

CITY OF SUBIACO
LOCAL PLANNING POLICY 7.3

Public consultation for planning proposals

ADMINISTRATIVE

Version	Date	Comment
1.0	26 July 2016	Adoption date
2.0	23 March 2021	Review date
2.1	10 August 2021	Draft for public advertising
3.0	23 November 2021	Final for publishing

AUTHORITY

- Planning and Development (Local Planning Schemes) Regulations 2015 (**LPS Regulations**)
- City of Subiaco Local Planning Scheme No. 5 (**Scheme**)
- State Planning Policy 7.3 – Residential Design Codes (**R-Codes**)
- Planning and Development (Development Assessment Panels) Regulations 2011 (**DAP Regulations**)

STATUTORY BACKGROUND

This local planning policy (the Policy) is made pursuant to Schedule 2, Part 2, Division 2 of the LPS Regulations relating to local planning policies. Schedule 2 of the LPS Regulations includes deemed provisions for local planning schemes (Deemed Provisions).

The LPS Regulations includes a range of mandatory and discretionary provisions for the public consultation of planning proposals.

Part 4 of the R-Codes requires the City to notify potentially affected neighbours of a proposed development in certain circumstances.

Under the DAP Regulations, development applications determined by a Development Assessment Panel (DAP) are subject to local government requirements for notification and advertising.

This policy does not replace or alter the City's obligations under the *Freedom of Information Act 1992* or the *Copyright Act 1968* (Cth).

PURPOSE

The policy guides the exercise of discretion under the Deemed Provisions for undertaking the public consultation of planning proposals.

APPLICATION

This policy applies to consultation undertaken by the City in relation to planning proposals.

This policy also clarifies consultation processes for applications referred to the City where another planning authority is the final decision maker.

POLICY

1.0 Objectives

- (a) Provide consistent consultation processes for planning proposals; and
- (b) Provide an appropriate balance between allowing for meaningful community participation in the planning process and the requirement to process planning proposals in an efficient manner within prescribed statutory timeframes.

2.0 Definitions

- (a) The following terms are defined for the purpose of this policy:

<i>Consultation</i>	means advertising and notification as referenced in the LPS Regulations.
<i>Deemed Provisions</i>	means the provisions contained in Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .
<i>Planning proposals</i>	means applications for development approval, and strategic planning proposals.
<i>R-Codes</i>	means <i>State Planning Policy 7.3: Residential Design Codes</i> .
<i>Scheme</i>	means City of Subiaco Local Planning Scheme No. 5 (LPS 5).
<i>Strategic planning proposals</i>	Includes local planning policies, structure plans, LDPs and Scheme amendments

- (b) All other terms, words and expression used in this policy have the same meaning as they have in the Scheme and the applicable planning framework under the *Planning and Development Act 2005*. The definitions of this policy prevail to the extent of any inconsistency.

3.0 Preliminary discussion with adjoining neighbours

Applicants are strongly encouraged to discuss planning proposals with adjoining owners and occupiers prior to the lodgement of a development application. Pre-lodgement discussions can be beneficial in resolving issues before the planning process commences and in promoting good neighbourly relations. Applicants are encouraged to discuss the proposal with adjoining owners and occupiers that would typically be notified by the City in accordance with section 7.0 of this policy.

4.0 Requirement to undertake public consultation for development applications under clause 64(1) of the Deemed Provisions

4.1 Complex Applications

The following applications for development approval are considered complex for the purposes of this policy:

- 4.1.1 Applications with 10 or more grouped dwellings; or
- 4.1.2 Applications with 20 or more multiple dwellings; or
- 4.1.3 Non-residential or mixed use development with a total floor space of 5,000m² or more than; or
- 4.1.4 Applications involving land uses that are not specifically referred to in the zoning table of the Scheme; or
- 4.1.5 Applications which meet all of the criteria in clause 4.2 of this policy; or
- 4.1.6 A development application that has significant strategic planning impacts in terms of the implementation of a strategic planning objective of the City's Local Planning Strategy, the scale of the development, or is considered by the City to be significantly different from the predominant and expected pattern of land use within the locality.

4.2 Standard Applications

For standard applications, consultation is required where the proposal involves a significant exercise of discretion in terms of the Scheme, R-Codes or local planning policy provisions, and:

- 4.2.1 Involves potentially significant urban design or streetscape impacts; or
- 4.2.2 Represents a significant variation to the bulk, scale or design of the existing surrounding buildings; or
- 4.2.3 Has potentially significant amenity impacts on nearby residential areas or neighbours as determined by the City.

