

Private Proponent Code Amendment Policy

Purpose

The purpose of this policy is to outline the City of Burnside's approach to amendments to the Planning and Design Code (the Code) initiated by private proponents, as defined under Section 73(2)(b)(vii) of the *Planning, Development and Infrastructure Act 2016* (PDI Act).

This policy describes a consistent and transparent approach to guide Council's response to the following Code Amendment scenarios, where:

- CEO feedback is sought by a proponent to inform a Proposal to Initiate a privately-led Code Amendment which they will undertake themselves, or
- City of Burnside receives a request from a private proponent seeking to fund Council to undertake a Code Amendment on their behalf.

Policy Statement

1. Strategic Context

- 1.1 This policy supports Council's legislative requirements associated with private Code Amendments proposed under *PDI Act*, and its functions under the *Local Government Act 1999*.
 - 1.2 The Planning and Design Code (the Code) is a designated instrument under the *Planning, Development and Infrastructure Act 2016* (SA) (the Act). It contains the planning policies and rules which are used to guide development assessment across the State.
 - 1.3 The Act sets out the process under which designated entities (including the State Planning Commission, Councils and others) are able to commence an amendment to the Code and the process they must follow during the Code Amendment.
 - 1.4 In addition to designated entities such as the State Planning Commission and local governments, *Section 73(2)(b)(vii)* of the Act gives the opportunity to propose an amendment to the Planning and Design Code to any "person who has an interest in land and who is seeking to alter the way in which the Planning and Design Code or a design standard affects that land".
 - 1.5 The Act enables a private proponent to initiate a Code Amendment directly with the Minister for Planning however they are required to demonstrate that their proposal has been discussed with the
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relevant Council in accordance with section 73 (6)(e) and Practice Direction 2.

- 1.6 This policy provides clarity on the PDI Act requirements regarding:
- A) the manner in which Council must be advised of a potential privately-led code amendment prior to the private proponent submitting their Proposal to Initiate to the Minister for Planning, and
 - B) the manner in which Council must provide an initial response to a private proponent to inform the preparation of their Proposal to Initiate.
- 1.7 This policy also provides guidance in the circumstance where a private proponent approaches Council to undertake a Code Amendment on their behalf.

2. Code Amendment by Private Proponent – Early Advice by Chief Executive Officer

- 2.1 Under the PDI Act, when private proponents seek to pursue a Code Amendment, they must prepare an initiation document, known as a Proposal to Initiate, that is assessed by the State Planning Commission and ultimately the Minister for Planning.
- 2.2 Council has a legislative role under the PDI Act to provide early, initial feedback to private proponents who are seeking to initiate a Code Amendment with the Minister for Planning.
- 2.3 The State Planning Commission's *Practice Direction 2- Preparation and Amendment of Designated Instruments* https://plan.sa.gov.au/resources/planning/practice_directions/practice_direction_2_-_consultation_on_the_preparation_or_amendment_of_a_designated_instrument requires that a private proponent undertakes preliminary consultation with the relevant Council Chief Executive Officer (CEO) prior to lodging the initiation proposal for a Code Amendment with the State Government.
- 2.4 Private Proponents must submit a letter to Council's CEO using the appropriate template contained in the Planning Toolkit: https://plan.sa.gov.au/_data/assets/word_doc/0008/875645/Letter_to_Council_or_JPB_-_Preliminary_Consultation_on_Code_Amendment.DOCX
- 2.5 Council's CEO should provide feedback to the private proponent within 15 days after the request is made using the appropriate template contained in the Planning Toolkit:
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https://plan.sa.gov.au/_data/assets/word_doc/0004/1432876/Tem-plate-letter-from-council-or-JPB-preliminary-consultation-response.docx

- 2.6 In the case of the City of Burnside, the Chief Executive Officer will refer the Proposal to Initiate to relevant planning policy staff for advice to inform and coordinate the response.
- 2.7 CEO advice will consider the letter regarding the intended Proposal to Initiate on its merits and feedback and should address the matters for investigation identified in the letter, identify any additional stakeholders who should be consulted, and may also identify relevant Council strategic documents, policies or objectives.
- 2.8 Feedback from Council's CEO will be provided on the premise that the advice does not represent a formal position and Council reserves the right to provide formal feedback during consultation.

