



Agenda Report for Decision

Meeting Date: 5 October 2023

Item Name	Code Amendment Determination Advice to the Minister for Planning – 107 Port Road Thebarton (Thebarton Brewery Precinct) Code Amendment
Presenters	Nadia Gencarelli, Jason Bailey
Purpose of Report	Decision
Item Number	4.1
Strategic Plan Reference	4. Discharging Statutory Obligations
Work Plan Reference	4.2 Advice the Minister on Code Amendments
Confidentiality	Not Confidential (Release Delayed). To be released following final decision by the Minister for Planning on determination of the Code Amendment.
Related Decisions	SPC Agenda Item 4.1 – Code Amendment Initiation Advice to the Minister for Planning and Local Government – 23 June 2022

Recommendation

It is recommended that the State Planning Commission (the Commission) resolves to:

1. Approve the designation of this item as Not Confidential (Release Delayed). To be released following the final decision by the Minister for Planning (the Minister) on whether or not to adopt the 107 Port Road Thebarton (Thebarton Brewery Precinct) Code Amendment (the Code Amendment).
2. Approve and authorise the Chair of the Commission to sign the advice to the Minister as provided in **Attachment 1**.
3. Approve and authorise the Chair of the Commission to make any minor editorial and technical amendments to the attachment as required.

Background

On 13 September 2022, you initiated the 107 Port Road Thebarton (Thebarton Brewery Precinct) Code Amendment (the Code Amendment) as Minister for Planning.

The Designated Entity responsible for undertaking the Code Amendment is Lion-Beer, Spirits and Wine Pty Ltd (c/- Ekistics) pursuant to section 73(2)(b)(vii) of the *Planning, Development and Infrastructure Act 2016* (the Act).

In approving initiation of the Code Amendment you specified conditions under section 73(5)(b) of the Act as outlined in **Appendix A**.

The State Planning Commission (the Commission) specified a number of stakeholders the Designated Entity must consult pursuant to section 73(6)(e) of the Act, also outlined in **Appendix A**.

These stakeholders were identified in the Engagement Plan and were directly notified of the Code Amendment.

The Commission also resolved to specify the following further investigation under section 73(6)(f) of the Act in addition to those outlined in the Proposal to Initiate:

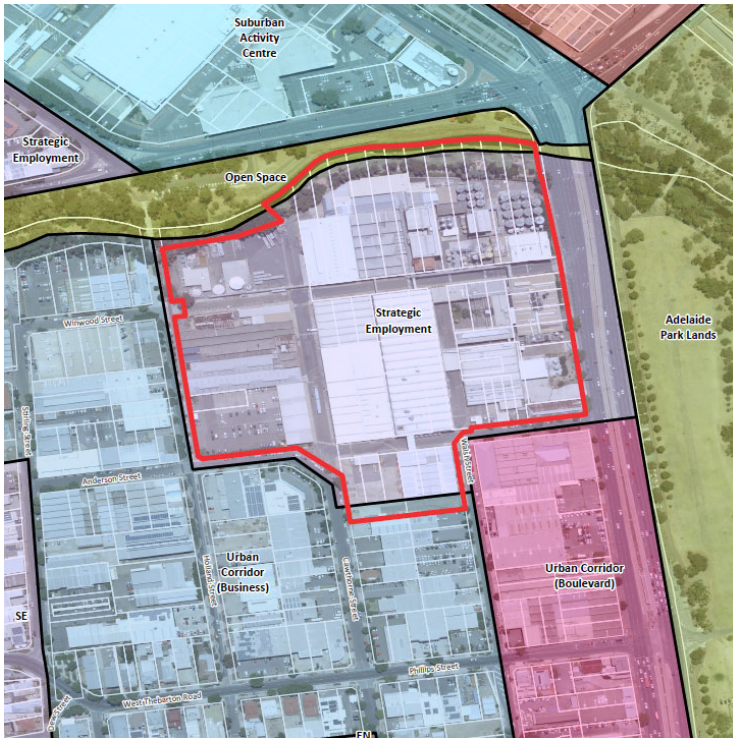
- An examination of the extent of land on the southern bank of the River Torrens / Karrawirra Parri that should be contributed to public open space to realise a highly usable and high amenity recreational linear corridor on the southern bank (noting that no land currently zoned for open space should be zoned for urban development).

