



**Ashfield
Council**

Ashfield Interim Development Assessment Policy 2013

Part C12

Public Notification in the Planning Process and all aspects of Land Management

Tel (02) 9716 1800 260 Liverpool Road Ashfield NSW 2131
Fax (02) 9716 1911 PO Box 1145 Ashfield NSW 1800

www.ashfield.nsw.gov.au

PART C12 - PUBLIC NOTIFICATION IN THE PLANNING PROCESS AND ALL ASPECTS OF LAND MANAGEMENT
--

CONTENTS

- Development Applications
- Development Control Plans
- Planning Proposals
- Strategies and Studies

SECTION 1 PRELIMINARY1

Introduction1

Objectives1

Definitions.....1

How to use this Part of Ashfield Interim Development Assessment Policy 20134

Relationship of Part C12 to other planning instruments4

SECTION 2 ENGAGING THE COMMUNITY IN THE NOTIFICATION PROCESS5

Pre-lodgement consultation with council and your neighbours5

Who will be notified?.....5

Development Applications.....5

Land Management Proposals6

Owners and Occupiers6

Adjoining Councils7

Contents of individual notification letters7

Other Land Management Proposals.....8

Notification in the print media8

On-site notices9

Time period for exhibition and receipt of submissions for development applications...9

Time period for exhibition & receipt of submissions for other land management proposals – planning proposals , development control plans, strategies, studies, reviews and policies.....10

Development applications where notification is not required.....10

Mediation11

Public meeting – major development applications11

Amended development applications.....11

Making a submission12

Procedures for speaking at council meetings.....12

Rescission motions and notices of motion12

Submissions become public documents.....13

Recognition for community groups and organisations.....13

SECTION 1 PRELIMINARY

Introduction

The Ashfield Local Environmental Plan (LEP 2013) is Council's main planning control for development in the Ashfield Council Local Government Area.

Part C12 of Ashfield Interim Development Assessment Policy 2013 supports the LEP by establishing procedures and consultation mechanisms for the notification of development applications and other land management proposals.

Part C12 of Ashfield Interim Development Assessment Policy 2013 applies to all land in the Ashfield Municipality.

It applies to all new development, existing buildings undergoing significant alteration/extension and certain changes of use.

Objectives

The objectives of Part C12 of Ashfield Interim Development Assessment Policy 2013 are:

- (a) To establish procedures for the notification of adjoining and nearby owners/occupiers of development applications and other land management proposals.
- (b) To ensure there is the opportunity for public comment on applications, strategies and proposals so as to ensure full participation in the DA and land management decision making process.
- (c) To specify circumstances where notification of development applications may not be required.
- (d) To establish procedures for the notification of Local Environmental Plan (LEP) Amendments, Interim Development Assessment Policy 2013 and Strategy proposals relating to land management.

Definitions

Definitions relating to this Policy

Development Application: *an application made under Section 78A of the Environmental Planning & Assessment Act*

Land Management Proposals: *includes documents such planning proposals, development control plans, amendments to the Ashfield Local Environmental Plan including major strategic reviews, studies, plans and policy initiatives dealing with land use planning issues.*

Demolition: *is the permanent removal of all or part of the fabric of a building, structure, work, relic, tree or place.*

Planning Proposal: an amendment to the planning provisions of Council's Local Environmental Plan to change the current zoning and/or development standards applying to specific site/parcel(s) of land within the Council area.

Major Development Application: A major development application is defined as any of the following:

- a) the erection of new multi-unit residential development (i.e. townhouses, residential flat buildings, dual-occupancies).
- b) a home industry, hospital, place of public worship, public building, boarding house, child-care centre, professional consulting room, open space or educational establishment within a Residential R2 or R3 zone.
- c) total demolition of a heritage listed item, or a building, work, relic, tree or place within a heritage conservation area.
- d) partial demolition of a heritage listed item, or a building, work, relic or place within a heritage conservation area where such work involves the removal of more than 50% of the original fabric of the item, building, work relic or place or the removal of any portion of the original fabric (except where re-tuckpointing or pointing of the original masonry is involved) of the front façade of the item, building, work or relic.
- e) total demolition of a non-heritage listed building other than outbuildings or where approval for a new replacement building has already been given.
- f) the use of a building or land referred to in the LEP 2013 (ie where an application is made to carry out prohibited use on the basis that an incentive is needed for heritage conservation).
- g) other development which, in the opinion of Council, may have a major impact on the surrounding amenity, heritage conservation or character, particularly major new commercial or public buildings.
- h) subdivision not involving minor boundary adjustments (refer Clause 11(d)).