3. Request from private proponent seeking to fund Council to Undertake a Code Amendment on their behalf

- 3.1 Council will not enter into an agreement to undertake privately funded Code Amendment proposals where Council is requested or expected to undertake any of the following:
- Act as the 'designated entity' for the amendment (on behalf of a private proponent) under Section 73(6) of the Act;
 - Conduct or fund any aspect of the Code Amendment process (on behalf of a private proponent) including:
 - Project management
 - Preparation of documentation;
 - Undertaking of technical investigations;
 - Allocation of Council and/or human resources;
 - Procurement of consultants;
 - Public consultation;
 - Legal advice;
 - Enter into a funding deed associated with a Code Amendment.

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- 3.2 This policy recognises that the PDI Act enables private proponents to undertake and fund their own Code Amendments, without the need for a Council to undertake the administrative and statutory processes that were previously unavailable to private parties (under the *Development Act 1993*).
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Other Useful Documents

Related Documents

Internal

- Burnside City Master Plan
- Connected Communities Strategy
- Community Engagement and Consultation Policy
- Procurement Policy
- Strategic Community Plan

External

- Community Engagement Charter (February 2025)
- Planning and Design Code Amendments Information Guide Version 2.2 (May 2025)
- Planning and Design Code Amendment Toolkit Version 2.2 (May 2025)
- Practice Direction 2 – Preparation and Amendment of Designated Instruments – Version 7 (10 February 2025) - State Planning Commission
- State Planning Commission - Community Engagement Charter - Version 2 (February 2025)

Relevant Legislation

- *Local Government Act 1999*
- *Planning, Development and Infrastructure Act 2016*
- *Planning, Development and Infrastructure (General) Regulations 2017*

Glossary

Throughout this document, the below terms have been used and are defined as:

Act: means the *Planning, Development and Infrastructure Act 2016 (SA)*.

Code: means the Planning and Design Code under the Act

Code Amendment: means an amendment to the Planning and Design Code under the Act

Commission: means the State Planning Commission under the Act.

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Consultants: means a company or person(s) engaged by Council to provide assets, goods, works or services.

Council: means the City of Burnside

Department: means the department of the Minister responsible for the Administration of the Act.

Designated entity: means a person or entity authorised or approved to prepare a draft of a proposal to amend the Code.

ERDC: means the Environment, Resources and Development Committee of Parliament.

Landowner: is generally taken to mean an individual, company or organisation that holds legal ownership of a piece of land.

Minister: means the Minister for Planning.

Private Proponent: means a person who has an interest in the land, as listed in section 73(2)(b) (vii) of the Act and as defined in Practice Direction 2.

Privately Funded Code Amendment: is defined as when a third party enters into an agreement to fund a Council to undertake an investigation of work and/or draft an Amendment required to change the Planning and Design Code zoning, policies and or mapping.

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 co-ordinator, 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 an amendment to the Planning and Design Code.

Administrative As part of Council's commitment to deliver the City of Burnside Strategic Community Plan, services to the community and the provision of transparent information, all policy documents are reviewed as per legislative requirements or when there is no such provision a risk assessment approach is taken to guide the review timeframe.

This Policy document will be reviewed every 4 years unless legislative or operational change occurs beforehand.

Adoption Date: 19 August 2025

Review Date: 19 August 2029

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Strategic Plan Reference

Principles: Spans all Strategic Plan Principles

Theme: Spans all Strategic Plan Themes

Goals: Spans all Strategic Plan Goals

Priorities: Spans all Strategic Plan Priorities

Review History

ECM Reference:	Authorising Body:	Date/Decision ID	Description of changes
2406996	Council	23 March 2021 C230321/12789	Privately Funded Code Amendment Policy New policy addressing legislative changes to PDI Act
		19 August 2025 C92025/13997	Name Change of Policy Policy update, including changes to reflect updated legislation and Practice Directions under the Act.

Contact

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