

# Hay Shire Council Policy



<b>Title of Policy</b>	Notification & Advertising Policy for Development Proposals	
<b>This applies to</b>	Hay Shire Local Government Area	
<b>Author</b>	Jack Terblanche	<b>Date Approved:</b> 22 <sup>nd</sup> March 2016
<b>Position of Author</b>	Director of Community Development	<b>Authorised by:</b> Council
<b>Legislation, Australian Standards, Code of Practice.</b>	<ul style="list-style-type: none"> <li>• <i>Local Government Act 1993</i></li> <li>• <i>Environmental Planning &amp; Assessment Act 1979</i></li> <li>• <i>Environmental Planning &amp; Assessment Regulation 2000</i></li> <li>• <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i></li> </ul>	
<b>Related Policies/Procedures</b>		
<b>Attachments</b>		
<b>Aim</b>	Outlines the process Council will undertake to notify the public of Development Applications it receives. It also specifies which development/s will be considered 'advertised development' for the purposes of the Act.	
<b>Version</b>	<b>Details</b>	<b>Date</b>
Version 1	Initial Issue	26 June 2007
Version 2	Updated	22 March 2016
<b>Superseded Policies</b>	Notification Policy on Development Proposals	
<b>The Policy</b>		

## OBJECTIVES

- To provide an opportunity for those who may be impacted by a development to comment on possible impacts.
- To provide clarity and consistency in the notification process.
- To outline the specific circumstances in which direct notification and/or advertising in the local paper will be undertaken.

## POLICY

### Prescriptive requirements

#### Means of notification

Notice of a development application shall be sent in the form of a mailed letter to the applicable property owners listed in Council's records. If the land is owned by more than one person, a written notice to one owner is considered to be notice to all the owners (as per clause 88(2)(c) of the Regulations), although where possible Council will notify all owners if it is aware of their address details in association with the property.

The notification letter is to contain the following information (clause 89 of Regulations):

- A description of the land (including the address) on which the development is proposed to be carried out.

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- The name of the applicant and the name of the consent authority.
- A description of the proposed development.
- A statement that the application and the documents accompanying that application may be inspected at Council's principal office for a period specified in the notice during Council's ordinary office hours.
- A statement that any notified person can make a submission during the notification period.
- The dates of the notification period.

During the period of public notification the development application and accompanying documents will also be available for inspection by anyone at Council's Office during normal business hours.

### Notification period

The default period of notification is fourteen (14) days inclusive of public holidays and weekends but where such holidays prevent access to the documents etc for a period of more than three (3) days, an extension to the exhibition period equivalent to the extended period beyond the three (3) days shall be provided.

Any applications which have a required notification period of fourteen (14) days or more which are lodged during the two (2) business weeks prior to Christmas shall have their notification period extended by fourteen (14) days to compensate for the holiday season.

Applications which have a notification period specified in the Table will be notified in accordance with the period shown in the Table, even if this period is less than fourteen (14) days.

### Who will be notified and when

The following table sets out the minimum notification requirements for different development applications, including who, at a minimum, will be notified of a proposed development. The Table sets out the minimum notification requirements which Council will adhere to. However, in certain circumstances Council may notify more widely than the minimum set out in the Table below if the potential impacts of a proposed development warrant wider direct notification. This will be at the discretion of Council officers. Some factors to be considered in determining whether wider notification is warranted include (but are not limited to) the following:

- The view to and from the adjoining land of a development.
- The potential impact of overshadowing on the adjoining land or such land as may be affected.
- The privacy of residents on adjoining land.
- The likelihood of adjoining land being detrimentally affected by noise, odour, traffic and parking and/or lights.
- The impact on the streetscape.

If the land is a lot within the means of the *Strata Schemes (Freehold Development) Act 1986*, written notice to the owners' corporation is considered to be a written notice to the owners of each lot within the strata scheme.

If the land is a lot within the meaning of the *Strata Schemes (Leasehold Development) Act 1986*, written notice to the lessor under the Leasehold Strata Scheme concerned and to the owners' corporation is taken to be a written notice to the owner or occupier of each lot within the Scheme.

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## Types of Development and their public notification requirements

It is important to note that the notification requirements for some types of development are legislated in detail and in these circumstances Council must follow the requirements of the legislation. These types of development are listed below but their notification requirements are not shown in complete detail as this is contained within the legislation and any relevant environmental planning instruments.

