



# **DRAFT Basic Infrastructure Scheme - Planning Referrals and Preliminary Agreements**

## **Purpose**

This document outlines the process for managing development application referrals and applications for preliminary agreements submitted to the Scheme Coordinator. It aims to ensure consistent assessment and timely responses.

## **1. Legislative Basis**

The Scheme Coordinator is appointed under section 165 of the *Planning, Development and Infrastructure Act 2016* (the Act) and acts as a referral body under section 122 of the Act for certain development classes as specified by the Infrastructure Coordination Overlay in the Planning and Design Code.

*\*Note: An amendment to Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017 is anticipated to prescribe the proposed new referral functions under section 122 of the Act following the approval of the Concordia Code Amendment.*

Under section 123 of the Act, applicants and referral bodies may enter into agreements prior to lodging a development application. These preliminary agreements eliminate the need for formal referrals during the assessment process.

## **2. Scope**

Development applications referred to the Scheme Coordinator serve the following purposes:

1. To monitor development activity against the provisions of an Infrastructure Scheme (Scheme).
2. To determine and apply Scheme liabilities via the imposition of development conditions, where required.

This policy and associated procedures apply to the Scheme Coordinator's role in managing development referrals under section 122 of the Act and applications for preliminary agreements under section 123 of the Act.



### 3. Background

The Planning and Design Code (the Code) provides a comprehensive set of planning rules for development assessment. These rules are classified into zones, subzones and overlays:

- Zones govern the basic use and form of an area
- Subzones create additional rules relating to local character
- Overlays apply across multiple zones and subzones to address common planning issues.

A new Infrastructure Coordination Overlay (the Overlay) has been introduced to the Code and is spatially applied where a Scheme exists. The Overlay provides planning policy to support the operation and delivery of the Scheme and identifies when a development application must be referred to the Scheme Coordinator.

The Overlay establishes a formal connection - or 'nexus' - between a Scheme and the Code, based on the following principles:

- Effective infrastructure planning, coordination, and delivery require certainty about the nature of the development it seeks to support.
- This includes certainty around land use, density, development timing, service levels, design standards, and stakeholder commitments to funding and construction.
- The Master Planned Neighbourhood Zone allows flexibility in greenfield growth areas, enabling a mix of land uses that respond to market needs and preferences over time.
- This flexibility means that elements such as density assumptions, infrastructure locations, and activity centres/retail/services is not fixed.
- The Overlay acts as a checking mechanism to ensure development aligns with planned infrastructure delivery or to identify when a variation to the Scheme may be appropriate.
- Development applications also serve as a trigger for payment of infrastructure charges and contributions, where required.

### 4. Referral Provisions

- 4.1 The Scheme Coordinator for the relevant Scheme is the referral body for certain classes of development proposed where the Infrastructure Coordination Overlay applies.
- 4.2 Once the Relevant Authority submits a planning referral to the Scheme Coordinator, the Growth and Infrastructure Coordination Unit (GICU) within the Department for Housing and Urban Development (the Department) will review the development application and prepare draft comments for the Scheme Coordinator's consideration and approval.
- 4.3 Under section 122(5)(b) of the Act and relevant provisions of the *Planning, Development and Infrastructure (General) Regulations 2017*, the Scheme Coordinator may direct the relevant planning authority to:
  - a) refuse the application; or
  - b) impose conditions should the planning authority decide to approve the development.



- 4.4 As per section 122(9) of the Act, the Scheme Coordinator must confine comments to matters relevant to the referral's purpose and within their operational scope.
- 4.5 The purpose of the referral, as set out in the Overlay, is to guide the relevant authority on:
- (a) whether the development is consistent with infrastructure provision under the relevant Scheme
  - (b) whether the development compromises or conflicts with planned infrastructure provided for under a Scheme
  - (c) infrastructure capacity and servicing associated with a development within the Scheme area
  - (d) whether contributions or other conditions are required under the relevant Scheme.
- 4.6 Referrals are processed through the PlanSA Development Application Processing (DAP) system, alongside other referrals, with systems in place to ensure timely responses and proper record keeping.
- 4.7 The Scheme Coordinator may direct the Relevant Authority to impose conditions on an approval, including payment of a Scheme Charge prior to issuing a Land Division Certificate or Certificate of Occupancy, as may be required.
- 4.8 The Scheme Coordinator referral has a legislated response timeframe of 30 business days. The Scheme Coordinator may consult infrastructure agencies or asset owners in considering a referral.
- 4.9 If an application lacks sufficient information, the Scheme Coordinator may issue a request for further information, which pauses the referral timeframe until the information is provided.
- 4.10 The referral timeframe may also be paused at the applicant's request when seeking approval for Works in Kind as a means to satisfying the Charge liability under the Scheme.
- 4.11 The clock may also be stopped at the applicant's request to address other matters arising in considering the referral.
- 4.12 If the Scheme Coordinator directs refusal of the application, or imposes conditions, the relevant authority must comply with such direction.
- 4.13 For performance assessed developments, the applicant has the right to appeal a refusal or imposed conditions.
- 4.14 If a refusal is appealed, the Scheme Coordinator will be a respondent to the appeal. The relevant authority may, on application, be joined as a party to the proceedings.
- 4.15 If a condition is appealed, both the Scheme Coordinator and the relevant authority will be respondents to the appeal.