Submission: in relation to this policy, means any written objection or any written statement of concern of or support for a specific aspect(s) of a development application or land management proposal.

Conservation Area and/or Heritage Item Development Application: a development application involving a property located within a heritage conservation area or an item listed in Council's local heritage register.

Minor Development Application: a development application which does not meet the criteria applicable to a 'major' application.

Adjacent properties: means properties which abut or are nearby a site that is the subject of a development application or application to rezone land whether or not they are separated from that site by a public road, railway line or canal.

'Designated' and 'Advertised' Development

This Part does not apply to “designated” and “advertised development”. The procedures for these development types are set out in the Environmental Planning and Assessment Regulations.

Designated development is defined in the Environmental Planning & Assessment Act, 1979, and is generally development types of major impacts and not likely in Ashfield. The Act sets out a separate public exhibition process for such development.

Advertised development comprises certain development types listed in the Environmental Planning and Assessment Regulation and are not typical in Ashfield.

How to use this Part of Ashfield Interim Development Assessment Policy 2013

Ashfield Interim Development Assessment Policy 2013 is a multi-layered document. The objectives and development standards of this Part of Ashfield Interim Development Assessment Policy 2013 cannot be read in isolation. A development application must consider all relevant Parts of Ashfield Interim Development Assessment Policy 2013.

Part A contains an index of the parts and sections in the Ashfield Interim Development Assessment Policy 2013 and guidelines on how to use the Policy; including the steps you need to follow before you prepare your development application.

Relationship of Part C12 to other planning documents

Please refer to the following documents:

- (a) Section 79C of the Environmental Planning and Assessment Act, 1979;
- (b) State Environmental Planning Policies;
- (c) Ashfield Local Environmental Plan 2013;
- (d) Ashfield Interim Development Assessment Policy 2013;
- (e) Section 94 Contribution Plans;
- (f) Ashfield Stormwater Management Code;
- (g) Policies, legislation or studies adopted or recognised by Council that are relevant to the application.

SECTION 2 ENGAGING THE COMMUNITY IN THE NOTIFICATION PROCESS

IMPORTANT NOTE: Certain residential development as specified in **State Environmental Planning Policy (Exempt and Complying Development Codes) 2008** and **Ashfield LEP 2013** may be carried out subject to meeting specific requirements without the need for development consent under Part 4 of the Environmental Planning and Assessment Act or for assessment under Part 5 of that Act. There is no requirement to notify neighbours about exempt development. For complying development there is also no requirement to notify neighbours prior to a complying development certificate being issued by Council or an accredited private certifier. Neighbours (within 20m) of the lot will be provided with a written notice by Council or accredited private certifier if a complying development certificate has been issued within two days of its issue. For more information please visit the Department of Planning (NSW Government) at :

<http://housingcode.planning.nsw.gov.au/AbouttheNSWHousingCode.aspx>

Pre-lodgement consultation with Council and your neighbours

- 2.1 Applicants are encouraged to discuss their proposals with Council and their neighbours prior to lodging their applications. In that way, the neighbours' concerns can be taken into account "up front" in the design process, and delays after lodgement can be minimised. Through such discussions and by visiting neighbouring properties, applicants can ascertain potential privacy problems, loss of views, or overshadowing issues, and the like, and "design-out" any adverse affect in the design process.

Council has a heritage advisory service available for a small fee to assist applicants of heritage-listed properties, or for residents and proposals in Conservation Areas. Council also has a Development Advisory Service, which meets weekly to review development proposals. If your development proposal is complex, eg. a residential flat building, or if it involves demolition, it is recommended that, early in the design process, you make an appointment with the Development Advisory Service to discuss the matter.

