



# Environmental Defenders Office

## The Planning Framework in SA

*Disclaimer: This factsheet is a guide only and is designed to give readers a plain English overview of the law. It does not replace the need for professional legal advice in individual cases. To request free initial legal advice on a public interest environmental or planning law issue, please visit our [website](#).*

*While every effort has been made to ensure the information is accurate, the EDO does not accept any responsibility for any loss or damage resulting from any error in this factsheet or use of this work.*

*This factsheet was last updated on 08 October 2020*

This factsheet provides an outline of the South Australian planning framework under the [Planning, Development and Infrastructure Act 2016 \(SA\)](#). It explains:

- the types of development;
- how to apply for a development application, and;
- how you may be able to participate in commenting on development proposals or challenging decisions

N.B. This factsheet provides a general overview only.

Visit: The PlanSA [website](#) for more information.

### What is development?

‘Development’ can include any alteration, addition to or use of land. Planning law regulations allow for the zoning and monitoring of development to promote the safety and comfort of communities. For example, there are designated residential and industrial zones.

Visit: Plan SA’s [SA Property and Planning Atlas](#) to explore the SA zoning areas.

The [Planning and Development Infrastructure Act 2016 \(SA\)](#) (**Planning Act**);

- Outlines the types of development and what rules may apply to your development
- Allows you to apply for a development application (**DA**)
- Allows you to seek a review of a decision made regarding your DA

- Provides opportunity for public comment on major projects that may affect your community

### Which developments require a development application?

There are many types of development under the SA Planning Framework. Some forms of development do not require a development application. These developments are referred to as 'accepted development' and may include:

- Retaining walls and fencing up to specified height
- Solar panels
- Shade sails
- Underground water tanks; and/or
- Outdoor sheds.

The requirements for 'accepted development' varies depending on the zoning designation i.e. accepted development requirements for residential zones are different to those for industrial zones.

- Visit:
- PlanSA's [Find Out If You Need Approval](#) wizard tool to determine whether you need to lodge a development application.
  - PlanSA's [Planning and Design Code](#) portal to input your address and find out which development rules apply.

The wizard tool or portal (linked above) may also categorise your proposed development application as follows:

- Code assessed development – deemed to satisfy development
- Code assessed development – performance assessed development
- Impact assessed development; or
- Impact assessed development – restricted development.

N.B. All these categories of development require a development application to proceed.

### How do I make a development application and who do I send it to?

Different categories of development require different things when submitting an application. Some may only require conformity to the Planning and Design Code, while others may require more detailed assessment. This can include submitting an

environmental impact statement with your development application (**DA**) or complying to specific conditions.

### **Code assessed development – deemed to satisfy development**

This generally applies to standard development applications, with no risk of impact to surrounding areas, environments or the community. Development that is ‘deemed to satisfy development’ will be assessed by an Accredited Professional or Assessment Manager directly against the provisions within the Planning and Design Code.

#### Steps to be taken

1. Download the [Development Application Form](#)
2. Fill in the form and lodge it online via the [Planning Portal](#)
  - N.B.
    - You will need to make an online account with PlanSA to use their online lodgment services
    - You will need to pay a fee for lodging a DA
3. If a decision has not been made within 5 business days of lodgment, you may be eligible to issue a Deemed Planning Consent Notice. The form and instructions for lodging are available on PlanSA’s [Deemed Consent Notice](#) page.

N.B. Public notification of the DA is required. The owner/occupier of any adjacent land and the public must be notified by placing a notice on the land to be developed.

### **Impact assessed development**

Impact assessed development is declared by the Minister for Planning and Local Government as major projects. These require additional assessment by the Minister as they are typically larger, industrial projects that may pose a high risk to the environment or infrastructure.

#### Steps to be taken

1. Download the [Development Application Form](#)
  - N.B. An Environmental Impact Statement (**EIS**) must be submitted with the DA
2. Fill in the form and lodge it online via the [Planning Portal](#)
  - N.B.
    - You will need to make an online account with PlanSA to use their online lodgment services

- You will need to pay a fee for lodging a DA
3. A decision should be made within 60 business days of lodgement. If the Minister does not comply with this timeframe, you cannot issue a Deemed Planning Consent Notice.

N.B. Public notification of the DA is required. The Minister must notify the owner/occupier of any adjacent land and notify the public by placing a notice on the land to be developed, publishing the proposal and environmental impact statement to PlanSA and publishing the proposal in a well circulated local newspaper.

