

Development Act 1993

# Information Sheet

## DEVELOPMENT APPLICATIONS

## ADVICE TO APPLICANTS

### **what is a Development Application ?**

The Development Act 1993 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 form can cover all development approvals relating to the Development Plan policies and to the Building Code requirements. A copy of this form is available at the Council office.

The approval is issued by the relevant planning authority which is either the District Council of Mount Remarkable Development Assessment Panel (the Panel) 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 ?**

An application must be lodged **every** time a person wishes to undertake development. Development is defined in the legislation and refers to a wide range of activities associated with building work, changes in land use, advertising displays, and land and community title division. 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. These, however, are the exception rather than the rule and the situation can change depending upon geographic location or the actual nature of the work being undertaken. As a general rule, any structure that is more than 10 sq m in area, or over 2.5 m in height, or has a span greater than 3 m, or adjoins an existing building calls for an application.

The best way to find out if an approval is needed is to enquire at the Council office and seek clarification as to what may be involved.

***No development can be commenced without written Development Approval.***

### **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 that makes sound and fair use of our available resources and 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 that framework is not undermined and can be achieved. Obviously, these sorts of strategies and policies influence the kind of development that is acceptable, and where it should occur, or the kind of development that ought to be opposed.

An application therefore provides the planning authority with the opportunity to individually assess the development proposal against the stated planning policies affecting the locality in which it is situated and against the structural and technical standards set out in the Building Code.

The Mount Remarkable (DC) Development Plan spells out the preferred character for different parts of the Council area concerned, the types of development



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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 that:-

- ▶ is an appropriate use of the land according to the zoning
- ▶ enhances and is in keeping with the environmental and visual qualities of the landscape
- ▶ is compatible with the orderly and proper planning of the area and is in keeping 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 making an application ?

To avoid misunderstandings and possible time delays, it is always useful to contact the Council first for confirmation that an approval is necessary and for advice regarding the type of information that should be supplied with an application, how an application is likely to be handled, whether public notification or other Government Agencies will be involved and, of course, to check if the proposal is consistent with the Development Plan policies.

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. Planning consultants who may be able to help in this task are listed in the Yellow Pages under *Town and Regional Planning*.

## are there different types of applications ?

No. All development proposals, including those for planning, building or land division, are covered by the **same** standard application form which is used to start the process of securing a Development Approval.

There are, however, three kinds or classes of development which affect the way that an application is handled. These are :-

- ▶ **complying** as listed in the Development Plan or specified in the Development Regulations 2008 and for which approval cannot be withheld by the planning authority
- ▶ **non-complying** again, as listed in the Development Plan, and represents development that is *prohibited* as of right, although the Act provides a process of application and assessment in special cases where such a proposal has substantial merit
- ▶ **consent** development that is categorised neither as complying or as non-complying and is to be individually assessed on merit having regard to the Development Plan policies

*This information is advisory and is provided by the Council as a community service and as a guide only to key elements of the South Australian planning system. For a more thorough understanding of the system or for any specific enquiries concerning the use and development of land, professional advice should be sought or the Council officers be contacted for further assistance on 8666 2014.*