Who will be notified?**Development Applications**

- 2.2 Notice of an application will be sent to the person or persons who appear on Council's records to own or occupy property described as follows:
- a) Minor and Conservation Area/Heritage Item Development Applications
 - A minimum of two adjacent properties either side of the subject land on the same side of the principal street frontage of the subject land.
 - A minimum of five adjacent properties directly to the rear of the subject land.
 - A minimum of five adjacent properties directly opposite the principal street frontage of the subject land.
 - The occupier(s) of the premises that is the subject of the application.
 - b) Major Development Applications*

- A minimum of six adjacent properties either side of the subject land on the same side of the principal street frontage of the subject land.
- A minimum of eight adjacent properties directly to the rear of the subject land.
- A minimum of thirteen adjacent properties directly opposite the principal street frontage of the subject land.
- The occupier(s) of the premises that is the subject of the application.

* Where an application is deemed to have a streetscape impact (upper floor additions to buildings visible from the street, building works or structures located forward of existing front building line, major alterations to building facades, etc), a wider notification involving properties in the same street may be necessary depending on the extent of external impacts.

- c) Where the General Manager is of the view that a major development application is of such significance that the notification area needs to be determined by the Council, the application will be referred to the Council at the earliest opportunity for such determination. The Council will be requested to resolve the extent and type of notification required for a development application of this type.

Land Management Proposals

2.3 Notice of an application will be sent to the person or persons who appear on Council's records to own or occupy property described as follows:

- a) **Planning Proposal** (site-specific amendment to Council's Local Environmental Plan)
- A minimum of eight adjacent properties either side of the subject land on the same side of the principal street frontage of the subject land.
 - A minimum of seventeen adjacent properties directly to the rear of the subject land.
 - A minimum of seventeen adjacent properties directly opposite the principal street frontage of the subject land.
 - The occupier(s) of the premises that is the subject of the application.
- b) Development Control Plans, Local Environmental Plan Amendments (non-site specific), Strategies, Studies, Reviews and Policies
- To be determined by the Council based on the specific nature of the land management proposal.

Owners and Occupiers

2.4 Individual notifications will be forwarded to:

- a) occupant and non-occupant owners of property;
- b) where known to Council:
occupants of property where it appears they are tenants not owners;
- c) the owners corporation of a strata-titled residential building (in addition to owners and occupiers of individual units).

- d) recognised community groups which have requested such notification.

Adjoining Councils

2.5 For notification relating to sites on the border of a local government area, Council will notify the adjoining council and residents in the vicinity of the development site, where, in the opinion of Council, properties in that local government area may be affected by a development application or planning proposal.

2.6 Criteria for determining if wider notification is required

In order to decide whether wider notification is required for a development application or planning proposal, reference will be made to a range of criteria relating to amenity and the environment, including, but not limited to, the following issues:

- height, bulk and scale
- traffic generation and parking
- visual quality
- overshadowing
- privacy
- amenity and noise
- impact on streetscape
- affect on trees
- outlook and views
- heritage significance of a place
- social factors

Contents of individual notification letters

2.7 Development Applications and Planning Proposals

A notification letter will contain the following information:

- a) address of the development site and its local name (if applicable), including the names of the nearest cross streets;
- b) a map of the notification area (major development applications and planning proposals only);
- c) clear and comprehensive description in plain English (including the number of proposed units and number of storeys above ground level for all multi-unit developments) with the description translated into either Chinese or Italian for all major developments;
- d) an A4 copy of plans and streetscape elevations, to scale, which show the proposed development and adjacent buildings on either side of the property, where the proposed development impacts on the streetscape;

- e) a statement that the development application or planning proposal may be inspected at Council's office during office hours or at the Ashfield Library at weekends;
- f) a statement that any person may make written submissions to Council about the development application or planning proposal, including the grounds for any objection during a specified period;
- g) a statement that there may be a mediation meeting prior to the matter being determined, and any person making a submission will be advised of the date and place of such mediation meeting;
- h) a statement that any submissions received by Council will be publicly available;
- i) a statement that, if the matter is to be determined by Council, any person making a submission will be notified of the date of that Council meeting and invited to address the meeting;
- j) in the case of a development application, a statement that if no submissions are received the application may be determined under delegated authority;
- k) a statement that a head petitioner or first signatory to a petition will carry the responsibility of notifying other signatories of the progress and outcome of the processing of the application;
- l) a statement that a written submission may contain comments which express either concern or support for all or any particular aspects of a proposal under consideration by the Council.

