

D04 Public Notification

Do my neighbours need to be notified of my development application?

Depending on the type of application, Council may be obliged to give people likely to be affected by development an opportunity to make comment (also known as a representation).

The Development Regulations 2008 and/or the Development Plan set out the types of development where people have this right available to them. The extent of the notification is determined by the Development Act 1993.

Note: this excludes other notification requirements under other legislation including the Building Code or Australia and the Fences Act.

What are the different types of Public Notification?

Category 1: Development which does not require public notification.

Category 2: Development which requires notification to adjoining property owners/occupiers only; and gives the right to lodge representations. Category 2 developments are available to be viewed on Council's website www.charlessturt.sa.gov.au or at Council's Civic Centre. There are no third party appeal rights to Category 2 forms of development. It should be noted that there is no automatic right to be heard at the Council Assessment Panel meeting in relation to a representation. If you are not directly notified of the development you will not be able to lodge a representation.

Category 3: Development which requires wider public notification – this being notification to adjoining property owners/occupiers, properties likely to be impacted by a development as well as a public notice being advertised in the newspaper and on Council's website www.charlessturt.sa.gov.au and gives the public the right to lodge representations; and a right for representors to appeal the decision. Representations received do have the right to be heard. Anybody has the right to make a representation.

What happens if there is a representation?

Copies of representations are forwarded to the applicant, and the applicant is given the opportunity to respond in writing to the representation.

If the representor indicates they wish to make a verbal presentation in support of their written statement, it is necessary to attend a meeting of the Council Assessment Panel (CAP). Any application considered by the CAP will have all application documents, including statements of representation made available on the public website.

For Category 2 development, the Panel may determine to allow a representor to appear before the Panel to present their representation. For Category 3 development, the CAP must allow a representor to appear to make their representations. The applicant is also allowed to appear in order to respond to any representations at the meeting.

Once a decision is made, Council advises representors with notice of its decision. In the case of a Category 3 development, representors have the right to lodge an appeal against the decision with the Environmental Resource and Development Court if they are aggrieved with the decision that has been made.

I have received a letter about a Development Application. How do I submit my representation?

The Statement of Representation form requires persons making a representation to describe the reasons for their representation and how the issues would be overcome. All elements of the Statement of Representation Form need to be completed for your application to be valid.

Note: an effective written representation refers to the provisions of the Development Plan.

Who makes the decision?

Most applications can be decided by Council Development Officers under delegated powers from the Council. However, some applications, particularly those where representors request to be heard, are considered by the Charles Sturt Council Assessment Panel (CAP), which is made up of Elected Council Members and independent members. Members of the public are welcome at meetings; however there are general protocols for those wishing to observe the proceedings. Members of the gallery cannot take part in debate at meetings. On occasions parts of the meeting may be closed to the public when matters of a confidential nature are being discussed.

How long will it take to make a decision?

There are set time limits in which Councils are obliged to make decisions. The City of Charles Sturt endeavours to process all applications in the quickest time possible. If the application must be referred on to other bodies, or additional information is required from the applicant, the decision will be delayed. Thorough preparation before lodging your application will ensure efficient processing.

Can I appeal against the decision?

All appeals must be lodged with the Environment, Resources and Development Court (ERD Court) (<http://www.courts.sa.gov.au/OurCourts/ERDCourt/Pages/default.aspx>)

An applicant has the right to appeal to the ERD Court against a decision or a condition attached to an approval (except for non-complying applications). An appeal must be lodged with the court within two (2) months of the decision being made.

A representor has the right of appeal in the case of Category 3 applications only. Appeals must be lodged with the ERD Court within 15 days of the decision being made.