



This practice direction is issued by the State Planning Commission under section 42 of the *Planning, Development and Infrastructure Act 2016*.

## **Introduction**

Section 42 of the *Planning, Development and Infrastructure Act 2016* (the Act) allows the State Planning Commission (the Commission) to issue practice directions for the purposes of the Act. Generally, practice directions specify procedural requirements or steps in connection with a matter arising under the Act. In certain cases, the Act requires a particular matter to be addressed or dealt with by a practice direction.

This practice direction is being made by the Commission to support the operation of section 107 of the Act with respect to the public notification of performance assessed development applications.

### ***107—Performance assessed development***

*(3) If a proposed development is to be assessed under this section—*

*(a) subject to a decision of a relevant authority made in accordance with a practice direction, notice of the application for planning consent must be given, in accordance with the regulations, to—*

*(i) an owner or occupier of each piece of adjacent land; and*

*(ii) members of the public by notice placed on the relevant land; and*

*(b) a person may, in accordance with the regulations and within a period prescribed by the regulations, make representations to the relevant authority in relation to the granting or refusal of planning consent; and ...*

*(9) A practice direction may specify the form of any notice to be given under this section.*

This practice direction provides for notice about the procedures required under section 107 of the Act with respect to notification of performance assessed development applications.

## **Practice direction**

### **Part 1 – Preliminary**

#### **1 – Citation**

This practice direction may be cited as the *State Planning Commission Practice Direction (Notification of Performance Assessed Development Applications) 2019*.

#### **2 – Commencement of operation**

This practice direction will come into operation on the day on which it is published on the SA Planning Portal.

### 3 – Object of practice direction

The object of this practice direction is to specify the form of notice in cases where notice of a performance assessed development application is required to be given to the public in accordance with the Act and the Regulations.

### 4 – Interpretation

In this practice direction, unless the contrary intention appears –

**Act** means the *Planning, Development and Infrastructure Act 2016*

**Adjacent land in relation to other land**, means land that is no more than 60 metres from the other land, as defined under section 3 of the Act

**Commission** means the State Planning Commission

**Notification period** means the period of time within which representations may be made to the relevant authority, as prescribed by regulation 50 of the Regulations

**Public notification** means the giving of notice under section 107(3) of the Act

**Public road frontage** means—

- a) the boundary between the relevant land and any public road adjoining the relevant land; or
- b) if the only access to the relevant land is across private land, the boundary between that private land and any road adjoining that private land at the point of access

**Regulations** means the *Planning, Development and Infrastructure (General) Regulations 2017*

**Relevant land** means the land upon which a proposed development is proposed to be undertaken

*Note:* Section 14 of the Acts Interpretation Act 1915 provides that an expression used in an instrument made under an Act has, unless the contrary intention appears, the same meaning as in the Act under which the instrument was made.

## Part 2 – Notification of Performance Assessed Development Applications

### 5 – Determination under section 107(3) of the Act

- (1) Section 107(3) of the Act specifies that notice of an application for planning consent must be given in accordance with the regulations, subject to a decision of a relevant authority made in accordance with a practice direction. This practice direction outlines the circumstances in which the relevant authority may determine such a decision in relation to providing notice of a performance assessed development.
- (2) If a relevant authority is of the opinion that a proposed performance assessed development is a kind of development which is of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development, the relevant authority may resolve to proceed with assessment without undertaking a process for providing notice of the application or receiving representations in relation to the proposed development.

- (3) A decision under subclause (2) has effect irrespective of whether the development is a class of development excluded from notification by the Planning and Design Code.

## **6 – Form of Notice under section 107(9) of the Act**

- (1) Section 107 of the Act outlines the manner in which performance assessed development applications are to be assessed and processed with respect to planning consent. Section 107(9) allows a practice direction to specify the form of any notice to be given under section 107(3).
- (2) The following directions apply to all performance assessed development applications, except where specifically excluded from requiring public notification in the Planning and Design Code, or where the relevant authority has made a determination under clause 5(2) of this practice direction.

## **7 – Responsibility to undertake notification**

- (1) The relevant authority will be responsible for giving notice of the application to an owner or occupier of adjacent land in accordance with Section 107(3)(a)(i) of the Act.
- (2) The applicant will be responsible for giving notice of the application to members of the public by notice placed on the relevant land (either personally or by engagement of a contractor) in accordance with Section 107(3)(a)(ii) of the Act, subject to subclause (3).
- (3) Upon lodgement of a performance assessed development application that requires notification, the applicant must either:
  - (a) confirm they accept the responsibility of placing a notice on the land in relation to the application (either personally or by engagement of a contractor) on or before the notification period in accordance with the relevant requirements of the Act, Regulations and this practice direction (noting that the applicant will be notified of the notification period commencement date by the relevant authority at least 4 business days prior to that date in accordance with clause 9 of this practice direction); or
  - (b) except in cases where the Commission is the relevant authority, request that the relevant authority place the notice on the land, and if so requested, pay the relevant fee prescribed by the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*.
- (4) Should the applicant request the relevant authority to place the notice on the land and pay the relevant fee in accordance with clause 7(3)(b) of this practice direction, the relevant authority will be responsible (either personally or by engagement of a contractor) for giving notice of the application to members of the public by notice placed on the relevant land in accordance with Section 107(3)(a)(ii) of the Act.

