

**CITY OF SUBIACO**  
**PLANNING POLICY 1.4 (September 2013)**  
**PUBLIC NOTIFICATION OF PLANNING PROPOSALS**

**ADOPTION DATE:** to be inserted

**AUTHORITY:**

**TOWN PLANNING SCHEME NO. 4**

**STATE PLANNING POLICY 3.1 RESIDENTIAL DESIGN CODES (2013)**

**TOWN PLANNING REGULATIONS 1967**

**PLANNING AND DEVELOPMENT (DEVELOPMENT ASSESSMENT PANELS)  
REGULATIONS 2011**

**STATUTORY BACKGROUND**

This policy is made pursuant to Clause 78 of the *City of Subiaco Town Planning Scheme No. 4 (Scheme)* relating to planning policies.

The Scheme includes several clauses relating to the giving of public notice of planning (development) applications and planning policies. Some requirements relating to the public notice of planning proposals are mandatory, while others provide the council with some discretion as to whether a proposal is advertised and the method of that advertising.

Part 4 of the *Residential Design Codes 2013 (R-Codes)* requires the council to notify potentially affected neighbours of a proposed development in certain circumstances.

The *Town Planning Regulations 1967 (Regulations)* prescribe the means of public notice of a local planning scheme amendment and provide the Minister with discretion to determine additional means of notice. In certain cases, the council may initiate advertising of Scheme amendment, or provide advice to the Minister and Western Australian Planning Commission on the appropriate means of giving public notice and the duration of that notice.

Under the *Planning and Development (Development Assessment Panels) Regulations 2011 (DAP Regulations)*, development applications which are to be determined by a Development Assessment Panel (DAP) are subject to local government requirements for notification, advertising and consultation.

**PURPOSE**

This policy provides guidance on the exercise of discretion under the Scheme in terms of when public notice is given, and the means and duration of public notice periods where these are not prescribed by the Scheme. This policy does not replace or alter any of the city's obligations under the *Freedom of Information Act 1992* or the *Copyright Act 1968 (Cth)*. The opinions of affected property owners and the general public can inform but cannot be a substitute for the exercise of professional advice by city officers.

This policy will be applied when making discretionary decisions relating to public notice of planning proposals.

For the purposes of this policy, in circumstances where consultation is undertaken it will include both the owners and occupiers of properties that in the opinion of the city may be affected by the proposal and/or other stakeholders where these are identified. This policy will also apply to planning applications referred to the city for which council is not the final decision making authority.

Applicants are strongly encouraged to discuss proposals with adjoining owners and occupiers prior to the submission of any development application.

## POLICY

### 1. Objectives

The objectives of this policy are to:

- (a) provide a consistent approach to the circumstances in which public notice is given and the means and duration of public notice periods for planning proposals, and
- (b) recognise the balance between the need for the community to be informed of, and have reasonable opportunity for input into, planning proposals, and the administrative need to process planning proposals in an efficient manner and within prescribed statutory timeframes.

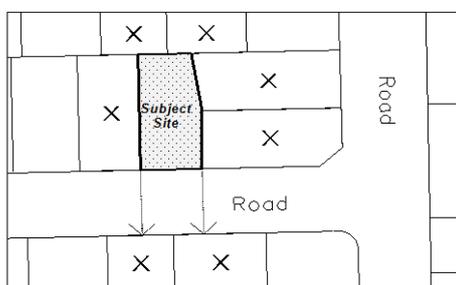
### 2. Definitions

Apart from the terms noted below, words and expressions used in this policy have the same meaning as they have in the Scheme, R-Codes or other relevant legislation.

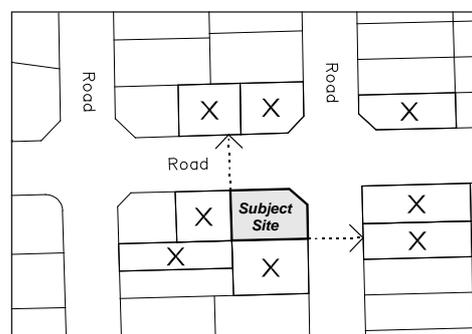
#### Adjacent properties

For the purposes of this policy, adjacent properties will be identified according to Map 1 or Map 2 below.

Map 1



Map 2



excepting in the case of an application for discretionary approval relating to:

- a side or rear setback variation behind the building line; or
- to the privacy requirements contained within Element 5.4.1 of the R-Codes 2013.

In such circumstances only the owner/occupier of the property onto whose boundary the discretion is sought will be notified.

### **Planning proposals**

Planning proposals will mean applications for approval to commence a use, applications to carry out development, planning policies and Scheme amendments.

