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F4 Notification and Advertising

4.1. General Objectives

The objectives of the controls for public notification and advertising are to:

- a) Establish procedures in identifying those property owners and occupiers affected by the development of land within the City of Penrith; and
- b) Identify the extent of the public notification and advertising process required in the development assessment process under the *Environmental Planning and Assessment Act 1979*.

4.2. Application of this Section

Application of this section

- 1) Subject to the provisions hereof, this section applies to all land within Penrith City Council.

Development applications not requiring notification and advertising

- 2) Notification or advertising will not be required for development applications for:
 - a) Complying development;
 - b) Alterations to an existing building which will not result in changes to the height, elevations or facade of the existing building; or
 - c) Development, which, in the opinion of the responsible Council officer, will not detrimentally affect the amenity of persons who own or occupy adjoining or neighbouring land, in terms of the matters, listed in 4.4(5) of this section.

Development requiring public notification and advertising

- 3) Notification or advertising will be required for development applications for development of a type listed in Table F4.1: Public notification and advertising of Section of this DCP.

4.3. Objectives

- a) To establish an efficient and effective process for public notification and advertising, which will minimise delays in the processing of development applications and improve the quality of decisions;
- b) To maintain the community's right to participate in the development assessment process;
- c) To foster public appreciation and understanding of the development assessment process;
- d) To clarify the circumstances in which a development application does not require public notification or advertising; and
- e) To detail the form of and requirements for public notification and advertising.

4.4. Controls

Who will be notified?

- 1) Notification or advertising will occur where, in the responsible Council Officer's opinion, the enjoyment of adjoining or neighbouring land may be detrimentally affected, in terms of the matters listed in 4.4(5) of this section, by the proposed development. A notification letter will be sent to the affected owners and occupiers of relevant land.
- 2) In identifying the owners of land, Council will rely on its property system, on the day of preparing the notification letter.
- 3) Development applications, other than for complying development, lodged in relation to certain areas of the Penrith City Council Local Government Area will require additional notification of relevant resident or community groups. The resident or community groups that will be notified of any developments within their area comprise:
 - a) The Glenmore Park Residents Association;
 - b) The Mulgoa Progress Association;
 - c) The Orchard Hills Residents;
 - d) The Kemps Creek Landowners Association;
 - e) The Progress Association of Wallacia-
- 4) In certain circumstances, Council will, at its discretion, undertake wider notification of a development application.

Other forms of notification

- 1) During the exhibition period, other than the letters referred to above, exhibition material can also be viewed at:
 - a) Council's Civic Centre; and
 - b) Electronically on the Development Application Tracking system.

Determining the extent of notification

- 1) Council will give notice of a development application to owners and occupiers of adjoining or neighbouring land to the development site where, in the responsible Council officer's opinion, the enjoyment of the land may be detrimentally affected by or in relation to:
 - a) Views to and from the land;
 - b) Overshadowing;
 - c) Pollution, in terms of noise, dust, fumes and the like;
 - d) The visual quality of the building in relation to the streetscape;
 - e) The scale or bulk of the proposed building;
 - f) The siting of the proposed building in relation to the development site boundaries;
 - g) Hours of use;
 - h) Light spillage or reflection;
 - i) Means of access to or provision of parking on the development site;
 - j) Proposed changes to any covenant or easement benefiting the adjoining or neighbouring land;
 - k) The height, materials and position of fences erected on a boundary;

- l) Traffic generation; or
 - m) Suitability of the land for the proposed development.
- 2) The exhibition period for a development application is a minimum of 14 days unless otherwise specified by the Act or Regulation or an environmental planning instrument. This is further detailed in Table F4.1: Public Notification and Advertising section of this DCP.
- 3) If land is owned or occupied by more than one person, a written notice to one owner or one occupier is taken to be a written notice to all the owners and occupiers of that land.

