

## Planning Process and Decision Making

<b>Policy Type: Local Planning Policy</b> <b>Policy Owner: Director Urban Planning</b>	<b>Policy No. LPP 1.1</b> <b>Last Review Date: 6 August 2019</b>
---	---

### POLICY OBJECTIVES

- To promote a consistent approach by the City in the assessment and public advertising of development applications.
- To facilitate community input into the decision making process.
- To provide information to both applicants and submitters regarding the planning application assessment process.

### POLICY SCOPE

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

### DEFINITIONS AND ABBREVIATIONS USED IN POLICY

#### Definitions

##### *Decision Maker*

The person or group of persons who have delegation to determine an application.

##### *Relevant Planning Matters*

- (i) Matters to be considered by the City under Clause 67 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations); and/or
- (ii) Any LPS6 or Council Policy development standard which requires the decision maker to exercise judgement ; and/or
- (iii) Any standard requiring the decision maker to exercise judgement against the Design Principles of the R-Codes.

##### *Non-Relevant Planning Matters*

Examples include but are not limited to:

- (i) Impacts on property price;
- (ii) Matters that are usually dealt with by the building licence process;
- (iii) Matters of personal hardship or compassionate issues unrelated to amenity and orderly and proper planning;
- (iv) Incorrect assumptions on technical planning matters.



### *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.

### *Submitters*

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

### **Abbreviations**

CEO	Chief Executive Officer
LPS6	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>
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 Planning 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 planning 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 planning approval. The City has also prepared a checklist to assist applicants in this respect. All applications for planning approval are to include (at a minimum) all of the relevant information as outlined by the Planning 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 City is to determine applications for Planning Approval within 60 days of the receipt of the application or 90 days where the application requires consultation with the public or other authorities.

## **1.6 Assessment**

1.6.1 Where approval is required, all planning applications are initially assessed against the development requirements established by LPS6, the R-Codes (where applicable), adopted structure plans, activity centre plans, local development plans and Council Policy provisions.

1.6.2 Where these requirements are not met by the development, the decision maker may exercise judgement to determine the proposal and 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)

1.6.3 Where Local Planning Policy – 1.2: Design Review Panel, is applicable in the assessment of an application, the application should be referred to the City's Design Review Panel for their assessment and comment.

1.6.4 Applications may also be referred to other government departments for their assessment, comment and recommendation where required.

1.6.5 Where the City is not the final decision maker, the advertising requirements of LPS6, R-Codes and Council Policy must be met.

1.6.6 Where, after the grant of planning 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 1.6.1 to 1.6.5.

## **1.7 Advertising of Planning Applications**

1.7.1 The public consultation, or advertising process (as it is also referred to), is intended to facilitate community input into the decision making process. Such input, and the written submissions received as a result, have an important role to play in the decision-making process.

1.7.2 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.

1.7.3 Some development proposals must be advertised due to the land use proposed and/or if, in the opinion of the City, the development is likely to have an adverse impact. The advertising process followed by the City is as follows:

### *1.7.4 Advertising of land uses*

- (a) The Zoning Table of LPS6 (see Clause 17) 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 delegated officer, taking into account whether the proposed use is likely to affect the amenity of adjoining or surrounding properties.
  - (d) All 'A' uses are required to be advertised in accordance with the requirements of Clause 64 of the Regulations.
  - (e) 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.
  - (f) The above clauses (a)-(e) relate to land use permissibility only. Where a development proposal seeks the exercise of judgement by the decision maker to determine the proposal, advertising may be required.
  - (g) While a land use may not require formal advertising under the provisions of this Clause, the provisions of Clause 1.8 of this policy still apply'.
- 1.7.5 *Advertising of all applications, with the exception of those addressed in Clause 1.7.6 below, which require the decision maker to exercise judgement.*

Applications which seek the exercise of judgement , which in the opinion of the decision maker , are likely to adversely affect the amenity of adjoining or surrounding property owners or occupiers, are to be advertised in accordance with:

- (a) Clause 64 of the Regulations in the case of applications seeking an exercise of judgement in relation to LPS6 provisions; and/or
- (b) Part 4 of the R-Codes in the case of residential or mixed use developments requiring a performance assessment against the R-Codes; and/or
- (c) Where an application seeks an exercise of judgment in relation to Council Policy or adopted structure plans, activity centre plans or local development plans, the application is to be advertised to all of the

potentially affected adjoining or surrounding property owners (in the opinion of the decision maker) as per the provisions of this policy.