- 4.3 Notwithstanding clauses 4.1 and 4.2 above, development applications that do not meet the above criteria are able to be advertised at the discretion of the City if it is considered in the public interest and appropriate to do so under clause 64(1)(c) of the Deemed Provisions.

5.0 Instances where consultation can be waived for standard residential development applications

The City may waive consultation requirements for standard residential development applications involving the exercise of discretion under the R-Codes or this policy in cases where the applicant provides a copy of the plan including certification by the owners and occupiers of the adjoining properties (identified by the City under section 7.0 of this policy) stating that they have no objections to the proposal. For the owner(s), signatures should include all persons shown as owners on the Certificate of Title and ownership details will be verified by the City. The certification format is included as Appendix A in this policy.

Certification must include the following clear and legible details on all plans:

- 5.1 The full name and signature of the owner(s) and occupier(s) certifying non objection to the proposal;
- 5.2 A statement indicating no objection to the proposal; and
- 5.3 A current contact address, telephone number and email address.

6.0 Requirement to undertake public consultation for strategic planning proposals

Strategic planning proposals that require consultation include local planning policies, structure plans, LDPs and scheme amendments. Section 7.0 and Table 1 summarise the duration, means and extent of consultation for strategic planning proposals. The LPS Regulations detail the processes for advertising of such proposals, including instances where advertising can be waived or where additional advertising may be required.

7.0 Duration, means and extent of public consultation

7.1 The duration, means and extent of public consultation will be in accordance with Table 1.

7.2 Consultation shall commence on the day after the notice is published on the City's website, extend for the period listed in Table 1 or otherwise provided by the LPS Regulations, take into consideration any holiday periods as per clause 7.3 of this policy, and conclude at 5pm on the date shown on the advertising material relating to the planning proposal.

Table 1: Duration, means and extent of consultation					
	Time period (a)	Local newspaper notice (b)	Sign on site (c)	Letter to owners and occupiers (d)	Website notice (e)
Standard Development Applications	14 days	No	No	Yes	Yes
Complex Development Application	28 days	Yes (weekly)	Yes	Yes	Yes
Basic Scheme Amendment	Only to be advertised if and as directed by the Minister for Planning.				
Standard Scheme Amendment	42 days	Yes	Yes, if proposing rezoning	Yes if proposing rezoning, within minimum 100m radius of site boundary	Yes
Complex Scheme Amendment	60 days	Yes	Yes, if proposing rezoning	Yes if proposing rezoning, within minimum 100m radius of site boundary	Yes
Local Planning Policy	Minimum 21 days	Yes	No	No	Yes
Structure Plan	42 days	Yes	Yes	Yes – within Structure Plan area	Yes
Local Development Plan	Minimum 14 days	Yes	Yes	Yes – within LDP area and 100m radius of area boundary	Yes
Notes					
(a) The public consultation period stated or a longer period as modified or required under clause 7.3 of this policy.					
(b) Refer clause 7.5 of this policy.					
(c) Refer clause 7.6 of this policy.					
(d) Refer clause 7.7 of this policy.					
(e) Refer to clause 7.8 of this policy.					

7.3 Consideration of holiday periods when determining consultation periods

7.3.1 For development applications and externally initiated planning proposals, the periods not be counted as contributing to calculations of

minimum prescribed consultation periods shall be as per the LPS Regulations.

7.3.2 For City initiated planning proposals, consideration of the following holiday periods is required when determining the duration of consultation periods:

- (a) Consultation shall not commence between 1 December and 8 January; and
- (b) An additional seven (7) days will be added to the period where any part of the period falls between one week before or after Easter Sunday.

7.4 Requests for changes to public consultation periods

7.4.1 Requests for extensions or reductions to public consultation periods will not be granted by the City, unless substantial extenuating circumstances occur and requested changes to the consultation period do not contravene the timeframes provided by the LPS Regulations. For the avoidance of doubt, extenuating circumstances do not include, for example, an owner or occupier being absent from their place of residence during any part of the consultation period without personal arrangements in place for the checking of their mail.

7.4.2 If an extension to the consultation period is granted by the City under section 7.4.1, three business days shall be provided in addition to the consultation period established under section 7.0 of this policy.

