



Local Planning Policy 1.1

Planning Refunds,
Amendments, and
Community Consultation

Planning Refunds, Amendments, and Community Consultation

Citation

This is a Local Planning Policy prepared under Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015. This policy may be cited as Local Planning Policy 1.1 – Planning Refunds, Amendments, and Community Consultation (LPP 1.1).

Introduction

The purpose of this policy is to set out various administrative and assessment procedures relating to planning and development, specifically in regard to:

- Refunding and waiving/reducing planning fees;
- Amendments and extensions to the term of planning approval; and
- Public notification of planning proposals.

Objectives

- Part 1 outlines the circumstances where the City will waive or reduce development application fees.
- Part 2 provides guidance on assessment of development applications for amendments and extensions of time.
- Part 3 provides 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.

Application of this policy

Part 1 applies to all local government development (planning) application fees charged in accordance with the *Planning and Development Regulations 2009*.

Parts 2 and 3 apply to all development proposals administered or partially administered by the City. Where the City is not the responsible authority for assessing the proposal, the policy may be used to inform the City's advice to the responsible authority.

Policy provisions

PART 1 – REFUNDING AND WAIVING OR REDUCING FEES

1.1. The City does not consider financial hardship, personal or family circumstances to be grounds for the waiving or reduction of planning fees.

Waiving of Planning Fees

1.2. Planning fees will not be waived under any circumstances except by a resolution of the Council.

Reduction of Planning Fees

1.3. An application for a reduction in planning fees by 50% may be approved under the following circumstances:

- a) Where the development is of less than \$50,000 in value and the application is, in the opinion of the Manager Development Approvals, similar to a previous application determined during the preceding year to the point where previous assessment work can significantly contribute to the assessment of the new application;
- b) Where the applicant is a 'not for profit' organisation and has obtained an income tax exemption status from the Australian Taxation Office; or
- c) Where the application is for a home occupation only under the Federal Government's Self-Employment Assistance scheme.

Where an application for a fee reduction is made under (b) or (c) above, the applicant will be required to provide sufficient proof at the time of submitting the request.

Refund of Planning Fees

1.4. The City will consider a written request for the refund of planning fees where the application is withdrawn prior to a determination being issued only in the following circumstances:

- a) Where, in the opinion of the Manager Development Approvals, no assessment work has been undertaken by the City and the application is subsequently withdrawn in writing within seven (7) business days of the date of application, 90% of application fee may be refunded.
- b) Where assessment work has commenced by the City a refund of 50% of the application fee may be approved where:
 - (i) The application has not been advertised; and
 - (ii) The application is withdrawn in writing by the applicant within 21 days of lodgement of the application.

Costs and Expenses

1.5. The City will not waive or reduce any costs or expenses that may be charged to a applicant where these are incurred through the provision of a service under Regulation 49 of the *Planning and Development Regulations 2009* regardless of whether a reduced application fee under 3(a), (b) or (c) has been approved.

Variations to Planning Approvals

1.6. A reduction in fees shall not apply to applications to vary a planning approval which has already been granted unless the need for such an application is solely attributable to a previous administrative error in which case no fee will be charged.

Unauthorised Existing Development

1.7. The reduction or refund of planning fees will not under any circumstances apply to applications made under Schedule 2, Part 9, clause 65 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, where a use or development has already been commenced or carried out unlawfully and the purpose of the application is to render that use or development lawful under the Scheme.

PART 2 – AMENDMENTS AND EXTENSIONS OF TIME

Term of Approval

- 2.1 The local government will specify a period of 4 years in which a development must be substantially commenced, but may specify a lesser period of up to 2 years having regard to the following factors:
- a) Whether the approval required significant exercise of discretion under the Scheme;
 - b) Whether there is a reasonable prospect of a material change occurring in the physical considerations relevant to determination of the application that provide grounds to consider the application may be determined differently in the future; and
 - c) Whether a material change to the statutory or policy provisions relevant to determination of an application is under active consideration and that may mean the application may be determined differently in the future.

