



From Great Idea to Business Case: Council and Consents

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Do I even need an approval?

Yeah.....probably.

- **Caravan and tourist park:** Means land used to provide short-term accommodation in caravans, recreational vehicles (RVs) cabins, tents and other similar demountable forms of shelter in a managed setting.
- **Hotel:** Means premises licensed, or proposed to be licensed, as a hotel under the *Liquor Licensing Act 1997*.
- **Tourist accommodation:** Means premises in which temporary or short-term accommodation is provided to travellers on a commercial basis.

A New Planning System

New Legislation

- The renewed planning system is underpinned by the new [Planning, Development and Infrastructure Act 2016](#) and introduces a raft of new tools and a 24/7 digital ePlanning system that will allow South Australians quick and easy access.

New Assessment Pathways;

*Development Plans replaced with state-wide Planning & Design Code
ePlanning;*

Practice Directions to clarify issues as they arise;

Deemed planning consent if served notice by applicant;

*Policy Areas removed. Subzones (rare) and overlays will deal with
local variation.*

What hasn't changed?

Councils and Council Assessment Panels will still assess DAs;

Public notification still required in certain circumstances;

Referrals still required in in certain circumstances;

Planning and design considerations still similar;

Heritage places, Regulated Trees, Significant Trees still exist;

Historic Conservation Zones to be in Historic Area Overlays;

Character Zones to be in Character Area Overlays;

Development in National Parks and Crown Land still has a different process.

Timing

- The new planning system was to be fully ‘switched on’ at 1 July 2020 - **Now potentially a later date** (eg July 2020 for Rural Areas and September 2020 for Urban Areas)
- The Planning and Design Code will be implemented in a phased format.
 - > Phase 1: Land not within a Council Area - Introduced mid-2019
 - > Phase 2: Rural Areas - 1 July 2020,
 - > Phase 3: Urban Areas – Late 2020.



ePlanning

- ePlanning will take planning and building consents online, and provides a 'one stop shop' replacing Council record systems.
- Exact interface currently not public
- Functionality to include lodgement; DA tracking; document storage/transfers; access to policy/maps/information; register of applications; DNFs and approvals issued electronically.
- Based on the inputted information, ePlanning will return a suggested category/pathway for users, along with the relevant rules according to the Planning and Design Code. This will then be verified and confirmed by the relevant authority prior to lodgement. **This function may not be available initially.**



Assessment pathways

Old Assessment Pathways	New Assessment Pathways
Exempt Development (Approval not required – Sch 3)	Exempt Development (Approval not required)
Planning Consent not required – BRC may be required (Sch 1A)	Accepted Development (Zone Table 1 & Regulations) – BRC may be required
Complying or Rescode	Code Assessed Development: - Deemed to Satisfy (Zone Table 2)
Merit	Code Assessed Development: - Performance Assessment (Zone Table 3)
Non-complying development	Impact Assessed Development - Restricted Development
Major Development	Impact Assessed Development - Impact Assessed By Minister

New system will feature the following pathways:

- **Exempt development**

No approval/assessment required.

Eg. Small garden sheds, water tanks, fences etc.

- **Accepted development (Set by Regulations or P+D Code)**

No Planning Consent required – may need building consent only.

Accepted development covers standard or expected development for its location, because it does not have impacts beyond the site.

Eg. Verandah or carport associated with a dwelling.

No public notification is required.

- **Code Assessed development:**

Code assessed development includes applications which will be assessed on their merit against the Planning and Design Code and are either:

- > deemed-to-satisfy development (“Complying”)

- > performance assessed development (“on-merit”)

- **Deemed to Satisfy (“Complying”)**

Meets the prescriptive/measurable requirements of the Code

No public notification of referrals

No appeal rights to third parties. Applicant can appeal.

Planning consent must be granted

Eg. A detached house in a residential zone may be fast tracked as a deemed-to-satisfy development application if it meets the requirements.

- **Performance Assessed (“On-merit”)**

Default assessment pathway is not otherwise classified (similar to existing “Merit” pathway).

Assessed on merits against the Code.

Requires more intensive assessments of potential impacts, design and how they fit within the locality.