Where the Table below identifies a particular type of local development as requiring advertising in the paper, this development may be considered as identified by this Plan as 'advertised development' for the purposes of the *Environmental Planning and Assessment Regulations 2000*. As such the requirements for notification for 'other advertised development' contained in clauses 86-91 of the Regulations apply to such development. An additional fee (set by the Regulations) is also payable to Council for advertised development.

For development which is advertised in the paper the minimum advertising period begins the day the notification is first published in the paper. There is nothing to prevent the public notification period being longer than the minimum required if Council chooses to specify this for a particular development. Additional advertising fees apply to development that is required to be advertised.

**Table 1: Notification Periods**

Type of Development	Minimum Notification Requirement	Advertise in Paper	Additional Comments
<b>Legislative Requirements</b>			
Any development requiring approval under the <i>Heritage Act 1977</i> , <i>Water Management Act 2000</i> or <i>Protection of the Environment Operations Act 1997</i>	Adjoining owners Any public authority with a potential interest	Yes	Minimum advertising period 30 days (cl. 89 or Regulations)
Any development which involves a Species Impact Statement	Adjoining owners Any public authority with a potential interest	Yes	Minimum advertising period 30 days (cl.89 of Regulations)
Aquaculture	Adjoining owners Any public authority with a potential interest	Yes	See SEPP 62 – May require advertising for minimum 30 days
Designated Development	Adjoining owners Any public authority with a potential interest	Yes	Minimum advertising period of 30 days (s.79 of Act) Sign required on-site For other requirements see clauses 77-81 of Regulations
<b>Council Requirements</b>			
Subdivision of up to 20 lots	Adjoining owners Owners on opposite side of the street to proposed site	No	Wider notification will be considered depending on proposal and location of site (e.g. 19 lots in a small cul-de-sac may warrant notification of all properties in the street)

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Type of Development	Minimum Notification Requirement	Advertise in Paper	Additional Comments
Subdivision of more than 20 lots	All properties within 250 metres of the site	Yes	Wider notification will be considered depending on proposal and location of site
Any development with an estimated cost of \$5 million or more	All properties within 100 metres of the site	Yes	Wider notification will be considered depending on proposal and location of site
Residential flat buildings townhouse/villa developments (including seniors/disabled housing) of up to 10 dwellings	3 properties each side of the site on the same side of the street 3 properties to the rear 4 properties on the opposite side of the street	No	
Residential flat buildings townhouse/villa developments (including seniors/disabled housing) of more than 10 dwellings	6 properties each side of the site on the same side of the street 4 properties to the rear 6 properties on the opposite side of the street	Yes	Notification range may be varied if the circumstances of the site mean it is unnecessary to notify the minimum number of properties as impact from proposal is highly unlikely
Dwelling house, dual occupancy or secondary dwelling (granny flat) in Zone RU5	Only if the development is 900mm or less from the boundary.	No	If two storey may extend notification range depending on circumstances
Dwelling houses or dual occupancy in zone RU1 & RU4	Only if the development is 20m or less from the boundary.	No	
Local development in RU1 & RU4 zones other than rural dwelling houses, dual occupancies and subdivision	The adjoining 2 properties either side of the site along both sides of the road used to access the site (i.e. 4 altogether each side of the road).  Any other adjoining properties within 500 metres of the lot on which the development is taking place	No	Wider notification will be considered depending on the nature of the proposed development
Alterations and additions to dwelling houses less than 900m from the boundary	Directly adjoining properties only	No	
Sheds, garages, etc associated with dwellings less than 900mm from the boundary	Directly adjoining properties only	No	Notification period of 14 days.
Commercial, retail, industrial buildings and development up to 2000 m <sup>2</sup> gross floor area	Directly adjoining properties only	No	Wider notification will be considered if the site is not located in an industrial zone
Commercial, retail, industrial buildings and development over 2000 m <sup>2</sup> gross floor area	All properties within 250 metres of the site zone RU1 & RU4.  All properties within 100 metres of the site in zone RU5.	Yes	

