

Fact Sheet

Development Information Guide

Public Notification and Your Role

Public notification allows adjacent property owners and occupiers, and sometimes others, a formal opportunity to comment about a proposed development, by considering the likely impacts it may have on them and providing written comments (either positive or negative) prior to a decision being made.

The Development Act 1993 and Development Regulations 2008 and The Barossa Council Development Plan outline types of development which:

- do not require any form of public notification (Category 1 development);
- require notification to adjoining owners and occupiers (Category 2 development);
- require notification to adjoining owners and occupiers that are directly affected by the proposed development; as well as general public notification (Category 3 development).

How is notification undertaken?

As part of the process:

- a covering letter is forwarded identifying what development is proposed, its location, what category it is, and whether the development is non-complying;
- a representation (submission) response sheet is sent to owners and occupiers of properties who may be affected by the proposal depending on the category of development;
- in determining who may be affected by a proposed development, Council follows the requirements of the Development Act 1993 to give notice of the application to owners or occupiers of each piece of adjacent land including land which is directly separated by a road, river etc (provided it is no more than 60 metres from the subject site);
- Category 3 notifications are the same as Category 2 except the notification area can be greater and involves a public notice in a newspaper circulated in the region for anyone to make a representation;
- application details and plans are placed on display in the Nuriootpa Council Office and on Council's website.

Lodging written submissions

After viewing details or plans on display a *notified* person may lodge a submission with Council, except where the application is a Category 3 development; then *any* person can make a submission even if they have not formally received a notification from Council.

Submissions must be lodged in writing with Council within 10 business days from the start of the notification period. The submission must include:

- the full name and address of the person/group making the submission;
- if a group submission is being made by two or more persons, then it should nominate one person who will be representing the group for the purposes of any subsequent contact or proceedings;
- reasons for the submission, particularly as it relates to planning matters, the Development Act or Development Plan; and



- if the person/group making the submission wishes to make a verbal presentation to Council's Assessment Panel (who will decide the application). In the case of a Category 3 development this right is granted on request, and for Category 2 developments will be at the discretion of the Panel.

Applicant's response to representations

At the end of the public notification process Council forwards a copy of all submissions received to the applicant who is given the opportunity to respond, in writing. The applicant will also be given an opportunity to address council's Assessment Panel.

The assessment process

Once public notification is complete, the application is assessed against the provisions of The Barossa Council Development Plan and relevant legislative requirements. This assessment of the application takes into consideration all necessary planning matters, including those raised through the public notification process.

Most development applications that have gone through the public notification process are considered by the Assessment Panel and an assessment report is prepared about the application for deliberation by the Panel. If no submissions are received or they are minor and can be resolved prior to the decision being made, then the application may not need to go the Panel for a decision.

If a written request to make a verbal submission at the Assessment Panel meeting is received, a letter indicating the date, time and place of the meeting will be sent to a representor at least five business days prior to the date of the meeting.

The applicant will also have an opportunity to respond to submissions made to the Assessment Panel. Please note any new information in the form of plans, elevations, or expert reports should not be presented at the Assessment Panel meeting as a decision cannot be made without prior consideration by all relevant parties and is likely to result in deferral.

Notification of the decision

After a decision is made, a copy of the Decision Notification Form, including either the conditions of consent or reasons for refusal, will be sent to the applicant and anyone who made a written submission. The notice also includes information about any appeal rights.

Generally, only an applicant has a right of appeal to the Environment, Resources and Development Court against either the decision or a condition imposed for a Category 2 development. However, in the case of a Category 3 development, anyone who made a submission, as well as the applicant, can lodge an appeal. Independent legal advice should be sought by anyone wishing to lodge an appeal.

An applicant appeal must be lodged with the Environment, Resource and Development Court within two months after the Decision Notification is received. Anyone who made a submission has 15 business days after the date of the decision to lodge an appeal to the Court.

No appeal rights exist for an applicant against a decision or conditions for a non-complying development. However anyone who made a submission can still appeal. Again, it is recommended that legal advice be sought if you want to lodge an appeal.

Further information

Further information can be obtained from the council website www.barossa.sa.gov.au or by contacting the Council's Development and Environmental Services Department.