

Agenda Report for Decision

Meeting Date: 22 July 2021

Item Name	Code Amendment Toolkit – Review and Updates
Presenters	Brett Steiner, Chelsea Lucas
Purpose of Report	Decision
Item Number	4.2
Confidentiality	Confidential – Draft Advice or Documents
Related Decisions	26 November 2020, 17 December 2020; 4 February 2021; 18 February 2021; 18 March 2021

Recommendation

It is recommended that the Commission resolves to:

1. Approve the determination of this item as Confidential.
2. Note the results of the internal review of the Code Amendment Toolkit (and associated templates and guidance documents), with a focus on initiation documents;
3. Approve the updated Code Amendment Toolkit at **Attachment 1** and associated template and guidance documents at **Attachment 2 to 4**, including publication on the SA Planning Portal; and
4. Note that a further operational review will be undertaken by the Department by the end of 2021, with a focus on the remainder of the Code Amendment process (following initiation).

Background

At its meeting on 18 February 2021, the Commission resolved to approve publication on the SA Planning Portal of the Code Amendment Toolkit and all associated template documents. At that meeting, the Commission further resolved to undertake a review based on operational experience of the Code Amendment Initiation templates by 30 June 2021, and all other Code Amendment templates by 30 September 2021.

This report provides the outcomes of the Department's review of the Code Amendment Toolkit, with a focus on initiation documents, based on operational experience since the Toolkit was initially approved for publication by the Commission.

Discussion

The Department has noted feedback on the Toolkit and the Code Amendment process from a range of stakeholders, following publication of the Code Amendment Toolkit (and associated documents and templates) in April 2021.

In response to this feedback, on 27 May 2021, the Department implemented a minor operational change to clause 7(g) of Practice Direction 2 under delegation from the Commission. These changes clarified the position that Proposals to Initiate should include evidence of preliminary consultation undertaken by a private proponent with a Chief Executive Officer of a relevant council. The previous drafting of this clause meant that consultation may have been required with the full elected body of the relevant Council (depending on the internal delegation arrangements in place for the particular council).

In addition, the Department has also developed a new [Code Amendments page](#) on the PlanSA website, which shows details of all Code Amendments at all stages (approved for initiation, on consultation, post-consultation and finalised). The new page will also include access to a Code Amendment Map Viewer, so members of the public can easily see where proposed Code Amendments are located.

The *Planning, Development and Infrastructure Act 2016* (the Act) places the emphasis on engaging communities early, when the rules, such as the Planning and Design Code and other regulatory instruments are being developed rather than at the later stages of the planning process when it may be too late to influence outcomes.

This new tool is designed to make information about proposals to amend the Code easily accessible and to support the community participation early in the planning process.

The page also identifies Code Amendments that are on public consultation and provides an online submission form to allow members of the community to provide feedback in relation to a Code Amendment via the SA Planning Portal pursuant to section 48 (4) of the Act. The toolkit has been updated to reflect the information required to publish the consultation on a Code Amendment.

This has resulted in the following recommended changes to the Toolkit as shown in mark up at **Attachment 1** (and associated templates and documents as noted below):

- Amendments to reflect changes to Practice Direction 2 made by the Department under delegation in May 2021.
- Additional template letter for preliminary consultation with the Chief Executive of the relevant Council and/or the relevant Joint Planning Board, as required under the amended Practice Direction 2, and as shown in **Attachment 2**.
- The addition of the Code Amendment flowchart at **Attachment 3** in the “Overview” section of the Toolkit to assist in explaining the breadth of the Code Amendment process.
- Changes to reflect the publication of all Code Amendments on the PlanSA website.
- Acknowledgement from a Proponent in the Template Proposal to Initiate at **Attachment 4** that the Proposal to Initiate (and supporting documents) may be published on the PlanSA website following approval by the Minister.
- Drafting note in the Template Proposal to Initiate at **Attachment 4** to clarify that the Proponent is required to sign the Proposal to Initiate (as opposed to a consultant or agent acting on behalf of the Proponent).
- Amended Code Amendment Writing and Mapping Drafting Instructions in **Attachment 5**.
- A new Code Amendment Consultation Publication Instructions Template to inform the consultation page within Plan SA website in **Attachment 6**.

Attachments:

1. Code Amendment Toolkit - #16782493
2. Template letter Councils or Joint Planning Boards - Preliminary Consultation - #17327762
3. Code Amendment Flowchart - #16979468
4. Template Proposal to Initiate a Code Amendment - #15653530
5. Code Amendment Writing and Mapping Drafting Instructions - #17238366
6. Code Amendment Publication Instructions for the Plan SA website - #17238213

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Date:	12 July 2021

Code Amendment Toolkit

In this guide

1. Overview
2. Roles and Responsibilities
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4. Preparing a Proposal to Initiate a Code Amendment
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7. Government Agencies in the Code Amendment Process
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10. Early Commencement of a Code Amendment
11. Ongoing Improvements to the Code
12. Complying Changes to the Code

Templates to be Linked (where noted below)

- Template Proposal to Initiate a Code Amendment - *Knet #15653530*
- Template Code Amendment – *Knet #15642056*
- Template Engagement Plan for Code Amendments - *Knet #16658730*
- Template Notice to Owner or Occupier of Land - *Knet #16654334*
- Template Letter to Council and/or Joint Planning Board – Preliminary Consultation on Code Amendment - *#17327762*
- Template Letter to Council/s and/or Local Government Association – Consultation on Code Amendment - *Knet #16655051*
- Template Letter to Government Agencies – Consultation on Code Amendment - *Knet #15738350*
- Template Engagement Report - *Knet #16658339*

Tools to be Linked (where noted below)

- Practice Direction 2 - *Knet #16852016*
 - Code Amendment Process Flowchart – *Knet #16979468*
 - Checklist for Investigations and Consultation - *Knet #16419623*
 - Code Amendment Investigations Table – *Knet #16822786*
 - Code Amendment Drafting and Mapping Instructions - *Knet #15705597*
 - Guide to Drafting and Mapping Instructions for Code Amendments - *Knet #17238366*
 - Code Amendment Publication Instructions – *Knet #17238213*
 - Stakeholder Analysis - [link from Community Engagement Charter Toolkit]
 - Community Engagement Charter in Action - [link from Community Engagement Charter Toolkit]
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1. Overview

The *Planning and Design Code Amendment Toolkit* (the toolkit) provides practitioners with step-by-step guidance, together with templates and online forms to request an amendment to the Planning and Design Code, and where relevant to undertake the process for an amendment to the Code.

The steps in the process for proponents undertaking a code amendment are shown in summary in the Code Amendment Process Flowchart. This process might differ for Code Amendments undertaken directly by the State Planning Commission.

It should be used alongside the **Community Engagement Charter Toolkit**, which provides the statutory obligations for engagement on Code Amendments.

It provides information to assist practitioners and proponents with the early stages of the Code Amendment process. The toolkit will continue to be further updated and refined as required.

Proposals for Code Amendments can be lodged through the PlanSA website here [\[Link\]](#) for approval to initiate from the Minister for Planning and Local Government.

2. Roles and Responsibilities

The State Planning Commission

The Commission is responsible for ensuring the Code is maintained, reflects contemporary values relevant to planning, and responds readily to emerging trends or issues. The Commission will undertake Code amendments for significant state-wide issues as well as regular updates to improve policy and address any technical matters.

The Commission also:

- Provides independent advice to the Minister for Planning and Local Government on Code Amendments, at the initiation stage and in prescribed circumstances at the approval stage.
- Provides a consultation report to the Environment Resources and Development Committee of Parliament following approval.

The Minister for Planning and Local Government

The Minister is responsible for approving the initiation of Code Amendments by persons and entities other than the Commission, and for the final approval of any amendments to the Code.

The Minister can also make minor or operational amendments to the Code that meet the criteria in the Act.

Environment, Resources and Development Committee of Parliament

The ERDC provides oversight following the amendment of the Code.

Councils

Councils play an important role in planning for growth and change within their local area. Identifying strategic policy amendments that address local conditions is a key function. Councils are also encouraged to also identify areas of policy improvement within the Code.

3. Who can initiate a Code Amendment?

A wide range of proponents can initiate a Code Amendment in addition to the Commission. These include:

- The Chief Executive of the Department
- An agency or instrumentality of the Crown
- A council
- A joint planning board
- A scheme coordinator
- A provider of essential infrastructure (private proponent)
- A person who has an interest in the land - where the person is seeking to alter the way in which the Code affects that land (private proponent).

As the Code applies throughout the whole of South Australia, changes to the general policy in the Code (including changes to General Zones and Overlays) could have broad-reaching impact. In these circumstances, it may not be appropriate for a private proponent, Government Agency, Council or Joint Planning Board to initiate a change to general policy, unless there are exceptional circumstances to justify the change.

Private proponents (including parties with an interest in land), Government Agencies, Councils and Joint Planning Boards can initiate spatial changes to the Code (for example, by changing the zone which applies to a specific area, using the current zone structure in the Code) as well as changes to the technical and numerical values applying to a particular location.

The table below describes the scope of proposed Code Amendments which are expected, depending on which entity is initiating the change.

	Spatial Changes (overlay, zone, sub-zone)	Policy Overlay, General, Zone	Policy Sub-zone	Technical & Numerical Value (TNV)	Complying Change	Minor or Operational Change S76
Minister					Yes	Yes
Commission	Yes	Yes	Yes	Yes	Request to Minister	Request to Minister
CEO, AGD	Yes	Yes	Yes	Yes	Request to Minister	Request to Minister
Joint Planning Board	Yes	Request to Commission	Limited	Yes	Request to Minister	Request to Minister

Council	Yes	Request to Commission	Limited	Yes	Request to Minister	Request to Minister
Agency	Yes	Request to Commission	Limited	Yes	Request to Minister	Request to Minister
Persons with an Interest in the Land	Yes	Request to Commission	Limited	Yes	No	Request to Minister
Providers of essential infrastructure						

3.1. Initiation by a Council or Joint Planning Board

A Council or a Joint Planning Board, subject to the approval by the Minister, can undertake a Code Amendment process to:

1. Rezone areas, using the current zone structure in the Code
2. Amend technical numerical variations in the Code
3. Amend an Overlay in the Code
4. Designate a place or area as having local heritage value in the Code
5. Declare a tree, or stand of trees, as significant in the Code
6. In exceptional circumstances, prepare or amend a zone or create a subzone in the Code.

