CITY OF FREMANTLE
LOCAL PLANNING POLICY 2.8
FENCES POLICY

ADOPTION DATE: 22 October 2008
AMENDED: 4 September 2012, 16 December 2017 (Adopted by Council 13 December 2017)
AUTHORITY: LOCAL PLANNING SCHEME NO. 4

STATUTORY BACKGROUND

Under the provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations), the Deemed provisions contained in Schedule 2 of the Regulations are applicable to all local planning schemes, whether or not they are incorporated into the local planning scheme text. Accordingly, these provisions are applicable to the City of Fremantle Local Planning Scheme No. 4 (LPS4).

The Deemed Provisions of the Regulations requires the Local Government to consider a broad range of considerations and allows Council to impose conditions relating to these in dealing with an application for development approval. This includes but is not limited to the height, position, form and materials of fences.

Schedule A of LPS4 includes specific types of fences that are permitted development and therefore development approval from the City is not required.

Note: This policy does not attempt to interpret any of those matters considered under the Dividing Fences Act 1961 (the Act). Where there is a conflict between the Act and this policy, the Act shall prevail.

PURPOSE

The purpose of this policy is to provide development standards for fencing that requires development approval under the Deemed provisions and to exempt certain fencing from the need to seek development approval.

DEFINITIONS AND TERMS

The following terms are used in this policy and are defined as follows:

Prevailing Streetscape: Means the characteristics (front walls and fencing) of the 3 properties, where appropriate, adjoining either side of the subject site, fronting the same street and in the same street block.

In the case of a corner lot where the dwelling is orientated to the splay, the characteristics of the adjoining three
properties, where appropriate, facing both streets shall be considered.

Greater weight may be given to the characteristics of the two immediately adjoining properties on either side of the subject site fronting the same street(s).

For the purpose of this definition, properties separated by a street shall not be considered ‘adjoining’.

Subject site: Means the site or lot on which the development is proposed.

Visual Permeability: Means, in reference to a wall, gate, door or fence that the vertical surface has:

Continuous vertical or horizontal gaps of at least 50 mm width occupying not less than one half of its face in aggregate of the entire surface or where narrower than 50mm, occupying at least two thirds of the face in aggregate, as viewed directly from the street.

Visual Permeability Based on Size of Slats

<table>
<thead>
<tr>
<th>Slat Size</th>
<th>Gap Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Slats less than 50 mm wide</td>
<td>Gap size equal to or greater than twice the slat size</td>
</tr>
<tr>
<td>Slats 50 mm wide and greater</td>
<td>Gap size equal to or greater than slat size</td>
</tr>
</tbody>
</table>

OR

A surface offering equal or lesser obstruction to view.

All other terms used in this policy have the same meaning as defined in the Residential Design Codes (R-Codes) and LPS4.

APPLICATION

The provisions of this policy apply to all areas zoned or reserved under the Scheme area of LPS4, except where specific provisions relating to front fences are contained within a Local Area Planning Policy or equivalent (such as the Hilton Garden Suburb Precinct policy). In the event that there is a conflict between this policy, and a provision contained within a Local Area Planning Policy, the Local Area Planning Policy shall prevail.

Note: As at July 2017, those Local Area Planning Policies that include different provisions for fencing:

- **DGB4** – Mardie Street including the East of Edmund Street
- **DGF8** – Douglas Street Local Area Policy
POLICY

1. Requirements Applicable to All Fencing Excepting:
   - those properties on the Heritage List
   - those properties subject to a Local Area Planning Policy that includes provisions for fencing (such as the Hilton Garden Suburb Precinct policy).

1.1 Fences within the primary street setback area as viewed from the street, and side fences abutting public open space reserves shall be visually permeable above 1.0 metre within heritage areas and 1.2 metres in other areas to a maximum height of 1.8 metres, with piers not higher than 2.0 metres.

1.2 Fences within a secondary street setback area and outside of a primary street setback area may be solid to a maximum height of 1.8 metres.

1.3 Council may exercise discretion to vary the height of fences in the primary and/or secondary street setback area(s) where any of the following apply:
   a) the proposed fence height is consistent with the established pattern of fences within the streetscape
   b) minor variations are made necessary by virtue of the sloping topography of the site
   c) chain link, mesh, or garrison fences on a lot with non-residential land use and that are greater than 1.8 metres in height shall be permitted where in the opinion of Council, it is necessary to provide security to a commercial or industrial property, and are consistent with the established pattern of fences within the streetscape.

1.4 Council may permit solid fencing for a portion of the total length of the boundary within the primary street setback area, where surveillance between a habitable room window of the dwelling and the street and approach to the dwelling is available, and either of the following criteria is satisfied:
   a) where it is necessary to provide privacy screening where there is no alternative outdoor living area to the front setback
   b) where it is consistent with the prevailing streetscape.

2. Requirements for properties included on the Heritage List pursuant to Clause 8 of the Deemed provisions.
2.1 Fences within the primary and/or secondary street setback area(s) of places on the Heritage List shall be compatible with, and complimentary to, the heritage character of the listed place with respect to height, materials and heritage character.

2.2 Where a property is included on a Heritage List, Council may specify the type of building materials to be consistent with the heritage character of the place or area.

3. **Sightlines at Vehicle Access Points on Non-residential Land**

3.1 Where a fence is proposed on a lot containing wholly non-residential land use, abuts a vehicle access point, and is not of visually permeable construction, sight lines are to be provided in accordance with the relevant Australian Standards AS2890.2 (as amended).

4. **Vehicle and Pedestrian Access Gates**

4.1 Where a fence includes vehicle and/or pedestrian access gate(s), Council will only support such gates where they are designed and constructed so that they swing into subject site when opened or closed and are otherwise consistent with the relevant provisions of this policy.

