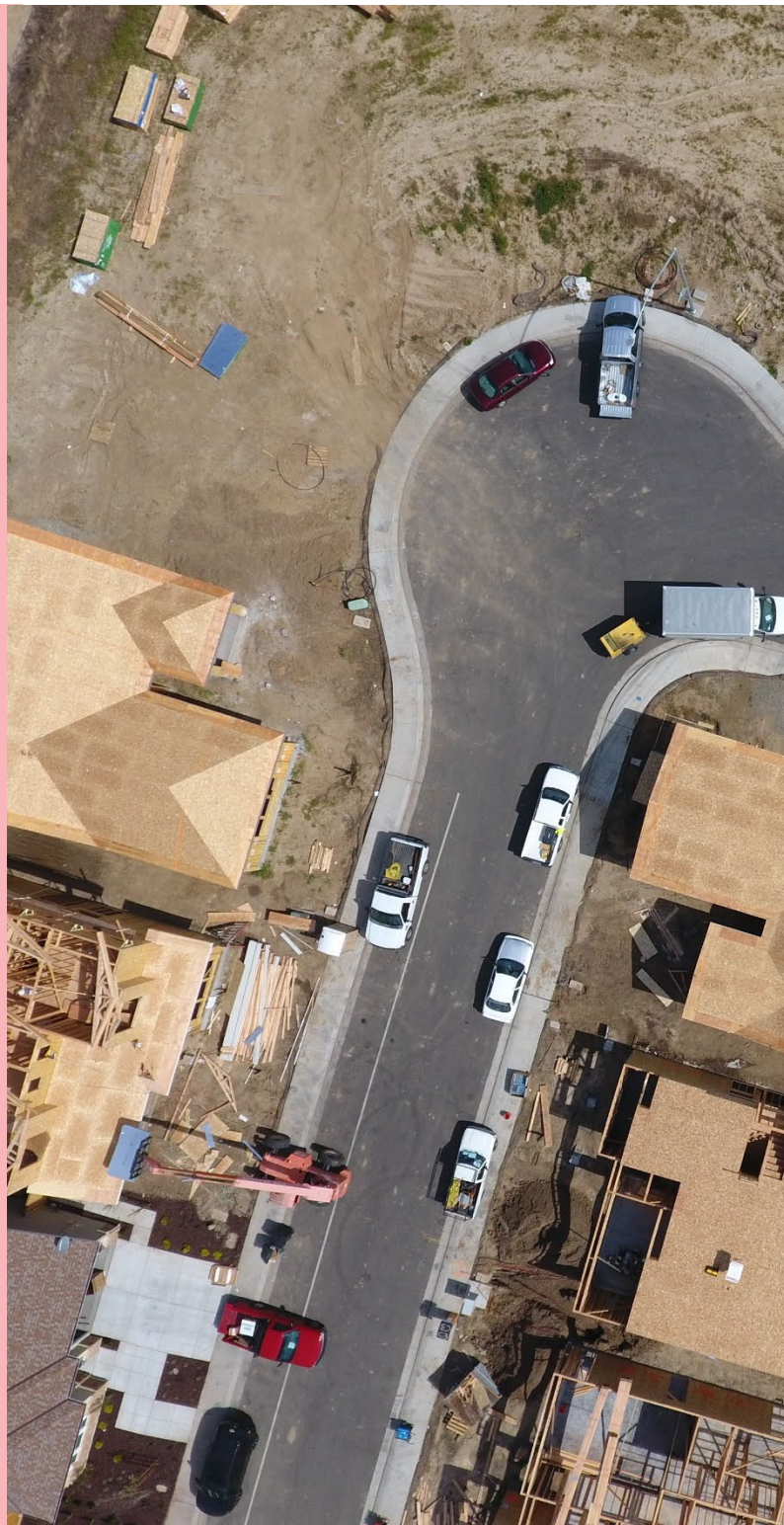


# Planning and Design Code Amendment Toolkit

Version 2.1 (November 2024)



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## Glossary of terms

In this information guideline, unless the contrary intention appears –

**Act** means the *Planning, Development and Infrastructure Act 2016*

**affected area** means an area of land to which a proposed code amendment applies

**CE** means the Chief Executive of the Department for Housing and Urban Development

**charter** means the Community Engagement Charter

**code** means the Planning and Design Code: [Code.plan.sa.gov.au](http://Code.plan.sa.gov.au).

**code amendment** means an amendment to the Planning and Design Code

**Commission** means the State Planning Commission

**department** means the department of the Minister responsible for the administration of the Act.

**designated instrument** means the instruments set out in section 70 of the Act

**designated entity** means a person or entity authorised or approved to prepare a draft of a proposal to prepare or amend a designated instrument under section 73 of the Act

