

## Planning Process and Decision Making

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| <b>Policy Type: Local Planning Policy</b><br><b>Policy Owner: Director Urban Planning</b> | <b>Policy No. LPP 1.1</b><br><b>Last Review Date: XX month 2020</b> |
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### POLICY OBJECTIVES

- To promote a consistent approach by the City in the assessment and public advertising of development applications, local planning policies, subdivision referrals and other planning matters;
- To facilitate community input into the decision making process; and
- To provide information to Elected Members, the City administration, applicants and submitters regarding the process for dealing with planning matters.

### POLICY SCOPE

This policy sets out the assessment and advertising processes relating to the assessment of applications for development approval and related matters.

The requirements for advertising of planning matters generally are set out in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Clause 4 of State Planning Policy 7.3 'Residential Design Codes' Volume 1 (the R-Codes) outlines the requirements for consultation for residential development. This Local Planning Policy augments the provisions of Clause 4 of the R Codes by providing clarification on the consultation requirements for various development types. It also provides information regarding the extent of, and methods of, consultation which will be undertaken by the City.

### DEFINITIONS AND ABBREVIATIONS USED IN POLICY

#### Definitions

##### *Decision Maker*

That body, organisation or authorised person legally vested with the power to make decisions, pursuant to relevant legislation and applicable planning policy frameworks.

*Relevant and Non-Relevant Planning Matters*

| <i>Relevant Planning Matters</i>   | <i>Non-Relevant Planning Matters</i>   |
|--|--|
| <p>a) Matters to be considered by the City under Clause 67 of Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> (the Regulations); and/or</p> <p>b) The requirements of Local Planning Scheme No.6 or applicable Planning Instrument (Activity Centre Plan, Structure Plan, Local Development Plan or Planning Policy) which requires the decision maker to exercise judgement; and/or</p> <p>c) Any development standard requiring the decision maker to exercise judgement against the Design Principles of the R-Codes.</p> | <p>a) Perceived loss of property value</p> <p>b) Private disputes between neighbours including access &amp; egress and easements</p> <p>c) Dividing fence issues</p> <p>d) Matters that are usually dealt with by the building licence process</p> <p>e) Impact of construction work</p> <p>f) Trade competition concerns (in most circumstances)</p> <p>g) Personal morals or views about the applicant</p> <p>h) Matters that are controlled under other legislation</p> |

*Major Development*

For the purposes of this policy Major Development is defined as:

- (i) 10 or more grouped or multiple dwellings, and/or,
- (ii) 2,000 m<sup>2</sup> or more of commercial floor space.

An amendment to a previous planning approval, including a Form 2 JDAP application, is not classed as a major development, unless, the amendment increases the number of dwellings or commercial floor space in the planning approval of a development such that the amended development would meet the definition of a major development.

*Standard Development*

For the purposes of this policy a Standard Development includes all of the following;

- Residential development which requires a performance assessment against the Design Principles of State Planning Policy 7.3 Residential Design Codes Volume 1 and has a possible impact on the amenity of adjoining owners and occupiers.
- A development which is required to be advertised in accordance with the Zoning Table (Table 17) of LPS6.
- Non-residential development which does not meet the definition of major development.

*Mixed Use Development*

A development is classed as Mixed Use when it incorporates an element of residential development in the form of multiple dwellings, and an element of non-residential development such as an office.

### Submitters

Parties who lodge a written comment on a planning application, whether in support or objection.

### Abbreviations

|                 |   |
|-----------------|---|
| CEO             | Chief Executive Officer – City of Melville  |
| LPS6            | City of Melville Local Planning Scheme No. 6  |
| DAP             | Development Assessment Panel  |
| DAU             | Development Advisory Unit   |
| DoPLH           | Department of Planning, Lands and Heritage  |
| EMB             | Elected Members Bulletin  |
| GNC             | Geographic Names Committee of Landgate  |
| MRS             | Metropolitan Region Scheme (as amended)   |
| PAW             | Pedestrian Access Way   |
| RAR             | Responsible Authority Report  |
| R-Codes         | State Planning Policy 7.3 Residential Design Codes Volume 1 and Residential Design Codes Volume 2 - Apartments (as amended) |
| Regulations     | <i>Planning and Development (Local Planning Schemes) Regulations 2015*</i>  |
| DAP Regulations | <i>Planning and Development (Development Assessment Panels) Regulations 2011</i>  |
| SAT             | State Administrative Tribunal   |
| WAPC            | Western Australian Planning Commission  |

