

# Practitioners Guide

Practitioners Guide to Preparing Development Plan  
Amendments

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Transport and Infrastructure



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## Introduction

The *Practitioners Guide to Preparing Development Plan Amendments* has been written specifically to assist policy planning practitioners to:

- prepare DPA documents
- conduct a DPA process
- submit DPA documentation at key stages for approval.

The guide is written in a way that assumes the reader is a qualified planner who understands the South Australian planning system, in particular the legislative role of Development Plans and DPAs.

The *Practitioners Guide to Preparing Development Plan Amendments* takes practitioners through the seven stages of a DPA process from the idea stage through to its approval by the *Minister responsible for the administration of the Development Act 1993* (the Minister).

To assist Councils in undertaking a DPA, various pro-forma templates and guides to their use have been prepared by the Department of Planning, Transport and Infrastructure (the Department) to ensure that the correct documentation is submitted to the Minister.

The templates and guides can be accessed through the planning practitioners website, and within this document they are identified as (*template available*) or (*guide available*).

A complementary *Guide to Development Plans and Development Plan Amendments* (with less detail and written in plain terms) has also been prepared to assist the public, landowners and elected members to understand:

- what a Development Plan is
- what a DPA is and how a DPA process is undertaken
- how to make a written or verbal submission on a DPA.

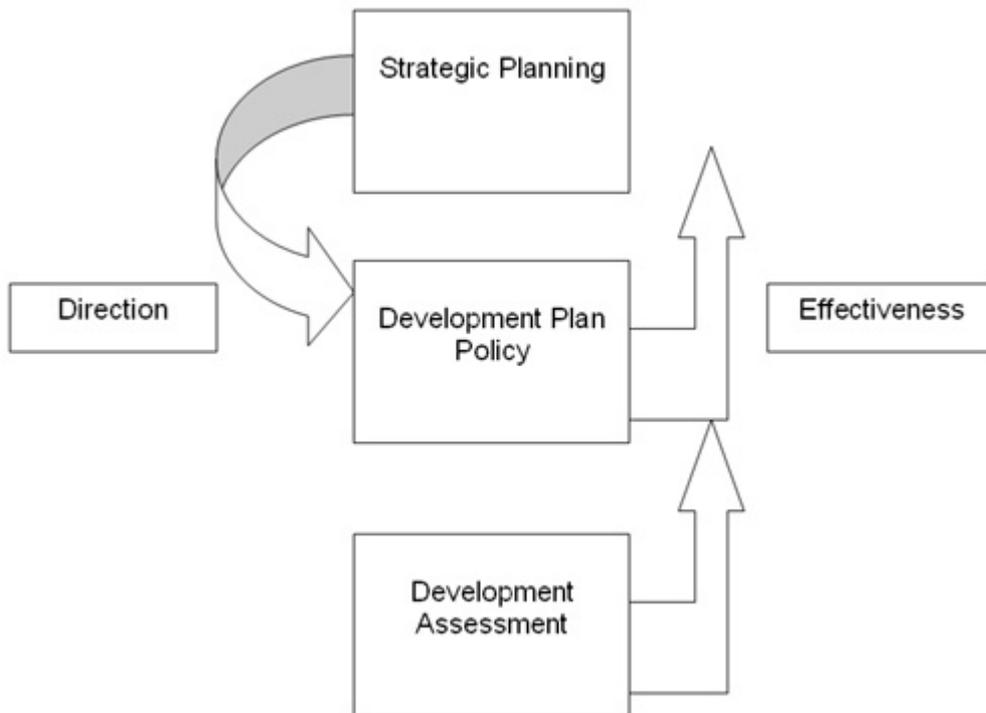
The complimentary guide is available from [www.sa.gov.au](http://www.sa.gov.au).

# Planning System Overview

The three main components of the planning system are:

- *Strategic Planning*, which provides clear direction for land use planning throughout the state
- *Development Plan Policy*, which translates strategies into actual spatially based policies
- *Development Assessment*, which is the practical application of policies.

Illustrated below is the relationship between these components.



Strategic planning informs the content of Development Plans, which are used to assess proposed developments. If the assessment procedures and/or the policies are considered deficient, this should be fed back up the process so that the strategies/policies can be changed accordingly.

## Strategic Plans

### South Australia's Strategic Plan

Although there is no formal or legislative link between South Australia's Strategic Plan and Development Plan policy there are important government policy links.

South Australia's Strategic Plan is about establishing a whole of community vision for the state and covers a wide range of issues that extend beyond the more traditional concept of 'development' that the planning system deals with.

While the intention is that the whole community has some stake in, and ownership of, this plan, State Government agencies are required to adjust their businesses to focus on those components that are relevant to their areas of concern. This will impact on the priorities of agencies over time and will influence their view of many planning issues.

In the context of preparing a Development Plan Amendment (DPA), it is important to review South Australia's Strategic Plan to determine whether there are targets of direct relevance.

### The Planning Strategy

Section 22 of the *Development Act 1993* (Section 22) requires the State Government to prepare the Planning Strategy for South Australia. The Planning Strategy presents the South Australian Government's policy direction for the physical development of the state and currently comprises a number of volumes relating to different regions of the state.

The Planning Strategy provides a physical and policy framework to assist in reaching the various targets outlined in South Australia's Strategic Plan. In particular the Planning Strategy guides the preparation of Structure Plans, Precinct Plans, Strategic Directions Reports (section 30 of the *Development Act 1993*), Strategic Management Plans and Development Plan Amendments (DPAs).

Once the initial scope of a proposed DPA has been established, it is essential that the relevant volume(s) of the Planning Strategy is reviewed to determine the correlation between the intended policy outcome and the relevant strategic directions. It is the evaluation of the strategic and proposed policy intent that is required in a DPA process, not the simple listing of relevant statements. In some cases the policy intent may not align with the Planning Strategy, in which case it is important to provide an argument justifying why the policy change should be supported.

### Strategic Directions Reports and Strategic Management Plans

There are two documents that are prepared by Councils to guide their strategic directions — Strategic Directions Reports (SDRs), which are prepared under the *Development Act 1993* (previously referred to as Section 30 reports) and Strategic Management Plans (SMPs), which are prepared under the *Local Government Act 1999*. Councils are able to seek an exemption from the need to prepare an SDR provided that the SMP process and documentation address similar minimum SDR requirements. The aim is to regularly review Development Plan policy so that it remains aligned with the relevant components of the Planning Strategy via a program of Development Plan Amendments.

## Development Plans and Development Plan Amendments

Development Plans are documents used by relevant authorities to assess development applications. Because they are both statutory and used by the public, they must be precise and unambiguous. Development Plans should not attempt to control matters, acts or activities that do not constitute development.

Development Plans are published by the Minister and the final approval of amendments to them rests with him/her. While Councils are the 'drivers' of the Development Plan Amendment process, the Minister is ultimately responsible for the content, structure and layout of all Development Plans.

Once the Minister has approved a DPA it is referred to the Environment Resources and Development Committee for review.

### Authority to prepare a Development Plan Amendment

A Council may prepare a Development Plan Amendment (DPA) where the amendment relates solely to the whole, or part, of that Council's area.

An amendment to a Development Plan affecting land within more than one Council area may be undertaken by the affected Councils with the approval of the Minister.

