

# Information Sheet

# PUBLIC NOTIFICATION

## when does an application require public notification ?

Before making a decision on some types of development proposals, the planning authority, ie the District Council of Mount Remarkable Development Assessment Panel (the Panel) may be obliged to give public notification of the application so that people likely to be affected by that development have an opportunity to comment.

The Development Regulations 2008 and/or the provisions of the Development Plan itself set out the situations where public notification will be required. The extent of the notification depends upon the type of development. Generally, the larger or more important the development, the greater the scope for public involvement, but this is also dependent upon the type of development and the zone in which the proposal is to be located.

There are three public notification categories :-

### ■ CATEGORY 1

CATEGORY 1 development is legally exempt from any requirement for public notification. These are straightforward types of proposals that are typically deemed to satisfy the Development Plan provisions. They normally include such developments as :

- \* most detached dwellings
- \* all single storey dwellings
- \* two storey semi-detached dwellings
- \* two storey row dwellings
- \* land division of not more than four allotments
- \* minor development unlikely to be the subject of reasonable objection

### ■ CATEGORY 2

CATEGORY 2 development requires individual notification to adjoining property owners only and generally includes the following :

- \* two storey residential flat buildings
- \* two storey group dwellings
- \* some commercial or industrial development where the site of the proposed development is adjacent to a different zone

### ■ CATEGORY 3

CATEGORY 3 development includes all development not listed in either CATEGORY 1 or 2. It predominantly involves non-complying development, a range of commercial and industrial uses, and some forms of rural activity.

## how is the notification done ?

The public notification process differs depending upon the respective public notification category in which the proposal falls. CATEGORY 3 represents the 'full blown' advertising which involves placing a notice in a newspaper(s) circulating generally in the district **and** individual notification direct to adjoining owners or occupiers (as well as others who in the opinion of the Panel may be affected by the proposal). CATEGORY 2 involves giving individual notice direct to adjoining neighbours only.

The notice will specify where and when the application may be inspected and by which time any representations must be received by the Panel.

The costs associated with this notification are borne by the applicant and are **additional** to the usual lodgement and assessment fees.

## who has a say?

Any person who wishes to make a submission for or against a proposal must do so in writing before the date specified in the notice (being within 10 business days of the date of that notice). Representations **must** provide reasonable details as to the reasons for the objection to (or support for) the development and whether in some circumstances you also wish to be heard in person by the Panel.

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## what is the purpose of this notification ?

The process of advertising certain applications allows adjoining or nearby property owners, and others, to look at an application, consider the likely impact the proposal may have on them, and provide comment as to their opinion about the development, either for or against. In this way, the Panel can be made aware of particular issues that may affect people living in the vicinity of the proposal.

## what happens when you lodge a representation?

The Panel must take into account any matters raised in a representation in so far as they relate and are relevant to the provisions of the Development Plan. Any comments expressed that do not address the planning issues fundamental to these policies are immaterial and cannot be considered.

The applicant is provided with a copy of every representation received and given an opportunity to respond in writing on the matters raised in these. Again, the Panel needs to take this further advice into consideration.

## can you be heard personally by the Panel?

In some situations, yes. If the proposal was subject to CATEGORY 3 notification, the right to appear personally before the Panel (or Commission) to elaborate verbally upon the submission is automatic and must be made available. However, the third-party **must** specifically indicate on the written submission that he or she wishes to take advantage of this opportunity, otherwise it is assumed that they do not wish to be heard. Where parties have indicated that they do wish to be heard, that right must be extended to the applicant as well.

If the notification was for a CATEGORY 2 development, then the Panel has a discretion as to whether the parties may appear before it or not, it is not mandatory. The Panel has adopted a policy regarding this question and it is suggested that you contact Council officers for clarification.

## what happens when you appear before the Panel ?

The third-party or nominated representative, and the applicant, will be invited in writing to attend a meeting of the Panel and advised of the time and place. The purpose of the hearing is for the third-party to elaborate upon the representation and highlight the key points of concerns, not to read the submission in full, as generally each member of the Panel would have a copy of this for reference. The opportunity for members to ask the third-parties and the applicant questions and to clarify the issues is generally taken. The Panel has generally a set period of time allocated for each party to address members so that everyone has an equal chance of making their point.

All parties need to realise that the Panel is a statutory body that has formal meeting standards in place as required by law and which must be respected. It is not the place to undertake a debate or conduct an argument or 'witch hunt'. The aim of the information provided to Panel members through these presentations should be to help the Panel arrive at its decision.

## can you challenge the decision made ?

In the case of CATEGORY 3 notifications, if a valid written representation has been lodged and there is dissatisfaction with the decision of the Panel, then a right of appeal to the Environment, Resources and Development Court exists. Third-parties have to be formally advised of the outcome along with their right to appeal. An appeal right must be exercised within 15 business days from the date of the decision.

There are **no** appeal rights available to third-parties where CATEGORY 2 notifications are involved (or CATEGORY 1 developments which are not advertised).

The applicant can appeal against the Panel's decision in either instance.

*This information is advisory and is provided by the Council as a community service and as a guide only to key elements of the South Australian planning system. For a more thorough understanding of the system or for any specific enquiries concerning the use and development of land, professional advice should be sought or the Council officers be contacted for further assistance on 8666 2014.*