

# Public Participation in Development Plan Amendments

**T**his guide sets out how members of the public can influence changes to planning policy in local areas by becoming involved in proposed amendments to Council Development Plans. As well as going through the formal process of submissions and hearings, the guide explains why you should get involved and offers some advice on how to make the most of your submission.

Throughout this guide, various legal terms are used. The “Act” means the Development Act 1993, and the “Regulations” means the Development Regulations. Other terms are defined in general rather than strict legal language.

## What are Development Plans?

The key **legal** documents in the South Australian planning system are the *Development Act 1993* and the *Development Regulations*.

The key **policy** document is the *Planning Strategy* which sets out the Government's vision for planning in metropolitan Adelaide and country South Australia.

Under the Development Act, each Local Council is responsible for controlling development in its area. Each Council is obliged to maintain a *Development Plan* which is aimed at facilitating “proper, orderly and efficient planning and development”. Each Development Plan must be consistent in its aims and objectives with the Government's overall Planning Strategy.

Some specific aims of Development Plans are to:

- enhance the proper conservation, use, development and management of land and buildings;
- facilitate sustainable development and the protection of the environment; and
- advance the social and economic interests and goals of the community.

From a practical point of view, one of the main purposes of a Development Plan is to set out the things that a Council must take into account when considering development proposals in its Council area. This is done through provisions such as zoning, which aim, for example, to keep heavy industry away from residential areas. Development Plans also contain broad principles and specific objectives that cover all aspects of planning in that area.

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## Why are Development Plans amended?

As society changes, so do its interests, priorities and expectations. This is often reflected in a desire to use land differently. For example, over recent years, many factories have moved out of inner suburban areas to the outer suburbs, thereby leaving valuable land that could be put to other uses such as new housing. To accommodate these changing circumstances, Development Plans occasionally need to be updated.

In many cases, the pressure to change a Development Plan comes not from the community, but from individual developers. The value of land is usually determined by the range of uses to which it can be put, so there is often a strong financial incentive to change planning rules to allow certain types of development eg. blocks of flats.

## Who can amend a Development Plan?

Just as local Councils are responsible for most development control, they are also responsible for preparing amendments to the Development Plan for their areas. The ultimate decision however lies with the Governor acting on the advice of the Minister responsible for the Development Act (currently the Minister for Housing and Urban Development).

Before proceeding with proposed amendments to its Development Plan, the Council must reach agreement with the Minister over the subject matter of the proposed amendment. This is done by the Minister approving the Council's "*Statement of Intent*". The Statement of Intent also sets out the ways in which the community is to be informed about the Plan amendment process.

In some cases, the Minister him/herself can prepare an amendment to a Development Plan, in which case the procedure is slightly different. This Guide only covers Development Plan amendment by Councils, which form the bulk of amendments.

Once the Minister has approved the general thrust of the Council's proposed amendment (the Statement of Intent), the Council undertakes an investigation into the implications of the proposed changes, together with consultation with other government agencies. For example, if an implication of the change to the Development Plan will be to increase traffic in a certain road, then the Department of Transport is likely to want to make some comments.

After Government agencies have had their say, the general public is invited to comment on the proposed changes. The changes are set out in a document called a "*Plan Amendment Report*".

## Why should you be involved?

The level of public interest in a proposed change to a Development Plan will depend on the nature of the change and the size of the area likely to be affected.

If, for example, the only change is to alter the zoning of a small area from "General Industry" to "Light Industry", then maybe only a few adjoining land holders would be interested. On the other hand, a radical alteration of zone boundaries over a wide area might attract widespread support or opposition, particularly from those who see their amenity or livelihoods threatened.

Because the implications of changing a Development Plan can be substantial, it is important that all potentially affected or interested persons get involved in the process as soon as possible. It will be much harder to complain about the impacts on your quality of life or local environment once the changes have been made.

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## How can the Public be involved?

The process of public participation may vary slightly from Council to Council, however there are some minimum requirements set out in the Act and Regulations. The main requirement is the publication of a notice in the Government Gazette and a newspaper which:

- advises the time and place at which the Plan Amendment Report can be inspected;
- invites written submissions from interested persons within two months; and
- sets a place and time for a public hearing

At the end of the two-month submission period, the Council will make all the written submissions available for inspection by the public. It is important to remember when drafting a submission that other people (eg. your neighbours) may get to read it, so be careful about what you say, particularly if it may be defamatory.

Each person who lodges a submission should be advised, in writing, when the public hearing is to be held. The main aim of the public hearing is to allow people to express their concerns and explain their submissions.

## What happens to my submission?

The council is required to prepare a report which summarises all submissions. This report, which also includes the Council's response to the points made, is forwarded to the Minister before he/she makes a final decision.

Because each submission must be responded to individually, it could be a good idea to encourage as many submissions as possible, whether you support or object to the proposed changes. If you belong to a group, you may like to suggest that the group makes a substantial submission and that each individual member also makes a brief submission.

As with all decisions by elected politicians, the number of submissions can be as important as their content.

Submissions need not be lengthy, but they should be written clearly, preferably in point form so that issues don't "get lost" amongst lengthy, rambling text. You should also ensure that your submission directly relates to the matters discussed in the Plan Amendment Report.

Once you have made a submission, make sure you take plenty of photocopies for your local members of Parliament, local councillors and neighbours, particularly if you think the issue is likely to seriously affect you or your local environment.

## What if my submission is rejected?

There is no right of appeal against the rejection of points made in your submission.

If you feel that the issues you raised are important enough, you could consider expressing your views direct to the Minister, who ultimately has the final say on whether the amendment can proceed.

Other avenues such as letters to the newspaper or public meetings are always available to press your point of view.

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## For more information

A copy of the Development Plan for your area can be obtained from your local council or inspected at the Conservation Centre, 120 Wakefield Street, Adelaide, during office hours (ph: 8223 5155). It is also available in printed form or on CD-ROM from the State Information Centre, 77 Grenfell Street, Adelaide (ph 8204 1900).

The Department of Housing & Urban Development produces a range of comprehensive guides, including one on the Development Plan Review process. These are available from the State Information Centre. Departmental staff may also be able to help with specific queries (ph: 8207 2000)

State Information is also the place to buy the Development Act 1993 and Development Regulations as well as other relevant Acts such as the Environment Protection Act 1993 or the Local Government Act 1934



The Environmental Defenders Office (SA) inc, (EDO) is a non-profit community legal centre offering free advice to individuals and groups on all matters of environmental law. The EDO operates an advisory service from its offices on 1st floor, 118 Halifax Street Adelaide on Thursday evenings between 6pm and 8pm.

**Appointments are necessary and must be made by ringing 8232 7599.**

**Postal address: EDO, GPO Box 170 Adelaide SA 5001**

This guide is not a substitute for proper legal advice. Important legal details have been omitted to provide a brief overview of this area of law. Contact the EDO or your solicitor for more detailed legal advice about your specific problem.

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