

PRIVATELY FUNDED PLANNING AND DESIGN CODE AMENDMENTS POLICY

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Status	Statutory
Review Frequency	4 yearly or as required
Last Reviewed	
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Responsible Division	Growth
Related Documents	Privately Funded Development Code Amendments Procedure Planning and Design Code State Planning Commission – Practice Direction 2 – Preparation and Amendment of Statutory Instruments
Applicable Legislation	<i>Planning, Development and Infrastructure Act 2016</i> <i>Local Government Act 1999</i>

Introduction

Council has an obligation under Section 122(2) of the *Local Government Act 1999* to ensure the applicable policies and spatial application of the Planning and Design Code (the Code) are consistent with:

- the State Planning Policies; and
- the Plan for Greater Adelaide Regional Plan as it relates to the Alexandrina Council area

Section 73(2)(b) of the *Planning, Development and Infrastructure Act 2016 (PDI Act)* provides that a proposal to amend a designated instrument (in this case the Planning and Design Code)(Code) may be initiated by:

- The State Planning Commission;
- A Council;
- Chief Executive Officer of the Attorney General's Department;
- A Government agency or instrumentality of the Crown;
- A Joint Planning Board;
- Infrastructure Scheme Coordinator;
- A provider of essential infrastructure; or
- A person who has interest in the subject land (a private proponent).

Whilst a private proponent or a provider of essential infrastructure may now initiate a proposal to amend the Code, there may also be circumstances where a private proponent requests that Council initiate a proposal to amend the Code on their behalf.

A privately funded Code Amendment refers to these circumstances, when a third party funds the necessary requirements to amend the Code, and Council undertakes the statutory steps of the Amendment process in accordance with the PDI Act 2016 and becomes the proponent.

Privately funded Code Amendments are a legitimate model that may be used to expedite and resource the preparation of an Amendment, particularly where the amendment sought is consistent with a relevant Regional Plan prepared by the State Planning Commission pursuant to Section 64 of the PDI Act and /or other relevant strategic plans, and;

- a) Its preparation has not been budgeted for or identified as a priority by the Council through its strategic planning document/s; and /or
- b) Policy or rezoning investigations relate to a significant area or parcel of land that is under single ownership or presents substantial opportunity for amalgamation of land to achieve a coordinated development outcome.

An Agreement regarding the scope and cost recovery of Privately Funded Code Amendments will occur outside of the Code Amendment process in accordance with Council's Policy (this Policy) and Procedure as contemplated in Section 73(9) of the PDI Act.

Definitions

The Planning and Design Code is the single source of the State's planning rules that guide development in South Australia. Planning authorities use these planning controls to assess new development proposals.

A Proposal to Initiate a Code Amendment is the first step in the process for amending the Code and is a document that contains:

- The rationale for the proposed amendment
- The affected area of the proposed amendment
- The strategic alignment of the proposed amendment

A Code Amendment is a document that describes proposed changes to the spatial application of the Code or amendments to policies within the Code. A Code Amendment includes a statutory process for undertaking changes to the Code.

The Code Amendment process involves a series of stages and approvals, and includes undertaking investigations to inform the proposed zoning or policy changes.

Private funder means one or more private persons or organisations proposing to fund the undertaking of a Code Amendment where they may benefit from any changes to zoning or development policies resulting from the Amendment.

Strategic Management Plans refers to a suite of documents described under section 122 of the *Local Government Act 1999* that serve several inter-related purposes and identify Council's forecasts and objectives for its area over a period of at least 4 years.

The PDI Act *Community Engagement Charter* is a document that provides the statutory obligations for engagement on Code Amendments.

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 PDI Act.

1 Purpose

1.1 The purpose of this Policy and its accompanying Procedure is to guide Council in the assessment and processing of requests from private entities or persons to undertake privately funded Code Amendments in order to ensure openness and transparency in the process, well considered and consistent decision making and that Council meets its obligations under the *PDI Act 2016*.

1.2 This Policy is intended to mitigate any risks to Council associated with receiving private funds associated with the preparation of a Code Amendment.

2 Scope

2.1 This Policy applies when a private entity or persons request that Council undertake the Code Amendment process to amend the Planning and Design Code as it applies to land within the Alexandrina Council area and an agreement is reached that the private entity or persons funds all or part of the amendment process.

3 Policy Statement

3.1 The proposed policy or zoning outcome must be consistent with the relevant South Australian Planning Strategy for Council to proceed with a privately funded Code Amendment.

3.2 Council's ability to update and amend the Code as it applies to the Alexandrina Council is subject to financial and resource availability.

3.3 Council acknowledges that it may be approached from time to time by private entities or persons to expedite rezoning and policy investigations that have not been identified, prioritised and/or budgeted for.

3.4 Requests to initiate and prepare privately funded Code Amendments must be made in writing to the Chief Executive of Council, and will be subject to satisfaction that the proposed Amendment meets relevant strategic objectives and/or documents of the Council.

3.5 Council will ensure compliance with all statutory processes and obligations under the *PDI Act 2016*. This will include identification of personnel who will provide professional advice to Council on the Code Amendment and assurance that no-one directly involved in the preparation of the Code Amendment has a conflict of interest.

3.6 Preparation of any agreed privately funded Code Amendments will remain the responsibility of the Council, with the final version of the Code Amendment to be determined by the Minister responsible for administering the *PDI Act 2016*.

3.7 There shall be no expectation that the privately funded Code Amendment will lead to any pre-determined outcome and, at all times, the Code Amendment and Council's handling of the process will be subject to the requirements of the *PDI Act 2016* and its Regulations.

3.8 A legal instrument in the form of an Agreement will be required to be entered into between Council and any private funder. The Agreement will outline the legal procedures, including the roles of the parties, legal requirements and procedures, and project and financial management.

3.9 This Policy is supported by a Procedure document that outlines the process that Council will follow for considering requests for privately funded Code Amendments, including strategic (and other) criteria, legal and financial arrangements, and project management and procurement of independent advice to meet legislative requirements and ensure openness and transparency in the process.

Availability of Policy

This Policy will be available for inspection at the Council's offices during normal business hours and on the Council's website www.alexandrina.sa.gov.au. Copies can also be provided to interested members of the community upon payment of a fee in accordance with Council's Schedule of Fees and Charges.

Appealing of Decision

There is no appeal available for a decision made under this Policy.