**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

**ERDC** means the Environment, Resources and Development Committee of Parliament

**scheme coordinator** means someone responsible for preparing, developing and implementing infrastructure schemes initiated by the Minister

**Minister** means the Minister for Planning

**proponent** means the Chief Executive of the department, another agency or instrumentality of the Crown, a joint planning board, a council, a provider of essential infrastructure, a scheme coordinator or a person who has an interest in land, as listed in section 73(2)(b) of the Act.

**Proposal to Initiate** means the document prepared for the purpose of initiating a code amendment to the code

**private proponent** means a person who has an interest in the land, as listed in section 73(2)(b) (vii) of the Act. This includes landowners and developers with a legal interest in the land

**PlanSA portal** means the SA planning portal: [plan.sa.gov.au](http://plan.sa.gov.au)

## Introduction

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

This toolkit should be used alongside the following:

- The [Community Engagement Charter toolkit](#), that includes templates and outlines the statutory obligations for engagement on Code Amendments; and
- The [Guide to the Planning and Design Code](#) that provides an overview of the code’s structure and content.

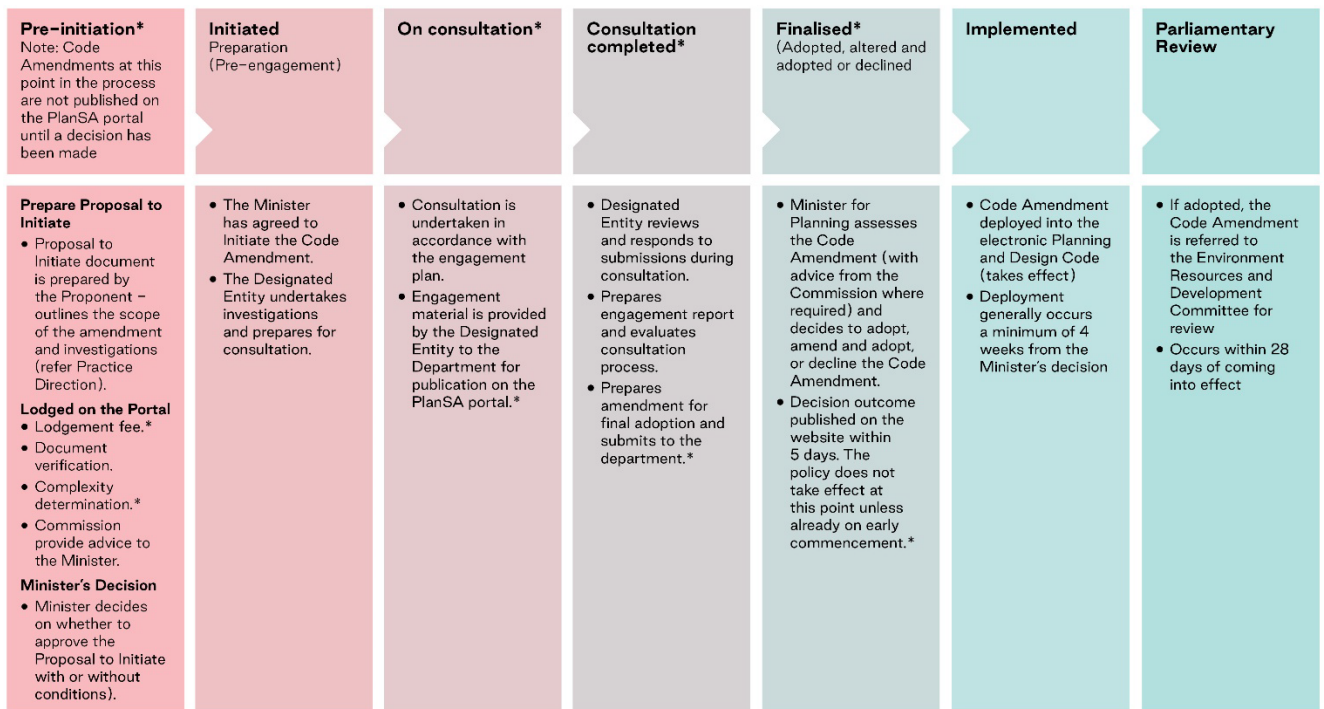
All the guides and templates referenced in the toolkit are available online through the PlanSA portal: [plan.sa.gov.au](http://plan.sa.gov.au)

## Code amendment process

The code amendment process includes several steps which must be taken before any changes to zoning or policy can be implemented.

