

## Introduction

This factsheet provides information on;

- when the Council can notify adjacent residents of a Development Application,
- who can be notified,
- the process for those interested in commenting on a proposed development,
- the rights of these notified and/or who provides comments; and
- what will happen with an application following Public Notification.

## Why does Council publicly notify Development Applications?

The Planning, Development and Infrastructure Act and Planning and Design Code outline when the relevant planning authority (i.e. the Council Assessment Panel (CAP) or the State Planning Commission) must notify an application. The specifics of what can be notified is based on what is proposed and the 'Zone' the development is located within.

Public notification allows the community an opportunity to view the plans and details of a proposal and submit comments to the Council Assessment Panel (or delegate) for consideration before a decision is made.

## Types of Development

Development Applications are assessed against the relevant criteria contained in the Planning and Design Code, and in some instances the Planning, Development and Infrastructure (General) Regulations.

Structures, building work and changes in land use generally fall into the following different categories;

*Exempt Development*

*Accepted Development*

*Code Assessed Development*

- Deemed-to-Satisfy Development
- Performance Assessed Development

*Impact Assessed Development*

- Restricted
- Impact Assessed

Only some forms of Performance Assessed and Impact Assessed Development are subject to public notification. Further information on the various 'Assessment Pathways' can be obtained from the [PlanSA Assessment Pathways website](#).

## Exempt Development

Schedule 4 of the [Planning, Development and Infrastructure \(General\) Regulations](#) lists certain types of development that does not require Council approval. Examples can include (but are not limited to):

- Sheds/garages up to 15 square metres in area (subject to conditions)
- Pergolas without a hard roof (subject to conditions)
- Decks no more than 50 centimetres above the ground (subject to conditions)
- Shade sails up to 20 square metres and no higher than 3 metres (with some conditions)
- Fences to 2.1 metres in height (subject to conditions)

## Accepted Development

Table 1 of the relevant Zone within the [Planning and Design Code](#) lists certain types of development which for safety reasons require Building Consent, but not Planning Consent. Examples can include (but are not limited to)

- Carports, verandahs and shade sails up to 40 square metres (subject to conditions)
- Garages/outbuildings/sheds up to 40 square metres (subject to conditions)
- Swimming pools and spas (subject to conditions)

## Deemed-to-Satisfy Development

Table 2 of the relevant zone within [Planning and Design Code](#) lists certain types of development which may be 'Deemed-to-Satisfy'. This means that Council, or a Accredited Professional (i.e private planner), must grant Planning Consent to the proposal.

Deemed-to-Satisfy applications are exempt from public notification. Examples can include (but are not limited to Verandahs/carports up to 60 square metres (subject to conditions)

- Garages/outbuildings/sheds up to 60 square metres (subject to conditions)
- Additions/alterations to an existing dwelling (subject to conditions)
- New detached and semi-detached dwellings, which includes both single storey and two storey dwellings which can feature walls abutting side boundaries (subject to conditions).



## Performance Assessed Development

Development which does not fall into any of the above assessment pathways are considered to be 'Performance Assessed'.

Performance Assessed development may require Public Notification, depending on the specific zone requirements outlined within Table 5 of each zone.

Table 5 of each zone specifies the form(s) of development which are exempt from public notification, subject to satisfying certain criteria.

It is important to note that the contents of Table 5 may change between each zone. A form of development notified in one zone may be excluded in another zone.

## Impact Assessed Development

Restricted developments are generally proposed in areas where they are not expected and require assessment to determine whether this is appropriate.

Restricted developments are defined by the Planning and Design Code and are always assessed by the State Planning Commission instead of a local council.

Impact assessed developments are declared as major projects by the Minister for Planning (the Minister) and are considered to be of state significance.

These developments require an Environmental Impact Statement (EIS) which analyses possible environmental, social or economic impacts and how they will be managed.

All impact assessed developments are assessed by the Department on behalf of the Minister.

## Development excluded from Notification

Many types of development will be considered exempt from public notification, these proposals typically involve:

- Most dwellings in a 'Neighbourhood-type' Zone, whether single storey or two storey
- The alteration of, or addition to, an existing dwelling

- The construction of (or of any combination of) a carport, garage, shed, pergola, verandah, fence, swimming pool, spa pool or outbuilding if it will be ancillary to a dwelling
- Certain advertising signs
- Non-residential development located within an appropriate zone, provided that the site is located adjacent to land within the same zone.
- Applications for the division of land.
- "Minor" development, if Council is of the view that the development will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development

## Development which may be notified

By default, all 'Performance Assessed Development' requires Public Notification unless excluded by the relevant Zone Table 5.

Examples of development which trigger Public Notification include:

- Demolition of a Local heritage place or State Heritage place
- Walls or posts for residential development and ancillary development (i.e. outbuildings, verandahs) which exceed the specified height and length requirements.
- Dwellings or other buildings which specified height/building levels when measured from the highest part of the dwelling to the lowest part of natural or proposed ground level. Typically buildings within most residential Neighbourhood Zones should not exceed 9 metres/2 building levels or, where within the Established Neighbourhood Zone, not exceed 1 building level).
- Certain non-residential uses (i.e. consulting rooms, offices, shops) within a neighbourhood-type zone which exceed a maximum leasable floor area designated by the Planning and Design Code.
- Certain non-residential development (i.e. commercial, industrial) where the subject land is located adjacent to land within a different zone.



