Part 7 Definition(s)	Comment
Ancillary accommodation	This definition is welcomed as it appears to be intended to apply to granny-flats, dependent accommodation and other similar forms of development. It is not clear, however, how the definition interacts with the definition of "dwelling". Ancillary accommodation is not listed as being excluded from the definition of dwelling. Ancillary accommodation which includes a bathroom, kitchen and/or other elements of a self-contained residents can also be defined as a "dwelling". This could cause difficulties in applying deemed-to-satisfy criteria where "ancillary accommodation" is deemed-to-satisfy but a dwelling is not. To overcome this issue, the definitions of ancillary accommodation and dwelling could be amended so that they exclude each other. Another issue for consideration is whether the 1 bedroom limit is appropriate? This limit prevents ancillary accommodation containing a guest bedroom. The intent of the limit appears to be to ensure that ancillary accommodation cannot be easily rented as a dwelling for share-house tenants or families. If the limit stays, this will not prevent studies being used for a fold-out bed to accommodate guests. If however, the limit is considered unreasonable, an alternative could be a requirement that any second bedroom is kept to a certain floor area (so as to ensure it is a small bedroom only).
Automotive collision repair **Motor repair station**	The definition of automotive collision repair is welcomed as it provides a definition for crash repair activities that are excluded from the definition of "motor repair station". We do however query whether some refinement to the definition of motor repair station could occur (which definition is very similar to that in the Development Regulations). For instance, this definition could be expanded to include vehicle servicing, oil changes and other activities that commonly occur in motor repair stations.
Bulky goods outlet	A small criticism, but the list of examples in this definition may be better rephrased as a list of inclusions and placed into column C.
Detached Dwelling **Row Dwelling** **Semi-Detached Dwelling**	The definitions of "detached dwelling", "row dwelling" and "semi-detached dwelling" are very similar to the definitions of those terms in the Development Regulations in that each of these dwellings must be located or occupy a "*site that is held exclusively with that dwelling*". The phrase "held exclusively" in the context of these definitions has been determined by the Courts to mean that the dwelling must occupy

	its own allotment or that it occupy an area subject to a perpetual or long-term lease.[4] The practical effect of this is that applicants must create allotments prior to being able to lodge applications for "detached dwellings", "semi-detached dwellings" and "row-dwellings". While it is logical, from a legal perspective, to require allotments to be created before an application is made for a dwelling, from a planning perspective, it is often preferable for the dwelling application to come first. Also, for developers, lodging the dwelling application before the land division application is usually preferred. Further and in any event, we note that in a number of restricted development classifications in the Code, detached dwellings which will not result in more than one dwelling per allotment is excluded from being restricted development or requiring public notification.[5] On the basis of the definitions of detached dwelling in Part 7, no more than one detached dwelling can exist on a single allotment. To cure this issue, the term "*site that is held exclusively with that dwelling*" should be deleted. To ensure that detached dwellings, row dwellings and semi-detached dwellings have their own site and do not share communal accesses, etc, the respective definitions could be amended to read *"…comprising 1 dwelling on its own site and has a frontage to a public road*".
Horse keeping	We expect that this definition may cause some discussion and debate due to the rate of horses kept – being more than 1 horse per 3 hectares which may be considered too high or too low depending on a council's geographical area and experience with horse keeping activities. Now is the time to have this definition amended if it does not align with preferred outcomes. For the sake of completeness, the keeping of horses which does not fall within the definition of "horse keeping" and which does not comprise "low intensity animal husbandry" or "intensive animal husbandry" will comprise animal keeping.[6]
Hotel	From November 2019, hotel licences will no longer exist under the *Liquor Licensing Act 1997.* These licences will be replaced with the "General and Hotel Licence".[7] This definition should be amended accordingly.
Light Industry	Similar to our comments for "bulky goods outlet" above, the exclusions to this definition may be better placed in column D.

[4] *McNamara v City of Charles Sturt* [2001] SASC 368, *Peej Nominees Pty Ltd v Alexandrina Council* [2005] SAERDC 82, *Kermode v City of Mitcham* [2007] SAERDC 57*, Paior & Anor v City of Marion & Ors (No 3)* [2014] SAERDC 42, *Faggotter v Regional Council of Goyder* [2014] SAERDC 47

[5] See, eg Conservation Zone, Employment (Bulk Handling) Zone, Home Industry Zone, Residential (Neighbourhood) Zone and others

[6] The keeping of horses under the defined rate is "development" requiring approval under the PDI Act as it is not excluded from the definition by Schedule 4, clause 5 of the *Planning, Development and Infrastructure (General) Regulations 2017*.

[7] See section 22 of the *Liquor Licensing (Liquor Review) Amendment Act 2017*

Personal or domestic services establishment	As per our comments for Bulky Goods Outlet and Light Industry, the examples may be better accommodated in column C.
Renewable energy facility **Wind farm**	At present, opponents to renewable energy facilities and wind farms are claiming that as these developments produce electricity, they are a form of "industry". To ensure that this argument cannot be made in future, the definition of industry should exclude "renewable energy facility" and "wind farm" and vice versa.
Tourist accommodation	Whilst the definition of "tourist accommodation" is welcomed, it does not overcome case law authorities which provide that where tourist accommodation comprises a self-contained residence, that it comprises a dwelling, despite its intended use.[8] In areas where tourist accommodation is encouraged but dwellings are not, a definition of such which makes it clear that tourist accommodation and dwelling are two distinct land uses would be advantageous. This could be achieved by clarifying that this definition includes self-contained tourist accommodation comprising multiple bedrooms and kitchen and laundry facilities and by excluding "dwelling" from the definition of tourist accommodation and vice versa.

Part 8 **Definition(s)**	**Comment**
Building level	This term is defined to mean: "*that portion of a building which is situated between the top of any floor and the top of the next floor above it, and if there is no floor above it, that portion between the top of the floor and the ceiling above it. It does not include a floor located 1.5 metres below finished ground level or any mezzanine*." This definition contains some areas of uncertainty. Firstly, it would be helpful for this definition to clarify what a "floor" is – is it, for instance, a floor of habitable rooms or can it include a garage level? Further, for floors located underground, does the exclusion apply where the entire floor is located 1.5 metres below finished ground level or where the floor level of the floor itself is 1.5 metres below ground level. Clarifications as per the above will surely avoid legal disputes arising in future.

[8] See, e.g, *Paradise Development (Investments) Pty Ltd v District Council of Yorke Peninsula* [2008] SASC 139