**PROPOSAL TO INITIATE AN AMENDMENT TO THE PLANNING & DESIGN CODE**

***Amendment Name* Code Amendment**

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

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Signature Required)**

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

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

**Date: - insert -**

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

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Signature Required)**

**MINISTER FOR PLANNING**

**Date:**

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# INTRODUCTION

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

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

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

|  |
| --- |
| ***Drafting Note (to be deleted):*** *This statement is only required for initiations under section 73(2)(b)(vii) of the Act by a person with an interest in the Affected Area. The Proponent must have an interest in the whole of the Affected Area - the Proponent is not able to initiate a Code Amendment for land which they do not have an interest in.* *An “interest in land” as referred to under section 73(2)(b)(vii) may include:**(a) registered proprietor (as shown on the relevant Certificate of Title for the land)**(b) lessee (tenant) of a registered lease over the land**(c) holder of an Option to Purchase or other similar contractual arrangement with the registered proprietor of the land**(d) any other interest recognised as a legal or equitable interest in land.* |

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

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

## Designated Entity for Undertaking the Code Amendment

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

* + 1. The Proponent acknowledges that it will be responsible for undertaking the Code Amendment in accordance with the requirements Act.
		2. The Proponent declares that it has or intends to enter into an agreement with a third party for the recovery of costs incurred in relation to the Code Amendment under section 73(9) of the Act. [OR – Delete as Applicable – Refer to Drafting Note]
		3. The Proponent declares that it has not and does not intend to enter into an agreement with a third party for the recovery of costs incurred in relation to the Code Amendment under section 73(9) of the Act. If the Proponent does enter into such an agreement, the Proponent will notify the Department prior to finalising the Engagement Report under section 73(7). *[Delete as Applicable – Refer to Drafting Note]*

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

* + 1. The Proponent’s contact person responsible for managing the Code Amendment and receiving all official documents relating to this Code Amendment is:
1. [Contact Full Name and Title]
2. [Contact Email]
3. [Contact Phone Number]
	* 1. The Proponent intends to undertake the Code Amendment by: [*Delete as Applicable – Refer to Drafting Note]*

|  |
| --- |
| ***Drafting Note (to be deleted):*** *Details of the planning and other expertise which will be utilised by the Proponent for the Code Amendment will assist the Minister in determining the appropriate Designated Entity responsible for undertaking the Code Amendment processes.**The nominated planning practitioner/s responsible for undertaking Code Amendment processes are expected to have qualifications and experience that is equivalent to an Accredited Professional – Planning Level 1 under the Act.* |

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

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

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| ***Drafting Note (to be deleted):*** *Under section 73(4)(b) of the Act, where the Proponent is a provider of essential infrastructure or a person with an interest in the Affected Area, the Minister may approve the Proposal to Initiate on the basis that the Chief Executive of the Department will be the Designated Entity (rather than the Proponent). This provision does not apply where the Proponent is an Agency, Joint Planning Board, Council or Scheme Coordinator (as described under the Act).**For the 12 months following full implementation of the Code, it is intended that Code Amendments will be prepared and led by private proponents themselves (land owners or developers with an interest in land) rather than by the Chief Executive of the Department under section 73(4)(b). The Proposal to Initiate may indicate the Proponent’s preference on who prepares the Code Amendment, but this will ultimately be a decision for the Minister as part of the proposed initiation.*  |

## Rationale for the Code Amendment

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

# SCOPE OF THE CODE AMENDMENT

## Affected Area

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

## Scope of Proposed Code Amendment

**Site 1 - [Address/es]**

|  |  |
| --- | --- |
| **Current Policy[[1]](#footnote-1)** | *List all Planning and Design Code policies that currently apply to the site (including zones, subzones, overlays, Technical and Numerical Variations (TNVs))**To obtain this information, search the site address in the Planning and Design Code on PlanSA, and select “what policies apply to this address?”* |
| **Amendment Outline** | *Describe the overall objective for the Code Amendment as it applies to the site.* |
| **Intended Policy**  | *Briefly outline what Planning and Design Code policies are being proposed to be amended for the site and any specific objectives. For example:**Rezone to X zone, with consideration to X subzones.**TNVs in regard to X zone will be reviewed with the intention to XX.**The X overlays will be considered for insertion or review.* |

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

|  |
| --- |
| ***Drafting Note (to be deleted):*** *As the Code applies throughout the whole of South Australia, changes to the general policy in the Code (including changes to General Zones and Overlays) could have broad-reaching impact. In these circumstances, it may not be appropriate for a private proponent, Government Agency, Council or Joint Planning Board to initiate a change to general policy, unless there are exceptional circumstances to justify the change.* *Private proponents (including parties with an interest in land), Government Agencies, Councils and Joint Planning Boards can initiate spatial changes to the Code (for example, by changing the zone which applies to a specific area, using the current zone structure in the Code) as well as changes to the technical and numerical values applying to a particular location.* |

# STRATEGIC PLANNING OUTCOMES

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

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

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| --- |
| ***Drafting Note (to be deleted):*** *For complex proposals, it is recommended that the Proponent obtains preliminary advice from the Department regarding the strategic alignment of the Code Amendment. In order to determine the strategic alignment, it may also be necessary for preliminary investigations to occur at this stage.* *Where there are significant government agency issues that may require investigation and discussion with other Government agencies, the Department may assist the Proponent in facilitating these discussions.*  |

## Summary of Strategic Planning Outcomes

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| --- |
| ***Drafting Note (to be deleted):*** *This section should set out the key strategic planning considerations and where necessary should draw on relevant investigations undertaken to support the Proposal to Initiate, with analysis of matters including (but not limited to):**• infrastructure and services**• integrated transport* *• environmental impacts,* *• land supply and demand* *• economic analysis**• environmental impacts* *• interface between different land uses**• development patterns and trends* |

