

Development Applications Public Notification

When does an application need public notification?

Before making a decision on some types of development proposals, council may be obliged to publicly notify the application so that people potentially affected by the development have an opportunity to comment.

[Schedule 9](#) of the [Development Regulations 2008](#) and/or the zone provisions in council's [Development Plan](#) set out what category of public notification is required for certain types of developments in certain zones.

There are three public notification categories:

Category 1

Category 1 development is legally exempt from any requirement for public notification. It is usually 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/or 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 the [Council Assessment Panel](#) (CAP), and there are no appeal rights available for representors to the [Environment, Resources and Development \(ERD\) Court](#). We publish the application details on our [website](#).

Category 3

Category 3 development includes all development not classified as either category 1 or category 2. Adjacent owners and/or occupiers, as well as others determined by council to be directly affected to a significant degree by the proposal, are notified in writing and a public notice is also published in a newspaper. We also publish the details on our [website](#). Valid representors have the opportunity to be heard by CAP and to appeal a decision to the ERD Court.

How is this 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 the opportunity of responding to council.

Copies of application documents can be purchased during the public notification period, upon payment of the prescribed fee and completion of a form (available on request).

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. Council 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?

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

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 in these. Again, council needs to take this further advice into consideration.

All representations received and the applicant's response are **public documents** and will be readily **available for viewing** at our council offices and on our website www.onkaparingacity.com. You therefore need to be mindful of any personal, confidential or potentially defamatory comments in your representation or response to representations.

Can you be heard by Council's 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 your submission is automatic and must be given. However, you must specifically indicate on your written submission that you do wish to take advantage of 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. Representations regarding residential outbuildings (verandahs, carports, sheds, pools etc.) are not heard by the Panel.

What happens when you appear before the Development 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 upon 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. Generally, a set period of time (five minutes) is allocated for each party to address the Panel so that everyone has an equal chance of making their point.

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 ERD Court exists. Third-parties have to be formally advised of the outcome along with their right to appeal, which 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 that are not advertised).

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

The above information is advisory and a guide only to give you a general understanding of the development assessment system. It is recommended that you seek professional advice or contact our **Development Services section on 8384 0666** for any specific enquiries or for further assistance concerning the use and development of land. Being properly prepared can save you time and money in the long run.

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