The steps in the process for proponents undertaking a code amendment are shown in summary in the code amendment process flowchart in **Figure 1**.

**Figure 1: Code amendment process flowchart**



\*Fees may be required

Note: Figure 1 is a guide only and depending on conditions of initiation and whether early commencement applies, additional steps may be required.



## Who can initiate a code amendment?

The following people and entities can seek the Minister for Planning's (the Minister) approval to initiate a code amendment including:

- the Chief Executive (CE) of the Department for Housing and Urban Development (the department)
- an agency or instrumentality of the Crown
- a council
- a joint planning board
- a provider of essential infrastructure
- a scheme coordinator
- 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).

The State Planning Commission (the Commission) can also lead a code amendment at the Minister's request or acting on its own initiative. The Commission does not require the Minister's approval to initiate this process.

Once a code amendment has been initiated, the person or entity responsible for leading the code amendment is referred to as the **designated entity**.

## Landowner or developer (private proponent)

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 landowner 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 council undertake the code amendment

- The council will have its own policies regarding how it considers individual requests for re-zonings. 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. Prepare the code amendment themselves

- When submitting a Proposal to Initiate, the proponent should indicate who will be undertaking the code amendment and their relevant qualifications, however, the Minister will ultimately decide who prepares the code amendment at the initiation phase.

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.

## Fees for code amendments

Fees apply and cover the administrative costs of processing amendments. These are set out under the [Planning, Development and Infrastructure \(Fees\) Notice](#).

The overarching principle underpinning the processing fees is that of “user pays” to recognise the substantial commercial benefits that may be achieved by a proponent seeking a code amendment that increases the value of their land.

There are three private proponent code amendment complexity streams – simple, moderate, and complex. The total code amendment fee increases relative to the complexity of the proposal. These costs have been determined based on the actual work effort of the department in processing and assessing private proponent led code amendments. For council led code amendments, fees may apply if a landowner or developer has funded the code amendment.

Proponents can refer to the *Chief Executive’s Policy – Service Standards and Code Amendment Fees* for detailed information on how the complexity of a code amendment is assessed.

No processing fees will be charged where a council or state agency initiates a code amendment that will result in a community benefit (e.g. a code amendment recognising a new heritage listing).

## Things to consider before submitting a proposal

Before preparing a proposal to amend the code, the following matters should be considered:

<p>Is a code amendment required?</p>	<p>Could a development application achieve the intended development outcome? Discussions with the relevant authority are recommended to determine an appropriate development pathway.</p> <p>Is the amendment required to correct an error or undertake a minor/operational change? Members of the public can lodge requests for amendments to the code to be included within the regular code maintenance schedule by visiting <a href="#">Request a change to the code</a> on the PlanSA portal.</p>
<p>Is the proposal consistent with strategic documents?</p>	<p>Strategic documents include:</p> <ul style="list-style-type: none"> <li>• state planning policies</li> <li>• regional plans</li> <li>• council strategic documents.</li> </ul>

	<p>The state planning policies set out a framework for land use in South Australia to improve the liveability, sustainability and prosperity of the state. Further information can be found on the PlanSA portal.</p>
<p>Is the proposal seeking to re-zone land, change a Technical Numerical Variation (TNV) or alter the spatial application of Overlays?</p>	<p>Subject to appropriate justification, investigations and adherence to the code drafting principles, most proponents can seek to initiate these changes.</p>
<p>Is the proposal seeking to change existing policy or create new Overlays, Zones, Subzones or TNV capabilities?</p>	<p>Given the state-wide nature of the code, limited proponents are able to undertake such amendments. If a change of this nature is being sought, consideration should be given to seeking agreement from a council or government agency to lead a code amendment.</p>
<p>What constraints are associated with the land that require resolution, or need investigation?</p>	<p>This could include:</p> <ul style="list-style-type: none"> <li>• traffic and access arrangements</li> <li>• infrastructure capacity, upgrade requirements and funding mechanisms</li> <li>• site contamination</li> <li>• native vegetation or biodiversity</li> <li>• hazard risk, such as flooding, bushfire or acid sulphate soils</li> <li>• Aboriginal heritage, or objects/sites of significance</li> <li>• heritage and/or character</li> <li>• retail analysis</li> <li>• interface impacts and management</li> <li>• access to social services and infrastructure</li> <li>• strategic demand</li> <li>• land management agreements.</li> </ul>
<p>If you are a private proponent, do you have a legal or equitable interest in the land?</p>	<p>This could include:</p> <ul style="list-style-type: none"> <li>• being a registered proprietor</li> <li>• holding an Option to Purchase or similar</li> <li>• any other interest recognised as a legal or equitable interest in the land</li> </ul> <p>If you are unable to demonstrate a legal interest in the land, you will not be able to lead a code amendment.</p>