All notification letters will be contained within a readily identifiable envelope which alerts the recipient to the nature and importance of the contents therein and which includes a translation of the statement in Chinese and Italian on the back of the envelope.

Other Land Management Proposals

- 2.8** Development Control Plans, Local Environmental Plan Amendments (non-site specific), Strategies, Studies, Reviews and Policies - The requirement for and specific contents of individual notification letters for such proposals will be determined by the Council based on the nature of the land management proposal.

Notification in the print media

- 2.9** A list of development applications and planning proposals received, where notification is required under this policy, will be published, generally on a weekly basis, in Council's regular column in a local newspaper. The publication will be timed to meet the next available newspaper deadline following receipt of the complete development application or, in relation to planning proposals, Council's decision to place the proposal on public exhibition. Development applications will be listed under suburb headings.

- 2.10** Descriptions used in these advertisements will be in simple terms, if applicable identifying the site by its usual name, and with sufficient detail for readers to understand the nature, scope, scale and value of the application or proposal.
- 2.11** For major development applications the decision to include sketches in the advertisement will be at the discretion of Council.
- 2.12** The Council may also use this column to advertise other Land Management Proposals.
- 2.13** A current copy of this advertisement will be displayed on all Council and community noticeboards.

On-site notices

- 2.14** For all major development applications, conservation area and/or heritage item development applications and planning proposals, a notice or notices will be exhibited on the land to which the development application relates.
- 2.15** The subject notice(s):
- a) will be displayed in the most prominent available location such that it/they can be easily read from a public place;
 - b) will be headed in capital letters and bold type “**DEVELOPMENT PROPOSAL**” and/or “**PLANNING PROPOSAL**”; and
 - c) will contain the following matters:
 - (i) a description of the type of development proposed;
 - (ii) notice that the development application or planning proposal may be inspected at Council’s office during office hours or at the Ashfield Library counter on weekends.
- 2.16** The initial placement of a notice(s) will be recorded on a photograph. Where Council is made aware that a notice(s) has been removed prior to the end of the exhibition period, it will endeavour to replace the notice as soon as possible.

Time period for exhibition and receipt of submissions for development applications

2.17 *Minor and Conservation Area/Heritage Item Development Applications*

Applications will be exhibited for 14 calendar days.

2.18 *Major Development Applications*

Applications and proposals will be exhibited for 21 calendar days.

2.19 *Receipt of submissions*

Submissions must be received by the last day of the exhibition period or other date specified in the notification letter.

2.20 *Late submissions*

Late submissions may not be able to be considered or assessed in the Council report.

2.21 *Christmas, New Year & Easter*

The days between Christmas Eve and New Years Day public holiday period (inclusive) and over the Easter public holiday period are not included in the calculation of the exhibition period.

Time period for exhibition and receipt of submissions for other land management proposals - planning proposals, development control plans, strategies, studies, reviews and policies.

2.23 The exhibition of such documents will be for a minimum period of 28 days.

2.24 Submissions must be received by the last day of the exhibition period or other date specified in the notification letter.

2.25 Late submissions may not be able to be considered or assessed in the Council report on the matter.

Development applications where notification is not required

2.26 The following development applications will not be notified, unless particular extraordinary circumstances warrant public notification:

- a) Signs which would have minimal impact on the amenity of a locality and/or traffic safety.
- b) Development applications where the proposed works will not be visible externally and there will be little or no impact on the amenity of a locality and/or traffic safety.
- c) Requests for amendment of consents in relation to technical conditions of consent.
- d) Land subdivision involving minor boundary adjustments and strata subdivision (except where SEPP 10 is applicable) of existing development where there is no physical change to a building or land, e.g. semi-detached cottages.
- e) Minor changes to a design which are required by Council where such changes are deemed to have no measurable effect upon adjoining properties.
- f) Changes of use where the proposed use will have no significant external impacts upon the amenity of the locality.
- g) Minor external works which are consistent with Council policies and planning provisions.

