



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 has been made by the Commission to support the operation of sections 130 and 131 of the Act in regard to the notification of Essential Infrastructure and Crown development applications respectively.

Practice direction

Part 1 – Preliminary

1 – Citation

This practice direction may be cited as the *State Planning Commission Practice Direction 13: Notification of Crown and Essential Infrastructure Applications 2023*.

2 – Commencement of operation

This practice direction comes into operation on the day on which it is published on the SA planning portal.

3 – Object of practice direction

The object of this practice direction is to provide the required information in cases where notice of a Crown development or essential infrastructure 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*

Commission means the *State Planning Commission*

Crown development application means an application made under section 131 of the Act.

Essential infrastructure development application means an application made under section 130 of the Act.

Prescribed agency means a State agency within the meaning of section 131 of the Act or a person who is acting under a specific endorsement of a State agency under section 131(2)(c) of the Act.

Public notice means the giving of notice under section 131(13) of the Act and regulation 3H of the Regulations.

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 12 of the *Legislation Interpretation Act 2021* 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 Crown Development Applications

5 – Form of Notice under section 131 of the Act

- (1) Section 131 of the Act outlines the manner in which Crown development applications are to be assessed and processed with respect to development approval. Section 42 allows a practice direction to specify the procedural requirements or steps in connection with any matter arising under this Act.
- (2) The following directions apply to all Crown development applications that involve construction work where the total amount to be applied to the work will, when all stages are completed, exceed \$10 million (except where specifically excluded from requiring approval under section 131(3) or (4) of the Act and regulation 106 of the Regulations).

6 – Responsibility to invite interested persons to make written submissions by public notice

- (1) Under section 131(13)(a) of the Act, the Commission is required by public notice to invite interested persons to make written submissions when the development cost exceeds \$10 million.
- (2) Under regulation 107(6) of the Regulations, when notice of an application is published on the SA planning portal under regulation 3H(1)(b) of the Regulations, a notice must be

placed on the relevant land in a form determined by the Commission as soon as reasonably possible.

- (3) Under regulation 107(7) of the Regulations, the Commission may require the notice to be placed on the relevant land by the prescribed agency. The prescribed agency may engage a contractor or agent to place the notice on the land on their behalf. The Commission is required to publish a notice of the application in a newspaper circulating generally in the area of the State that is relevant to the proposed development.
- (4) Following completion of the notification period, the notice should also be removed either by the prescribed agency or by engagement of a contractor in accordance with regulation 107(6) of the Regulations.

7 – Notification period

The notification period is specified in 131(13)(a) of the Act as at least 15 business days.

8 – Preparing for notification

- (1) The Commission must give notice of the anticipated commencement date and of the notification period for the development application to the prescribed agency.
- (2) The prescribed agency must use the document as provided by the Commission at the time of notification. An example is attached at **Attachment A**.

9 – Notice on land

- (1) In relation to placing a notice on the relevant land in accordance with regulation 3H(1)(d) of the Regulations, 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 800mm above ground level, and no more than 2 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 A1 size.
- (2) Where the relevant land has more than one public road frontage, a 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 layout for a notice on the relevant land is detailed in **Attachment A**.

10 – Where Notice on Land is not required

Regulation 107(8) of the Regulations allows for a notice not to be placed on the land in the following circumstances:

- (a) the relevant land—
 - (i) is not within the area of a council; or
 - (ii) constitutes a place that is wholly covered by water; or
- (b) the Commission considers that it is impracticable or unnecessary to place a notice on the land under that subregulation.

For the purposes of regulation 107(8)(b), the Commission may consider it to be impracticable or unnecessary to place a notice on the relevant land in the following circumstances:

- (a) where the relevant land is not within 2km of a residence or township boundary; or
- (b) where the relevant land comprises a site that is not directly accessible to the public; or
- (c) where the relevant land occupies an area of more than 1000ha; or
- (d) where all public road frontages of the relevant land adjoin roads which are sealed, and have a speed limit of 80km/h or more; or
- (e) where the relevant land is an unmade road reserve; or
- (f) where in the opinion of the Commission it is otherwise impracticable or unnecessary.

11 – Availability of plans

The Commission 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 URL or QR Code listed on the notice on the relevant land and via public advertisement.

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, and supply to the relevant officer within the Department:

- (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 the notice on the relevant land was undertaken in accordance with the relevant requirements of the Act, Regulations and this practice direction.

Part 3 – Notification of essential infrastructure development applications

14 – Form of Notice under section 130 of the Act

- (1) Section 130 of the Act outlines the manner in which essential infrastructure development applications are to be assessed and processed with respect to obtaining development approval. Section 42 allows a practice direction to specify the procedural requirements or steps in connection with any matter arising under this Act.
- (2) Under section 130(12)(a) of the Act, the Commission is required by public advertisement to invite interested persons to make written submissions when the development cost exceeds \$10 million.
- (3) The following directions apply to all essential infrastructure development applications that involve the construction work where the total amount to be applied to the work will, when all stages are completed, exceed \$10 million (except where specifically excluded from approval under Schedule 4A of the Regulations).

