



Public Notification

When does an application need public notification?

Before making a decision on some types of development proposals, the relevant authority, usually Council, may be obliged to give public notification of the application so that people likely to be affected by the development have an opportunity to comment.

The provisions of the Yankalilla Development Plan or the Development Act 1993 and Regulations 2008, outline the situations where people have this right available to them.

The extent of notification depends on the location and type of development.

There are three public notification categories:

Category 1

Category 1 development is legally exempt from any requirement for public notification. It is usually a development in accordance with the primary objectives of the zone, or minor development.

Category 2

Category 2 development requires written notification to adjacent owners and occupiers only (land abutting the development site, and land across a road or reserve within 60 metres). Council can only take into account valid representations from those given this notice. Only some types of Category 2 developments will be heard by Council's Assessment Panel (CAP), and there are no appeal rights available for representors to the Environment, Resources and Development (ERD) Court.

Category 3

Category 3 development includes all development not classified as either Category 1 or Category 2. Adjacent owners and occupiers, as well as others directly affected to a significant degree, are notified in writing and a public notice is also published in a newspaper. Valid representors have the opportunity to be heard by CAP and to appeal a decision to the ERD Court.

How is Public Notification done?

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

The notice will specify where and when the application may be inspected and by which time any written comments (representations) must be received by Council. Valid representations must include a name and address, and if more than one person is involved, a principal contact should be nominated. Any request to be heard by the CAP must be indicated in the representation.

Any representations received will become a public document and will be forwarded to the applicant who will have an opportunity to respond.

What is the Purpose of this Notification?

The process of advertising certain development 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. Council can be made aware of particular issues that may affect people living in the vicinity of the proposal.

What Happens when a Representation is Lodged?

Council must take into account any matters raised in a representation that relate and are relevant to the Development Plan. Any comments expressed that do not address the planning issues fundamental to the Development Plan, cannot be considered.

The applicant is provided with a copy of every valid representation received and given an opportunity to respond to Council in writing on the matters raised.

All representations received and the applicant's response, are **public documents**, and will be readily **available for viewing** by interested parties at the Council office.

Can you be heard by Council Assessment Panel?

In some situations, yes, if the proposal was subject to Category 3 notification, the right to appear personally before the CAP to elaborate verbally on the submission is automatic and must be given. However, you must specifically indicate on your written submission that you do wish to take this opportunity otherwise it is assumed that you do not wish to be heard.

In relation to Category 2 applications, Council has discretion to hear verbal representations before the Panel.

What happens when you appear before the Council Assessment Panel?

You or your nominated representative, and the applicant, will be invited in writing to attend the meeting of the CAP at which the application will be decided. The purpose of the hearing is for you to elaborate on your written representation and highlight the key points of your concerns, not to read your submission in full, as each Panel member will have been provided with a copy.

There is opportunity for Panel Members to ask you and the applicant questions and to clarify the issues.

Can you challenge the decision made?

In the case of Category 3 notification, 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.

Representors (third-parties) have to be formally advised of the outcome along with their right to appeal, which must be exercised within fifteen (15) business days from the date of the decision.

There are no appeal rights available to representors (third-parties) where Category 2 public notification occurs (or Category 1 developments that are not advertised).

The information Guide is intended to assist applicants to submit applications which are complete, well prepared, and can be processed efficiently. The information provided is intended as a general guide only and applicants are encouraged to refer to the District Council of Yankalilla Development Plan and to seek professional advice if necessary.