7.5 Local newspaper notice

7.5.1 The notice in a newspaper circulating within the district will be arranged by the City and in the form and containing the content specified in the LPS Regulations.

7.5.2 A notice may be included once or as often as deemed necessary by the City.

7.6 Signs on site

7.6.1 Complex development applications

(a) The applicant is responsible for the manufacture and erection of sign(s) on the subject site to coincide with the public consultation period, and removal of the signs at the conclusion of the public consultation period. All expenses associated with the sign(s) shall be borne by the applicant, as per clause 64A(2) of the Deemed Provisions.

(b) The number and location of sign(s) shall be determined by the City.

(c) Sign(s) shall be erected in a prominent position on the site to the satisfaction of the City. Photographic evidence of the sign(s) being satisfactorily placed on site is to be supplied to the City, by the applicant on or before the commencement of the public consultation period. Where a subject site has more than one street frontage or where a site is very large, additional sign(s) on the street frontage(s) may be required as determined by the City. The sign(s) shall be erected on the property boundary or within 0.5m of the boundary and be clearly visible from the outside of the property boundary.

(d) The manner and form of the sign(s) shall be as per clause 64(5) and clause 86(3) the Deemed Provisions and the City will provide

the template text. A graphical colour representation of the development must be included on the sign, which may comprise a 3D streetscape render of the proposal, or other graphical representation agreed to by the City. A graphical representation is not required on the sign where the nature of the proposal would not require it (such as demolition only).

7.6.2 Strategic planning proposals

For strategic planning proposals the manufacture and erection of sign(s) shall be the responsibility of whoever prepared the proposal. The number, location, manner and form of sign(s) shall be as per the relevant part of the LPS Regulations.

7.7 Letters to owners and occupiers

7.7.1 Standard development applications

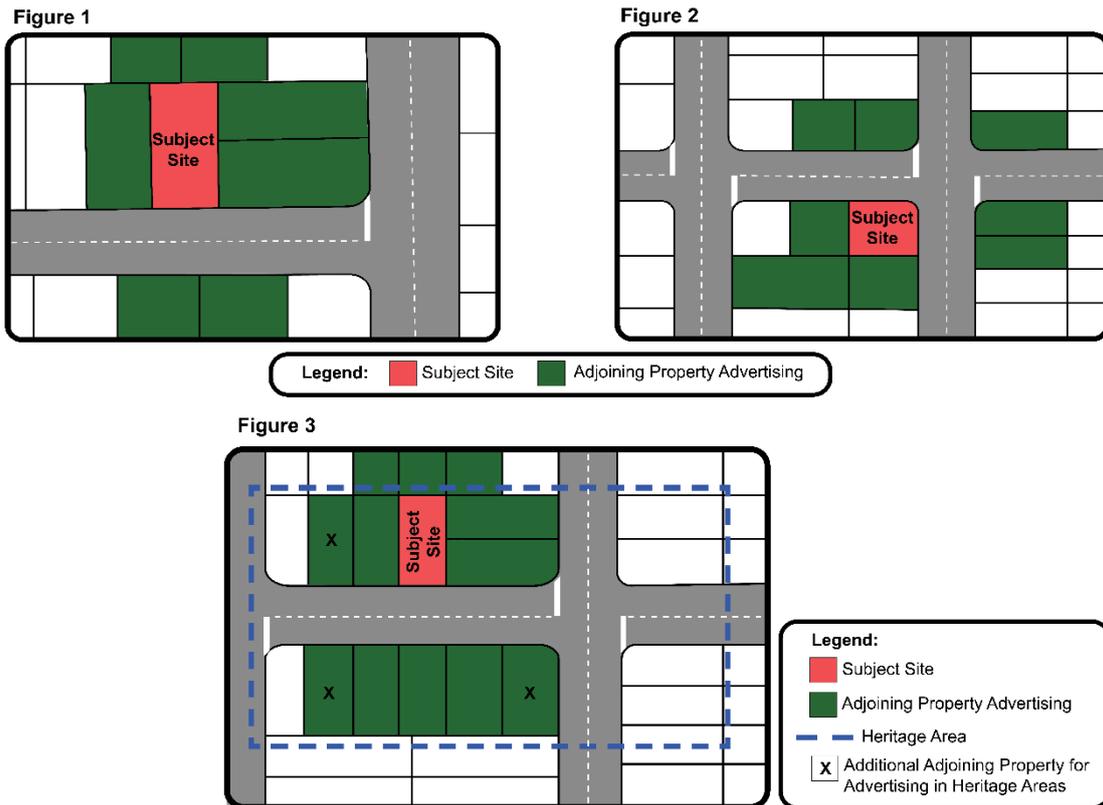
- (a) Letter(s) will be sent by the City to owners and occupiers of all abutting properties (sharing any common boundary, including diagonally opposite or separated by a right of way, access way or public street) as shown in Figure 1, 2 and 3.
- (b) The extent of consultation may be reduced at the City's discretion in the following circumstances for applications relating to:
 - (i) a side or rear setback variation behind the building line or to the privacy requirements contained within Element 5.4.1 of the R-Codes. In this instance, only the owner/occupier of the property onto whose boundary the discretion is sought will be notified.
 - (ii) a proposal for works that are not readily discernible from the street (primary and/or secondary streets, and/or a right of way). In this instance, the City may reduce the extent of consultation that would otherwise be required under clause 7.7.1(a). The City may waive the requirement for advertising to properties on the opposite side of a street or right of way as applicable.
- (c) For applications relating to a property within a heritage area, the extent of consultation shall be increased by one abutting property, in addition to the properties identified in clause 7.7.1(a). This additional requirement shall only apply to properties within the heritage area (refer to Figure 3 below).

