



# CITY OF FREMANTLE

## LOCAL PLANNING POLICY 1.3

### Community Consultation on Planning Proposals

**ADOPTION DATE: 24 March 2021**

**AUTHORITY: PLANNING AND DEVELOPMENT (LOCAL PLANNING SCHEMES) REGULATIONS 2015; LOCAL PLANNING SCHEME NO. 4.**

### INTRODUCTION

The City of Fremantle takes a committed and proactive approach to community consultation and engagement. Its *Community Engagement Policy* outlines the broad principles and approaches that will be undertaken by the City when engaging with communities and stakeholders on general projects and proposals. The *Community Engagement Policy* notes that in cases where the City is legally required to consult with the community on planning proposals, the City shall rely on policies and processes adopted under the *Planning & Development Act 2005* and any associated regulations.

This policy outlines the community consultation to be undertaken for different types of statutory planning proposals, and the methods and duration of consultation periods for each. In doing so, it is acknowledged that consultation requirements for these planning proposals is controlled by legislation; this policy seeks to clarify application of these requirements and enhance them for the local Fremantle context, where discretion exists. It also recognises that whilst consultation provides an important input into planning decision making, this is in addition to technical assessment against the planning framework and objectives, not in place of it.

### OBJECTIVES

To provide a consistent and transparent approach to determining when and how community consultation is undertaken on planning proposals, balancing the need for the community to be informed of, and have reasonable input into planning proposals against the need to process these in an efficient manner within prescribed legal timeframes and parameters.

### SCOPE OF THE POLICY

This policy is applicable to planning proposals where they are administered (or partially administered) by the City of Fremantle:

- Planning scheme amendments;
- Structure plans;
- Local development plans (LDPs);
- Local planning policies (LPPs);
- Subdivisions; and
- Development applications, including those determined by a Development Assessment Panel (DAP).

Where the City is not the responsible authority for assessing the proposal, the policy may be used to inform the City's advice on consultation to the responsible authority.

## STATUTORY BACKGROUND

The *Planning and Development (Local Planning Schemes) Regulations 2015* ('the Regulations') allow local governments to adopt local planning policies for any matter that relates to the planning and development of the scheme area: this policy has been prepared under the Regulations.

The Regulations also define consultation requirements for scheme amendments, structure plans, local planning policies, local development plans and development applications. Some requirements are defined as minimums and others as maximums, variable only with the consent of the Western Australian Planning Commission (WAPC) and/or the Minister for Planning. The local planning scheme ('the Scheme') and the Residential Design Codes (or 'R-Codes' - a State Planning Policy adopted under the planning scheme) further define which development applications require consultation, with some automatically requiring this, some requiring only at the discretion of the City, and others not requiring consultation.

This policy cannot conflict with the provisions of the Regulations or the Scheme but can provide guidance where discretion exists: in the event of any inconsistency between the provisions of the policy and the Regulations or Scheme, the Regulations and Scheme prevail.

## POLICY

### 1. General Consultation Requirements & Process

#### 1.1. Consultation Matrix

The following matrix provides an overview of the City's consultation requirements for statutory planning proposals, combining the requirements of the Regulations with additional measures employed by the City.

Consultation Requirement	Development Application		Scheme Amendment				Structure Plan	LDP	Local Planning Policy
	Standard	Complex	Preliminary (3)	Basic	Standard	Complex			
<b>Time period</b> (calendar days)  Not including 'Excluded Holiday Period' days	14 days	28 days	28 days	Only when required by Minister for Planning	42 days	60 days	42 days	Min. 28 days	Min. 21 days
<b>Letter to owners and occupiers</b>	Yes, adjoining properties only	Yes, 200m radius	Yes, 200m radius		Yes, 200m radius (4)	Yes, 200m radius (4)	Yes, 200m radius	Yes, adjoining properties only	No
<b>Local newspaper notice</b>	No	Yes	No		Yes	Yes	Yes	No	Yes
<b>Sign on site</b>	No	Yes (2)	No		Yes (2) (4)	Yes (2) (4)	Yes (2)	Optional (2)	No
<b>My Say Freo website</b>	No	Yes	Yes		Yes	Yes	Yes	Yes	Yes
<b>Precinct group notification</b>	No	Yes	Yes		Yes	Yes	Yes	Yes	Yes
<b>'Talk to a planner' session</b>	No	Yes (1)	No		No	Yes	Yes	Optional	No
(1) Except where one of the two criteria which make the application 'complex' under Cl. 2.1 of this policy is (A)(iv)									
(2) To include an image of the proposal where applicable									
(3) Refer Cl. 3.1 of this policy as to when preliminary consultation is undertaken									
(4) Only for site-specific re-zonings									