The Minister can also prepare an amendment to a Development Plan under certain circumstances. In addition, the Minister can amend Development Plans in accordance with policies prepared under various other Acts, as specified in the *Development Regulations 2008*.

Amendments to Development Plans cannot be undertaken by landowners or other interested third parties or their consultants.

### Roles and responsibilities in a Council-prepared DPA

When a Development Plan Amendment (DPA) is prepared by a Council the following roles and responsibilities apply:

The Minister's role and responsibility is to:

- ensure the DPA accords with the Planning Strategy
- approve key stages of the DPA process
- assist in providing Councils with appropriate comments from a state perspective
- update and distribute the revised version of the Development Plan so that it includes all approved DPA changes.

Council's role and responsibility is to:

- prepare a Statement of Intent
- conduct the DPA process as agreed in the Statement of Intent
- produce appropriate DPA process documentation
- prepare and present the proposed Development Plan changes to a high standard (in terms of policy content and accuracy)
- prepare clear instructions to amend the Development Plan.

### Four critical issues

There are four critical issues which must be acknowledged when preparing a DPA:

- Certification of the DPA
- Avoiding unacceptable conflicts of interest
- Timeframes

- Managing DPA work programs.

#### Certification of the DPA

The DPA process includes two points at which Council's Chief Executive Officer is required to sign certification documentation:

- at consultation (included in the Development Plan Amendment)
- at approval (included in the Summary of Consultations and Proposed Amendments).

Certification at these stages acts as a quality check point to ensure that:

- the DPA documentation is of a high standard and accords with the *Development Act 1993*
- the DPA documentation accurately reflects the intentions of the Council
- the process conducted has been in accord with the *Development Act 1993* and the agreed Statement of Intent.

#### Avoiding unacceptable conflicts of interest

When proposing the preparation of a DPA, Council should make sure that it does not have an unacceptable conflict of interest. Development Plan policy fundamentally allocates development restrictions or opportunities, therefore the DPA process (which can change such restrictions or opportunities) must be conducted in an 'above board' manner. This is particularly important if the Council is approached by a party other than the Minister to prepare a DPA. The DPA process must identify if funding from external sources has been received and 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.

If a Council is in doubt about this, 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.

#### Timeframes

The implementation of zoning changes and policy amendments to keep pace with emerging development trends is an important factor in ensuring the State's competitiveness and ability to attract investment.

For DPAs that deliver on key strategic goals, Council should have a work program in place which seeks to ensure that the DPA is completed within 12 to 18 months. If Council falls behind on its agreed timeframes lapsing or takeover procedures provided for under the *Development Act 1993* may be invoked by the Minister.

#### **By the Minister**

If a Council fails to comply with the time requirement in the preparation of a DPA as specified in the SOI (and in accordance with Section 25(19) of the *Development Act 1993*) the Minister may determine that the DPA will lapse. The Minister will advise the Council of this in writing. In the first instance it may simply be a warning.

If the Minister does decide to lapse the DPA and if Council wishes to restart it, a new SOI will need to be lodged with the Department. Alternatively, the Minister may choose to assume management of the DPA (in accordance with sections 24(a) (iii)-(iva) of the *Development Act 1993*).

To prevent this happening, Council may apply for an extension to the agreed time period in a letter to the Minister ([template available](#)). This request must be received at least 2 weeks before the end of the original agreed time period. (Council will need to obtain written advice of the extension as proof that it has been provided.)

### **Automatic**

If a DPA exceeds its timetable and more than 5 years have elapsed since the date the SOI was approved, the DPA will lapse automatically.

If the Council wishes to avoid the automatic lapse of a DPA it will need to place a request to this effect to the Minister at least 8 weeks before the lapsing date.

### Managing DPA Work Programs

A work program is necessary where a Council has multiple DPAs in the system. The work program should:

- reflect strategic targets/goals of the relevant Planning Strategy or Council's Strategic Directions Report. DPAs which achieve Planning Strategy targets or Strategic Direction Report outcomes will be given priority.
- ensure the timely implementation of the State's Planning Policy Library or updated volumes thereof.
- ensure that the program is sufficiently resourced so that agreed timeframes can be met.

The DPA work program should be developed in consultation with the Department.

## Key Committees

### Environment, Resources and Development Committee

The Environment Resources and Development Committee (ERDC) is a Parliamentary Committee comprising Members of Parliament and supported by a small number of staff. The committee plays a specific statutory role in the DPA process, which, among other things, is to inquire into, consider and report on, any matter concerned with planning and land use.

It should be noted that the referral requirements set out in the *Development Act 1993* are in addition to the ERDC's general powers, which means that the committee may investigate a DPA process at any stage and may also investigate a wider range of matters under its broader parliamentary powers.

Once the Minister has approved a DPA, he/she is required to refer the DPA to the ERDC for its review. The committee may also investigate issues associated with a DPA either at the request of an interested party or in response to its own concerns, and may call individuals or organisations to provide evidence to it. The committee may recommend changes to a DPA or move for the DPA to be disallowed.

### Development Policy Advisory Committee

The Development Policy Advisory Committee (DPAC) is an independent statutory body established under the *Development Act 1993*, which provides advice to the Minister on a range of development related policy.

The committee plays a critical role in all Ministerial DPAs as its role is to ensure that the Minister receives independent advice on the issues raised in the consultation phase and that all submissions are appropriately addressed. The committee may also comment on Council DPAs, as requested by the Minister, particularly under those circumstances specified in Section 25(15).

Sub-committees of DPAC include the Building Advisory Committee and the Local Heritage Advisory Committee (which provides a report to the Minister on all local heritage DPAs).

### Strategic Planning and Development Policy Committees

Councils are required to establish a Strategic Planning and Development Policy Committee under Section 101A of the *Development Act 1993*. Essentially, the functions of this committee are to provide advice on and assist with:

- the achievement of Council's strategic objectives
- the alignment between the Planning Strategy and Council's Development Plan policies.

The *Development Act 1993* and *Development Regulations 2008* do not define the membership, role or responsibilities of this committee, other than as set out in Section 101A. However it is important to note that this committee cannot be delegated functions relating to development assessment or compliance.

## The Seven Stages of the DPA Process

The DPA process has been divided into seven stages for ease of understanding. The seven stages are:

- Stage 1 Determining the scope of the project
- Stage 2 Writing the Statement of Intent (SOI)
- Stage 3 Undertaking the investigations
- Stage 4 Drafting the new policy
- Stage 5 Preparing the Development Plan Amendment (DPA)
- Stage 6 Undertaking the consultation requirements
- Stage 7 Gaining approval for the DPA.

Please note that the specifics of each stage may vary according to which DPA process is chosen: A, B (with consultation approval), B (consultation approval not required) or C.

Much of the information provided here is for guidance and assistance only. The minimum documentation required at the various stages is stated where relevant: all other documents are optional.

## Stage 1 Determining the scope of the project

By the end of this stage you should have:

- ensured that a DPA is the best way to address the issue under consideration
- determined the scope of the DPA and the resources required (financial and human) and prepared a project outline and costing
- determined the most appropriate process for the DPA
- gained the approval of your Elected Members to prepare the Statement of Intent.

### 1.1 Idea/concept stage

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:

- a recommendation made in a Strategic Directions Report or a Strategic Management Plan
- a recommendation made in a study that Council has undertaken
- a suggestion or request from an Elected Member or the Council
- a need to address an issue or improve a policy that is known by the development assessment planners to be inadequate.