## 5. Applications for Preliminary Agreement

- 5.1 Applications for a preliminary agreement under section 123 of the Act can be made directly via the Plan SA Portal, prior to the lodgement of a Development Application.
- 5.2 To initiate formal discussions, applicants must complete and lodge the [Application for Preliminary Agency Advice](#) (Application Form) with the relevant Referral Agency.
- 5.3 The Application Form must be accompanied by plans, drawings, specifications or other documents and payment of the fee.
- 5.4 The prescribed fee is equal to the prescribed fee (where such a fee exists) for a referral to the Scheme Coordinator under section 122 of the Act, as listed in the *Planning, Development and Infrastructure (Fees) Notice* - [Application fees | PlanSA](#).
- 5.5 The decision to enter into formal discussions is at the discretion of the relevant Referral Agency. A decision to commence formal discussions does not commit any party to sign a preliminary agreement.
- 5.6 Any party can discontinue formal discussions at any stage. In such cases, a Development Application can be lodged and be subject to standard referral procedures under section 122 of the Act.

## 6. Consideration of Preliminary Agreements

- 6.1 Preliminary agreements may only address matters subject to referral under Schedule 9 of the *General Regulations*, and must be considered in the context of relevant policies contained in the Code.
- 6.2 Referral agencies may only consider planning policies that apply prior to the preliminary agreement being signed.

## 7. Entering into Preliminary Agreements

- 7.1 The signed preliminary agreement forms part of the Development Application and is a mandatory part of any subsequent approval.
- 7.2 The preliminary agreement must include
  - A signed and dated agreement,
  - Signed and stamped plans and reports
  - A list of attachments (including plan and report numbers) to enable the planning authority to check that the full agreement package has been lodged as part of the development application.
- 7.3 Any variation or removal of the stamped plans or reports included in the agreement will require either:
  - An amended Preliminary Agreement, or
  - A referral under Section 122 of the Act.



- 7.4 The agreement remains valid only if the Development Application - including the agreement and associated stamped plans and reports - is lodged with the Relevant Authority within one year of the agreement's signing date, unless the Relevant Authority determines that the agreement is no longer appropriate under section 132 of the Act.
- 7.5 If an agreement expires, a new agreement can be sought by submitting a new pre-lodgement request and fee. The Scheme Coordinator will assess the new agreement based on the policies in effect at the time of signing the second agreement.



## 8. Roles and Responsibilities

<b>Relevant Authority</b>	Responsible for lodging referrals, applying conditions as directed by the Scheme Coordinator and reviewing preliminary agreements for compliance where lodged as part of a development application.
<b>Scheme Coordinator</b>	Reviews and makes decisions relating to preliminary agreements, reviews application referrals to ensure consistency with Scheme and provides statutory direction on referrals Discharges conditions and requirements related a clearance issued under Section 138 of the Act.
<b>Department</b>	Reviewing and assessing referrals and clearance requests, including liaising with asset owner (if required). Preparing referral responses for the Scheme Coordinator to approve. Reviewing clearance requests for compliance and seeking approval from the Scheme Coordinator.
<b>Asset Owner</b>	Providing advice as requested.

## 9. Definitions

<b>Asset Owner</b>	Relates to any public authority - local or state government - which is identified within the Infrastructure Scheme as having a present, contingent or future legal or equitable estate or interest in any goods or property.
<b>Department</b>	Department for Housing and Urban Development
<b>Development Application</b>	An application made under the <i>Planning, Development and Infrastructure Act 2016</i> for consent to undertake development.
<b>Referral body</b>	Means a prescribed body under section 122 of the Act
<b>Relevant authority</b>	The planning authority responsible for assessing and determining a development application as provided for under Division 5 of the under the Act.
<b>Preliminary Agreement</b>	A formal agreement between an application and a referral body under section 123 of the act, outlining agreed infrastructure requirements prior to the lodgement of a development application.

### For more information:

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