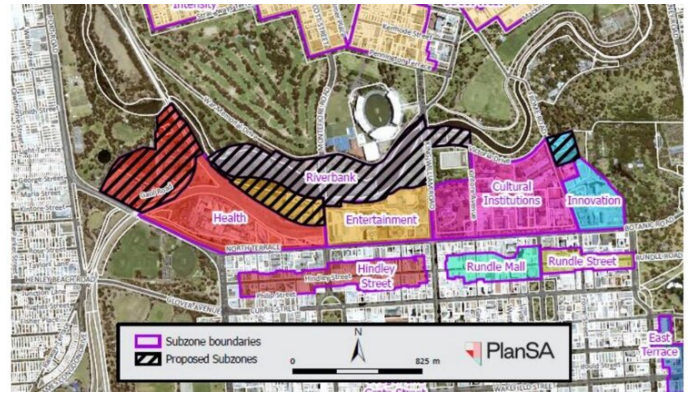


## Riverbank – Adelaide park lands rezoning bid capitalises on new planning code’s baffling complexities – and gambles on a political race against time

© John Bridgland\*

It is challenging to assess which of the procedural features will be most difficult for the public to comprehend about the 15 September to 27 October 2021 state government consultation on proposed rezoning of park lands sites near the city’s CBD. The state’s aim is to enable a wave of large new state construction projects on sites currently inaccessible in planning and policy terms. A confronting issue for the public will be a realisation that ‘ordinary people’ do not have the final say about future developments on an estate they thought belonged to all South Australians. Additionally, nowhere in the ‘consultation’ paper trail is it made clear that, once the planning code is revised and the rezoning classifies future construction projects as complying, public rights to participate in their development application assessments won’t exist. Planning and development approvals will be processed with no public notification required. There won’t be an automatic public right to access concept plans and drawings, or project timelines, or costs. In other words, respondents will have to acknowledge a rezoning amendment procedure that, once concluded, will see them blocked from future participation, and a critical layer of transparency is lost about development applications for Riverbank Precinct’s soon-to-be-rezoned park lands sites.

As an Adelaide Park Lands Authority board member warned on 24 September, a day after APLA members received a revealing PowerPoint briefing. “The PowerPoint [printout] summarises some frightening policy details, including sizes of areas proposed to be rezoned, allowable building heights, multiple allowable land uses, including residential, and no need for any notification of building applications once the policies are in place.<sup>1</sup> [It’s] the biggest singular land grab in park lands history!” (Aspects appear in **Appendix 1** at the end of this essay. They reveal



The Adelaide park lands adjacent to North Terrace, showing proposed new zones in the Riverbank Precinct. The black shaded areas are park lands zones soon to be rezoned. Most will be reclassified from park lands to new zones for development. New buildings tagged for construction are a Women’s and Children’s Hospital, which requires an adjacent three-storey car park to be built on nearby park lands (see the shaded area at far left), a Riverbank arena (part of the shaded area, centre-left of image), and commercial premises up to 200m<sup>2</sup> – River Torrens/Lake edge, currently Adelaide Park Lands Zone.

new land uses that make feasible a range of other development applications, a procedural feature of which few public respondents would be aware.)<sup>2</sup> Adelaide’s last ‘hot button’ government park lands raid proposal arose in 2007, featuring a \$33m state Labor concept for a huge grandstand at Victoria Park. It failed – but only because of significant public opposition that took more than 12 months to reach boiling point. This time, the raid involves infrastructure construction valued in the billions and the rezoning procedure is ready to implement. Documentation linked to the YourSay consultation survey runs to multiple papers and maps. Much of it is infested with bureaucratic jargon and planner semantics, incomprehensible to many.



The Marshall government’s 15,000-seat ‘Riverbank arena’. A \$700m pre-election concept that has no allocated funding in state budget forecasts.

<sup>1</sup> Communications: 24/9/21. PowerPoint briefing, source: Adelaide Park Lands Authority, Minutes, Item 6.1, ‘Riverbank Precinct Code Amendments’, 23/9/21, 23 pages.