Before proceeding with the DPA it is vital that Council asks whether a DPA is the correct path to achieve the policy change it's after or whether there is another more suitable method.

Preliminary investigations should be undertaken to work out whether a DPA is the appropriate course and, if so, its 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 policy objectives.

It is recommended that at the very beginning of a DPA process Council should:

- Contact the Department

It is recommended that Council first discuss the issue with the Department to find out about alternatives to a DPA; whether other Councils have experienced a similar issue/scenario; if the change to the Development Plan that Council is seeking will achieve the desired outcome; and finally whether the change is likely to be supported by the Minister.

- Assess how the change will fit with the Planning Strategy

One of the most important documents to have regard to when considering a change to a Development Plan is the Planning Strategy. This will provide broad information regarding the strategic direction in which the state is heading and allow Council to identify whether the proposed change(s) would be consistent with that direction.

- State Planning Policy Library

Examine the State Planning Policy Library (SPPL) to determine whether there is a policy there that is a 'match' for the policy change being sought or consider converting the Development Plan to the SPPL format.

The SPPL project is a set of planning policies developed by the Department that deals with issues common to most local Councils. These policies, which together form the SPPL, have been derived from the Development Plans of a number of Councils and input from government agencies and are aimed at reflecting the goals of the Planning Strategy. In essence the SPPL project involves Councils 'rewriting' their Development Plans by selecting the planning policies that are relevant to them from the SPPL, adding in their local additions if necessary, and bringing all these together to create their new Development Plan.

## Practitioners Guide to Preparing Development Plan Amendments

### The Seven Stages of the DPA Process

#### Stage 1 Determining the scope of the project

Council should also strongly consider updating existing SPPL modules in their Development Plan to ensure that it reflects the most recent version.

- Assess key documents, agencies, individuals and organisations

It may also be useful to analyse other documents that may be relevant and/or to undertake preliminary consultation with the people or groups most likely to be affected by the proposed change.

- Analyse critical constraint issues

It is important to analyse critical constraint issues applicable to the affected area of the DPA including but not limited to:

- the availability of services
- the availability of land
- the heritage issues
- economic considerations.

## 1.2 Project planning, outline and costing

### 1.2.1 Scope and purpose

It is important to ensure the DPA is kept manageable and realistic by making the scope concise, addressing a single issue or confining the amendment to a single area.

### 1.2.2 Resourcing

It is important to identify at the outset what resources will be required in producing the DPA; how it is to be funded (through grants and/or the Council); and whether consultants will be used, and if so, in what capacity, and for what stages.

It may also be useful to discuss ideas with other local government policy planners who have managed a similar amendment process.

### 1.2.3 Use of consultants

There are two ways Councils can use consultants:

- engage a consultant to undertake all the investigations (and possibly prepare the DPA documentation, including the amendment section)
- undertake part of the work in-house and engage consultants to undertake specialised components (eg engineering, geotechnical, land contamination, retail modelling).

A person with prescribed qualifications (Regulation 86 of the *Development Regulations 2008*) must be involved in the preparation of the DPA. While this person does not need to undertake all the work, they must at least conduct a peer review or quality check.

For more information on how to work with consultants go to the *working with consultants* web link on the planning practitioners website.

### 1.2.4 Identifying risks

It is also important at the outset to identify any risks that may be associated with the proposed changes to the Development Plan, eg:

- Does Council or anyone else involved have a conflict of interest?
- Does the proposed change need to be kept confidential? (i.e. is it intending to identify local heritage properties?)
- Would Interim Operation be required

### 1.2.5 Sequencing of DPAs

The sequencing of different DPAs should be given consideration at this stage to enable changes to the Development Plan to occur smoothly. Consideration should also be given to the agreed timeframes for other DPAs.

### 1.2.6 Provision of professional advice

Section 25(4) specifies that a DPA may be prepared only after the Council has sought professional advice. Consideration therefore needs to be given about when the Council will be provided with this advice:

- as part of the Statement of Intent process, and/or
- as part of the investigations stage of the DPA.

Council must identify specifically who will provide this advice and when it will be provided. The advice should be in the form of a report to Council, and, making reference to this provision in the *Development Act 1993*, address:

- the planning merits of the proposed change (including its relationship to the Planning Strategy)
- the general manner in which the change could be best achieved (ie the nature of the Development Plan change that is needed)
- any warnings about unintended flow-on effects as a result of the change.

The emphasis of section 25(4) is about ensuring that Council receives **professional advice** on the DPA. Accordingly, the name of the person or persons providing professional advice must be stated in the CEO certification (Schedule 4A and 4B of the *Development Regulations 2008*), which addresses the issues associated with the technical quality and clarity of the DPA documentation and specifically the Amendment.

## 1.3 Determining the best procedural option

An early step in the process of planning a DPA project is the selection of the appropriate process and consultation levels as set out in sections 25(6), (7) (8) and (9) of the *Development Act 1993*.

There are four standard processes - described below:

### 1.3.1 Process A

This is a three-step process in which:

- identified government agencies are consulted on a draft DPA
  1. the results of this consultation and a revised DPA (if required) are then submitted to the Minister for consultation approval ([template available](#)) and
- the DPA is released for public consultation.

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 three advantages:

- it allows Council to test across-agency support for the DPA policy direction before embarking on the public consultation process
- it maximises the across-government support for the DPA policy direction
- it minimises the risk of having to re-release the DPA for public consultation if there are substantial changes.

Generally, Process A is only recommended in certain circumstances. In the past, it was used where the scope of the SOI or the strategic thinking of Council was not clear, however it is now expected that these issues are dealt with early, prior to the agreement of the SOI.

**Practitioners Guide to Preparing Development Plan Amendments**  
**The Seven Stages of the DPA Process**  
**Stage 1 Determining the scope of the project**

**Timeframes**

Agency consultation – as specified by the Regulations (6 weeks or less if agreed in the Statement of Intent)

Public consultation — 8 weeks

1.3.2 Process B (with consultation approval & consultation approval not required)

This process, which is likely to be suitable for the majority of DPAs, can be one-step or two-step, depending on whether the Minister requires the DPA to be referred to him/her for approval before it is released to the public:

B(with consultation approval), which is applied in some cases, involves the DPA being referred to the Minister for consultation approval before it is released for concurrent agency and public consultation ([template available](#)).

- B(consultation approval not required), which is applied in most cases, means the Minister does not need to approve the DPA before it is released for concurrent agency and public consultation.

Process B (with consultation approval) may be used where the DPA is consistent with a current project of the State Government (such as the implementation of the SPPL or structure planning) and there are specific sensitivities that require resolution with the Minister but which do not require separate agency consultation.

**Timeframes**

Agency consultation — 8 weeks

Public consultation — at least concurrent

1.3.3 Process C

This is a one-step process, similar to Process B (consultation approval not required), where the DPA is released for agency and public consultation at the same time. However, in this case, the consultation timeframes are reduced and the affected properties and those adjacent to the affected properties must be given direct notice of the DPA.

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 (ie not of broad public interest)
- the proposal is not contentious.

**Timeframes**

Agency consultation — 4 weeks

Public consultation — at least concurrent

As the timeframe is reduced, consideration should be given to the impact of holidays and seasonal factors that might limit the ability of owners/occupiers to provide a response.

