

Shire of Mundaring

POLICY

ADVERTISING PLANNING APPLICATIONS

Policy Ref: PS-01

Adopted by: C4.11.16 **Date:** 8 November 2016

Amended by: **Date:**

Reviewed: As required

Date: **Statute Ref:** *Planning and Development Act 2005*
Local Planning Scheme No. 4
Planning and Development (Local Planning Schemes)
Regulations 2015 – Deemed Provisions

Local Law Ref: n/a

PURPOSE

To formalise how public submissions on planning applications will be sought and administered.

1. Policy Objectives

- a) To provide a consistent approach when public notice is given, as well as method and duration of public notice periods for different types of planning proposals;
- b) To establish a balance between the need for the community to be informed of, and have reasonable opportunity for input into planning proposals, and the statutory requirement to process planning proposals in an efficient manner and within prescribed statutory timeframes.

2. Application

This policy applies to development applications and planning proposals where there is a statutory requirement to consult with the community under Local Planning Scheme No. 4 (LPS4) and the Deemed Provisions for Local Planning Schemes (Deemed Provisions).

This policy will also apply to planning proposals referred to the Shire for which Council is not the final decision making authority. This includes Development Assessment Panels or development applications that may be determined by the Western Australian Planning Commission.

This policy does not relate to:

- a) Subdivision proposals, as this process is administered by the Department of Planning, Lands and Heritage, and determined by the Western Australian Planning Commission;
- b) Applications which comply with the Shire's LPS4 and do not necessitate advertising.

Note: Following the adoption of Advertising Planning Applications PS-01, the Shire's Public Comment on Planning Proposals Policy LPP1 (March 2014) is subsequently revoked.

3. Background

Some planning decisions can impact on surrounding residents and require judgment to be exercised. Often, these decisions can be enriched and enhanced by seeking the views of residents or surrounding landowners.

In considering submissions, the Shire must weigh up the rights of the applicant / owner with the concerns of adjoining landowners. Submissions, and the issues raised, form only one of a range of matters the Shire must contemplate when determining a planning application.

The Shire's LPS4 and the *Planning and Development (Local Planning Schemes) Regulations 2015* specify how and for what period consultation must occur, for various planning applications including:

- Development Applications that do not meet the statutory or recommended standards within the Shire's LPS4 or relevant planning policies;
- Larger planning proposals such as
 - Amendments to LPS4
 - Structure Plans
 - Local Development Plans
 - Activity Centre Plans
- Other strategic projects.

In some cases, the legislation allows the Shire to adjust the consultation approach depending on the specific circumstances. This policy provides clarity and certainty in these situations to applicants, Shire staff and Council.

4. Definitions

“Authorised Shire Officer” means the Chief Executive Officer or other Officer of the Local Government to whom Council has delegated, or the Chief Executive Officer has on-delegated, the exercise of powers and duties under the Scheme, which may be exercised in the context of this policy.

“Complex Amendments” has the same meaning as defined under the Planning and Development (Local Planning Schemes) Regulations 2015.

“Complex Development Application” means —

- (a) an application for approval of development that is a use of land if the use is not specifically referred to in the zoning table for LPS4 in respect of the zone in which the development is located; or
- (b) which in the opinion of an Authorised Shire Officer (ASO), has the potential to:
 - I. Have a significant strategic planning impact in terms of the implementation of a strategic planning objective; or
 - II. Have negative impacts that could affect more than 10 adjoining properties; or
 - III. Be significantly different from the predominant and expected pattern of land use within the locality.
- (c) an application of a kind identified elsewhere in LPS4, or in a local planning policy, as a complex application for development approval.

“Council” means the Council of the Shire of Mundaring

“Excluded holiday period day” has the same meaning as defined within the *Planning and Development (Local Planning Schemes) Regulations 2015*.

“owner” has the same meaning as defined within the *Planning and Development (Local Planning Schemes) Regulations 2015*.

“Standard amendments” has the same meaning as defined under the *Planning and Development (Local Planning Schemes) Regulations 2015*.

“Standard application” means development applications which are not considered to be complex applications and may include minor variations to the Residential Design Codes or variations to LPS4.

5. Provisions

5.1 Duration and Method of Advertising

- a) The duration and method of public consultation relative to different types of planning proposals will generally be in accordance with Table 1 of this policy. An excluded holiday period day is not to be counted in calculating a period of time for advertising.

* Unless Council deems that an amendment proposed to be made to a Local Development Plan is minor in nature.

** If a Local Planning Policy is inconsistent with any State Planning Policy, comment must be sought from the Western Australian Planning Commission.

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b) Letters

The Shire will send letters to all landowners and occupiers affected by a planning proposal as required in this policy.

Where the Shire is considering a standard application under the Local Planning Scheme and discretion is being applied in relation to a non-compliance which is not considered to be of a minor nature, advertising is required to landowners and occupiers of all abutting properties (those sharing any common boundary), and including directly and diagonally opposite or those separated by a road, right of way, private access way or pedestrian access way.

