



Shire of Mundaring

POLICY

ADVERTISING PLANNING APPLICATIONS

Policy Ref: PS-01

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

Amended by: **Date:**

Reviewed: Once every two years **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.

1.1 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.

2.1 SCOPE

This policy applies to all planning proposals that require advertising before being determined under Local Planning Scheme No.4 (LPS4).

This policy will also apply to planning applications 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 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.

3.1 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 Local Planning Scheme No.4 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.

4.0 POLICY STATEMENTS

4.1 Duration and Scope of Advertising

- a) The duration and type of public consultation relative to different types of planning proposals will generally be in accordance with Table 1 of this policy.

- (a) *Will be extended by a minimum of 7 days (and up to 14 days) if a proposal is advertised over a holiday period such as:*
- I. 18 December and 8 January; and*
 - II. One week before or one week after Easter Sunday*

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

(c) *For Structure Plans, approval would be required from the Commission to extend consultation beyond 28 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.

4.2 Significant Development Applications

- a) A significant development application is one 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.
- b) The Shire will be responsible for undertaking the advertising process for significant development applications.

4.3 Standard Development Applications

- a) Standard Applications are those development applications not considered to be significant development applications and may include minor variations to the Residential Design Codes or variations to LPS4 able to be determined under delegation.

- b) To streamline the determination process, applicants are encouraged to discuss the nature of any 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 neighbour comments on planning proposals. Where possible, the Shire will contact the neighbour (via phone) to clarify their response.

4.4 Waiving Advertising Requirements

- a) The Shire may determine not to advertise a Standard Development Application, Significant Development Application, Local Development Plan and a modification to an approved Structure Plan 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.

4.5 No Response

- a) Where no response to an invitation to make a submission is received, 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.

4.6 Refusal

- a) Any planning proposal may be refused without undertaking public consultation.

4.7 Distribution of Information

- a) The Shire will provide plans and a summary of key supporting information 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. 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;
- iii. Where authorisation is provided and plans and a full copy of the supporting information can be uploaded onto the Shire's website for the duration of the advertising process.
- b) 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.

5.0 TREATMENT OF SUBMISSIONS

5.1 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.

5.2 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 mailed (or emailed) prior to the scheduled meeting date. The agendas for all meetings are available to the public on the Shire's website.

5.3 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).

5.4 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.

5.5 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 within the Planning Service's Schedule of Fees.

5.6 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.

Definitions

“**Council**” means the Council of the Shire of Mundaring

“**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.

“**owner**” in relation to land means that specified within LPS4

“Valid Planning Considerations”

The degree of weight the Shire will give to a submission depends on the validity or not of the concerns raised. Valid planning considerations are those which:

- relate specifically to a proposal and the probable impacts (or negative externalities) the proposal may create; and
- have a basis in the Shire’s Local Planning Scheme No.4.

The following are examples of some common invalid planning considerations which should be avoided:

- Personal morals or views about the character of the applicant or history;
- Matters otherwise controlled under other legislation such as Building Act or liquor licensing;
- Principle of development where certain development rights have already been established;
- The perceived loss of property value;
- Private disputes between neighbours;
- The loss of a view from private residences. Loss of views may only be valid where a proposal disrupts an important landscape vistas enjoyed from public land or from private land where a variation to permitted maximum building height is being sought.
- Competition between firms.



Shire of Mundaring
7000 Great Eastern Highway
Mundaring WA 6073

NEIGHBOUR COMMENT FORM

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**