A Council or a Joint Planning Board may also request the Minister to:

- Approve a minor or operational change to the Code here: [\[Link\]](#); or
- Approve a complying change to the Code here [\[Link\]](#) after the completion of a Regional Plan.

3.2. Initiation by a Government Agency

Government agencies, subject to approval by the Minister, can undertake a Code Amendment process on planning matters relevant to their areas of responsibility. This includes in particular overlays and zones connected to development assessment referrals.

Alternatively, if the issue is of state significance, the Commission may undertake the Code Amendment on the agency's behalf. It is recommended that government agencies undertake early conversations with the Attorney-General's Department (the Department) if considering an amendment to the Code.

3.3. Initiation by a Land Owner or developer

Where a landowner or developer would like to have a property rezoned, it is recommended that in the first instance the landowner or developer approaches the relevant Council and seek their preliminary advice. Depending

on the advice received, it is then recommended that the land owner or developer engages a planning consultant for further advice and assistance in pursuing the rezoning.

To progress an amendment to the Code relating to land which a party owns or has an interest in, that party can:

1. Request that the Council undertake a Code Amendment process. The Council will have its own policies regarding how it considers individual requests for rezonings. Some councils have an established policy for developer funded amendments where the developer is required to either draft or pay for the proposed Code Amendment.
2. Lodge a Proposal to Initiate a Code Amendment via the PlanSA website here [\[Link\]](#). Private rezonings may be undertaken by the private proponent or by the Chief Executive of the Attorney General's Department on the proponent's behalf.

For the 12 months following full implementation of the Code, it is intended that Code Amendments will be prepared and led by private proponents (land owners or developers) rather than by the Chief Executive of the Department. In the Proposal to Initiate, the private proponent may indicate a preference on who prepares the Code Amendment, but this will be the Minister's decision at the initiation phase.

3.3.1. Code Amendments Prepared by Private Proponents

If a private proponent is proposing to undertake the Code Amendment itself, the private proponent will need to provide a declaration of their interest in the land when they complete the Proposal to Initiate. That proposal cannot include land that the private proponent doesn't have a legal or equitable interest in.

It is also expected that a private proponent will provide or obtain professional services from a person with qualifications and experience that is equivalent to an Accredited Professional – Planning Level 1 under the *Planning, Development and Infrastructure Act 2016*, in order to undertake the Code Amendment process.

3.3.2. Code Amendments Prepared by the Chief Executive

If the Code Amendment is to be prepared by the Chief Executive of the Department, it will be expected that the private proponent will prepare the specialist investigations (such as traffic studies and site contamination investigations) and will pay the Department for the reasonable costs of undertaking the remainder of the Code Amendment process. This will include the preparation of the Code Amendment documentation as well as undertaking engagement.

Regardless of who undertakes your Code Amendment process, a private proponent may also be required to enter into deeds and agreements for future infrastructure costs prior to approval of the Code Amendment.

3.4. Are you a provider of Essential Infrastructure?

Essential infrastructure includes:

- Water infrastructure and sewerage infrastructure (*Water Industry Act 2012*)
- Communications Network
- Electrical Infrastructure
- Gas Infrastructure
- Transport networks or facilities
- Coast protection works of sand replenishment facilities
- Health, education or community facilities.

A provider of essential infrastructure may seek to have land rezoned for infrastructure facilities and associated works, or may seek to amend overlays to provide protective buffers to significant infrastructure. It is recommended that, in the first instance, a provider of essential infrastructure speak to the Department about the proposal.

After initiation, the Code Amendment processes may be undertaken by the provider of essential infrastructure or the Chief Executive of the Department.

If the Code Amendment is to be prepared by the Chief Executive of the Department, it will be expected that the provider of essential infrastructure will prepare the specialist investigations (such as traffic studies and site contamination investigations) and will pay the Department for the reasonable costs of undertaking the remainder of the Code Amendment process. This will include the preparation of the Code Amendment documentation as well as undertaking engagement.

3.5. Are you an Infrastructure Scheme Coordinator?

An Infrastructure Scheme Coordinator is responsible for preparing, developing and implementing infrastructure schemes initiated by the Minister for Planning and Local Government.

An infrastructure scheme is a mechanism used for the coordination and delivery of infrastructure in response to the needs and impacts of a proposed development. The Scheme Coordinator may undertake a Code Amendment alongside the development of an infrastructure scheme, with approval of the Minister in consultation with the Department.

4. Preparing a Proposal to Initiate a Code Amendment

4.1. Preliminary Considerations

4.1.1. Templates for this step

- Template Letter to Council or Joint Planning Board – Preliminary Consultation on a Proposal to Initiate [\[Link\]](#)

Planning practitioners and proponents will need to consider the following when providing advice about Code Amendments or considering whether a Proposal to Initiate should be prepared.

- Determine whether the proposal is considered consistent with strategic documents, including:
 - State Planning Policies
 - Relevant Regional Plans
 - Other Strategic Documents
- Consider any significant planning matters that may be relevant such as:
 - Site contamination
 - Infrastructure availability (including roads)
 - Native vegetation
 - Hazard management such as flooding and bushfire
 - Built form and design
 - Heritage
- Where the proponent is a land owner or a developer (or other “private proponent”, the private proponent should consult with the Chief Executive of the relevant Council or Joint Planning Board prior to lodging a Proposal to Initiate. Feedback from the Council or the JPB should inform a preliminary assessment of the proposal. Evidence of this preliminary consultation is required when lodging the Proposal to Initiate. If that evidence is not provided, the Department will undertake that preliminary consultation on behalf of the private proponent, which may mean additional time is required to process the Proposal to Initiate.
- For complex proposals it is recommended that a meeting is arranged with the Department prior to commencing the next step (email: CodeAmendmentCoordination@sa.gov.au). Depending on the type and complexity of issues it may be necessary for government agencies to be involved in these meetings as well.

4.2. Tools For Preparing a Proposal to Initiate

Lodge your Proposal to Initiate through the online form here [\[Link\]](#)

4.2.1. Templates for this step

- Template Proposal to Initiate a Code Amendment [\[Link\]](#)

4.2.2. Tools for this step

- Code Amendment Investigations Table [\[Link\]](#)
- Practice Direction 2 - Preparing and Amending Designated Instruments [\[Link\]](#)

The mandatory requirements (as required in Practice Direction 2) for lodging a Code Amendment include:

- For private proponents – declaration of your interest in the relevant land
- Proposal to Initiate which sets out:
 - Scope of the Code amendment
 - Affected Area
 - Code Modules Affected
 - Alignment with State Planning policies
 - Alignment with Region Plans
 - Alignment with Other Strategic Documents
 - Council and Joint Planning Board Comments
 - Consultation
 - Investigations
 - Timetable
 - For private proponents:
 - A request (or otherwise) to be the designated entity responsible for undertaking Code Amendment processes
 - Where the private proponent wishes to be the designated entity, information regarding the qualifications and experience of consultants or employees available to undertake the Code Amendment process.

Using the Proposal to Initiate template (provided here: [\[Link\]](#)) will assist with meeting the requirements in Practice Direction 2.

Using the Checklist for Investigations and Consultation here [\[Link\]](#) and the Code Amendment Investigations Table here [\[Link\]](#) will also assist in populating the Proposal to Initiate template.

When the documentation is completed and endorsed by the Proponent it must be lodged through the PlanSA website here [\[Link\]](#). The Proposal to Initiate and any supporting documentation or attachments should be lodged as PDF files.

4.3. Approval of a Proposal to Initiate

On receipt of the Proposal to Initiate, the following steps will be undertaken:

4.3.1. Department Undertakes Review

- The Department ensures that all mandatory requirements have been met and will advise the proponent if any further information is required in order to progress the Proposal to Initiate.

The Department will undertake this step within one week.

4.3.2. Commission Provides Advice to the Minister

- The Department will refer the proposal to specific government agencies for comment if it will assist in providing advice to the Commission on its strategic assessment of the Proposal to Initiate.
- The Commission will consider the Proposal to Initiate and provide advice to the Minister.
- The Commission may advise the Minister regarding conditions to be placed on an approval to initiate the Code Amendment.
- The Commission may also specify:
 - additional investigations that must be carried out or any information that should be provided in preparing the Code Amendment; or
 - any person or body that the Commission considers should be consulted on the Code Amendment.

It is anticipated that this step will take 6 weeks from when the Department completes its review, and provided that all mandatory requirements are met. Additional time may be required when referrals to other government agencies are undertaken, and if any further information or clarification is required from those agencies.

4.4. Minister makes a Decision

The Minister will consider the Commission's advice and make a decision on whether to initiate the proposed Code Amendment.

Conditions may be placed on the approval by the Minister. In some circumstances, this might include a requirement to seek further approval from either the Commission or the Minister prior to consultation commencing.

For proposals by a person with an interest in the land or a provider of essential infrastructure, the Minister will advise whether the proponent will undertake the Code Amendment process or the Chief Executive of the Department will undertake the process.

The party responsible for undertaking the Code Amendment will become the "Designated Entity".

The proponent as well as the relevant Council and Joint Planning Board (if they are not the proponent) will be notified of the Minister's decision.

The Proposal to Initiate will also be published on the PlanSA website, after the Minister approves initiation.