### **3. Requirement to give public notice of certain planning applications under Clause 26 of the Scheme.**

In addition to where notice is prescribed by the Scheme, public notice will also be given of the following planning applications prior to consideration for approval where the application:

- (1) involves the complete demolition of a building; or
- (2) involves development on a site listed on the Register of Heritage Places under the *Heritage of Western Australia Act 1990*, listed on the Scheme Register of Places of Cultural Heritage Significance or included in a Conservation Area declared under the Scheme, where that application involves the permanent or semi permanent alteration to the built fabric of any structure on the land; or
- (3) involves a subdivision or survey strata creating more than ten lots and has not previously been advertised as part of a scheme amendment; or
- (4) involves a significant exercise of discretion in terms of the Scheme, R-Codes or policy provisions and:
  - (a) involves potentially significant urban design or streetscape impacts; or
  - (b) represents a significant variation to the bulk, scale or design of the existing surrounding buildings, or
  - (c) has potentially significant amenity impacts on nearby residential areas or neighbours in terms of visual impact, streetscape, privacy, noise, intensity of use, traffic generation and adequacy of parking.

### **4. Duration of public consultation**

The duration of public consultation will be in accordance with Table 1 of this policy and shall expire in accordance with Clause 26(7) of the Scheme. For clarity, the commencement date for the serving of notice of the proposed development is deemed to be one day after the date shown on the letters that are sent to owners and occupiers by the city. Submissions will be closed at 5pm on the date shown on the advertising material relating to the application. Any submissions received after this date may not be included in the assessment or any report prepared for council.

Where no response to an invitation to make a submission is received, the city 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. Table 1: Means and extent of notice of applications**

	Standard application	Significant application	Scheme Amendment	Planning Policy
Time period (no less than)	21 days	28 days	42 days unless agreed otherwise by WAPC.	21 days
Local newspaper notice <sup>(a)</sup>	No <sup>(c)</sup>	Yes (each week)	Yes	Yes
Sign on site <sup>(b)</sup>	No	Yes	Yes, if proposing rezoning of land.	No
Notice to owners and occupiers	Yes, adjacent properties only.	Yes, within 100m radius of site boundary.	Yes, within 100m radius of site boundary, or as otherwise determined by the Manager Planning Services.	No
Web site	No, except in the case of standard DAP applications	Yes	Yes	Yes
Government Gazette	No	No	Yes, as required by Regulations.	No

*(a) Local Newspaper*

*The notice in a local newspaper circulating within the district will be arranged by the city.*

*(b) Sign/s on site*

*The city will arrange for sign/s to be erected on site and the format for such advertising will be in accordance with Schedule 6 of the Scheme. 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 sign/s on each street alignment will be required.*

*(c) In circumstances where notice in a local newspaper is considered by the Manager Planning Services to be an appropriate form of notification, such a notice may be included once in addition to other forms of advertising.*

Costs relating to advertising may be recouped under the *Planning and Development Regulations 2009*

## **6. Significant planning applications**

The following planning applications will be considered to be significant planning applications in terms of this policy:

- (a) a planning application that meets any two of the criteria in Section 3 of this policy; or
- (b) a planning application that has significant strategic planning impacts in terms of the implementation of a strategic planning objective, the scale of the development, or is considered by the city to be significantly different from the predominant and expected pattern of land use within the locality.

Subject to the agreement of the applicant in accordance with the *Copyright Act 1968* (Cth), the city will seek to include plans and documents (or links to plans and documents) on its website for the duration of the public consultation period in the interests of ensuring that the community is fully informed of these applications. However, copies of plans and documents will not be provided to members of the public.

The applicant's completion of the form attached to this policy will be taken as an indication of their agreement for plans and/or documents to be included on the city's website during the public consultation phase. Where the agreement of the applicant is withheld, the city will not include plans and documents on its website.

## **7. Applications where the council is not the final decision maker**

From time to time, development applications are required to be determined by other planning authorities such as, for example, the Metro West Joint Development Assessment Panel, the Western Australian Planning Commission and the Minister for Environment. Public notice will be given of planning applications where the council is not the decision maker in the same way as those where the final decision is made by the council. A full copy of any submissions received will be forwarded to the decision maker with the personal details of the submitter removed.

Generally, in these circumstances, all submitters will be informed in writing of council's recommendation to the relevant planning authority on the planning proposal however any person wishing to obtain a copy of the final decision must obtain that from the decision maker.

Notwithstanding, the authors of all submissions received during the public notice period for a DAP application:

- (a) will be informed in writing of council's recommendations with respect to the application; and
- (b) will be notified of the date of the DAP meeting at which the application will be considered; and
- (c) following a determination of an application by the DAP the city will provide details of the decision on its website.

Following a determination of a DAP application the city will provide details of the decision on its website.

This requirement does not apply to planning applications referred by planning authorities where there are other mechanisms in place, such as the Metropolitan Redevelopment Authority. Applications from such authorities are exempt from this requirement.

## **8. Evidence of non objection**

Notwithstanding the above, the notification requirements will be waived in respect of residential planning applications involving performance based assessments under the R-Codes or council policy where:

- (a) the application involves a performance based assessment (using the relevant design principle) of a side or rear boundary setback (Element 5.1.3) which is located behind the building line or to the privacy requirements (Element 5.4.1) affecting only one neighbour; and
- (b) the applicant provides a copy of the application plan/s including a certification by the owners and occupiers of the adjoining property stating that they have no objections to the proposal. Signatures to this certification should include all persons shown as owners on the Certificate of Title and ownership details will be confirmed. The certification must include:
  - the full name of the owner/s or occupier/s certifying non objection clearly printed in capital letters and a signature;
  - a statement printed in block letters indicating no objection to the proposal; and
  - a current contact address and a contact telephone number printed in block letters.

