



MINUTE

TO: MINISTER FOR PLANNING AND LOCAL GOVERNMENT

**RE: PLANNING AND DESIGN CODE AMENDMENT FOR PHASE THREE (URBAN AREAS)
ENGAGEMENT REPORT AND FINALISATION**

PURPOSE

To provide you with:

- the *Phase Three (Urban Areas) Planning and Design Code Amendment Engagement Report* (the Engagement Report) pursuant to section 73(7) of the *Planning, Development and Infrastructure Act 2016* (the Act);
- the Planning and Design Code (the Code) in digital format that incorporates the Phase Three (Urban Areas) Planning and Design Code Amendment (the Phase Three Amendment) as it is recommended to be adopted under s73(10)(c) of the Act;
- the *Certificate of Spatial Layers Contained in the Phase Three (Urban Areas) Planning and Design Code Amendment* endorsed by the Surveyor-General as an accurate and correct record of the spatial layers that may be adopted and form the spatial component of the Phase Three Amendment; and
- advice from the Commission outlining the steps available to you in finalising the adoption and implementation of the Phase Three Amendment.

BACKGROUND

The Phase Three (Urban Areas) Planning and Design Code Amendment (the Phase Three Amendment), while referred to as an amendment, is proposed to replace the current operative Planning and Design Code (the Code), and will introduce the Code to urban council areas for the first time, replacing development plans.

Phase One of the Code was brought into effect by the former Minister for Planning for areas outside of councils in South Australia on 1 July 2019. This was followed by the adoption of the Phase Two (Rural Areas) Planning and Design Code Amendment (Phase Two Amendment), which became operational in rural councils and townships (other than Kangaroo Island and Copper Coast) on 31 July 2020.

In between the introduction of Phase One and Phase Two of the Code, an ePlanning platform was introduced enabling the spatial boundaries of zones, subzones and overlays of the Code to be applied electronically to the relevant parts of the state, and for the relevant planning rules to be delivered electronically depending on the location and type of development proposed.

Pursuant to section 73(2) of the Act, on 16 August 2019 the State Planning Commission (the Commission) initiated the Phase Three Amendment to also apply the Code to all urban councils and rural cities in the state.

In accordance with the principles of the Community Engagement Charter, pursuant to section 73(6) of the Act, the proposed Phase Three Amendment was released for a five-month period of public

consultation from 1 October 2019 to 28 February 2020. In response to the feedback received, the Phase Three Amendment was updated and released for a subsequent round of consultation; first for a period of testing and validation with council planning staff between 2 and 23 October 2020, and then to the wider public via the ePlanning platform for a six-week period between 4 November 2020 and 18 December 2020.

Pursuant to the requirements prescribed in section 73(7) of the Act and in the Commission's *Practice Direction 2 – Preparation and Amendment of Designated Instruments*, the Commission has prepared an Engagement Report for consideration by the Minister for Planning and Local Government (the Minister) in adopting the Phase Three Amendment (**Attachment 1**).

The Engagement Report summarises the key engagement and consultation activities undertaken during the public consultation processes, the feedback received during each consultation period, followed by the Commission's recommended technical and policy improvements and amendments to the Code's spatial layers in response to the feedback received.

On 5 February 2021, the Commission provided you with an advanced copy of its draft Engagement Report to assist in your review of the updated Phase Three Amendment. At this time, the recommendations within the Engagement Report were uploaded into an updated version of the online Code.

DISCUSSION

Quality Assurance Process

Since the Commission provided you with an advanced copy of its draft Engagement Report, the updated Phase Three Amendment subsequently underwent a two-week period of testing and validation in the ePlanning platform to ensure all of the resulting policy changes, linkages and spatial applications were correct and verified. A summary of the Quality Assurance process is detailed in the *Phase 3 Code Quality Assurance – Summary Report* in **Attachment 2**.