15 – Signage on the land requirements

- (1) Subject to this clause, for the purposes of section 130(12)(a) of the Act, the public advertisement process undertaken by the Commission will be the same as the process for the giving of public notice under section 131(13)(a) of the Act (including any processes specified in the Regulations and this practice direction).
- (2) For the purposes of public advertisement under section 130(12)(a) of the Act:
 - (a) The proponent (as defined in section 130(2) of the Act) of an essential infrastructure development application is responsible for performing any functions that a prescribed agency would be required to perform under Part 2 of this practice direction.
 - (b) The layout for a notice on the relevant land is the layout detailed in **Attachment A**.

Part 4 - Miscellaneous

16 – Attachments

Attachment A – Example – Notice on Land

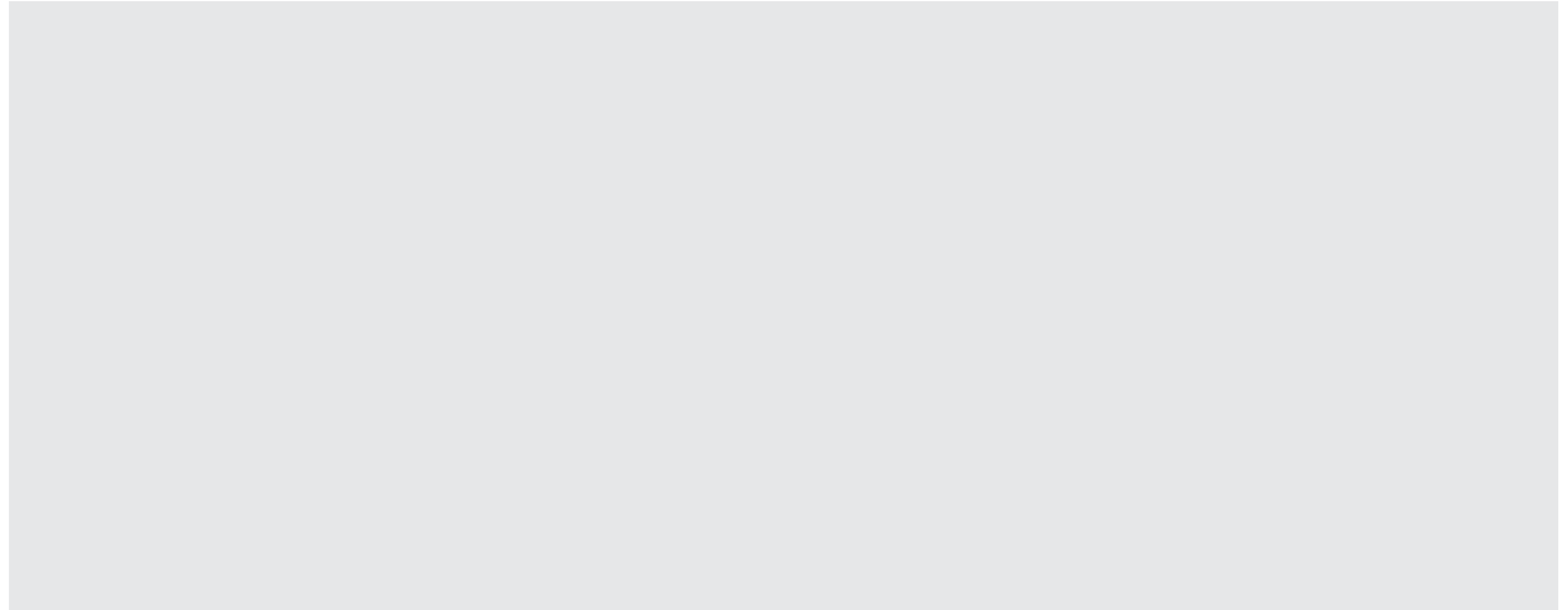
Varied by the State Planning Commission on 7 September 2023

Note: Version 3 commences operation in accordance with clause 2 'Commencement of operation'

Versions

Version 1: 26 November 2020
Version 2: 6 May 2021
Version 3: 7 September 2023

Notice under sections 130(12)(a) or 131(13)(a) of the Planning, Development and Infrastructure Act 2016



Applicant:

Development Application Number:

Subject Land:

See the plans in person or online:

Online:

In person:

Please note all submissions must be in writing, and include the name and address of the person/s who are making the representation, set out the particular reasons why planning approval should be granted or refused, and any other issue the planning authority should consider in the assessment of the proposal.

Your submission may become a public document, and will be made available to the applicant to provide a formal response to be considered by the planning authority.



It is an offence to damage, destroy, obscure or remove this notice. Penalties apply.