\* Note: unless otherwise stated Clauses referred to are contained in Schedule 2 of the Regulations

## POLICY STATEMENT

### 1. Applications for Development Approval

- 1.1 The *Planning and Development Act 2005* defines “development” as:  
*“development’ means the development or use of any land, including –*
- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land;*
  - (b) the carrying out on the land any excavation or other works;*
  - (c) in the case of a place to which a Conservation Order made under section 59 of the Heritage of Western Australia Act 1990 applies, any act or thing that –*
    - i. is likely to change the character of that place or external appearance of any building; or*
    - ii. would constitute an irreversible alteration of the fabric of any building.”*
- 1.2 Clause 60 of the Regulations states that all development requires approval prior to the commencement of works unless it is of a type referred to in Clause 61.
- 1.3 Clauses 62 and 63 of the Regulations outline the information required to be provided as a part of the application for development approval. The City has also prepared a checklist to assist applicants in this respect. All applications for development approval are to include (at a minimum) all of the relevant information as outlined by the development application checklist. Where all of this information is not provided at lodgement, the application may be returned to the applicant.

- 1.4 Once a preliminary assessment of the application has been undertaken, further information may be requested from the applicant to enable a complete or more detailed assessment to be undertaken.
- 1.5 Clause 75 of the Regulations states that the local government is to determine applications for development approval within 60 days of the receipt of the application or 90 days where the application requires consultation with the public or other authorities. This timeframe may be extended if agreed in writing by the applicant and local government. If a decision is not made before the expiry date, the local government can be taken to have refused the development application, and an application for review to the State Administrative Tribunal may be triggered.
- 1.6 For development applications which are to be determined by the JDAP, the timeframe for preparing and submitting an RAR is determined by the DAP Regulations.

## **2.0 Assessment**

- 2.1 Development applications are assessed having regard to the development controls established by the planning framework including LPS6, state planning policies including the R-Codes, adopted structure plans, activity centre plans, local development plans, Council Policy and local planning policy provisions.
- 2.2 Where a development application requires an assessment against the relevant performance standards, the following (as applicable) will be taken into consideration:
  - (a) For all applications
    - Whether Clause 34 of LPS6 provides the ability to consider the application.
    - The matters to be considered in Clause 67 of the Regulations.
  - Relevant planning documentation such as the Local Planning Strategy, Structure Plans, State Planning Policies and the like. Any other planning document adopted pursuant to LPS6.
  - (b) *For applications where an exercise of judgement is sought in relation to the development requirements in LPS6*
    - Whether the proposal satisfies the objectives of each zone
  - (c) For applications where an exercise of judgement is sought in relation to the development requirements in a Local Planning Policy or Council Policy
    - The objective of the policy
    - Any additional assessment criteria within the policy.
  - (d) For applications which require an exercise of judgement under the R-Codes
    - The objective(s) of the provision
    - The relevant Design Principle(s).

Note: For clarification in respect of this, refer to the Explanatory Guidelines and/or the Frequently Asked Questions of the R-Codes

  - (e) For applications which require an exercise of judgement under an adopted structure plans, activity centre plans or local development plans
    - The objectives of the plan; and

- The Desired Outcome for the relevant Element in the Canning Bridge Activity Centre Plan (where assessment is required under this Activity Centre Plan).

- 2.3 Where Local Planning Policy – 1.2: Design Review Panel is applicable the development application should be referred to the City’s Design Review Panel for its assessment and comment.
- 2.4 Development applications may also be referred to other government departments for their assessment, comment and recommendation where required.
- 2.5 Where the City is not the final decision maker, the advertising requirements of LPS6, R-Codes and Council Policy must be met.
- 2.6 Where, after the grant of development approval, an amendment to a condition of approval or plans is sought, the City will reconsider the implications in accordance with the requirements of the foregoing Clauses 2.1 to 2.5.

### 3.0 Advertising of Development Applications

The public consultation, or advertising process (as it is also referred to), is intended to facilitate community input into the decision making process. Consultation can take a number of forms including letters to adjoining landowners and occupiers, a sign on site and information on the City’s website. The written input received during the consultation process has an important role to play in the decision-making process however neighbour consultation is not designed to shift or replace the responsibility of the decision-maker. The decision maker is required to consider the comments received and balance these with a technical assessment when making a judgement on the merit of a proposal. The following clauses outline the process the City will follow in relation to the advertising of Development Applications.