1.4 Tailored processes

1.4.1 Jointly prepared amendments (two or more Councils)

A jointly prepared amendment can be a useful resource-sharing option and can be used when the proposed policy change is relatively simple and has a high level of support. However, it is important to note that these DPAs require coordinated decision-making by two or more authorities and this may be difficult to project manage. As such this option is not recommended for complex DPAs or where there is some controversy about the policy direction.

Jointly prepared amendments have historically had considerable delays, often resulting in a split of the DPA, which then defeats the purpose of a joint approach. One way to manage this is for the Councils involved to delegate responsibility to a joint committee of Council appointees to undertake the tasks normally performed by a single Council (eg the public meeting).

Once the Minister has given approval for Councils to jointly prepare an amendment to their Development Plans, the procedures are identical to those undertaken by a single Council (Sections 24(1) and 25). A consultant may prepare the investigations jointly.

#### 1.4.2 Interim Operation

The purpose of Interim Operation is to allow public debate on a policy change but prevent development applications being lodged in the meantime that might compromise the potential development outcome. This is most commonly used for local heritage DPAs (refer below).

The *Development Act 1993* makes provision for an amendment to be brought into operation on an interim basis, with the following limitations:

- Interim Operation cannot take effect before the DPA is placed on public consultation
- Interim Operation cannot last more than 12 months and cannot be renewed without restarting the public consultation stage.
- Interim Operation gives effect to all the policy changes proposed by a DPA, not just parts of it, therefore a policy issue that warrants Interim Operation should not be included in a DPA with other issues that do not.

The DPA process that follows the application of Interim Operation needs to be run efficiently and quickly. It is recommended that the approval package be lodged well in advance of the expiry date to ensure that the policy change can be brought into formal effect (as appropriate) before the 12 months is complete.

Interim Operation can attract considerable community reaction if it is perceived to have been used unfairly or inappropriately.

#### 1.4.3 Local heritage

The *Development Act 1993* defines a local heritage place as 'a place that is designated as a place of local heritage by a Development Plan'. Therefore the only way to designate a local heritage place is to undertake the necessary investigations, address the criteria set out in the *Development Act 1993*, and implement the results via a DPA process.

Local Heritage DPAs have a number of specific procedural requirements (particularly in relation to consultation); involve an assessment by the Local Heritage Advisory Committee (LHAC), a sub-committee of DPAC; and often include Interim Operation. The heritage DPAs section of the planning practitioners website describes how Councils should list their local heritage places in Development Plans and what information is required by LHAC if landowners object to the listing of their properties.

#### 1.4.4 Significant trees

The *Development Act 1993* defines trees that exceed a defined size as 'development' and thus requires that development approval be obtained before any 'tree damaging activity' can occur to these trees. The *Development Act 1993* also allows the specific listing of a tree not captured by this definition, provided it meets particular criteria.

As with heritage DPAs, considerable investigations need to be undertaken prior to the preparation of a DPA on significant trees and Interim Operation is often warranted. Consideration also needs to be given to the ongoing review and update of these lists to account for trees dying or dropping limbs.

## 1.5 Getting Council approval to proceed

The next step in changing a Development Plan is to get the Elected Members to agree to the proposed change.

This will involve writing a report to Council seeking approval to prepare an SOI ([template available](#)). The purpose of the report is to get the committee to:

- agree to an SOI being prepared
- authorise the relevant officer to write the SOI
- authorise the relevant officer to tender/seek consultants (if required)
- commit to the proposed budget (Is it linked to the Council's Strategic Directions Report?)
- agree to a suitable level of delegation so that refinements to the SOI can be made to facilitate its approval.

## Stage 2 Preparing the Statement of Intent

By the end of this stage you should have:

- written the SOI
- chosen the intended DPA process (A, B [with consultation approval], B [consultation approval not required] or C) and described how the minimum consultation requirements will be met (and any other consultation deemed appropriate)
- gained the agreement of Council to:
  - submit the SOI to the Minister
  - authorise relevant officers to prepare the DPA
  - appoint consultants (where relevant and subject to delegations etc)
  - make any agreed minor changes to the SOI
- submitted to the Department:
  - a covering letter clearly stating that the SOI has been endorsed by Council and identifying a contact officer in Council
  - a copy of the SOI signed by the CEO
  - (if relevant) resubmitted any amendments to the SOI as agreed with the Minister/Department
  - obtained the CEO's signature on the final version of the SOI.
  -

### 2.1 Writing the Statement of Intent

The Statement of Intent ([template and guide available](#)) is the formal agreement between a Council and the Minister regarding the matters to be considered and the processes to be undertaken when changing a Development Plan.

The SOI:

- 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.

#### 2.1.2 Ministerial Policies in Development Plans

When undertaking DPAs, Councils should clearly indicate at the SOI stage that the Statement of Investigations will identify amendments proposed to policies previously introduced by the Minister and provide justification for this, supported by the provisions of the Planning Strategy.

For further information, please see the *Ministerial Policies in Development Plans* information page on the planning practitioners website.

#### 2.1.3 Consultation Considerations

##### **Agencies**

When preparing the SOI, Council should consider which agencies are likely to have a direct interest in the DPA and list these. Where the scope of the amendments is not clearly defined, it is harder to determine which agencies may have a direct interest. Specific information on working with agencies is contained on the planning practitioners website.

## Community of Interest

At this stage, it is worth thinking about the DPA's likely 'community of interest', which will assist in deciding the nature and extent of the public consultation. One useful method of defining this is the 'reasonable person' test, ie: Would a reasonable person expect to be able to make a comment?

For example: if an amendment affects only a single site with localised impacts would a reasonable person living several suburbs away expect to make a comment?

Council should be careful not to exclude people with an interest who may not be located within its area.

### 2.1.4 Getting the draft right

It is also often useful to circulate a draft SOI within Council for comment or to ask a third party to review it. However, be careful not to let other 'agendas' take over the primary purpose and intent of the SOI or make the SOI hard to understand.

## 2.2 Getting the SOI approved

### 2.2.1 Council approval

The last step before submitting the SOI for approval is to prepare a report for the Council ([template available](#)) that aims to:

- seek their endorsement of the Statement of Intent to submit to the Minister
- gain their authorisation for relevant officers to prepare the DPA
- seek their endorsement of the appointment of consultants (where relevant, subject to delegations etc)
- seek their endorsement to delegate the ability to agree to variations.

### 2.2.2 Ministerial approval

Once endorsed, Council submits the SOI to the Minister for his/her agreement.

The SOI must be accompanied by a letter to the Minister ([template available](#)) requesting approval to progress a DPA clearly stating that the SOI has been endorsed by Council and identifying a contact officer in Council. The letter should also identify Council's current DPA work program.

This should be sent electronically to the DPA Coordinator [DPLG.DPACoordinator@sa.gov.au](mailto:DPLG.DPACoordinator@sa.gov.au) at the Department.

Within 48 hours Council will receive an acknowledgement of the lodgement of the SOI package (or a request to provide additional information) and the name of the relevant contact person at the Department.