## **8 – Notification period**

The notification period commences the day on which the notice under section 107(3)(a)(i) of the Act would be expected to be received by the owner or occupier of land in the ordinary course of postage (i.e. 4 business days), in accordance with the Regulations.

## **9 – Preparing for notification**

If the applicant has confirmed they accept responsibility to place a notice on the land as per clause 7(3)(a) of this practice direction, at least 4 business days prior to the commencement of the notification period, the relevant authority must:

- (a) give notice of the anticipated commencement date and of the notification period to the applicant; and
- (b) provide the applicant with a copy of the content of the notice to be placed on the relevant land in PDF format; and
- (c) advise the applicant of the position and number of notice(s) to be erected on the land in accordance with clause 11 of this practice direction.

## **10 – Notice to adjacent land owners/occupiers**

- (1) For giving notice to owners of properties adjacent the relevant land in accordance with section 107(3)(a)(i) of the Act, the relevant authority will send a notification to all owners or occupiers of adjacent land, either:
  - a) by post; or
  - b) by email if the owner or occupier has given specific consent to receive correspondence from the relevant council via email.
- (2) The notice will contain the following details:
  - The date when the notification period is to commence (see clause (8) of this practice direction); and
  - The date when submissions must be received by (in accordance with timeframes prescribed by the Regulations); and
  - The development application number (as it appears on the relevant SA Planning Portal application record); and
  - The nature of the proposed development (as it appears on the relevant SA Planning Portal application record); and
  - The applicant name (as it appears on the relevant SA Planning Portal application record); and
  - The address of the relevant land (including street address, lot number, plan reference and certificate of title volume and folio number); and
  - Where the plans and application will be available for inspection during the notice period; and
  - Identify any deemed-to-satisfy or accepted elements of the proposed development that may not be subject to comment under section 107(4) of the Act
- (3) A template outlining the minimum content of the notice is contained in Attachment 1 of this practice direction.
- (4) A template of the submission form to be provided with the notice to owners or occupiers of adjacent land is contained in Attachment 2 of this practice direction.

## **11 – Notice on land**

- (1) In relation to placing a notice on the relevant land in accordance with section 107(3)(a)(ii) of the Act, the notice must be:
  - (a) placed on, or within a reasonable distance of, the public road frontage of the relevant land, ensuring that it is visible and legible to members of the public from the public road;
  - (b) mounted at least 600mm above ground level, and no more than 1.5 metres above ground level;
  - (c) made of weatherproof material (e.g. laminated print attached to fence/building, corflute print on star droppers, or other); and
  - (d) at least A3 size.
- (2) In relation to clause 11(1)(a), the relevant authority shall determine the most appropriate position for the notice on the land in order to provide for maximum visibility from a public road. In cases where the relevant land has more than 1 frontage to a public road, the relevant authority may determine that more than 1 notice must be erected on each of the public road frontages to ensure that notice of the development is reasonably apparent to members of the public.
- (3) The general layout for a notice on the relevant land is detailed in Attachment 3 of this practice direction. All text must be in Arial font style, with minimum font size specified in Attachment 3.

## **12 – Availability of plans**

The relevant authority must ensure that the application plans required to be available for inspection in accordance the Regulations are available to view via the SA planning portal during the notification period. Access to those plans shall be made available via a unique URL or QR Code listed on both the letters to adjacent land owners/occupiers and the notice on the relevant land.

## **13 – Confirmation of public notification**

The entity responsible for erecting the notice on the relevant land shall ensure the following information is uploaded to the relevant application record on the SA planning portal:

- (a) Within 1 business day after erecting the notice on the land, a photograph clearly displaying the notice on the land, with details of the location, date and time the photograph was taken; and
- (b) Within 2 business days of the end of the notification period, a photograph clearly displaying the notice on the relevant land on the day the public notification period ended, with details of the location, date and time the photograph was taken; and
- (c) Within 2 business days of the end of the notification period, a written statement confirming that the notice on the relevant land was undertaken in accordance with the relevant requirements of the Act, Regulations and this practice direction.

