

Chapter A2

Advertising and Notification

Part A ► Introduction and Administration

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Chapter A2 ▶ Advertising and Notification

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A2.1 Introduction

This chapter establishes a communication process for Council, applicants and the community in regard to development applications and applications to modify development consents.

In particular, it sets down the advertising and notification requirements for applications for certain identified types of development.

A2.1.1 Land where this chapter applies

This chapter applies to all land within the Woollahra Municipality.

A2.1.2 Applications to which this chapter applies

This chapter applies to all development applications lodged with the Council except for development applications for State significant development and designated development or any other types of development applications that relate to “advertised development” under the *Environmental Planning and Assessment Act 1979* (EP&A Act).

This chapter also applies to:

- ▶ amendments to development applications to which this DCP applies under clause 55 of the *Environmental Planning and Assessment Regulation 2000* (Regulation) made prior to the determination of the applications; and
- ▶ applications made in accordance with section 96 of the EP&A Act to modify development consents for development applications to which this DCP applies.

A2.1.3 Objectives

The objectives of this chapter are:

- 01 To set out the policy for advertising and notification of development applications and for applications to modify development consents.
- 02 To provide opportunity for public involvement in the development application process.
- 03 To allow a reasonable time for inspection and the making of submissions about development applications, recognising the statutory period of 40 days under the EP&A Act after which an undetermined application is deemed to have been refused.
- 04 To increase public awareness of the development application process.
- 05 To provide a direct avenue of access to the development application process for people who wish to express comments about proposals to Council staff and Councillors.

- 06 To establish the rights of people to make submissions on development applications.
- 07 To clearly explain what information will be made available to the public.

A2.1.4 Relationship to other documents

The advertising and notification provisions of the EP&A Act and Regulation, the *Local Government Act 1993*, the *Heritage Act 1977*, any other State act applicable to Woollahra and any applicable State environmental planning policy, take precedence over this plan.

A2.1.5 Definitions for this chapter

For the purpose of this chapter, the following terms have the following definitions:

advertising	means the placement of a public notice in a newspaper circulating at least on a weekly basis in the locality. This can include a local newspaper or a newspaper that is circulated to the locality in which the site of the proposal is situated.
adjoining land	means land within the Woollahra Municipality that abuts an application site. Abutting land is land that shares a common boundary with the application site. Abutting land does not include land that is separated from the application site by a road, reserve, easement, drain, lane, pathway, driveway or similar feature.
application site	means the land to which an application relates.
neighbouring land	means any land, other than adjoining land, within the Woollahra Municipality the enjoyment of which the responsible Council officer considers may be detrimentally affected by the development proposal having regard to the criteria listed in Section A2.8.
responsible Council officer	means any one of or a combination of the Council officers who is or are responsible for the processing and assessment of a development application or an application to modify a development consent and the recommendation of a report regarding that application. The responsible Council officers can include the assessment officer, team leader, manager or director.
written submission	means a submission in writing in the form of a letter, report, facsimile transmission, petition, email or other like form.

A2.2 Advertising of development applications

A2.2.1 Requirement for advertising development applications

Subject to clause 2.2.2, Council must advertise a development application to which this chapter applies for public inspection before it determines that application.

Council must not determine a development application that has been advertised before the completion of the period for public inspection specified in the advertisement.

A2.2.2 Development applications that will not require advertising

Subject to clause A2.7, advertising will not be required for a development application to which this chapter applies where in the opinion of the responsible Council officer, the owners and occupiers of adjoining land and neighbouring land would not be detrimentally affected if the development proposal was carried out.

Subject to clause A2.7, advertising will not be required for a development application to which this chapter applies where insufficient information has been provided with the application to enable a proper assessment of that application under the provisions of the EP&A Act and the application is to be determined by refusal for that reason.

A2.2.3 Method of advertising

The advertising of a development application to which this chapter applies must occur in a newspaper that circulates at least once weekly in the area of the Woollahra Municipality.

For the purpose of fulfilling the requirement of this clause, the advertisement need only occur once in the newspaper during the period of public inspection.