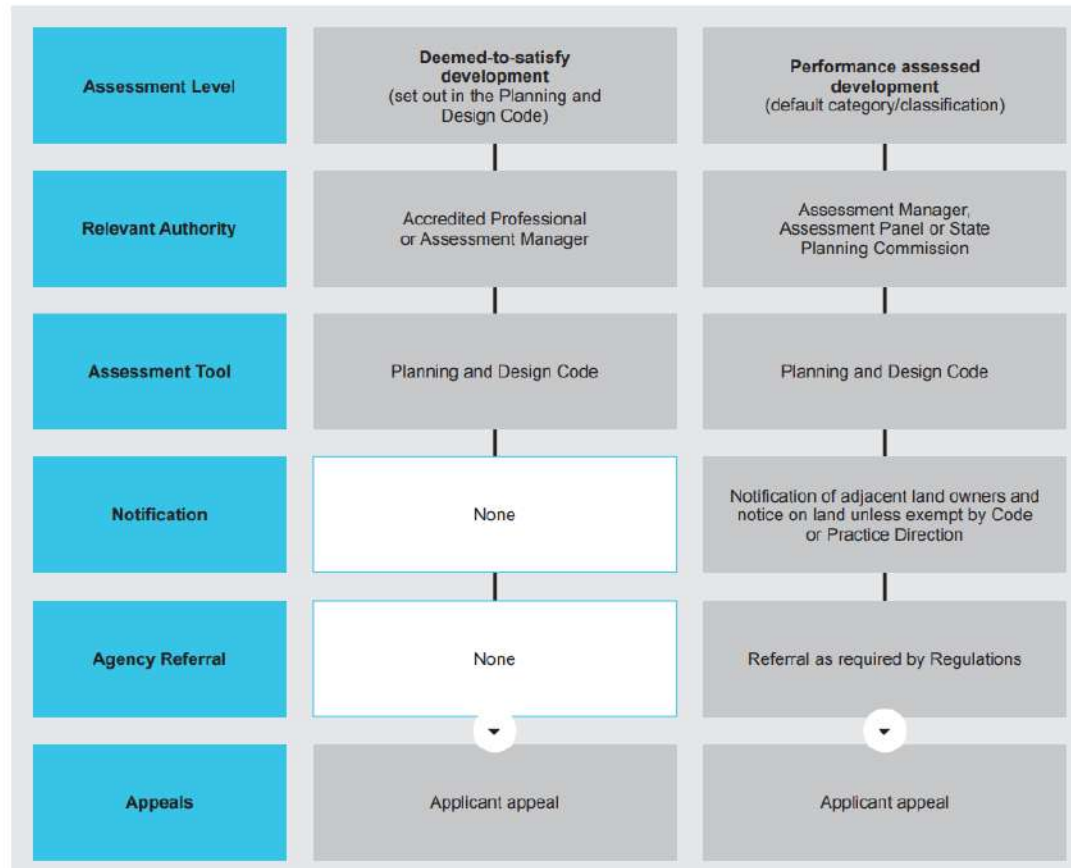
Public notification is often required for these developments, and anyone can make a submission against the proposal.

No appeal rights to third parties. Applicant can appeal

- Code Assessed flow chart

PURPOSE

A development will be categorised as code assessed if it is classified as deemed-to-satisfy by the Planning and Design Code or does not fall into either the accepted or impact assessed development categories.



- **Impact Assessed development**

- > **Restricted Development (“Non complying development”)**

- In some cases a restricted development may have planning merit
- The Commission will be the planning authority, not Council
- Commission can refuse application at early stages
- Notification is required
- Third party appeal rights provided
- Generally there is less restricted development than “non-complying” development.

- > **Not Restricted Development – Classified by Regulations or Declared by Minister (“Major development”)**

- Likely to be major developments such as a new port or foundry.
- The Minister is always the relevant authority.
- These developments are subject to an Environmental Impact Statement which will include a full analysis of a wide range of environmental, social or economic effects associated with the development and how those effects are to be managed.

Using the Code

- The policies and rules are collated and organised into Zones, Subzones, Overlays and General Development Policies.
- Zones, Subzones, Overlays have spatial boundaries (mapped).
- Policies apply depending on development type and location.
- Authority **must assess DA against applicable policies specified by the Zone table**. Authority may determine that one or more applicable policies are not relevant to a particular development.
- “Desired Outcomes” & “performance outcomes” apply to Performance Assessed Development.
- In some cases the policy includes a standard outcome which will generally satisfy the corresponding performance outcome (a designated performance feature or DPF).

