



DEVELOPMENT APPLICATIONS

What is a Development Application?

The Development Act establishes a legal structure for controlling the use and development of land throughout South Australia. It does this firstly by defining what development is and secondly, by specifying that such development must receive both a planning and, where applicable, a building approval before being commenced. A single application can cover all development approvals, unless it is for land division, relating to the Development Plan policies and to the Building Code requirements.

The approval is issued by the relevant authority which is either the local Council or the Development Assessment Commission, a Government body set up under the Act largely to determine proposals which have State significance (these being specified by Regulation). In rare cases, the planning authority may in fact be the Minister or even the Governor.

A statutory application and approval system regulating development activity is therefore in place and must be followed. The actual Development Application and the Approval forms are prescribed by the legislation as are the procedures by which an application is handled and a decision ultimately made.

Anyone who wishes to undertake development is obliged to go through this process.

When is an application required?

The Development Act says that **no** development can be undertaken unless it has the approval of the relevant planning authority. Development is defined in the legislation and refers to a wide range of activities associated with building work – construction, alteration, addition to or demolition of a building or structure; changes in land use; advertising displays; and **anything** which modifies a designated heritage item constitutes development as defined in the Act and therefore required formal Development Approval.

An application must be lodged every time you wish to undertake development. It can be a quite simple domestic structure or a complex major commercial project, but an application is necessary in either case.

Some forms of minor activity and structures are actually exempt from this definition of development and consequently do not require approval. It is pointed out, however, that the scope for these exemptions is quite limited and you should normally expect that an application will be necessary. The best way to find out if

you need an approval for your proposal is to contact the Council and seek clarification as to what may be involved.

The approval process involves separate assessments against the planning policies covering the area in question (known as the Development Plan consent) and against the technical standards set out in the Building Code (known as the Building Rules consent). Collectively, these two consents amount to the formal Development Approval that you require in order to proceed with the development proposal.

It is important to understand that you **cannot** start work on any development until the planning authority has issued the Development Approval notice. Otherwise, the Act provides for heavy penalties including exemplary damages and/or a daily fine for each day the offence continues.

Why is an application necessary?

Responsible planning is needed to help satisfy the many varied and often competing demands of the community in a way which makes sound and fair use of our available resources in the best interests of the environment and our quality of life. This objective involves not only creating the strategic and policy framework defining our future desired vision for an area but also controlling development so that the framework is not prejudiced and can be achieved. Obviously, these sorts of strategies and policies influence the kind of development that is acceptable or to be opposed.

The Development Plan spells out the preferred character for the different parts of the Council area, the types of development favoured or to be resisted, and the policies and standards against which proposals are judged. Likewise, the Building Code assessment ensures that the specifications and structural integrity of buildings comply with set technical standards, including essential safety provisions, health and amenity, and public and disabled access.

It is important to understand that the purpose of this process is to secure development which:-

- Is an appropriate use of the land according to the zoning;
- Enhances and in keeping with the environmental and visual qualities of the landscape;
- Is compatible with the orderly and proper planning of the area and compatible with surrounding development;

- Has minimal adverse impact on the form, character and amenity of the locality in which it is situated;
- Respects the living conditions of nearby residents;
- Results in structurally sound and safe buildings.

How do you go about lodging an application?

You must complete in full the single application form which covers all types of development proposals, including both the planning and building components. The Development Application form, unless it is for land division, is lodged with the local Council, either personally or by post, along with all relevant plans and supporting information.

Please remember that there are lodgement and other fees that may be applicable to the proposal which must be paid at the time of lodgement. Council can decline to deal further with your application until these are paid. When received, Council can then register the application and proceed with an assessment in terms of the Act.

For major development proposals, it is strongly recommended that professional assistance be sought in preparing the application as this will help ensure that adequate and relevant information is available thereby minimising time delays.

Who makes the decision and when?

Either the local Council or the Development Assessment Commission is the 'relevant authority' charged with the obligation of assessing and issuing approvals. The Minister (in the case of Crown developments) or even the Governor (when an Environmental Impact Statement or a major project is declared under the Act) are also specified as 'authorities' under the Act, but their involvement is the exception rather than the rule. Mostly, it will be the local Council who will be responsible for making decisions.

There are set time limits specified in the legislation within which decisions need to be made depending upon the nature of the development being applied for. Applications for routine developments that require an assessment to be made can generally be dealt with in a short period of time, and in any case within 8 weeks of lodgement (4 weeks for complying developments). Where an application has to be referred to a Government Agency, then the time limit is extended to 14 weeks; for land division proposals, the period is 12 weeks. Whether a decision can be made in less time than these limits depends largely upon the complexity of the proposal and the issues that it may consequently raise.

If a decision is not made within the statutory period stipulated, the applicant has the right to insist (in writing) to the authority that he or she is aggrieved by its failure to deal with the application and, after 14 days have elapsed without a response, is then entitled to apply to the Environment, Resources and Development Court for an order directing the authority to make a decision by the date fixed by the Court.

How will a decision be made?

The assessment of any application must be made on the basis of the planning policies contained in the *Mid Murray Council Development Plan*, and a decision made accordingly. A Development Plan consent cannot be granted if the authority believes that the proposal is seriously at variance with the Plan's policies. Otherwise, the content and substance of the planning policies provide guidance for the assessment process. A Council therefore determines the suitability or otherwise of development in terms of what the Plan says.

In respect to the Building Rules assessment, the requirements of the Building Code have to be satisfied.

What if you don't like the decision?

If an applicant is aggrieved by a decision of the authority, eg if the proposal is refused outright or if conditions attached to a consent are unacceptable, then a right of appeal exists to the Environment, Resources and Development Court. An applicant generally has a 2 month period to exercise this right, it is not open-ended. Note: No appeal rights are available in the case of decisions made in respect to non-complying development. The appeal is lodged direct with the Court itself.

For further information contact the Environmental Services Section of the Mid Murray Council on (08) 8564 6020.

Information Sheets

Information sheets are available to help answer many of your Planning enquiries. We also have many information sheets available regarding Building and Health issues.

These information sheets are available from our Mannum, Cambrai and Morgan offices. You can also see them on our website at www.mid-murray.sa.gov.au



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