

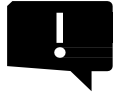
2013 / 2014 South Australian Planning Reform

The Expert Panel (at the time) proposed a more flexible assessment approach based on an early 'outline' approval and a subsequent series of negotiated approval steps that:

- enable an applicant to obtain an early decision before committing substantial resources to a project, helping facilitate project finance; and
- enable design consent, design statements and design review processes to be incorporated into the assessment process for complex developments, improving results for developers and neighbourhood character.

The Expert Panel recommended the British 'outline planning permission' as a model, observing that:

- this could be used in South Australia to formalise pre-lodgement negotiations and provide greater certainty to applicants.
- it may not be suitable for smaller-scale projects.
- a Practice Direction will provide standard approaches using conventional steps that address land, design, building and reserved matters.



An application for outline consent is an application to a relevant authority under Part 7 of the *Planning, Development and Infrastructure Act 2016*.



In practical terms, an outline consent will be processed - for the most part - as if it were an application for planning consent. For example, an application for outline consent:

- requires an application form, appropriate information and fee payment.
- will be verified, assessed and decided in accordance with the timeframes specified in the Regulations.
- may require further information, referral or public notification.
- may be varied, placed on hold or incur conditions as per the Regulations.

Planning, Development and Infrastructure Act 2016

Part 7 – Development Assessment – general scheme

Division 4 – Procedural matters and assessment facilitation

120—Outline consent

- 1) *Subject to this section, a relevant authority may, on application, grant a consent in the nature of an outline consent.*
- 2) *An outline consent may be granted in circumstances specified by a practice direction.*
- 3) *If an outline consent is granted and a subsequent application is made with respect to the same development (subject to any variations allowed by a practice direction), a relevant authority –*
 - a) *must grant any consent contemplated by the outline consent; and*
 - b) *Must not impose a requirement that is inconsistent with the outline consent.*
- 4) *However, if –*
 - a) *There has been a material change to 1 or more elements of the development; or*
 - b) *A new or additional matter requires assessment (subject to any variations allowed by a practice direction), then –*
 - c) *Further notification and consultation may be required in accordance with any provision made by a practice direction; and*
 - d) *Subsection (3) will not apply to the extent that a new assessment must be made in the circumstances.*
- 5) *An outline consent remains operative for a period specified by a practice direction.*

Outline Consent – in South Australian Planning

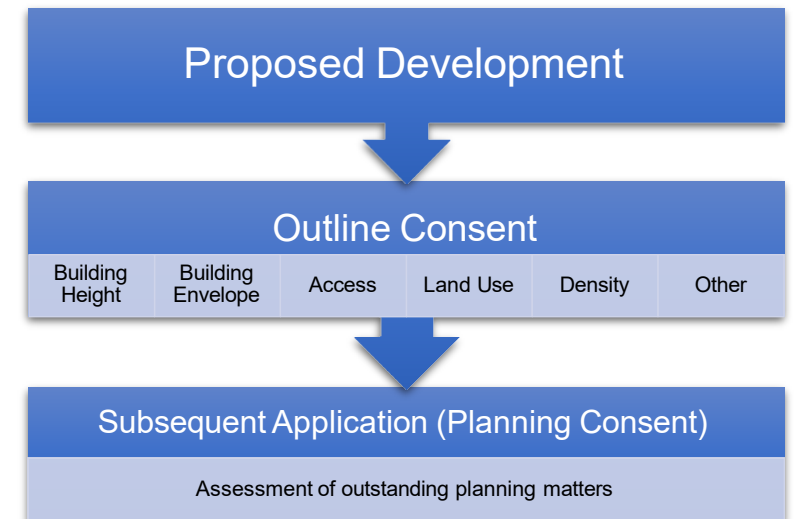
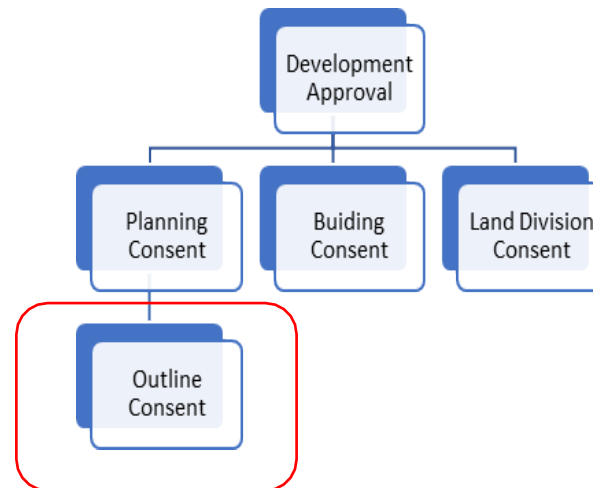


Outline consent enables an applicant to obtain an **early decision on a nominated aspect of a development proposal**, before committing substantial resources to an application for planning consent.