A2.2.4 Contents of an advertisement

The advertisement must contain, but may not be limited to, the following information:

- a) the address of the application site, including where available the name of the building and the name of the business conducted from the building;
 - b) the application number;
 - c) a brief description of the development proposal;
 - d) the name of the Council and the Council's postal address;
 - e) the place where the application may be freely inspected;
 - f) the times of the day and the overall period during which the application may be inspected;
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- g) the period during which written submissions on the application may be lodged with the Council;
 - h) an invitation to make written submissions on the application during the public inspection period;
 - i) a statement to the effect that the name and address of any person making a written submission will be included in an assessment report relating to the application and that the report will be publicly accessible; and
 - j) a statement to the effect that:
 - the applicant of a development application, on request, will be advised of the terms of any written submission relating to that application and from where it has emanated; and
 - the applicant will be entitled to read and copy at the applicant's expense any written submission received.

A2.2.5 Period for public inspection

Subject to clause A2.6, an advertisement for a development application to which this chapter applies must specify a minimum period of 15 calendar days during which the application will be available for public inspection.

A2.2.6 Advertising of amendments to development applications made under clause 55 of the Regulation

Where an applicant makes an amendment to a development application to which this chapter applies prior to the application being determined, re-advertising will only occur where the responsible Council officer is of the opinion that the proposal as amended is not substantially the same as the original proposal.

When re-advertising does not occur, the assessment report on the application must include a statement of the reasons why re-advertising was not considered necessary.

A2.3 Notification of development applications

A2.3.1 Requirement for notification of development applications

Subject to clause 2.3.2, Council must provide notification of a development application to which this chapter applies before it determines that application.

Council must not determine a development application that is the subject of a notification before the completion of the period for public inspection specified in the notice.

A2.3.2 Development applications that will not require notification

Subject to clause A2.7, notification will not be required for a development application to which this chapter applies where in the opinion of the responsible Council officer, the owners and occupiers of adjoining land and neighbouring land (whether in or outside of the Woollahra Municipality) would not be detrimentally affected if the development proposal was carried out.

Subject to clause A2.7, notification will not be required for a development application to which this chapter applies where insufficient information has been provided with the application to enable a proper assessment of that application under the provisions of the EP&A Act and the application is to be determined by refusal for that reason.

A2.3.3 Methods of notification

Notification of a development application must occur by one or more of the following methods at Council's discretion:

- a) by letter; and/or
- b) by a brochure, a leaflet or similar notice; and
- c) by a site notice under clause 2.3.5.

A2.3.4 Notification by letter, brochure, leaflet or similar notice

2.3.4.1 Persons and authorities to be notified of a development application by letter, brochure, leaflet or similar notice

In circumstances where notification of a development application is required, that notification must be sent to:

- a) the owners of adjoining land;
- b) the owners of neighbouring land; and

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- c) any public authority that in the opinion of the responsible Council officer may have an interest in, or may be affected by, the development proposal.

If the adjoining land or neighbouring land is occupied by a strata title building within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold) Development Act 1986* or a community land development within the meaning of the *Community Land Development Act 1989* a notice must be forwarded to each owner in the strata title building or the community land development.

Details regarding the owners of adjoining land and neighbouring land are to be taken from the Council's records at the time the notice is produced, or from other sources as may be made available to the Council prior to the notice being produced.

Where the Council's records show that there are joint owners of land, notification need only be sent to one of the joint owners.

2.3.4.2 Contents of a letter, brochure, leaflet or similar notice

The letter, brochure, leaflet or similar notice required under clause 2.3.1 must contain, but may not be limited to, the following information:

- a) the address of the application site, including where available the name of the building and the name of the business conducted from the building;
- b) the application number;
- c) a brief description of the development proposal;
- d) the name of the Council and the Council's postal address;
- e) the place where the application may be freely inspected
- f) the times of the day and the overall period during which the application may be inspected;
- g) the period during which written submissions on the application may be lodged with the Council;
- h) an invitation to make written submissions on the application during the public inspection period;
- i) a statement to the effect that the supply of personal information is voluntary. If personal information is not provided, Council may be limited in dealing with a submission. Submissions, summaries of submissions, and/or names and addresses of people making submissions will be included in publicly available reports to Council or Committee meetings; and
- j) a statement to the effect that in accordance with section 18(1)(b) of the *Privacy and Personal Information Protection Act 1998* (NSW), you are advised that all submissions received by Council in relation to any matter will be placed on the appropriate Council file, may be available on our web site and may be disclosed to Councillors, Council officers, consultants to Council or members of the public. In accordance with the *Government Information (Public Access) Act 2009* (GIPA Act) Council is obliged to disclose inspection of its documents, including any submission you may make. Under the GIPA Act, people may also make an application for access to all submissions received.