**NB: lodgement will not be accepted if any information is missing or not in a suitable format.**

## 2.3 Department process

Once the DPA package has been accepted as lodged, a file is established and responsibility for the SOI is allocated to a staff member. The SOI is then sent internally to other staff in the Department for strategic and work program consideration. In some instances, the SOI will be sent to select agencies for comment prior to finalising its assessment. It is common for the officer to be in contact with Council staff to discuss and clarify any matters and discuss possible changes.

A report is then prepared by the Department that makes recommendations on the proposed policy change(s), the extent to which the SOI meets the legislative requirements, and the proposed process and consultation.

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This report is provided to the Minister (or his/her delegate) for consideration and a decision. Where the decision is to approve the SOI subject to amendments, Council will receive written notice of this.

The final version of the SOI must be signed by both parties. The SOI agreement date and DPA commencement date is the latter of the two signature dates.

It should be noted that substantial amendments to the SOI may need to go back to Council for endorsement and may change the scope of any consultancy, if consultants were appointed prior to SOI agreement.

## Stage 3 Undertaking the investigations

By the end of this stage you should have:

- completed the investigations required to substantiate the policy outcomes
- advised the Department of any potential major issues (eg possible disagreements between agencies or any process issues (such as the need for Interim Operation)).

### 3.1 Key Questions

An integral part of the DPA ([template and guide available](#)) is the investigations. In formulating the investigations, there are a number of questions worth considering. The headings in the DPA template could be used to organise your findings.

- Have any adjoining Councils or Councils within the region recently undertaken investigations on a similar topic? There is no need to reinvent the wheel. Reviewing well presented and relevant example DPAs and talking with neighbouring Councils about their experiences could help in developing a local response. Agency and public submissions received in relation to a DPA would provide further insight.
- Has a State Planning Policy Library (SPPL) module been developed that relates to the particular issue? A comprehensive suite of policy modules has been developed through the SPPL project for adoption by Councils. If local additions are contemplated then further, more focussed, work may be required to substantiate them.
- Have there been any experiences within the Council that have raised concerns about the adequacy of current Development Plan policy? Such concerns may stem from the type and nature of development applications received, Court determinations, feedback from government agencies etc.
- Have any studies/documents been prepared previously that could be used to underpin new policy directions? In many cases, investigations undertaken for other projects may have some bearing on the matter at hand, and are worth reviewing in this context. These could include a risk assessment study, a feasibility study, a traffic study, a demographics analysis, a household trends analysis, a land supply and demand study, a land contamination study
- Has the topic been the subject of strategic interest, such as through a Council strategic review process or the Planning Strategy?
- Is there any relevant on-line information? There are many government websites — State (including interstate) and Federal — that contain up to date and relevant information that could be used in preparing investigations for a DPA. This could be in the form of guidelines, studies, environmental impact assessment reports or on-line interactive services (eg, the Atlas of South Australia). Contact lists are often provided as an additional source of enquiry.
- Are there any other issues that should be drawn to the attention of the Department such as potential conflicts between government agencies?
- Is Council contemplating using Interim Operation? If so, please discuss this with the Department as soon as possible.

The above may not provide the complete picture, but could highlight information gaps and allow new specialist investigations to be focused in areas of most benefit.

Policy directions based on sound background investigations can reduce government and community comment on a DPA and the level of work and time required to finalise a DPA.

During the investigations, bear in mind that when preparing the DPA you will have to draw a clear and logical link between the investigations undertaken, the conclusions drawn and the resultant policy amendments proposed.

## 3.2 Key Advice

### 3.2.1 Special advice

Some DPAs require special expertise in their investigations, most notably heritage DPAs. For Local Heritage DPAs, the *Development Act 1993* 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.

Specialist advice may also be required for other types of DPAs (eg, significant tree assessment, land contamination assessment, infrastructure capacity assessment, native vegetation, traffic and parking, and noise impacts).

### 3.2.2 Early consultation with government agencies and the public

To assist with the formal consultation process it is recommended that the investigations stage of the DPA include preliminary consultation with key agencies (ie those that have a primary interest) to highlight issues or concerns at an early stage. Additional information about working with agencies is provided within the planning practitioners website together with a list of government departments and organisations.

Early public consultation may also be appropriate at this stage, particularly with key stakeholders or interest groups. This may help to identify those issues or questions that are likely to be raised during the formal public consultation phase. Addressing these matters directly may reduce the potential for people to jump to conclusions or assume the worst case. DPAs that fail to address the most obvious questions often receive much harsher treatment as they can allow the spread of less accurate information in the community.

***NB: preliminary consultation with the public may not be appropriate if you are considering applying for Interim Operation.***

## Stage 4 Drafting the new policy

By the end of this stage you should have:

- drafted the changes required in the 'Amendment' section of the DPA
- employed plain English principles in writing the DPA
- had regard to and employed State Planning Policy Library guiding principles.

### 4.1 Drafting the Amendment

When drafting new policy it is vital to clearly document your thoughts and decisions as you go. This makes it easier to make changes later and helps to avoid creating conflicting policies.

When writing your policy the following key steps are recommended:

- list the main policy issues that need to be addressed and specify your desired outcome
- review the whole Development Plan and identify all the sections and policies that might be relevant to the issue – and at the same time note the possible policy change(s) needed
- highlight possible conflicting policy – and at the same time note possible solutions or options.

Other suggestions:

- do not attempt to amend Development Plan policy too early—be clear about what it is you want to achieve first
- make lots of notes about your thoughts, considerations and decisions.

#### 4.1.1 Other points to consider when writing Development Plan policy

Development Plans are written in a particular format and style:

- There should be no duplication of policies (in full or in part) between policy levels.
- There should be no conflict between the policies within each level.
- There should be no ambiguity between policy levels.
- The plan should make it clear that the more detailed policies prevail.
- The plan should be written in simple plain English, in the active voice and in the positive rather than the negative.

You will need to:

- decide if the policy should apply across the Council area or be specific to one Zone, Policy Area or Precinct
- review the policy you are recommending by considering 'What will be the impact of the proposed policy and how would it relate to other policy/policies in the Development Plan?'
- get a peer review of the policy
- continually test your proposed policy against your intent
- test how the policy will work in practice by processing a development application using the policy.

#### 4.1.2 Preparing the Amendment Instructions

To ensure the new policy is inserted appropriately into Council's Development Plan, the proposed amendment need to be inserted into the Amendment Instructions Table.

The DPA template available on the planning practitioner's website contains a template for the Amendment Instruction Table together with information about how to correctly fill it in, including example amendment instructions.

## Stage 5 Preparing the Development Plan Amendment

By the end of this stage you should have:

- prepared the DPA
- obtained a resolution from Council that endorses the release of the DPA for consultation; confirms the dates and details for the public consultation; requests Interim Operation (if required); forms a Public Meeting Panel; and confirms the date and details for the public meeting.

### 5.1 Structure of the DPA

A DPA ([template and guide available](#)) is the document that is released for consultation and describes to the public and agencies:

- the policy change(s) sought
- the reason(s) the changes are sought
- areas that would be affected by the proposed changes.

The DPA should contain the following sections:

- Executive Summary
- Analysis
- Conclusions and Recommended Policy Changes
- References/bibliography
- Certification by Council's Chief Executive Officer
- Appendices
- The Amendment.

The DPA will be made available to members of the public during public consultation and therefore should be written in a way that is understandable to people with no planning or legal background.