- 3.1 The following table outlines the public consultation requirements for Development Applications

| Application Type                  | Time Period (Calendar Days) | Sign on site | Written notification to owners and occupiers | City of Melville Website |
|-----------------------------------|-----------------------------|--------------|--|--------------------------|
| Standard Development              | 14                          | No           | Yes<br>As per clause 3.8(b)                  | Yes                      |
| Mixed Use and Multiple Dwellings* | 14                          | No           | Yes<br>As per diagrams in clause 3.8(c)      | Yes                      |
| Major Development                 | 21                          | Yes          | Yes<br>As per diagrams in clause 3.8(c)      | Yes                      |

\*where the proposal does not meet the definition of a major development

3.2 Informal consultation and communication between the applicants and adjoining property owners is strongly encouraged prior to lodgement with the City. This more courteous, neighbourly approach will, in many situations enable an outcome to be achieved which best meets the interests of all parties involved.

### 3.3 Advertising of land uses

(a) The Zoning Table of LPS6 (see Clause 17 of LPS6) categorises land uses as follows:

- P use permitted; or
- D use not permitted unless the Council exercises discretion and grants planning approval; or
- A use not permitted unless the Council exercises discretion and grants planning approval after advertising in accordance with Clause 64 of the Regulations; or
- I use not permitted unless incidental to the predominant use as decided and approved by the Council; or
- X use not permitted.

(b) 'P' land uses are permitted uses in principle and therefore do not require advertising.

(c) The advertising of 'D' or 'I' land uses is at the discretion of the City, taking into account whether the proposed use is likely to affect the amenity of adjoining or surrounding properties.

All 'A' uses are required to be advertised in accordance with the requirements of Clause 64 of the Regulations.

An application for a change of use will be advertised in accordance with the standard development requirements above unless wider consultation is considered necessary.

(f) The advertising of a land use is generally only required to be undertaken where initial approval is sought to establish the use on a lot or within a tenancy. Where approval is sought for additions and/or alterations to an existing building, on a site on where approval for a use already exists, then further advertising would generally not be required.

(g) The above clauses (a)-(e) relate to land use permissibility only. Where a development application seeks the exercise of judgement by the City, advertising may be required.

(h) While a land use may not require formal advertising under the provisions of this Clause, the provisions of Clause 3.0 of this policy still apply'.

### 3.4 Advertising of standard development.

(a) Any application which seeks a performance assessment against the following the Design Principles of the R-Codes (Volume 1):

- (a) Clause 5.1.3 Lot boundary setback;
- (b) Clause 5.1.6 Building height;
- (c) Clause 5.3.7 Site works;
- (d) Clause 5.3.8 Retaining walls;

- (e) Clause 5.4.1 Visual privacy; and
- (f) Clause 5.4.2 Solar access for adjoining site

will be advertised to the adjoining owner(s) and occupier(s) as detailed in Clause 3.6(b) limited advertising below as these may have a possible impact on the amenity of adjoining owners and occupiers.

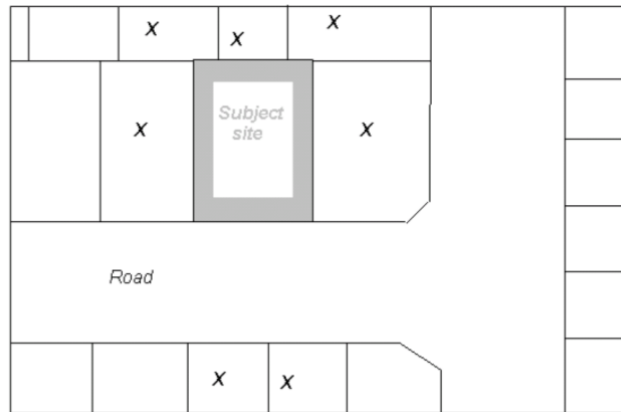
- (b) Applications which seek a performance assessment in relation to Design Principles, other than those listed above, may be advertised at the discretion of City officers if it is considered there may be a possible impact on the amenity of adjoining owners and occupiers.
- (c) Non-residential development which seeks the exercise of judgement having regard to the LPS6 provisions, Council Policy, a Local Planning Policy, adopted structure plans, activity centre plans or local development plans may be advertised at the discretion of City officers if it is considered there may be a possible impact on the amenity of adjoining owners and occupiers.

### 3.5 Advertising of Multiple Dwelling and Mixed Use Developments.

All applications for multiple dwelling and mixed use development proposals are required to be advertised in accordance with Clause 3.6 a-d below.

