



**CITY OF FREMANTLE  
LOCAL PLANNING POLICY LPP 1.8**

**NEIGHBOUR MEDIATION**

**ADOPTION DATE: 27 JULY 2011**

**AUTHORITY: LOCAL PLANNING SCHEME NO. 4**

**BACKGROUND**

1. The Council encourages neighbours to resolve issues of dispute between themselves in a constructive and neighbourly way. Council also wishes to ensure that the planning and building approvals and compliance regime is not used in such a manner as to aggravate tension between neighbours.
2. The Council has a statutory obligation to uphold the requirements of the Local Planning Scheme, and to deal with applications and compliance matters effectively and efficiently. These obligations need to be balanced against the fact that statutory decision making is not always the most appropriate way to resolve issues between neighbours, and in many cases it is preferable that neighbours develop their own solutions to local issues as opposed to one imposed by a planning authority.
3. The purpose of this policy is to outline circumstances where it may be appropriate for Council to defer the consideration of a minor planning related matter and invite neighbours to attend mediation conducted by a qualified professional mediator at the cost of the City.

**POLICY**

1. The Council may determine in a particular case that a planning issue that has arisen, either as a result of a planning application or a compliance issue, is causing a dispute between neighbours, the planning application and/or compliance action may be deferred for a period of a maximum of up to 2 months to enable the parties to attend mediation.
2. Council will meet the costs of up to 3 mediation sessions conducted by a professional mediator appointed by the City during the deferral period where these sessions are agreed to and attended by all parties.
3. The Council will not meet the costs of mediation where the matter falls outside of the statutory jurisdiction of the City.
4. This policy is intended for smaller scale proposals such as (but not limited to):
  - a) privacy screens;
  - b) fences;

- c) ancillary lightweight structures (e.g. patios and pergolas);
- d) external fixtures (e.g. antennae, aerials, air conditioning units, solar panels, water tanks, flag poles);
- e) minor encroachments and extensions;
- f) outbuildings;
- g) trees and vegetation;
- h) home business; and
- i) amenity issues

where no more than 2 adjoining neighbours (in addition to the applicant) are involved.

5. In determining whether mediation is necessary the Council shall take into consideration the (personal – non planning) nature of the issues raised by neighbours and any history of planning applications or compliance issues on the respective sites, and whether there are reasonable planning arguments on both sides (i.e. where the planning merits of the case for either approval or refusal could both reasonably be argued).
6. The Council will not defer for mediation any application which;
  - a) Involves significant development on a particular lot. Significant development refers to development which is not small scale as generally defined in 4 above (e.g. a new single house or substantial building alterations/additions are considered to be significant development); or
  - b) Involves planning issues which impact on the broader community;
7. Council cannot compel neighbours to participate in mediation. If after Council has formally invited neighbours to attend mediation and one or more neighbours do not wish to attend, the matter will be referred back to the next appropriate Council/Committee meeting for determination based on planning merits.
8. Where mediation has occurred, the matter will be referred back to Council for determination in accordance with normal planning requirements. The Council report will summarise the outcome of the mediation sessions.
9. Where mediation has occurred, this does not affect the ability of an infringement to be issued or other legal action to occur in accordance with *LPP 1.5 Planning, Building and Environmental Health Compliance*. Where mediation is proposed, regard is to be given to the statutory time frames associated with infringements and legal action.
10. Where mediation has previously occurred, unless the current matter is significantly different to the previously mediated matter, further mediation will not be offered.