Public notification and advertising period

- 1) The notification letter will be posted or dispatched to affected persons before the exhibition period commences and is to contain the following information:
- a) The property address to which the development application relates;
 - b) A description of the proposed development;
 - c) An invitation to view the development application;
 - d) The time during and the locations at which the development application can be inspected;
 - e) The affected person's right to lodge a written submission in relation to the application;
 - f) The closing date for making written submissions to Council;
 - g) That the contents of written submissions may be included in reports; and
 - h) Plans (or details of how to access plans) relating to the development application including:
 - i) a site plan, to scale, showing the relationship of the proposed building to the property boundaries;
 - ii) details of any new buildings or additions to existing buildings by means of cross hatching;
 - iii) details of the levels of floors, ceilings and ridges in relation to the existing and finished levels of the site;
 - iv) details of the location of existing and proposed driveways, trees or other significant features; and
 - v) include any other information which, in the opinion of the responsible officer, is appropriate to the application.

Notification and advertising process for an amended development application not determined

- 1) An applicant may amend a development application at any time prior to the determination of the application. In these instances, the responsible Council officer will, if the original development application was subject to public notification or advertised, re-notify:
- a) Those persons previously notified of the original development application;
 - b) Those persons who made submissions in relation to the original development application; and
 - c) Any other owner or occupier who, in the opinion of the responsible Council officer, may be detrimentally affected by the amended development application, in terms of the matters listed in 4.4(5) of this section.

- 2) The exhibition period for an amended development application is a minimum of 14 days. Where the development application was originally notified and advertised, the amended application will be exhibited for a minimum of 14 days following the date the notice appears in a newspaper.
- 3) Council will charge a notification and/or advertising fee for an amended application requiring additional notification or advertising in a newspaper.

Notwithstanding clauses 4.4 (11), (12) and (13) of this section, an amended development application will not be further notified or advertised if, in the opinion of the responsible Council officer, the proposed amendment(s) to the development application is or are unlikely to prejudice:

- a) Any person(s) previously notified of the development application;
- b) Any person(s) who previously made a submission in respect of a development application.

Notification and advertising process for an application for modification of development consent

- 1) Council will notify or advertise an application to modify the development consent if the initial development application was subject to notification or advertising.

{**Note:** This includes an application made under S96AA of the *Environmental Planning and Assessment Act 1979* to modify a development consent that was granted by the Land and Environment Court. Such a modification application may be lodged either with the Court or the Council. This section only applies to those modification applications that are lodged with the Council.}

- 2) In those instances where the development application was originally notified, the application for modification shall be notified for a minimum of 14 days. Where the development application was originally advertised, the application for modification shall be exhibited for a minimum of 14 days following the date the notice appears in the newspaper.
- 3) Council will notify those persons who previously made submission(s) to the development application and any other affected persons who, in the opinion of the responsible Council officer, may be detrimentally affected by the application for modification, in terms of the matters listed in 4.4(5) of this section.

{**Note:** If the application for modification under Section 96AA of the Act has been submitted to Council for its consideration, then the Land and Environment Court is to be notified of the application. This is in accordance with Clause 119 of the Regulation as amended}.

- 4) Council will charge a notification or advertising fee in addition to the application fee for an application for modification of development consent.
- 5) Notwithstanding clauses (14), (15), (16) and (17) of this section, the application for modification will not be notified or advertised if, in the opinion of the responsible Council officer, having regard to the matters set out in clause 4.4(5) of this section, the proposed amendment(s) to the development consent, the subject of the application for modification, is or are unlikely to prejudice:
 - a) Any person(s) previously notified of the development application;
 - b) Any person(s) who previously made a submission in respect of the development application.

Request for Council to review its determination

- 1) An applicant may request Council to review its determination of a development application under Section 82A.

