


ADVERTISING OF DEVELOPMENT APPLICATIONS LG525

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Key Focus Area: LEADERSHIP & GOVERNANCE	Responsibility: EXECUTIVE MANAGER PLANNING AND DEVELOPMENT SERVICES Relevant Council Delegation:

Purpose

To ensure high levels of public consultation are maintained and that the community is informed and, where appropriate, involved in the approval of new developments and land uses under Town Planning Scheme No. 3 (TPS3) which may affect them.

The public consultation requirements are based on the guidelines as to when and how to advertise Development Applications in accordance with TPS3, the Residential Design Codes (RDC) and Council Policy.

Background

Clause 86 of TPS3 specifies that Council may consult with any authority or person who, in the circumstance, it thinks appropriate in determining any application for planning approval. Clause 14 specifies the minimum advertising requirements of 21 days for 'SA' uses (those with greater potential impact on surrounding properties). These requirements include newspaper advertising, placing of a sign on site and advising all owners and occupiers of land in the vicinity of the application, by registered post. Clause 43 requires consultation with neighbours and occupants of adjoining land for setback variations for applications for Aged or Dependent Persons' Dwellings or a Dwelling (Self-contained). Other uses which may be approved under TPS3 and variations to provisions of the scheme or discretionary requirements of Council's Local Planning Policies and Local Laws should be advertised for public comment in accordance with the provisions of Council Policy.

The RDC requires that potentially affected adjoining owners and occupiers be advised and requested to make comment on development proposing a 'design principle' consideration under the RDC only where Council is of the view that there is a possible impact on their amenity or the street and only to those directly impacted by the proposal.

The Town has traditionally required a greater level of public consultation than provided by the above statutory requirements through its Policy requirements designed to respond to the desires of the local community. All Development Applications are to be advertised in accordance with Council Policy.

On occasion, the community has made comment and sought refusal or changes to compliant applications. Where an application is compliant, it is unrealistic for Council to issue a refusal or apply a condition which goes beyond the statutes of TPS3 or the RDC (unless a serious breach of amenity will result) due to the applicant's right to seek a review of the decision through the State Administrative Tribunal.

As a result, full consultation has at times raised unrealistic community expectations of the planning process and has the potential to compromise the capacity of the Council to deliver an open and accountable planning service which is cognisant of its statutory limitations whilst at the same time responding to local concerns. Where an unrealistic expectation cannot be delivered, the community may lose faith in the planning process or the Council. This has the potential to fracture community relationships (between competing neighbours) and Council relationships with the community (as the arbiter and determining body).

Accordingly, this Policy takes into account the realistic requirements for consultation to respond to the legislative bounds of the planning process, whilst at the same time ensuring the public has the capacity to comment on Development Application matters which are relevant.

Requirement to give public notice of certain Development Applications

Prior to consideration for approval, Development Applications under TPS3 are required to be advertised to all potentially affected owners and occupiers of property in accordance with TPS3 or RDC requirements (except in circumstances where the Planning Manager or the Executive Manager Planning and Development considers an adjoining or adjacent property to not be adversely affected by the proposal).

The potentially affected properties may include those adjoining, abutting or adjacent to the site, subject of a proposal. Typically this will mean the adjoining and abutting properties (sharing a boundary) in addition to the properties directly opposite (across the road). Lot configurations and proposal details relative to an individual application may require modification to this guideline (e.g. corner sites), however the principle will remain the same.

It should be noted that, regardless of the above mentioned guidelines, the Planning Manager or Executive Manager Planning and Development may require advertising of a proposal contrary to these guidelines where it is considered to be in the interest of the affected owners and occupiers in the locality. Where larger significant development is proposed and the impact may be more far reaching, the consultation area may be increased at the discretion of the Planning Manager or Executive Manager Planning and Development. Consultation in this situation may include requirements for a sign to be erected on site to advertise the proposal for the duration of the consultation period in addition or supplementary to the letters being sent by registered mail.

Where a Development Application requiring advertising is received

The following requirements shall apply to all Development Applications required to be advertised under TPS3, the RDC or this Policy:

- The Town or applicant shall write to all potentially affected owners and occupiers of property advising them a development application has been received and noting plans (and pertinent supporting documentation) are available for inspection at the Council offices during normal office hours.
- All consultation letters are to be sent by registered mail at the cost of the applicant.
- Comments sought on residential applications should be focused on the 'design principles' being considered by the application – as required by the RDC.
- If a proposed residential Development Application is considered in the first instance by the Town to be unacceptable, the application may be refused without undertaking public consultation.
- The duration for comment on an 'SA' use under TPS3 is not less than 21 calendar days. All other Development Applications under the RDC, TPS3 or for general variations to Council Policy or Local Law are to be advertised for 14 calendar days.
- Council may choose to have regard to a submission received after the advertising period has concluded, provided the application has not been determined.
- Affected parties may only be provided with a copy of the plans (hard copy or digital) when the applicant and copyright owner of the plans have provided consent.
- Where the comment from affected parties has been acquired for the original Development Application, the comment from those parties (or subsequent parties) is also to be obtained for the amended plans with the exception of amendments that fully comply with the 'deemed to comply' or previously supported 'design principle' considerations of the RDC, variations to TPS3 or Council Policy requirements.

Evidence of non objection

The Council may waive the notification requirements in respect of any Development Application (except for 'SA' uses) in instances where the applicant provides a copy of the plan or letter/s which include certification by the owners and occupiers of the adjoining/adjacent property stating that they have no objection to the proposal. Signatures should include all persons shown as owners on the Certificate of Title as ownership details will be confirmed. The certification must include:

- The full name of the owner/s or occupier/s certifying no objection and a signature
- A statement indicating no objection to the proposal and
- A current contact address and a contact telephone number.

Opportunity for applicant to respond to submissions

Copies of written submissions will be forwarded to the applicant to provide the opportunity to respond to issues raised in any submissions. The RDC requires that the period for response by the applicant is to be no more than 10 calendar days. Personal details such as names, telephone numbers and addresses of the party making the submission will not be provided (noting however that they may be obvious from submission received and information provided).

Submissions

All written submissions are required to relate to a 'relevant planning matter'. The supporting or objecting comments from affected parties does not mean automatic approval (with or without appropriate conditions to address the submission) or refusal to the Development Application. All written submissions together with the Development Application will be considered on the planning merits of the proposal and the determination of the application will take into account technical assessment and balanced judgment of the application.

Review

The Policy must be kept under review to ensure it is appropriate for the circumstances of the time. The Chief Executive Officer is to present a review on a regular basis.

Delegation

Chief Executive Officer

Other Relevant Policies and Documents

Policy LG524 Community Consultation

Work Procedures

Nil

Policy Adoption and Amendment History

Reviewed/Modified	Minutes Reference	Date	Meeting Type
Adopted	210/10	05/10/2010	Ordinary Council Meeting
Reviewed	360/13	10/12/2013	Ordinary Council Meeting
Reviewed	160/14	07/10/2014	Ordinary Council Meeting
Reviewed	203/14	09/12/2014	Ordinary Council Meeting
Reviewed	226/15	15/12/2015	Ordinary Council Meeting