<sup>2</sup> See Appendix 1 on page 4: underlined text.

It is unlikely that a concerted wave of protest will influence the proposal, especially given the technical complexities of code amendment and rezoning. The next stage will see the park lands' custodian, the city council, pressured to agree to provide legal approval to the government to allow it to gain development control of the land. But first, the six-week rezoning consultation pantomime needs to be played out.

### Rezoning – how the machinery works

State-driven rezoning, the legal alteration of the purposes for which land can be developed, has almost always been a process limited to a very small group of senior planning bureaucrats. Preliminary details are kept confidential until the government is ready to announce them. The park lands' planning game concludes only after confidential state cabinet presentations, followed by determinations made behind closed doors. It is a political process.

This fact appears to be contradicted in the state's publicly released, 21-page Riverbank Precinct consultation 'Engagement Plan',<sup>3</sup> which describes in detail the consultation procedure and later pathway. Although state cabinet would have signed off on the rezoning, there continues to be a pretence that public opinion carries some weight before the final decision will be made. On page 11 appears a list of 29 'stakeholders' to be consulted, including multiple ministers, state and local government agencies, and multiple additional businesses. Third last in the list of 29 (at number 27) appears the group that is the largest in number and the most politically relevant (as opposed to administratively relevant) – South Australia's 1.77m voters and taxpayers, described as 'the broader Adelaide community'. In a column outcome summarised as 'Stakeholder needs/expectations for engagement in the project', the following words appear: 'That they will be made aware of the Code Amendment, have an opportunity to participate, *influence the outcome* and be kept informed.' But in reality *influence* is to be tightly restricted only to fine-grain technical planning matters, as is confirmed in a PlanSA document.<sup>4</sup>

<sup>3</sup> Government of SA, *Engagement Plan*, Riverbank Precinct Code Amendment, Chief Executive, Attorney General's Department (21 pages, undated).

<sup>4</sup> Government of SA, *Riverbank Precinct Code Amendment*, Chief Executive, Attorney General's Department, approved 10/9/21: section 3.3, page 10, (88 pages).

In other words, the development vision and goal is already set in political concrete and is not negotiable.

Few YourSay public respondents will be aware that the paint is still wet on the Planning and Development Code, a new and complicated metropolitan planning instrument that only legislatively became operational on 19 March 2021. It comprises the new rules for development on South Australian land, including the Adelaide park lands. It arises from 2016 legislation initiated by state Labor. It has already attracted widespread criticism from private planning experts, as well as many local councils.

As recently as 10 August 2021 the city council was still attempting to get the state government to address multiple code problems that it had previously highlighted regarding the Riverbank Zone and the Adelaide Park Lands Zone.<sup>5</sup> This month's state code-amendment push will introduce a new wave of code amendments in a crash-or-crash-through pre-election assault on the council's understanding of the planning rules regarding land under its custodianship. If successful, the state push will turn multiple green park lands and river-edge sites into fenced-off construction projects – but only after the March 2022 state election.

Few of this month's Riverbank Precinct rezoning bid respondents know that the planning code's progressive implementation between 2019 and 2021 was a chaotic operation, with emerging flaws fixed on the run. The proposed park lands amendments now introduce a fresh set of rules (codes), potentially just as flawed as before. Arising from it, in 2022 there will be lucrative government construction contracts offered – no matter which state party wins the election. There is much at stake for 'the winners'.

### YourSay tactics on show

The tactical challenge for the current YourSay consultation approach is to avoid assuming responsibility to acknowledge the likely sound and fury of Adelaide's aware park lands observers, historically alert to park lands raids like this. The site where this ruse prevails is the

<sup>5</sup> City of Adelaide, Council agenda, 'Planning and Design Code – Update and Future Priorities', Item 10.5, 10/8/21, see pages 52–59.

government's YourSay online site<sup>6</sup>, which emerged after 10 September departmental sign-off to enable public response over the six-week consultation period. Curiously, the content of the 'Frequently Asked Questions' survey background booklet did not reveal what the city council planner was able to advise the Adelaide Park Lands Authority on 23 September – eight days after the survey commenced – about loss of future public notification rights and unanticipated new land-use options emerging as a result of code changes and rezoning.

