

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

***Tunnel Corridor and Asset Protection
Overlay Code Amendment***

**By the *Department for Infrastructure and
Transport (the Proponent)***



(Signature Required)

Chief Executive, Department for Infrastructure and Transport (the Proponent)

Date: 26 / 11 / 2021

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* (the Act). 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.



MINISTER FOR PLANNING AND LOCAL GOVERNMENT

Date: 10 January 2022

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1. INTRODUCTION

The Department for Infrastructure and Transport (the Proponent) is proposing to initiate an amendment to the Planning and Design Code (the Code Amendment). The Code Amendment relates to land located in the vicinity of the South Road, between the River Torrens Karrawirra Parri and Tonsley. The Code Amendment is required to support the Torrens to Darlington (T2D) project as part of the North-South Corridor (the Affected Area).

The purpose of this Proposal to Initiate is to seek approval of the Minister for Planning and Local Government (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 Department for Infrastructure and Transport (the Department), which is responsible for delivering the T2D project on behalf of the Australian and South Australian Governments within the Affected Area.

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 Department 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.

1.1. Designated Entity for Undertaking the Code Amendment

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

- 1.1.1. The Department acknowledges that it will be responsible for undertaking the Code Amendment in accordance with the requirements of the Act.
- 1.1.2. The Department 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.
- 1.1.3. The Department's contact person responsible for managing the Code Amendment and receiving all official documents is:
 - (a) Matthew Morrissey, Director Land and Planning, North-South Corridor Program Delivery Office, Department for Infrastructure and Transport
 - (b) matthew.morrissey@sa.gov.au
 - (c) 0435 658 480
- 1.1.4. The Proponent intends to undertake the Code Amendment by engaging the Department's Master Advisory Services (MAS) contractor for the T2D Project. The contractor will provide the professional services required to undertake the Code Amendment.

The Code Amendment will be led by Michael Davis, MAS Planning Lead and supported by a range of planning, engineering and engagement professionals.

Michael Davis is an Accredited Professional – Planning Level 1 and a Registered Planner with the Planning Institute of Australia.

1.2. Rationale for the Code Amendment

The T2D Project involves converting the remaining 10.5 km of South Road into a non-stop motorway, completing the total 78 km of the North-South Corridor from Old Noarlunga to Gawler. The T2D section of South Road is the corridor's most complex due to its ground conditions, highly urbanised built form, heritage and character. The delivery of the motorway will include sections of surface motorway, lowered motorway and tunnels.

The Department considers that a Code Amendment is required to facilitate protection of the tunnel assets from inappropriate development, in line with similar approaches interstate. 'Asset protection' in the planning system is needed to protect the two T2D tunnels from development that may compromise their construction and operation across their lifespan. This may include ground penetrating activities and works that create additional weight-bearing loads above the tunnels beyond what has been factored into their engineering design.

Given the T2D tunnels traverse multiple zones, and their protection is in the State's interest, the Department considers an Overlay should be utilised in the Code to establish a protected area above and around them. Currently, there are no Overlays within the Planning and Design Code that would be suitable to facilitate the required protections for the T2D tunnels. The Code Amendment will propose a new Overlay that spatially relates to the alignment of the tunnels and incorporates associated policy provisions that informs the suitability of development within proximity of the asset.

Noting the urban context and scale of the project, future development within proximity of the T2D Project will be diverse. The suitability of development would therefore need to be considered on a case-by-case basis. Accordingly, the purpose of the Overlay would:

- Specify the types of development or works that may compromise the structural integrity or operation of the asset.
- Identify referral triggers to the Commissioner, which would need to be made a referral body through an associated amendment to Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

2. SCOPE OF THE CODE AMENDMENT

2.1. Affected Area

The proposal seeks to amend the Code for the Affected Area, being the land in the vicinity of the South Road corridor within the Marion, Mitcham Unley and West Torrens council areas, as shown in the map in **Attachment A**.

2.2. Scope of Proposed Code Amendment

For simplicity, the scope of the Code Amendment will be defined by two areas which are shown in Attachment A:

- Area 1 – for the protection of the Southern Tunnels of the T2D Project
- Area 2 – for the protection of the Northern Tunnels.