5. Preparing a Code Amendment

5.1. Preparation of an Engagement Plan

5.1.1. Templates for this step

- Code Amendment Drafting and Mapping Instructions - [Link]
- Code Amendment Template– [Link]

5.1.2. Tools for this step

- Guide to Drafting and Mapping Instructions for Code Amendments [Link]

The engagement process for all Code amendments must be undertaken in accordance with the Community Engagement Charter (the Charter) which requires that:

- Engagement is genuine
- Engagement is inclusive and respectful
- Engagement is fit for purpose
- Engagement is informed and transparent
- Engagement processes are reviewed and improved.

The Charter establishes an outcome-based, measurable approach for engaging communities. It provides a flexible framework that enables fit-for purpose engagement rather than prescriptive minimum standards such as minimum periods of engagement. The engagement is therefore tailored to the characteristics of the community and the Code Amendment.

The first step for meeting the Charter's requirements is the preparation of an Engagement Plan that sets out how it is intended that engagement will meet the Charter's principles. Guidance and templates for preparing an Engagement Plan are provided in the Community Engagement Toolkit on the SA Planning Portal [link located here: https://plan.sa.gov.au/resources/learning_and_toolkits/community_engagement_charter_toolkit/overview].

Engagement must be undertaken in accordance with the Engagement Plan, and as the engagement is reviewed the Engagement Plan may be updated to include additional engagement activities.

5.2. Preparation of the Code Amendment

5.2.1. Templates for this step

- Code Amendment Drafting and Mapping Instructions - [\[Link\]](#)
- Code Amendment Template - [\[Link\]](#)

5.2.2. Tools for this step

- Guide to Drafting and Mapping Instructions for Code Amendments [\[Link\]](#)
- Code Amendment Publication Instructions [\[Link\]](#)

The steps for preparing a Code Amendment are as follows:

5.2.3. Undertake Preliminary Consultation (Optional)

The Designated Entity may consider undertaking preliminary consultation with key stakeholders, such as land owners and government agencies as the first stage of the Code Amendment preparation process. This may assist in determining suitable options for the Affected Area. Any preliminary consultation undertaken should be recognised in the Engagement Plan.

5.2.4. Undertake Investigations

The Designated Entity will need to undertake detailed investigations as outlined in the approved Proposal to Initiate (and any investigations required by conditions of approval advised by the Minister, or any investigations specified by the Commission). In most cases, this will require engaging a suitably qualified consultant with particular expertise in the area to be investigated.

5.2.5. Provide Drafting and Mapping Instructions to the Department

The *Planning, Development and Infrastructure Act 2016* requires the Code to provide a single place for planning policy which must be easily understood and provide consistency in its interpretation and application. The continued success of the Code will depend on strict management of the content being amended and an understanding of the impact of amending one component of the Code on another.

The existing policy structure of the Code must be maintained at all times. As a result, the Designated Entity will be required to provide Drafting and Mapping Instructions to the Attorney-General's Department (the Department) in order to obtain the proposed draft Code policy and

mapping to include in the draft Code Amendment. A template for those Drafting and Mapping Instructions can be found here [\[link\]](#) and should be sent to CodeAmendmentCoordination@sa.gov.au. For further information, please refer to the Guide to Drafting and Mapping Instructions for Code Amendments [\[link\]](#).

As part of this process, the Department will draft the policy required for the Code from a technical perspective (including, for example, ensuring that all linkages and terminology are consistent with definitions). The role of the Department in this context is to prepare draft amendments that reflect the proposed policy, not to make an assessment of the policy intent or its strategic value. The draft amendments will be provided by the Department to the Designated Entity for their approval and for consultation purposes.

The Department may also prepare draft mapping which will be provided to the Designated Entity to verify its accuracy. . In this case, a snapshot of the proposed mapping can then be provided to the Designated Entity for consultation purposes if necessary. This mapping will also be used to update the Code Amendment Map Viewer which identifies the status of current Code Amendments.

5.2.6. Preparation of the draft Code Amendment

A draft Code Amendment should be prepared which summarises procedural matters, strategic assessment of the proposal and investigations undertaken to support the proposed Code Amendment. The Code Amendment Template should be used as the basis for the draft Code Amendment, and can be found here [\[link\]](#).

The Designated Entity needs to ensure that the draft Code Amendment documentation contains the information required for stakeholders to be informed about the proposed Code Amendment and the process that is being undertaken. Refer to the Community Engagement Charter toolkit [\[link\]](#) for more information.

5.2.7. Finalise Infrastructure Planning Arrangements

The Designated Entity will need to consider any other processes that may need to occur alongside the Code Amendment process in order to achieve infrastructure outcomes, urban design outcomes and/or public realm outcomes which are identified in the Proposal to Initiate or the draft Code Amendment.

This might include entering into agreements or other arrangements with infrastructure providers on the future provision of infrastructure. Detailed investigations may be required in order to inform the scope and content of any infrastructure agreements which need to be put in place.

5.2.8. Obtain necessary approvals

The Designated Entity must ensure the correct approval process has been completed prior to proceeding to consultation. At this point, it is important that all the requirements of the approved Proposal to Initiate have been met, as well as any conditions of approval advised by the Minister, and any information or investigation requirements specified by the Commission.

If the Code Amendment was initiated with a condition requiring consultation approval by either the Minister, the Commission or the Department, then the draft Code Amendment and Engagement Plan must be forwarded to the Department at this point, prior to consultation commencing.

5.2.9. Provide Publication Instructions to the Department

The *Planning, Development and Infrastructure Act 2016* requires that the SA Planning Portal includes a facility which allows members of the community to make submissions and provide feedback as part of consultation on the proposed Code Amendment.

In order to request publication of a draft Code Amendment on the SA Planning Portal during the consultation period, a Designated Entity should provide publication instructions to the Department, using the form here [\[link\]](#) by emailing the Department at: CodeAmendmentCoordination@sa.gov.au.

6. Government Agencies in the Code Amendment Process

A list of key government agency contacts for undertaking Code Amendment processes is available by emailing the Department at: CodeAmendmentCoordination@sa.gov.au.

State and Federal government agencies govern a range of different Acts applying to the State and within Australia. The State Planning Policies and Regional Plans recognise these Acts and how they interrelate with the planning system.

Identifying the Overlays which are affected by a Code Amendment will assist in determining whether there will be agency interest in that Code Amendment. Government agencies may be involved in the different parts of the Code Amendment process by providing specialist advice in their area of expertise.

6.1. Pre-Initiation

For complex sites — where there are complex agency issues that may make it difficult to determine whether the proposal is consistent with the State

Planning Policies and Regional Plans — it is likely that discussions with government agencies will be required regarding whether an initiation should proceed or not, and (if the initiation proceeds) what investigations are required.

6.2. Initiation and Preparing the Code Amendment

A Proposal to Initiate may be referred to government agencies for review to ensure that adequate guidance is given to the Designated Entity in investigating issues, or to clarify issues that may be present. This is particularly relevant if agencies have not been involved at the pre-initiation stage.

The **Standard Investigations List** identifies what investigations will result in a specific agency consultation in preparation of the Code Amendment.

The most common issues that need to be referred to a government agency are as follows:

Common Issues	Government Agency
Native Title & Aboriginal Heritage	Department of the Premier and Cabinet
Coast Protection	Department for Environment and Water
Native Vegetation & Biodiversity	Department for Environment and Water
Transport Infrastructure & Services	Department for Infrastructure and Transport
Environment Protection	Environment Protection Authority
Airport Protection	Department Infrastructure and Transport
Extractive Industries & Protection of resources	Department for Energy and Mining
Primary Production (including aquaculture)	Primary Industries and Regions SA
State and Local Heritage Protection	Department for Environment and Water
Fire Protection	Country Fire Service
Infrastructure Providers	SA Water & other relevant infrastructure providers
Housing Affordability	SA Housing Authority

6.3. Consultation

It is expected that you should consult those government agencies that have a direct interest in the Code Amendment, and provide 4 to 8 weeks to provide a written submission (depending on the complexity of the issues).

It is recommended that you do not consult with those government agencies that may only have a remote interest in the Code Amendment. Where relevant, a detailed investigations report should be provided to each relevant agency with an interest in that area.

6.4. Approval

It is important that any issues raised by government agencies during consultation are resolved prior to the approval stage of the Code Amendment. If conflicting advice is received, the Designated Entity should endeavour to resolve the conflict; failing which, assistance may be sought from the Department.

6.5. How to consult with Government Agencies

Most government agencies have developed streamlined systems and procedures for dealing with statutory consultation requirements under the Act including the Code Amendment requirements.

It is important to advise a government agency when you are consulting as a statutory requirement. It is strongly recommended that agency consultation is streamlined by:

- highlighting, in a covering letter, the key issues you would like the agency to address (this does not limit the extent of comments by the agency, but does help in focusing the response)
- meeting with key government departments and agencies early in the period for agency consultation for more complex issues
- forwarding copies of the summary of agency comments and your response to the relevant agency for reference and to facilitate further dialogue if an agency wishes to make further comment.

6.6. Perspective on Planning Policy

Most professional disciplines and organisations have a general concept of 'policy', which involves making a statement about how a matter will be addressed or viewed. Confusion can arise when other disciplines encounter planning policy, which can be viewed as general policy with legislative effect.

However, there is a fundamental limit to the scope of planning policy due to the link between Code policy and the definition of development.

The Department works with other government agencies to develop their understanding of this link and many agencies have a dedicated officer to assist with the preparation of Code Amendment submissions. However, some government agencies do not have these arrangements in place, and the dedicated officers may change from time to time.

7. Undertaking Engagement on a Code Amendment

The information in this section of the Code Amendment Toolkit relates specifically to engagement requested for a Code Amendment. For further information and resources on community engagement required under the Community Engagement Charter, please refer to the Community Engagement Charter Toolkit [link located here: https://plan.sa.gov.au/resources/learning_and_toolkits/community_engagement_charter_toolkit/overview].