**1.7.6 Advertising of multiple dwelling developments which are located outside of areas which have an adopted structure plan or activity centre plan.**

- (a) All applications which require the decision maker to undertake a performance assessment against the relevant provisions of the R-Codes or LPS6 in relation to the following matters are required to be advertised in accordance with Clause 1.7.7(c) or (d) below:

- 6.1.1 Building Size
- 6.1.2 Building Height
- 6.3.3 Parking

- (b) All applications which require the decision maker to undertake a performance assessment against the relevant provisions of the R-Codes or LPS6 in relation to the following matters are required to be advertised in accordance with Clause 1.7.7(b) below:

- 6.1.4 Lot Boundary Setbacks
- 6.4.1 Visual Privacy
- 6.4.2 Solar Access for Adjoining Sites

- (c) Applications involving an exercise of judgement against any of the other provisions of the R-Codes are to be advertised in accordance with Clause 1.7.7(b) below, where in the opinion of the decision maker, the matter is likely to adversely affect the amenity of the adjoining or surrounding property owners of occupiers.

**1.7.7 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 decision maker or in accordance with Clause 1.7.6 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 is proposed which involves a boundary setback variation to one boundary, and no other variation, then advertising of the proposal would be limited to the relevant adjoining property(s) only.

- (c) Wider public consultation - where a proposed development requires general advertisement in accordance with LPS6 or as required by Clause



1.7.6 above, such consultation should generally be undertaken in accordance with Diagram 1 below. In addition, a site notice shall be installed for the duration of the consultation period.

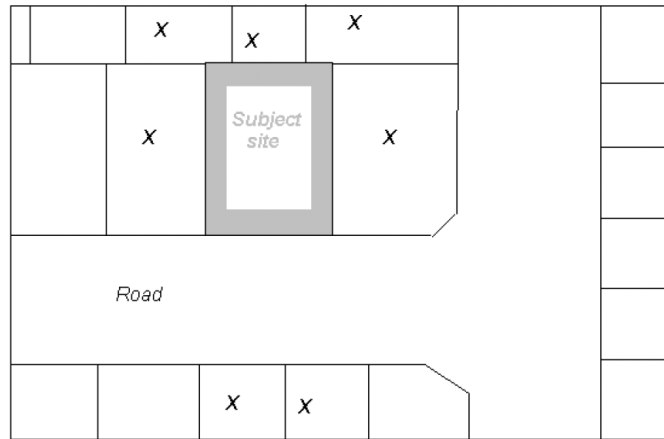


Diagram 1 – Typical ‘potentially affected’ properties for a development located within the middle of a street block.

- (d) The principle outlined in Diagram 1 above, may require modification for developments occurring on corner blocks, large properties, battle-axe lots and the like. In these instances, the properties which share a common boundary with the subject property, in addition to any other properties located on the opposite side of the street, which may have a direct view of the development, should be consulted.



Diagram 2 – Typical ‘potentially affected’ properties for a development located within a corner property.

- (e) Where in the opinion of the decision maker, the potential impact of a proposal may be beyond that of the immediately adjoining property owners or occupiers, consultation may also be undertaken via a sign on site and/or a notice in a local newspaper circulating within the District.

#### 1.7.8 Advertising to owners and occupiers

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

#### 1.7.9 Timeframes

- (a) Advertising in relation to the development requirements of LPS6 will be undertaken for a minimum of 14 calendar days.
- (b) Advertising that is required in respect of an application, for which assessment under the R-Codes Design Principle(s) is sought, will be undertaken for a minimum of 14 calendar days.
- (c) Advertising in relation to the development requirements of an adopted Structure Plan will be undertaken for a minimum of 14 calendar days.
- (d) Where any part of a consultation period coincides with the public holidays associated with Christmas or Easter, the consultation period will be extended by at least the number of public holiday days in question.
- (e) 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.

#### 1.7.10 Advertising Process

- (a) The advertising of development proposals to potentially affected parties is undertaken via registered post.
- (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 Council 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.
- (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.
- (e) Where comments from adjoining property owners and/or occupiers are provided by the applicant as part of the lodgement of a planning application, they will only be accepted where all of the information specified in (d) above is detailed within the signed form or letter.

#### *1.7.11 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 proposal represents 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 by the decision maker, which may in the opinion of the decision maker, 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 they are lodged in response to comments received from 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 1.7.7 of this Policy.

#### *1.7.12 Modifications to Planning Approvals*

- (a) Where approval is sought to modify an existing condition of planning approval or to amend the previously approved plans, and where that development application was the subject of advertising, further consultation will be required in accordance with Part 1.6.7 of this Policy, unless in the opinion of the decision maker, the proposed amendments:
  - (i) are minor; and
  - (ii) will not result in any additional impact upon any adjoining properties or the surrounding area.

## 1.8 Informal Notification of Planning Applications

All applications for Major Development (refer to the definition of Major Development in this policy) will be subject to an informal notification process in addition to the requirements of Clause 1.7 above. The key methods to be adopted to facilitate this informal notification process will be the display of a site notice installed by the applicant; a letter, or an email to owners/occupiers the City's website and where relevant the social media platforms used by the City.

