



## CITY OF FREMANTLE

### LOCAL PLANNING POLICY 1.3

#### Public Notification of Planning Proposals

**ADOPTION DATE:** 28 MAY 2008 and 9 JULY 2013

**AMENDED:** 25 MAY 2011, 26 JUNE 2013, 14 MAY 2016, ## 2017

**AUTHORITY:** LOCAL PLANNING SCHEME NO. 4; RESIDENTIAL DESIGN CODES (2010); PLANNING AND DEVELOPMENT (LOCAL PLANNING SCHEMES) REGULATIONS 2015

#### INTRODUCTION

This policy provides guidance on the exercise of discretion under Local Planning Scheme No. 4 in terms of when public notice is given, and the means and duration of public notice periods, pursuant to the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations). The opinions of affected property owners and the general public can inform but cannot be a substitute for the exercise of professional advice by City officers. This policy does not replace or alter the Council's obligations under the *Freedom of Information Act, 1992*.

#### AIMS AND OBJECTIVES

- 1) To provide for a consistent approach on the circumstances when public notice is given, and the means and duration of public notice periods, of planning proposals,
- 2) To recognise the balance between the need for the community to be informed of, and have reasonable opportunity for input into, planning proposals, and the administrative need to process planning proposals in an efficient manner, and within prescribed statutory timeframes.

#### SCOPE OF THE POLICY

This policy is applicable to the entire municipal area of the City of Fremantle and will be applied by the City when making discretionary decisions relating to public notice of planning proposals. Planning proposals in the context of this policy include development applications; Structure Plans; Scheme Amendments and Local Development Plan. For the purposes of this policy, in circumstances where consultation is undertaken it will include both the owners and occupiers of properties that, in the opinion of the City, may be affected by the proposal and/or other stakeholders where these are identified. The Policy also applies to Planning Applications for which the Council is not the final decision making authority.

#### STATUTORY BACKGROUND

The Regulations include provisions relating to the giving of public notice of development applications, Structure Plans, Local Development Plan and Local Planning Polices. Some requirements relating to the public notice of development applications are mandatory, while others provide the Council with discretion as to whether a proposal is advertised and the method of that advertising.

## Proposed amendments to *Local Planning Policy 1.3 Public Notification of Planning Proposals* highlighted

The *Regulations 2015* prescribe the means of public notice of a Local Planning Scheme amendment, and provide the Western Australian Planning Commission and the Minister with discretion to determine additional means of notice.

Part 4 of the Residential Design Codes requires that the Council notify potentially affected neighbours in certain circumstances.

### **POLICY**

#### **1. Requirement to give public notice of certain planning applications under clause 64 of the Regulations.**

In addition to where notice is prescribed by the Regulations, public notice will also be given of the following Planning Applications prior to consideration for approval where the application:

- a) involves the complete demolition of a building where the building is located on a site listed on the Register of Heritage Places under the *Heritage of Western Australia Act 1990*, on the Heritage List under clause 7.1 of the Scheme or within a Heritage Area designated under clause 7.2 of the Scheme,

OR

- (b) involves a subdivision or survey strata creating more than twenty (20) lots and the proposal has not previously been advertised as part of a Scheme Amendment or Structure Plan,

OR

- (c) Involves a significant exercise of discretion in terms of the Local Planning Scheme, Residential Design Codes or Policy provisions

OR

- (d) Has significant strategic planning impacts in terms of the implementation of a strategic planning objective, the scale of the development, or are significantly different from the predominant and expected pattern of land use within the locality.

1.1 Notwithstanding the above, planning proposals that do not meet the above criteria are able to be advertised, at the discretion of the Manager/Coordinator Statutory Planning if it is considered in the public interest to do so.

#### **2. Significant planning applications**

Where a planning application meets any 2 of the criteria above, that application shall be considered to be a significant application in terms of this policy.

