

## 1.4: AMENDMENT TO PLANNING PROCESSES GUIDELINES

<b>Proponent</b>	: City of Albany
<b>Business Entity Name</b>	: City of Albany
<b>Attachment</b>	: Amended Planning Processes Guidelines
<b>Responsible Officer(s)</b>	: E/Director Planning and Development Services (G Bride)

### IN BRIEF

- Consider amendment to Planning Processes Guidelines to provide further clarity to Councillors and the community relating to consultation and notification measures for development applications requiring assessment under the Residential Planning Codes.

### ITEM 1.4: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council ADOPTS the amended Planning Processes Guidelines as attached.

### ITEM 1.4: ALTERNATE MOTION BY COUNCILLOR J BOSTOCK

THAT Council **ADOPTS** the amended Planning Processes Guidelines as attached, subject to the following modifications:

*“Where an application involving the assessment of an element under the performance criteria of the R-Codes is made, such element shall be referred to adjacent landowners as per the consultation procedure stipulated within the Codes, except where in the opinion of the City of Albany’s Executive Director Planning and Development Services, the variation is not likely to impact on the amenity of adjoining landowners. For the purposes of clarity all applications under the performance criteria of the Codes for Boundary Setbacks, Retaining Walls, Street Setbacks, Overlooking, Overshadowing and Building Height are to be referred to adjacent landowners. Where a proposal complies with the R-Codes yet is likely to be publicly controversial or of great interest to the adjoining landowner/s in the opinion of the City of Albany’s Executive Director Planning and Development Services, a notification letter to surrounding landowners is to be sent explaining the proposed development and how the proposal complies with the Codes.*

*In relation to all applications to be determined by Council the above procedure will be applied except there will be a presumption of possible adverse impact and in all cases the adjacent landholders will be notified.”*

### ITEM 1.4: RESOLUTION (Amended Motion by Councillor J Bostock)

**MOVED: COUNCILLOR J BOSTOCK**  
**SECONDED: COUNCILLOR PAVER**

THAT the Amended Motion by Councillor J Bostock be **ADOPTED**.

**CARRIED 11-1**

**Councillor Reason:**

There are relatively few applications that must be determined by Council and these are often bigger and more complex and more likely to be controversial. It is expedient therefore to make an assumption of possible adverse impact thereby ensuring adequate notification whilst avoiding the need for subjective judgement.

**Officer Report (G Bride)**

The minor modification is workable and staff have no further comment in relation to the Alternate Motion.

**BACKGROUND**

1. In order to provide further clarity in relation to neighbour consultation and notification procedures for applications being assessed under the performance criteria of the Codes some minor amendments to Council's Planning Processes Guidelines are recommended.
2. All applications other than residential development are advertised in accordance with the consultation requirements identified within Council's Planning Scheme and the Planning Processes Guidelines.

**DISCUSSION**

3. Presently staff are delegated to assess development applications for Single Houses, Grouped Dwellings and Multiple Dwellings. Many of these applications involve an element that does not meet the acceptable criteria of the Codes, and in these situations the proponent provides an assessment against the performance criteria of the Codes. For applications under the performance criteria that involve boundary setbacks, retaining walls on boundaries, front setbacks, building height, overlooking (privacy) and overshadowing for example adjoining neighbours, as defined under the Codes, adjoining landowners are consulted. Depending on the concerns raised by the neighbour, the consultation may result in modifications to a design which is amenable to both parties.
4. Councillor David Bostock has requested that Council, and not staff under delegation, should make the decision as to when consultation occurs, in relation to Part 4.1 of the Codes which states:

*"In the case of a proposed development that:*

- (a) requires the exercise of discretion by the Council under the Codes or under an adopted Local Planning Guidelines; and*
- (b) may, in the opinion of the Council, adversely affect the amenity of an adjoining property, the provisions of 4.2 and 4.3 apply to provide for affected property owners to view and comment on the proposal."*

5. If Council were to support Councillor Bostock's position approximately 150 applications per year not presently considered by Council would need to be referred to Council to determine whether neighbouring landowners should be consulted. Approximately 98% of residential development applications requiring assessment under the performance criteria of the Codes relate to boundary and street setbacks, retaining walls, over height buildings, overlooking and overshadowing and are automatically referred to neighbours for comment as per the Codes (either by the proponent or the City), as such elements clearly have the potential to impact on the amenity of the adjoining landowner. In relation to over height buildings where there could be an impact on a view of significance, staff ensure that all landowners that may be impacted upon are consulted.
6. There may also be applications to assess elements such as storage areas or courtyards under the performance criteria. In staff's view such proposals are unlikely to affect the amenity of adjoining landowners. This was staff's position in relation to Item 1.1 considered by Council at its 15 March 2011 meeting (Grove Street West, Little Grove).
7. Where a development is compliant with the Codes, but due to the nature of the density or unit yield involved, is likely to be publicly controversial or of great interest to adjacent landowners, Council has the option to inform landowners of the compliant development. It would not be practical that neighbours are informed of all complying applications under the R-Codes as the vast majority of applications are Codes compliant and would number around 1200 applications per year.
8. Staff recommend that in certain instances where the assessing officer believes a compliant application is likely to be controversial or of great interest to adjacent landowners notification letters, (not consultation letters), be sent as per the Explanatory Guidelines of the Codes which states:

***"Informing Neighbours***

*A Council may inform neighbours where a development proposal complies with the Codes. Where a Council, **in the interests of informing the community**, decides to so inform, it should be **made clear that neighbour comments are not being sought** and that the proposal complies with the requirements of the Codes."*

9. It is therefore recommended that the following amendments be made to the Planning Processes Guidelines:
  - A. That the current process whereby staff refer applications made under the performance criteria to neighbours is reinforced within the Guidelines as follows;

*Where an application involving the assessment of an element under the performance criteria of the R-Codes is made, such element shall be referred to adjacent landowners as per the consultation procedure stipulated within the Codes, except where in the opinion of the City of Albany's Executive Director Planning and Development Services, the variation is not likely to impact on the amenity of adjoining landowners. For the purposes of clarity all applications under the performance criteria of the Codes for*

*Boundary Setbacks, Retaining Walls, Street Setbacks, Overlooking, Overshadowing and Building Height are to be referred to adjacent landowners.*

- B. That in relation to proposals that are compliant but have the potential to be publicly controversial or of great interest to adjoining landowners, the following is proposed;

*Where a proposal complies with the R-Codes yet is likely to be publicly controversial or of great interest to the adjoining landowner/s in the opinion of the City of Albany's Executive Director Planning and Development Services, a notification letter to surrounding landowners is to be sent explaining the proposed development and how the proposal complies with the Codes.*

#### **GOVERNMENT CONSULTATION**

10. Not applicable.

#### **PUBLIC CONSULTATION/ENGAGEMENT**

11. The intention of the modifications is to clarify the notification procedure relating to proposals to be assessed under the R-Codes.

#### **STATUTORY IMPLICATIONS**

12. The Planning Processes Guidelines is not an adopted town planning policy under the Scheme, however it provides supporting direction on the processing of planning applications and is linked with Council delegations to staff.

#### **STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

13. This item relates to the following elements from the Albany Insight – Beyond 2020 Corporate Plan:

*Priority Goals and Objectives*

*Goal 4: Governance.....The City of Albany will be an industry leader in good governance and service delivery.*

*Objective 4.3 The City of Albany will deliver excellent community services that meet the needs and interests of our diverse communities.*

*City of Albany Mission Statement*

*At the City of Albany we foster community involvement in decision making and encourage our people to meet the community's service expectations."*

#### **POLICY IMPLICATIONS**

14. There are no policy implications relating to this item.

**RISK IDENTIFICATION & MITIGATION**

15. The risk identification and categorisation relies on the City's Risk Management Framework.

Risk	Risk Analysis	Mitigation
<i>If amendments are not made there may be doubt/perception in the community and for Councillors that consultation practices as identified under the Codes are not being followed.</i>	<i>High</i>	<i>Formalising the process of notifying landowners for publicly controversial, but compliant proposals.</i>

**FINANCIAL IMPLICATIONS**

16. There are no financial implications relating to this item as any additional consultation measures will be undertaken using current resources.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

17. Council has the following options in relation to this item, which are:
- A. Require all applications, or a certain type of application, made under the performance criteria of the Codes to be referred to Council to determine whether consultation is required.
  - B. Support the changes as recommended by staff which reinforce and clarify existing consultation practices, and introduce a requirement to inform adjoining landowners of compliant applications.
18. If Option A is pursued there is likely to be an additional six week processing period to cater for the referral to a Council Meeting for those applications that are identified. To the best knowledge of the responsible officer no other Local Government in Western Australia requires such referral to Council to determine whether the amenity of neighbours is likely to be affected by an element that is intended to be assessed under the performance criteria. Approximately 98% of applications involving the consideration of an element under the performance criteria are either referred by the proponent or the City to adjoining landowners as a matter of course.

**SUMMARY CONCLUSION**

19. It is considered that the changes proposed to the Planning Processes Guidelines would reinforce the consultation practices identified in the Residential Design Codes and improve Council's process in relation to informing residents of compliant proposals.

<b>Land Description</b>	N/A
<b>Owner</b>	N/A
<b>Consulted References</b>	Residential Design Codes
<b>Previous Reference</b>	: OCM 19/10/2010 – Item 4.1 : OCM 15/2/2011 – Item 1.7
<b>Councillor Workstation</b>	N/A
<b>File Number (Name of Ward)</b>	STR047 (All Wards)