## **9. Refusal of applications without giving of public notice**

Any planning proposal may be refused by the council without the giving of public notice.

## **10. Community information sessions**

A community information session on a significant development application or a scheme amendment may be held where, in the opinion of the Manager Planning Services, such a session will assist the community's understanding of the proposal to be considered and/or provide the opportunity to view additional information including visual presentations, computer modeling and the like.

The information session will be held during the public consultation period, normally at least one week prior to completion to enable participants to make a formal written submission to council after the session. Invitations would be extended to elected members, interested community members and the applicant/s. The session may consist of static displays of information, PowerPoint or other presentations and will not take the form of a public meeting.

A community information session will be required for more complex Scheme amendments where considered appropriate by the Manager Planning Services.

## **11. Holiday periods**

- (a) Public notification relating to planning policies, scheme amendments and planning proposals (where initiated by the city) will not commence between 1 December and 15 January;

- (b) Public notification will not commence for any applications received between 18 December and 8 January until after 9 January;
- (c) An additional 14 days will be added to any notice period prescribed under this policy where any part of the notification period falls between:
  - (i) 18 December and 8 January; and
  - (ii) one week before or one week after Easter Sunday.

## **12. Notification of interested parties of consideration of a matter by council or committee**

All meetings of the council are generally open to the public unless otherwise notified and open meetings will make allowance for public statements, questions, submission of petitions and deputations. The landowner, the applicant, and all parties who have made a submission on a planning proposal will be notified in writing of the date at which an item will be listed on a meeting agenda. Should the item subsequently be referred to an ordinary or special meeting of council for determination, the same parties will also be notified of the date of the council meeting.

In all cases, staff will endeavour to ensure that the written notification is mailed at least one week prior to the scheduled meeting date. The agendas for all meetings are available in PDF format on the city's website and are also available for viewing at the library.

## **13. Notification of the council's decision**

The applicant, the owner and all authors of submissions will be advised of the decision of the council in the form of a written notification of the decision and any associated conditions, advisory notes or refusal reasons.

## **14. Availability of documents**

All plans and written information forming part of the proposal shall be made available for public viewing during the public notice period of that proposal during normal office hours. The plans and documentation may be viewed at the city's Administration Office (241 Rokeby Road, Subiaco) or the Subiaco Library (corner of Rokeby and Bagot Roads, Subiaco) without an appointment. Copies of plans and documents will not be provided to members of the public. Plans and documents relating to significant applications will also be available for viewing on the city's website subject to the agreement of the applicant (refer to section 6 of this policy).

## **15. Requests for changes to public notice periods**

Requests for extensions or reductions of public notice periods prescribed by this policy will not be approved by staff. Staff will make every reasonable effort to make the council aware of any submissions received after closure of notice periods.

## **16. Opportunity for applicant to respond to submissions.**

An opportunity to view documents or be provided with copies of submissions received during a public notice period will not be provided to any person or applicant unless required by law or as specified elsewhere in this policy. Where

any copies of submissions are to be provided, personal details of the author will be removed.

A written summary of the key 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.

#### **17. Submissions reported to council**

Officer reports to council will include a summary of the issues raised in any of the submissions received as part of the consultation process. If the text of a submission is to be included in the report, the author's personal details will not be identified. Full copies of submissions will be made available to elected members upon request but will not be made available to members of the public unless required by law.

#### **18. Variations to policy**

The council may, in an exceptional case where it is of the opinion that reasonable opportunity has not been provided to the community to comment on a proposal, determine that the provisions of this policy be varied and may substitute such other provisions as it considers necessary for that proposal.

**City of Subiaco**

**DEVELOPMENT APPLICATION CONSENT AND INDEMNITY  
FORM – PLANS AND DOCUMENTS FOR PUBLIC  
CONSULTATION**

**Description of Proposed Development:**

.....  
.....

**Lot No.** ..... **Street No.** .....

**Street Name:** .....

**Suburb:** .....

The applicant hereby consents to plans and documents relating to this development application being made available to members of the public under the provisions of the City of Subiaco Town Planning Scheme No. 4 and its public notification policy. By this consent, those plans and documents (or a link to the plans and documents) relating to the development application will be published in PDF format on the city’s website for the duration of the public notification period.

In providing this consent, the applicant indemnifies the City of Subiaco against all loss and damage which it may suffer in respect of any claims brought against the city for infringement of copyright or breach of confidence relating from copies of any such plans or other documents being made available to members of the public.

**APPLICANT’S SIGNATURE:** .....

**DATE:** .....

*The City of Subiaco acknowledges that where an applicant refuses to sign this consent and indemnity form to include plans and documents (or a link to plans and documents) on the city’s website there is no legal basis upon which the applicant can be required to sign the indemnity and consent form as a condition of having the application processed.*