<p>Current Policy</p>	<p>Area 1 is located across several Zones, including:</p> <ul style="list-style-type: none"> • Community Facilities • Employment • Established Neighbourhood • General Neighbourhood • Housing Diversity Neighbourhood • Recreation • Strategic Employment • Suburban Activity Centre • Suburban Neighbourhood • Urban Neighbourhood. <p>Area 2 is located across several Zones, including:</p> <ul style="list-style-type: none"> • Employment • Established Neighbourhood • General Neighbourhood • Housing Diversity Neighbourhood • Open Space • Recreation • Strategic Employment • Suburban Activity Centre • Urban Corridor (Main Street) <p>No subzones will be impacted by the proposed overlay.</p> <p>The affected area is subject to several existing Overlays, which will not be impacted by the proposed Overlay. Similarly, there are multiple Technical and Numerical Variations that apply to the affected area.</p>
<p>Amendment Outline</p>	<p>The Code Amendment seeks to implement a new 'Tunnel Corridor and Asset Protection' Overlay which will facilitate the physical protection of the T2D tunnels during design, construction and operation. The use of an Overlay ensures that</p>

	<p>the protections can apply consistently to multiple zones and subzones, including the changing of Zones through future Code Amendments.</p> <p>The new Overlay is proposed to ensure that its application is restricted to the spatial alignment of the tunnels and does not compromise the intent of the existing Overlays in the code.</p>
Intended Policy	<p>Subject to investigations, the Code Amendment is anticipated to propose to implement a new Overlay in the Code that facilitates the protection of the T2D tunnels from development activities that penetrate the ground or create additional loads at the surface that have not been accounted for in the engineering design of the tunnels.</p>

3. 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

3.1. 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
<p>SPP1- Integrated Planning</p> <p>To apply the principles of integrated planning to shape cities and regions in a way that enhances our liveability, economic prosperity, and sustainable future.</p>	
<p>SPP 1: Integrated Planning</p> <p>1.5 Protect land corridors for expansion or augmentation of infrastructure.</p>	<p>A Code Amendment will be utilised to establish a protected area around the T2D tunnel assets. The purpose of this protected area is to ensure development does not compromise the structural integrity or operation of the asset.</p>
<p>SPP11- Strategic Transport Infrastructure</p> <p>To integrate land use policies with existing and future transport infrastructure, services and functions to preserve and enhance safe, efficient and reliable connectivity for people and business.</p>	
<p>SPP 11- Strategic Transport Infrastructure</p> <p>11.1 Facilitate an efficient, reliable and safe transport network that connects business to markets and people to places (i.e. where they live, work, visit and recreate).</p> <p>11.6 Allow for the future expansion and intensification of strategic</p>	<p>The proposed Overlay facilitates a safe transport network and supports the expansion of the nationally significant North-South Corridor by protecting its underground assets for continued passenger and freight movements.</p>

State Planning Policy (SPP)	Code Amendment Alignment with SPPs
<p>transport infrastructure and service provision (corridors and nodes) for passenger and freight movements.</p> <p>11.7 Identify and protect the operations of key transport infrastructure, corridors, and nodes (passenger and freight).</p>	

3.2. Alignment with Regional Plans

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

The *30-Year Plan for Greater Adelaide (2017 Update)* volume of the Planning Strategy (which has transitioned to a Regional Plan under the Act) is relevant for this Code Amendment.

Regional Plan Identified Priorities or Targets	Code Amendment Alignment with Regional Plan
<p><i>30-Year Plan for Greater Adelaide (2017 Update)</i></p> <p>Policy Theme: Infrastructure</p> <p>P.83 Define and protect strategic infrastructure sites and corridors from inappropriate development to ensure the continued functionality of the services they provide.</p>	<p>The Code Amendment will provide the framework to protect an essential infrastructure asset from inappropriate development during its 100-year life span.</p>