A2.3.5 Development application site notice

Display of the site notice

In circumstances where notification, or re-notification, of an application to which this chapter applies is required, a site notice must:

- a) be exhibited on the land to which the development application relates;
- b) must be displayed on a signpost or board;
- c) must be clear and legible; and
- d) must be headed in capital letters and bold type “DEVELOPMENT PROPOSAL”.

Contents of the site notice

A site notice required by this clause must contain the following information:

- a) a statement indicating the nature of the application that has been lodged;
- b) the name of the applicant;
- c) the application number;
- d) a brief description of the development proposal;
- e) the name of the Council and the Council’s postal address;
- f) the place where the application may be freely inspected;
- g) the times of the day and the overall period during which the application may be inspected;
- h) a statement to the effect that the supply of personal information is voluntary. If personal information is not provided, Council may be limited in dealing with a submission. Submissions, summaries of submissions, and/or names and addresses of people making submissions will be included in publicly available reports to Council or Committee meetings; and
- i) a statement to the effect that in accordance with section 18(1)(b) of the *Privacy and Personal Information Protection Act 1998* (NSW), you are advised that all submissions received by Council in relation to any matter will be placed on the appropriate Council file, may be available on our web site and may be disclosed to Councillors, Council officers, consultants to Council or members of the public. Pursuant to section 12 of the *Local Government Act 1993* the Council is obliged to disclose inspection of its documents, including any submission you may make. People may also make application for access under the *Freedom of Information Act 1989*.

Form and location of the site notice

The site notice must, if practicable, be capable of being read from a public place.

The notice must be in the form provided by Council.

Responsibility for the preparation and erection of the site notice

Council is responsible for preparing the site notice and making the site notices available to the applicant prior to the commencement of the notification period.

The applicant is responsible for erecting the site notice and for ensuring that it is displayed during the notification period.

The applicant is responsible for removing the notice and returning it to Council after the notification period.

Statutory declaration by applicant as to compliance

The applicant must provide to Council, prior to determination of any application subject to notification under clause 2.3.5, a Statutory Declaration made under Part 4 of the *Oaths Act 1900* stating under oath, words to the effect that:

“In accordance with clause 2.3.5 of the Woollahra DCP 2014, the site notice was erected and maintained during the notification period under this DCP.”

OR

“In the event that the site notice was damaged, defaced or removed by a third party that the notice was removed on <insert date> and replaced on <insert date>.”

A2.3.6 Period for public inspection

Subject to clause A2.6, a letter, brochure, leaflet or similar notice and site notice for a development application to which this chapter applies must specify a minimum period of 15 calendar days during which the application will be available for public inspection.

A2.4 Notification of amendments to development applications made under clause 55 of the Regulation prior to determination

A2.4.1 Requirement for notification of amendments to a development application

Where an applicant makes an amendment to a development application to which this chapter applies prior to the application being determined, re-notification must occur:

- a) to those persons who made a written submission on the original development application, but only in the case where the responsible Council officer is of the opinion that those persons would be detrimentally affected by the amendment to the proposal if carried out; and
- b) to other persons who own adjoining or neighbouring land (including those persons to whom notice of the application was sent in accordance with clause 2.3.4.) who, in the opinion of the responsible Council officer, may be detrimentally affected by the amendment to the proposal if carried out; and
- c) to a public authority that was sent a notice in accordance with clause 2.3.4.1, but only in the case where the responsible Council officer is of the opinion that the public authority would have an interest in the amendment to the proposal, or would be detrimentally affected by the amendment to the proposal if carried out; or
- d) when the responsible Council officer is of the opinion that the proposal as amended is not substantially the same as the original proposal.

When re-notification does not occur, the assessment report on the application must include a statement of the reasons why re-notification was not considered necessary.