On 27 September 2023, the Minister for Planning, the Hon Nick Champion MP, wrote to the Commission seeking comment on the proposed Code Amendment pursuant to section 73(10)(a) of the Act as the Minister deemed the matter to be of significance (**Appendix B**). The Engagement Report and The Amendment are provided in **Appendices C** and **D**.

The Code Amendment

The Code Amendment seeks to rezone the former Thebarton 'West End' Brewery site, comprising approximately 8.4 hectares of land, from the Strategic Employment Zone and Urban Corridor (Business) Zone to the Urban Corridor (Boulevard) Zone, and to expand the existing Open Space Zone. The affected area is located in the City of West Torrens, on Kaurna Country.

The proposed rezoning is sought to facilitate redevelopment of the site for medium- to high-rise residential development along with supportive retail and commercial uses. The brewery ceased operating in June 2021 and is currently being decommissioned. The affected area is a key strategic inner metro site with tram, walking and cycling linkages. The proposal strongly aligns to *The 30-Year Plan for Greater Adelaide – 2017 Update* which encourages medium-high density development on the edge of the Adelaide Park Lands. Figure 1 below shows the affected area and existing policy framework.



Planning and Design Code Zoning

The affected area is located within the Strategic Employment Zone, Urban Corridor (Business) Zone and the Open Space Zone.

The following Overlays apply to the land:

- Aircraft Noise Exposure – ANEF 20
- Airport Building Heights (Regulated) Overlay (All structures over 15 metres)
- Advertising Near Signalised Intersections Overlay
- Affordable Housing Overlay
- Buildings Near Airfields Overlay
- Design Overlay
- Future Road Widening Overlay
- Hazards (Flooding) Overlay
- Heritage Adjacency
- Hazards (Flooding – Evidence Required) Overlay
- Key Railway Crossings Overlay
- Local Heritage Place Overlay
- Major Urban Transport Routes Overlay
- Noise and Air Emissions Overlay
- Native Vegetation Overlay
- Prescribed Watercourses Overlay
- Prescribed Wells Area Overlay
- Regulated and Significant Tree Overlay
- State Heritage Place Overlay
- Traffic Generating Development Overlay
- Water Resources Overlay.

Land surrounding the affected area is within Urban Corridor (Business) Zone, Urban Corridor (Boulevard) Zone and the Open Space Zone.

Two minor alterations were made to the Code Amendment as a result of the engagement, discussed further below.

- Replacement of the Strategic Employment Zone and Urban Corridor (Business) Zone with the Urban Corridor (Boulevard) Zone
- Replacement of the Strategic Employment Zone with the Open Space Zone.
- Retention of the following existing Overlays (noting most of these only currently apply to a small portion of the affected area):
 - Aircraft Noise Exposure – ANEF 20
 - Advertising Near Signalised Intersections Overlay
 - Affordable Housing Overlay
 - Buildings Near Airfields Overlay
 - Design Overlay
 - Future Road Widening Overlay
 - Hazards (Flooding) Overlay
 - Heritage Adjacency
 - Hazards (Flooding – Evidence Required) Overlay
 - Key Railway Crossings Overlay
 - Local Heritage Place Overlay
 - Major Urban Transport Routes Overlay
 - Noise and Air Emissions Overlay