## How do I find what form of development requires notification?

Forms of development that require Public Notification public notification can differ between zones. 'Table 5' of each relevant zone specifically outlines development which is exempt and development which, whilst ordinarily exempt, may trigger Public Notification due to specific components of the proposal.

The easiest way to find this information is through PlanSA's 'What policies apply to an address' tool. The below steps to find out whether an application requires public notification:

1. Click the above link.
2. Search an address.
3. Click 'Part 2 – Zones and Sub Zones'.
4. Click the relevant zone.
5. Click 'Table 5 – Procedural Matters (PM) – Notification'.
6. Development within the left column (Column A) does not require public notification, unless it involves an element described within the right column (Column B).
7. If the form of development you are seeking is not located within Column A, the proposal would require public notification, as the form of development is not exempt.

For example, within the General Neighbourhood Zone a dwelling is considered to be an exempt form of development unless the built form dwelling exceeds a total height of 9 metres from Natural Ground Level, or the dwelling possesses a wall on the boundary which exceeds a height of 3 metres from the top of the 'Finished Floor Level', and/or exceeds a length of 11.5 metres along the boundary.

## Public Notification Process

If the Council Assessment Panel receives an application for a form of development which requires Public Notification the following will occur;

- The Council (on behalf of the Panel) will notify (i.e. send a letter to) all owners and occupiers of "adjacent land" to advising an application will be Publicly Notified.

- A sign is placed on the land which includes a QR Code to allow anyone the ability to view the plans and make a representation if they so choose.
- A copy of the application details and supporting documentation will be placed on the PlanSA Public Notification Register.

"Adjacent land" is a term that is defined in the Planning, Development and Infrastructure Act. It includes all land within 60 metres of the boundaries of the proposed development site. An example is provided below:



The plans and application details will be viewable on the [Plan SA Public Notification Register](#), or at the Council Administration Centre (245 Sturt Road, Sturt).

Any person has fifteen business days, as stipulated in the application notice, to make comment – in writing – to the Council. All comments must be made electronically via the Plan SA Portal. It is important to note, comment can only be provided during the formal 15 day notification period.

Where someone seeking to make a representation does not have internet access, Council can assist in uploading the representation. Any person who makes written comment to the Council is referred to as a "representor" and their written comments are referred to as their "representation".

Representors on a publicly notified application should nominate on their representation whether they wish to be heard further by the Council in relation to their concerns.

People wanting to make a representation should avoid raising matters that are not relevant to a planning assessment of the application. A planning assessment can only have regard to the relevant provisions of the Planning and Design Code.

## **Applicants Right of Appeal**

Following public notification of an application, the applicant is given the opportunity to respond, in writing, to the representations received and, in some cases, may provide further information or amend the application to address some of the comments that have been made in the representations.

The applicant has fifteen business days to respond to representations, although an applicant may choose to respond quicker or may request more time to respond.

Council staff will then consider the representor's comments and the applicant's response and may, if necessary, request further information or changes to a proposal.

## **Hearing Representors**

Where representors concerns are not or cannot be resolved, applications with representations against the proposal and where the representor wishes to be heard will be presented to the [Council Assessment Panel \(CAP\)](#) for a decision.

All representors will be advised of the time and place of the CAP meeting when the application is to be considered and determined. Representors who indicated on their representation that they wished to be heard further are also given the opportunity to make a short (5 minute maximum) verbal presentation to the CAP. The applicant will also be given the opportunity to address the Panel, to reply to any new issues or concerns raised by representors in their presentations.

After hearing representors and the applicant, the CAP will discuss the application and determine whether to approve the proposal with conditions or refuse it.

## **Appeals**

An applicant may in some cases lodge an appeal with the Environment, Resources and Development (ERD) Court if they are not satisfied with a decision of Council.

No third party appeal rights exist for representors and the decision by the Panel is final (unless appealed by the applicant).

The ERD Court may uphold/confirm or overturn the planning authority's decision. Further information on appeal rights may be obtained by contacting the Environment, Resources and Development Court on 8204 0300.

## **Additional Costs**

When an application is made development which requires public notification, the applicant must pay public notification fees in addition to other application fees.

A fee of \$255 is charged on top of application lodgement and assessment fees, and if an applicant nominates Council to erect the public notification sign which is required to be placed on the land, an additional fee of \$220 (including GST) is charged.

## **Want to know more?**

The above information is advisory only. It is intended to provide a guide and a general understanding of the key points associated with the particular topic. It is not a substitute for reading the relevant legislation or the Planning and Design Code.

It is recommended that if you are intending to undertake development, you seek professional advice or contact the Council for any specific enquiries or for further assistance concerning the use and development of land.