<p>If you are a private proponent, have you discussed the proposal with the relevant council authority?</p>	<p>Some councils may prefer to lead code amendments on behalf of proponents, subject to appropriate agreements and funding arrangements.</p> <p>Council may also offer preliminary advice and outline any investigations or matters that council would expect to be addressed as part of a proposed code amendment.</p>
<p>Has the relevant State Member of Parliament been informed of the intention to submit a code amendment?</p>	<p>Discussion with the State Member of Parliament can assist in identifying matters that may be of concern to the local community and can also help them to be prepared should members of the public contact them as the code amendment progresses.</p>
<p>Do you have a suitably qualified practitioner available to prepare the code amendment?</p>	<p>Requirements are outlined in Practice Direction 2.</p>



## Initiating a code amendment

### Preparing documentation

[Practice Direction 2](#) – *Preparation and Amendment of Designated Instruments* (Practice Direction 2) provides the requirements for amending the code.

To initiate an amendment to the code, the proponent must lodge the following documents to the department via the PlanSA portal:

a) *A Proposal to Initiate (document)*

A Proposal to Initiate is a document that sets out the intention of the code amendment and further establishes the:

- scope of the code amendment and a summary of the planning justification
- affected area (including name of First Nations Country)
- code modules affected
- alignment with state planning policies, regional plans and other strategic documents
- council and joint planning board preliminary consultation advice
- consultation already undertaken and details of further consultation proposed
- investigations already undertaken and those that are proposed.

b) *PlanSA portal publication instructions – for initiation*

Required to confirm the details for publication on the PlanSA portal once the code amendment has been initiated.

This includes contact details for the designated entity and a summary of the code amendment to inform the public.

For private proponents the following additional information is also required:

- declaration and evidence of your interest in the relevant land
- a request (or otherwise) to be the designated entity responsible for undertaking the code amendment processes
- where the private proponent wishes to be the designated entity, information about the qualifications and experience of consultants or employees available to undertake the code amendment process.

### Templates and guides for the initiation stage

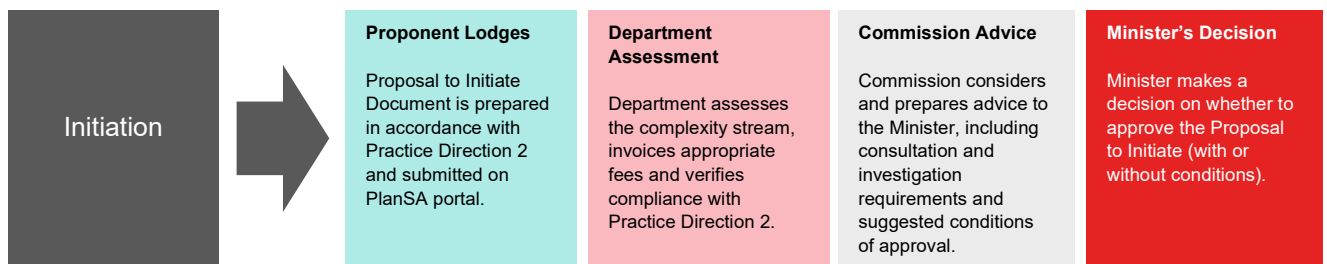
- Using the [Proposal to Initiate template \(DOCX, 60 KB\)](#) will assist with meeting the requirements in Practice Direction 2.
- Using the [Checklist for investigations and engagement \(PDF, 429 KB\)](#) will assist in preparing the Proposal to Initiate.
- Use this template to provide [Code Amendment publication instructions – for initiation \(DOCX, 22 KB\)](#).

## Submitting a request to change the code

When the Proposal to Initiate documentation is completed and endorsed by the proponent it must be submitted through the PlanSA portal – [Request a change to the code](#). The Proposal to Initiate and any supporting documentation or attachments should be submitted as PDF files.