Outline consent approval does not act as a consent for development to begin. Further approvals are required.

- ❖ If an outline consent is granted, and a subsequent application is made with respect to the same development, a relevant authority must grant consent as contemplated by the outline consent application.
- ❖ A *subsequent application* means the application for planning consent that follows the granted outline consent.





The Commission will be the relevant authority for the consideration of all outline consent applications.

An applicant may apply for outline consent where the proposal relates to a Performance Assessed category of development.

The applicant may request the Minister to consider an application for outline consent, or the application may be considered by virtue of the prescribed Schedule 6 circumstances.



An application for outline consent is assessed against the Planning Rules (i.e., the Planning and Design Code).

Part 2 – Outline Consent

5 – Circumstances in which outline consent may be granted

- (1) Subject to this practice direction, an outline consent may be granted in the following circumstances:
 - (a) Where, if it were an application for planning consent, the proposed development would be assessed as 'Code Assessed Development – Performance Assessed Development' and
 - (b) Where, pursuant to section 94(1)(g) and (h) of the Act, the relevant authority is the Commission; or
 - (c) Where, pursuant to section 94(a)(ii) of the Act and Schedule 6 of the Regulations, the relevant authority is the Commission in the following circumstances prescribed under Schedule 6:
 - i. Clause 1, Part 1 (b) – Areas of all councils – undertaken by the Urban Renewal Authority.
 - ii. Clause 3 – City of Adelaide – developments over \$10 million.
 - iii. Clause 4 – Inner Metropolitan Area – buildings exceeding four storeys.
 - iv. Clause 4A – Morphettville and Camden Park – building exceeding four storeys.
 - v. Clause 4B – Corporation of Town of Walkerville – buildings exceeding four storeys.
 - vi. Clause 5 – City of Port Adelaide Enfield – developments over \$3 million in identified area.
 - vii. Clause 8 – City of Charles Sturt – developments over \$3 million in identified area.



In relation to an overall development proposal, an applicant can seek an early decision for any of the listed aspects.



If an aspect is not listed but is required to determine an outline consent application, it may be considered through (g) any '*other aspect*'.



In some circumstances, it may not be appropriate to determine one aspect of a development without also determining another. Prelodgement discussions will be encouraged to determine this upfront. Otherwise, the relevant authority will advise the applicant accordingly, and the applicant can amend the application.

5 – *Circumstances in which outline consent may be granted*

- 2) Where clause (1) applies and after an assessment of the application against the relevant provisions of the Planning Rules, an outline consent may be granted for any of the following aspects of the development in respect of planning consent where the development is not seriously at variance with the Planning and Design Code:
- (a) *Building height* – where details have been provided regarding the height, width and length of each building proposed within the development in relation to its surroundings.
 - (b) *Building envelope* – where details have been provided regarding the way in which buildings, movement (pedestrian, vehicle and cycling) and open spaces within the development are provided, situated and orientated in relation to each other and retained structures, and to buildings and spaces outside the development.
 - (c) *Access* – where details have been provided regarding the accessibility to and within the site, for vehicles, bicycles, and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.
 - (d) *Land use* – where details have been provided regarding the use of the land (this can include land uses such as affordable housing, community infrastructure, commercial or retail uses).
 - (e) *Density* – where details have been provided regarding the minimum and maximum density with respect to site area; dwelling numbers; or dwellings per hectare.
 - (f) *Open space* – where details have been provided regarding the location and quantum of land allocated for open space or recreation.
 - (g) Any *other aspect* agreed to by an applicant and the relevant authority necessary to determine the application for outline consent (such as tree damaging activity, or demolition of heritage).



Minimum information is required to support an application for outline consent.

A relevant authority may request further information in accordance with the provisions of the Act and Regulations.



If all options have been exhausted, a relevant authority can refuse an outline consent application without undertaking a full assessment.