For the most part, this period identified only minor technical errors that required correction, as well as several other amendments to improve policy and ensure consistency between the Engagement Report and Phase Three Amendment, including:

Changes to the Phase Three Amendment and Engagement Report

- Amend the Gas and Liquid Petroleum Pipelines (Facilities) Overlay to ensure a dwelling or ancillary building/structure on an allotment approved for residential purposes satisfies the overlay assessment provisions and does not require referral
- Create new policy in City zones regarding public realm design
- Amend Aircraft Noise Exposure Overlay to increase the ANEF value from 25 to 30, to align with updated Ministerial Building Standard
- Limit ancillary accommodation to 60m² floor area in the Rural Neighbourhood Zone and Neighbourhood Zone, to align with other zones
- Prescribe works which will comprise development in relation to a Local Heritage Place
- Insert text on Concept Plan for Calvary Hospital
- Amend the City Living Zone to envisage expansion of existing hospital facilities within the site
- Amend (City of Adelaide) North Adelaide Hill Street Historic Area Statement Adel1 to acknowledge "Institutions are part of the historic fabric of North Adelaide"
- Create definitions 'more sensitive use', 'class 1 activity' and 'class 2 activity' to support EPA referral and site contamination policy

Changes to the Engagement Report (to align with the Phase Three Amendment)

- Add general recommendation regarding application of new Hazards (Flooding - Evidence Required) Overlay
- Add general recommendation to remove heritage overlays and representative buildings where such buildings have been demolished
- Add content regarding changes to bushfire overlays in response to Country Fire Service recommendations
- Add content regarding changes to notification regarding the Employment Zone, building height on Catalyst sites, and animal keeping in the Rural Living Zone
- Add content regarding differentiation between dwelling types for minimum site area and frontage criteria in the Hills Neighbourhood Zone
- Add content regarding additional policy in the Employment Zone and Strategic Employment Zone to seek bulky good outlets and standalone shops located to provide convenient access, with a frontage to a State Maintained Road
- Add content regarding amendment to Roadside Service Centre policy
- Add content regarding additional policy in Design in Urban Areas General Development Policies on the design of abutting/attached dwellings, lightwells, and internal structural columns

The *Phase 3 Code Quality Assurance – Summary Report* in **Attachment 2** has been provided to the Planning Reform Steering Committee (SteerCo) regarding the procedural steps taken to ensure that the agreed policy provisions are included in the Code and the adequacy of the final form of the ePlanning system. SteerCo has provided a letter in **Attachment 3** recommending that the Phase Three Amendment be endorsed noting the procedures followed to ensure accuracy, traceability, completeness and integration.

The Commission is assured of the quality and accuracy of the Phase Three Amendment by SteerCo.

The Commission has developed a comprehensive Engagement Report which responds to engagement feedback on the Phase Three Amendment and is of the view that it appropriately responds to the feedback received.

Engagement Report

By Circular Resolution dated 2 March 2021, the Commission approved the Engagement Report (**Attachment 1**) and now furnishes you with a copy for your consideration in adopting the Phase Three Amendment pursuant to Section 73(10) of the Act.

If you agree with the recommendations and alterations to the Code detailed in the Engagement Report, you may proceed to adopt the Phase Three Amendment contained in <https://uat.code.plan.sa.gov.au/> under section 73(10)(c) of the Act.

Finalised Code and Electronic Databases and Files

The Phase Three Amendment accessed at <https://uat.code.plan.sa.gov.au/> has been locked, as at the date of this Minute, and is not able to be edited. This version is the policy that the Commission recommends be adopted by you as Minister at this juncture.

Accuracy of Spatial Information

The spatial boundaries of zones, subzones and overlays in the Phase Three Amendment are applied electronically to the relevant parts of the State. This feature operates through data that is housed in multiple databases and electronic files, and this platform has been developed to produce data that

accurately shows the spatial application of the policies, rules and other relevant information within the Code, combining textual information with spatial information in a secure and reliable way. This feature is a key part of the SA Planning Database under section 49 of the Act.

The result is that you are able to view the entirety of the Code's spatial layers, and to see its application to the relevant parts of the State, as you think fit (either through viewing an electronic version of the Code, or downloading the textual part of the Code as a complete document and generating maps of any specified location or area) in order to be satisfied as to the application and operation of the Code.

The status of the SA Planning Database is supported by any standards or specifications established by the Commission under section 51(2) of the Act and, importantly, section 52 of the Act supports the electronic publication of statutory instruments, including the Code.

