

# South Australia's Development Assessment Commission

## Crown Development Applications Section 49 and 49A of the Development Act 1993

### Role of the Development Assessment Commission

The Development Assessment Commission (DAC) is an independent statutory body established under South Australia's *Development Act 1993*. It comprises seven Commissioners ('members') who are appointed by the Governor. DAC members are usually appointed for two years, although the Presiding Member can be appointed for a term of up to five years.

DAC assesses and determines specified kinds of development applications in South Australia in accordance with the provisions of the *Development Act 1993* and *Development Regulations 2008*, and any other applicable legislation. Under Section 49 and 49A of the Act, DAC is required to assess Crown Development and Public and Electricity Infrastructure applications, and prepare a report to the Minister for Planning who is responsible for making the final decision. Certain kinds of Crown Development are excluded by the Act and Regulations from requiring approval.

### Referrals

Applications under Section 49 and 49A of the Act are lodged directly with the DAC.

Where the application lies within a council area, DAC is required to refer the application to the council for a report. A council has eight weeks within which to provide any comments to DAC.

Certain applications may also be required to be referred to government agencies for comment. The Regulations identify the prescribed classes of development, the agency to be consulted and provides that a report must be received by DAC within six weeks. The prescribed classes of development are set out in Schedule 8 of the Regulations and typically involve the following agencies/Acts - Environment Protection Agency; State Heritage Unit; Government Architect; Coast Protection Board; Commissioner of Highways; Office of the Technical Regulator; SA Country Fire Service; Mining Act; Natural Resources Management Act; River Murray Act; Aquaculture Act; and Public and Environmental Health Act.

### Public Consultation

Crown Development applications with a value exceeding \$4M are required under the Act to be notified by public advertisement. There is no requirement to directly notify adjoining owners or occupiers of land. The public are allowed a minimum of 15 days within which to make a written submission to DAC, and may request to appear at a DAC hearing in support of their submission. DAC must have regard to any submissions received in their assessment of the application.

## DAC Meetings

DAC generally meets in Adelaide fortnightly throughout the year, although special meetings can be convened or when travelling to regional or remote areas. Meeting and site visits are governed by the Minister's Code of Conduct.

In respect to Crown Development, DAC is providing advice to the Minister for Planning only and is not the actual decision maker. The planning assessment prepared by Planning Division staff and DAC's report to the Minister is therefore, under normal circumstances, not available to the public.

Accordingly, whilst the agenda for a scheduled meeting is made available on the DAC website and from the DAC Secretary on the Monday afternoon prior to the meeting (which is generally held on a Thursday), any meeting papers relating to Crown Development applications are not publicly available. All other agenda papers are available for inspection and purchase at the DAC public counter (Roma Mitchell House, Level 5, 136 North Terrace, Adelaide) from the Monday afternoon prior to the meeting or online on the DAC website ([www.dac.sa.gov.au](http://www.dac.sa.gov.au)).

Minutes of DAC's meetings (excluding legal opinion and commercially confidential information, and papers relating to Crown Development or mining proposals) are published online the next business day following the meeting.

The meetings of DAC are generally conducted in private.

## Hearing of Representors

When there is to be a hearing on an application, all parties who have indicated a wish to be heard are advised in writing of the date and time of the hearing one week prior to the meeting.

Attendance is usually confined to representors (who had previously indicated a wish to be heard in their written submission), relevant state agencies and the applicant. On certain occasions members of the public may be able to attend and observe the proceedings only. Persons attending the hearing will be asked to sign an attendance sheet prior to entering the meeting room.

The DAC hearing is not a debate, but an opportunity to summarise representations and to provide DAC with any relevant additional information in respect of the proposed development. As the purpose of the hearing is to ensure DAC is informed about possible planning impacts, the Presiding Member will seek to ensure that verbal submissions are confined to planning issues.

The Presiding Member will usually invite the applicant to outline the key elements of the proposal and provide relevant background information or design context. Government agencies and Representors or their nominated spokesperson will then be invited to speak. The applicant will then be invited to respond to the points made by the representors.

Either party may speak on their own behalf, or seek assistance from lawyers, expert planners or other supporters/representors. DAC members may ask the representors or applicant questions to clarify points. All comments must be directed to the DAC and interaction between parties is not allowed. Questions may only be initiated by the DAC through the Presiding Member.

As DAC members will have received, prior to the meeting, a detailed report on the proposed development (including copies of the representations and the written response of the applicant), representors are encouraged to briefly summarise their views and not to read verbatim from submissions they have prepared especially for the hearing. If desired, these additional written submissions can be tabled at the hearing, however, sufficient copies should be provided for the seven members of DAC, the Committee Secretary and the applicant.

DAC will usually set aside a limited time period to enable each representor to be heard and for the response of the applicant. It is important that verbal representations be confined to around 5 minutes to allow sufficient time for all parties to be heard in a fair and orderly manner. To assist matters, a spokesperson can be selected to speak on behalf of multiple representors, whereupon additional time can be provided to ensure that the same points are not repeated.

Please be aware that DAC usually hears a number of matters on the same day, so the cooperation of applicants and members of the public is requested to ensure the agenda can be completed on time.

DAC will not make its decision on the development during the hearing. Visitors will be required to leave the room prior to enable DAC's deliberation and recommendation in private.

If DAC does not require additional information, a recommendation to the Minister will generally be finalised on the day of the hearing. However, on occasions, DAC may defer the matter to enable further information to be obtained to fully address matters raised in the hearing.

## **The Report to the Minister**

When providing its report to the Minister, DAC must:

- Determine whether the proposal is seriously at variance with the relevant provisions of the Development Plan(s)
- Provide a copy of any report by a council where that report expresses opposition to the proposal
- Provide a copy of any report received from a government agency during the referral process

The Minister may then approve or refuse to approve the development. Any approval may be for a part or the whole of the development, and may be subject to conditions.

If a council has expressed opposition to the proposal, or if DAC advises the Minister the proposal is seriously at variance with the Development plan, the Minister must prepare a report on the matter to be laid before both Houses of Parliament.

## **Enquiries about Crown Development applications**

For enquiries about Crown development applications, or to clarify the assessment process, please contact the Statutory Planning Branch:

Phone: (08) 8303 0752  
(08) 8303 0771

Email: [dacadmin@sa.gov.au](mailto:dacadmin@sa.gov.au)  
Website: [www.dac.sa.gov.au](http://www.dac.sa.gov.au)

Secretary  
Development Assessment Commission  
Level 5, 136 North Terrace, Adelaide  
Tel: (08) 8303 0771