Where the standard application primarily relates to works and a variation or design principle assessment is being considered, advertising should be undertaken with the landowner specifically affected by the particular variation(s) under the Scheme

The extent of the consultation area for other planning proposals (e.g. Complex Development Applications) is at the Shire's discretion.

c) Referrals to State Government Agencies

Timeframe for State agency comments is longer and subject to the relevant legislative requirements (generally 42 days).

d) Local Newspaper

The notice in a local newspaper circulating within the locality of the proposal unless otherwise specified.

e) Sign/s on site

The Shire will arrange for sign/s to be erected on site. Notices must be in the form prescribed by relevant legislation. Additional information will also be provided using common language and plans.

Sign/s will be erected in a prominent position to be clearly visible from outside of the property boundary to the satisfaction of the Manager Planning Services. Where the land subject to a proposal has more than one street frontage or where a site is very large, additional signs may be required.

5.2 Complex Development Applications

The Shire will be responsible for undertaking the advertising process for complex development applications, with all costs incurred borne by the applicant (as provided for by Clause 64A).

5.3 Standard Development Applications

To streamline the determination process for Standard Applications, applicants

are encouraged to liaise with Planning staff to accurately identify and then discuss the specific variation to the recommended standard with adjoining owners and occupiers prior to preparing and submitting a development proposal.

Appendix 1 contains a template which should be used to obtain written neighbour comments on planning proposals. Where possible, the Shire will contact the neighbour (via phone) to clarify their understanding and their position in relation to variation sought.

5.4 Telecommunications installations

5.4.1 All telecommunication installations will be considered a 'Complex Development Application for the purpose of this policy.

5.4.2 The applicant shall be responsible for advertising the proposal by placing a notice twice in a local newspaper, and notifying adjoining landowners and those within a minimum of 300m radius of the proposal in writing by registered mail. The ASO may require advertising occur at a greater distance than 300m, depending on the location and the likely visual impact of the proposed structure.

5.5 Waiving Advertising Requirements

- a) The ASO may determine not to advertise a Standard Development Application, Local Development Plan and a modification to an approved Structure Plan or complex planning application if an ASO is satisfied that the proposal:
- i. is unlikely to adversely affect any owners or occupiers within the area covered by and adjoining the subject site; or
 - ii. is a modification sought to an existing approval where advertising has already occurred and:
 - o the modification has no material change which may;
 - exacerbate any valid concerns previously raised; or
 - conflict with any new Shire or State planning requirements;
 - o does not necessitate further comments from service authorities;
 - o In the case of a modification to a Structure Plan, the WAPC agrees that advertising is not necessary.

5.6 No Response

Where no response is provided to an invitation to make a submission, the Shire will assume that the recipient of the invitation does not wish to comment on the proposal. A lack of response will not be construed to be either an agreement with or an objection to the proposal.

5.7 Refusal

Any development application may be refused without undertaking

public consultation.

5.8 Distribution of Information

5.8.1 The Shire will provide plans and a summary of the proposal and the variations sought via post to affected residents. The exception to this includes:

- I. Standard Development Applications where consultation is undertaken by the applicant / agent. Affected residents must be provided with a copy of the plans and a description of the variations sought in the form provided in Appendix A.
- II. The applicant provides a copy of development application plans including certification by the owners and occupiers of the adjoining property stating that they have no objections to the proposal. Signatures should include all persons shown as owners on the Certificate of Title and ownership details will be confirmed.

The certification must include:

- I. The full name and address of the owner(s) and occupier(s) of the potentially impacted property certifying non-objection clearly printed in capital letters and a signature;
- II. A printed statement clearly identifying the proposed planning variation(s) and that there is no objection to the proposed development;
- III. A current contact address printed in capital letters and a contact telephone number.
- IV. Where the applicant / agent has refused to authorise the Shire to use certain copyrighted material or supporting information, but the material that can be distributed is sufficient, in the opinion of the ASO, to enable community to provide comments and a decision to be made;

Where authorisation is provided for complex applications, plans and a full copy of the supporting information will be uploaded onto the Shire's website for the duration of the advertising process.

5.8.2 The Shire reserves its right under Schedule 2 clause 85 of the *Planning and Development (Local Planning Schemes) Regulations 2015* to not accept a development application where, in the opinion of the ASO, an applicant has not authorised the release sufficient information to properly inform community about the critical elements of a proposal. Authorisation to release full copies of technical reports (that will be reviewed by relevant staff) may not be considered necessary or appropriate to circulate for public comment.

5.9 Treatment of Submissions

5.9.1 Planning Considerations

An effective and influential submission must be based on valid planning grounds. For guidance, the following are examples of matters which will be considered to be invalid planning considerations:

- Boundary disputes.
- Statements based on presumptions and judgements that are not evidence-based;
- Any 'potential' legal breaches that might occur at some future point;
- Matters otherwise controlled under other legislation such as Building Act or liquor licensing;
- Loss of trade or increased competition.
- Potential loss of property value.
- Private covenants or agreements.

