments* (SCPA) report. This report includes:

- a description and summary of the consultations that were undertaken
- a description and summary of the submissions that were received and council's responses to them
- a description of the public meeting (if one was held)
- a timetable report (including reasons for any delays, if relevant)
- certification of the DPA signed by the council's chief executive officer
- a summary of any proposed changes to amendment instructions following consultations (if relevant)
- an explanation of the extent to which the proposed amendments accord with the Planning Strategy and Statement of Intent
- the final proposed version of the amendment instructions.

If the council proposes to make substantial changes to the DPA following the public consultation and hearing, the DPA may require a second public consultation process. This would need to be discussed with the Minister.

Council can decline to proceed with a DPA for any reason. If this decision is made, council will need to write a letter to the Minister requesting agreement to withdraw a DPA. In this case, the Minister has the option to take over a DPA and proceed with it as a Ministerial DPA if he/she considers that there are issues of strategic importance to the state and the continuation of the DPA is in the state's interest.

Ministerial consideration and decision

The Minister is required by the Development Act to assess the DPA.

In assessing the DPA the Minister considers the proposed amendment, all submissions, and any recommendations from the council.

Depending on its nature, the DPA may also be required to be:

- reviewed by the independent Development Policy Advisory Committee (if there are inconsistencies with the Planning Strategy)
- reviewed by the independent Local Heritage Advisory Committee (if there are local heritage places to be listed)
- referred to the Minister for the Adelaide Dolphin Sanctuary (if relevant)
- referred to the Minister for the River Murray (if relevant)

After these requirements have been met, the Minister may then:

- a) approve the DPA as provided by the council
- b) alter the DPA (after consultation with the council) and approve the amendment as altered
- c) decline to approve the DPA
- d) divide the DPA into separate amendments and approve, or decline to approve, each as appropriate (in consultation with the council).

Amendments approved by the Minister come into force on the day the approval is published in the Government Gazette.

The amendments are then consolidated into the Development Plan, and the Development Plan is re-published.

Time limits on DPAs

Timeframes for each of the statutory steps in a DPA are agreed in the Statement of Intent.

Council may apply for an extension to the agreed time period in a letter to the Minister. This request must set out the reason for any delay and be received at least two weeks before the end of the original agreed time period. If the Minister agrees to a new timetable the Statement of Intent agreement will be amended.

If a Council fails to comply with the time requirement in the preparation of a DPA as specified in the Statement of Intent, the Minister may determine that the DPA will lapse. The Minister will advise the council of this in writing. If this occurs and council wishes to restart the DPA it will need to submit a new SOI. Alternatively the Minister may choose to assume management of the DPA.

If a DPA exceeds its timetable and more than five years have elapsed since the date the SOI was approved, the DPA is deemed to lapse. If a council wishes to avoid this automatic lapse of a DPA it will need to place a request to this effect to the Minister at least eight weeks before the lapsing date.

5.3.2 DPAS INITIATED BY THE MINISTER

The Minister for Urban Development and Planning can initiate an amendment to a Development Plan under certain circumstances prescribed in the Development Act.

These include where:

- the land is not within a council area
- a council has requested the Minister to initiate an amendment and the Minister agrees
- the same amendment, or substantially the same amendment, is to be made to two or more Development Plans
- a council has taken too long to prepare a SOI or DPA
- the Minister considers the amendment is necessary to promote proper and orderly development or where there are significant social, environmental or economic issues
- to incorporate Heritage Places, River Murray Act, Adelaide Dolphin Sanctuary Act or Natural Resource Management matters
- to ensure consistency with the Planning Strategy, or recognise an approved major development or project

The process for a DPA initiated by the Minister is outlined in Figure 3. It is very similar to the process for a council-initiated DPA, except:

- Instead of a Statement of Intent the Minister approves an Initiation Minute for the DPA
- The investigations for the DPA and the formulation of the DPA document will be undertaken by staff of the state government planning department (DPLG)
- The Development Policy Advisory Committee (DPAC) undertakes the meeting and consideration of written submissions. DPAC is an independent statutory committee established under the Development Act and appointed to advise the Minister on development matters
- The Minister must have DPAC consider all representations and receive a report on them from DPAC

Figure 3 – Development Plan Amendment (DPA) processes for Minister-initiated DPAs

All Minister-initiated DPAs	<p>Initiation Minute approved by the Minister (includes whether Process A, B or C will be followed)</p> <p>Research/investigations conducted for the Minister regarding the subject matter identified in the Initiation Minute</p> <p>(The process then varies, depending on whether Process A, B or C is adopted)</p>
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Process A	Process B	Process C
Draft DPA document prepared for <i>agency</i> consultation (maximum of 6 weeks allowed for agency submissions)	DPA document prepared	DPA document prepared
DPA finalised following agency consultation	* Conduct concurrent agency and public consultation (at least 8 weeks allowed for written submissions; submissions are made to the Development Policy Advisory Committee)	* Conduct concurrent agency and public consultation (at least 4 weeks allowed for written submissions; direct notification of adjoining landowners; submissions are made to the Development Policy Advisory Committee)
* Conduct public consultation (at least 8 weeks allowed for written submissions; submissions are made to the Development Policy Advisory Committee)		

All Minister-initiated DPAs	<p>Public Consultation Meeting conducted (by Development Policy Advisory Committee)</p> <p>DPAC Report After the public meeting DPAC prepares a Report on the consultation and submits the Report to the Minister</p> <p>Ministerial consideration Minister considers for final approval. The DPA may be approved; altered and approved; refused; or divided into parts, with some approved and others refused or altered</p> <p>ERD Committee Review Parliament’s ERDC Committee reviews the amendment process</p>
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* **Interim operation** – can be declared at any time but cannot come into effect before the DPA is placed on public exhibition

Scrutiny of Development Plan Amendments

Consideration by the Environment, Resources and Development Committee

All Development Plan Amendments are subject to review by state parliament's Environment, Resources and Development Committee (ERDC).

The Development Act requires the Minister to refer all DPAs to the committee within 28 days of the amendment being approved (with some exceptions for holiday and election periods).

After receipt of an approved amendment from the Minister, the ERDC may resolve to:

- 1) not object to the amendment
- 2) suggest amendments to the relevant Development Plan
- 3) object to the amendment.

If the ERDC does not suggest amendments or object to the DPA within 28 days from the day on which the amendment was referred to it by the Minister, it is deemed that the committee does not object to the amendment.

If the committee suggests amendments to the DPA, the Minister will consult with the relevant council, or councils, before considering the matter further.

The Minister may then:

- 1) by notice in the Government Gazette, proceed to make such an amendment
- 2) report back to the Committee that he/she is unwilling to make the amendment suggested. In this case the Committee may resolve not to object to the approved amendment OR object to the approved amendment, and have it put to both Houses of Parliament for consideration.

If the committee resolves to object to the DPA, the amendment is put for consideration by both Houses of Parliament. If either House of Parliament passes a resolution disallowing the amendment, the amendment ceases to have effect from that time.

A Gazette notice would then be published, informing the public that the parliament has passed a resolution disallowing the amendment. The previous policies in the Development Plan prior to the DPA would then be reinstated.

Appointment of investigator

The Development Act empowers the Minister to appoint an investigator to look into the discharge of a council's responsibilities regarding a Development Plan Amendment or a Strategic Directions Report if there are ongoing delays or concerns about procedures.

The Minister can do this if he/she has reason to believe a council has failed to efficiently or effectively discharge its responsibilities in a significant respect or to a significant degree, but must first give council the opportunity to explain its actions. In the first instance the Minister is most likely to write to the council seeking an explanation and asking about actions being undertaken to address any delays or concerns.

The Minister must also consult with the President of the Local Government Association about the selection of the investigator.

The investigator has substantial powers, and must report to the Minister, including recommendations for action if required.

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