5 – Circumstances in which outline consent may be granted

- 3) Notwithstanding which aspects of development are the subject of the outline consent (pursuant to subclause (2)), an application for outline consent must be accompanied by the following information:
 - (a) The upper and lower limit for the height, width and length of the development.
 - (b) The approximate location of buildings, movement (pedestrian, vehicle and cycling) and open spaces included in the development proposed.
 - (c) An indication of the area or areas where access points to the development will be situated.
 - (d) The proposed land use for each element of the development.
- 4) If a relevant authority determines that the application for outline consent ought not to be considered separately from all or any of the subsequent planning consent matters, it must notify the applicant that it is unable to determine the application for outline consent and that an application for Planning Consent should be lodged instead.



Part 2, 5 (3) of the Practice Direction requires the applicant to identify the intended land use.

This enables the outline consent to be processed appropriately against procedural matters in the Code such as whether public notification is required.



Once an outline consent has been approved, a planning consent must be lodged within three years, or the outline consent will lapse.



If a subsequent related application is lodged within the three-year period, the outline consent is valid for five years from the date it was granted.

5 – Circumstances in which outline consent may be granted

- 3) Notwithstanding which aspects of development are the subject of the outline consent (pursuant to subclause (2)), an application for outline consent must be accompanied by the following information:
 - d) The proposed land use for each element of the development.

7 – Operative period

- (1) An outline consent will remain operative for a period of three years from the date consent is granted by the relevant authority unless a subsequent application is lodged within that period, in which case it will lapse five years from the date the outline consent is granted.



Where a development is significantly at odds with Planning Policy, an outline consent pathway does not circumvent the need for a Code Amendment.



An application for outline consent may be notified as required by the Code.

The notification will be determined, and relate only to, the nominated aspect.

If notified and approved, the subsequent application will not be notified again unless the subsequent planning matters require it.

6 – Procedural matters

- (1) An application for outline consent will be assessed against the relevant provisions of the Planning Rules that would apply as if the application for an outline consent were an application for Planning Consent.
- (2) If the subsequent application for planning consent, in relation to the outline consent being assessed, would be required to be publicly notified under section 107(3) of the Act (in relation to any aspect being assessed under Part 2, Clause 5(2)), then the application for outline consent must be publicly notified in the same manner that the application for planning consent would be required to be publicly notified (in accordance with the Act, the Regulations and any relevant practice direction).
- (3) If the subsequent application for planning consent, in relation to the outline consent being assessed, would be required to be referred to other authorities or agencies under section 122 of the Act (in relation to any aspect being assessed under Part 2, Clause 5(2)), the application for outline consent must be referred in the same manner that the application for planning consent would be required to be referred (in accordance with the Act and Regulations).

Outline Consent – Example



Development Location(s)

137-143 THE PARADE NORWOOD SA 5067

Title Ref: CT 6125/728 **Plan Parcel:** F139141 AL61

Additional Location Information:

Council: The City Of Norwood Payneham And St Peters

137-143 THE PARADE NORWOOD SA 5067

Title Ref: CT 6125/730 **Plan Parcel:** F139142 AL62

Additional Location Information:

Council: The City Of Norwood Payneham And St Peters

Five storey building for a mixed-use development (following demolition of existing) including retail, community facility and residential.

Outline consent for Access, Building Envelope and Building Height

Proposed use Mixed-use development

Development cost (excluding fit-out) \$3,000,000

Category of development for this consent

- Development category
- Reason

Code Assessed - Performance Assessed
P & D Code

Relevant Authority

State Planning Commission

Are you an appropriate Relevant Authority for this consent? Yes

Reason Designated by Regs - Section 94(1)(a)(ii);

Zoning information

Zones

- Urban Corridor (Main Street)

Overlays

- Airport Building Heights (Regulated)
- Advertising Near Signalised Intersections
- Affordable Housing
- Design
- Heritage Adjacency
- Hazards (Flooding - General)
- Noise and Air Emissions
- Prescribed Wells Area
- Regulated and Significant Tree
- Traffic Generating Development
- Urban Transport Routes

Technical Numeric Variations (TNVs)

- Maximum Building Height (Metres) (Maximum building height is 22m)
- Minimum Building Height (Levels) (Minimum building height is 3 levels)
- Maximum Building Height (Levels) (Maximum building height is 6 levels)
- Interface Height (Development should be constructed within a building envelope provided by a 30 degree plane, measured 3m above natural ground at the boundary of an allotment)

Outline Consent –Notification

Public comment / assessment will relate to the nominated ‘aspect’ only.

Notification triggers may relate to specific land uses. While an outline consent application may not be seeking approval for the ‘land use’ aspect, an indicative land use is required to determine the procedural requirements for the outline consent.