For amendments to previously advertised planning proposals, the relevant manager may reduce or waive elements of the consultation process taking into account how recent the previous consultation was, the level of public interest when the proposal was originally advertised, and the extent and significance of the amendments being made. For amendments of a minor nature, consultation may be waived except, in relation to developments applications where the amendments introduce new discretions.

Where a proposal has been approved subject to later approval of details, the later details will not be notified for public comment unless required by the Scheme and/or a local planning policy.

### 1.2. Excluded holiday period days

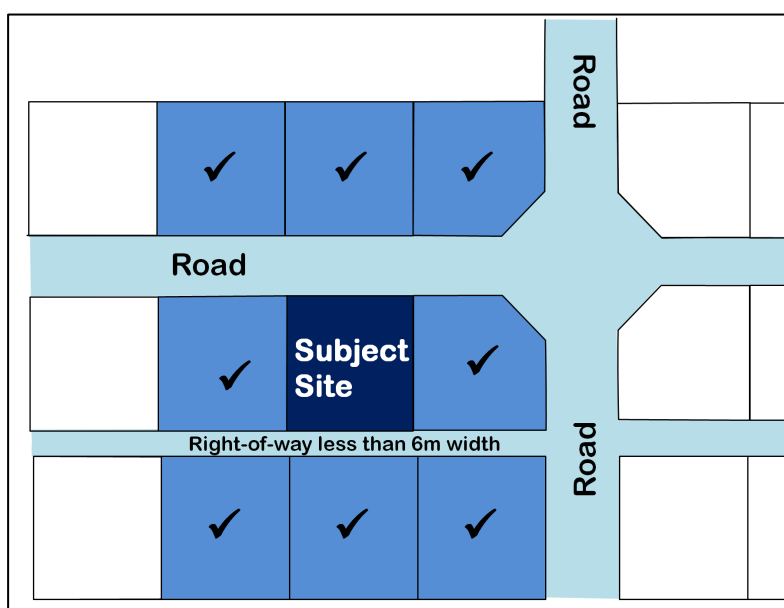
To provide additional time during Christmas and Easter holiday periods, the Regulations exclude the following from the total number of days a proposal is advertised for:

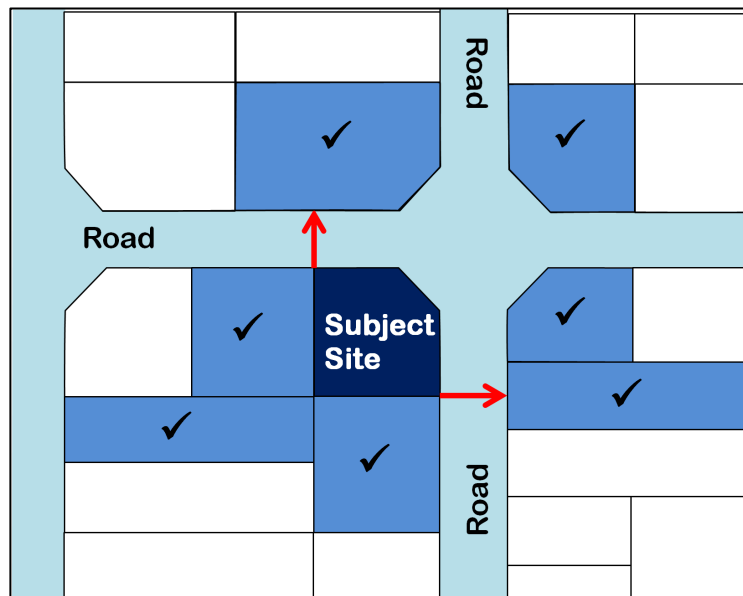
- (a) A period commencing on 25 December in a year and ending on the next 1 January; or
- (b) A period of 7 days commencing on Good Friday in a year.