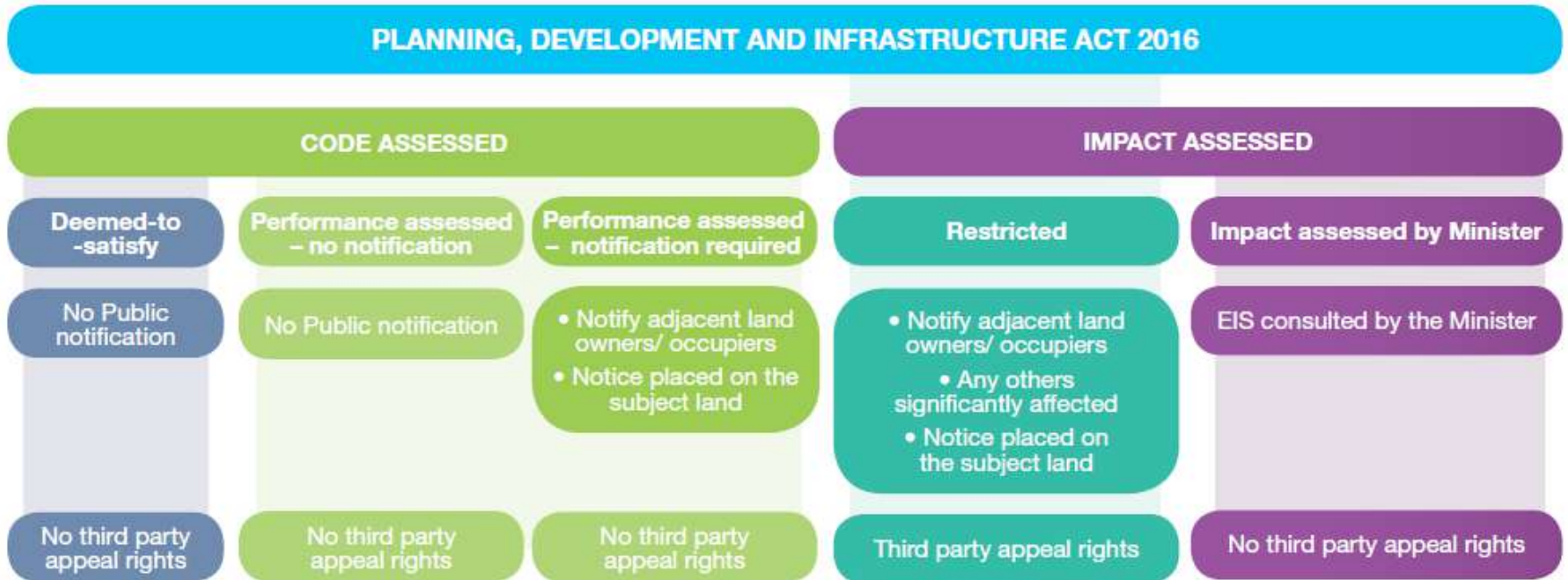


How does Performance-Based Assessment Work

- The policies in the Code will sometimes work in tandem, with a qualitative ‘**Performance Outcome**’ on one side and usually a quantitative ‘**Deemed to Satisfy Outcome**’/‘**Designated Performance outcome**’ on the other side.
- The Performance Outcome provides a goal or objective. For example, in relation to overlooking, the Code states: “Development mitigates direct overlooking of habitable rooms and private open spaces of dwellings”.
- The Deemed-to-Satisfy column then provides just one example of how to meet the Performance Outcome. For example, the Code calls for 1.5m high privacy screening.
- If a design does not meet the Deemed to Satisfy criteria, then the proposal does not necessarily fail – Instead, there is opportunity to demonstrate how the Performance Outcome is met.
- In the past, the practice has often been for planning officers to rely on the Principles of Development Control (The DTS equivalent) as the only way an outcome can be achieved. However, the new system seeks to provide an opportunity for flexibility/creativity in design and assessment.

Public Notification and Referrals

- Public Notification



- **Public Notification – For Certain Code Assessed DAs**
 - Letters to owners/occupiers within 60 metres
 - By post (or email if that resident given consent)
 - Anyone can lodge a representation
 - No right of appeal to third parties
 - No right to speak at the CAP by third parties (But Panel “may” hear them). This is similar to Category 2, where CAPs routinely allow representors to speak
 - 15 business days provided from expected receipt date of letters in “ordinary course of postage”.
 - Representation limited to performance based elements only.
 - A notice must be placed on the land (new concept in SA).
 - Can pay a fee for Council to undertake placement of notice.
 - Must be within a reasonable distance of a public road frontage
 - Weatherproof material
 - Greater or equal to A3 size
 - Potential exemptions depending on site size and location