In broad terms, a Proposal to Initiate involves the following steps in Figure 2.

**Figure 2: Initiation Process**



### Department undertakes review

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

An initiation fee will be invoiced if applicable.

### Complexity assessment

Following payment of the invoiced initiation fee, the department will consider the proposal to determine the applicable code amendment complexity stream.

To ensure the consistent assignment of complexity streams to code amendments, the department has prepared a fee determination matrix. The fee determination matrix indicates what code amendment features will be taken into consideration when determining proposal complexity, including the:

1. proposal's alignment with the strategic direction of the planning regime, which is primarily sourced from the state planning policies and regional plans
2. number of interfaces (being types or intensities of land use) created by the proposal

3. infrastructure requirements and infrastructure negotiations associated with the proposal
4. environmental, economic and social constraints of the area affected by the proposal
5. scope of public interest likely to be generated by the proposal.

Following determination of the Code Amendment complexity stream, the Department will consider and confirm if the Code Amendments meets Streamline eligibility criteria. A Streamlined Code Amendment will be expedited to the Minister for decision.

### **Streamlined Code Amendment**

The introduction of a Streamlined Code Amendment process seeks to deliver a faster code amendment process for straightforward proposals.

Introduced in November 2024, Code Amendments may be eligible for a 'streamlined' process with submissions reaching the Minister for an initiation decision within 15 business days from verification.

A Code Amendment will be eligible for the streamlined process where the Proposal to Initiate:

- aligns with State Planning Policies and Regional Plans; and
- includes mandatory documentation and investigations; and
- is not complex (for example known infrastructure constraints).

Further information is available in the [Chief Executive's Policy – Service Standards and Code Amendment Fees 2024](#).

Proponents can refer to the [Chief Executive's Policy – Service Standards and Code Amendment Fee](#) for detailed information on how the complexity of a code amendment is assessed.

### **Commission provides advice to the Minister**

The department will refer the proposal to specific government agencies for comment if it assists 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.

**Minister makes a decision**

The Minister will consider the Commission's advice and decide 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 engagement 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 if the process will be led by the Chief Executive of the department.

The party responsible for undertaking the code amendment will become the "designated entity".

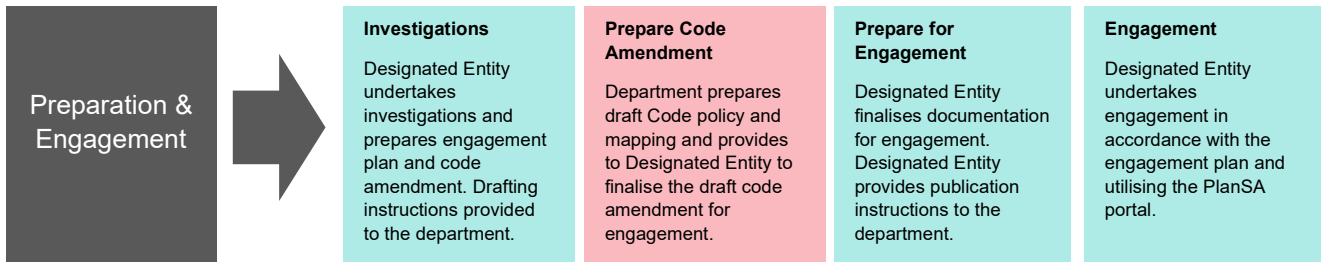
The proponent as well as the relevant council and joint planning board (if not the proponent) will be notified of the Minister's decision.

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

## Initiation approved – prepare amendment and engage

Once the Proposal to Initiate has been approved by the Minister and published on the PlanSA portal, the designated entity undertakes investigations and prepares the engagement plan and draft code amendment. A summary of the process is highlighted in Figure 3.

**Figure 3: Preparation and engagement process**



### Steps for preparing a code amendment

The following steps must be undertaken to ensure that the statutory requirements are met.