- Native Vegetation Overlay
- Prescribed Watercourses Overlay
- Prescribed Wells Area Overlay
- Regulated and Significant Tree Overlay
- State Heritage Place Overlay
- Traffic Generating Development Overlay
- Water Resources Overlay.
- Removal of the following Overlays:
 - Airport Building Heights (Regulated) Overlay (All structures over 15 metres)
- Application of the following Overlays:
 - Affordable Housing Overlay
 - Design Overlay
 - Noise and Air Emissions Overlay
 - Airport Building Heights (Regulated) Overlay (All structures over 25m)
 - Airport Building Heights (Regulated) Overlay (All structures over 40m)
 - Future Road Widening Overlay
- Application of the following Technical and Numeric Variations (TNV):
 - Maximum Building Height is 8 levels
 - Maximum Building height is 32.5 metres
 - Maximum Building Height is 4 levels
 - Maximum Building Height is 15 metres
 - Maximum Building Height is 3 levels
 - Maximum Building height is 12 metres
 - Minimum Primary Street Setback is 0 metres
 - Interface Height – Development should be constructed within a building envelope provided by a 30 degree plane, measured 3 metres above natural ground at the boundary of an allotment.
- Application of a new Concept Plan – Concept Plan 135 Thebarton – to show access, internal road linkages, pedestrian and cycling linkages, open space, heritage elements, interface treatments and green corridors / trees / gardens.

A map of the affected area is provided in **Appendix E**, and an extract of the Code policies are in **Appendix F**.

Engagement was undertaken from 17 February 2023 to 14 April 2023 in accordance with the Engagement Plan. Copies of the Engagement Plan and Code Amendment released for engagement are in **Appendices G** and **H**.

There were 33 submissions received, 14 of which were from agencies, councils and infrastructure providers.

Of the public submissions received, 14 supported the Code Amendment, 2 objected and 3 were neutral. All the agencies, Councils and infrastructure providers expressed general support for the proposed rezoning, with some raising matters for further investigation / resolution prior to final adoption of the Code Amendment. Key issues raised included.

- General support for the Code Amendment
- Consideration of other land uses, such as wholly commercial activity or relocation of new Women's and Children's Hospital, Aquatic Centre etc
- Cultural Heritage and Character
- Open Space, Green Corridors and Trees
- Traffic and Carparking
- Impacts on Cycling / Walking routes
- Cultural and Built Heritage
- Building setbacks along Port Road.

The Designated Entity has now lodged the Engagement Report with the Minister for Planning for a determination on whether to adopt, alter and adopt, or decline the Code Amendment pursuant to section 73(10)(c) of the Act. Further discussion of the issues raised is provided below and the Designated Entity's responses to each of these are provided in the Engagement Report (**Appendix C**).

Discussion

Key Matters Raised and Assessment

Issues raised by the City of West Torrens

The City of West Torrens (West Torrens Council), as the Council directly impacted by the Code Amendment, expressed support for the proposed rezoning. In particular, detailed comments were provided in relation to the following matters:

- Road infrastructure including future access points and road connections with concerns raised over the Transport Impact Assessment and the use of excessively low trip generation rates, particularly for the residential, retail and supermarket land uses, and the lack of a parking assessment.
- A request that consideration to the provision of a new neighbourhood or a series of local parks which provide active recreation as there is currently a lack of publicly accessible parks within and within walking distance of the affected area.
- A view that the Christmas Display and Brewery Gardens should remain inaccessible to the public in order to protect the integrity of the State Heritage listing and to protect the safety of the community (noting the steep slope of the land and flood risk associated with the gardens).
- A strong view that the State Government should acquire the river and riverbank land to ensure the long-term protection of the asset (which could then be vested into the care and control of West Torrens Council).
- A suggestion that matters raised by the Kurna Yerta Aboriginal Corporation (KYAC) could be better represented in the Code Amendment, including the identification of views/vistas on the Concept Plan, improving water quality and identifying further discussions / responsibilities.

Issues raised by the City of Adelaide (adjacent Council)

The City of Adelaide (CoA) expressed support for significant uplift and re-zoning in the inner metropolitan Council areas adjoining the CoA on the outer boundaries of the Park Lands where the re-zoning leads to developments positively contributing to the ongoing protection and enhancement of the Park Lands

CoA was of the view that development sites on the boundary of the Park Lands should not negatively impact the usage of the Park Lands or its natural environment.

It also considered that development sites on the boundary of the Park Lands should not rely solely on the Park Lands for local open space provision.

