



THE UNIVERSITY
of ADELAIDE

Legal Compliance Education and Awareness

CRICOS PROVIDER 00123M

Development Act 1993

(South Australia)

Please note that the Planning, Development and Infrastructure Act 2016 will supersede the Development Act in due course – contact Legal and Risk Branch for further details

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seek LIGHT

What does the Development Act do?

- Provides for proper, orderly & efficient planning & development in South Australia
- Establishes a development assessment processes through Development Plans
- Establishes processes for enforcement, disputes & appeals
- Identifies the laws & regulations that must be considered when undertaking planning for building work, including;
 - *Building Code of Australia (construction & safety issues)*
 - *Australian Standards (construction & performance issues)*
 - *Disability Discrimination Act* (access issues)
 - *Environmental Protection Act* (environmental protection & conservation issues)

What is 'development'?

Development is defined as:

- Building work;
 - *construction, demolition, alteration & excavation*
- Change in use of land or building
- Land division
- Specific work in relation to heritage places
- Removal, cutting or damage to a “significant tree”
 - *trees with a trunk circumference of 2.0m or more measured at a point 1.0m above natural ground level*

How does the Act apply to the University?

- The University is a substantial land owner;
 - the 4th largest land owner in the state
 - with 4 main campuses, multiple controlled entities & agricultural land
 - procurer of new & refurbished buildings
- All University campuses are continually engaged in building work
- The University has [buildings, objects & places](#) listed on the State & Local heritage registers, including;
 - *Mitchell Building*
 - *Elder Hall*
 - *Barr Smith Library*
 - *Bragg Laboratories*
 - *Union House*
 - *Urrbrae House*
 - *Roseworthy Main Building*

Development Consent

- Prior to Development Approval, the University must obtain;
 - Planning Approval
 - and
 - Building Approval
- Land Division Approval is required when selling off a University asset
- The approving body is usually local Council
- Decisions on development applications can be appealed to the Environment, Resources & Development Court

Development Plans

- Each local government area has a Development Plan;
 - *For example, the University's North Terrace Campus is located in the Institutional Zone of the City of Adelaide Development Plan*
 - *The Zone must be maintained & enhanced as the cultural & institutional heart of the City*
- Development Plans;
 - specifies the type of development that is permitted
 - provide the policies & planning provisions;
 - against which development assessment decisions are made
 - upon which any appeal decisions are made

Development Plans (cont.)

North Terrace Campus	Part of the Institutional Zone under the City of Adelaide Development Plan .
Adelaide CBD properties	City of Adelaide Development Plan .
University Playing Fields (Park Lands)	Part of the Park Lands Zone under the same DP and subject to the development rules in the Park Lands Act 2005 (SA) . As a Lessee of the Playing Fields any developments would need approval of the Adelaide City Council.
Roseworthy Campus	Primary Production Zone under the Light Regional Council Development Plan
Waite Campus	Institutional Zone under the City of Mitcham Development Plan
Glenthorne Farm	Primary Production Zone under the City of Marion Development Plan .
Charlick Farm	Primary Production Zone under the Alexandrina Council Development Plan .

* All Development Plans are available online on the [Planning SA website](#)

NB Under the [Planning, Development and Infrastructure Act 2016](#), Roseworthy Campus and Charlick Farm are located in Environment and Food Production Areas within the Greater Adelaide Planning Region – development restrictions apply.

Development Approval

- A development may be:
- **'Complying'** with current applicable planning regulations, legislation & guidelines
 - Consent is likely to be granted
- **'Non-complying'** with current applicable planning regulations, legislation & guidelines
 - There is a risk that consent may be refused
 - Many new major projects are non-complying & are negotiated to obtain final approval
- In certain circumstances, public consultation may occur under particular planning classifications

Offences under the Act

It is an offence for the University to:

- Breach a Building Code
- Breach an associated environmental protection requirement as prescribed by the *Environmental Protection Act*
 - *Allowing contaminated water to flow into a drain or the river*
- Breach an associated equity code as prescribed by the *Disability Discrimination Act*
 - *Not providing access for the disabled to all University spaces used by the public*
- Fail to comply with an enforcement notice issued by an external body, eg;
 - *Development Assessment Commission*
 - *Environment Protection Authority*
 - *State Heritage Council*
- Fail to comply with court orders

What can happen if I don't comply?

Individual Consequences:

- Fines of up to \$120,000 for breach of the Act
- A breach of the Act may be considered misconduct actionable under the University's Enterprise Agreement

University Consequences:

- Fines of up to \$120,000 per breach
- Delay in works projects
 - *Failure to meet budget & time requirements*
- Closure of a building or building site
- Legal & administrative costs
- Negative publicity
 - *Damage to the University's reputation*
 - *Attraction & retention of staff & students is compromised*

If you are undertaking development work

- Coordinate **all projects** through the Infrastructure, Property & Technology branch
- Be aware of other applicable legislation, codes & regulations
- Ensure Standard Operating Procedures (SOPs) are developed in line with requirements of the Act
- **Always** obtain advice from;
 - *Infrastructure, Property & Technology (General queries)*
 - 8313 5701
 - *Legal & Risk (Contracts & Agreements)*
 - 8313 4539

University obligations under the Act

REMEMBER:

- Development consent will vary between campuses
 - *Waite campus is subject to Mitcham City Council Development Plan*
 - *Roseworthy campus is subject to Light Regional Council Development Plan*
- Changes to other legislation may affect your responsibilities under the Development Act
 - Which in turn could affect existing buildings & future planning
 - *Disability Discrimination Act may impose requirements for disabled access*
- All building work requires consideration & management of environmental risk
- As a building owner, the University & its staff are responsible for maintaining the building
 - *Such as keeping fire exits clear & alarms in working order*

Additional Resources

- [Infrastructure Branch](#)
- [University of Adelaide Building Standards](#)
 - Design, Documentation & Construction requirements
- [Department of Planning & Local Government \(SA\)](#)
- [Development Regulations 2008 \(SA\)](#)
- [Development Policy Advisory Committee](#)
- [Development Assessment Commission](#)
- [*Development Act 1993 \(SA\)*](#)
- [*Planning, Development and Infrastructure Act 2016 \(SA\)*](#)



Disclaimer

The content of this material is intended only to provide a summary & general overview of the *Development Act* as it applies to the University of Adelaide.

It is not intended to be comprehensive nor does it constitute legal advice.

Please contact *Harald Baulis, Manager Strategy & Space Planning* or *Legal & Risk* if you are unsure of your compliance obligations under the Act.