PRACTICE DIRECTION 3

Notification of Performance Assessed Development Applications 2019

STATE PLANNING COMMISSION

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(9) of the Act with respect to the 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 3 (Notification of Performance Assessed Development Applications)*.

2 – Commencement of operation

This practice direction came into operation on 1 July 2019, and was varied on:

- 31 July 2020
- 19 March 2021
- 2 September 2021

Version 5 of this practice direction commences operation 16 June 2023.

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*

Superseded by Version 6 dated 6 February 2026

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 – 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 notification in the Planning and Design Code pursuant to section 107(6) of the Act.

6 – 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 determined by the relevant authority as being appropriate to cover its reasonable costs in giving public notice of the application under section 107(3)(a)(ii) of the Act.

(4) Should the applicant request the relevant authority to place the notice on the land and pay the relevant fee, 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.

7 – 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.

8 – Preparing for notification

If the applicant has confirmed they accept responsibility to place a notice on the land as per clause 6(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; and

(c) advise the applicant of the position and number of notice(s) to be erected on the land in accordance with clause 10 of this practice direction.

9 – 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 (7) of this practice direction); and

- The date when submissions must be received by (in accordance with timeframes prescribed by the Regulations); and
- The address of the relevant land (including street address, lot number, plan reference and certificate of title volume and folio number); 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
- Identify all the performance assessed elements of the proposed development; 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; and
- The location where the plans and application will be available for inspection during the notice period.

(3) the form of notice is that which is available on the SA Planning Portal and generated by the Plan SA Development Application Processing (DAP) system.

(4) the form that is available for third parties to submit a representation is that which is available on the SA Planning Portal, or otherwise must include the information prescribed in regulation 50(1)(b)(c) and (d) of the *Planning, Development and Infrastructure (General) Regulations 2017*.

10 – 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 10(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 content and layout of the notice on the relevant land is that which is available on the SA Planning Portal and generated by the Plan SA DAP system.

11 – 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.

12 – 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 written statement confirming that, insofar as the responsible entity is aware, the notice on the relevant land was undertaken in accordance with the relevant requirements of the Act, Regulations and this practice direction.

13 – 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 2 September 2021

Note: Version 5 commences operation in accordance with clause 2 ‘Commencement of operation’

Versions

Version 5: Commences operation on 16 June 2023

Version 4: Commenced operation on 2 September 2021

Version 3: Commenced operation on 19 March 2021

Version 2: Commenced operation on 31 July 2020

Version 1: Commenced operation on 1 July 2019