

Councillor Noon - MoN - Exemptions to commence building works prior to 7am

Tuesday, 23 April 2024
Council

Council Member
Councillor Carmel Noon

Public

Contact Officer:
Ilia Houridis, Director City Shaping

MOTION ON NOTICE

Councillor Carmel Noon will move a motion and seek a seconder for the matter shown below to facilitate consideration by the Council:

'That Council:

1. Notes the decision of Council on 26 March 2024 that asks the Administration provide advice at the earliest opportunity on potential changes to the process for granting exemptions to certain building construction hours of operation to include feedback from elected members.
2. Request that Administration include in its advice, options relating to:
 - a. alternative options for the public notification of works that have an exemption for earlier commencement currently undertaken by the Developer, that considers consultation with relevant stakeholders to mitigate the impact on both developers and the community, which is consistent with current legislation.
 - b. improved definitions for when concrete pour exemptions are actioned, including consideration of limiting the use of exemptions prior to 7am between the months of May and August each year.'

ADMINISTRATION COMMENT

1. At its meeting on 26 March 2024, Council resolved:
 - 1.1. *That Council:*

Asks the Administration provide advice at the earliest opportunity on potential changes to the process for granting exemptions to certain building construction hours of operation to include feedback from elected members.
2. A report is being scheduled for a Committee meeting in June.
3. Should Council resolve to support the proposed Motion, the report will be broadened to include aspects raised in this Motion, as well as the 26 March 2024 resolution.
4. The *Local Nuisance and Litter Control Act 2016* (the Act) defines what constitutes a local nuisance.
 - 4.1. Local nuisances are generally grouped into four main categories: dust, smoke, odour and noise.
 - 4.2. Regarding noise, the Act outlines that construction noise of an unreasonable level should be limited to occurring between 7:00 am to 7:00 pm, Monday to Saturday.
 - 4.3. The Act allows for Exemptions to be applied for and considered.
 - 4.4. Exemption requests are assessed by Authorised Officers within Council.
 - 4.5. The Act sets out minimum requirements for requesting Exemptions, such as the provision of a site management plan and methods of mitigating any issues caused by the exempted activity.

- 4.6. Assessing Exemption requests requires a case-by-case assessment, taking into account the specific context of the location and activity.
5. Administration are cognisant of the impact that any exempted activity has on nearby stakeholders.
6. The assessment of Exemption requests seeks to balance these impacts with the needs of undertaking approved development in the City of Adelaide, and any impacts caused by not allowing the exemption to occur.
7. It is noted that in many scenarios, Exemption requests seek to offset one negative impact against another. For example, commencing works early to avoid impacting traffic during peak hours later in the day.
8. All Exemptions issued by the City of Adelaide require notification to be issued to nearby/impacted stakeholders. Stakeholder notification is the responsibility of those seeking the Exemption.
9. The Administration acknowledges that stakeholder communication is a crucial component of the process. This can be challenging in a Capital City context, which includes multi-unit dwellings. The upcoming report will explore options to improve this component.
10. It is noted that many construction works and nuisances occurring outside the allowable hours are not approved Exemptions.
11. In such scenarios, Council officers do not support those requests and investigate and take enforcement action where appropriate.
12. Further information on the process and options to improve will be included in the report.

Should the motion be carried, the following implications of this motion should be considered. Note any costs provided are estimates only – no quotes or prices have been obtained:	
Public consultation	Not applicable
External consultant advice	Not applicable
Legal advice / litigation (eg contract breach)	Not applicable
Impacts on existing projects	Not applicable
Budget reallocation	Not applicable
Capital investment	Not applicable
Staff time in preparing the workshop / report requested in the motion	2 months
Other	Not applicable
Staff time in receiving and preparing this administration comment	To prepare this administration comment in response to the motion on notice took approximately 5.5 hours

- END OF REPORT -