A2.4.2 Content of a re-notification letter, brochure, leaflet or similar notice

The content of any re-notification letter, brochure, leaflet or similar notice must contain the information listed in clause 2.3.4.2 and the following information:

- a) a statement to the effect that an amendment to the development application has been lodged;
- b) a brief description of the amendment to the development proposal;
- c) the new period during which the application as amended may be inspected; and
- d) the new period during which written submissions on the application as amended may be lodged with Council.

A2.4.3 Period for public inspection

Subject to clause A2.6, where re-notification is required, a letter, brochure, leaflet or similar notice for a development application to which this chapter applies must specify a minimum period of 15 calendar days during which the application as amended will be available for public inspection.

Notes:

Subject to the exceptions for notification and re-notification and the requirements for additional notification, this clause shall operate in circumstances where an amendment is made to a development application prior to the completion of the notification period.

Refer to clause A2.8 for the criteria used for forming an opinion whether the enjoyment of land may be detrimentally affected.

A2.5 Notification of applications to modify development consents under section 96 of the EP&A Act

A2.5.1 Requirement for the notification of applications to modify development consents

Where an applicant or any other person entitled to act on a development consent makes an application to the Council to modify a development consent in accordance with the provisions of section 96(1A) (modifications involving minimal environmental impact) and section 96(2) (other modifications) of the EP&A Act, notification must occur:

- a) to those persons who made a written submission on the original development application or on an amendment to the original development application before it was determined, but only in the case where the responsible Council officer is of the opinion that those persons would be detrimentally affected by the modification to the proposal if carried out; and
- b) to other persons who own adjoining or neighbouring land (including those persons to whom notice of the application was sent in accordance with clause 2.3.4.1) who, in the opinion of the responsible Council officer, may be detrimentally affected by the modification to the proposal if carried out; and
- c) to a public authority that was sent a notice in accordance with clause 2.3.4.1 but only in the case where the responsible Council officer is of the opinion that the public authority would have an interest in the modification to the proposal, or would be detrimentally affected by the modification to the proposal if carried out.

Note: Refer to clause A2.8 for the criteria used for forming an opinion whether the enjoyment of land may be detrimentally affected.

Notification need not occur for an application made in accordance with section 96(1) of the EP&A Act to modify a development consent in order to correct a minor error, misdescription or miscalculation.

When notification does not occur, the assessment report on the application must include a statement of the reasons why notification was not considered necessary. Note, unless specifically required under clause A2.9, the advertising regarding applications to modify development consents is not required.

A2.5.2 Content of a notification letter, brochure, leaflet or similar notice regarding an application to modify a development consent

The content of a notification letter, brochure, leaflet or similar notice regarding an application to modify a development consent must contain the information listed in clause 2.3.4.2 and the following information:

- a) a statement to the effect that an application to modify the development consent has been lodged; and
- b) a brief description of the modification sought to the development consent.

A2.5.3 Period for public inspection

Subject to clause A2.6, a letter, brochure, leaflet or similar notice for an application to modify a development application to which this chapter applies must specify a minimum period of 15 calendar days during which the application will be available for public inspection.

A2.6 Additional advertising and notification of a development application or an application to modify a development consent

The Council, any committee of Council, the General Manager or the responsible Council officer may direct that a development application or an application to modify a development consent be advertised and/or notified to any additional person, persons, group, organisation, authority or the like or that the application be made available for inspection and acceptance of submissions for an additional period or a period in excess of the minimum 15 calendar day period specified in this chapter as they may decide.

Where additional advertising and/or notification is required, the application shall not be determined until that advertising and/or notification has taken place, the period for public inspection of the application and lodgement of written submissions has lapsed and any written submissions have been considered.

A2.7 Advertising and notification of development applications and applications to modify development consents irrespective of the exceptions of this chapter

Notwithstanding the various exceptions to the carrying out of advertising and notification of development applications and applications to modify development consents mentioned in this chapter, Council, a committee of the Council, the General Manager or a responsible Council officer may direct that, having regard to the circumstances of the case and, in the interest of public participation, the advertising or notification or both of a development application or an application to modify a development application be carried out in accordance with the methods set down in this chapter.