- 2) The request for Council to review its determination will not require notification or advertising if the development application, now the subject of the application of review, did not require notification or advertising, unless in the opinion of the responsible Council officer that is desirable having regard to the matters set out in clause 4.4(5) of this section.
- 3) If the development application that is now the subject of a Section 82A application for review originally required notification or advertising, Council will notify any person(s) who previously made a submission to the development application if, in the responsible Council officer's opinion, having regard to the matters set out in clause 4.4(5) of this section, the matter(s) that is or are the subject of the application for review is or are likely to prejudice any person who made a previous submission(s) in respect of the development application.
- 4) If no submission was made in relation to the development application that is now the subject of the application for review, Council may notify or advertise the Section 82A application for review if, in the opinion of the responsible Council officer, the Section 82A application for review:
 - a) Includes additional information or documents not submitted with the original application; or
 - b) Incorporates amendments to the proposal that was originally considered and determined by Council, which additional information, documents or amendments, in the opinion of the responsible Council officer may prejudice the owner or occupier of adjoining or neighbouring land having regard to the matters set out in clause 4.4(5) of this section.
- 5) During the notification and advertising process for a Section 82A application for review, Council will notify:
 - a) Those persons who previously made submission(s) to the development application; and
 - b) Any other affected persons who, in the opinion of the responsible Council officer, may be detrimentally affected by any additional information lodged with or any amendment made to the original development application in terms of the matters listed in 4.4(5) of this section.
- 6) The written notification and/or advertisement will state that Council has been requested to review its determination of the development application in accordance with Section 82A of the Act.
- 7) The minimum exhibition period is 14 days.
- 8) Council will charge a notification and/or advertising fee in addition to the fee requesting Council to review its determination under Section 82A of the Act.

4.5 Notification and Advertising Table

1) Table F4.1 indicates the form of notification and/or advertising undertaken for different types of land uses and development types.

Table F4.1: Public notification and advertising

Development Type	Letter of notification	Notice in Local Press <i>(subject to availability of press in locality)</i>	Exhibition Period	Section 101 Public Notice of Consent
Amusement centres	*	*	14 days	*
Buildings ¹	*	*	14 days	*
Child care centres	✓	*	14 days	*
Dual occupancies	✓	*	14 days	*
Earthworks ²	✓	*	14 days	*
Farm buildings ³	✓	*	14 days	*
Health consulting rooms	*	*	21 days	*
Heritage items ⁴	✓	✓	14 days	*
Home businesses/Home industries	✓	*	14 days	*
Hospitals	*	*	14 days	*
Hotel or motel accommodation	✓	✓	14 days	*
Multi Dwelling Housing	✓	✓	14 days	✓
Places of public worship	✓	*	14 days	*
Public administration buildings	✓	✓	14 days	*
Registered clubs	✓	✓	14 days	*
Residential flat buildings	✓	*	14 days	*

¹ Including additions and alterations to existing buildings, that has potential for privacy impact; is excessive in bulk or scale; or seeks to reduce front and side building setbacks.

² Means excavation or filling – may include dams.

³ Only where it involves variation to building setback requirements; or is less than 10m from the side boundaries property; or has potential for privacy impact.

⁴ Where development is for a permissible use with no demolition.

Development Type	Letter of notification	Notice in Local Press <i>(subject to availability of press in locality)</i>	Exhibition Period	Section 101 Public Notice of Consent
Schools	✓	*	14 days	*
Seniors housing	✓	✓	14 days	✓
Single dwellings ⁵	*	*	14 days	*
Subdivision of land (other than in release areas) and where the proposal includes: <ul style="list-style-type: none"> • Earthworks (excavation or filling) which may impact adjoining properties; • Seeks to create a 'battle-axe' allotment; • Seeks to vary from this DCP; • Accompanies an objection under Clause 4.6 in Penrith LEP 2010 to vary from a development standard; or • Includes the construction of a new road. 	✓	*	14 days	*
Tennis Courts with lights or external lighting to tennis courts	*	-	14 days	*
Advertised Development ⁶	✓	✓	14 or 30 days as provided for in section 79A of the Act or	✓

⁵ If there is a variation to building setbacks in a rural zoned property or there is a potential for privacy impact.

⁶ Refer to Appendix F1 for definition. Refer Division 7 of the Regulation regarding Public participation – other advertised development for form of notification and notification period.