Example: should an outline consent for ‘building height’ be notified?

Class of Development (Column A)	Exceptions (Column B)
1. Development which, in the opinion of the relevant authority, is of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the <u>site</u> of the development.	None specified.
2. Any kind of development where the <u>site</u> of the development is not adjacent land to a <u>site</u> (or land) used for residential purposes in a <u>neighbourhood-type zone</u> .	Except any of the following: 1. the demolition of a State or Local Heritage Place 2. the demolition of a building (except an ancillary building) in a Historic Area Overlay.
3. Any development involving any of the following (or of any combination of any of the following): (a) advertisement (b) air handling unit, air conditioning system or exhaust fan (c) deck (d) <u>dwelling</u> (e) fence (f) <u>office</u> (g) <u>residential flat building</u> (h) retaining wall (i) shade sail (j) <u>shop</u> (k) solar photovoltaic panels (roof mounted) (l) water tank.	Except development that: 1. exceeds the maximum <u>building height</u> specified in Urban Corridor (Main Street) DTS/DPF 3.1 or 2. does not satisfy <u>the site of the development is:</u> or (a) adjacent <u>land</u> and (b) adjoins an <u>adjacent</u> <u>land</u> used for residential purposes.

Start here –
indicative land use



To get here –
building height aspect

Note: a subsequent application for planning consent is not required to be publicly notified for any aspect for which an outline consent has been granted.

Outline Consent –Notification

Five storey building for a mixed-use development (following demolition of existing) including retail, community facility and residential.

Outline consent for Access, Building Envelope and Building Height

Note: the subsequent application may be notified if the subsequent planning matters require notification.

Class of Development (Column A)	Exceptions (Column B)
1. Development which, in the opinion of the relevant authority, is of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the <u>site</u> of the development.	None specified.
2. Any kind of development where the <u>site</u> of the development is not adjacent land to a <u>site</u> (or land) used for residential purposes in a <u>neighbourhood-type zone</u> .	Except any of the following: 1. the demolition of a State or Local Heritage Place 2. the demolition of a building (except an ancillary building) in a Historic Area Overlay.
3. Any development involving any of the following (or of any combination of any of the following): (a) advertisement (b) air handling unit, air conditioning system or exhaust fan (c) deck (d) <u>dwelling</u> (e) fence (f) <u>office</u> (g) <u>residential flat building</u> (h) retaining wall (i) shade sail (j) <u>shop</u> (k) solar photovoltaic panels (roof mounted) (l) water tank.	Except development that: 1. exceeds the maximum <u>building height</u> specified in Urban Corridor (Main Street) DTS/DPF 3.1 or 2. does not satisfy Urban Corridor (Main Street) DTS/DPF 4.1 or 3. involves the construction of a building of 4 or more building levels and the <u>site</u> of the development is: (a) adjacent land to a <u>neighbourhood-type zone</u> and (b) adjoins an allotment containing an existing <u>low-rise</u> building used for residential purposes.

Subsequent application
requires notification for 'land
use' (community facility)



Outline consent requires
notification for 'building
height' (NB retail land use)

Identifying the process of both the outline consent and subsequent application, the applicant may wish to add 'land use' to the outline consent such that only one consent will be notified.

Outline Consent – Referrals

Airport Building Heights (Regulated) Overlay ?

Procedural Matters (PM) - Referrals

The following table identifies classes of development / activities that require referral in this Overlay Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

Class of Development / Activity
Any of the following classes of development:
(a) building located in an area identified as 'All structures' (no height limit is prescribed) or will exceed the height specified in the <i>Airport Building Heights (Regulated) Overlay</i>
(b) building comprising exhaust stacks that generates plumes, or may cause plumes to be generated, above a height specified in the <i>Airport Building Heights (Regulated) Overlay</i> .

Heritage Adjacency Overlay ?

Procedural Matters (PM) - Referrals

The following table identifies classes of development / activities that require referral in this Overlay Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

Class of Development / Activity
Development that may materially affect the context of a State Heritage Place .

Urban Transport Routes Overlay ?

Procedural Matters (PM) - Referrals

The following table identifies classes of development / activities that require referral in this Overlay Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

Class of Development / Activity
Except where all of the relevant deemed-to-satisfy criteria are met, development (including the division of land) that involves any of the following to/on a State Maintained Road or within 25 metres of an intersection with any such road:
(a) creation of a new access or junction
(b) alterations to an existing access or public road junction (except where deemed to be minor in the opinion of the relevant authority)
(c) development that changes the nature of vehicular movements or increase the number or frequency of movements through an existing access (except where deemed to be minor in the opinion of the relevant authority).

