



Notification Policy

Approved by PUMA Board January 2016

1 INTRODUCTION

The Notification Policy (this Policy) applies to all Development Consent Applications (DCAs) in Samoa. This includes DCAs by individuals, applicants in the private sector, and government authorities. This Policy will ensure appropriate notification of land uses and/or developments that may adversely impact amenity is undertaken in accordance with Section 43 of the *Planning and Urban Management Act 2004* (the Act).

This Policy also offers guidance for government authorities, public and private developers, designers and property owners to understand the circumstances within which the Planning and Urban Management Agency (PUMA or the Agency) is likely to require notification of a DCA, and which applications will be required to be decided by the PUMA Board (the Board).

2 PURPOSE

The purpose of this Policy is to:

- provide an appropriate mechanism for communities that may be affected by amenity impacting DCAs, leading to the orderly and appropriate positioning of different land uses and development;
- ensure that DCAs of significance are given due weight in the assessment and notification processes, and decided upon by the appropriate body; and
- provide certainty as to the attribution of costs surrounding notification procedures.

3 OBJECTIVES

The objectives of this Policy are to:

- provide assistance to government authorities, public and private developers, designers and property owners to determine the likely notification requirements at the time of preparation of any DCA;
- ensure that DCAs with the potential to unreasonably cause detriment to the amenity of any person are appropriately notified to all those that could be affected;
- provide a clear and transparent process for deciding on the notification procedures for any DCA;
- encourage proponents of DCAs to consider the amenity of an area and how to minimise any amenity impacts associated with their proposal;
- ensure that DCAs of significance are decided upon by the Board with appropriate recommendations from assessing officers;
- assist assessing officers in ascertaining the need for notification within the development consent process;

- ensure that the Agency's resources are not being unnecessarily expended on notification procedures for DCAs that pose no threat of amenity impact to adjacent land users or localities more generally;
- identify, and expedite, applications that do not threaten amenity; and
- ensure that the proponent of any DCA covers all costs related to notification procedures.

4 DEVELOPMENT CONSENT TO BE DECIDED BY THE BOARD

Any DCAs submitted to PUMA that have the potential to cause significant amenity impact, community concern or are of national interest must be referred to the Board for a decision. Any DCA can be referred to the Board at the discretion of the Principal Sustainable Development Officer, ACEO PUMA, CEO MNRE or any member of the Board for any reason deemed appropriate.

Significant impacts that could lead to a DCA being referred to the Board include, but are not limited to:

- (a) whether there is the potential for a proposed use or development to directly or indirectly cause significant harm or damage to the safety, pleasantness or attractiveness of a place;
- (b) whether the location of the proposed use or the scale of the development is causing considerable concern within the community in which it is to be located;
- (c) there is a significant investment cost associated with a proposed use or development that will have a positive or negative economic impact on the nation; and/or
- (d) whether the proposal is of national interest.

Development assessment officers must seek the approval of the Principal Sustainable Development Officer or ACEO PUMA prior to referring an application to the Board for a decision.

5 DEVELOPMENT CONSENT NOTIFICATION REQUIREMENTS

All DCAs submitted to PUMA must be assessed for their potential to cause unnecessary material detriment to the amenity of any person or place. The decision guidelines for the assessment of the potential amenity concern are as follows:

- (a) whether the use or development will likely directly or indirectly cause further harm or damage to the pleasantness or attractiveness of a place;
- (b) the current surrounding land uses and whether the location of the proposed use or development would be in keeping with the expectations of the community;
- (c) whether the proposed use or development is of significance, either to the nation or to a constituency;
- (d) the scale of the proposed use or development; and
- (e) the investment cost associated with a proposed use or development.

If a DCA is considered to be a risk of having negative impact on a community, or be of significant community interest, due to any of the factors above then the DCA in question should undergo the procedures for notification as per Section 43 of the Act.

For any DCA submitted that consists of a capital investment of equal to or exceeding WST1,000,000, notification procedures must be undertaken as per the direction of the Board.