**A**t the YourSay site an invitation to respond appears, with the most tempting option for the time-stressed respondent being a "Quick Poll" appearing at the top. Respondents are offered three buttons: "Yes, I support the proposal"; or "Yes, but I have some concerns"; or "No, it should not proceed." But what was 'the proposal'? There wasn't one listed. Instead, only one question appeared: "Do the proposed amendments reflect the vision to create a premier health, entertainment and cultural boulevard?"

While the government also encouraged submissions, or offered additional face-to-face briefings (on request) as alternatives, the 'Quick Poll' was obviously a useful device to capture the fastest, and almost certainly the largest, number of responses, especially by non-expert respondents. But the potential to *influence* any rezoning outcome through this superficial means will prove to be nil. The 'button option' is an avenue for the non-expert respondent to enter the online maze, but quickly find an exit option to escape the tedium of trying to understand a highly complex code revision and rezoning scenario featuring 'zones' and 'sub-zones'. It may be that many respondents will simply vote 'no', simply because they smell a rat. Peak bodies and lobby groups will have the means to pay for expert briefings as they lodge 'support the proposal' votes. But for the uneducated public, the 15 September to 27 October consultation essentially capitalises on confusion as a strategy, notwithstanding PlanSA's multiple links that attempt to explain very complicated planning concepts.

Disturbingly, however, some of these links reflect poorly on the government planners who wrote them. For example, references to the *Community Land Management Plan* for the proposed hospital, arena and river-edge shops and tourism sites do not make clear that it does not contemplate such construction

projects. Further, references to the *Adelaide Park Lands Management Strategy 2015–25* fail to make clear that the Strategy also does not contemplate these specific projects.<sup>7</sup> These two documents are the two core policy instruments cited in the *Adelaide Park Lands Act 2005*. In other words, there is no park lands policy support for most of the projects now, or even after, the rezoning. It is a major lapse in objective consultation procedure.



A three-storey car park concept (including additional related hard-stand parking spaces) proposed to be built on park lands adjacent to the nominated site for the new Women's and Children's Hospital.

### What is the park lands' custodian doing?

**M**eanwhile, the City of Adelaide has already been consulted by the state government and does not appear to be putting up much resistance. Behind the scenes the council is being compelled to act in haste about this rezoning proposal. It is a common park-land-related tactic practised by SA state governments – to panic the lower-order local-government park lands 'landlord' by setting up false deadlines and pressuring decision-makers. It is clear that the state government is not waiting for the conclusion of the survey. (State laws do not require local or state government administrators to take any notice of consultation results; they only have to 'go through the motions' of pretending to listen.) The Marshall government is now pressuring the council to respond to post-code-amendment-stage imperatives. It wants the council to give a minister legal access to the land over which the council has long held 'care and control'. There is a sudden urgency for the council to approve this option, which is the easiest among several other options. The alternatives are more complicated under the *Adelaide Park Lands Act 2005*, and would take more time to address. Top of the 'urgent list' is the

<sup>6</sup> [YourSay@sa.gov.au](mailto:YourSay@sa.gov.au) – Riverbank Precinct Code Amendment.

<sup>7</sup> See document source at footnote 4: this text reference appears at section 4.1.4, page 16.



plan for the new hospital, as well as its adjacent three-storey, 1250-space car park, proposed to be built on two hectares of the park lands.

