

Referral agencies and pre-lodgement agreements

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 Planning and Land Use Services (PLUS) Planning and Development Team of the Attorney-General's Department (AGD) which offers a free pre-lodgement case management service.

What types of referrals are there?

In some circumstances a development application may require direction or advice from one or more statutory referral agencies. The relevant referral agencies are determined through an assessment of the application against Schedule 9 of the *Planning, Development and Infrastructure Regulations 2017*.

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

The *Planning, Development and Infrastructure Act 2016* classifies referrals as follows:

- **Direction**

The referral agency may direct the relevant planning authority to:

- refuse the application
- impose conditions should the planning authority decide to approve the development.

- **Advice:**

The relevant authority should consider the advice received and must not make its decision until it has received a response from the referral agency in relation to the matter for which the referral was made.

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

Other referrals listed under Schedule 9 may be relevant to your project. Your case manager will help you determine if any other referrals are needed.

Common referrals in pre-lodgement

Referral Agency	Trigger	Referral Type	Timeframe for referral agency response	Contact
Government Architect	Development that is: (a) in the Design Overlay under the Planning and Design Code (b) specified by the Planning and Design Code as development of a class to which this item applies.	Advice	30 business days	(08) 8402 1884
Airport operator company for the relevant airport within the meaning of the <i>Airports Act 1996</i> of the Commonwealth or, if there is no airport operator company, Secretary of the Department of the Minister responsible for the administration of the <i>Airports Act 1996</i> of the Commonwealth	Development that is: (a) in the Airport Building Heights (Regulated) Overlay under the Planning and Design Code (b) specified by the Planning and Design Code as development of a class to which this item applies.	Direction	20 business days	airportreferrals@aal.com.au
Department for Environment and Water (State Heritage Unit) Minister responsible for the administration of the <i>Heritage Places Act 1993</i>	Development that is: (a) in the State Heritage Place Overlay, State Heritage Area Overlay or the Heritage Adjacency Overlay under the Planning and Design Code (b) specified by the Planning and Design Code as development of a class to which this item applies.	Direction	30 business days	(08) 8124 4960
Minister responsible for the administration of the <i>South Australian Housing Trust Act 1995</i> SA Housing Authority	Development that is: (a) in the Affordable Housing Overlay under the Planning and Design Code (b) specified by the Planning and Design Code as development of a class to which this item applies.	Direction to impose conditions	20 business days	(08) 8207 0223 13 12 99



Referral Agency	Trigger	Referral Type	Timeframe for referral agency response	Contact
Environment Protection Authority	<p>Development:</p> <ul style="list-style-type: none"> (a) that involves, or is for the purposes of, an activity specified by the Planning and Design Code as an activity of environmental significance to which this item applies (b) that is: <ul style="list-style-type: none"> (i) in the Mount Lofty Ranges Water Supply Catchment (Area 1) Overlay, Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay, River Murray Flood Plain Protection Area Overlay or Water Protection Area Overlay under the Planning and Design Code (ii) specified by the Planning and Design Code as development of a class to which this item applies. 	Direction	30 business days	(08) 8204 2004

Information on the fees associated with the above referrals can be found on the SA Planning Portal - https://plan.sa.gov.au/development_applications/before_you_lodge/application_fees



How do pre-lodgement agreements work?

Section 123 of the *Planning, Development and Infrastructure Act 2016* allows agreements to be reached between you 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, significantly reducing assessment timelines and potential delays for your application.

How do I start a referral process?

If you are using the PLUS Planning and Development 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 commencement request form, which is available at plan.sa.gov.au/development_applications/case_management_services/pre-lodgement_service

Referral agencies consider pre-lodgement agreements when they are satisfied it is likely:

- an agreement will be reached
- 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 discussions at any stage.

If a referral agency does not want to undertake discussions on a pre-lodgement agreement, they must notify you 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 9. They are the responsibility of the referral agency and must also be relevant to the legislation administered by the agency and have regard to the policies contained in the [Planning and Design Code](#).

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 9 referral letters to the planning authority. However, the final pre-lodgement agreement forms part of the application and therefore 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 3 months of signing the agreement. This provision increases certainty for you while enabling the referral body to take into account any policy variations outside the 3 month period.

If an agreement expires – ie more than 3 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 this case 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.

Is a pre-lodgement agreement a planning approval?

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

A pre-lodgement agreement relates only to 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 Planning Consent document is issued by the relevant planning authority. You must submit a new pre-lodgement request form, fee and 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 your application is part of any Planning/Land Division Consent and subsequent Development Approval.

Therefore, the provisions in the agreement are subject to:

- standard planning authority compliance provisions under Section 215 of the Act
- third party action provisions under Section 214 of the Act
- prescribed bodies provisions under Section 213 of the Act
- compliance provisions under the Act associated with the referral body
- compliance provision contained in the pre-lodgement agreement itself.

Further information

You can download a pre-lodgement pack from plan.sa.gov.au/en/pre-lodgement or ask PLUS Planning and Development section to mail it to you.

To discuss your needs, contact our **Inner Metro Development Assessment Team** by calling 1800 752 664 or email PlanSA@sa.gov.au.