



Planning Fact Sheet

Planning rules or decisions – who's responsible?

SA's Planning System is established by the South Australian Parliament through the Development Act (1993). In lay terms, it is a State system, not a Council system.

In broad terms the Act defines development and makes it an offence in SA to undertake development without an approval. To create greater certainty regarding what land uses can and can't be approved the Act establishes a set of rules for each area regarding what can be approved called the Development Plan, but commonly called "zoning". It also requires certain approvals regarding building safety against rules mostly contained in the Building Code of Australia and commonly referred to as building approvals.

Zoning Rules (the Development Plan)

The Development Act provides in Sections 25 and 26 that only the responsible Minister can amend the Development Plan – even where proposals are made by a Council. Under Section 25 the Minister has the power to approve amendments, decline to approve amendments or alter amendments proposed by a Council and under Section 26 has the power to initiate his or her own amendments to the Plan.

Where a Council proposes amendments it must be consistent with the Planning Strategy – a document prepared by the Minister as an expression of State policy; the Council must undertake a consultation process with the community; and it must refer its proposed amendments (a Development Plan Amendment or DPA) to any government department or agency that has a direct interest in the matter for comment.

In short Councils have no powers to make or amend zoning rules on their own. Zoning rules can only be made or changed by approval of a State Minister and following comment from any State Department or agency with an interest.

More information about Development Plans and zoning can be found on the Department of Planning and Local Government's website here:

<http://www.planning.sa.gov.au/index.cfm?objectid=BE2EB862-96B8-CC2B-63956288047F1AEF>

Approving Development Applications

Under the Development Act the vast majority of all development applications (around 90%) must be lodged with the relevant Council and are assessed against zoning rules by that Council. A small number of applications may need to go to the State Government's Development Assessment Commission and even fewer can be designated as major projects for which the Minister is the approval authority. Some developments dealt with by a Council require referral to a State Government department or agency which may provide advice or direct a Council to reject the application or to impose conditions.

A Council (as in the elected body of Council Members) cannot determine a development application. Councils must delegate development decisions to either qualified staff or to a Development Assessment Panel which must comprise a majority of independent members. Developments which do not meet the requirements of the zoning rules established by the

Minister (see above) *cannot be approved by a Council*. A development which meets the requirements of the zoning rules established by the Minister (see above) *cannot be refused by a Council*. Where someone believes a Council (planner or DAP) may have not interpreted the Act or rules correctly an appeal can be made to the Environment Resources and Development Court.

In short Councils can only approve developments in accord with the zoning rules established by the Minister and cannot reject a development which meets the zoning rules established by the Minister.

More information regarding the assessment process under the Act can be found on the Department of Planning and Local Government's website here:

<http://www.planning.sa.gov.au/index.cfm?objectId=B114FFC8-96B8-CC2B-6F4F312F1454FFD7>

Planning Reforms

As a result of the State Government's Planning Review which reported in 2008, a range of reforms to SA's planning system are being accelerated. The vast bulk of these are being supported by Local Government through the LGA. Some of these, such as the Better Development Plans, involves identifying the best zoning approach taken by a Council on a particular issue which has gained Ministerial approval and using it to craft a model for all Council areas. More information regarding the State Government reforms can be found here: <http://www.planning.sa.gov.au/index.cfm?objectId=51167DEC-F203-0D46-ABCAC3E4DAE09A5E>

Media Contact

Lastly, if you have any doubts regarding detailed aspects of the system and claims people may be making media should not hesitate to call Mary Ann Stenberg on 0439 076220 or 8224 2063 at the LGA to seek clarification – and if we can we will assist. Alternatively the office of the Minister for Urban Development and Planning can also clearly define the role which the Minister and State agencies play in the system.

Information Sheets

For more information which describes aspects of the Planning System in simple terms the following information sheets prepared by the Planning Institute of Australia (PIA SA) are a great start: http://www.lga.sa.gov.au/webdata/resources/project/Planning_Fact_Sheet.pdf (please note that aspects of these may be modified by the current reform program which is referred to above).