7.7.2 Complex development applications

- (a) Letters will be sent by the City to all owners and occupiers within a 200 metre radius of the site boundary; and
- (b) Letter(s) will be sent by the City to any other owners and occupiers of properties in the vicinity of the proposed development, who, in the City's opinion are likely to be affected.

7.7.3 Strategic planning proposals

Consultation for strategic planning proposals is detailed in Table 1.



Note: The extent of consultation depicted in Figure 1, 2 and 3 are examples and do not account for every possible scenario. It is at the City's discretion to advertise to owners and occupiers as required in accordance with the intent of this policy.

7.8 Website notice

- 7.8.1 Where specified in Table 1 notice will be placed on the City's consultation website for the duration of consultation for a planning proposal. The notice shall include any documents and information necessary under the LPS Regulations in relation to that proposal.
- 7.8.2 For development applications, subject to the agreement of the applicant in accordance with the *Copyright Act 1968* (Cth), the City will include plans and documents for the planning proposal on its website for the duration of the public consultation period. Plans on the City's website are for viewing purposes only and are not to be downloaded, modified, reproduced, printed or otherwise stored and/or altered.

8.0 Receipt of submissions

- 8.1 The City's preferred method of collecting submissions is via electronic means to enable efficient future contact.
- 8.2 The option remains for community members to provide a hardcopy submission. It is preferable that hardcopy submissions contain an email address, so submitters can be notified of the progress of a planning proposal in a timely manner. If a hardcopy submission is provided, the City will make all attempts to provide written contact described in clause 10.4 in a reasonable timeframe.
- 8.3 Where a submission is made on behalf of another person, the submission must be accompanied by a letter of authorisation from the person whose views are being represented, including the following details:
- 8.3.1 Full name and signature;

- 8.3.2 A statement confirming that the submission is being made on their behalf; and
- 8.3.3 A current contact address, telephone number and email address.
- 8.4 Any submission(s) received after the date established in section 7.0 may be included in the assessment of the planning proposal and noted as late submissions.
- 8.5 Where a response is not received following an invitation to make a submission, it will be assumed that the recipient does not wish to comment on the planning proposal.

9.0 Additional notice of a development application previously advertised

9.1 Additional public notice

9.1.1 Additional public notice may be given where:

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

9.1.2 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.

9.2 Informal notice to previous submitter(s)

9.2.1 Where amended plans are received in relation to a development application prior to its final determination, and the amended plans do not trigger the requirement for public consultation under section 9.1 of this policy, informal notice of the plans may be given to person(s) who originally made a submission on the application.

9.2.2 The informal notice period may commence on any weekday at the discretion of the City, extend for a period of three business days from the date of commencement and conclude at 5pm on the third day.

9.2.3 Informal notice shall be given to previous submitters electronically as far as is possible.

10.0 Procedural matters

10.1 Availability of public consultation documents

10.1.1 Public consultation plans and documents shall be available for the duration of consultation as described in section 7.8.