### 3.6 Extent of advertising

- (a) Where advertising is to be undertaken, an assessment as to the potentially affected properties is required. This assessment is to take into account:
  - The size and configuration of the application site in relation to adjoining properties; and
  - The property(s) which are likely to be impacted as a result of the proposed development.
- (b) Limited public consultation - where in the opinion of the City or in accordance with Clause 3.4 above, a proposed development application is required to be advertised, the extent of the advertising undertaken should be tailored to the perceived likely impacts. For example, where a development seeks a performance assessment in relation to the proposed lot boundary set back and all other aspects meet the deemed to comply provisions then advertising of the proposal would be limited to the relevant adjoining property(s) only.
- (c) Wider public consultation - where a proposal meets the definition of major development, or requires general advertisement in accordance with LPS6 or as required by Clause 3.5 above, the City will send letters to adjoining and nearby properties as shown in Diagram 1 and 2 below. In addition, a site notice will be installed for the duration of the consultation period and notification will be placed on the City's website as per the Table in Clause 3.1,
- (d) Where wider engagement is considered to be necessary, the details of the proposal may be provided on the City's social media platforms. In addition more property owners and occupiers may be consulted directly, and a press notice may be initiated.



*Diagram 1 – Typical 'potentially affected' properties for a development located within the middle of a street block.*



*Diagram 2 – Typical 'potentially affected' properties for a development located within a corner property.*

### 3.7 Advertising to owners and occupiers

Where advertising is undertaken, both the property owners and occupiers are consulted.

### 3.8 Timeframes

- (a) Advertising of a development application will be undertaken for a minimum of 14 calendar days. This will be extended to account for public holidays.
- (b) To enable the decision maker to achieve the statutory timeframes associated with the assessment of planning applications, formal requests for an extension to the advertising period will not generally be permitted. Relevant comments received after the closing date will however be taken into account where possible.

### 3.11 Advertising Process

- (a) Written correspondence will be provided via traditional post or via email.
- (b) Where the display of a sign on the property is required and/or a notice displayed in a local newspaper, these are to be undertaken by the applicant in accordance with the City's specifications. This advertising is undertaken at the applicant's cost.
- (c) Where a sign on site is required, the signage is to be displayed along each of the road frontages to the subject property. The sign shall be a minimum size of A1.
- (d) The content of advertising documentation should include:
  - (i) The description of the proposed development including its application reference number; and
  - (ii) Details of the development provisions requiring an exercise of judgement by the decision maker which have resulted in the application being advertised, and
  - (iii) How and where the details of the application can be viewed; and
  - (iv) Details of how and to whom submissions should be made, and
  - (v) The deadline for submissions.

### 3.12 Amended Plans

- (a) During the course of the assessment of a planning application, the applicant may submit amended plans.
- (b) Where an application has previously been advertised and amended plans are received post-advertising, the amended plans are to be the subject of a further consultation period where, in the opinion of the decision maker:
  - (i) The amended plans represent a significantly different proposal to that which was previously advertised; or
  - (ii) The proposed amendment(s) will potentially have a greater amenity impact; or
  - (iii) Where the development results in any additional exercise of judgement which may in the opinion of the City have an adverse impact upon the amenity of adjoining property owners and occupiers.
- (c) Where amended plans reduce the impact of a proposed development and/or where amended plans are lodged in order to address relevant planning related concerns as expressed by submitters, the amended plans need not be the subject of re-advertising.
- (d) Where amended plans are required to be the subject of re-advertising, the consultation process followed should be in accordance with Part 3.7 of this Policy.

### 3.13 Modifications to Planning Approvals

- (a) Where approval is sought to modify an existing condition of planning approval or to amend previously approved plans, and where that development application was the subject of advertising, further consultation will be required in accordance with Part 3.0 of this Policy, unless the proposed amendments:
  - (i) are minor; and
  - (ii) will not result in any additional impact upon any adjoining properties or the surrounding area.

## 4. Submissions and Petitions

### 4.1 Submissions

- (a) Shall be submitted via the City's website, by fax, letter or email only.
- (b) Submissions should address 'relevant planning matters' (as defined in this policy) only.

### 4.2 Petitions

- (a) Where a petition is received in relation to a planning application currently being considered by the City, the petition will be reported to the next available Council meeting. Where appropriate, petitions may then be reported to the DAU meeting, a further Council meeting and/or the DAP.
- (b) The lead petitioner (or all signatories to the petition where determined by Council) will receive advice in respect to the above and of the final decision.