#### **3. Evidence of non objection**

Notwithstanding the above, the Council will waive the notification requirements in respect of residential planning applications involving the exercise of discretion under the Residential Design Codes or Council Policy in cases where:

- (a) The application involves the notification of one neighbour only (see note 4 at the end of this policy),

**Proposed amendments to *Local Planning Policy 1.3 Public Notification of Planning Proposals* highlighted**

OR

(b) The applicant provides a copy of the plan including a certification by the owners and occupiers of the adjoining property stating that they have no objections to the proposal. Signatures should include all persons shown as owners on the Certificate of Title and ownership details will be confirmed. The certification must include:

- The full name of the owner/s or occupier/s certifying non objection clearly printed in capital letters and a signature;
- A statement printed in capital letters indicating no objection to the proposal; and
- A current contact address printed in capital letters and a contact telephone number.

**4. Refusal of applications without giving of public notice**

Any planning proposal may be refused by the Council without the giving of public notice.

**5. Means and duration of notice of planning proposals**

**Table 1. Community engagement matrix for planning proposals**

	Development Application		Scheme Amendments			Structure Plan & Local Development Plan	Local Planning Policy
	Standard	Significant	Preliminary (10)	Standard (9)	Complex (9)		
Time period (1)	14 days	28 days	28 days	Not less than 42 days. Unless agreed otherwise by WAPC	Not less than 60 days. Unless agreed otherwise by WAPC	SP - not less than 14 days and not more than 28 days. LDP - not less than 14 days.	Not less than 21 days
Local newspaper notice (2)	No	Yes	No	Yes	Yes	Yes	Yes
Sign on site (3)	No	Yes	No	Yes, if rezoning is proposed for land	Yes	Yes	No
Notice to owners and occupiers	Yes, adjoining properties only (4)	Yes, 100m radius (5)	Yes, 100m radius and landowners & occupiers	Yes, 100m radius (5)	Yes, 100m radius (5)	Yes, 100m radius (5)	No
Website (11)	No	Yes	Yes	Yes	Yes	Yes	Yes
Precinct groups (6)	No	Yes	Yes	Yes	Yes	Yes	Yes
Community Information session (7)	No	Yes	No	Yes (8)	Yes (8)	Yes	No
Government Gazette	No	No	No	Yes	Yes	No	No

**Numbers in brackets ( ) refer to Explanatory Notes at the end of this policy.**

## **6. Additional public notice of proposal previously advertised**

- (a) Where a planning proposal is subsequently modified prior to its final determination and additional variations arise from the modifications; or
- (b) Where an application to amend an existing planning approval is received under clause 77 of the Regulations, and additional variations arise from the proposed amendments;

Additional public notice shall be given in the same manner under the provisions of this policy as if the modified/amended proposal was received as a new development application.

## **7. Amendments to Structure Plans**

Amendments considered to be minor amendments to a Structure Plan are not required to be advertised under Clause 29 (3) of the Regulations. Public notice will be given of any other application to vary a Structure Plan as if it were a new plan.

## **8. Approval subject to later approval of details**

Where a planning application has been approved subject to later approval of details under Clause 74 of the Regulations the subject applications for further approval will not be notified for public comment unless specified in the original approval or required by the Scheme and/or policy.

## **9. Planning Proposals where the Council is not the final decision maker**

Public notice will be given of planning proposals where the Council is not the decision maker in the same way as those where the final decision is made by the Council. A full copy of any submissions received will be forwarded to the decision maker. Council is not responsible for informing any submitter of the decision maker's final decision.

## **10. Holiday periods**

An additional 14 days will be added to any notice period prescribed under this Policy where any part of the notification period falls within the following dates:

- (a) Between 15 December and 15 January
- (b) Between one week before and one week after Easter Sunday

## **11. Notification of interested parties that a matter is listed on a Council Standing Committee Agenda**

- (a) Applications for approval to commence a use or to commence or carry out development – the landowner, applicant and all parties who have made a submission will be notified in writing of the date at which an item will be listed on a Standing Committee agenda.
- (b) Planning proposals that alter the development potential of land which have not previously been advertised – regardless of the recommendation of any report, notification that an item that affects the development potential of land

will be considered by a Standing Committee will be undertaken in accordance with Explanatory Note (4) and will also include the landowner and the applicant.