4. INVESTIGATIONS AND ENGAGEMENT

4.1. 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
Business case	The Business Case for the T2D Project considered technical investigations, option development and analysis to support an investment decision in constructing tunnels for this section of the North-South Corridor.	The Business Case concluded that the Hybrid + model of the T2D Project was the preferred option, with two sections of tunnels connected by a combination of surface and lowered motorway.
Reference Design	The Reference Design for the T2D has investigated the environmental, technical and engineering constraints of constructing the tunnels and motorway projects, and provided a design concept that will inform future detailed engineering design.	The Reference Design was used for determining the optimum alignment of the tunnels and their depth having regard to surface development, existing ground conditions and development cost. The Reference Design will inform the technical parameters of the proposed overlay.
Technical Investigations	The Department has reviewed how similar infrastructure is recognised and protected in the planning systems of other jurisdictions. This includes Cross City Tunnel (NSW), Melbourne Metro (VIC), Suburban Rail Loop (VIC), and North East Link (VIC).	Technical Investigations have been undertaken to provide precedent and context from other States, highlighting a need for protection of the tunnel assets in the planning system.

4.2. 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
Technical Investigations	<p>Additional technical investigations are required. These will focus on specific conditions needed to protect the tunnel asset, including depth of ground penetration and loading limits above tunnel, having regard to the Reference Design and the policy framework of the Zones in the Code.</p> <p>This will also include an assessment of the impacts that the proposed Overlay may have on the development potential of current Zones. and the implications for future proponents of development that will trigger the Overlay.</p>

4.3. Engagement Already Undertaken

Preliminary engagement has been undertaken with AGD-PLUS regarding the scope of this amendment. No Council or community engagement has been undertaken specifically on this aspect of the T2D Project. However, there has been ongoing engagement with councils, community and businesses on the impacts of the T2D Project.

4.4. Further Engagement Proposed

In addition to the engagement already undertaken and identified above, the table below outlines additional engagement that 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
Community consultation	<p>An extensive community engagement process is proposed for the Project Assessment Report (PAR) for the T2D Project. The PAR describes the environmental, economic and social impacts of the T2D Project and specifies the mitigation measures proposed to be implemented. The PAR includes an assessment of the land use planning impacts, which includes the proposed Overlay.</p> <p>Public engagement of the Code Amendment is required in accordance with the Engagement Plan, which will be aligned to the engagement period for the Project Assessment Process.</p> <p>Submissions received during the engagement period need to be assessed and summarised, with an Engagement Report required in accordance with Practice Direction 2 and the Engagement Report for Code Amendments template. The Engagement Report will be separate to the work undertaken for the PAR.</p>

<p>Consultation with any person or body specified by the Commission under section 73(6)(e) of the Act.</p>	<p>The Engagement Plan will outline the specific method and nature of consultation with specified persons or bodies.</p>
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5. CODE AMENDMENT PROCESS

5.1. 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 Department will prepare an Engagement Plan prior to the commencement of engagement on the proposed Code Amendment, which will be aligned to the engagement for the separate Project Assessment Report for the T2D Project.

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 one or more particular parcels of land in a particular zone or subzone (rather than more generally), the Designated Entity must take reasonable steps to give 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 parcel 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.

5.2. Engagement Report

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

The Department will ensure that a copy of the Engagement Report is furnished with the Minister and 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 including the reason for the Code Amendment, the consultation undertaken on the Code Amendment and any other information considered relevant by the Commission.