- **Public Notification – Impact Assessed**

- Similar to Code assessed process
- Includes notice given to other affected parties (similar to existing Category 3)
- Third party appeal rights are provided

• Assessment timeframe

- See Reg 53
- All in business days
- Time begins following verification notice (which takes 5 days to verify)
- Base Timeframes of
 - DTS: 5 days to verify and 5 days to issue decision
 - Performance Assessed: 20 days
 - Restricted: 60 days
 - Building Consent Class 1 and 10: 20 days
 - Building Consent Class 2-9: 60 days
 - Land division consent 60 days
- Additional time to Base Timeframe:
 - CAP/Commission (+20)
 - Notification (+15 for notification and + 15 for response)
 - Referral (+20 to 30)
- Clock stops
 - RFI (max 1 year)
 - If a response to representations takes more than 15 business days

So where can I start my venture?

Let's look at a few zones!

- Tourism Development Zone
- Rural Zone
- Peri-Urban Zone

And

- Tourism Development General Assessment Provisions

Tourism Development Zone

- A range of tourist accommodation and associated services that enhance visitor experience .
- Development that comprises one or more of the following land uses:
 - Advertisement
 - Amenity block, including shower, toilet and laundry facilities
 - Caravan park
 - Coast protection works
 - Dwelling ancillary to tourist accommodation
 - Indoor recreation facility
 - Office ancillary to tourist accommodation
 - Recreation facility
 - Shop
 - Spa pool
 - Swimming pool
 - Tourist accommodation
 - Tourist information centre.



Rural Zone

- Tourist accommodation is deemed-to-satisfy subject to conditions.
- A zone supporting diversification of existing businesses that promote value adding, such as industry, storage and warehousing activities, the sale and consumption of primary produce, tourist development and accommodation.
- Tourist accommodation is associated with the primary use of the land for primary production or value adding industry.
- Tourist accommodation:
 - (a) is ancillary to and located on the same allotment or an adjoining allotment used for primary production or value adding;
 - (b) in relation to the area used for accommodation, does not exceed 100m².



Rural Zone

- Tourist accommodation proposed in a new building or buildings are sited, designed and of a scale that maintains a pleasant rural character and amenity.
- Tourist accommodation in new buildings:
 - (a) is setback from all allotment boundaries by at least 40m; and
 - (b) have a building height that does not exceed 7m above natural ground level.
- Function centres are associated with the primary use of the land for primary production or value adding industry.
- Adaptive reuse of existing buildings for small-scale shops, offices, tourist accommodation or ancillary rural activities.
- Development within an existing building is for:
 - (c) tourist accommodation.



Peri-Urban Zone

- Tourist accommodation is deemed-to-satisfy subject to conditions.
- A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the sale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes its regional identity.
- The productive value of rural land for a range of primary production and horticultural activities and associated value adding of primary produce (such as beverage production), retailing and tourism is supported, protected and maintained. The proliferation of land uses that may be sensitive to those activities is avoided..
- Tourist accommodation:
 - (a) is ancillary to and located on the same allotment or an adjoining allotment used for primary production or value adding;
 - (b) in relation to the area used for accommodation, does not exceed 100m².



Peri-Urban Zone

- Tourist accommodation:
 - (a) is ancillary to and located on the same allotment or an adjoining allotment used for primary production or value adding;
 - (b) in relation to the area used for accommodation, does not exceed 100m².
- Tourist accommodation is associated with the primary use of the land for primary production or value adding industry.
- Tourist accommodation:
 - (a) is ancillary to and located on the same allotment or an adjoining allotment used for primary production or value adding;
 - (b) in relation to the area used for accommodation, does not exceed 100m²;
 - (c) does not result in more than one facility being located on the same allotment.
- Tourist accommodation proposed in a new building or buildings are sited, designed and of a scale that maintains a pleasant rural character and amenity.



Peri-Urban Zone

- Tourist accommodation in new buildings:
 - (a) is setback from all property boundaries by at least 40m; and
 - (b) have a building height that does not exceed 7m above natural ground level.
- Adaptive reuse of existing buildings for small-scale shops, offices, accommodation or ancillary rural activities.
- Development within an existing building is for:
 - (a) a shop;
 - (b) office; or
 - (c) tourist accommodation



Tourism Development (General)

- Tourism development in suitable locations that caters to the needs of visitors.
- Tourism development complements and contributes to local, natural, cultural or historical context.
- Tourism development comprising multiple accommodation units (including any facilities and activities for use by guests and visitors) clustered to minimise environmental and contextual impact.





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