In this context, CoA requested that the Code Amendment be altered to require:

- the provision of useable local open space in the affected area
- tree planting along the Port Road frontage (and a review of the 0m setback to Port Road to facilitate this)
- safe pedestrian and cycling connections to the western Park Lands across Port Road formalised through an infrastructure deed or similar.

Issues raised by the City of Charles Sturt (adjacent Council)

The City of Charles Sturt (Charles Sturt Council) advised it is supportive of the southern bank of the river being included within the Open Space Zone and suggested that the zone boundary be extended to the west to the proposed Urban Corridor Zone boundary to add protection to trees and increase open space.

Charles Sturt Council indicated support for a shared use path connection as shown in the proposed Concept Plan with a connection bridge under Port Road to Bonython Park.

Issues raised by Agencies and Bodies

The EPA noted the Code Amendment proposes to:

- Extend the Noise and Air Emissions overlay and Aircraft Noise Exposure – ANEF 20 Overlay over the portion of the affected area to be rezoned to ‘Urban Corridor (Boulevard) Zone’.
- The major roads to the east and the north of the affected area (Port Road and Adam Street respectively) are designated as ‘Type A’ roads.

In its submission, the EPA did not raise any objections to the proposed Code Amendment. However, in noting the above points, the EPA reiterated its concerns about the policy contained within both the Noise and Air Emissions Overlay and Aircraft Noise Exposure Overlay; specifically, that it ‘constrains and limits the proportionate assessment’ of noise and air impacts.

PLUS is of the view that the EPA’s comments are not directly relevant to the Code Amendment, rather, they relate to the Code itself. The Commission has previously made a commitment to review interface policy via a targeted Code Amendment and it is therefore not considered to be in the public interest to halt this Code Amendment. Despite the EPA’s concerns, PLUS considers that there will be ample opportunity to consider the impacts of noise and air emissions as part of future development applications for the site.

With regards site contamination, the EPA noted that the Site Contamination Audit is underway and until this work has been completed, uncertainty remains about whether the site can be made suitable for the envisaged future land uses. However, appropriate mechanisms (including Code policy and other legislative triggers) are in place to ensure any outstanding matters relating to site contamination are appropriately addressed prior to the issuing of any Certificate of Occupancy.

The Department for Environment and Water (DEW) advised that it supports:

- Increasing accessible public open space and strengthening connections and linkages between the site, the Karrawirra Parri / River Torrens and the Linear Park trail.
- Inclusion of the Concept Plan which shows the provision of green corridors along new local roads and pedestrian/cycle access links.

DEW noted, however, that application of the Urban Corridor (Boulevard) Zone means that the Stormwater Management and Urban Tree Canopy Overlays do not apply. While it is not anticipated that there will be any adverse impacts to stormwater and flood management and much of the site is cleared of vegetation, ideally the Stormwater Management and Urban Tree Canopy Overlays should be applied to ensure there is no unintended discharge of stormwater into Karrawirra Parri / River Torrens and to and enhance the urban tree canopy on the site.

DEW advised support for the application of the Open Space Zone over the State Heritage listed 'Brewery Gardens' and recommended that the State Heritage listed 'Colonel Light's Cottage' also be zoned Open Space.

DEW advised that it does not support the expansion of the Native Vegetation Overlay over a small strip of land within the affected area which that is not subject to the *Native Vegetation Act 1991*.

PLUS notes that the Designated Entity has amended the draft Code Amendment to remove this expansion.

The Department for Infrastructure and Transport (DIT) indicated support for the intent of the Code Amendment, however, advised the following:

- DIT's preference is that a minimum of 5m be provided between the kerb of the road and any future building line to create a more welcoming pedestrian/roadside environment whilst still restricting car parking forward of buildings (0m proposed).
- DIT is continuing to liaise with CIRQA on a number of matters, in particular, further detail has been requested relating to the traffic assessment undertaken and will need to be resolved prior to adoption to the Code Amendment (with preference for the application of a deed or similar).
- Final access arrangements or potential infrastructure upgrades will require further traffic assessment and acceptance at the Land Division/Land Use application stage(s).
- Consideration should be given to how any final access treatment will impact on pedestrian and cycling linkages.