## **14 – Interpretation**

- (1) The above procedures also apply to performance assessed applications for outline consent or to vary an existing development authorisation where notice is required to be given in accordance with the Planning and Design Code.
- (2) The form of notice specified in this practice direction may apply to the notification of an application for restricted development if the Commission determines as such under section 110(13) of the Act.

**Issued by the State Planning Commission on 1 July 2019**

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## **Attachments**

*Attachment 1 – Template – Notice to adjacent land*

*Attachment 2 – Template – Representation Form*

*Attachment 3 – Template – Notice on Land*

# Proposed Development

*Under the Planning, Development and Infrastructure Act 2016*

[date of public notification commencement]

[name]  
[Address line 1]  
[Address line 2]  
[Suburb] [State] [Postcode]

Dear [salutation] [surname]

## **Notice of Development Application**

**Applicant:** [Applicant name]  
**Application Number:** [Development application number]  
**Proposed Development:** [description of proposed development]  
**Subject Land:** [address of subject land]

As an adjoining owner/occupier or person potentially affected by the above development application, you are invited to view details of the application and make a representation.

The application documentation may be examined:

- online on the SA Planning Portal [insert URL] [insert QR Code]
- in person at [street address of relevant authority]

If you wish to comment on the application, please complete an online representation form at [\[insert url\]](#), or complete the attached form and submit to [relevant authority] at [email address] or [postal address]. All representations must be received by no later than **5pm on [date 15 business days from commencement of notification period (allowing 4 business days for postage)]**.

Please note that, in order for representations to be valid, they must:

- be in writing; and
- include the name and address of the person (or persons) who are making the representation; and
- set out the particular reasons why planning consent should be granted or refused; and
- comment only on the performance-based elements of the proposal, which does not include the [list any accepted or deemed-to-satisfy elements of the development].

You may be given an opportunity to appear before the relevant authority to further explain your views. You will be contacted should a hearing be arranged.

If you have any questions relating to this matter, please contact [relevant authority name] by telephone on [phone] or email [email address].

South Australia  
**PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016**

**REPRESENTATION ON APPLICATION – PERFORMANCE ASSESSED DEVELOPMENT**

**Applicant:** [applicant name]  
**Development Number:** [development application number]  
**Nature of Development:** [development description of performance assessed elements]  
**Zone / Sub-zone / Overlay:** [zone/sub-zone/overlay of subject land]  
**Subject Land:** [street number, street name, suburb, postcode]  
 [lot number, plan number, certificate of title number, volume and folio]  
**Contact Officer:** [relevant authority name]      **Phone Number:** [authority phone]  
**Close Date:** [closing date for submissions]

My name*:		My phone number:	
My postal address*:		My email:	

*\* indicates mandatory information*

- My position is: (please tick one)
- I support the development
- I support the development with some concerns (detail below)
- I oppose the development

**The specific reasons I believe that planning consent should be granted/refused are:**

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*[attached additional pages as needed]*

**Note: In order for this submission to be valid, it must:**

- be in writing; and
- include the name and address of the person (or persons) who are making the representation; and
- set out the particular reasons why planning consent should be granted or refused; and
- comment only on the performance-based elements of the proposal, which does not include the [list any accepted or deemed-to-satisfy elements of the development].

- I:** (please tick one)
- wish to be heard in support of my submission\*
- do not wish to be heard in support of my submission

*\*You may be contacted if you indicate that you wish to be heard by the relevant authority in support of your submission*

- By:** (please tick one)
- appearing personally
- being represented by the following person: \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

# PROPOSED DEVELOPMENT

Minimum font size:  
72pt

Minimum font size:  
26pt

[insert street address of subject land]

Make a representation until [date]

## Proposal

[List the performance assessed elements of development]

## Applicant

[applicant name]

## Application Number

[DA number]



Minimum font size:  
26pt

## View the application

- Visit [\[www.saplanningportal.sa.gov.au/1234\]](http://www.saplanningportal.sa.gov.au/1234)

Minimum font size:  
20pt

## Have your say

- **online** - [insert url]
- **email** - [authority's email address]
- **post** - [authority's postal address]

Optional: QR Code  
and/or URL

Scan this code with your phone camera



- Visit the office of [relevant authority] at [insert street address of authority's principal office]

Please note representations must:

Minimum font size:  
20pt

- be in writing
- include the name and address of the person/s who are making the representation
- set out the particular reasons why planning consent should be granted or refused
- comment only on the listed elements of the proposal, which does not include the [state any deemed-to-satisfy or accepted elements of development– delete this dot point if all elements are performance assessed]

It is an offence to damage, destroy, obscure or remove this notice. Penalties apply.

Minimum font size:  
14pt