Letters and emails will be sent to owners and occupiers of land directly adjacent to or sharing a common boundary with the development site and properties which are directly across a thoroughfare from the development site. The informal notification letter or email will only apply for those owners/occupiers who are not the subject of formal consultation. The content of the informal notification process will inform, as opposed to consult, *however, all submissions received shall be considered in assessing the Development Application.*

## 1.9 Submissions and Petitions

### 1.9.1 Content of Submissions

- (a) To enable the decision maker to properly consider submitters' concerns, only comments submitted in writing (letter, fax or email) will be accepted. Verbal submissions will not be considered.
- (b) Submissions should address 'relevant planning matters' (as defined above) only. Reliance in submissions on non-relevant planning matters cannot be taken into consideration.

### 1.9.2 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 in the first instance, and then also reported to the DAU meeting, Council meeting and/or the DAP where relevant .
- (b) The lead petitioner (or all signatories to the petition where determined by Council) will receive advice of the final determination of the application. In addition, where the application is reported to the DAU meeting, Council meeting and/or DAP meeting for endorsement or determination; the lead petitioner will receive further notification of these meetings.

### 1.9.3 Consideration of Submissions & Petitions

- (a) In addition to many other considerations, the content of all submissions received will be considered prior to the determination of the application.
- (b) The decision maker is not obliged to agree with, or uphold, every opinion expressed in the submissions received, nor to incorporate suggestions received into the decision. 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 the 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.

## **2 Other Planning Matters**

- 2.1 In addition to applications for planning approval, the City also receives, assesses, and/or determines a number of other application types.
- 2.2 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 relevant Planning Application checklist. Where all of this information is not provided upon lodgement, the application may be returned to the applicant.
- 2.3 Once a preliminary assessment of the application has been undertaken, further information may be requested from the applicant to enable a complete assessment of the application.
- 2.4 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.

## **2.5 Survey Strata and Green Title Subdivision**

- 2.5.1 Applications for survey strata and green title subdivisions are lodged with the WAPC who then consult the City and any other relevant government agencies and service authorities.
- 2.5.2 The City's role is to make a recommendation to the WAPC taking into account all those matters outlined in Part 1.6.2 above (where applicable).
- 2.5.3 Where a proposed subdivision is to 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 using the principles set out in Part 1.7.7 above. The application will also be referred to the City's Design Review Panel for consideration in line with Local Planning Policy – 1.2.
- 2.5.4 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.
- 2.5.5 Where any submissions are received, they will be forwarded to the WAPC along with the City's comments and recommendations.
- 2.5.6 The City is required to respond to the WAPC within 42 calendar days of the date of the referral.

## **2.6 Metropolitan Region Scheme (MRS) Referrals**

- 2.6.1 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.
- 2.6.2 There are no applicable planning fees for these applications.
- 2.6.3 The City's role is to make a recommendation to the WAPC within 42 calendar days taking into account all those matters outlined in Part 1.6.2 above (where applicable) and the intent of the MRS reservation or zoning.

## **2.7 Council and Local Planning Policy**

- 2.7.1 Proposals to amend, revoke or introduce new Council and local planning policies are to be advertised in accordance with Clause 4 of the Regulations.
- 2.7.2 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.

## **2.8 Scheme Amendments**

- 2.8.1 Proposals to amend the wording of LPS6 and/or to change the zoning of any property can be submitted by an external party or can be initiated by the City.
- 2.8.2 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 proposal will not proceed further.
- 2.8.3 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
- 2.8.4 The advertising of a scheme amendment, where required, is undertaken via:
- (a) An advertisement in a local newspaper circulating within the District; and
  - (b) An advertisement on the City's website; and
  - (c) Where the scheme amendment relates to specific properties, a sign on site and letters to adjacent residents may also be required.

## **2.9 Pedestrian Access Way (PAW) closures**

- 2.9.1 A proposal to close an existing PAW can be submitted by an external party or can be initiated by the City.
- 2.9.3 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).
- 2.9.4 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.
- 2.9.5 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.

2.9.6 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.

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

## **2.10 Street Numbering**

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

2.10.2 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.

## **2.11 Restrictive Covenants**

2.12.1 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.

## **3 Determination of All Matters**

3.1 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.

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

### **3.3 Amendments to Planning Approvals**

3.3.1 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 in the opinion of the decision maker ; and,
- (b) Will not result in any additional significant impacts upon adjoining property owners.



- 3.3.2 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 1.7 of this policy.
- 3.3.3 Further to 3.3.2 no consultation will be undertaken where a proposal complies with the relevant planning framework.

