

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 those representors who made a written submission.

The applicant has a right of appeal to the Environment, Resource and Development Court within two (2) months after the Decision notification is received.

With regards to a category 2 development application no appeal rights exist for a representor against the Council's decision.

No appeal rights exist to an applicant against a refusal for a non-complying development.

Public Notification & Your Role

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Public Notification & Your Role

The process of public notification allows adjoining or nearby property owners, and others, the opportunity to look at a proposed development, consider the likely impacts the proposal may have on them and provide comment (either positive or negative) about the proposal prior to a decision being made.

The Development Act 1993 and Regulations, 2008 and the Development Plan are prescriptive about the types of development which:

- Do not require any form of public notification (category 1 development);
- Requires a personal notice to adjoining owners with the opportunity to provide a verbal presentation to the Council's Assessment Panel (Category 2 development);
- Requires a personal notice to property owners that are directly effected, abutting owners and a general public notification within a local newspaper, with the opportunity to provide a verbal presentation to the Council's Assessment Panel, and appeal rights against the decision or conditions (Category 3 development).

Council cannot undertake public notification of an application if it is not prescribed, even if it thinks notifying neighbours is desirable.

How is notification undertaken?

A covering letter identifying what is proposed, the location of the proposed development whether the development is non-complying, and a representation response sheet are sent to owners of properties who may be affected by the proposal.

In determining who may be affected by a proposed development, Council must follow the requirements of the Development Act, 1993

In the instance of a Category 3 development, a public notice is placed in the local newspaper and on Council's website.

The application details are made available for viewing at Council in the Customer Service Centre.

Lodging written representations

Any person may lodge a representation with Council (even if the application is a Category 2 development) and the person has not formally received a letter from Council notifying them of the application.

The representation may be submitted either as a written document or submitted via email or fax.

The representation must be lodged with Council within ten (10) business days from the commencement of the notification period. Representations lodged must state:

- The full name and address of the person or group making the representation;
- If a representation is being made by two or more persons, the representation should nominate a person who will be taken to be making the representation for the purposes of any subsequent step or proceedings;
- The reasons for the representations;
- Whether the person / group making the representation wishes to make a verbal presentation to Council's Assessment Panel (CAP)

The reasons for the representation should relate to the proposed development's consistency or inconsistency with the policies contained in the Kangaroo Island Council's Development Plan.

Applicant's response to representation

At the end of the public notification process, Council forwards a copy of the written representations received to the applicant. The applicant has an opportunity to respond to Council, in writing, to the representations received, within ten (10) business days of receipt of the written representations

The assessment process

Once public notification is complete, the application is assessed against the provisions of the Kangaroo Island Development Plan. This assessment of the application takes into consideration all legitimate planning issues, including those raised through the public notification process.

As most development applications that have gone through public notification are considered by Council's Assessment Panel (CAP), an assessment report to the Panel is prepared and the application included on the Panel agenda.

If a written request to make a verbal submission at the CAP meeting has been granted, a letter indicating the date, time and place of the meeting will be sent to the representor.

If a person appears before the CAP to make a verbal presentation, the applicant has an opportunity, on request to appear personally or by representative before the CAP in order to respond to any relevant matter.

Please note that additional information in the form of plans, elevations, or expert reports are not able to be presented to the Panel. Photographs may be acceptable if permission is sought from the Presiding Member before the meeting commences.