



**ENVIRONMENT, RESOURCES
& DEVELOPMENT COURT**

FACT SHEET

(Please also refer to our website www.courts.sa.gov.au/courts/environment/index.html for more information)

Applications to Join a Proceeding

There are several things you should know about applying to be joined to an appeal. The following notes may assist you when deciding whether you wish to make an application to be joined to an appeal.

Court Process

Being joined is not automatic. Anyone wishing to become involved must apply to the Court and the Court will decide whether the applicant may be joined as a party. A copy of the form you should use to make the application is attached to this fact sheet.

Once an application has been received, a hearing is scheduled and anyone who has applied to be joined, together with the existing parties to the appeal, must attend. During the hearing, any applicants are able to tell the Court why they should be joined. Existing parties will also be heard on the application. A member of the Court will consider and decide the applications.

If several persons apply to be joined, the Court may encourage them to combine their applications. This is a good idea when their concerns about the proposed development are essentially similar. If persons choose jointly to apply to be joined, a spokesperson should be nominated to speak in support of the application to join the appeal.

Deciding the Application

In deciding an application to join, the member of the Court will take into account a number of factors. Among those are:

- whether the applicant's interest in the appeal is genuine and of sufficient substance to justify involvement,
- whether the issues to be raised and the evidence in support, are in addition to those already identified by the existing parties to the appeal,
- and in consequence, whether the Court would be assisted in deciding the appeal.

In most cases, the decision on an application to join an appeal is made on the same day the application is heard, and immediately following the presentation of the case of each applicant and the other parties. Usually, the application is heard and finalised within one hour.

Rights and Obligations of a Joined Party

If an application to join is successful, the joined person or persons will need to participate in a Conference usually held immediately following the hearing of the applications to join. The purpose of the Conference is to assist the parties to an appeal to explore the possibility of resolving the dispute between them without the need for a formal Court hearing. The Court endeavours to ensure that all reasonable options for settlement have been exhausted, before listing a matter for hearing.

If agreement cannot be reached at the Conference, the appeal will be referred to a formal hearing by the Court. Usually a date for the hearing and its likely duration is fixed at the end of the conference. A person who is joined is expected to fully participate in the hearing, either personally or through a representative, provide the necessary assistance to the Court by presenting a case of substance and to be present for the duration of the hearing. The hearing of an appeal may occupy a day or a number of days.

Following the decision of the Environment Resources and Development Court a losing party might decide to appeal to a higher Court. If that occurs, all parties would need to consider their level of participation.

Alternatives to applying to be joined

Being formally joined as a party to an appeal is not the only way you can be involved in the resolution of a dispute. An alternative is to ask the Court for permission to participate in the Conference, when issues of concern can be identified in an open and constructive way and you are able to offer suggestions that might lead to the dispute being settled. If a settlement is not reached at the Conference and the dispute is referred to a formal hearing, it may be possible for you to express your concerns in sworn evidence as a part of the presentation of a case by someone who is a party to the appeal. If you think involvement in this way is preferable, you should tell the court.

More Information about the ERD Court

You can find more information about ERD Court procedures by:

- visiting www.courts.sa.gov.au/courts/environment/index.html
- telephoning the registry on (08) 8204 0300
- attending the registry at the lower ground floor, of the Sir Samuel Way Building, Victoria Square, before the commencement of the application.

IN THE ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT OF SOUTH AUSTRALIA

No of

BETWEEN

.....
[Name] [and Another / Others], [Nature of Party/Parties]

and

.....
[Name] [and Another / Others], [Nature of Party/Parties]

APPLICATION TO BE JOINED AS A PARTY

Filed on behalf of the *[Nature of Party/Parties]*, *[Name(s)]* by *[Solicitor]*

[OR]

Filed by *[Nature of Party/Parties]* *[Name(s)]*

[Address] [Mandatory Field]

[Telephone]

[Mobile]

[Facsimile]

[DX Box]

[Email]

[‘L’ Code]

[‘P’ Code]

Date and time of filing or transmission:

Development Application Number (if applicable):

Name and Address of Appellant(s):
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Name and Address of Respondent(s):.....
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Outline the nature of your interest in this matter (include your physical location in relation to the subject land):

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List the reasons you would like to be made a party to this action:

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Please select **one** of the following options which best describes your intentions if you were joined as a party to this appeal:

- I wish to give evidence and call expert evidence in support of my case
- I wish to give evidence
- I wish to make a statement/submission to the Court
- I wish to participate in the conference only

If you plan to call expert evidence what type of evidence do you plan to call:

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SIGNED: _____ **DATE:** _____

*NOTE: A body corporate should execute this document under Common Seal.
An attorney under power may execute this document on behalf of a natural person or a body corporate.*