

Conditions of approval and reserved matters

This fact sheet explains what happens after the receipt of a planning consent from the State Planning Commission (SPC).

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

How do I get planning consent?

There are 3 parts to a development approval:

1. Planning consent

Assessment against the Planning and Design Code. For projects utilising the pre-lodgement service, planning consent is issued by SPC – as the relevant planning authority.

2. Building rules consent

Assessment against the Building Code of Australia. Building rules consent is issued by either the relevant council or a private certifier.

3. Development approval

Development approval is issued by the relevant council following receipt of both the planning and building rules consent.

Your planning consent may include:

- **Reserved matters**

Matters that need further assessment and consent prior to lodging for building rules consent.

- **Conditions of approval**

Conditions that must be satisfied in the delivery of the development.

Planning consent is usually valid for 24 months. We recommend you begin working to obtain your building rules consent – including satisfying any reserved matters – shortly after receiving planning approval.

What are reserved matters?

Section 102(3) of the *Planning, Development and Infrastructure Act 2016* provides the following:

A relevant authority may, in relation to granting a planning consent, on its own initiative or on application, reserve its decision on a specified matter or reserve its decision to grant a planning consent—

- (a) until further assessment of the relevant development under this Act; or*
- (b) until further assessment or consideration of the proposed development under another Act; or*
- (c) until a licence, permission, consent, approval, authorisation, certificate or other authority is granted, or not granted (by the decision of another authority), under another Act.*

Reserved matters can be used to defer a decision on parts of your application that are incidental to a proposal and not fundamental to the overall assessment of the application. For example, a reserve matter may relate to landscaping or the location of air conditioning plant and equipment.

The use of reserved matters can benefit you and the planning authority by allowing some matters of detail to be set aside and dealt with at a later time. This provides you with financial and progressive certainty and security for the assessing authority to further consider certain matters after planning consent is granted.

How are reserved matters included in the planning consent?

When issuing a planning consent, a reserve matter will be identified separately to those matters which are conditions. The wording for the reserved matters clearly identifies the requirement, and when the requirement is to be fulfilled. An example follows:

Reserved Matters

*The following detailed information shall be submitted for further assessment and approval by the SPC as reserved matter pursuant to Section 102(3) of the *Planning, Development and Infrastructure Act 2016*:*

- (i) A Landscape plan shall be prepared for the site that adequately screens the building as viewed from the road, and includes predominantly indigenous species and a mixture of groundcovers, shrubs and trees.*

*Pursuant to Section 102(1) of the *Planning, Development and Infrastructure Act 2016*, the SPC reserves its decision on the form and substance of any further conditions of planning consent that it considers appropriate to impose in respect of the reserved matters set out at X above.*

On receipt of the information relating to a reserved matter, it will be assessed and if satisfactory, approved by the State Planning Commission or delegate.

What are conditions of approval?

Conditions may be placed on SPC planning consent in relation to a development – or as prescribed by the Development Regulations.

Conditions are binding and enforceable against the person who undertakes the development and any person who acquires the benefit of the decision – including the owners and occupiers of the land on which the development is undertaken.

How are conditions of approval included in the planning consent?

Conditions can relate to any element of the proposed development and may be placed on the planning consent or building rules consent. The assessing authority will determine what conditions will be applied – a planning approval, building rules consent or full development approval.

Conditions will generally reinforce the particulars of the application, or bind you to various undertakings during the development. If a particular matter is likely to require further consideration or assessment it should be set aside as a reserve matter.

What is building rules consent?

Before starting any work on the development you must also obtain building rules consent. To obtain building rules consent, your proposed development must be assessed against the provisions of the Building Code of Australia by the relevant council's building officer or by a private certifier. A building rules assessment involves considering construction plans and engineering details against the technical requirements of the Building Code.

What is full development approval?

You will get full development approval once both planning approval and building rules consent are granted. Your development approval is valid for 24 months from the date of consent, by which time it is expected building work would have substantially commenced.

Determining whether or not a development has been substantially commenced can be very subjective, so it is recommended you contact the PLUS Planning and Development section or you the council where the development is to be built to discuss this further.

The validity of development approval may be extended in some circumstances and we recommend you contact us well before your approval lapses to discuss your need for an extension.

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