### 5.2 Points to consider when preparing the DPA

If the drafting has been undertaken by consultants you will need to consider and review their draft and liaise with them regarding any changes you require.

Once you are happy with the draft it is a very good idea to send it to key staff within the Council (directors of each department for example) for comment.

It is also useful to run through some mock-up applications with the development assessment staff using the proposed new policy.

At this stage you should amend the draft DPA as necessary.

### 5.3 Council endorsement of the DPA

Once you are satisfied that the draft DPA meets all of your requirements and will achieve the appropriate objectives, you need to write a report to the Strategic Planning Committee of Council ([template available](#)) explaining how the DPA is structured and what it seeks to achieve. You will also need the committee's:

- endorsement of the DPA for release for agency/agency and public consultation
- authorisation to seek Interim Operation (where relevant) A letter requesting that Interim Operation be granted by the Minister ([template available](#)) can be requested at any time before the commencement of consultation but must include a valid argument for its use
- endorsement of the proposed consultation process including dates and details of the consultation period; details of any proposed workshops; and the date, location and time of the proposed public meeting—you could also include a copy of the draft Gazette and newspaper notice

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- selection of a panel for the Public Meeting (including a chairperson)
- authority for the chief executive to sign the certificate.

## Stage 6 Undertaking the consultation requirements

By the end of this stage you should have:

- conducted the consultations on the DPA according to the process chosen:
  - Process A
  - Process B (with consultation approval)
  - Process B (consultation approval not required)
  - Process C
- sent out all the required letters to government agencies, neighbouring Councils, the Minister, MPs and relevant community/interest groups (*templates available*)
- inserted the appropriate public notices releasing the DPA in the Government Gazette (statutory requirement) and The Advertiser (unless otherwise agreed in the SOI) (*template available*)
- (if Interim Operation is approved) liaised with the Department to ensure that the Interim Operation notice is issued at the same time as, or after, the commencement of the public consultation period
- recorded all agency and public submissions and, at the end of the public consultation period, made all written submissions available for public inspection at Council offices until the date of the public meeting (if there is one)
- organised a public meeting between two and six weeks after the close of submissions (if at least one written submission included a request to be heard at the public meeting)
- recorded all verbal submissions at the public meeting (if held) and included these in a summary table of submissions
- responded to submissions (as decided by Council).

### 6.1 Before public consultation starts

#### 6.1.1 Requirements for all processes

Consultation must be undertaken according to what was agreed in the Statement of Intent (i.e. Process A, B (1 or 2) or C). This can be changed if agreed to, or determined, by the Minister.

It is important to fully understand the consultation process prior to undertaking public consultation.

#### 6.1.2 Consultation list

Regardless of which DPA process is chosen, Councils will need to prepare a list of groups and individuals with whom they are going to consult. This list must include:

- the agencies listed in the Statement of Intent
- the relevant local members of Parliament. A list of current local members and their contact details can be found at [www.parliament.sa.gov.au](http://www.parliament.sa.gov.au).
- neighbouring Councils
- the community of interest. Determining the community of interest will in part assist the Council in deciding which DPA process to follow. 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 may be appropriate.
- local interest groups (if relevant). There may also be local interest groups that would like to be consulted about the changes proposed in the DPA (for example the local National Trust Branch if a heritage DPA, residents' associations for residential DPAs, Regional Development Boards and local schools).

#### 6.1.3 Consultation notices

Council is required to publish a notice in the Government Gazette that:

- describes the time and place at which the DPA can be viewed or bought
- invites any interested persons to make a written submission on the DPA
- states where and when submissions will be available to look at

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- states where and when a public meeting will be held if any submissions are received that request to be heard.

In addition, the same information must be published in The Advertiser unless an alternative method of notification is agreed to in the SOI.

**NB: the information listed in the Regulations must still be included.**

Getting the consultation right will save time in the long run and will reduce the potential for an Environment Resource and Development Committee (ERDC) inquiry. If substantial changes are made to a DPA following consultation, it may need to go through the public consultation process again. By attempting to resolve issues before the public consultation process, it is possible to minimise the need for additional consultation.

You will need to determine whether you wish to encourage responses to specific aspects of the DPA or more general responses—this could be reflected in the wording of the consultation notices.

#### 6.1.4 Interim Operation

As Interim Operation can only start at the same time or after the commencement of public consultation, it is vital to coordinate the release of any public notices with the Gazette notice (the Gazette notice signals the commencement of Interim Operation). You should liaise with the Department to make sure that this notice does not occur before the public consultation notices are issued.

#### 6.1.4 Alternative communication methods

The following table shows some other consultation methods that may be used in addition to or instead of (if agreed to by the Minister) inserting a notice in The Advertiser.

Community of Interest	Communication Method
Broad/general public interest	Advertisements, public notices or articles in local papers and/or interest groups', newsletters, community information sessions, fact sheets, displays in shopping centres and the public library
Wide local community interest	Advertisements, public notices or articles in local papers and/or interest groups', newsletters, community information sessions, fact sheets, displays in shopping centres and the public library
Defined community group interest	Fact sheets Community group communication
Site/locality specific	Direct notice Sign post on the affected site

Advertisements or notices can be a useful way to give broad notice to a wide audience. However, this is not a targeted method of notification and if people with an interest are not looking for the advertisement they can easily miss it.

#### Articles

It may be useful to write a press release (or speak to a journalist) for the local paper on which they may write an editorial (this will depend on the level of interest the proposed change is likely to generate). At the very least, most local newspapers have a local government section within which the information could be included. Often local interest groups have newsletters that they circulate to various groups in which you could also provide information about the DPA in the form of a formal notice and/or a short article. This can be a useful means of getting the information out to a group of people you may not otherwise be able to reach.

### **Information/fact sheets and submission guides**

Information sheets and submission guides are a very useful way in which to inform the public about both the content of a DPA and what it means as well as how to lodge and what to include in a submission. The later is particularly useful in terms of ensuring that public comment remains relevant to the DPA.

The Department can provide examples of information/fact sheets and submission guides for DPAs.

### **Displays**

Setting up displays of information in shopping centres, community halls, libraries etc is another useful means of reaching a greater audience than can be reached by more conventional means.

### **Information sessions**

In the case of amendments that have significant impacts on a large number of people it may be worthwhile holding an information session where you can present the information and provide an opportunity for people to ask questions. These sessions can often help to settle concerns or sort out misconceptions.

This individual approach can sometimes also create champions for your cause once people understand what you are trying to achieve.

### **A champion**

In some cases it might be useful to enlist the assistance of a community identity or a well known person held in high esteem to assist in communicating information about the proposed policy changes. This person can help to explain the purpose of the DPA and feed back to you any comments and concerns the community has about it. Such a champion should be selected carefully to ensure that they have credibility within the community and they should be thoroughly briefed. It is also useful to consider giving this person the opportunity to provide an independent report to the Council.

#### **3.6.1.5 Access to the DPA Report**

A key consideration, regardless of which process you are consulting under, will be how you will provide access to the DPA report—in hard copy, electronic form, at the front counter, on the internet etc. Usually you will decide this once you know how many copies are required for direct consultation and what size the document will be.

It may be appropriate to email copies to some individuals or groups (eg government agencies) or to provide a copy of the document on a compact disc.

If the document is very large or there are a significant number of groups and individuals to consult with, it may be appropriate to write to them and advise them where the document can be viewed or purchased.