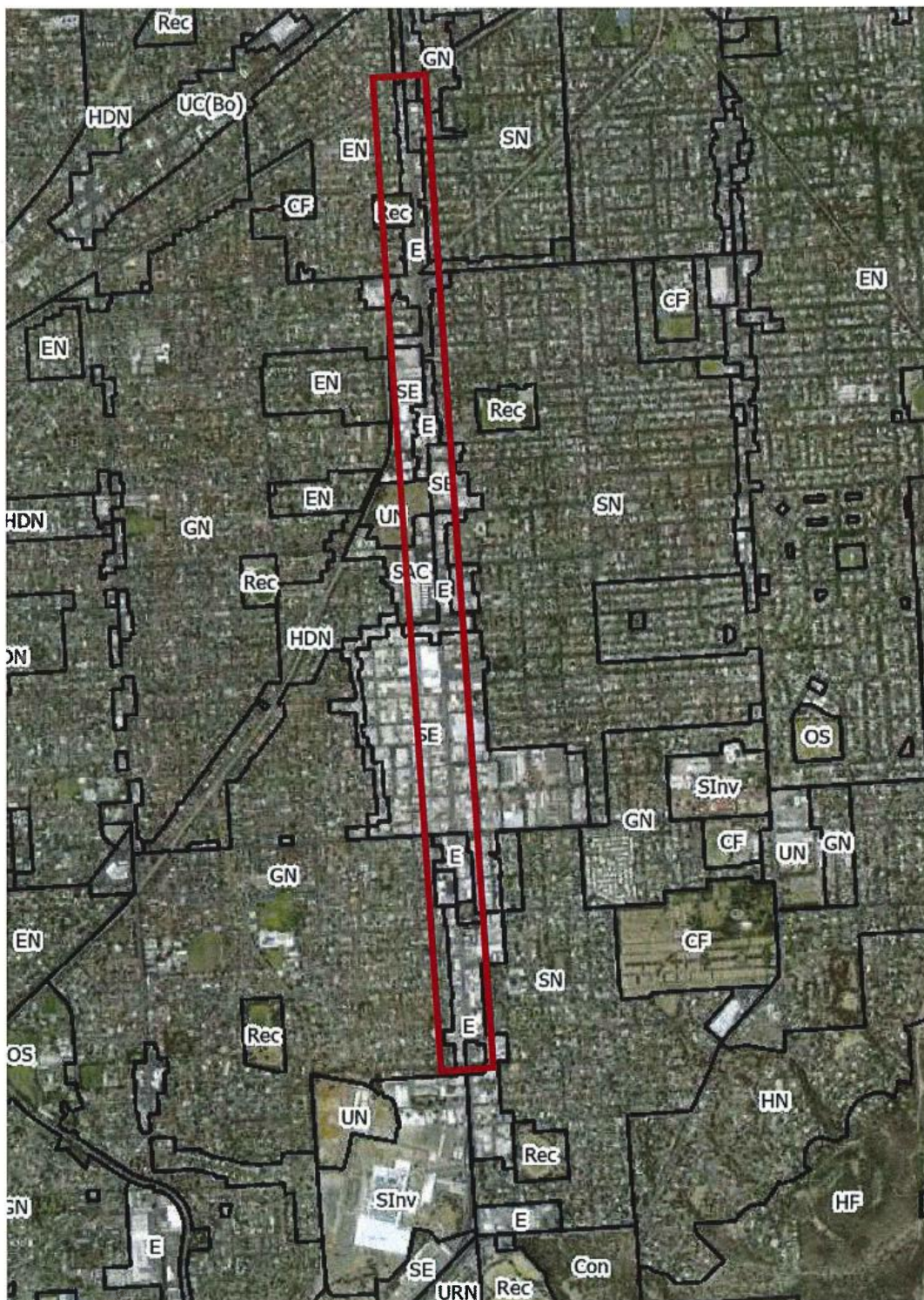
5.3. Code Amendment Timetable

The Department commits to undertaking the Code Amendment in line with the timeframe outlined in **Attachment B**. If this timeframe is exceeded (or expected to be exceeded) the Proponent agrees to provide an amended timetable to AGD-PLUS with an explanation of the delay, for approval by the Minister.