7.1. Prepare to Engage

7.1.1. *Templates for this step*

- Stakeholder Analysis [link from Community Engagement Charter Toolkit – located here: https://plan.sa.gov.au/resources/learning_and_toolkits/community_engagement_charter_toolkit/tools_and_templates]
- Community Engagement Charter Principle in Action [link from Community Engagement Charter Toolkit located here: https://plan.sa.gov.au/resources/learning_and_toolkits/community_engagement_charter_toolkit/tools_and_templates]

7.1.2. *Preparing an Engagement Plan*

In order to prepare for engagement on a proposed Code Amendment, a Designated Entity should:

- Determine the purpose and objectives of the engagement.
- Determine what the “scope of influence” is for stakeholders taking part in the engagement – that is, determine what aspects of the Code Amendment stakeholders are able to influence, and what they cannot influence.
- For Code Amendments undertaken by Private Proponents, this will require clear communication of the scope of the proposed Code Amendment. For example, if a Code Amendment is initiated by a person with an interest in land, engagement on the Code Amendment should be clear that the scope of the Code Amendment will be limited to the land where the Designated Entity has an interest – as a result, there will be limited scope for stakeholders to influence this aspect of the Code Amendment as part of the engagement process.
- Identify relevant stakeholders who may have an interest or be impacted by the proposed Code Amendment, and what level of engagement is required.

- Consider the principles of the Community Engagement Charter. This will require consideration of how to provide stakeholders with the best available opportunity to contribute to the engagement.

Please refer to the Community Engagement Charter Toolkit [link - https://plan.sa.gov.au/resources/learning_and_toolkits/community_engagement_charter_toolkit/overview] for further information and resources on preparing for engagement on a Code Amendment.

7.2. Plan your Engagement

7.2.1. Templates for this step

- Template Engagement Plan for Code Amendments
- Template Notice to Owner or Occupier of Land
- Letter to Council/s and/or Local Government Association – Consultation on Code Amendment
- Letter to Government Agencies – Consultation on Code Amendment

The Community Engagement Charter requires preparation of an Engagement Plan prior to undertaking engagement on a Code Amendment. A template Engagement Plan for Code Amendments is located here [link]. While the Act and the Charter do not prescribe specific requirements for an Engagement Plan, it is recommended that the Engagement Plan incorporates:

- Any minimum consultation prescribed in the Community Engagement Charter, including notice and consultation with:
 1. A Council (or Councils) where they are specifically impacted by a Code Amendment (using the template letter provided [link])
 2. the Local Government Association where the Code Amendment is generally relevant to Councils (using the template letter provided [link])
- Notice requirements in the *Planning, Development and Infrastructure (General) Regulations 2017*, to owners or occupiers of land (or adjacent land) which is specifically impacted by the proposed Code Amendment (using the template Notice provided [link])
- any person or body to be consulted with, as specified by the State Planning Commission under section 73(6)(e) of the Act; and
- relevant conditions for engagement (if any) placed on the Proposal to Initiate by the Minister for Planning and Local Government.

The Act requires that members of the public be able to participate in engagement on Code Amendments through the SA Planning Portal. This, however, does not limit other websites (such as Council websites, or websites of a private proponent) being used to publish a Code Amendment, in addition to the SA Planning Portal.

The Designated Entity will need to provide publication instructions to the Department, using the form here [link]. This will enable the Department to prepare the SA Planning Portal for publication of the draft Code Amendment.

Please refer to the Community Engagement Charter Toolkit [link https://plan.sa.gov.au/resources/learning_and_toolkits/community_engagement_charter_toolkit/overview] for further information and resources on planning engagement on a Code Amendment and preparation of an Engagement Plan.

7.3. Commence Engagement

7.3.1. Templates for this step:

- Refer to the Community Engagement Charter Toolkit for further templates and information relating to this stage.

7.3.2. The Designated Entity should undertake engagement by delivering the engagement activities provided in the Engagement Plan.

The Designated Entity may need to review and amend the Engagement Plan during the engagement process where:

- new issues or ideas emerge;
- more is learnt about the communities being engaged with; or
- resourcing needs change.

As the stages or activities of the engagement on the Code Amendment are completed, it is also important to close the loop with participants by providing them with information about how their feedback has been or will be used.

7.4. Report on the Engagement

7.4.1. Templates for this step:

- Template Engagement Report
- Drafting and Mapping Instructions Table

7.4.2. Summary and Assessment of Submissions

Following completion of engagement on a Code Amendment, the Designated Entity should review and summarise all submissions received. The Designated Entity should also undertake an assessment of the issues raised through consultation and determine whether any changes should be made to the proposed Code Amendment.

At this stage, the Designated Entity may also need to undertake further investigations or meet with government agencies to resolve identified issues.

If significant changes are made to the Code Amendment which may substantially alter the intent of the Code Amendment, then the Designated Entity should consider whether further consultation (and an update to the Engagement Plan) is required.

7.4.3. Preparation of Engagement Report

Following completion of the engagement on a Code Amendment, the Designated Entity must then prepare an Engagement Report in accordance with Practice Direction 2.

A template Engagement Report for Code Amendments is included here [\[link\]](#). The Engagement Report should include:

- details of the engagement which has occurred on the Code Amendment;
- the issues identified through the engagement and any outcomes arising following consideration of those issues by the Designated Entity; and
- an analysis and evaluation of the engagement undertaken against the principles of the Community Engagement Charter.

Once finalised, the Engagement Report is provided to the Minister for a decision, and then published on the SA Planning Portal. For Code Amendments which are not initiated by the Commission, the Minister may or may not seek advice from the Commission on the Engagement Report.

If parts of the Code Amendment require further investigations that may delay the implementation of other amendments, consideration can be given to requesting the Minister to “split” the Code Amendment. This allows the Minister to adopt parts of the Code Amendment while other parts continue to be investigated. In this case, the Engagement Report should reflect this when prepared.

Once finalised, the following documents should be provided to the Department to process the final stages of the Code Amendment to the Minister:

- final Engagement Report – to be provided to the Minister under section 73(7) of the Act; and
- Drafting and Mapping Instructions Table - to allow the Department to prepare the maps and policy to be included in the draft Code Amendment to be provided to the Minister (with any changes resulting from engagement).

8. Determination of a Code Amendment

8.1. Decision Processes

8.1.1. Department Processes the Code Amendment

On receipt of the final Engagement Report and final proposed Code Amendment from the Designated Entity, the Department will:

- Confirm that all information requirements have been met. The Code Amendment will be officially lodged and acknowledged on receipt of all the information.
- Assess the compliance of the engagement processes undertaken for the proposed Code Amendment against the requirements of the Community Engagement Charter. The Department will refer the Code Amendment to the Commission if:
 1. There has been a complaint made to the Department about the engagement process; or
 2. The Chief Executive of the Department has undertaken the engagement process as the Designated Entity; or
 3. The Commission's delegate in the Department forms the view that the Charter has not been complied with.

8.1.2. State Planning Commission Assesses Compliance with the Charter

If the Code Amendment is referred by the Department to the Commission following the Department's assessment of compliance with the Charter, the Commission:

- Will make a formal determination regarding compliance with the Community Engagement Charter under section 44(12)(a) of the Act; and
- If the Commission determines that the Charter has not been complied with, the Commission may direct the Designated Entity to undertake further engagement in order to comply with the Charter. In this case, the Designated Entity may need to update and resubmit the Engagement Report in order to process the Code Amendment.

If the Commission's direction is not complied with within 15 business days, the Commission may take any action required by its direction and recover the reasonable costs and expenses of doing so from the Designated Entity.

8.1.3. Minister Consults with the Commission

After the final Engagement Report and Code Amendment are provided to the Minister, then the Minister:

- May consult with the Commission if the Minister considers the matter significant (for example, this may include significant objections to a proposed Code Amendment).

- Must consult with the Commission for Code Amendments which involve an agreement on the recovery of costs for the Code Amendment. This could include costs recovered by a Council or the Chief Executive of the Department, where they are undertaking a Code Amendment on behalf of a private proponent.

8.1.4. Determination by the Minister

Following consultation with the Commission (if required) the Minister may decide to:

- Adopt the Code Amendment as proposed and as outlined in the Engagement Report.
- Make alterations to the proposed Code Amendment and adopt the Code Amendment as altered.
- Divide the Code Amendment into separate parts and adopt one or more of those parts.
- Determine that the Code Amendment should not proceed.

8.2. Implementing the Code Amendment

The Code Amendment, once approved, will be consolidated within the online Planning and Design Code. The Code Amendment will have effect from the date on which this online consolidation occurs.

The following documents will be published within 5 business days of the Minister's approval of the Code Amendment:

- The Engagement Report prepared and provided to the Minister by the Designated Entity; and
- Any advice provided by the Commission following consultation by the Minister on the proposed Code Amendment.

The Designated Entity and the relevant Council(s) will be directly notified of the Code Amendment coming into effect.

9. Parliamentary Scrutiny of a Code Amendment

9.1. Referral to Parliament

If the Minister decides to adopt the Code Amendment it is then referred to the Environment Resources and Development Committee (ERDC) in parliament.

In this case, the Code Amendment must also be accompanied by a Parliamentary Report from the Commission which sets out the reason for the Code Amendment, provides information and evaluation of the engagement

undertaken for the Code Amendment and an assessment against the principles of the Community Engagement Charter, as well as any other material considered relevant by the Commission.

The Code Amendment and the Commission's Parliamentary Report are referred to the ERDC within 28 Days of the Code Amendment coming into effect.

After receiving the Code Amendment and the Commission's Parliamentary Report, the ERDC must resolve to:

- Not object to the Code Amendment;
- Suggest amendments to the Code Amendment; or
- Object to the Code Amendment.

If no advice is received from the ERDC within 28 days of the referral then it is assumed that there is no objection to the Code Amendment.

In considering the Code Amendment the ERDC may request attendance by the Designated Entity at one of their meetings to present and address any questions on the Code Amendment.

If the ERDC is considering proposing changes to the Code Amendment it must give the relevant council(s) two weeks to provide comment. In these circumstances, another 21 days is added to the ERDC's referral time.