- (c) Planning proposals that alter the development potential of land which have previously been advertised - the landowner, applicant and all parties who have made a submission will be notified in writing of the date at which an item will be listed on a Standing Committee agenda.

Should a Standing Committee refer the item to full Council for determination, the same parties referred to above shall also be notified of the date of the Council meeting.

In all cases, staff will endeavor to ensure that the written notification is mailed on the Friday prior to the scheduled meeting date.

## **12. Notification of the Council/Committee/City decision**

The applicant, the owner and all authors of written submissions will be advised of the decision of the Council/Committee/City in the form of a written notification of the decision and any associated conditions, advisory notes or refusal reasons.

## **13. Availability of documents**

All plans and written information forming part of the proposal shall be made available for public viewing and access during the public notice period of that proposal. The documentation may be viewed at the City's Service and Information counter without an appointment and copies of the plans and related information will be provided on request.

When a development application is submitted, the plans and written information forming part of the proposal will be copied and given to an interested party on request during the public notice period. On this basis making an application for development approval is taken as having given consent to the City providing to members of the public copies of plans and written information forming part of the proposal.

## **14. Requests for changes to public notice periods**

Requests for extensions or reductions of public notice periods prescribed by this policy will not be approved by staff. Staff will make every reasonable effort to make the Council aware of any submissions received after closure of notice periods.

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

Copies of written submissions will be given to the applicant to provide the applicant the opportunity to respond to issues raised in any submissions. Personal details such as names, telephone numbers and addresses however will not be given to the applicant.

## **16. Submissions reported to Council**

Officer reports to Council will include a summary of the issues raised in any of the submissions received as part of the advertising process. If the text of a submission is to be included in the report, the author's personal details will not be identified. Full copies of submissions are available to Elected Members upon request but will not be made available to members of the public unless required by law.

Where an interested party does not respond to an invitation to make a submission on a proposal, Council will not view this as signifying no objection to that proposal.

## **EXPLANATORY NOTES**

- (1) For development applications the time period shall be deemed to have commenced one day after the date shown on the letters that are sent to owners and occupiers by the City. For all other planning proposals the time period for advertising shall commence on the date public notice is published in a local newspaper.
- (2) A local newspaper notice is an in a local newspaper, run for two consecutive weeks during the advertising period. Newspaper notices are arranged by the City with the costs payable by the applicant.
- (3) A sign on the site shall be erected in a prominent position on the site to the satisfaction of Council. Where land subject to a proposal has more than one street frontage or where a site is very large, the applicant shall locate one sign in a prominent location and shall provide sufficient additional signs on each street alignment.

The sign/s should be erected on the property boundary or within 0.5m of the boundary and be clearly visible from outside of the property boundary. The sign/s should be maintained in a good condition for the duration of the advertising period.

The City will provide the specific requirements of the sign (eg timing, lettering size and overall sign dimensions) to the applicant after the application is lodged a preliminary assessment is made as to whether a sign on site is required. Any signage will be in accordance with the City's Style Guide.

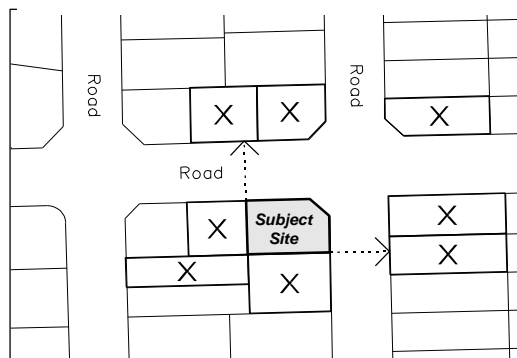
Responsibility for the costs, erection, maintenance and removal of sign/s lies with the applicant.