Amendment of an Approval

- 2.2 In determining an amendment to a planning approval, the local government will consider whether the nature and extent of the proposed amendment is such that the use or development the subject of the planning approval:
- a) remains, in substance, the same; or
 - b) is changed so a new and different use or development is proposed.
- 2.3 If the nature and extent of the proposed amendments is such that there is a new and different use or development to that which was the subject of the planning approval, the local government may refuse to allow amendment of the planning approval.
- 2.4 If an application to amend planning approval is refused, nothing in this policy shall preclude the Applicant from making, and the local government from determining, a new application for planning approval for the use or development the subject of the amendment application.

Extension of the Term of Approval

- 2.5 In considering a request for an extension to the term of a planning approval, a period of up to a further two years may be granted subject to the City having regard to the balance of the following factors:
- a) whether the planning framework has changed substantially since the development approval was granted;
 - b) whether the development would likely receive approval now;
 - c) whether the applicant has actively and relatively conscientiously pursued the implementation of the development approval; and
 - d) whether a material change has occurred to either the site to which the planning approval relates or the surrounding locality since the planning approval was granted that would alter the decision or any condition of approval.

PART 3 – PUBLIC NOTIFICATION OF PLANNING PROPOSALS

The City acknowledges that consultation provides an important input into planning decision making, however, this is in addition to a technical assessment against the planning framework and objectives, not in place of it.

Consultation Matrix

3.1 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 beyond the minimum below may be undertaken at the discretion of the relevant manager and in accordance with the Regulations.

Consultation Requirement	Development Application		Scheme Amendment				Structure Plan	LDP	Local Planning Policy
	Standard	Complex	Preliminary	Basic	Standard	Complex			
Calendar Days	14	28	28	Only when required by Minister	42	60	42	Min. 14	Min. 21
Letters to adjoining owners/occupiers	Yes	Yes	Yes		Yes ²	Yes ²	Yes	Yes	No
Letters to 200m radius	No	Yes	Yes ²		Yes ²	Yes ²	Yes	No	No
Local Newspaper Notice	No	Optional	No		Optional	Optional	Optional	Optional	Optional
Sign on Site	No	Yes	No		Yes ²	Yes ²	Yes	Optional	No
Plans on website	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes
Precinct Group Notification	No	Yes	Yes		Yes	Yes	Yes	Yes	Yes
‘Talk to a Planner’ session	No	Yes ¹	No		No	Yes	Yes	Optional	No
¹ Except where one of the two criteria which make the application ‘complex’ under cl. 3.11 of this policy is (A)(iv)									
² Only for site-specific proposals									

3.2 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.

Excluded holiday period days

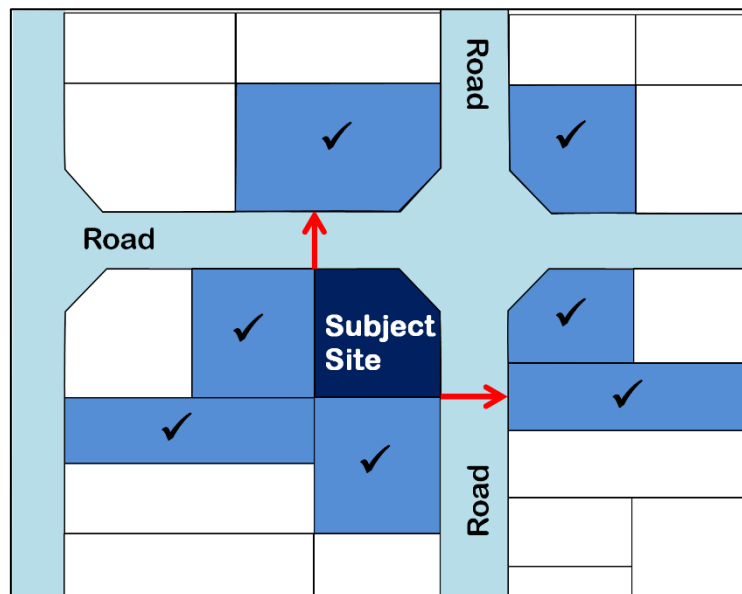
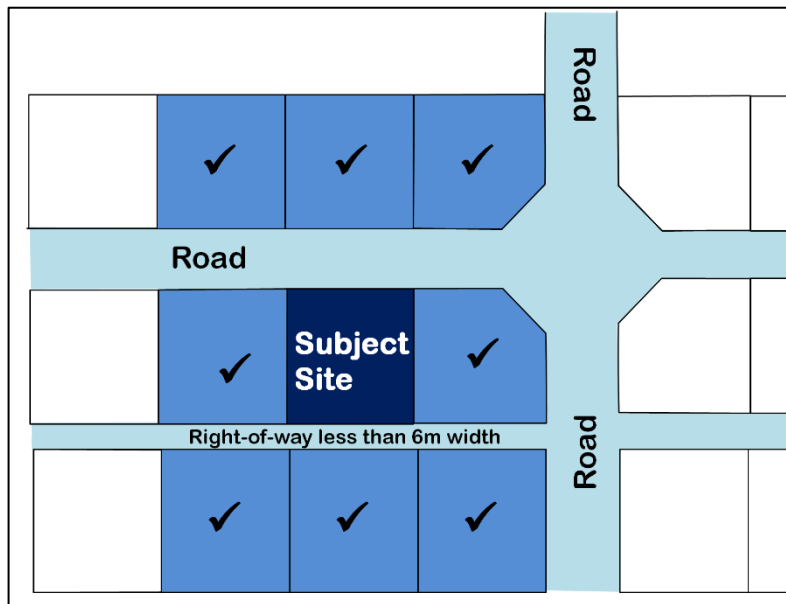
3.3 To provide additional time during Christmas and Easter holiday periods, the Regulations exclude the following from the total number of days a proposal is advertised for:

- 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.

Definition of 'Adjoining Property'

- 3.4 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.



Public viewing after close of advertising

3.5 Copies of plans and documents will not be given to the public after the consultation period unless they appear on a public agenda or minutes.

Opportunity for applicant to respond to submissions

3.6 Applicants will be advised of a summary of concerns raised in submissions (excluding personal details such as names, etc.) and provided with the opportunity to respond.

Notification to submitters – Council meeting agendas & decisions

3.7 Where a proposal requires referral to Council, the applicant and all submitters will be notified in writing (via post or e-mail, utilising the correspondence address from which the submission was made) of the date at which the proposal will be listed on a Council agenda, and will be subsequently notified of Council's decision.

Reporting submissions to Council

3.8 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.

3.9 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.

Development applications and subdivisions

3.10 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 criteria in the table below:

(A)	Involves the complete demolition of a building that is a heritage-protected place as defined in the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> , unless the building is in a Heritage Area where a list of contributory properties in that area has been set out in a local planning policy and the building has not been identified as 'contributory', nor is the building otherwise identified as a heritage-protected place.
(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.
(C)	Involves a significant exercise of discretion in terms of the Scheme, Residential Design Codes or local planning policy provisions.
(D)	Has significant 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.

Classification of development applications

3.11 Regulation 1 of the Regulations allows a local government to identify when a development application is a 'complex application'. For purposes of this regulation, a complex application is one which involves:

- a use of land if 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.

Consultation under the R-Codes Volume 1

3.12 Where a development application is subject to assessment against Volume 1 of the 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 listed in the table below:

R-Code or Local Planning Policy Variation	Consultation Requirement
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.

3.13 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.

Exemptions to consultation – Neighbour sign-off

3.14 The City may waive the consultation requirements for development applications involving the exercise of discretion under Volume 1 of the R-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 telephone number.

3.15 Neighbour sign off is no guarantee a proposal will be supported by the City. Officers must still undertake a technical assessment of the merits of the proposal.

Consultation on applications assessed under the R-Codes Volume 2 - Apartments

3.16 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) A variation to a local planning area standard listed in Schedule 7 of the Scheme; and/or
- b) 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.

Preliminary Scheme Amendments

3.17 Prior to formally initiating a 'Complex' scheme amendment, Council may opt to undertake preliminary community consultation 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 consultation before deciding whether or not to initiate the scheme amendment.

Responsibility and review information	
Responsible officer:	Manager Strategic Planning and City Design
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Document amendment details	
Next review date	14 May 2029