While acknowledging that the 0m setback along Port Road has been provided in direct response to a condition on the Initiation of the Code Amendment, PLUS concurs with DIT's view that an increased setback will assist in facilitating a safer, more activated pedestrian environment as well as providing space for the planting of trees. It is noted that CoA and West Torrens Council also sought an increased setback in this regard. The condition was originally intended to prevent the use of this frontage for carparking, and to ensure that Port Road becomes an attractive, activated streetscape.

Although the Designated Entity has complied with the condition of applying a 0m setback – and is of the view that the Road Widening Overlay and referral triggers to the Commissioner of Highways will provide opportunity to direct a greater setback at the development application stage – PLUS considers there is merit in altering the Code Amendment to require a greater setback along the Port Road frontage.

To this end, PLUS recommends that the Code Amendment be altered to change the Minimum Primary Street Setback Technical and Numeric Variation (TNV) from 0 metres to 5 metres.

Notwithstanding, PLUS is satisfied that there is an appropriate level of policy guidance contained within the Code to address traffic and parking issues, particularly through the Transport, Access and Parking, General Development Policies. Relevant policies are also contained within the 'Urban Transport Routes' and 'Traffic Generating Development' Overlays, which will be retained and which will trigger a referral to the Commissioner of Highways where necessary. Future access arrangements will also be subject to further assessment and approval during the development application process. Further discussion regarding transport matters is provided below.

Remaining government agencies and infrastructure providers, including the Department for Education, SA Tourism Commission, Epic Energy, Telstra, NBN, Green Industries SA and Adelaide Airport, raised no objections to the rezoning or otherwise had no comment.

Traffic and access

Concern was expressed over traffic and intersection congestion with Walsh Street and West Thebarton Road/Phillips Street noted as being extremely busy as well as Smith Street and Light Terrace.

Submissions also noted the need for:

- Sufficient parking provision to avoid additional street congestion.
- Protection of the existing cycling corridor along Holland Street from increased traffic.
- Improved walking and cycling connectivity through and around the site.
- Increased setbacks along Port Road (discussed further above).

PLUS has sought further comment from DIT in relation to issues relating to traffic and access associated with the site. DIT have confirmed that they have reviewed the advice provided by CIRQA (dated 31 May 2023) and is generally comfortable with the responses provided (**Appendix I**).

DIT acknowledged that the proposed rezoning and subsequent development will result in traffic queues along Phillips Street (west), however, also noted that queuing at this location currently exists and that DIT has previously indicated that upgrading of the Port Road/Phillips Street intersection may be required in the future. This location will be reviewed as redevelopment of the area progresses.

DIT also reiterated its preference for deeds / Land Management Agreements (LMA) to be put in place to establish a formal funding arrangement for both the Port Road access points and a pedestrian / cycle link under the Port Road bridge on the northern side of the affected area.

The Designated Entity considers that the traffic modelling demonstrates that the level of service within the existing road networks is satisfactory with the forecast traffic volumes, with no upgrades required as a direct result of anticipated future development. No changes to the Code Amendment have therefore been proposed.

Recognising DIT's support of the findings within the CIRQA report, PLUS is satisfied with this response and considers sufficient policy exists within the Code to ensure traffic, access and parking are appropriately addressed at the development application stage.

With regards the recommendations of DIT and CoA for deeds / LMAs to be put in place, PLUS notes that such arrangements were not a condition on the Code Amendment and as such, can be pursued following adoption of the Code Amendment if considered necessary as part of any future development application for the site. Further, with the State Government's recent announcement that development of the site will be overseen by Renewal SA, PLUS is confident due consideration to access requirements and funding mechanisms will occur as part of the master planning process.

Heritage and Character

The KYAC led a site walkover with the Designated Entity prior to the release of the Code Amendment for engagement. The walkover highlighted the significance of the Karrowirra Parri / River Torrens to the Kaurna People, and the likelihood of artifacts and/or objects to be located within close proximity to the river. In addition, numerous opportunities for the site were discussed, including:

- Opportunities to provide greater accessibility to the land, including the creating vistas and visibility of the river
- Incorporating Kaurna or Aboriginal urban design opportunities
- Improving the natural environment and water quality of the river and its embankment
- Considering dual naming options.