9.2. Amendments Suggested by ERDC

If the ERDC resolves to suggest changes to the Code Amendment, the Minister may:

- Proceed to make those changes after consulting with the Commission. In this case, the Designated Entity will also be advised of any changes made to the Code Amendment in response to the ERDC's suggestions.
- Report back to the ERDC that the Minister is unwilling to make the ERDC's suggested changes.

If the Minister is unwilling to make changes suggested by the ERDC, and the ERDC decide to continue to object to the Code Amendment, copies of the Code Amendment must be laid before both Houses of Parliament. If either House of Parliament passes a resolution to disallow the Code Amendment, the Code Amendment from that point in time will no longer be in operation. Notice will be published in the Government Gazette and the Code Amendment will be reversed on the online Code.

10. Early Commencement of a Code Amendment

To ensure the orderly and proper development of an area of the State and in order to counter applications for undesirable development, the Minister may put a proposed Code Amendment into effect at the same time, or after the Code Amendment is released for consultation. These Code Amendments will be in effect for a period of twelve months or until the Code Amendment process is finalised.

The types of Code Amendments that may be suitable for early commencement include heritage amendments and amendments that seek to introduce hazard overlays and policy.

Advice should be sought from the Department for all requests for “early commencement” of a Code Amendment. In order to justify early commencement of a Code Amendment, the test in section 78 of the Act will need to be satisfied, including sufficient evidence and justification to demonstrate that early commencement is:

- necessary in the interest of the orderly and proper development of an area of the state; and
- required in order to counter applications for undesirable development ahead of the outcomes of the consideration of the Code Amendment. Undesirable development is considered as development that would detract from, or negate, the intent of the Code Amendment.

The Act provides additional guidance about the assessment of development applications to ensure that developments are not approved in accordance with the draft Code Amendments during early commencement.

If a development application is lodged during the ‘early commencement’ period, the application must be assessed against the previous version of the Code as well as the version of the Code which has commenced early. If the outcome of the assessment differs, a decision cannot be made until the Code Amendment is no longer on ‘early commencement’.

If the version of the Code which has commenced early decreases the consultation requirements, then the original version of the Code must be used for assessment purposes.

11. Ongoing Improvements to the Code

11.1. Strategic Code Amendments

The Commission will take the lead in undertaking Code Amendments of strategic importance, including matters of social, economic or environmental importance for the State. The first version of the Code focused on reviewing the South Australian Planning Policy Library and rewriting it into the new Code framework. During the phased implementation of the Code, only limited policy reform was undertaken.

In the coming years, the Commission will continue to consult with government agencies, councils and other stakeholders in order to develop and refine its future program of Code Amendments. Further information on the Commission's priority Code Amendments for the coming year can be found here [link to the State Planning Commission's Strategic Plan which is located here: https://dit.sa.gov.au/data/assets/pdf_file/0011/539804/State_Planning_Commission_Strategic_Plan_-_2020-21.pdf].

Throughout this process, the Commission will seek collaborative partnerships with councils, joint planning boards and government agencies to resolve and investigate policy issues of regional applicability and encourage councils to implement changes to accommodate local issues.

11.2. Regular Code Maintenance

Following the early stages of Code implementation, the Commission will undertake annual or bi-annual updates to the Code to address various policy matters. Code Amendments that may be considered as part of the Commission's ongoing Code maintenance may include:

- technical amendments to resolve policy issues that arise as the Code is tested
- amendments that cannot be considered a 'Minor or Operational Amendment'
- amendments to policy as a result of legal review or challenge
- improvements to policy that do not require significant and lengthy investigations
- minor zone boundary amendments
- updates to overlays.

Members of the public can lodge requests for amendments to the Code to be included with the Commission's regular Code maintenance here [link]. These requests will be collated and assessed by the Department and recommendations will be made to the Commission on a biannual basis.

11.3. Section 76 Minor and Operational Amendments

The Minister may make a minor or operational change to the Code by Government Gazette. This can only be undertaken if the Minister (or delegate) considers that the change is consistent with one or more of the legislated criteria, including to:

- introduce changes in the form of the Code that do not alter the effect of the underlying policy
- correct an error
- remove irrelevant material, duplication or inconsistencies
- provide consistency with any provisions made by the regulations
- give effect to the adoption, amendment or revocation of a precinct plan under the *Urban Renewal Act 1995*
- provide consistency with a change to an Environment and Food Production Area
- provide consistency with a development which has been substantially commenced or completed, which has been declared by the Minister as being an impact assessed development and subject to an Environmental Impact Statement
- include a state heritage place or change the designation of a place from being a state heritage place to a local heritage place (or vice versa) (on the basis of a recommendation or action from the South Australian Heritage Council)
- remove the listing of a state heritage place or local heritage place that has been demolished destroyed or removed
- ensure the Code accords with any plan, policy, standard, report or document prepared under another Act as listed below:
 - a coastal management plan approved by the Governor under the *Coast Protection Act 1972*
 - an environment protection policy under the *Environment Protection Act 1993*
 - a management plan for a park or reserve adopted under the *National Parks and Wildlife Act 1972*
 - the list, or amendment to the list, of places entered, either on a provisional or permanent basis, in the State Heritage Register under the *Heritage Places Act 1993*
 - any regulation relating to the development of land under the *Electricity Act 1996*
 - the Metropolitan Adelaide Road Widening Plan under the *Metropolitan Adelaide Road Widening Plan Act 1972*
 - a lease, licence or native title mining agreement under the *Mining Act 1971*;

- a management plan under the *Fisheries Management Act 2007*
- an aquaculture policy under the *Aquaculture Act 2001*
- a regional landscape plan, water allocation plan or landscapes or water affecting activities control policy under the *Landscape South Australia Act 2019*.

Members of the public can lodge a request to the Minister for a Minor or Operational Amendment to the Code here [\[link\]](#). These requests should:

- Clearly identify the error, inconsistency or irrelevant material within the Code which should be amended; or
- Identify and justify that the amendment meets one or more of the criteria provided under section 76 of the Act.

All requests will be assessed and triaged in accordance with its impact on development assessment. The timing of these amendments will depend on the number and urgency of requests.

The Minister must seek advice from the Commission in deciding on these amendments; however, for straightforward matters these roles will be delegated to the Department.

The ERDC will not be consulted on or referred to on Minor or Operational Amendments to the Code.

12. Complying Changes to the Code

Complying Changes to the Code are undertaken through a fast-track process that allows for zone, sub-zone or overlay boundary changes to the Code that are consistent with a clear recommendation in a Regional Plan.

For this to occur, the proposed changes to the Code must be clearly and expressly identified in the Regional Plan, through the use of specific maps or information about the changes proposed to the Code.

Consultation on Complying Changes to the Code is required, and this must comply with the Community Engagement Charter. It is possible for a Complying Change to the Code and an amendment to a Regional Plan to be consulted on and approved at the same time.

The Minister may make a decision on a Complying Change after receiving advice from the Commission. A Complying Change to the Code will take effect from the date specified in an instrument published on the SA Planning Portal.

There is no requirement to refer Complying Changes to the ERDC.

It is recommended that the Department is contacted regarding any requests for Complying Changes to the Code.

[insert date of letter]

Mr /Ms/Mrs [insert name of Chief Executive]
Chief Executive
[insert name of Council or Joint Planning Board]
[insert postal address]
[insert email address]

Dear [insert name of Chief Executive]

Preliminary Consultation by [insert name of Private Proponent] on the [insert name of Code Amendment]

[Insert name of Private Proponent] is seeking to lodge the [insert name of Code Amendment] (the Code Amendment) for approval to initiate the Code Amendment by the Minister for Planning and Local Government under the *Planning, Development and Infrastructure Act 2016* (the Act).

Under Practice Direction 2 – Preparation and Amendment of Designated Instruments, [Insert name of Private Proponent] is required to undertake preliminary consultation with the [Chief Executive Officer of the Council / Joint Planning Board] on the Code Amendment, and must also provide details of matters raised as a result of that preliminary consultation as part of its Proposal to Initiate the Code Amendment.

The purpose of this preliminary consultation is to determine whether there are any additional investigations or local [or regional] matters that should be addressed or considered in the Proposal to Initiate the Code Amendment.

The draft Code Amendment and preliminary supporting information is **attached** for the information of the [Council/Joint Planning Board]. Please provide any comments on the proposed Code Amendment by 5:00pm on [insert date of close of preliminary consultation] either by email to [insert email address for receipt of response] or by post to [insert postal address for receipt of response].

Please be aware that, should the Code Amendment be initiated, further formal consultation will be required with the [Council/Joint Planning Board] as required by the Community Engagement Charter under the Act.