### 4.3 Consideration of Submissions & Petitions

- (a) The content of all submissions received will be considered prior to the determination of the development application.
- (b) Only relevant planning related matters in submissions can be taken into account. In its consideration of any application, the decision maker has a duty to properly balance its consideration of all relevant factors in an objective and impartial manner.
- (c) Details of all submissions are confidential, and will not be released to an applicant or any other third party, unless required to by law. However, a written summary of the key issues raised within the submissions will be provided to the applicant upon request. The summary will not include the personal details of the submitter(s).
- (d) For applications which are to be determined by the DAU, Council or DAP, the Officer report will include a summary of the issues raised in all of the submissions. This summary will not include identification or personal details of the submitter(s), however full copies of the submissions may be provided to Elected Members upon request.
- (e) All persons who lodge submissions will receive advice of the final determination of the application. In addition, where the application is referred to a DAU meeting, Council

meeting or DAP meeting for endorsement or determination; submitters will receive further notification by the City of those specific meeting dates and details.

## **5. Other Planning Matters**

- 5.1 In addition to applications for planning approval, the City also receives, assesses, and/or determines a number of other application types.
- 5.2 When such applications are lodged for the determination of the City, they should include (at a minimum) all of the relevant information as outlined by the associated Planning Application checklist. Incomplete applications may be returned to the applicant.
- 5.3 Once a preliminary assessment of the application has been undertaken, further information may be requested from the applicant.
- 5.4 In general, the assessment and consideration of these other applications will be similar to that detailed in Part 1 of this Policy, although in a number of cases, there are some differences that result. In view of this, and unless stated to the contrary below, the following application types will follow the same process as outlined in Part 1 above.

## **6. Survey Strata and Green Title Subdivision**

- 6.1 Applications for survey strata and green title subdivisions are lodged with the DPLH which then consults the City and any other relevant government agencies and service authorities.
- 6.2 The City's role is to make a recommendation to the DPLH taking into account all those matters outlined in Part 2.2 above (where applicable).
- 6.3 Where a proposed subdivision will result in the creation of ten or more green title or survey strata lots (not including lots designated solely for access), the City will advertise the application to the potentially affected adjoining property owners and occupiers following the principles set out in Part 3.7 above. The application may also be referred to the City's Design Review Panel for consideration in accordance with Local Planning Policy – 1.2.
- 6.4 Applications for the creation of less than ten green title or survey strata lots and all applications for built strata subdivision will not be advertised for public comment.
- 6.5 Where any submissions are received, they will be forwarded to the DPLH along with the City's comments and recommendations.
- 6.6 The City is required to respond to the DPLH within 42 calendar days of the date of the referral.

## **7. Metropolitan Region Scheme (MRS) Referrals**

- 7.1 Applications for development on MRS zoned or reserved land are submitted to the City with all of the information required by the Planning Application checklist in addition to a completed MRS Form 1 application form.

- 7.2 There are no applicable planning fees for these applications.
- 7.3 The City's role is to make a recommendation to the DPLH within 42 calendar days taking into account all those matters outlined in Part 2.2 above (where applicable) and the intent of the MRS reservation or zoning.

## **8. Council and Local Planning Policy**

- 8.1 Proposals to amend revoke or introduce new Council and local planning policies are to be advertised in accordance with Clause 4 of the Regulations.
- 8.2 Where amendments are made following the advertising period, which significantly alter the intent of any of the policy provisions, the revised Policy will be re-advertised in accordance with Clause 4 of the Regulations.

## **9. Scheme Amendments**

- 9.1 Proposals to amend the wording of LPS6 and/or to change the zoning of any property can be initiated by an interested 3<sup>rd</sup> party or by the City.
- 9.2 All proposals to amend LPS6 are presented to Council to determine whether the proposal has merit or not. If the proposal has merit, the Council will resolve to initiate the proposal to allow public consultation and referral to relevant agencies to occur. If the endorsement of the Council is not given, the process will terminate.
- 9.3 Part 5 of the Regulations provides detailed guidance with respect to the process to be undertaken in relation to scheme amendments. This Part outlines the process for basic, standard and complex scheme amendments. Once a scheme amendment is initiated, the City is required to follow the process outlines in Part 5 of the Regulations
- 9.4 The advertising of a scheme amendment, where required, is undertaken via:
- (a) An advertisement in a local newspaper circulating within the District; and
  - (b) Details on the City's website and social media platforms; and
  - (c) Where the scheme amendment relates to specific properties, a sign on site and letters to adjacent residents may also be required.