5. **Side and Rear Boundary Fences and Screening Materials**

5.1 Council will not approve side and/or rear boundary fences greater than 1.8 metres in height, or screening material that projects more than 500 mm above the top of an approved fence unless the proposed fence/screening will not have any significant impact on adjoining properties by way of overshadowing, solar access, or loss of views.

5.2 Council will have particular regard to comments made by neighbouring owners / occupiers of adjoining properties where consultation is carried out, and will only consider the criteria in 5.1 to be met where it is satisfied that no significant adverse impacts on the amenity of the neighbouring property will occur.

6. **Consultation**

6.1 Adjoining property owners shall be consulted in accordance with Clause 64 of the *Deemed provisions* in any of the following circumstances:

   a) where discretion is sought for fences within the primary and/or secondary street setback area(s) in relation to the requirements of clause(s) 1.1 and/or 1.2 above

   b) where side and/or rear boundary fences exceed 1.8 metres in height

   c) where any form of privacy screening is to be attached to, and extend more than 500mm above a side and/or rear boundary fence.
6.2 Notwithstanding clause 6.1 above, consultation is not required where fencing/screening is on a side or rear boundary, AND the only affected adjacent lot(s) are zoned Industrial.

7. Development Permitted Without Development approval

7.1 Fences on or Abutting a Heritage Listed Property

Where a fence is within or on the boundary of a property included on the Heritage List pursuant to Clause 8 of the Deemed provisions, development approval is not required if it complies with ALL of the following:

a) The maximum height is 1.2 m where within 3 m of the boundary of any land depicted on the Scheme map as a local reserve for open space or land shown on the Metropolitan Region Scheme as a regional reserve for parks and recreation, and a maximum height of 1.8 m in all other cases.

b) The fence is not located within the primary or secondary street setback area.

c) The fence is in line with or behind the main wall of the heritage building when viewed from both the primary and secondary street.

d) The fence is freestanding and not attached to any existing structure, existing building or heritage feature.

e) In the case of development subject to the R-Codes (includes any development on a lot with a residential land use), the fence complies with the R-Codes, including the sight lines criteria of clause 5.2.5 (see Note 2 below).

f) The fence is not within or on the boundary of a lot containing a place that is entered in the Register of Heritage Places under the Heritage of Western Australia Act 1990, the subject of an order under the Heritage of Western Australia Act 1990, or the subject of a heritage agreement entered into under the Heritage of Western Australia Act 1990.

7.2 Fences Not on or Abutting Heritage Listed Properties

Where a fence is not within or on the boundary of a property included on the Heritage List pursuant to Clause 8 of the Deemed provisions, development approval is not required if it complies with ALL of the following:

a) All relevant requirements set out in the above clauses of this policy.

b) In the case of development subject to the R-Codes (includes any development on a lot with a residential land use), the fence complies with the sight lines criteria of clause 5.2.5 of the R-Codes (see Note 2 below).

c) In the case of non-residential development, the fence complies with the site lines criteria of the relevant Australian Standards.
For ease of reference, the following table is provided as a summary of this policy:

**Table 1: Development criteria for which development approval is not required**

<table>
<thead>
<tr>
<th>Location of Fence</th>
<th>Within or on the boundary of a property on the Heritage List</th>
<th>Within or on the boundary of a property within a Heritage Area</th>
<th>All other cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fence within primary street setback area</td>
<td>Approval required</td>
<td>Visually permeable above 1.0 m</td>
<td>Visually permeable above 1.2 m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1.8 m maximum height</td>
<td>1.8 m maximum height</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Compliant with this policy and the R-Codes</td>
<td>Compliant with this policy and the R-Codes</td>
</tr>
<tr>
<td>Fence within secondary street setback area, unless within the primary street setback area</td>
<td>Approval required</td>
<td>1.8 m maximum height</td>
<td>1.8 m maximum height</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Compliant with this policy and the R-Codes</td>
<td>Compliant with this policy and the R-Codes</td>
</tr>
<tr>
<td>Any other fence within 3 m of the boundary of any land depicted on the Scheme map as a local reserve for open space or land shown on the Metropolitan Region Scheme as a regional reserve for parks and recreation</td>
<td>1.2 m maximum height</td>
<td>1.2 m maximum height</td>
<td>1.2 m maximum height</td>
</tr>
<tr>
<td></td>
<td>Compliant with Cl. 7.1 above and the R-Codes</td>
<td>Compliant with this policy and the R-Codes</td>
<td>Compliant with this policy and the R-Codes</td>
</tr>
<tr>
<td>Any other fence</td>
<td>1.8 m maximum height</td>
<td>1.8 m maximum height</td>
<td>1.8 m maximum height</td>
</tr>
<tr>
<td></td>
<td>Compliant with Cl. 7.1 above and the R-Codes</td>
<td>Compliant with this policy and the R-Codes</td>
<td>Compliant with this policy and the R-Codes</td>
</tr>
</tbody>
</table>

*Fences exempt from requiring development approval under Schedule A of Local Planning Scheme No. 4 and shown here for ease of reference only

**Note 1:** For the above table, non-residential fences must comply with the Australian Standards AS2890.2 to qualify for exemption.

**Note 2:** The Deemed-to-comply requirements of Cl. 5.2.5: Sight lines of the R-Codes requires fences associated with residential development to be truncated, or reduced to no higher than 0.75 m above
natural ground level, within 1.5 metres of where a driveway or other vehicle access point meets a street boundary (includes right-of-ways, private streets, etc.) as shown in the figure below.

**Figure 1**: Locations of truncations or reduced fence height, adapted from Figure Series 9 of the R-Codes. Any portion of fence within the truncation area must be no taller than 750mm above natural ground level in order to be considered Deemed-to-comply.