A2.8 Forming an opinion on whether the enjoyment of land may be detrimentally affected

In forming an opinion on whether the enjoyment of land may be detrimentally affected by a development application, an amendment to a development application or an application to modify a development application, the responsible Council officer must take into consideration the following criteria:

- a) the views to and from the land;
- b) overshadowing;
- c) privacy;
- d) noise;
- e) the design and appearance of the proposal in relation to the streetscape;
- f) the scale and bulk of the proposed building or works;
- g) the siting of the proposed building or works, including changes to an existing building involving relocation of external walls and other elements that expand the building envelope;
- h) excavation, particularly excavation for the purpose of car parking areas, storage areas, plant rooms and voids;
- i) the structural integrity of common or party walls where demolition of floors, ceilings and internal walls is proposed;
- j) the heritage significance of the land and any building, work or feature on the land; and
- k) stormwater drainage.

The opinion formed by the responsible Council officer on whether the enjoyment of land may be detrimentally affected is not to be taken as an assessment of the merits of the development application.

Note: Land means an area of ground together with vegetation, landscaping and buildings erected on the land.

A2.9 Written submissions

A2.9.1 Making written submissions

A person may make one or more written submissions regarding a development application and an application to modify a development consent to which this chapter applies within the period during which the application is available for public inspection.

A written submission may be in the form of a letter, report, facsimile transmission, petition, email or other like form.

A written submission should state the reasons for objection to or support of an application.

A2.9.2 Council's acceptance and consideration of written submissions

Council will accept and consider all written submissions lodged to it during the public exhibition period for a development application, an amendment of a development application and an application to modify a development consent.

Council may, depending on the circumstances of the case, accept and consider written submissions that are lodged to it after the expiration of the period of public inspection and prior to completion of the assessment report by the responsible Council officer.

Council may decline to consider written submissions lodged after the assessment report is prepared by the responsible Council officer.

The terms of any written submission received by Council prior to the report on the development application or application to modify a development consent being prepared by the responsible Council officer are to be summarised in the report by the responsible Council officer.

Subject to the *Privacy and Personal Information Protection Act 1998*, the names and addresses of the persons making written submissions are to be indicated in the report.

This chapter does not bind the Council to adopt or support a submission in making its determination of a development application. Council's assessment of an application involves weighing all relevant considerations.

A2.9.3 Advice to applicant of written submissions

The applicant of a development application or an application to modify a development consent, on written request to Council, will be advised of the terms of any written submission and from where it has emanated. The applicant will be entitled to read and copy at the applicant's expense any written submission received.

Note: The availability of written submissions for view and copying by an applicant or any other member of the public is subject to the constraints under the *Privacy and Personal Information Protection Act 1998*.

A2.10 Costs of advertising and notifying development applications and applications to modify development consents

The applicant must pay to Council, the fee determined by the Council in accordance with its adopted fees and charges to cover the cost of advertising and notification.

A2.11 Notification of committee agendas and provision of reports

1. Council will endeavour to provide three days notice by either telephone or mail to the applicant of a development application or an application to modify a development consent and all those people that it is aware who have lodged a written submission regarding those applications of the date and time of the Council's committee meeting at which the application will be considered.
2. Where a written submission was made in the form of a petition, Council may only inform the person who lodged the petition on behalf of those people who signed the petition.
3. Those people informed in accordance with subclause 1, will also be advised that a copy of any report, including its annexures, prepared for the purpose of assessment and recommendation concerning the development application or application to modify a development consent will be provided upon request, at no charge, for collection at Council's offices.
4. The provision of a report in whole or in part does not apply where material is to remain confidential or privileged in accordance with Council's policy on such matters.
5. Failure to strictly comply with this clause will not render any determination of an application invalid.

A2.12 Notification of determination of development applications and applications to modify development consents

Council will give written notice of the determination of a development application and an application to modify a development consent to each person who made a written submission in relation to those applications.

Where a written submission was made in the form of a petition, Council may only give written notice to the person who lodged the petition on behalf of those people who signed the petition.

The notice will advise that a copy of any report, including its annexures, prepared for the purpose of assessment and recommendation concerning the development application or application to modify a development consent will be provided upon request, at no charge.

The provision of a report in whole or in part does not apply where the material is to remain confidential or privileged in accordance with Council's policy on such matters.