Requests for extension to submissions periods in other circumstances will not be supported however staff will make every reasonable effort to make the decision-maker aware of any submissions received after the closure of the consultation period.

### 1.3. Definition of 'Adjoining Property'

Where a proposal requires consultation with 'adjoining property owner or occupiers', this will be deemed to apply to those properties which share any common boundary and including diagonally opposite, across the street or those separated by a right-of-way or access way less than 6.0m in width – refer illustrative examples below.





#### **1.4. Documentation for public viewing**

All plans and written information forming part of the planning proposal subject to consultation shall be made available for public viewing and access during the consultation period of that proposal; lodgement is taken as the applicant having given consent and having obtained any necessary third party consents to this.

Where proposals are displayed on the My Say Freo website, it will include electronic copies of the proposal, with hard copies available upon request for the duration of the consultation.

For proposals not displayed on the My Say Freo website, copies of plans and relevant documentation can be obtained via a written request to the City for the duration of the consultation.

#### **1.5. Opportunity for applicant to respond to submissions**

Applicants will be advised of a summary of concerns raised in submissions and provided with the opportunity to respond. This will exclude provision of personal details such as names and contact details.

#### **1.6. Notification to submitters – Committee and Council meeting agendas & decisions**

Where a proposal requires referral to Council, the applicant and all submitters will be notified in writing of the date at which the proposal will be listed on a Committee agenda. This letter will also provide information on relevant Ordinary Council meeting dates, in the event that the proposal is referred by Committee to full Council for determination.

Written notification of meeting dates will be mailed (via post or e-mail, utilising the correspondence address from which the submission was made) on the Friday prior to the scheduled meeting date, and also published on My Say Freo (where applicable).

The applicant and all submitters will be notified of Council's decision.

### **1.7. Reporting submissions to Council**

Officer reports to Council will include a summary of the issues/themes raised in the submissions received as part of the consultation process.

Full copies of submissions will be made available to Elected Members and decision-makers at their request but will not be available to members of the public unless required by law.

For scheme amendments and structure plans, a schedule of submissions (excluding the submitters personal details) will also to be included as an attachment to the Council report. A schedule of submissions may be prepared for other complex proposals involving a large number of submissions where this assists in summarising public feedback, at the discretion of the relevant manager.

## **2. Development applications and subdivisions**

### **2.1. When the City consults on development applications and subdivisions**

In addition to where prescribed under the Regulations and/or the Scheme, consultation will be carried out by the City prior to a decision being made where the application satisfies any of the following criteria:

<b>(A)</b>	Involves the complete demolition of a building where the building is located on a place that is:  (i) entered in the State Register of Heritage Places; (ii) the subject of a Heritage Order; (iii) included on the City of Fremantle Heritage List; or (iv) included in a Heritage Area designated under LPS4.
<b>(B)</b>	Involves a subdivision creating more than twenty (20) lots and the proposal has not previously been advertised as part of a scheme amendment, structure plan or local development plan.
<b>(C)</b>	Involves a significant exercise of discretion in terms of the Scheme, Residential Design Codes or local planning policy provisions.
<b>(D)</b>	Has significant strategic planning impacts in terms of the implementation of a strategic planning objective, the scale of the development, or is significantly different from the predominant and expected pattern of development within the locality.

### **2.2. Classification of development applications**

Where consultation is required on a development application, the duration and methods of consultation will be determined by its classification as either 'Complex' or 'Standard'.

### 'Complex' Development Application

A Complex Development Application is one which involves:

- a use of land where the use is not specifically referred to in the zoning table for this Scheme in respect of the zone in which the development is located; and/or
- development which meets at least two of the criteria listed in Clause 2.1 – i.e. (A), (B), (C); and/or
- development which meets criteria (D) listed in Clause 2.1.

### 'Standard' Development Application

A Standard Development Application is one which requires consultation under the Scheme or Regulations but which does not fall under the definition of 'Complex' Development Application.