## **10. Pedestrian Access Way (PAW) closures**

- 10.1 A proposal to close an existing PAW can be submitted by an external party or can be initiated by the City.
- 10.2 Applications for the closure of PAW's are assessed in accordance with the Department of Planning's Procedure for the Closure of Pedestrian Access Ways – Planning Guidelines (October 2009).
- 10.3 All proposals are presented to Council to determine whether they have merit or not. If the proposal has merit, the Council will resolve to initiate the proposal to allow public consultation

and referral to relevant agencies to occur. If the endorsement of the Council is not given, the proposal will not proceed further.

10.4 Where Council resolves to endorse a PAW closure proposal for advertising, the application will be the subject of community consultation for a minimum of 30 calendar days as follows:

- (a) Letters sent to the owners and occupiers of all properties within a 100 metre radius of the subject PAW.
- (b) The applicant is required to display signage at each of the entrances to the PAW to Council specifications.
- (c) The applicant is to place an advert in a local newspaper circulating within the District to Council specifications.
- (d) Details of the proposed closure will be posted to the City's website and social media platforms.

10.5 Following advertising and referral to any relevant service agencies or government authorities, the proposal is re-presented to Council with a recommendation to endorse or not endorse the closure. The Officer report will include a summary of all submissions received.

10.6 Following consideration by Council, the proposed amendment is forwarded to the DPLH to approve or refuse the proposal.

## **11. Street Numbering**

11.1 Street numbering proposals are assessed in accordance with Council Policy – 068: Street Numbering.

11.2 Where the City is considering re-numbering existing properties or the City receives an application for re-numbering which may impact upon properties other than the applicant's property, the City will consult the owners and occupiers of the affected properties for a period of not less than 14 calendar days.

## **12. Restrictive Covenants**

12.1 Applications to modify or remove restrictive covenants are generally not advertised as they are only supported where the modification or removal is consistent with the requirements of LPS6, the R-Codes and Council Policy.

## **13. Determination of All Matters**

13.1 All applications for Planning Approval and related matters are determined in accordance with the City's delegation requirements, LPS6, the R-Codes and Council Policy.

13.2 The consideration and determination of all applications is to be in accordance with Council Policy – 052: Quasi-Judicial Role.

#### **14. Amendments to Planning Approvals**

14.1 All applications which seek to modify a condition of Planning Approval or alter the previously approved plans are to be determined at the same level of delegation to which the previous determination was made, unless the modification:

- (a) Is minor; and,
- (b) Will not result in any additional significant impacts upon adjoining property owners and/or occupiers.

14.2 Where an application is received to vary a JDAP determination, be it via a Form 2 or standard application form, which requires the exercise of judgement, consultation may be required under Clause 3.0 of this policy.

14.3 Further to clause 14.2 no consultation will be undertaken where a proposal complies with the relevant planning framework.

#### **15. Refusal of applications without advertising**

Any planning proposal where it is not considered to satisfy the requirements of LPS6, the R-Codes or Council policy may be refused under delegated authority without first being advertised.

#### **16. Development Advisory Unit (DAU)**

##### **16.1 Membership and Meetings**

- (a) The DAU consists of:
  - (i) Presiding Member, being the Manager Statutory Planning (or in their absence, the Planning Services Coordinator);
  - (ii) Planning Services Coordinator;
  - (iii) Manager Building Services or Building Services Coordinator;
  - (iv) Senior Statutory Planning Officers;
  - (v) A representative from Health Services (if required); and
  - (vi) A representative from Technical Services (if required).
- (b) The DAU will generally convene on Tuesday each week as necessary, but may meet more regularly, or on an alternative day, as determined by the Presiding Member.
- (c) The DAU will consider and make recommendations on planning applications referred to it under the provisions of this policy.

## 16.2 Matters to be considered by the DAU

- (a) The following applications are to be referred to the DAU:
  - (i) Where an application is recommended for approval and an objection raising relevant planning matters has been received.
  - (ii) Other proposals which in the opinion of the CEO or Director Urban Planning should be referred to the DAU for recommendation.
  - (iii) Where the Mayor requests the CEO to exercise his/her discretion under 16.2(a)(ii) to refer a development application to the DAU for recommendation.

Note: where a submitter resolves to withdraw their relevant objection, the proposed development will not be referred to the DAU.