5.9.2 Petitions

Petitions can highlight the magnitude of community sentiment. However, planning decisions cannot (and should not) be influenced by the number of signatories on a petition; rather, depend upon the planning merits of the issues raised.

Petitions are not recognised within the State or Shire's planning framework as valid form of submission. Often petitions contain insufficient information to verify that those who have signed the petition reside within the Shire or near the subject site.

For the reasons above, the value of petitions in the context of planning applications is considered negligible and will not be included within Council reports.

5.9.3 Notification of Council Meeting

All meetings of Council are generally open to the public unless otherwise notified. Open meetings will make allowance for public statements, questions, submission of petitions and deputations. Where a matter will be considered by Council, the landowner, the applicant, and all parties who have made a submission on a planning proposal (*with the exception of anyone signing a petition*) will be notified in writing of the date at which an item will be listed on a meeting agenda.

In all cases, the Shire will ensure that this notification is provided (either mail or email) prior to the scheduled meeting date. The agendas for all meetings are available to the public on the Shire's website.

5.9.4 Notification of the Council's decision

The applicant and the owner of the subject site will be advised of the decision of the Council in the form of a written notification of the decision. Submitters will be notified via mail or email (if they lodged a submission via email).

5.9.5 Opportunity for applicant to respond to submissions

Owners / applicants will not be provided with a copy of the submissions received during a public notice period.

A summary of the valid planning issues raised in submissions will be provided to the applicant once only and upon request in the case of an application for planning approval or a scheme amendment. The summary will not include identification or personal details of the author/s of any submission.

Where substantial changes or modifications occur to a significant development application, the Shire may seek the applicants / agents support to re-advertise the proposal and extend the determination date to an agreed timeframe. Any agreement must be in writing. Where the applicant does not support re-advertising, the Shire will determine the application on its merits.

Where inter-agency comments are received, the Shire will not release a full copy of the comments unless both the Shire and the agency concerned agree that it is appropriate to do so.

5.11 Consultation with adjoining Local Governments

Where a development application is adjacent to a municipal boundary of another local government, the Shire will endeavour to consult with owners and occupiers of the adjacent local government area/s in a manner consistent with this policy.

5.12 Advertising Costs

Advertising costs incurred by the Shire under this policy must be paid by the applicant upfront. A fee for the provision of the service and disbursements will be required as provided for in clause 49(1)a of the *Planning and Development Regulations 2009*. Adopted fees are outlined with in the Planning Service's Schedule of Fees.

5.13 Submissions reported to Council

Reports to Council will outline and respond to the valid planning considerations raised in the submissions. The submissions received will generally not be repeated verbatim. If the text of a submission is to be included in the report, personal details will not be released. Defamatory comments are discouraged and will not be included.

Full copies of submissions can be made available to elected members upon

request but will not be made available to members of the public or the applicant unless required by law.

The exception is where Council is not the decision-maker and is required by law to provide all the information regarding a planning application to the Western Australian Planning Commission for its determination of Structure Plans and Amendments.

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Shire of Mundaring

7000 Great Eastern Highway Mundaring WA 6073

NEIGHBOUR COMMENT FORM

Appendix 1

**You Are Under
No Obligation To Sign This Form**

The landowner mentioned below is seeking planning approval from the Shire of Mundaring for the development described below and shown on the attached plans. Before making a decision on this application, the Shire will take into account comments from neighbours. If you wish to discuss this proposal and your rights, please contact the Shire's Planning Service on 9290 6740.

Proposed Development

Landowner: **Phone:**

Lot No: **Street No:** **Street Name:**

Suburb: **Post Code:**

Description of Proposal:.....

.....

Recommended Standard/s: *(e.g. R-Codes setback requirement of 6 metres from front boundary)*.....

.....

Requested Variation/s: *(e.g Proposed 4 metre setback)*.....

.....

Neighbours Comments

I/We

Your Full Name(s)

acknowledge that by making this submission I/we accept that the issues / concerns I/we raise may be made available to the applicant and public as part of a Council report but my personal information (name, address, contact details) will be removed.

I/we acknowledge that by refraining from submitting my personal information and address, my submission may have to be given less weight in the overall assessment and determination process.

I/we are the landowners of the following property –

Lot No: Street No:.....Street Name:

Suburb:Post Code:

I/We have seen the plans and have (please tick):

No objection to the proposal. If you select this option please sign and date all the attached plans and provide a daytime contact phone number for verification purposes.

The following comments (or objection) to make on the proposal:

.....
.....
.....

Signed: Date: Phone*:

Signed: Date: Phone*:

* Provision of a daytime contact phone number is highly recommended. This will only be used by Shire Staff for the purpose of verifying your comments on this proposal or clarify your comments if required.

This completed form must be returned directly to the Shire of Mundaring and not to the applicant