Development Type	Letter of notification	Notice in Local Press <i>(subject to availability of press in locality)</i>	Exhibition Period	Section 101 Public Notice of Consent
			clause 89 of the Regulation	
Complying Development	✓	*	-	*
Crown Development	✓	✓	21 days	✓
Designated Development ⁷	✓	✓	30 days	✓
Integrated Development ⁸	✓	✓	14 or 30 days as provided for in the Act or Regulations	✓

Key

- ✓ **Essential**
- * **For consideration**
- **Not Applicable**

General notes relevant to Table F4.1

- 1) Section 101 of the Act applies to all Integrated, Designated and Complying Development and other development that has been advertised.
- 2) Notification and advertising for modification of consent does not apply if notification or advertising is not required under clause 4.4 (5) of this section of the DCP.
- 3) Where there is an inconsistency between Table F4.1 and any Environmental Planning Instrument (EPI) / DCP, the provisions of that EPI or DCP will prevail.
- 4) Table F4.1 is to be read in conjunction with the other information contained in this section of the DCP.
- 5) Notification to Resident and Community groups may be provided where Council is aware of existing Resident and Community groups in the area.
- 6) Local development that is not advertised development (refer to definition of 'advertised development' in Appendix F1), designated development or integrated development, will not require notification if, in the opinion of the responsible Council officer, the proposal will not detrimentally affect the amenity of persons who own or occupy adjoining or neighbouring land, in terms of the matters listed in 4.4(5) of this section.

⁷ Includes any type of integrated development that is also Designated Development. Refer clauses 78, 79 and 80 of the Regulation.

⁸ See Clause 89 of Regulation for form of notification and notification period.

- 7) Council will charge a consultation or advertising fee in addition to the application fee, in accordance with Council's Fees and Charges schedule.

4.6. Erection of site notices

- a) A site notice shall be erected on the development site for development applications for multi-dwelling housing and residential flat buildings. The site notice shall contain the same information as the notice appearing in the newspaper.
- b) A site notice shall be erected on the development site for development applications for designated development in accordance with the Act and Regulation. The site notice shall contain the same information as the notice appearing in the newspaper in accordance with the Act and Regulation.
- c) In the event that the site notice is accidentally removed or displaced prior to the finish of the exhibition period, the site notice is taken to have been erected in accordance with this section.

4.7. Submissions

Introduction

- 1) This section does not apply to a development application that does not require notification and/or advertising.

Form of submission

- 1) Submissions made in relation to a development application, including an application for modification of a development consent and an application for review made under Section 82A of the Act, must be:
 - a) In writing and addressed to the General Manager;
 - b) Clearly indicate the name and address of the person making the submission; and
 - c) Clearly indicate the grounds of objection.
- 2) Submissions may also be made electronically through the Development Application Tracking system.
- 3) Submissions must be lodged with Council by the conclusion of the notification or exhibition period.

Consideration of submissions

- 1) All submissions will be considered as part of the assessment of a development application including an application for modification of development consent and an application made under Section 82A of the Act.
- 2) Concerns raised in submissions to the development application may be forwarded to the applicant for their response or consideration. The names and addresses of objectors will not be disclosed to the applicant where the person/s who make the submission specifically requests that their names and addresses not be disclosed to the applicant.
- 3) Submissions may be summarised in assessment reports. The report may include names and addresses of those who made submissions.

Notification of determination

- 1) Council will, on determination of the development application (including an application for modification of the development consent), notify those persons who made a submission to the same, of Council's decision.

{Note: If Council determines an application for modification that was submitted under Section 96AA of the Act, the Land and Environmental Court shall be advised of Council's determination of such application}.

Determination of application for Council's review under Section 82A

- 1) In the event that Council overturns its original decision on a development application as a result of a review under Section 82A of the Act, the new determination will be advertised in the newspaper in the same manner as the grant of development consent was advertised under Section 101 of the Act.

Advertising the determination of certain proposals

- 1) Council will, in accordance with Section 101 of the Act, cause a notice to appear in the newspaper listing the development applications approved by Council in the following circumstances:
 - a) The development application was for the construction of multi dwelling housing; or
 - b) The development application was the subject of a significant level of submissions; or
 - c) The development application was approved at a Council meeting; or
 - d) Any other development application(s) at the discretion of the Development Services Manager.
- 2) Council will also advertise its decision, if Council has overturned its original decision to the development application as a result of a Section 82A review.