## 16.3 *Recommendations and report*

- (a) The DAU may recommend that a proposal be approved with or without conditions, refused, or referred to Council for determination. Any recommendation for approval or refusal must set out the reasons for the recommendation.
- (b) Where submissions have been received, the DAU report is to include a summary of the relevant planning matters raised and whether the concern is upheld by the DAU or not, and the reasons for this decision.
- (c) Elected Members are provided with a copy of the DAU minutes by email, on or before, the Friday following the DAU meeting.
- (d) The DAU minutes are published where possible, to the City of Melville website, by the Friday following the meeting.

## 16.4 *'Call Up' of DAU applications for consideration by Council*

- (a) Where any of the following apply, the DAU application is to be referred to Council for determination:
  - (i) An Elected Member requests that the CEO refer the application to Council for determination. Any call up request to the CEO shall be made using the Call Up Request Form.
  - (ii) Where any member of the DAU has a financial or proximity interest as defined in Sections 5.60, 5.61 and 5.62 of the *Local Government Act 1995*, the matter is required to be referred to Council for determination.
  - (iii) Any Major Development (whether or not referred to the DAU) can be called up by an Elected Member. Such requests shall be made via the CEO's office using the Call Up Request Form.
- (b) The "call-up" request in (i) above, must be received by the CEO's office prior to midday on the second Monday following the DAU meeting, or Tuesday in the event that a Public Holiday occurs on the Monday.

- (c) Where an application is successfully 'called up', the application will be considered at the next appropriate meeting of Council.
- (d) Where an application is successfully 'called-up' the applicant and any submitters will be advised of this decision in writing, including details of the Council meeting schedule and details.

#### 16.5 Determination where an application is not 'Called Up'

- (a) Subject to Clause 16.4 above, no sooner than midday on the second Monday after the DAU meeting, or Tuesday in the event of a Public Holiday on the Monday, the application may be determined in accordance with the DAU recommendation.
- (b) Where additional technical information is received after the DAU has made its recommendation, the Presiding Member of the DAU may refer the application back to the DAU for reconsideration.
- (c) Where, negotiations take place during the "call-up" period which result in modifications to the proposed plans or recommended conditions of approval, the amended proposal is to be represented to the next available DAU meeting for reconsideration.

### 17. Council determination

17.1 All meetings of Council are open to the public unless otherwise notified.

17.2 Public statements, questions and deputations in relation to planning applications may be made at meetings of Council in accordance with the City of Melville Meeting Procedures Local Law 2017 at the discretion of the CEO. Requests to make a public statement, ask a question or make a deputation should be made in writing to the City's Governance Team by 9.00am of the Monday prior to the meeting.

17.3 For applications which are to be determined by the Council, the City will notify both the applicant and any submitters of the meeting details and the subsequent decision of Council.

17.4 The agendas and minutes of all meetings are available on the City's website and at City of Melville libraries.

### 18. Development Assessment Panel (DAP) applications

18.1 DAPs are governed by the *Planning and Development Act 2005* and the *Planning and Development (Development Assessment Panel) Regulations 2011* (the Regulations).

18.2 The Joint Metro Central Development Assessment Panel is the decision-making body responsible for determining all City of Melville DAP applications.

18.3 For all DAP applications, the City's Officers are required to prepare a Responsible Authority Report (RAR) to the Joint Metro Central DAP. This report outlines the proposal, the assessment undertaken, a summary of any submissions received and a recommendation.

- 18.4 The DAP determines the application in the place of the City of Melville or other decision maker, taking into account all of the relevant provisions within LPS6, the R-Codes, Council Policies and any other relevant planning document.
- 18.5 Elected Members will be made aware of the details of DAP applications via the Elected Members Bulletin (EMB). At the appropriate time, further detail will also be provided at a Major Development Briefing and via a link to the Melville Talks page on the City's website.
- 18.6 To facilitate Council involvement in the DAP process, Elected Members can request that an RAR be referred to the Council for information and consideration, where:
- (a) The DAP application has been the subject of public consultation and submissions have been received; and/or
  - (b) The DAP application relates to a site within the Canning Bridge or Melville City Centre Activity Centre Plan areas, and requires consideration of proposed 'community benefits' in association with bonus building height.
- 18.7 At the completion of the public advertising period Elected Members will be provided with a summary of the submissions received via the weekly EMB. Following publication of the EMB, Elected Members have until midday the Wednesday following the publication of the Bulletin to request that the RAR be referred to a meeting of Council. Any such request is to be provided to the CEO's Executive Assistant, using the appropriate Call Up Request Form.
- 18.8 Where a RAR is called up, the City's officers are to prepare the RAR in accordance with the statutory framework and submit it to an Ordinary Council Meeting or Special Meeting of Council as appropriate for comment in sufficient time to meet the requirements of the JDAP statutory time period for the application.
- 18.9 Where an RAR is called up to a meeting of the Council prior to its formal consideration by the JDAP, the CEO may not submit the RAR to the JDAP without the Council endorsement. Once the CEO has received this endorsement the RAR and the minutes of the Council meeting, will be provided to the JDAP Note: The DAP may choose to proceed without the RAR if the RAR is not provided in accordance with the DAP timetable.
- 18.10 Where the RAR is called up to a meeting of the Council, the applicant and any submitters will be advised in writing as such and advised that the appropriate opportunity to make a deputation on the application will be at the JDAP meeting where the decision is made. Additionally, deputations may be made at the Council meeting as well; when the matter is called up Note: The JDAP is the decision maker on DAP development applications and makes the final decision on DAP development applications.
- 18.11 If a development application to be determined by the JDAP is not called up, the RAR may be prepared and submitted under delegated authority by the CEO in accordance with DA-020.