<p>Undertake investigations</p>	<p>The designated entity is required to undertake detailed investigations as outlined in the approved Proposal to Initiate, including any investigations required by conditions of approval advised by the Minister, or any investigations specified by the Commission.</p> <p>In most cases, this will require engaging a suitably qualified consultant with expertise in the area to be investigated.</p>
<p>Provide drafting and mapping instructions to the department</p>	<p>The Act 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 altered and an understanding of the impact of altering one component of the code on another.</p> <p>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 department in order to obtain the proposed draft code policy and mapping to include in the draft code amendment.</p> <p>As part of this process, the department will draft the policy required for the code from a technical perspective (including, ensuring that all linkages and terminology are consistent with definitions). The role of the department is to prepare draft</p>

	<p>amendments that reflect the proposed policy, not to make an assessment of the policy intent or its strategic value.</p> <p>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 engagement.</p> <p>This mapping will also be used to update the <a href="#">Code Amendment Map Viewer</a> which identifies the status of current code amendments.</p>
<p>Preparation of the draft code amendment</p>	<p>A draft code amendment should be prepared summarising procedural matters, strategic assessment of the proposal and investigations undertaken to support the proposed code amendment.</p> <p>The designated entity must 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.</p> <p>Refer to the <a href="#">Community Engagement Charter toolkit</a> for further information.</p>
<p>Finalise infrastructure planning arrangements</p>	<p>The designated entity will need to consider any other processes that may need to occur alongside the code amendment process 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.</p> <p>This might include entering into agreements or other arrangements with infrastructure providers on the future provision of infrastructure. Detailed investigations may be required to inform the scope and content of any infrastructure agreements which need to be put in place.</p>
<p>Obtain necessary approvals</p>	<p>The designated entity must ensure the correct approval process has been completed prior to proceeding to engagement. 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.</p> <p><u>Important:</u> if the code amendment was initiated with a condition requiring engagement approval by either the Minister, the Commission or the department, then the draft</p>



	code amendment and engagement plan must be forwarded to the department at this point, prior to engagement commencing.
Provide publication instructions to the department	<p>The Act requires that the PlanSA portal includes a facility which allows members of the community to make submissions and provide feedback as part of engagement on the proposed code amendment.</p> <p>In order to request publication of a draft code amendment on the PlanSA portal during the engagement period, a designated entity should provide publication instructions to the department, emailing the form to the department: <a href="mailto:CodeAmendmentCoordination@sa.gov.au">CodeAmendmentCoordination@sa.gov.au</a></p>

### Templates, tools and guides for the code amendment preparation stage

The [Code Amendment template \(DOCX, 71 KB\)](#) should be used as the basis for the draft code amendment.

There is a [Code Amendment writing and mapping instructions template \(DOCX, 22 KB\)](#) available.

For further information refer to the [Guide to Drafting and Mapping Instructions for Code Amendments \(PDF, 431 KB\)](#).

## Code amendment engagement

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

- genuine
- inclusive and respectful
- fit for purpose
- informed and transparent
- 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.

## Preparing an engagement plan

The first step for meeting the Community Engagement 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 Charter Toolkit](#) on the PlanSA portal.

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.

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

(note: 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 aspects outside the area affected by the code amendment)

- 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](#) for further information and resources on preparing for engagement on a code amendment.

## Plan your engagement

The Community Engagement Charter requires preparation of an engagement plan prior to undertaking engagement on a code amendment. Please refer to the [template Engagement Plan for Code Amendments is located here \(DOCX, 33 KB\)](#). While the Act and the charter do not prescribe specific requirements for an engagement plan, Practice Direction 2 – Preparation and Amendment of designated instruments requires the engagement plan to:

- describe the person or bodies to be consulted
- an outline of any previous engagement
- any minimum engagement prescribed in the Community Engagement Charter, including notice and engagement with:
  - a council (or councils) where they are specifically impacted by a code amendment (using the template letter provided)

- the Local Government Association where the code amendment is generally relevant to councils (using the template letter provided)
- the landscape board where they are specifically impacted by a code amendment.
- notice requirements in the Planning, Development and Infrastructure (General) Regulations 2017, to owners or occupiers of land (and adjacent land) which is specifically impacted by the proposed code amendment (using the Notice template provided)
- any person or body to be consulted with, including those specified by the State Planning Commission under section 73(6)(e) of the Act
- relevant conditions for engagement (if any) placed on the Proposal to Initiate by the Minister
- a description of the evaluation framework for the engagement.

The Act requires that members of the public be able to participate in engagement on code amendments through the PlanSA 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 portal.

The designated entity will need to provide publication instructions that enables the department to prepare the portal for publication of the draft code amendment.

Please refer to the [Community Engagement Charter Toolkit](#) for further information and resources on planning engagement on a code amendment and preparation of an engagement plan.

### **Commencing engagement**

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
- 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 those who have participated in providing feedback by advising them how their feedback has been or will be used.