Five storey building for a mixed-use development (following demolition of existing) including retail, community facility and residential.

Outline consent for Access, Building Envelope and Building Height

Zoning information

Zones

- Urban Corridor (Main Street)

Overlays

- Airport Building Heights (Regulated) ?
- ✗ Advertising Near Signalised Intersections
- ✗ Affordable Housing
- Design ✓
- Heritage Adjacency ?
- ✗ Hazards (Flooding - General)
- ✗ Noise and Air Emissions
- ✗ Prescribed Wells Area
- ✗ Regulated and Significant Tree
- Traffic Generating Development ?
- Urban Transport Routes ?

Technical Numeric Variations (TNVs)

- Maximum Building Height (Metres) (Maximum building height is 22m)
- Minimum Building Height (Levels) (Minimum building height is 3 levels)
- Maximum Building Height (Levels) (Maximum building height is 6 levels)
- Interface Height (Development should be constructed within a building envelope provided by a 30 degree plane, measured 3m above natural ground at the boundary of an allotment)

✓ Required ? Site dependent ✗ Not Required

Design Overlay ✓

Procedural Matters (PM)

The following table identifies classes of development / activities that require referral in this Overlay Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

Class of Development / Activity
Except where the development comprises a variation to an application that has previously:
(a) been referred to the Government Architect or Associate Government Architect or
(b) been given development authorisation under the <i>Planning, Design and Infrastructure Act 2016</i> or <i>Development Act 1993</i>
any of the following classes of development:
(a) development within the area of the overlay located within the Corporation of the City of Adelaide where the total amount to be applied to any work, when all stages of the development are completed, exceeds \$10,000,000
(b) development within the area of the overlay located within the City of Port Adelaide Enfield where the total amount to be applied to any work, when all stages of the development are completed, exceeds \$3 000 000
(c) development within all other areas of the overlay that involves the erection or construction of a building that exceeds 4 building levels.

Traffic Generating Development Overlay ?

Procedural Matters (PM) - Referrals

The following table identifies classes of development / activities that require referral in this Overlay Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

Class of Development / Activity
Except where all of the relevant deemed-to-satisfy criteria are met, any of the following classes of development that are proposed within 250m of a State Maintained Road:
(a) land division creating 50 or more additional allotments
(b) commercial development with a gross floor area of 10,000m ² or more
(c) retail development with a gross floor area of 2,000m ² or more
(d) a warehouse or transport depot with a gross leasable floor area of 8,000m ² or more
(e) industry with a gross floor area of 20,000m ² or more
(f) educational facilities with a capacity of 250 students or more.



An application for outline consent may not necessarily have a known estimated development cost, as such a set amount for assessment is proposed.

The proposed assessment fee represents a portion of the average assessment fee received for applications that meet the prescribed circumstances.

The *Planning, Development and Infrastructure (Fees) Notice* (the Fees Notice) is required to be updated to accommodate an outline consent application.

The following fees are applicable for an outline consent application:

- Lodgement fee (\$193 from 1 July 2023)
- Assessment fee (\$6000 approx.)
- Referrals (if required)
- Notification (if required)

Note: the outline consent pathway is not anticipated to be used for small scale developments such as garages and single dwellings.

Certain amendments to the Regulations will need to be made before the commencement of an outline consent practice direction. In summary, the amendments will relate to the following assessment processes and practicalities:

- *Referrals* – amend Regulation 41 so that referrals also apply to an application of outline consent (not just planning consent), as well as to allow processes to occur outside of the SA Planning Portal.
- *Referrals* – new provisions clarifying that an application for planning consent is not required to be referred for any aspect for which an outline consent has been granted.
- *Timeframe for decision* – amend Regulation 53 to prescribe a timeframe for a relevant authority to determine an application for outline consent.
- *Verification* – amend Regulation 31 to reference an application for outline consent and to allow notification processes to occur outside of the SA Planning Portal.
- *Request for Information* – amend Regulation 33 to clarify that an application for outline consent is not limited to one request for further information (as is the case for Performance Assessed Development).
- *Decision Notification Form* – amend Regulation 57(2) so that notice of decision for outline consent does not need to be given via the SA Planning Portal.

Have your say

Feedback should be submitted via the **YourSAy** page

Engagement Dates:

Open 26 June 2023 to 31 July 2023

yoursay.sa.gov.au/outline-consent