## **19. Applications for Review**

- 19.1 Where a decision maker refuses an application, or where the applicant objects to a particular condition of planning approval, the applicant has a right to lodge an application for review to the SAT.

- 19.2 Third parties (submitters and other interested parties) do not have a right of appeal to the SAT.
- 19.3 Once an application for review has been lodged with the SAT, the process is no longer within the control of Council; however Council officers are in the majority of circumstances party to the process.
- 19.4 Where the SAT invites the City or the JDAP to reconsider an application under Section 31 of the *State Administrative Tribunal Act 2004* the City will not undertake further public consultation unless directed to do so by the SAT.
- 19.5 When reconsidering the application the City will take into account the views expressed during the original neighbour consultation period. In addition the City will inform submitters of all relevant events such as the Agenda Briefing Forum, Ordinary Council Meeting or JDAP meeting. Submitters will be permitted to make a deputation to the decision maker.

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**References that may be applicable to this Policy**

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| Legislative Requirements:                                | <ul style="list-style-type: none"> <li>Planning and Development Act 2005</li> <li>State Administrative Tribunal Act 2004</li> <li>Planning and Development (Development Assessment Panel) Regulations 2011</li> <li>Strata Titles Act 1995</li> <li>Town Planning Regulations 1967</li> <li>Planning and Development (Local Planning Schemes) Regulations 2015</li> </ul>  |
| Procedure, Process Maps, Work Instructions:              | <ul style="list-style-type: none"> <li>Planning Application Procedure</li> <li>Subdivision Procedure</li> <li>Pedestrian Access Way Closure Application Procedure</li> <li>Naming of Roads and Parks Procedure</li> <li>Scheme Amendment Procedure</li> <li>Development Assessment Panel Work Instruction</li> <li>Development Assessment Panel Process Map</li> </ul>   |
| Other Plans, Frameworks, Documents Applicable to Policy: | <ul style="list-style-type: none"> <li>Local Planning Scheme No. 6</li> <li>State Planning Policies including the State Planning Policy 7.3 Residential Design Codes Volume 1 and Residential Design Codes Volume 2 – Apartments</li> <li>All Council Planning Policies</li> <li>Local Commercial Strategy</li> <li>Structure Plans or Local Development Plans</li> <li>City of Melville Road and Park Names</li> <li>WAPC Planning Bulletins</li> <li>Department of Planning Procedure for the Closure of Pedestrian Access Ways – Planning guidelines (October 2009).</li> </ul> |
| Delegated Authority No:                                  | DA-020: Planning and Related Matters   |

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| <b>ORIGIN/AUTHORITY</b>     |                 | <b>ITEM NO.</b> |
|-----------------------------|-----------------|-----------------|
| Ordinary Meeting of Council | 19 June 2007    | P07/1004        |
| <b>REVIEWS</b>              |                 |                 |
| Special Meeting of Council  | 9 November 2011 | P10/3178        |
| Ordinary Meeting of Council | 21 October 2014 | P14/3560        |



Ordinary Meeting of Council  
Ordinary Meeting of Council  
Ordinary Meeting of Council  
Ordinary Meeting of Council  
Administrative Review  
(Council Resolution 18/6/2019)

18 November 2014  
15 September 2015  
21 June 2016  
21 March 2017  
6/8/2019

P14/3560  
P15/3658  
P16/3711  
P17/3747