Additional copies may also be required for the general consultation.

The Department must receive a copy of the DPA within two business days of its public release. This should be in an electronic format with the maps in Adobe Illustrator.

#### **3.6.1.6 Enquiries**

It is important to prepare for enquiries during the consultation period – the extent of preparation will depend on the likely level of interest. The following list provides a range of options:

- establish a website, including FAQs
- prepare a fact sheet and a submission guide in hard copy and electronic format
- prepare draft press releases on a couple of expected topics or issues of interest
- nominate a key contact person for inquiries and a back-up person if possible
- make sure there is a clearly designated collection/deposit point for submissions as they come in (email and written submissions)

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- prepare a list of all consultations and sources of information
- set up an 1800 number and trained staff to answer basic questions.

Ensure that all staff that may be approached about the DPA are aware of the range of consultation efforts and their relevant details (dates, times etc); and how to access information if needed.

## 6.2 During public consultation

### 6.2.1 Records management

It is critical that you keep copies of the details of all of the individuals and groups that you have sent a copy of the DPA to, together with one generic copy of the accompanying letter or email.

It would be most useful to set up a database and table that can be used throughout the consultation and authorisation stages to keep track of correspondence between Council and individuals or groups who have responded (and those who haven't).

### 6.2.1 Recording of submissions

Submissions can be received by email or written letter. All submissions should be date stamped on the day of receipt (emails will automatically have a receipt date). It is recommended that an acknowledgement letter/email be sent back to the author (if contact details have been provided). Councils must make sure that they have appropriate procedures in place to record submissions, otherwise it will leave the DPA open to judicial review.

It is also recommended that a database and summary table of submissions ([template available](#)) be set up to record:

- the author and contact details (for future correspondence)
- whether the author wishes to be heard at the public meeting
- a summary of the points raised in the submission.

At the conclusion of the public consultation period, the Council is required to make all written submissions available for public inspection at its offices until the date of the public meeting.

## 6.3 The public meeting

Council must:

- make all submissions available to the public for review prior to the public hearing (it is recommended that this be done at least a week before)
- hold a public hearing giving those who have asked, the opportunity to make a verbal submission (remember to keep a record of the verbal submissions).

The public meeting (if required) should occur ideally between two and six weeks after the close of submissions. This gives Council time to make the submissions available for public inspection but is not so long that issues are forgotten.

***NB. 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 public meeting to a committee or panel of elected members or, alternatively, a panel made up of elected members and staff members.

The public meeting is an opportunity for people or their agents to inform the Council/panel members of their concerns and suggest amendments, and for the Council/panel 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 in favour of, or in opposition to, the amendment or other written submissions. The Council may consider additional verbal submissions if it chooses.

It is important to carefully manage the conduct of the meeting: every verbal submission and any questions from the panel and the relevant response(s) must be recorded. If the public meeting is not managed well, the ability to accurately record verbal submissions could be decreased.

To ensure fair opportunity is given to all, no speaker's address should be curtailed without reasonable warning, and those present should be given approximately equal times for their address to Council/panel members 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.

It is important for Councils to note that the provisions of the *Local Government Act 1999* may apply to aspects of the conduct of public meetings.

## 6.4 After the public meeting

### 6.4.1 Responding to submissions

There is a growing expectation that those who have made a written submission will receive some form of response.

Where the author of a submission and their postal address can be identified, a response can be provided in several ways:

- an individual response (including a copy of the relevant section of the summary of submission report)
- a generic response that provides details on how the Summary of consultations and proposed amendments report can be accessed. Remember that this report could be changed by the Minister following his/her assessment.

### 6.4.2 Re-exhibition

When considering any changes to the DPA after the public consultation and meeting, the significance of those changes must be assessed. If substantial changes are proposed they may warrant a second public consultation process.

To determine whether a second public consultation process is warranted, Council will need to satisfy itself that an affected party or parties would not be appreciably worse off if the changes proposed to the original document were authorised, regardless of whether or not the person made a submission on it in its original form. To determine this it is suggested that Council again apply the reasonable person test, which was used earlier when determining the DPA's community of interest, namely:

- Would a reasonable person expect to be able to make a comment on the changes arising out of the consultation process?

For example: Are the changes so insignificant that a person who has been consulted with previously would not notice the change or the change would have no material effect on their previous comments.

Whilst this procedure is not a direction under the *Development Act 1993*, it is an aspect of natural justice that, if not followed, could give rise to a challenge in the Courts. If Council is in any doubt about the need to undertake further public consultation it should seek legal advice.

### 6.4.3 Council may decide not to proceed

Following the public consultation period and the public meeting, the Council has the option of declining to proceed further with its DPA. In this case the Council must write to the Minister advising of the decision.

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Council can decline to proceed with a DPA for any reason (eg because of significant public opposition during public consultation). If this decision is made, Council will need to write a letter to the Minister requesting agreement to withdraw a DPA ([template available](#)). 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 preparation of the DPA is in the state's interest.

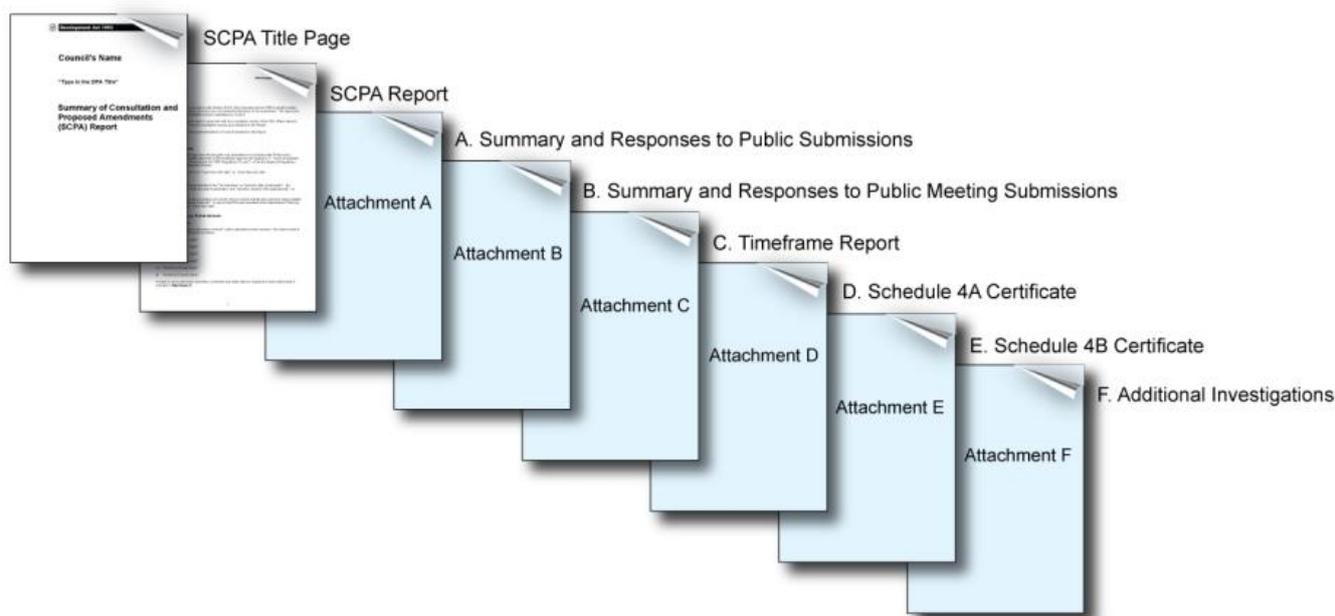
## Stage 7 Gaining approval for the DPA

Should Council decide to proceed with the amendment after public consultation you will need to submit an approval package to the Minister. The planning practitioner's website contains a list of the documents required in the approval package.