## Alignment with State Planning Policies

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

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

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

## Alignment with Regional Plans

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

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

|  |
| --- |
| ***Drafting Note (to be deleted):*** *The State Planning Commission has identified that the existing volumes of the South Australian Planning Strategy prepared under the Development Act 1993, will apply until such time as the new Regional Plans are prepared and adopted under the PDI Act. Refer to ‘What are Regional Plans?’ on the Regional Plans and Joint Planning Arrangements page of the PlanSA portal.* |

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

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| --- |
| ***Drafting Note (to be deleted):*** *There is no need to identify priorities or targets that repeat a principle or objective of the SPP noted above. Where there is conflict between a Regional Plan and an SPP, the SPP will prevail.**The consideration against Regional Plans should focus on any spatial information available in the Regional Plan (which is not available in the SPPs).* |

## Alignment with Other Relevant Documents

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

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

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

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| ***Drafting Note (to be deleted):*** *Where there are no other relevant documents applicable to the Code Amendment, insert “Nil”.* |

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| ***Drafting Note (to be deleted):*** *The Standard Investigations Table should be used to ensure that investigations meet the requirements of the State Planning Commission and government agencies.**If an Overlay applies to the Affected Area this should be addressed as an investigation.* *If infrastructure cannot be provided through standard augmentation and resolved through the development application process, the Proponent will be required to undertake further investigations and negotiation with the relevant infrastructure provider. Any agreements required to be entered into for infrastructure provision will need to be in place prior to approval of the Code Amendment.* |

# INVESTIGATIONS AND ENGAGEMENT

## Investigations Already Undertaken

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

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

## Further Investigations Proposed

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

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

## Engagement Already Undertaken

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

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

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

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

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

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

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

## Further Engagement Proposed

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

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

# CODE AMENDMENT PROCESS

## Engagement Plan

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

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

* the Local Government Association must be notified in writing of the proposed Code Amendment
* if the Code Amendment has a specific impact on 1 or more particular pieces of land in a particular zone on subzone (rather than more generally), the Designated Entity must take reasonable steps to give a notice in accordance with Regulation 20 of the *Planning, Development and Infrastructure (General) Regulations 2017*, to:
	+ the owners or occupiers of the land
	+ owners or occupiers of each piece of adjacent land
* consultation must also occur with any person or body specified by the State Planning Commission under section 73(6)(e) of the Act.

## Engagement Report

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

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

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

## Code Amendment Timetable

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

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| ***Drafting Note (to be deleted):*** *Where the Proponent requests that the Chief Executive of the Department be approved as the Designated Entity, the timetable in Attachment B should be agreed with the Department prior to lodgement of the Proposal to Initiate.* |

# ATTACHMENT A

## Map of Affected Area

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

# ATTACHMENT B

## Timetable for Code Amendment by Proponent

| **Step** | **Responsibility** | **Timeframes** |
| --- | --- | --- |
| **Approval of the Proposal to Initiate** |
| Review of Proposal to Initiate to confirm all mandatory requirements are met (timeframe will be put on hold if further information is required). Referral to the Minister to request advice from the Commission. | AGD | 2 weeks *(includes lodgement and allocation + referral to Government Agencies within the first week)* |
| Minister requests advice from the Commission. | Minister | 2 weeks  |
| Referral to Government Agencies for comment (where necessary). | AGD, Relevant Government Agencies | + 2 weeks |
| Consideration of Proposal to Initiate and advice to the Minister. | Commission (Delegate) | 3 weeks |
| Commission | + 3 weeks |
| Proposal to Initiate agreed to by the Minister  | Minister | 2 weeks |
| **Preparation of the Code Amendment** |
| Engagement Plan Prepared.Investigations conducted; Code Amendment Report prepared.The Drafting instructions and draft mapping provided to AGD. | Designated Entity | "Insert No. Weeks" |
| AGD prepares Amendment Instructions and Mapping and provides to Council for consultation purposes. | AGD | 1 week |
| Preparation of Materials for Consultation. | Designated Entity | "Insert No. Weeks" [Can be left blank as it will be informed by Engagement Plan] |
| **Engagement on the Code Amendment** |
| Code Amendment Report released for public consultation in accordance with the Community Engagement Charter and the prepared Community Engagement Plan. | Designated Entity | "Insert No. Weeks" &“Insert indicative start date – month & x weeks from Initiation”[noting may be subject to change pending finalisation of Engagement Plan] |
| **Consideration of Engagement and Finalisation of Amendments** |
| Submissions summarised; Amended drafting instructions provided, Engagement Report prepared and lodged with AGD. | Designated Entity | "Insert No. Weeks" |
| Assess the amendment and engagement.Prepare report to the Commission or delegateTimeframe will be put on hold if further information is required, or if there are unresolved issues. | AGD | 4 weeks |
| Consideration of Advice | Commission (Delegate) | 2 weeks *(includes 1 week to process through Minister’s office)* |
| Commission | + 3 weeks |
| **Decision Process** |
| Minister considers the Code Amendment Report and the Engagement Report and makes decision | Minister | 3 weeks |
| **Implementing the Amendment (operation of the Code Amendment)** |
| Go- Live- Publish on the PlanSA portal | AGD | 2-4 weeks  |
| **Parliamentary Scrutiny** |
| Referral of approved Code Amendment to ERDC  | AGD | 8 weeks  |

1. Note: for sites within the Phase 3 (Urban Areas) Code the Current Policy is draft and may change until the Phase 3 Code is implemented. [↑](#footnote-ref-1)