The Commission has published on the SA Planning Portal a Standard to identify and manage the spatial information contained in the SA Planning Database as well as to clearly articulate the key stages in managing the development and approval of the data included in the spatial component of a Code amendment.

Pursuant to the Standard, prior to submitting any version of spatial layer to the Minister for approval as a Code amendment, the version should be checked for compliance with the Standard and certified as accurate by the Surveyor-General or his or her delegate.

The purpose of this certificate is for the Surveyor-General to provide assurance to the Commission and you as Minister that he (or his delegate) has reviewed and confirmed the accuracy of the spatial component of the Code Amendment. This is not a requirement of the Act, but an internal process to give added confidence in adopting the spatial elements of a Code amendment.

Pursuant to the Standard, on 3 March 2021 the Surveyor-General reviewed the versions of each spatial layer (zones, subzones and overlays) contained in the Phase Three Amendment and:

- a) Checked that the spatial layers comply with the Standard; and
- b) Certified the spatial layers as accurate.

The *Certificate of Spatial Layers Contained in the Phase Three (Urban Areas) Planning and Design Code Amendment* endorsed by the Surveyor-General (the Endorsed Spatial Certificate) is contained in **Attachment 4**.

In accordance with the Standard, final versions of spatial layers adopted by any Code amendment under the Act are to be made available in a read-only view to the public on the SA Planning Portal.

Next steps in the implementation of the Planning and Design Code Phase Three (Urban Areas) Amendment

Adoption of the Amendment

Having received the Commission's Engagement Report which satisfies section 73(7) of the Act, along with the Endorsed Spatial Certificate, under section 73(10)(a) of the Act, you may:

- adopt the Phase Three Amendment as recommended in the Engagement Report under section 73(10)(c) of the Act;
- make alterations to what is outlined in the Engagement Report in accordance with the Validation Process Advice Report and then proceed to adopt the Phase Three Amendment as altered under section 73(10)(d) of the Act;

- divide the Phase Three Amendment into separate parts and proceed to adopt one or more of those parts under section 73(10)(e) of the Act; or
- determine that the Phase Three Amendment should not proceed under section 73(10)(f) of the Act.

You may also consult with the Commission if you think that the matter is significant before proceeding to any of the above under section s 73(10)(a).

Pursuant to section 73(11) of the Act, within five (5) business days of making a decision to adopt, amend or not proceed with the Phase Three Amendment, you must cause to be published on the SA Planning Portal a copy of the Commission's final advice – this minute, the Engagement Report (**Attachment 1**), the Testing and Validation Report (**Attachment 2**), the letter from the Steering Committee (**Attachment 3**) and the Endorsed Spatial Certificate (**Attachment 4**).

Pursuant to section 73(12)(b) of the Act, should you choose to adopt the Phase Three Amendment (with or without alterations), it will not come into effect until it is published on the SA Planning Portal. Section 73(12)(c) allows you to specify that the Phase Three Amendment be given effect on a later date to the date of publication on the SA Planning Portal.

Pursuant to section 74(2) of the Act, within 28 days of the Phase Three Amendment taking effect, you must refer it to the Environment, Resources and Development Committee of the Parliament (ERDC) for review. This referral must be accompanied by a report prepared by the Commission that sets out:

- the reason for the Phase Three Amendment;
- information about the consultation that was undertaken in the preparation of the Phase Three Amendment; and
- any other material considered relevant by the Commission.

Should you choose to adopt the Phase Three Amendment, with or without alterations, the Commission would be pleased to refer it to the ERDC, along with the Engagement Report, within the statutory timeframe and ensure that the report required by the Act is provided to the ERDC.

Revocation of affected development plans

Pursuant to Schedule 8, clause 9(7) of the Act, on the same day as the Phase Three Amendment takes effect (is published), or some other time, you may publish a notice in the State Government Gazette revoking all Development Plans that will no longer be required or appropriate for the purposes of the Act.

A notice to that effect has been prepared on your behalf by the Department and will be provided to you by way of a separate Minute.