10.1.2 Where required by the LPS Regulations, the plans and documentation forming part of the planning proposal shall be made available for public viewing during the consultation period of that proposal on the City's website, subject to the agreement of the applicant. Hardcopies of plans and documents will not be provided to members of the public. Members of the public are not permitted to copy, scan, photograph or otherwise reproduce copies of the plans and documents.

10.1.3 Plans and documents will not be available after the conclusion of the consultation period unless otherwise required under section 9.0 of this policy.

10.1.4 Where required by the LPS Regulations, the plans and documentation may be viewed at the City's Administration Office without an appointment. However, should a member of the public wish to discuss

the proposal with one of the City's officers, an appointment will be required.

10.2 Community information sessions

10.2.1 A community information session may be held at the discretion of the City in relation to a significant strategic planning proposal where a session will assist the community's understanding of the proposal and/or provide the opportunity to view additional information such as visual presentations.

10.2.2 The information session may be held prior to the public consultation period during the preparation of the strategic planning proposal (where the proposal is City initiated), or may be held during the public consultation period. Where the session is held during the public consultation period, generally it will be held early within this period to enable participants to make a formal written submission to the City after the session.

10.3 Opportunity for applicant to respond to submission(s)

10.3.1 An opportunity to view documents or be provided with copies of submission(s) received during a public notice period will not be provided to any person or applicant unless required by law or as specified elsewhere in this policy. Where any copies of submission(s) are to be provided, personal details of the author(s) will be removed.

10.3.2 A written summary of the key issues raised in submission(s) will be provided to the applicant and upon request in the case of an application for planning approval or a Scheme amendment. The summary will not include identification or personal details of the author(s) of any submission.

10.4 Notification of parties who make submission(s) on a planning proposal

Generally submitters will receive the following correspondence from the City:

10.4.1 Notification of a determination under delegated authority by an authorised officer of the City;

10.4.2 Notification of a relevant item being considered by Council, or a committee of Council;

10.4.3 Notification of a decision of Council, or a committee of Council; and

10.4.4 Notification of any other event directly relevant to the planning proposal to which they made a comment, at the discretion of the City.

10.5 Submission(s) reported to Council

10.5.1 Officer reports to Council will include a summary of the issues raised in the submissions received during consultation.

10.5.2 If the text of a submission is to be included in the report, the author's personal details will be removed.

10.5.3 Full copies of submissions will be made available to elected members upon request but will not be made available to members of the public unless required by law.

10.5.4 Where submissions are received after the conclusion of the consultation period, they will be addressed as per clause 8.4.

10.6 Development applications where the DAP is the final decision maker

- 10.6.1 For development applications determined by the DAP, public notice will be given of the applications in the same way as those determined by the City under section 7.0 of this policy.
 - 10.6.2 Where requested, a full copy of any submissions received by the City will be forwarded to the DAP.
 - 10.6.3 The authors of submissions received during the public consultation period for a DAP application will be:
 - (a) informed of Council's recommendations with respect to the application; and
 - (b) notified of the date of the DAP meeting at which the application will be considered; and
 - (c) notified of the determination of an application by the DAP.
 - 10.6.4 The City will provide details of the decision on its website following a determination of an application by the DAP including signed minutes.
- 10.7 Planning proposals referred to the City where another planning authority is the final decision maker
- 10.7.1 Where a planning proposal is referred to the City by another planning authority (such as DevelopmentWA or the Department of Planning, Lands and Heritage), that authority is responsible for undertaking any public consultation.
 - 10.7.2 Where a Metropolitan Region Scheme (MRS) application is referred to the City and the Western Australian Planning Commission is the final decision maker:
 - (a) The City may elect to undertake public consultation for the proposal where the proposal is inconsistent with the purpose of the MRS zone, or where the proposal may have a significant impact on the amenity of the locality.
 - (b) The extent and duration of public consultation shall be determined with reference to section 3.0 and section 6.0 of this policy and undertaken in accordance with those requirements. Whether the application is treated as a standard or complex development application is at the discretion of the City.
 - 10.7.3 Any person wishing to obtain a copy of a final decision must obtain that from the relevant decision maker.

Appendix A – Certification format for non-objection

The certification format for evidence of non-objection under section 5.0 of this policy is presented in italics below.

Name: (insert name of owner or occupier)

Property address: (insert address)

Residential address: (insert residential address if different to property address)

Telephone number: (insert contact telephone number)

Email address: (insert contact email address)

Statement of non-objection: I (name) certify that I do not object to the proposal at (address relating to development application)