### **Impact assessed development – ‘restricted development’**

Major projects can be categorised as ‘restricted development’ by the Planning and Design Code. These require additional assessment against the Planning and Design Code by the State Planning Commission as they are typically larger, industrial projects that may pose a high risk to the environment or infrastructure.

#### Steps to be taken

1. Download the [Development Application Form](#)  
N.B. An Environmental Impact Statement (**EIS**) must be submitted with the DA
2. Fill in the form and lodge it online via the [Planning Portal](#)  
N.B.
  - You will need to make an online account with PlanSA to use their online lodgment services
  - You will need to pay a fee for lodging a DA
3. A decision should be made within 60 business days of lodgement. If the Minister does not comply with this timeframe, you cannot issue a Deemed Planning Consent Notice.

N.B. Public notification of the DA is required. The State Planning Commission must notify the owner/occupier of any adjacent or affected lands and notify the public by placing a notice on the land to be developed and publishing the proposal to PlanSA.

## What can I do if I am dissatisfied with the decision made on my application development?

Two avenues of review are available for most categories of development if your development application is rejected. You can seek:

- [Review from the State Commission Assessment Panel or State Planning Commission](#) (for code-assessed development and ‘restricted’ impact assessed development) or;
- [Appeal to the Environment, Resources and Development Court](#) (for all categories of development).

### **Review from the State Commission Assessment Panel or State Planning Commission**

For accepted development requiring builder’s consent, and code-assessed development applications, you may apply to the Assessment Panel for review of a decision.

#### Steps to be taken (if your DA was decided by an Assessment Management)

1. Use the [Application for Assessment Panel Review of Assessment Manager’s Decision](#) form
2. Lodge the form via email to the State Commission Assessment Panel at [SCAPreps@sa.gov.au](mailto:SCAPreps@sa.gov.au)

#### Steps to be taken (if your DA was for ‘restricted’ impact assessed development)

1. Use the [Application for State Planning Commission Review of Assessment Panel’s Decision](#), if the Assessment Panel decided to not proceed your development application to the assessment stage
2. Lodge the form via email to the State Planning Commission at [saplanningcommission@sa.gov.au](mailto:saplanningcommission@sa.gov.au)

### **Appeal to the Environment, Resources and Development Court**

The Environment, Resources and Development Court (**ERD Court**) handles a range of planning and environmental matters. This includes hearing appeals of development applications decided by a council, assessment panel or other relevant authority that applicants are not satisfied with.

Appeal to ERD Court is only available to those who lodged the development application in question, or a relevant party who can prove their interest in the development application. This includes those who made a public submission regarding a proposed development application.

- An application for appeal must be made within 2 months after the applicant receives notice of the decision.

- You can lodge this [form](#) to apply for appeal to the Environment, Resources and Development Court. The relevant development application must also be attached.
- Lodge the appeal with the [Environment, Resources and Development Court](#) by delivering to the registered address. You will also need to pay a fee for lodging a court appeal.

Read: EDO factsheet on [Procedure in the Environment, Resources and Development Court in SA](#) for more information about the Court functions.

Visit: The Courts Administration Authority of South Australia page on [Environment, Resources and Development \(ERD\) Court Rules & Forms](#) to view and download forms.

### What happens if I commence development without an application?

Visit: PlanSA's [Find Out If You Need Approval](#) wizard tool to determine whether you need to lodge a development application.

If you continue with development on land without approval, you may be committing an offence.

A person who undertakes development without approval is liable to a maximum penalty of \$120,000.

### How can I participate in major development applications in my community?

Some major projects have the potential to have an effect on the environment or the community. In these cases, any person within the community can make submissions in relation to a proposed development application.

Your submission must;

1. Be in writing, using the approved form\*
2. Outline the reasons for the representation
3. Include your name and address; and
4. Include a statement if you wish to speak at the State Commission Assessment Panel hearing regarding the development application.

\*Each DA on public notice (via the PlanSA website) will have an approved representation form available for public use.

Visit: PlanSA's pages on:

- [How To Have Your Say](#) for guidance on how to prepare your representation
- [Current Public Notices](#) to view and have your say on DAs on public notice
- [State Developments](#) to view and have your say on Crown developments, major projects, impact assessed developments and restricted developments on public notice

### Evaluate this resource

EDO welcomes feedback on this factsheet. Your feedback will help us ensure we are providing useful information.

If you have any concerns or suggestions regarding this factsheet, please fill out the Legal Resources evaluation form by clicking [here](#) or scanning the QR code below:

