A GUIDE TO
BUILDING OR
RENOVATING
YOUR IDEAL HOME

YOUR RIGHTS AND OBLIGATIONS

Government of South Australia
Department of Planning and Local Government

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What do I need approval for?

Most building work requires a Development Approval under the Development Act 1993\(^1\), which must be obtained from your council before commencement of building work.

- Building work can include a new dwelling or extensions/renovations, as well as carports, verandahs, pools, internal alterations, structural changes or the demolition of existing buildings. Some retaining walls, water tanks, fences and sheds may also require Development Approval depending upon their size and/or location.
- Contact your council personally to determine if Development Approval is required – do NOT rely on the advice of neighbours, friends or contractors.
- Heritage listed properties or properties located in heritage zones may also require Development Approval for other additional work such as painting.
- Special requirements may apply in environmentally sensitive areas, such as hills face, coastal, or bushfire prone areas.
- In some situations, the council may not support a dwelling at all in the location proposed. The land may be zoned industrial, or may be subject to a hazard, such as flooding, which would be unsuitable for the construction of a dwelling.

The approval process-roles and responsibilities

- Development Approval consists of a number of staged consents, usually a Development Plan Consent and a Building Rules Consent, both of which must be obtained before a Development Approval will be issued. An application form will need to be filled out at the time of lodging documents for assessment.
- Development Plan Consent is issued prior to Building Rules Consent and can only be given by your council.
- For some of the more remote areas of South Australia there is no council. In these areas, the approval authority is the Development Assessment Commission (DAC). The Commission can be contacted on (08) 8303 0771.
- Planning requirements are generally council specific and are contained in the Development Plan for each council area. It is a good idea to liaise with your council during the preparation of the documentation to resolve any problems prior to lodgement.
- Either your council or a registered private certifier can undertake Building Rules assessment. Planning SA maintains a list of registered private certifiers who can carry out the assessment and issue the Building Rules Consent.

\(^1\) For ease of reading, the Development Act 1993 may be referred to throughout the remainder of the text as ‘the Act’.
When Building Rules Consent is granted and forwarded by a private certifier, your council will issue the Development Approval.

- Fees will be charged for the planning and building assessments as well as an initial lodgement fee.

- At the time of lodgement or during the assessment process, the project owner must pay the Construction Industry Training Levy to the Construction Industry Training Board. This fee totals 0.25% of the value of the construction work to be undertaken and is used to finance training schemes in the building industry. The levy must be paid on all building or construction work where the estimated value exceeds $15,000.

- Following the lodgement of all necessary documents, it will generally take 4 weeks to issue Development Approval or notify the applicant that their application has been refused.

- Development Approvals will be issued with a Decision Notification Form that may identify additional conditions that must be incorporated into the building work.

- If the approved building work is not commenced within 12 months or completed within three years from the date of approval, the approval will lapse.

What documents do I need to lodge to get Development Approval?

- The approval process requires the preparation of documentation that clearly portrays the nature and extent of the proposed building work and the site on which it is to be constructed, including access to and from the site, the slope of the land and site drainage.

- Information may be provided to council in two stages. You may wish to firstly seek a Development Plan Consent. This will involve satisfying the council in relation to zoning of the land and any impacts on adjacent land.

- Following Development Plan Consent, the Building Rules Consent will deal with details of the construction proposed. You can seek both consents sequentially or at the same time.

- Applicants seeking Building Rules Consent will require a soil report and structural details such as footing layouts and steel reinforcement details for new buildings and extensions.

- From a design and construction point of view, drawings will be required that show a site plan, floor plan/s, elevations and construction details. A specification may also need to be lodged which details the quality of the work to be constructed.

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2 The ‘Project Owner’ may be the builder, main contractor or an owner/builder. Contact the Construction Industry Training Board for further information.
• Building Rules Consent documents must be prepared in accordance with the Building Code of Australia (BCA). The BCA calls up national codes and standards such as Australian Standards, and state specific documents such as the South Australian Housing Code and Minister’s Specifications.

Specific requirements for Development Plan Consent
• Prior to approving a dwelling or dwelling extension, the council may wish to be satisfied the land concerned is in the right zone for the nature of the development proposed. For example, the council may not approve housing in an area zoned for industry.
• Even if the land is zoned appropriately, council may have detailed design and siting requirements, dealing for example with visual impact, impact on native vegetation, site slope or site condition issues and potential impacts on neighbours due to overlooking or shading. The zoning may have detailed requirements on the size, setbacks and heights of buildings.

Specific requirements for Building Rules Consent
• **Energy Efficiency:** All new homes and home extensions built in South Australia must be designed and constructed to achieve the efficient use of energy. The home or home extension will need to meet minimum requirements stated in the BCA or the South Australian Housing Code. The type of construction, degree of roof, ceiling and wall insulation, the location and size of windows, ventilation and draught-proofing will need to be considered.\(^3\)
• **Termite Protection:** Ensure that a method of minimising the risk of termite attack is included in the documents to be lodged.
• **Protection of Wet Areas:** Minister’s Specification SA F1.7 requires the use of specific materials and construction techniques to water proof wet areas in buildings such as toilets, laundries, bathrooms and kitchens.
• **Bushfire Prone Areas:** Check with your council to see if your dwelling is required to have additional protection from bushfires as per Australian Standard AS 3959 – Construction of buildings in bushfire prone areas.
• **Smoke Alarms:** All new and existing homes in South Australia are required to have a smoke alarm installed. Contact the Building Policy Branch for further information.

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\(^3\) Brochures and fact sheets further detailing the energy efficiency requirements can be obtained from Department of Planning and Local Government.
Can I appeal the decision?

- In most circumstances you will have appeal rights to the Environment, Resources and Development Court if your application is refused or if you are unhappy with a condition associated with either the planning or building consent or the Development Approval.

Is a written contract required?

- Under the Building Work Contractors Act 1995, there must be a written contract for all residential building work costing $12,000 or more.

- The contract should detail the roles and responsibilities of all parties, including the owner, and should define such things as the method and timing of payments, completion dates and the extent of damages that can be sought.

Is insurance required?

- The Building Work Contractors Act 1995 requires the licensed building work contractor to take out indemnity insurance for all domestic building work contracts costing $12,000 or more. The insurance provides cover for non-completion of the building work and/or failure to rectify faulty work if the subcontractor dies, disappears or is declared bankrupt. A copy of the certificate of insurance must be forwarded to you (the building owner) as evidence that an appropriate policy has been taken out.

- If you engage a builder before lodging the documents for assessment with the council or private certifier, the copy of the certificate of indemnity insurance should be submitted with the documents at the time of lodgement.

- If you have not selected a builder prior to lodging the documents, the Act requires that you forward a copy of the certificate to your council prior to the commencement of building work.

Who is qualified to undertake the building work?

- The Building Work Contractors Act 1995 requires people or companies doing business as building work contractors to be licensed, and have the work supervised by a registered building work supervisor.

- Whenever you contract with a builder or tradesperson (plumber, electrician etc), ask to see their licence. If they can’t produce it, then ask for their licence or registration number, and then telephone the Office of Consumer and Business Affairs to verify their qualifications.
• In addition, it may be advisable for you to ask to see references, contact previous clients and/or ask to view previous work completed before you sign a contract with a building work contractor.

Who can supervise construction?
• Under the Building Work Contractors Act 1995, an approved and registered building work supervisor must supervise all building work undertaken by a licensed building work contractor. In smaller building firms the licensed building building work contractor may also have authority to perform the supervisory role.
• You may also wish to employ an independent person to supervise the work on your behalf to ensure that the building work is constructed in accordance with the approved documents.

Do I need to advise the council before starting building work?
• A licensed building work contractor must give council one business day’s notice of commencement and completion of the building work. One business day’s notice is also required at any other stage that council has prescribed as part of the Development Approval. You should confirm that your builder has notified council in accordance with the requirements of the Development Approval.
• If you are an owner builder you are responsible for providing the notifications to the council at the prescribed stages. The notification required at the commencement of building work should include the name, address and telephone number of the relevant person you have engaged to sign the statement of compliance that is required at the completion of the building work.

Will the council inspect the building work during construction?
• The Act places responsibility on your council to monitor compliance of building work in its area. Inspections are generally conducted on a random basis, therefore your building work may or may not be inspected.
• On a day-to-day basis, inspection responsibilities are delegated to council staff that hold appropriate qualifications to function as building inspectors.
What is a statement of compliance?

- Upon completion, the licensed building work contractor must complete and lodge a statement of compliance with the council or private certifier who issued the Building Rules Consent. The statement verifies that the building has been constructed in accordance with the approved plans, specifications and any attached conditions, and that your council was notified at the prescribed stages of the building work.

- If you are an owner builder, either a registered building work supervisor or private certifier must sign the statement of compliance.

- In accordance with the Act, a dwelling, or an addition to a dwelling, must not be occupied unless:
  - the building is structurally sound and weatherproof
  - the building work has been carried out in accordance with the relevant approval
  - all smoke alarms are installed and have been tested
  - the building includes all facilities specified in Part 3.8.3 of the Housing Provisions of the BCA (toilet, shower, kitchen and laundry facilities)
  - all connections required for the supply of water (including rainwater tanks) and the disposal of water and effluent have been completed.
  - the building complies with the Housing Provisions of the BCA in relation to bushfire prone areas, if required.

What records should I keep?

- A copy of the approved plans and specifications should be kept, along with copies of consents and approvals issued by your council or private certifier. In addition, you should keep a copy of any signed contract that you have entered into, a copy of the indemnity insurance certificate, statement of compliance forwarded to your council or private certifier, and any correspondence between you and the builder and/or subcontractors.

- Note any major changes that have been made by either yourself or the builder and check with your council if these will require an amended approval to be issued.

- In addition, any Certificates of Compliance issued under other Acts and Regulations, for example, electrical, plumbing and gas installations should also be kept.
What if I am unhappy with the work completed?

- If you are unhappy with the completed project or the conduct of the licensed builder or registered supervisor throughout the construction phase, you can contact the Office of Consumer and Business Affairs.

- If you feel that the building has not been constructed in accordance with the approved documents, contact your council. Section 84 of the Act permits the relevant authority, which is usually your council, to take action against the builder for any contravention of the Act.

- In addition, Section 85 allows any party, including yourself to take action against the builder should you choose to do so.

For further information:

Copies of the *Development Act 1993* and *Development Regulations 2008* can be purchased by contacting Service SA on 13 23 24 or can be viewed at the Government website at www.legislation.sa.gov.au

Department of Planning and Local Government
Tel. 8303 0602

Construction Industry Training Board (CITB)
Tel. 8172 9500

Master Builders Association (MBA)
Tel. 8211 7466

Housing Industry Association (HIA)
Tel. 8340 5900

Home Owners Warranty Insurance (SA Division)
Tel. 8340 7500

Office of Consumer and Business Affairs
Tel. 8204 9644

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