Whilst many of these matters are not directly related to the rezoning process itself, consideration can be given to such opportunities as part of the master planning for the site which is being led by Renewal SA. The Designated Entity considers that the identification of pedestrian/cycle linkages along the embankment, and the identification of open space buffers, will assist in achieving the desire for increased public access and views to the river. In addition, policies within the Code seek to promote water sensitive design which will assist in improving the water quality of the river.

With regards to European heritage, several submissions sought protection and accessibility to the footings of Colonel Light's cottage, and protection of the Brewery Gardens. Some concern was also raised about the potential impact of multi-storey buildings on existing State / Local Heritage Places and nearby Holland Street, particularly overlooking and overshadowing.

It is noted that the Concept Plan proposed by the Code Amendment identifies all Heritage Places for protection, and Code Policy (State Heritage Place and Local Heritage Place Overlays, respectively) encourage the protection and adaptive reuse of heritage buildings. Importantly, Heritage SA (within DEW) agreed with the findings of the Heritage Impact Statement supporting the Code Amendment in that it is considered unlikely increased building heights will impact the State Heritage Places, and that appropriate policy (and referral triggers) exist in the Code to ensure that design solutions for development seek to protect the integrity of heritage places.

Amenity and Open Space

Broad support was provided for development of the linear park with public access assured to open space along the riverbank including a linkage from the site to the Adelaide Park Lands via an underpass beneath Hindmarsh Bridge.

Many of the submissions raised open space provision and noted:

- The need to provide appropriate green/open space and extend the linear park, ensuring more trees are provided and native biodiversity corridors connect to the River Torrens.
- The lack of useable green space in the area and connectivity including into the parklands and the need to ensure the brewery gardens do not contribute to minimum legislative requirements for greenspace.
- The need to recognise the importance of addressing the issue of heat associated with additional buildings.

Several submissions called for development abutting the river to be considered as part of a larger 'riverbank precinct' placed in Council or Government control/management to safeguard against any threat of development.

The Designated Entity has advised that landscape buffers, trees for retention and the heritage-listed gardens are identified on the Concept Plan. The Designated Entity has not specifically identified areas of public open space (aside from the riverbank) on the Concept Plan as it is considered that this will be subject to a detailed master planning process (which will now be overseen by Renewal SA). Further, with the requirement to deliver up to 12.5 percent as part of any land division for 20 or more allotments, it is considered sufficient mechanisms are in place to deliver appropriate public open space within the affected area.

With regards environmental and climate change considerations, the Designated Entity notes that the former Brewery development comprised a highly imperviable environment with little opportunity

for tree planting and landscaping. Through the redevelopment of the site, significant opportunities exist to increase tree canopy across the affected area, as well as increase permeable surfaces and introduce WSUD principles. PLUS concurs that sufficient policy exists in the Code to address these matters.

Land Use

A small number of submissions suggested that the affected area should be used for the new Women's and Children's Hospital, Police Barracks and the Adelaide Crows Headquarters. It is noted that the proposed zoning does not preclude such uses from being considered in future (performance assessed development), and no changes to the Code Amendment are considered necessary.

Conclusion – Policy

The Code Amendment will facilitate the redevelopment of a former industrial site and deliver a significant residential and mixed-use infill community. PLUS is satisfied that matters raised through engagement have been appropriately addressed, however, recommends that the Code Amendment be altered to introduce a minimum setback of 5m to allow appropriate space for the delivery of safe pedestrian spaces and tree planting (particularly along Port Road). A copy of The Amendment (altered to reflect PLUS' recommendations) is contained in **Appendix D**.

Engagement Evaluation against the Community Engagement Charter

Review by the Designated Entity

An evaluation of the engagement process was undertaken by the Designated Entity to ensure the principles of the Community Engagement Charter (the Charter) were met. Details of this work are outlined in the Engagement Report (**Appendix C**). The effectiveness of the engagement was measured via a post-engagement survey sent those who provided comments as part of the engagement process, however, no responses were received. A further evaluation of the engagement was undertaken by Planning Futures on behalf of the Designated Entity, on which 3 respondents provided feedback indicating that most agreed or strongly agreed with the evaluation statements.

The survey results indicated that the engagement process was genuine and inclusive, and respondents were generally satisfied. The strongest result identified that adequate opportunity to be heard was given, while the weakest statement concerned confidence that views were heard.

Review by PLUS

A review of the engagement process was undertaken by Jensen Plus on behalf of PLUS to determine if the principles of the Charter were met. Jensen Plus determined that overall the level of engagement, including accessibility to information, variety of engagement materials and methods and timeframe provided a genuine attempt to reach as many stakeholders and community members as possible and allowed people to be well-informed with adequate time to share their views. Jensen Plus determined that the engagement satisfied the requirements of the Charter, *Practice Direction 2 – Preparation and Amendments to Designated Instruments*, and the Act.

Jensen Plus noted that although the Designated Entity did an adequate job in summarising the engagement outcomes and providing feedback, that the Engagement Report could have been improved by making it clearer about any changes made in response to feedback received. This feedback will be provided informally to the Designated Entity.

However, it was noted that no community evaluation responses were received in response to the initial evaluation survey, and as such it is not possible to determine the community sentiment. It

was suggested that this could have been overcome by providing an engagement feedback survey at the drop-in sessions. However, it was noted that the lack of completed evaluation surveys, together with the general support expressed in public submissions, could indicate a positive sentiment towards the engagement process.

A copy of the Engagement Evaluation is provided in **Appendix J**.

Next steps

Having consideration to the advice of the Commission in relation to the Code Amendment, the Minister may either:

- Adopt the Code Amendment.
- Make alterations and proceed to adopt the Code Amendment as altered.
- Divide the Code Amendment into separate parts and then proceed to adopt one or more of those parts.
- Determine that the matter should not proceed.

Within five business days after the Minister's decision, the following will be published on the SA Planning Portal:

- the Engagement Report
- a signed copy of the Amendment (if adopted).

The Code Amendment takes effect when it is published on the SA Planning Portal (unless the Minister specifies a later date).

Within 28 days after the Amendment takes effect, the Amendment must be referred to the Environment, Resources and Development Committee (ERDC) of the Parliament of South Australia for consideration in accordance with section 74(2) of the Act. Pursuant to section 74(3) of the Act, this referral must be accompanied by a further report from the Commission. The Minister will request the Commission provide this report to send to the ERDC. The ERDC may then resolve that it does not object, suggest amendments, or object the Amendment.

Advice to the Minister

PLUS is supportive of the Code Amendment but recommends alteration to the minimum setback TNV to enable greater space for the delivery of pedestrian-safe walkways and tree planting. A further minor technical alteration is also recommended to apply the Interface Height TNV (Development should be constructed within a building envelope provided by a 45 degree plane, measured 3m above natural ground at the boundary of an allotment) over the affected area. This was an omission from the Code Amendment and will not affect policy outcomes and is required only to ensure technical functionality of the Code. PLUS will coordinate this alteration through the final determination package to the Minister; the suggested wording is contained in the draft Amendment.

Draft advice to the Minister is provided in **Attachment 1** for consideration.

Attachments:

1. Draft advice to the Minister for Planning (#20699137)

Appendices:

- A. Letter to the Designated Entity regarding initiation of the Code Amendment (#19265194)
- B. Letter from the Minister to the Commission seeking comments (#20708782)
- C. The Engagement Report (#20706577)
- D. The Amendment – 107 Port Road, Thebarton (Thebarton Brewery Precinct) Code Amendment with alterations as recommended by PLUS (#20589224)
- E. Map of the affected area (#18658845)
- F. Extract of Planning and Design Code Policies (#20706589)
- G. Draft 107 Port Road Thebarton (Thebarton Brewery Precinct) Code Amendment as released for Engagement (#20706593)
- H. Engagement Plan (#19811233)
- I. Email from the Department for Infrastructure and Transport confirming position (#20699461)
- J. Engagement Evaluation Report by Jensen Plus (#20646431)