Note that pursuant to section 174(2) of the *Local Government Act 1999* a person is entitled to obtain a copy of entries made in the record of ratepayer information (the assessment records) on payment of a fixed fee. As such, a designated entity (where not a council) can request a copy of owner information for the purposes of community engagement on a code amendment. The designated entity can also inspect the records at council in order to access the details.

Section 174(3) of the Local Government Act makes it a criminal offence to use such information for advertising, marketing or commercial purposes.

### Early commencement of a code amendment

To ensure the orderly and proper development of an area of the state and 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 engagement.

Examples may include heritage amendments and amendments that seek to introduce hazard overlays and policy.

Code amendments commenced early will be in effect for a period of 12 months or until the code amendment process is finalised.

Advice should be sought from the department for all requests for early commencement of a code amendment. 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; or
- required 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.

### Outline consents and code amendments

Outline consent is a relatively new planning tool within the South Australian planning system that can be used to provide greater certainty to an applicant regarding specific elements of a proposed development at an earlier stage, without having to provide the same level or extent of information required to obtain planning consent.

Section 120 of the *Planning, Development and Infrastructure Act 2016* (the Act) provides for this concept of a 'provisional consent', stating that a relevant authority may, on application, grant a consent in the nature of an outline consent and that it may be done so in circumstances specified by [Practice Direction 18 – Outline Consent 2023](#).

The Practice Direction specifies that an outline consent is able to be assessed against a *relevant amendment* to the Code which means that a proposal to amend the Code has been initiated.

Early discussion with the department is strongly encouraged for proponents considering submitting an outline consent alongside a Code Amendment.

### **Templates, tools and guides for the engagement stage**

The Community Engagement Charter sets out the consultation requirements for proposed amendments to designated instruments (including code amendments). The Community Engagement Charter toolkit assists practitioners fulfil their engagement obligations when preparing or amending a designated instrument.

Please refer to the [Community Engagement Charter toolkit](#) for further information and to access additional templates related to engagement.

#### **Prepare to engage**

- [Stakeholder Analysis](#)
- [Community Engagement Charter Principles in Action](#)

#### **Plan your engagement**

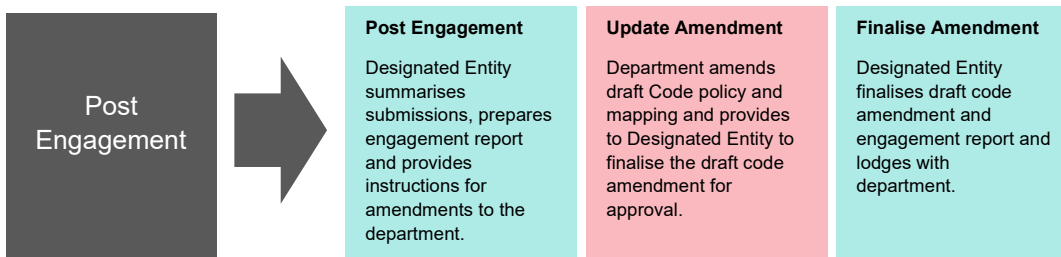
- [Engagement Plan for Code Amendments \(DOCX, 33 KB\)](#)
- [Notice to owner or occupier of land \(DOCX, 18 KB\)](#)
- [Letter to council/s and/or Local Government Association – consultation on Code Amendment \(DOCX, 18 KB\)](#)
- [Letter to government agencies – consultation on Code Amendment \(DOCX, 16 KB\)](#)

## Engagement completed

### Reporting on the engagement

Once engagement has been completed, the designated entity will prepare an engagement report and provide instructions to the department for the final code amendment. A summary of the process is detailed in Figure 4.

**Figure 4: Post Engagement Process**



### 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 engagement 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 that may substantially alter the intent of the code amendment, then the designated entity should consider whether further engagement (and an update to the engagement plan) is required.

### 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.

The engagement report should include:

- details of the engagement that 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
- 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 PlanSA portal. For code amendments that are not initiated by the Commission, the Minister may 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
- final amendment document – to be provided in accordance with Practice Direction 2
- 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).