Mediation

- 2.27** Council has adopted a separate policy which sets out the procedures and requirements for mediation relating to development application matters. Copies are available from Council on request.
- 2.28** Council strongly encourages all parties who have expressed an interest in a development application matter to participate in this process.

Public meeting – major development applications

- 2.29** Where a major development application is of such significance, in terms of its impact upon the community, Council may, at its discretion, call a public meeting to discuss the application. The decision to hold such a meeting will be made by a meeting of full Council or a Committee of Council which has delegated authority to act on behalf of Council. Where such a meeting is called the Council shall determine the type of notification to be given and provide at least 14 days notice of the meeting to the public.

Amended development applications

- 2.30** This applies to:
- a) applications prior to Council determination;
 - b) modifications after Council determination (under Section 96 of the Act)
- 2.31** Where amendments are substantially different from a previously notified application, notification will again take place in accordance with this Plan. The notification will be to the same properties as those notified originally and to those persons who lodged a submission with respect to the original notification.
- 2.32** Re-notification will not be required if the proposed amendments do not increase the height, scale and bulk of the proposal, nor alter the character of the development or affect heritage significance, nor detrimentally prejudice the persons that responded to the original application.
- 2.33** Where the proposed amendments are considered to have the same or a lesser effect as that approved, then the responses to the original application will be taken into consideration and the application will not be re-notified.
- 2.34** Where amendments are received in response to submissions made to a previously notified application and are specifically aimed at addressing the concerns of those persons who have made a submission, re-notification will not be necessary where the proposed amendments have adequately addressed the concerns raised in the submissions.

Making a submission

- 2.34** Submissions are to be in writing and addressed to the General Manager.
Note: The consideration of a submission(s) is only one component in Council's overall determination of a matter.
- 2.35** Submissions must contain a name and address, and, preferably, contact telephone numbers. If possible, e-mail addresses and/or fax numbers of those who make the submission should also be included.
- 2.36** If no significant nor relevant submissions are made to an exhibited development application, then such application may be determined by the Director - Planning & Environment and/or the General Manager, under delegated authority (meaning that the elected Council may not make the final decision to either grant consent to or refuse the application).
- 2.37** All letters, including individually signed form letters, will be considered a separate response.
- 2.38** All those who responded to the exhibition of a development application or planning proposal will be advised in writing as to Council's decision on the matter. In relation to a petition, the Head Petitioner will be advised to notify all other signatories to the petition. A Head Petitioner will, unless notified otherwise, be the first person that signs the petition.
- 2.39** A summary of the number of submissions lodged with each development application is to be included as part of the Development and Building Status Report.

Procedures for speaking at council meetings

- 2.40** All residents and head petitioners (or first signatory on a petition where there is no head petitioner) who respond to a notification will be advised of the details of the Council or Committee meeting to which the application is referred. Every attempt will be made to do this before the weekend prior to the scheduled meeting. Notification may be either by letter, by facsimile, e-mail or by personal communication/contact.
- 2.41** Head petitioners or first signatories will be advised that they are responsible for notifying all other signatories or persons involved in the petition of the meeting time and date.
- 2.42** Where a person speaks as a representative of a recognised Community Group or Organisation, that person will retain the right to address Council as a resident raising further issues.

Rescission motions and notices of motion

- 2.43** Rescission motions and notices of motion by Council will be advised to those persons who made written submissions or addressed the Council on the matter.
- 2.44** Notification of further Council meetings may be either by letter, facsimile, e-mail or by personal communication/contact advising of the time, date and place of the meeting.

- 2.45** Procedures for addressing Council by those who made submissions will be in accordance with Council's Code of Meeting Practice.

Submissions become public documents

- 2.46** Unless extraordinary circumstances are advised to Council, persons making submissions are advised that the contents of submissions are available for public perusal.

Recognition for community groups and organisations

- 2.47** Any Community Group or non-profit Organisation may request that it be advised of development applications and land management proposals, either in regard to a particular area or purpose, or in general for all matters affecting its area of operation, and such request is not to be unreasonably declined.

END.