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Endorsed by: Brett Steiner

Date: 29/09/2023

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6 October 2023

Hon Nick Champion MP
Minister for Planning

By email: DTI.ChampionMinisterials@sa.gov.au

Dear Minister

Proposed 107 Port Road Thebarton (Thebarton Brewery Precinct) Code Amendment

Thank you for your letter seeking advice from the State Planning Commission (the Commission) regarding the 107 Port Road Thebarton (Thebarton Brewery) Code Amendment (the Code Amendment) under section 73(10)(a) of the *Planning, Development and Infrastructure Act 2016* (the Act).

The Commission notes that the proposed Code Amendment offers a unique opportunity to deliver the redevelopment of a prime inner metropolitan location, with a landmark, high-density, mixed-use infill development.

It is noted that the majority of the submissions made on the Code Amendment were in support of the proposed rezoning, with key matters raised including:

- Cultural Heritage and Character
- Open Space, Green Corridors and Trees
- Traffic and Carparking
- Impacts on Cycling / Walking routes
- Cultural and Built Heritage
- Building setbacks along Port Road.

In summary, the Commission has considered the Engagement Report, Engagement Plan, draft Code Amendment Report and other relevant material provided by the Designated Entity and is satisfied that the Code Amendment, together with the proposed Concept Plan, General Planning and Design Code policies and Overlays, is appropriate.

However, the Commission notes that submissions from the Department for Infrastructure and Transport, the City of West Torrens and the City of Adelaide requested alterations to the Code Amendment to increase the minimum primary street setback from 0 metres to 5 metres, particularly along the Port Road Frontage.

While acknowledging that the 0 metre setback along Port Road has been provided in direct response to a condition on the Initiation of the Code Amendment, the Commission concurs with the view expressed in submissions that an increased setback will assist in facilitating a safer, more activated pedestrian environment. This would facilitate improved pedestrian connections between the site and the River Torrens Linear Park, the Adelaide Parklands and tram network, as well as providing space for the planting of trees and landscaping.

The Commission's recommended condition was originally intended to prevent the use of this frontage for carparking, and to ensure that Port Road becomes an attractive, activated streetscape.

Although the Designated Entity has complied with the condition of applying a 0m setback – and is of the view that the Road Widening Overlay and referral triggers to the Commissioner of Highways will provide opportunity to direct a greater setback at the development application stage – the Commission considers there is merit in altering the Code Amendment to provide flexibility regarding setbacks along the Port Road frontage.

The Commission recognises that a greater setback would improve the pedestrian environment and that policies within the Urban Corridor (Boulevard) Zone will encourage generous open space and landscaping and prevent at-grade carparking along the Port Road frontage.

To this end, the Commission recommends that the Code Amendment be altered to remove the Minimum Primary Street Setback Technical and Numeric Variation (TNV) – 0 metres. Instead, it is recommended that the Concept Plan be amended to show activated street frontages with the setback to be confirmed via the master planning process. This will ensure that the setbacks can be responsive to master planning and design for the site (and broader precinct), whilst responding to the desire to create more space for amenity / connectivity outcomes.

Planning and Land Use Services will provide you with an updated copy of the Code Amendment containing the recommended alterations under separate cover for your consideration.

The Commission confirms that the Designated Entity has suitably addressed issues raised during engagement, and that all statutory requirements specified under the Act have been met.

The Commission is also satisfied that the engagement undertaken on the Code Amendment is compliant with the Community Engagement Charter. On this basis, I confirm the Code Amendment is in a form suitable for adoption with alterations as outlined above.

It is now open to you, to adopt, adopt with alterations or refuse the Code Amendment.
Should you wish to discuss further I would be pleased to meet with you.

Yours sincerely

A handwritten signature in black ink, consisting of a stylized 'C' followed by a long horizontal stroke that curves upwards at the end.

Craig Holden
Chair