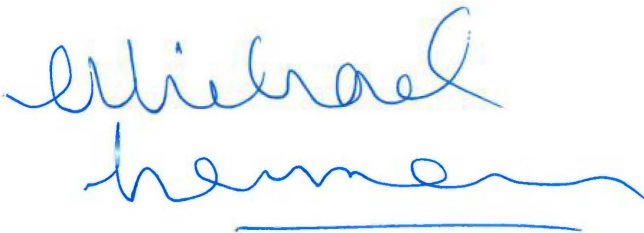
Please note this notice includes the revocation of Development Plans for both the District Council of Copper Coast Council and Kangaroo Island Council, which were withheld from being revoked when the Phase Two Code Amendment (Rural Areas) came into effect due to concerns that both council areas were not ready for the implementation of the Code at that time. The community within those council areas were engaged with the public consultation process on the draft Phase Two and Phase Three Amendments.

RECOMMENDATIONS

1. Note receipt of the *Planning Reform Program - Phase 3 Code Quality Assurance – Summary Report* and letter from the Steering Committee dated 24 February 2021. NOTED / NOT NOTED
2. Note receipt of the Phase Three (Urban Areas) Planning and Design Code Amendment as recommended in the State Planning Commission's *Phase Three (Urban Areas) Planning and Design Code Amendment Engagement Report*. NOTED / NOT NOTED
3. Adopt the Phase Three (Urban Areas) Planning and Design Code Amendment, as endorsed by the Commission, pursuant to section 73(10)(c) of the *Planning, Development and Infrastructure Act 2016*. For the purposes of this decision you will be accessing the amendment at <https://uat.code.plan.sa.gov.au/>. ADOPT / DO NOT ADOPT
4. Note the Department will publish the following documents on the SA Planning Portal on your behalf under section 73(11) within 5 business days after you take action under section 73(10) of the Act: NOTED / NOT NOTED
 - This minute
 - Phase Three (Urban Areas) Planning and Design Code Amendment Engagement Report
 - the Endorsed Spatial Certificate
 - Testing and Validation Report
 - Letter from the Steering Committee.
5. Note that, should you decide to adopt the Phase Three (Urban Areas) Planning and Design Code Amendment pursuant to section 73(10)(c) of the *Planning, Development and Infrastructure Act 2016*, the following steps are required to be undertaken: NOTED / NOT NOTED
 - a) Pursuant to section 73(11) of the Act, within five (5) business days of making a decision to adopt the Phase Three Amendment, you must cause to be published a copy of the Engagement Report on the SA Planning Portal;
 - b) Pursuant to section 73(12)(b) of the Act, your adoption of the Phase Three Amendment will not come into effect until it is published on the SA Planning Portal on 19 March 2021;
 - c) Pursuant to Schedule 8, clause 9(7) of the Act, on the same day as the Phase Three Amendment takes effect (is published), you may publish a notice in the State Government Gazette revoking all Development Plans that will no longer required or appropriate for the purposes of the Act;

- d) Pursuant to section 74(2) of the Act, within 28 days of the Phase Three Amendment taking effect, you must refer it to the Environment, Resources and Development Committee for review. It must be accompanied by a report from the Commission under section 74(3).
6. Note that should you choose to adopt the Phase Three (Urban Areas) Planning and Design Code Amendment with or without alterations, the Commission would be pleased to refer it, and the necessary supporting documents, to the Environment, Resources and Development Committee, along with the Engagement Report, within the statutory timeframe (28 days from the Phase Three Amendment taking effect). NOTED / NOT NOTED
7. Note that a State Government Gazette notice has been prepared by the Department on your behalf to revoke all Development Plans that will no longer be required or appropriate for the purposes of the *Planning, Development and Infrastructure Act 2016* once the Phase Three (Urban Areas) Planning and Design Code Amendment comes into effect. NOTED / NOT NOTED

VICKIE CHAPMAN MP



Michael Lennon
Chair
State Planning Commission

4 March 2021

ATTACHMENTS:

1. *Phase Three (Urban Areas) Planning and Design Code Amendment Engagement Report*
2. *Planning Reform Program - Phase 3 Code Quality Assurance – Summary Report*
3. Letter from the Steering Committee dated 24 February 2021
4. *Certificate of Spatial Layers Contained in the Phase Three (Urban Areas) Planning and Design Code Amendment* endorsed by the Surveyor-General

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