## **2.3. Consultation under the R-Codes Volume 1**

Where a development application is subject to assessment against Volume 1 of the Residential Design Codes (R-Codes) and involves assessment of an element/s against the Design Principles (i.e. a discretionary decision or a 'variation' to the 'deemed to comply' provisions), the R-Codes state that consultation should occur only where the variation is considered by the City to have potential to impact the amenity on adjoining properties or the street, and should be directed at those adjoining owners and occupiers likely to be affected.

The following provides direction on when and with whom consultation under the R-Codes will occur for some common situations:

<b>R-Code or Local Planning Policy Variation</b>	<b>Consultation Requirement</b>
Street setback, street fences, vehicle sightlines	All adjoining properties aside from those to the rear of the subject site.
Lot boundary setback and boundary walls	Properties located directly adjacent to the proposed setback variation.
Visual privacy	Properties located within the 'cone of vision' of the major opening or active habitable space.
Site works/retaining walls	Properties located directly adjacent to the proposed changes to ground levels will be consulted, unless the extent of the variation requires wider consultation as determined by the relevant manager
Solar access (Overshadowing)	Properties directly impacted by the proposed shadow.
Internal amenity or layout (e.g. open space, outdoor living area, street surveillance, storm water management)	Consultation for the variation will only be undertaken at the discretion of the relevant manager
Dividing fences outside the street setback area	Properties located directly adjacent to the proposed fence.

Where in doubt of whether consultation is required, the City will err on the side of caution and undertake consultation. Where in doubt of which adjoining properties are likely to be affected, the City will consult with adjoining property owners and occupiers as defined in Clause 1.3.

#### **2.3.1. Exemptions to consultation on specific R-Code (Volume 1) variations – Neighbour sign-off**

The City may waive the consultation requirements for development applications involving the exercise of discretion under Volume 1 of the Residential Design Codes (or a local planning policy which replaces its provisions) in cases where the affected neighbour/s explicit sign-off is obtained for the proposed development. This must include:

- A copy of the development plans including certification by the owners and occupiers of the affected adjoining properties clearly stating that they have no objections to the proposal and the specific R-Code or local planning policy discrepancies.
- Signatures of all persons shown as owners on the Certificate of Title.
- The certification must include:
  - The full name of the owner(s) or occupier(s) certifying non-objection clearly printed, with a signature;
  - A printed statement indicating no objection to the variations/discrepancies being sought, individually listing these; and
  - A printed contact address (postal or e-mail) and a contact telephone number.

Where these conditions are not met, the City will undertake its own consultation.

Notwithstanding neighbour sign off, the City must still undertake a technical assessment of the merits of the proposal.

#### **2.4. Consultation on applications subject to assessment under the R-Codes Volume 2 - Apartments**

In addition to consultation otherwise required under the Scheme or Regulations, the City will consult adjoining property owners and occupiers to proposals involving assessment against Volume 2 of the R-Codes where these propose:

- A variation to a local planning area standard listed in Schedule 7 of the Scheme; and/or
- A variation to the 'acceptable outcomes' of the R-Codes Volume 2 (or any replacement policy) which in the opinion of the City is considered to have potential to have a significant impact upon their amenity.

### **3. Scheme Amendments**

#### **3.1. Preliminary community consultation on scheme amendments**

Prior to formally initiating a 'Complex' scheme amendment, Council may opt to undertake preliminary community engagement where:

- The amendment is location-specific i.e. relating to a particular site(s); and
- It has the potential to result in significant physical or land use changes to a locality; or
- Council has reservations regarding the merit of the proposal.

Council will consider comments received in response to preliminary community engagement before deciding whether or not to initiate the scheme amendment.

#### **Review information and related documentation**

**Reviewing officer:** Manager Strategic Planning

**Policy adopted:** 28 May 2008

**Policy amended:** 25 May 2011, 26 June 2013, 14 May 2016, 2 September 2017, 24 March 2021

**Legislation:** Planning and Development (Local Planning Schemes) Regulations 2015; Planning and Development Act 2005

**Delegations:** NA

**Related documents:** NA

**Next review date:** Plus 5 years