- (4) Means a letter to all owners and occupiers of all abutting properties (those sharing any common boundary and including diagonally opposite or those separated by a right-of-way or access way less than 6.0m in width) as shown at examples a, b and c below excepting in the case of an application for discretionary approval relating to a side or rear setback variation behind the building line, or to the privacy requirements contained within Element 6.8 of the

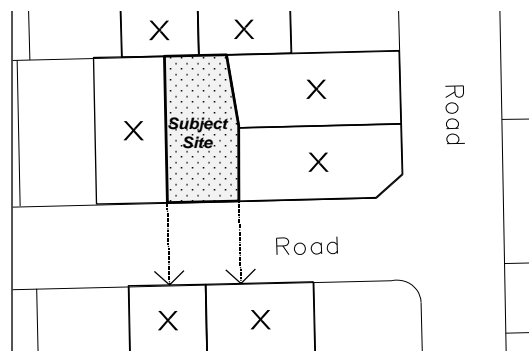
Proposed amendments to *Local Planning Policy 1.3 Public Notification of Planning Proposals* highlighted

Residential Design Codes 2010, where only the owner/occupier of the property onto whose boundary the discretion is sought will be notified.

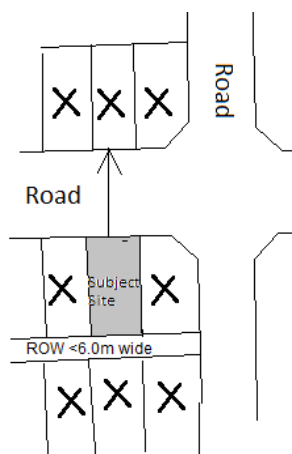
**Example (a)**



**Example (b)**



**Example (c)**



- (5) Means a letter to all owners and occupiers of all properties which fall wholly or partly within a radius of 100 metres from the boundary of the subject land on which the development is proposed.
- (6) The Precinct groups will be requested to formally comment on all applications under this policy other than standard applications. Precinct groups will be given the standard consultation period.
- (7) A community information session on the proposal will be held with invitation extended to Elected Members, interested community members, and applicants. The information session will be held during the public consultation period, normally at least one week prior to completion to enable participants to make a formal written submission to Council after the session.
- (8) Community information sessions are only required for significant scheme amendments. A significant scheme amendment as determined by the Manager Planning Policy and Projects would include (but not limited to) large scale rezoning, an amendment that has significant strategic planning impacts or an amendment that is significantly different from the predominant and expected pattern of land use in the area.

Proposed amendments to *Local Planning Policy 1.3 Public Notification of Planning Proposals* highlighted

(9) Amendments to the City of Fremantle Local Planning Scheme No. 4 (LPS4) are initiated by council and determined by the Minister for Planning. The Planning and Development (Local Planning Schemes) Regulations 2015 (‘the Regulations’) made by the State Government under the Planning and Development Act 2005, contain the process for an amendment to a local government’s local planning scheme, including community consultation requirements.

Under the Regulations, a scheme amendment is classified as either ‘basic’, ‘standard’ or ‘complex’. Basic scheme amendments are of an administrative nature only and do not require community engagement. Standard and complex amendments require community engagement for minimum periods (refer to table 1 Community engagement matrix for planning proposals).

(10) Prior to council considering whether to make a resolution to adopt a scheme amendment for advertising, preliminary community engagement is required where the proposal is location specific including in the following instances:

- a) change to the scheme map e.g. zoning or density coding change
- b) change to the scheme text requirements which relate to development standards in a particular location e.g. building height limits
- c) scheme amendment proposals that do not fall within these categories, but have a similar level of planning impact on a local area, may also require preliminary community engagement at the discretion of the Manager Strategic Planning.

Preliminary community engagement will not be carried out on the following types of proposed scheme amendments:

- a) basic scheme amendments
- b) administrative corrections
- c) minor text changes, including changes to general scheme provisions which do not have a specific impact on any particular locality
- d) proposals that have already been the subject of community engagement, at the discretion of the Manager of Strategic Planning.

Council will consider comments received in response to preliminary community engagement before deciding whether or not to initiate the scheme amendment. Comments received will inform, but not bind, council in making this decision. If no comments are received by the specified date, council will proceed to consider the scheme amendment on its merits.

(11) ‘Website’ refers to all on-line and other corporate communication channels including Freo My Say, Newsbytes, Freobytes and Pulse (if timing is appropriate).