On 14 September, a day before the public consultation period began, a council agenda paper confirmed the government's urgency. "On 3 September 2021," it reported, "the Lord Mayor [Sandy Verschoor] received a letter from the Chief Executive of the Department of Health and Wellbeing, requesting the transfer of land that is in council care and control that would be required for the [Women's and Children's Hospital] proposal to the Minister for Health and Wellbeing."<sup>8</sup> The agenda paper also noted that: "Early [W&CH] site works are proposed to commence by the end of 2021 with construction works to commence in late 2022." 2022? It had been earlier admitted by the state government that the hospital project would not commence construction until 2025. The government's new game is to create a public impression in the lead-up to the March 2022 poll that things are moving much faster than anyone anticipated. It's a pre-election stunt, but will be useful during campaigning in marginal electorates. There appears to be less immediacy relating to council approval for transfer of land required for the 15,000-seat Riverbank Arena. If correct, it may relate to the fact that it remains unfunded – in other words a political mirage, a concept created to seduce marginal electorate voters ahead of the election.

**Appendix 1** extracts text from a 23 September 2021 Adelaide Park Lands Authority PowerPoint presentation, authored by council planner, Rick Hutchins. Planning experts know that when the planning code is changed in association with a rezoning of a site (whether in park lands or elsewhere) the options about what can be built there may also change. The underlined text in Appendix 1 illustrates, for example, how rezoning the proposed site for a hospital car park would trigger potential for many other types of development as well. Most are incompatible with existing Adelaide park lands policy. This matter was poorly explained in the YourSay consultation and is an example of the poverty of highly relevant consequential detail that ought to have been provided during the 15 September to 27 October 2021 consultation period.

---

<sup>8</sup> City of Adelaide, Council agenda, 'Riverbank Precinct Projects Strategic Alignment – Enabling Priorities', Item 10.14, 14/09/2021.

## APPENDIX 1<sup>9</sup>

Planning consequences

### 1. Planning Code rezoning of land for new hospital, and new adjacent car park

*"Proposed zone changes:*

- Rezone from "Adelaide Park Lands Zone" to "City Riverbank Zone / Health Subzone".

*"Observations:*

*\*\* Enables construction of [car park] and bridge connection to new Women's and Children's Hospital development. \*Land area 22 hectares. Features: \*Removal of key policies of relevance to park lands. \*Possible height of 15 building levels / 53m building height. \*Public notification not required for any development except demolition of State or Local Heritage Place.*

*"Rezoning from Park Lands Zone to Riverbank Zone (health subzone) would allow these new land uses (currently not envisaged in this location): • Arena, Community centre, Consulting room, Convention centre, Educational establishment, Entertainment venue, Helicopter landing facility, Hospital, Hotel, Licensed premises, Land division, Light industry, Office, Pre-school, Shop, Serviced apartments, Tourist accommodation."*

### 2. Planning code rezoning for Riverbank Arena

[Park 27, site west of the Morphett Street Bridge]

*"Most of this land changes from Adelaide Park Lands Zone to 'City Riverbank Zone – Entertainment Sub-zone'.*

*"Observations:*

*\* Enables Riverbank Arena in this location, and enables more potential land uses. \*Land area 9 hectares. \*Removal of key policies of relevance to Park Lands.\* Possible height of 20 building levels / 71m in building height, provides a transition in scale down to river. \*Allows for health-related development and residential.*

*\* Public notification not required for any development except demolition of State or Local Heritage Place."*

### 3. Active Waterfront Precinct (about 37 hectares) [River Torrens and Torrens Lake]

*\*\* Retain "Adelaide Park Lands Zone" \*Introduce new "Riverbank Subzone". \*Encourages both on-water and off-water development.*

*"Observations:*

*\*\*Key policies of the Adelaide Park Lands Zone remain applicable. \*Up to 200m2 gross leasable area deemed-to-satisfy provision for community, cultural, tourism, shop or licensed premises that complement role and function of the riverbank."*

*\*John Bridgland is a North Adelaide journalist and a City of Adelaide ratepayer.*

---

<sup>9</sup> PowerPoint presentation notes [here condensed]: from Adelaide Park Lands Authority, Minutes, Item 6.1, 23/9/21, 'Riverbank Precinct Code Amendments', 23 pages.