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Type of Development	Minimum Notification Requirement	Advertise in Paper	Additional Comments
Change of Use in RY5, SP3 and IN1 zones	Adjoining properties including those on the opposite side of the street to the site	No	Notification period of 14 day. This may be extended if the Change of Use may have a significant impact on the amenity of the area (e.g. from trucks, traffic, hours of operation, etc)
Internal alterations only to any building where it does not involve a Change of Use	No notification	No	Internal alterations on floors above ground level in a residential area may be notified.
Child care centre (new only)	3 properties each side of the site on the same side of the street 3 properties to the rear 4 properties on the opposite side of the street	Yes	
Electricity generating works (primarily for general market consumption not offsetting for on-site buildings or research purposes)		Yes	May be Designated Development Wider notification may be considered depending on potential environmental impacts, especially visual impact
Extractive industries	All properties within 500 metres of the site	Yes	Wider notification may be considered depending on potential environmental impacts
Intensive agricultural developments	All properties within 1 kilometre of the site	Yes	May be Designated Development Wider notification may be considered depending on potential environmental impacts
Place of public worship (new only)	6 properties each side of the site on the same side of the street 6 properties to the rear 6 properties on the opposite side of the street	Yes	
Public art	Adjoining properties only	Yes	
Restricted premises	All premises within 200m of site	Yes	
Sex services premises	All properties within 200m of the site	Yes	
Home Occupation (sex services)	All properties within 200m of the site	Yes	
Any development on land accessed by a Right of Way	In addition to any requirements under other categories – all other land owners burdened or benefited by the Right of Way	Only if it falls under another category which requires it	

Type of Development	Minimum Notification Requirement	Advertise in Paper	Additional Comments
Section 82A Review	Same as original application	Same as original application	
Modifications: (s96(1)) (s96(1A)) (s96(2))	None Any objector to the original development (if any) Same as original application	No No Same as original application	Minimum notification period of 14 days Notification period the same as the original application
Any development not specifically mentioned in this table	Adjoining owners	Will be considered if the development will have a significant impact	Wider notification will be considered depending on the potential environmental impacts of the proposal

**Note:** Where a particular development may fall into more than one category in the table, the provisions with the greater notification requirements shall be used.

Where a proposed development is amended prior to determination Council will re-notify the proposal where it considers that the changes will affect the potential environmental impacts or impacts upon adjoining properties of the proposed development. In these circumstances Council will re-notify all those it originally notified of the proposal and any others who made a submission to the original development proposal.

Written objections made to the original proposal will still be considered by Council in its final determination of the development application even if the proposal has been amended and re-notified during the assessment process. However, if following the re-notification process an original objector notifies Council that they wish to withdraw their original objection, then the issues raised in the original objection will not be considered by Council in its final determination of the application.

#### **Notifying an application for modification of development consent (Section 96 of the NSW Environmental Planning and Assessment Act 1979)**

Council will notify an application to modify a development consent if, in the original assessment of the development application the development application was notified.

In those instances where the development application was originally notified, the application for modification shall be notified the same as the original notification.

Council will notify those persons who previously made submission/s to the development application and any other persons who, in the opinion of Council may be affected by the application for modification.

#### **Submissions**

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All submissions must be made in writing and submitted to Council prior to the close of business on the final day of the notification period.

Council will accept facsimiles signed by the person/s making the submission up to the close of business on the final day of the notification period. The original facsimile/s will be required not more than seven (7) days from the final day of the notification period.

E-mails will be accepted provided that they include a signature/s and are sent to Council's email [mail@hay.nsw.gov.au](mailto:mail@hay.nsw.gov.au) for formal registration.

Submissions must clearly state the relevant development application and the name and address of the person making the submission. To assist Council the submission should also quote the application number and provide a daytime telephone number. An email address will also assist Council in advising the person making the submission promptly once it is known it is to be considered at an upcoming Council meeting.

Council will formally acknowledge any submissions received.

### **Late Submissions**

If submissions are received following the closure of the notification/advertising period Council does not guarantee that such submissions will be considered in the determination of the application.

#### *Submissions may be made public*

If the relevant development application is reported to a Council meeting for a determination any submission/s received in relation to an application will be made public as an attachment of the report to Council. However, in such circumstances Council will endeavour not to disclose publicly any personal information which may be contained in the submission.

Any interested persons may view or obtain copies of submissions made in respect of a development application. However, such a person is not entitled to view or obtain a copy of any personal information which may be contained in any submission unless such permission is obtained through a formal process designed for this purpose.

Council reserves the right not to include a submission in a public report.

### **Request for Council to review its determination (Section 82A reviews)**

All applications made under Section 82A of the NSW *Environmental Planning and Assessment Act 1979*, for review of a determination of a development application will be notified in the same manner as the original application.

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