Should you have any questions regarding the proposed Code Amendment, please contact:

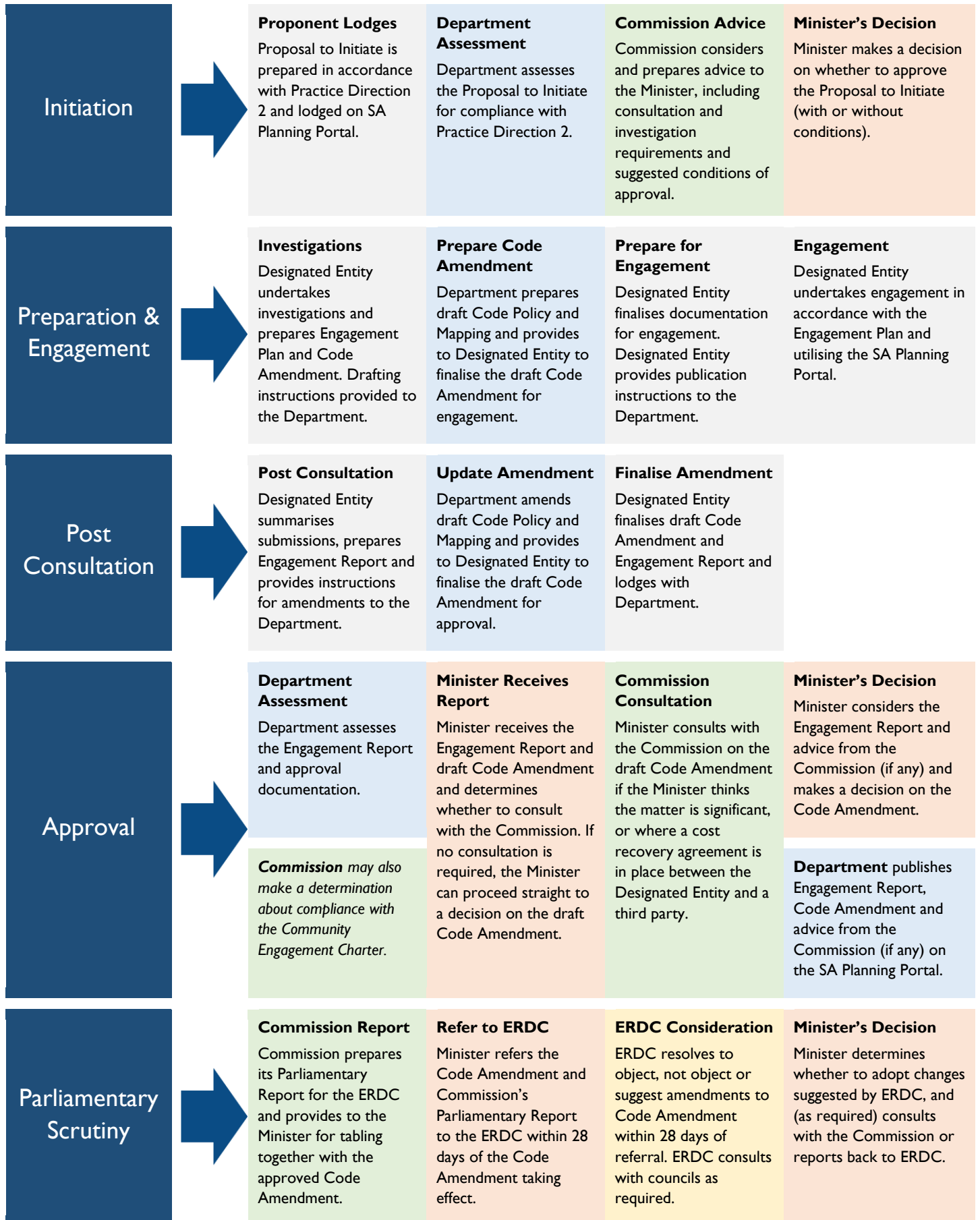
[insert Private Proponent contact name]
[insert Private Proponent contact phone number]
[insert Private Proponent contact email address]

Kind Regards,

[insert name of Private Proponent]

Code Amendments Initiated by Proponents

Section 73(2)(b) of the *Planning, Development and Infrastructure Act 2016*



PROPOSAL TO INITIATE AN AMENDMENT TO THE PLANNING & DESIGN CODE

Amendment Name Code Amendment

By the **Council /Joint Planning Board/Government
Agency/Person with Interest in the Land (the
Proponent)**

_____ (Signature Required)

**Name of the Council/Joint Planning Board/Government Agency/Person with Interest
in the Land (the Proponent)**

[Drafting Note (to be deleted): this page must be signed by the Council, Joint Planning Board, Government Agency or Person with an Interest in the Land (the Proponent) where indicated above. It should not be signed by a consultant or agent acting on behalf of the Proponent]

Date: - insert -

This Proposal to Initiate document together with conditions specified by the Minister forms the basis for the preparation of a proposed amendment to the Planning and Design Code for the purpose of section 73(2)(b) of the *Planning, Development and Infrastructure Act 2016*. By signing this Proposal to Initiate, the Proponent acknowledges and agrees that this Proposal to Initiate, and any supporting documents may be published on the PlanSA website by the Attorney General's Department.

MINISTER FOR PLANNING AND LOCAL GOVERNMENT

Date:

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1. INTRODUCTION

The Proponent is proposing to initiate an amendment to the Planning and Design Code (the Code Amendment) as it relates to land located at *[insert address/description]* (the Affected Area).

The purpose of this Proposal to Initiate is to seek approval of the Minister for Planning and Local Government (the Minister) to initiate the Code Amendment under section 73(2)(b) of the *Planning, Development and Infrastructure Act 2016* (the Act).

The Proponent is the *[include description of the Proponent's interest in the land including registered proprietor/lessee/holder of an option to purchase – Refer to Drafting Note]* for the whole of the Affected Area.

Drafting Note (to be deleted):

This statement is only required for initiations under section 73(2)(b)(vii) of the Act by a person with an interest in the Affected Area. The Proponent must have an interest in the whole of the Affected Area - the Proponent is not able to initiate a Code Amendment for land which they do not have an interest in.

An "interest in land" as referred to under section 73(2)(b)(vii) may include:

- (a) Registered proprietor (as shown on the relevant Certificate of Title for the land)*
- (b) Lessee (tenant) of a registered lease over the land*
- (c) Holder of an Option to Purchase or other similar contractual arrangement with the registered proprietor of the land*
- (d) Any other interest recognised as a legal or equitable interest in land.*

This Proposal to Initiate details the scope, relevant strategic and policy considerations, nature of investigations to be carried out and information to be collected for the Code Amendment. It also details the timeframes to be followed in undertaking the Code Amendment, should this Proposal to Initiate be approved by the Minister.

The Proponent acknowledges that the Minister may specify conditions on approving this Proposal to Initiate, under section 73(5) of the Act. In the event of inconsistency between this Proposal to Initiate and any conditions specified by the Minister, the conditions will apply.

1.1. Designated Entity for Undertaking the Code Amendment

In accordance with section 73(4)(a) of the Act, the Proponent will be the Designated Entity responsible for undertaking the Code Amendment process. As a result:

- 1.1.1. The Proponent acknowledges that it will be responsible for undertaking the Code Amendment in accordance with the requirements Act.
- 1.1.2. The Proponent declares that it has or intends to enter into an agreement with a third party for the recovery of costs incurred in relation to the Code Amendment under section 73(9) of the Act. *[OR – Delete as Applicable – Refer to Drafting Note]*

- 1.1.3. The Proponent declares that it has not and does not intend to enter into an agreement with a third party for the recovery of costs incurred in relation to the Code Amendment under section 73(9) of the Act. If the Proponent does enter into such an agreement, the Proponent will notify the Department prior to finalising the Engagement Report under section 73(7). *[Delete as Applicable – Refer to Drafting Note]*

Drafting Note (to be deleted):

Under section 73(9) of the Act, a designated entity may enter into an agreement with a person for the recovery of costs incurred by the designated entity in relation to an amendment of the Planning and Design Code. If an agreement is entered into, the Minister is required to obtain advice from the State Planning Commission under section 73(10)(b) of the Act, after receiving an engagement report from the Designated Entity (and prior to adopting the Code Amendment). As a result, a declaration is required from the Proponent to confirm the status of an agreement for cost recovery.

- 1.1.4. The Proponent's contact person responsible for managing the Code Amendment and receiving all official documents relating to this Code Amendment is:

- a) *[Contact Full Name and Title]*
- b) *[Contact Email]*
- c) *[Contact Phone Number]*

- 1.1.5. The Proponent intends to undertake the Code Amendment by: *[Delete as Applicable – Refer to Drafting Note]*

Drafting Note (to be deleted):

Details of the planning and other expertise which will be utilised by the Proponent for the Code Amendment will assist the Minister in determining the appropriate Designated Entity responsible for undertaking the Code Amendment processes.

The nominated planning practitioner/s responsible for undertaking Code Amendment processes are expected to have qualifications and experience that is equivalent to an Accredited Professional – Planning Level 1 under the Act.

- a) engaging *[insert details of planning or other consultants]* to provide the professional services required to undertake the Code Amendment *[AND/OR]*
- b) utilising professional expertise of employees of the Proponent including: *[list the in-house professional expertise available, including relevant employees of the Proponent and their planning qualifications and experience in the areas of planning policy preparation, land use investigations, community engagement and/or the preparation of engagement plans]*

The Proponent [acknowledges OR requests] that the Minister [may], under section 73(4)(b) of the Act, determine that the Chief Executive of the Department will be the Designated Entity responsible for undertaking the Code Amendment. In this case, the Proponent acknowledges and agrees that they will be required to pay the reasonable costs of the Chief Executive in undertaking the Code Amendment. *[Delete where the Proponent is an Agency, Council, Joint Planning Board or Scheme Coordinator – Refer to Drafting Note]*

Drafting Note (to be deleted):

Under section 73(4)(b) of the Act, where the Proponent is a provider of essential infrastructure or a person with an interest in the Affected Area, the Minister may approve the Proposal to Initiate on the basis that the Chief Executive of the Department will be the Designated Entity (rather than the Proponent). This provision does not apply where the Proponent is an Agency, Joint Planning Board, Council or Scheme Coordinator (as described under the Act).

For the 12 months following full implementation of the Code, it is intended that Code Amendments will be prepared and led by private proponents themselves (land owners or developers with an interest in land) rather than by the Chief Executive of the Department under section 73(4)(b). The Proposal to Initiate may indicate the Proponent’s preference on who prepares the Code Amendment, but this will ultimately be a decision for the Minister as part of the proposed initiation.

1.2. Rationale for the Code Amendment

[Explain the reasons for the preparation of the Code Amendment and a description of the change in circumstances leading to the need for the Code Amendment.]

2. SCOPE OF THE CODE AMENDMENT

2.1. Affected Area

The proposal seeks to amend the Code for the Affected Area, being the land in [include certificate of title references or area description] within the [include name of Council area] as shown in the map in Attachment A.