The appropriate justifications as to why a DCA was or was not deemed to require notification is to be included in the assessing officer's development assessment brief.

5.1 Notification Requirements

As soon as practicable after a DCA is made for consent to carry out development, the Agency shall:

- (a) Cause a notice of the application to be publicly notified in accordance with the regulations (or in the absence of regulations in accordance with this Policy).
- (b) Give written notice of the application in accordance with the regulations (or in the absence of regulations in accordance with this Policy) –
 - (i) to such persons as appear to the Agency to own or occupy the land adjoining the land to which the application relates, unless, in its opinion, such persons would not be detrimentally affected by the granting of development consent;
 - (ii) if practicable, to such other persons as appear to the Agency to own or occupy land the use or enjoyment of which, in its opinion, may be detrimentally affected if the development is carried out;
 - (iii) to such other persons as are required to be notified by a sustainable management plan or any regulations; that may apply to the land; and
 - (iv) to any other person that it considers may be detrimentally affected by the granting of development consent.
- (c) Notwithstanding subsection (a), where the Agency considers that the circumstances are appropriate, it may request that all or any of the notices be distributed by the applicant. When this is the case the applicant must provide a written and signed statement including the following information:
 - (i) the development consent application (DCA) reference number;
 - (ii) the name of the individual or business listed as the applicant;
 - (iii) a clear and concise description of the proposal;
 - (iv) the location of the proposal; and
 - (v) a list of the people notified, with dated signatures to prove receipt of the notice for the proposal in question.

The applicant is encouraged to use the “Statement of Delivery of Notice” template available from the Agency.

- (d) The Agency may require further notification procedures, such as publishing the notice in local media (such as the local newspaper), if it considers that an application is likely to be of interest or concern to the community.

5.2 Information required to be included in a notice

In the absence of any regulation stating otherwise, a written notice, provided by the Agency, must provide the following minimum information:

- (a) the development consent application (DCA) reference number;
- (b) the name of the individual or business listed as the applicant;
- (c) a clear and concise description of the proposal;
- (d) the location of the proposal;
- (e) the time within which a submission, objection or otherwise, can be made; and
- (f) adequate mailing information for where submissions may be sent.

Any notice of an application deemed to be of significant community interest to warrant being advertised in local media (such as the local newspaper) must, as a minimum, also contain all of the information listed above.

5.3 Extent of notification

In the absence of any regulation stating otherwise, notification must be made to any person reasonably believed to be justifiably at risk of material detriment as a result of the approval of the proposed development.

Where the potential for material detriment or significant community interest exists beyond the immediate vicinity of the site then it may be appropriate to require notification to be placed in local media (such as the local newspaper).

Where the potential amenity impact is unclear, it is the responsibility of the assessing officer to ensure that any persons that could justifiably be at risk of suffering material detriment are notified of the proposal.

Whilst the capital investment associated with a development is rarely directly related to the potential material detriment caused, any DCA submitted that consists of a capital investment of equal to or exceeding WST1,000,000 must undergo notification procedures in accordance with the direction of the Board.

Justifications for notification, or lack thereof, will be included in any development brief prepared by the Agency

6 ATTRIBUTION OF COSTS

As it is the applicant who is to gain from the granting of any proposed development consent and not the general population, it is fair and expected that the applicant bears any notification costs.

When notification is undertaken by the Agency on behalf of the applicant, the DCA must not be released until such time that the applicant has reimbursed any costs that are associated with the notification process.

The Agency will always act to minimise the applicant's costs associated with notification, whilst ensuring that the effectiveness of the notification procedures being undertaken are not compromised.

7. FAILURE TO UNDERTAKE DIRECTED NOTIFICATION PROCEDURES

Any failure by an applicant to undertake notification tasks as directed by the Agency will result in the subject DCA not being released. If it is realised after the release of the DCA that there was any falsification of notification documents or variations to the process committed during the assessment of the application, a Stop Order will be immediately issued until such time that notification can be undertaken and any raised amenity concerns are adequately addressed.

References:

Planning and Urban Management Act, 2004