### **3.4 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.

### **3.5 Development Advisory Unit (DAU)**

#### *3.5.1 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) Two representatives from Technical Services.
- (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.

#### *3.5.2 Matters to be considered by the DAU*

- (a) The following applications are to be referred to the DAU for recommendation:
- (i) Any advertised application for which a submission(s) outlining relevant planning matters (as defined above) of concern have been received and the concerns have not been entirely addressed via the submission of amended plans or via recommended conditions of approval which satisfy the LPS6 or Council Policy development requirement or the Deemed-to-Comply provision of the R-Codes in relation to that relevant planning matter.
  - (ii) Other proposals which in the opinion of the CEO or Director Urban Planning should be referred to the DAU for recommendation.



### 3.5.3 *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 Monday following the DAU meeting (or the Tuesday following the meeting in the instance of a Public Holiday falling on the preceding Monday).
- (d) The DAU minutes are published where possible, to the City of Melville website, by the Monday (or Tuesday where a public holiday occurred on the preceding Monday) following the meeting.

### 3.5.4 *'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. Such requests may be made at the sole discretion of an Elected Member or in response to a request being received by the Elected Member on behalf of an applicant or submitter requesting that a decision be made by the Council. An Elected Member call up request shall only be initiated where, in the opinion of the Elected Member, a 'relevant planning matter(s)' has not been adequately addressed by the DAU Report, and only after due consideration and review of the DAU report including consultation with the Director Urban Planning and/or the Manager Statutory Planning. In addition, the Elected Member is to complete the DAU Call Up Request Form and have the support of:
    - The two Councillors from the Ward within which the planning application site is located; or
    - The Mayor (or Deputy Mayor in their absence) and one Councillor from the Ward within which the planning application subject site is located.
  - (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 referred to the DAU or not referred to the DAU) can be called up by two Elected Members signing a request to the CEO to call it up and quoting a relevant planning matter.”
- (b) The “call-up” request in (i) above, must be received by the CEO 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.

#### *3.5.5 Determination where an application is not ‘Called Up’*

- (a) Subject to Clause 3.5.4 above, no sooner than midday on the second Monday after the DAU meeting, 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 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.

### **3.6 Council determination**

- 3.6.1 All meetings of Council are open to the public unless otherwise notified.
- 3.6.2 Public statements, questions and deputations in relation to planning applications may be made at Council meetings at the discretion of the CEO. Requests to make a public statement, ask a question or make a deputation can be made to the City’s Governance Team.
- 3.6.3 For applications which are to be determined by Council, the City will notify both the applicant and any submitters of the meeting details and the subsequent decision of Council.
- 3.6.4 The agendas and minutes of all meetings are available on the City’s website and at City of Melville libraries.

### **3.7 Development Assessment Panel (DAP) applications**



- 3.7.1 DAPs are governed by the *Planning and Development Act 2005* and the *Planning and Development (Development Assessment Panel) Regulations 2011* (the Regulations).
- 3.7.2 The Joint Metro Central Development Assessment Panel is the decision-making body responsible for determining all City of Melville DAP applications.
- 3.7.3 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.
- 3.7.4 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.
- 3.7.5 Where the DAP has previously granted approval to a development, any application to amend the development requires a further determination by the DAP.
- 3.7.6 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 in opposition have been received; and/or
  - (b) The DAP application relates to a site within the Canning Bridge or Melville City Centre Structure Plan areas, and requires consideration of proposed 'community benefits' in lieu of proposed building height.

Elected Members will be made aware of such applications via the weekly Elected Members Bulletin (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 DAP Call Up Request Form.

- 3.7.7 Where an RAR is referred to a meeting of the Council prior to its formal consideration by the JDAP, the minutes of the Council meeting will be submitted to the JDAP as an attachment to the RAR.
- 3.7.8 Where the RAR for a DAP application is to be referred to a meeting of the Council, the applicant and any submitters will be advised in writing as such, and provided with details of the Council meeting schedule and details.

### **3.8 Applications for Review**



- 3.8.1 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.
- 3.8.2 Third parties (submitters and other interested parties) do not have a right of appeal to the SAT.
- 3.8.3 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.
- 3.8.4 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.
- 3.8.5 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.



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

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

**ORIGIN/AUTHORITY**

Ordinary Meeting of Council

19 June 2007

**ITEM NO.**

P07/1004

**REVIEWS**

Special Meeting of Council

9 November 2011

P10/3178

Ordinary Meeting of Council

21 October 2014

P14/3560

Ordinary Meeting of Council

18 November 2014

P14/3560

Ordinary Meeting of Council

15 September 2015

P15/3658

Ordinary Meeting of Council

21 June 2016

P16/3711

Ordinary Meeting of Council

21 March 2017

P17/3747

Administrative Review

6/8/2019

(Council Resolution 18/6/2019)