### 7.1 Documents required by the Minister

At the approval stage you will need to submit the following information to the Minister (via Department):

- A covering letter ([template available](#)) The Amendment (contained in the DPA – [template available](#))
- Summary of Consultation and Proposed Amendments (SCPA) Report ([template available](#)) - see diagram below
- Summary and responses to agency submissions ([template available](#)).



**NB: Two hard copies, one electronic MS Word copy and one electronic Adobe PDF copy of each of the above should be provided.**

- A hard copy of all written public and agency submissions
- A hard copy of the amendment instructions in track changes showing the changes made in response to consultations
- A track changes version of The Amendment showing a comparison of the approval amendments against the consultation version. This may not be relevant in some instances however, where it can be provided it will greatly assist the Department and the Minister to process the DPA.

**NB: prior to submitting the documents for approval you will need to submit all maps in Adobe Illustrator format and a copy of the Amendment Instructions to the Implementation Unit of the Department. Final authorised PDF maps will then be returned to the Council to submit as part of the approval package to the Minister.**

**NB: the package cannot be formally accepted unless all components are received.**

### 7.1.2 Notes about the approval package components

#### **Mapping**

It is important that a final check of the mapping is undertaken to ensure that it is correct and to the necessary standard. The Department will maintain a map library and is the custodian of all Development Plan mapping. Councils are responsible for the digital production of all mapping to a standard suitable for approval.

Council should ensure that Adobe Illustrator versions of the maps and figures are submitted to the Implementation Unit of the Department prior to the final documents being submitted for approval. Once the Implementation Unit is satisfied that the mapping is to a standard suitable for approval, PDF versions of all mapping will be returned to Council for final checking and inclusion in the final approval documents to be submitted to the Department via the DPA Coordinator at the following email address [DPLG.DPACoordinator@sa.gov.au](mailto:DPLG.DPACoordinator@sa.gov.au).

Further information is outlined in the *mapping requirements* section of the planning practitioner's website.

***NB. The mapping requirements will be updated when appropriate to reflect the protocols for the State Planning Policy Library system when this has been fully determined.***

#### **Summary of Consultation and Proposed Amendment Report**

The SCPA template will take you through all the requirements of the report. The report must address the issues raised during the public consultation, including matters raised at the public meeting and in written submissions. The report must also address any recommended alterations to the amendment and additional investigations undertaken.

Council should be careful that all issues raised by agencies or government departments are thoroughly addressed and resolved before submitting the DPA to the Minister. Council has primary responsibility for resolving issues with departments and agencies. If Council has negotiated with an agency or department and a matter(s) remains unresolved, the Department should be contacted to discuss the appropriate means of dealing with the matter.

#### **Timeframe Report (Attachment C of SCPA report)**

A requirement at the approval stage is the preparation of a report detailing the reasons for any failure to comply with any time set for any step of the DPA process. The SCPA report template provides a suggested approach to dealing with this.

#### **Certification (Attachment D and E of the SCPA report)**

The approval certification process (Section 25 (14) (b)) is a final 'quality control' check for the DPA prior to its incorporation into the Development Plan. A template for Schedule 4B is attached to the SCPA report.

Council should pay particular regard to the expression and the arrangement of the policy to ensure the resultant Development Plan will be concise and user friendly.

The certification must be signed by Council's chief executive officer. A certificate signed by Council's planning consultant or the Council planner is not acceptable. Council's decision to forward the DPA certification and the report for approval is an acknowledgment that it is satisfied that the investigations and the DPA have been undertaken to the appropriate standards.

A copy of the signed Consultation Schedule 4A certificate that was provided at the Consultation stage should also be included in the final approval documents.

#### **Additional Matters and Investigations (Attachment F)**

Any additional investigations that Council undertook following the consultation period should be included in this section, this could include copies of studies undertaken.

## 7.2 The Minister's process

The Minister is required by the *Development Act 1993* to assess the submissions and any alterations to the proposed amendment(s) and decide whether to approve the DPA (Section 25(15)).

The DPA may also be required to be:

- reviewed by the independent Development Policy Advisory Committee (DPAC)
- reviewed by the independent Local Heritage Advisory Committee
- referred to the Minister for the Adelaide Dolphin Sanctuary
- referred to the Minister for the River Murray
- referred to the Minister for Marine Parks.

In assessing the DPA the Minister considers the proposed amendment, all submissions, and any recommendations from the Council plus any report from DPAC. The Minister may then do one of the following:

- approve the amendment
- alter the amendment (after consultation with the Council) and approve the amendment as altered
- decline to approve the amendment
- divide the amendment into separate amendments and approve, or decline to approve, each as appropriate (in consultation with the Council).

The Department then prepares an 'Approval DPA' document, which is the final document that the Minister signs as the official approved amendment.

Amendments approved by the Minister come into force on the day they are gazetted. The Department consolidates the amendments into the Development Plan at the time of gazettal or shortly after. A copy of the Approval DPA and an updated version of the Development Plan are sent to the Council once the consolidation is complete.

## 7.3 Consideration by the Environment, Resources and Development Committee

By this stage the amendment is approved and is part of the Council's Development Plan but it is still subject to review by the Environment, Resources and Development Committee (ERDC) of Parliament.

The *Development Act 1993* requires the Minister to refer the amendment to the ERDC of Parliament within 28 days of the amendment being approved (Section 27). This is to provide Parliament, through its committee, the opportunity to consider the amendment.

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

- not object to the amendment
- suggest amendments to the relevant Development Plan
- object to the amendment.

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

### 7.3.1 What happens if the committee objects to the DPA?

If the Committee resolves to object to the original amendment, the amendment is laid before both Houses of Parliament.

**Practitioners Guide to Preparing Development Plan Amendments**  
**The Seven Stages of the DPA Process**  
**Stage 7 Gaining approval for the DPA**

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.

### 7.3.2 What happens if the committee wants to amend the DPA?

If the Committee wants to amend the DPA, the Minister will consult with the relevant Council, or Councils, before considering the matter further. The Minister may then do one of the following:

- by notice in the Government Gazette, proceed to make such an amendment
- 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.

### 7.3.3 If you are called to give evidence at ERDC

It is useful to note the following:

- The ERDC is a Parliamentary Committee comprising elected representatives – it is not a Court and is not constrained by the rules of a Court, nor is it obligated to behave like a Court.
- All evidence is recorded by Hansard and becomes part of the public record. After you have given evidence you will receive a draft of the transcript for checking. You may make amendments to the transcript to ensure it is accurate but you cannot change what you have said.
- You can ask to take questions on notice and you may also seek to 'speak off the record'.
- While the Committee's scope is not limited, it is particularly interested in the DPA being in accord with the State Government's strategic and policy directions and also in the 'process' of the DPA – whether it was fair, reasonable, and transparent in its decision making and whether there are alternative or more appropriate compromises.