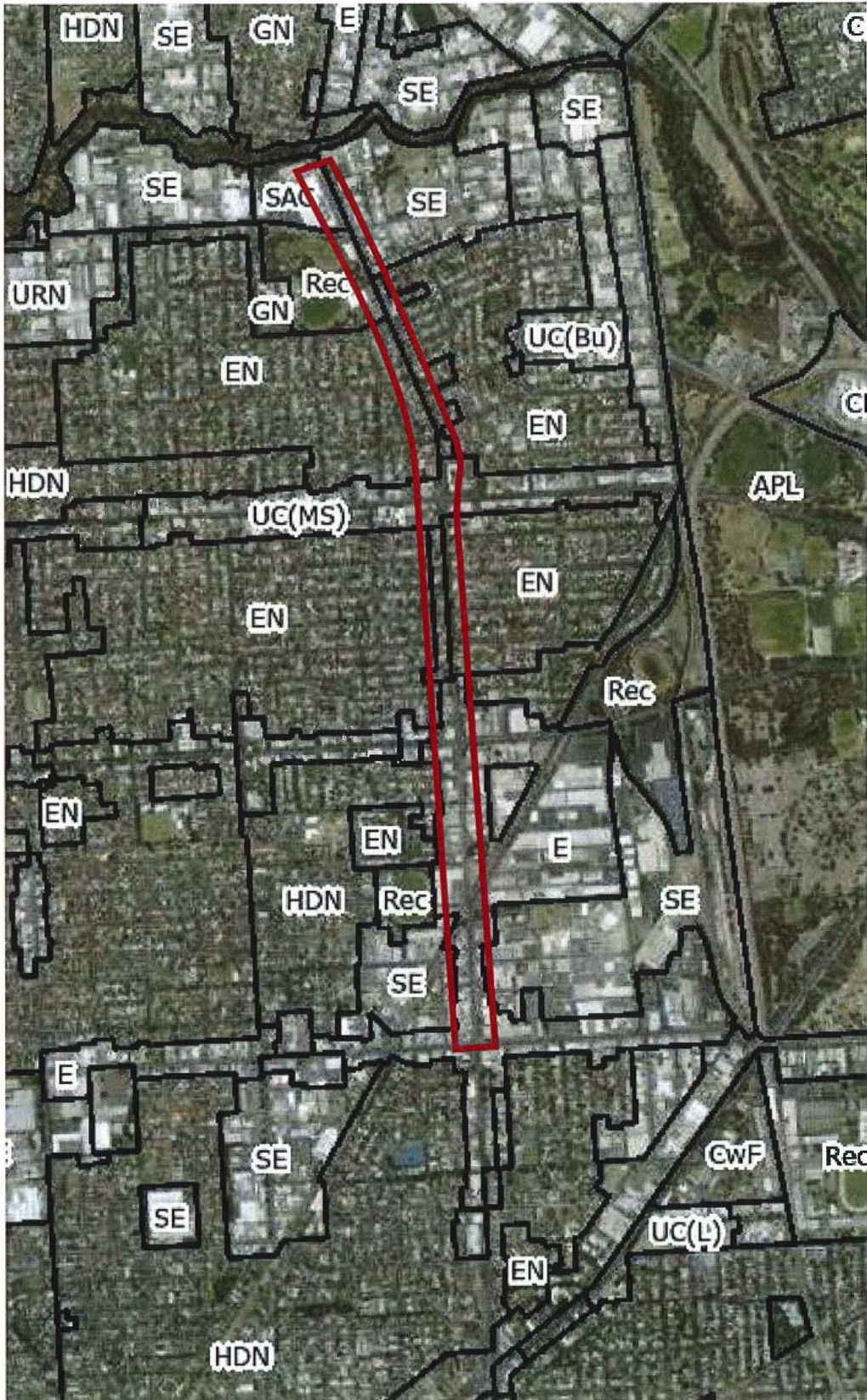
ATTACHMENT A

Map of Affected Area

Area 1 - Southern Tunnels



Area 2 - Northern Tunnels



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 <i>(includes lodgement and allocation + referral to Government Agencies within the first week)</i>
Minister requests advice from the Commission.	Minister	
Consideration of Proposal to Initiate and advice to the Minister.	Commission (Delegate)	+ 2 weeks
	Minister	+ 1 week
Proposal to Initiate agreed to by the Minister	Minister	1 day
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	4 weeks
AGD prepares Amendment Instructions and Mapping and provides to Council for consultation purposes.	AGD	6 weeks
Preparation of Materials for Consultation.	Designated Entity	6 weeks
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	4 weeks Indicative start date – 01 May 2022 [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	6 weeks

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Step	Responsibility	Timeframes
Assess the amendment and engagement. Prepare report to the Commission or delegate Timeframe will be put on hold if further information is required, or if there are unresolved issues.	AGD	2 weeks
Consideration of Advice	Commission (Delegate)	2 weeks <i>(includes 1 week to process through Minister's office)</i>
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	3 weeks
Parliamentary Scrutiny		
Referral of approved Code Amendment to ERDC	AGD	8 weeks