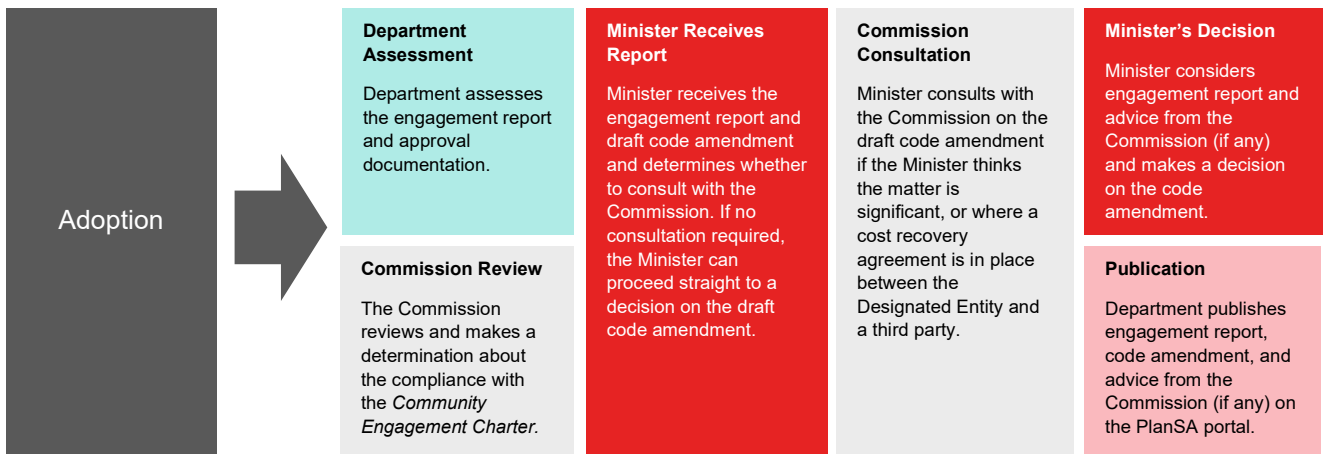
#### **Templates, tools and guides for the engagement report and final code amendment**

- [Template Engagement Report \(DOCX, 51 KB\)](#)
- [Drafting and Mapping Instructions Table \(DOCX, 22 KB\)](#)
- [Amendment Instructions Template \(DOCX, 112 KB\)](#)

## Determination of a code amendment

Figure 5 provides an overview of the decision/determination process of a code amendment.

**Figure 5: Decision process for code amendments**



### Department processes the code amendment

On receipt of the final engagement report and the code amendment 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:

- there has been a complaint made to the department about the engagement process; or
- the Chief Executive of the department has undertaken the engagement process as the designated entity; or
- the Commission's delegate in the department forms the view that the charter has not been complied with.

### Minister consults with the Commission

After the final engagement report and the proposed amendment are provided to the Minister, the Minister:

- may consult with the Commission if they consider 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 CE of the department, where they are undertaking a code amendment on behalf of a private proponent.

## **Compliance with the Community Engagement Charter**

If the code amendment is referred by the Minister to the Commission in relation to the compliance with the charter:

- the Commission will make a formal determination regarding compliance with the charter under section 44(12)(a) of the Act.
- if the Commission determines that the charter has not been complied with, 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.

## **Determination by the Minister**

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

- adopt the code amendment as proposed and as outlined in the engagement report; or
- make alterations to the proposed code amendment and adopt the code amendment as altered; or
- divide the code amendment into separate parts and adopt one or more of those parts; or
- determine that the code amendment should not proceed.

## Implementing the code amendment

The outcomes of the Minister's decision (adopt, alter and adopt or decline) will be published on the PlanSA portal within 5 business days – *the policy will not be in effect at this point*. The following documents will be published at this stage:

- 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.

Once adopted, the code amendment will be implemented within the code. This process generally takes a minimum of 4 weeks from the Minister's decision to enable time to build the code amendment into the system and test it. The code amendment will have effect from the date on which this online implementation occurs.

The designated entity and the relevant council(s) will be directly notified of the code amendment coming into effect.

## Parliamentary scrutiny

If the Minister decides to adopt the code amendment, it is then referred to the Environment Resources and Development Committee (ERDC) of Parliament as summarised in Figure 6.

**Figure 6: Parliamentary Scrutiny Process**



## Referral to Parliament

If the Minister decides to adopt the code amendment, it is then referred to the ERDC.

In this case, the code amendment must also be accompanied by a 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 report are referred to the ERDC by the Minister within 28 days of the code amendment coming into effect. After receiving the code amendment and the Commission's 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, 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 affected council(s) 2 weeks to provide comment. In these circumstances, another 21 days is added to the ERDC's referral time.

## 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 South Australian Government Gazette and the code amendment will be reversed through the online code.





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**Government of South Australia**

Department for Housing  
and Urban Development