

Pre-lodgement service



Referral agencies and pre-lodgement agreements

Purpose

This fact sheet provides information about statutory referrals and referral agencies, when a referral is required and how to obtain pre-lodgement agreements.

It is produced by the Investment Team of the Department of Planning, Transport and Infrastructure (DPTI), which offers a pre-lodgement case management service. The team can be contacted by emailing dpti.pdprelodgementenquiries@sa.gov.au or calling (08) 7109 7081.

What types of referrals are there?

In some circumstances, a development application may require **concurrence**, **direction** or **advice** from one or more statutory referral agencies. The relevant referral agencies are determined through an assessment of the application against Schedule 8 of the *Development Regulations 2008*.

A response from a referral agency has varying degrees of influence on the development assessment process, depending on the type of referral.

The *Development Act 1993* classifies referrals as follows:

- **Regard:**
the relevant planning authority cannot consent to or approve the development without having regard to the response of the referral agency.
- **Concurrence:**
the relevant planning authority cannot consent to or approve the development without the concurrence of the referral agency (concurrence

can be in the form of, but not limited to, conditions given by the referral agency as it thinks fit).

- **Direction**
the referral agency may direct the relevant planning authority:
 - a) to refuse the application; or
 - b) to impose conditions should the planning authority decide to approve the development.

The table on the following page is a quick reference guide to the referral agencies that are most common to development applications..

Other referrals listed under Schedule 8 may be relevant to your project. Your Case Manager will help you determine if any other referrals are needed.

How do pre-lodgement agreements work?

Section 37AA of the Act allows agreements to be reached between development applicants and referral agencies prior to lodgement. Pre-lodgement agreements can be reached with any referral body.

This process eliminates the need for referrals to be undertaken during the formal assessment process, thereby significantly reducing assessment timelines and potential delays for the development application.



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Common referrals in pre-lodgement

Referral Agency	Trigger	Referral Type	Timeframe for referral agency response	Fees	Contact
Government Architect	All proposals over \$10 million in Adelaide City All proposals over 4 storeys within an Urban Corridor Zone of Council areas of: <ul style="list-style-type: none">- Burnside- Norwood, Payneham & St Peters- Prospect- Unley- West Torrens All proposals over \$3 million in the Port Adelaide Regional Centre Zone	Regard	8 weeks	\$349	(08) 8226 1692
Commonwealth Department of Infrastructure and Transport - (facilitated by Adelaide Airport Ltd)	All proposals above the Obstacle Limitation Surface as shown in the relevant Development Plan	Direction	4 weeks	\$349	(08) 8308 9245
Department of Environment, Water and Natural Resources - (State Heritage Unit)	All proposals which directly affect a State heritage place, or development which in the opinion of the relevant authority materially affect the context within which the State heritage place is situated	Regard	8 weeks	\$349	(08) 8124 4960
Renewal SA	All proposals which include Affordable Housing	Regard	3 weeks	\$349	(08) 8207 0625
Environment Protection Authority	All activities of environmental or major environmental significance	Regard or Direction	4 or 6 weeks	\$349	(08) 8204 2004



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How do I start a referral process?

If you are using the DPTI pre-lodgement case management service, your case manager will initiate and facilitate formal discussions with the referral agency or agencies. You are required to submit a Pre-lodgement Agreement Request Form, which is available online at www.dpti.sa.gov.au/planning/prelodgement/city_and_inner_metro.

Referral agencies consider pre-lodgement agreements when they are satisfied that:

- it is likely that an agreement will be reached
- it is likely that an application will be lodged.

The initiation of formal discussions does not commit any party to sign a pre-lodgement agreement; the parties can discontinue the discussions at any stage.

Should a referral agency not wish to undertake discussions on a pre-lodgement agreement, they must notify the applicant in writing and indicate the reasons why.

What aspects of a proposal are subject to the pre-lodgement agreement?

The primary focus for each referral agency is to support:

- refining of the proposal and its technical details to achieve compliance with the policies and standards of the agency
- identification and registration of plans and reports that will form part of the pre-lodgement agreement.

Pre-lodgement agreements can only relate to matters that are subject to Schedule 8 and are the responsibility of the referral agency. They also must be relevant to the legislation administered by the agency, and have regard to the policies contained in the relevant Council Development Plan.

The referral agency can only take into account policies in force prior to the pre-lodgement agreement being signed.

What does a pre-lodgement agreement cover?

The form of the agreement can vary, depending on the proposal, but in many cases is likely to be similar to Schedule 8 referral letters to the planning authority; however, the final pre-lodgement agreement forms part of the application and hence is a mandatory part of any approval).

The pre-lodgement agreement consists of the signed and dated agreement, as well as any attached signed and stamped plans and reports. It also include a list of attachments (including plan and report numbers), which enables the planning authority to check that the full agreement package has been lodged as part of the development application.

When must a pre-lodgement agreement be lodged and how long is it valid?

You must lodge the agreement along with the development application **within three months** of signing of the agreement. This provision increases certainty for you while enabling the referral body to take into account any policy variations outside the three-month period.

If an agreement expires (i.e. more than three months have passed between the agreement being signed and the application being lodged), you can seek a new agreement by submitting a new pre-lodgement request form and fee. In such cases the referral body would have regard to the policies applying at the time of signing of the second agreement, rather than the time of signing of the first agreement.



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Is a pre-lodgement agreement a planning approval?

No. A pre-lodgement agreement between an applicant and a referral body does not bind the relevant planning authority to approve a subsequent development application.

A pre-lodgement agreement relates only to the aspects of the proposal for which that referral body has responsibility. The relevant planning authority must balance those matters against other planning issues and considerations in its assessment.

Can I vary a pre-lodgement agreement?

Yes. You can initiate a request to vary a signed agreement before a Development Plan Consent is issued by the relevant planning authority. You must submit a new pre-lodgement request form, fee and the refined plans/reports. You can lodge the signed varied agreement with the planning authority as a variation to the application, as part of the assessment process.

You can also request to vary an agreement while seeking to vary an existing Consent or Approval.

Other legislative considerations

A pre-lodgement agreement included in an application forms part of any Development Plan/Land Division Consent and subsequent Development Approval.

Therefore, the provisions in the agreement are subject to:

- standard planning authority compliance provisions under Section 44 of the Act
- third party action provisions under Section 85 of the Act

- any prescribed bodies provisions under Section 84 of the Act
- any compliance provisions under the Act associated with the referral body
- any compliance provision contained in the pre-lodgement agreement itself.

For further information

You can download a pre-lodgement pack from www.dpti.sa.gov.au/planning/prelodgementservice or ask DPTI to mail it to you.

To discuss your needs, phone or email:

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