2.2. Scope of Proposed Code Amendment

Site 1 - [Address/es]

<p>Current Policy¹</p>	<p><i>List all Planning and Design Code policies that currently apply to the site (including zones, subzones, overlays, Technical and Numerical Variations (TNVs))</i></p> <p><i>To obtain this information, search the site address in the Planning and Design Code on PlanSA, and select “what policies apply to this address?”</i></p>
<p>Amendment Outline</p>	<p><i>Describe the overall objective for the Code Amendment as it applies to the site.</i></p>

¹ Note: for sites within the Phase 3 (Urban Areas) Code the Current Policy is draft and may change until the Phase 3 Code is implemented.

Intended Policy	<p><i>Briefly outline what Planning and Design Code policies are being proposed to be amended for the site and any specific objectives. For example:</i></p> <ul style="list-style-type: none"> • <i>Rezone to X zone, with consideration to X subzones.</i> • <i>TNVs in regard to X zone will be reviewed with the intention to XX.</i> • <i>The X overlays will be considered for insertion or review.</i>
------------------------	--

[Copy table as necessary for separate sites (with different policies)]

Drafting Note (to be deleted):

As the Code applies throughout the whole of South Australia, changes to the general policy in the Code (including changes to General Zones and Overlays) could have broad-reaching impact. In these circumstances, it may not be appropriate for a private proponent, Government Agency, Council or Joint Planning Board to initiate a change to general policy, unless there are exceptional circumstances to justify the change.

Private proponents (including parties with an interest in land), Government Agencies, Councils and Joint Planning Boards can initiate spatial changes to the Code (for example, by changing the zone which applies to a specific area, using the current zone structure in the Code) as well as changes to the technical and numerical values applying to a particular location.

3. STRATEGIC PLANNING OUTCOMES

Proposed Code Amendments occur within a state, regional and local strategic setting, which includes:

- State Planning Policies (SPPs)
- Regional Plans
- Other relevant strategic documents.

Drafting Note (to be deleted):

For complex proposals, it is recommended that the Proponent obtains preliminary advice from the Department regarding the strategic alignment of the Code Amendment. In order to determine the strategic alignment, it may also be necessary for preliminary investigations to occur at this stage.

Where there are significant government agency issues that may require investigation and discussion with other Government agencies, the Department may assist the Proponent in facilitating these discussions.

3.1. Summary of Strategic Planning Outcomes

Drafting Note (to be deleted):

This section should set out the key strategic planning considerations and where necessary should draw on relevant investigations undertaken to support the Proposal to Initiate, with analysis of matters including (but not limited to):

- *infrastructure and services*
- *integrated transport*
- *environmental impacts,*
- *land supply and demand*
- *economic analysis*
- *environmental impacts*
- *interface between different land uses*
- *development patterns and trends*

3.2. Alignment with State Planning Policies

The State Planning Policies (SPPs) set out the State's overarching goals and requirements for the planning system. Under section 66(3)(f) of the Act, the Code must comply with any principle prescribed by a SPP.

The Code Amendment should be initiated because the strategic planning outcomes sought to be achieved through the Code Amendment align with or seeks to implement the following SPPs:

State Planning Policy (SPP)	Code Amendment Alignment with SPPs
<p><i>List 3-5 principles of the SPPs that are the key strategic objectives for the Code Amendment.</i></p> <p><i>If an Overlay applies to the Affected Area, the relevant SPP will need to be identified.</i></p>	<p><i>Provide evidence to demonstrate the demand or need for the proposed land use, or otherwise show alignment of the Code Amendment with each SPP</i></p>

3.3. Alignment with Regional Plans

As with the SPPs, the directions set out in Regional Plans provide the long term vision as well as setting the spatial patterns for future development in a region. This includes consideration of land use integration, transport infrastructure and the public realm.

The [insert name] volume of the Planning Strategy is relevant for this Code Amendment.

Drafting Note (to be deleted):

The State Planning Commission has identified that the existing volumes of the South Australian Planning Strategy prepared under the Development Act 1993, will apply until such time as the new Regional Plans are prepared and adopted under the PDI Act. Refer to 'What are Regional Plans?' on the Regional Plans and Joint Planning Arrangements page of the PlanSA Portal.

Regional Plan Identified Priorities or Targets	Code Amendment Alignment with Regional Plan
<i>For Example: Tourism Growth</i>	<i>Provide an explanation and/or evidence of how the proposed Code Amendment aligns with the identified priority or target in the Regional Plan</i>

Drafting Note (to be deleted):

There is no need to identify priorities or targets that repeat a principle or objective of the SPP noted above. Where there is conflict between a Regional Plan and an SPP, the SPP will prevail.

The consideration against Regional Plans should focus on any spatial information available in the Regional Plan (which is not available in the SPPs).

3.4. Alignment with Other Relevant Documents

Additional documents may relate to the broader land use intent within the scope of this proposed Code Amendment (or directly to the Affected Area) and therefore are identified for consideration in the preparation of the Code Amendment.

The following table identifies other documents relevant to the proposed Code Amendment:

Other Relevant Document	Code Amendment Alignment with Other Relevant Document
<i>For Example: Master Plan or Precinct Plan</i>	<i>Provide an explanation and/or evidence of how the proposed Code Amendment aligns with the identified Other Relevant Document</i>

Drafting Note (to be deleted):

Where there are no other relevant documents applicable to the Code Amendment, insert “Nil”.

Drafting Note: (to be deleted)

The Standard Investigations Table should be used to ensure that investigations meet the requirements of the State Planning Commission and government agencies.

If an Overlay applies to the Affected Area this should be addressed as an investigation.

If infrastructure cannot be provided through standard augmentation and resolved through the development application process, the Proponent will be required to undertake further investigations and negotiation with the relevant infrastructure provider. Any agreements required to be entered into for infrastructure provision will need to be in place prior to approval of the Code Amendment.

4. INVESTIGATIONS AND ENGAGEMENT

4.1. Investigations Already Undertaken

The table below identifies what investigations have already been undertaken in support of the proposed Code Amendment.

Investigation Undertaken	Summary of Scope of Investigations	Summary of Outcome of Recommendations
<i>For Example: Initial Traffic Study</i>	<i>Provide a brief summary of the scope of investigations undertaken to date. For Example: initial analysis of road network capacity to accommodate future development of the site.</i>	<i>Include a summary of outcomes or recommendations from the investigations and attach reports or other supporting documents as required.</i>

4.2. Further Investigations Proposed

In addition to the investigations already undertaken and identified above, the table below outlines what additional investigations that will be undertaken to support the Code Amendment.

Further Investigations Proposed	Explanation of how the further investigations propose to address an identified issue or question
<i>For Example: Traffic Impact Statement</i>	<i>For Example: Identify the impact of the proposed Code Amendment on the road network and the scope and timing of road upgrades required to support future development (if any)</i>

4.3. Engagement Already Undertaken

In accordance with Practice Direction 2, the [insert name of Council and/or Joint Planning Board as required] has been consulted on this proposal. In summary, the following matters were raised by the [Council and/or Joint Planning Board]:

- [include list of matters raised]
- [attach supporting documents as necessary]

Drafting Note (to be deleted):

The Proponent should seek written advice from the relevant Council and/or Joint Planning Board and attach to this Proposal to Initiate. Where this is not possible, or where written advice has not been received in a timely manner, the Department may contact the Council and/or Joint Planning Board as part of assessing the Proposal to Initiate. This may result in additional processing time (of approximately 6 weeks) for the Proposal to Initiate to proceed to the State Planning Commission for advice and the Minister for a Decision.

In addition the following engagement has also occurred on the proposed Code Amendment:

- [include list of engagements and relevant stakeholders]
- [attach supporting documents as necessary]

A summary of outcomes or matters raised through engagement already undertaken is as follows:

- [include list of outcomes or matters raised]
- [attach supporting documents as necessary]

4.4. Further Engagement Proposed

In addition to the engagement already undertaken and identified above, the table below outlines what additional engagement will be undertaken to support the Code Amendment.

Further Engagement Proposed	Explanation of how the further engagement propose to address an identified issue or question
<i>For Example: Notification and meeting with Neighbouring Landowners</i>	<i>For Example: Identify the potential impact of the proposed Code Amendment on the neighbouring land.</i>

5. CODE AMENDMENT PROCESS

5.1. Engagement Plan

The Code Amendment process will occur in accordance with the Community Engagement Charter and Practice Direction 2 – Consultation on the Preparation or Amendment of a Designated Instrument.

The Designated Entity will prepare an Engagement Plan prior to the commencement of engagement on the proposed Code Amendment. The Engagement Plan will include the following mandatory consultation requirements (which may be in addition to the engagement outlined in this Proposal to Initiate):

- the Local Government Association must be notified in writing of the proposed Code Amendment;
- if the Code Amendment has a specific impact on 1 or more particular pieces of land in a particular zone or subzone (rather than more generally), the Designated Entity must take reasonable steps to give a notice in accordance with Regulation 20 of the *Planning, Development and Infrastructure (General) Regulations 2017*, to:

- the owners or occupiers of the land; and
- owners or occupiers of each piece of adjacent land;
- consultation must also occur with any person or body specified by the State Planning Commission under section 73(6)(e) of the Act.

5.2. Engagement Report

Once engagement on the Code Amendment is complete, the Designated Entity will prepare an Engagement Report under section 73(7) of the Act.

The Designated Entity must ensure that a copy of the Engagement Report is furnished on the Minister and also published on the SA Planning Portal. This will occur in accordance with Practice Direction 2.

The Engagement Plan and the Engagement Report will also be considered by the State Planning Commission during the final stages of the Code Amendment process. The Commission will provide a report to the Environment, Resources and Development Committee of Parliament under section 74(3) of the Act. The Commission's report will provide information about the reason for the Code Amendment, the consultation undertaken on the Code Amendment and any other information considered relevant by the Commission.

5.3. Code Amendment Timetable

The Proponent (where it is also the Designated Entity) commits to undertaking the Code Amendment in line with the timeframe outlined Attachment B. If a timeframe is exceeded (or expected to be exceeded) the Proponent agrees to provide an amended timetable to the Department with an explanation of the delay, for approval by the Minister of an extension of time for the Code Amendment.

Drafting Note (to be deleted):

Where the Proponent requests that the Chief Executive of the Department be approved as the Designated Entity, the timetable in Attachment B should be agreed with the Department prior to lodgement of the Proposal to Initiate.

ATTACHMENT A

Map of Affected Area

- *Take an extract out of the SAPPA of the existing zones, subzones and overlays*

- *To assist in assessing the proposal, it is recommend that maps are provided to show the following where relevant:*
 - *aerial base*
 - *cadastre*
 - *land ownership*
 - *road names*
 - *key landmarks*
 - *descriptions of existing uses*
 - *location of heritage items or areas or environmental significance*
 - *location of any know hazards*
 - *current zoning, subzones and overlays applying*
 - *surrounding zoning, subzones and overlays applying (to an extent required to provide general context of surrounding land uses and development)*
 - *consider splitting the Affected Area Map into 'current zoning' and 'proposed zoning' to assist in conveying complex rezoning.*

ATTACHMENT B

Timetable for Code Amendment by Proponent

Step	Responsibility	Timeframe
Approval of the Proposal to Initiate		
Review of Proposal to Initiate to confirm all mandatory requirements are met (timeframe will be put on hold if further information is required). Referral to the Minister to request advice from the Commission	AGD	2 weeks <i>(includes lodgement and allocation + referral to Government Agencies within the first week)</i>
Minister requests advice from the Commission.	Minister	2 weeks
Referral to Government Agencies for comment (where necessary)	AGD, Relevant Government Agencies	+ 2 weeks
Consideration of Proposal to Initiate and advice to the Minister	Commission (Delegate)	3 weeks
	Commission	+ 3 weeks
Proposal to Initiate agreed to by the Minister	Minister	2 weeks
Preparation of the Code Amendment		
Engagement Plan Prepared. Investigations conducted; Code Amendment Report prepared The Drafting instructions and draft mapping provided to AGD	Designated Entity	"Insert No. Weeks"
AGD prepares Amendment Instructions and Mapping and provides to Council for consultation purposes	AGD	1 week
Preparation of Materials for Consultation	Designated Entity	"Insert No. Weeks" [Can be left blank as it will be informed by Engagement Plan]
Engagement on the Code Amendment		
Code Amendment Report released for public consultation in accordance with the Community Engagement Charter and the prepared Community Engagement Plan	Designated Entity	"Insert No. Weeks" [[Can be left blank as it will be informed by Engagement Plan]
Consideration of Engagement and Finalisation of Amendments		
Submissions summarised; Amended drafting instructions provided, Engagement Report prepared and lodged with AGD	Designated Entity	"Insert No. Weeks"
Assess the amendment and engagement. Prepare report to the Commission or delegate <i>Timeframe will be put on hold if further information is required, or if there are unresolved issues</i>	AGD	4 weeks
Consideration of Advice	Commission (Delegate)	2 weeks <i>(includes 1 week to process through Minister's office)</i>

Step	Responsibility	Timeframe
	Commission	+ 3 weeks
Decision Process		
Minister considers the Code Amendment Report and the Engagement Report and makes decision	Minister	3 weeks
Implementing the Amendment (operation of the Code Amendment)		
Go- Live- Publish on the PlanSA Portal	AGD	2-4 weeks
Parliamentary Scrutiny		
Referral of approved Code Amendment to ERDC	AGD	8 weeks

Code Amendment Writing and Mapping Drafting Instructions

Designated Entity Name: [insert name of Designated Entity]

Code Amendment Name: [insert name of Code Amendment]

Stage: [Consultation or Approval]

Date of Drafting Amendment: [insert date]

Reminder: Scope of Code Amendments must be consistent with the approved Proposal to Initiate and all Conditions

CODE PARTS	SPATIAL APPLICATION - PART 2 & 5	SPATIAL APPLICATION OF PART 2	SPATIAL APPLICATION OF PART 3	PART 6, 10, 11, 12	POLICY PART 2*
	Zone Mapping + Designated Areas	Sub Zone Mapping	Overlay Mapping	Technical and Numeric Variations (TNVs), Significant Trees, Local Heritage Places, Concept Plans	Zone Policy (with Classification Tables), Sub Zone Policy, Overlay Policy + Referrals (spatially based)
Typical Code Amendment Instructions (examples)	Select Instruction: APPLY an existing or new zone (a rezoning) REPLACE a zone to correct a misapplication of a zone APPLY a spatial representation of a Designated Area(s) (update in line with legislation, as required)	Select Instruction: APPLY an existing or new sub zone REPLACE a sub zone to correct a misapplication of a sub zone REMOVE an existing sub zone (or part thereof)	Select Instruction: APPLY an existing or new overlay(s) REPLACE an overlay to correct a misapplication of the overlay REMOVE an existing overlay(s) (or part thereof)	Select Instruction: AMEND TNVs (changes in metrics and/or additional TNVs) AMEND Significant Trees listing (add, remove, update) AMEND Local heritage places listing (add, remove, update) AMEND Concept plan(s) (add, remove, update)	Select Instruction: CREATE new policies to address gaps or strengthen policy AMEND existing policy to address error(s) in a zone REMOVE superfluous or redundant policy RENAME a zone/sub zone CREATE a new zone/sub zone
AREA 1:	Name [insert description of area with map references as necessary]				
Summary	Rezone the land from [x] to [y]				
Proposed Code Amendment(s) Instructions	Example: Attachment A (Snapshot of SAPPA dated- existing zone) to be replaced by Attachment B (Proposed zone) Example: Apply Master Planned Neighbourhood Zone to CT 1234/567 Attach a marked-up map to show specific areas (as necessary)	Example: Attachment C (Snapshot of SAPPA dated- existing sub zone) to be replaced by Attachment D (Proposed sub-zone) Example: Apply Emerging Activity Centre Sub Zone to CT 1234/987	Example: Attachment E (Snapshot of SAPPA dated- existing overlay) to be replaced by Attachment F (Proposed overlay) Example: Apply Affordable Housing Overlay to CT 1234/567	Example: AMEND the TNV building heights within the [insert] Subzone from 2 storey to 3 storey	Example: AMEND existing Desired Outcome in the Zone to read [insert as relevant or as shown in Attachment] Please contact AGD if any policy amendments are being proposed To be limited and consistent with approved Proposed to Initiate Documentation
AREA 2:	Name [include additional areas as necessary]				
Summary					
Proposed Code Amendment(s) Instructions					

*Note: due to the wide reaching application of Zone, Sub Zone and Overlay Policies, these policies should typically only be amended through Code Amendments initiated by the State Planning Commission, or with the support of the State Planning Commission. Private proponents should consult with the Department before proposing any drafting instructions to amend Zone, Sub Zone or Overlay policies.

Code Amendment Publication Instructions for the Plan SA website – For Engagement

Designated Entity Name: [insert name of Designated Entity]

Date of Publication Instructions: [insert date]

Code Amendment Name: [insert name of Code Amendment]

Engagement Period: [insert date] to [insert date] *(Note publication requirement below)*

Stage: Engagement

Reminder: Engagement on Code Amendments must comply with the Community Engagement Charter and must also be consistent with:

- Practice Direction 2 (Preparation and Amendment of Designated Instruments);
- the Engagement Plan; and
- the approved Proposal to Initiate and all Conditions and Specifications.

Provide Summary of the Code Amendment to be placed on the Plan SA Code Amendment Page (Maximum 500 words)

Example

The Minister for Planning and Local Government is proposing to rezone land at Aldinga to enable a diversity of low to medium density housing and community development. The affected area consists of approximately 90 hectares of land that is zoned Deferred Urban and is bound by Quinliven Road, Main South Road, Aldinga Beach Road and How Road.

The land forms part of a State strategic land-banking program which has held the land for future development. The Minister has now determined that the demand for housing in southern Adelaide warrants the release of this land for development.

This rezoning will implement key targets of The 30-Year Plan for Greater Adelaide by providing opportunity for increased housing diversity in proximity to community infrastructure and services.

Confirm details for submissions

Note: the Plan SA website will provide a facility for people to view and make submissions on Code Amendments, which will be directly forwarded to the key contact. Submissions will not be processed or reviewed by the Department; this is the responsibility of the Designated Entity.

Contact details: (contact name, phone number and email address)

Email: (for publication, and for linking to the Plan SA submission form)

Post: (postal address for submissions)

Will hard copies of the amendment be made available? (option) Hard Copies available? – location – optional:

If so, provide details of how to obtain hard copies including cost

External web links (optional)((for example a council engagement page_))

Engagement events (optional)

Provide details of any engagement events including drop in sessions, workshops etc

This should include the following details:

When: (date and time)

Where: (event location)

Registration: (how will a member of public register e.g. Eventbrite link)

Who: (audience)

Documents to be Provided with Publication Instructions	<input type="checkbox"/> Code Amendment Document (PDF Format) <input type="checkbox"/> Engagement Plan (PDF Format) <input type="checkbox"/> Location / Zone / Overlay Maps (as prepared by the Department on receipt of Mapping Instructions) <input type="checkbox"/> Draft Policy (prepared by the Department on receipt of Writing Instructions)
Publication Instructions	Publication on the Plan SA website, including: <input type="checkbox"/> Publication of the Code Amendment document (and attachments) in PDF format <input type="checkbox"/> Publication of the Engagement Plan in PDF format <input type="checkbox"/> Facility for submissions made through online form on the Plan SA website
Publication Requirements	Publication Instructions are required to be provided to the Department at least 3 weeks prior to the commencement of the Engagement Period. A lesser time may be agreed subject to negotiation with the Department, depending on the complexity of the Writing and Mapping Instructions. More complex proposals may require additional time.

**Note: this form applies for the purpose of Practice Direction 2 (Preparation and Amendment of Designated Instruments), and will provide written instructions (in a form acceptable to the Department) to prepare the Plan SA website for consultation on a draft Code Amendment.*