

DRAFT LOCAL PLANNING POLICY

TITLE:	Public Consultation – Planning Matters
ADOPTED:	
REVIEWED:	
ASSOCIATED LEGISLATION:	Planning and Development Act 2005 Town Planning Scheme No 4
ASSOCIATED DOCUMENTS:	Residential Design Codes of Western Australia LPP 8.18 – Operative Policy Community Development Policy 5.1.10 – Community Engagement
REVIEW RESPONSIBILITY:	Manager Planning Services
DELEGATION:	Manager Planning Services

Previous Policy Number None.

Purpose

This Policy is designed to clearly define consultation required to meet the statutory and 'standard' consultation practices for planning matters.

Clause 9.4.1 of Town Planning Scheme No 4 (TPS4) establishes when consultation is required under the Scheme. Clause 9.4.2 of TPS4 sets out that there is discretion for the Shire to seek public comments in addition to those items identified under Clause 9.4.1. This Policy establishes the circumstances where this discretion will be exercised.

This Policy is to be read in conjunction with Community Development Policy 5.1.10 – Community Engagement.

Objectives

1. To guide where the Shire will advise and consult with the community or affected landowners about planning matters to ensure openness and accountability in the decision-making process.
2. To gauge public comment when required under statute or in other circumstances when deemed appropriate.
3. To detail the requirements for consultation based on the level of impact of each proposal.

4. To outline the process the Shire will use when undertaking consultation and considering submissions.

Definitions

'Adjoining' refers to any land or owner of land which abuts an application site or is separated from it only by a road, pathway, driveway or similar thoroughfare.

'Affected Person' means a person who owns land that adjoins an application site.

'Application Site' means the land upon which a land use, development or public work is proposed to be undertaken.

'Advise' means action in writing taken by the Shire or another to acquaint the recipient with details of an intended land use or development on an information-only basis.

'Consult' means either:

- a) Personal (evidence by signed documentation) or written contact with an affected property owner(s) by the party proposing to undertake a land use or development; or
- b) Written notification by the Shire to affected persons inviting comment on the proposal.

'Development' as defined under the Planning and Development Act 2005.

'Development Control Unit' means a technical advisory group to consider and recommend determination of planning applications as established under Local Planning Policy 8.18 – Operative Policy.

'Land' includes any building or part of a building created on the land.

'Land owner' means the person(s) listed as the registered owners on the Certificate of Title or in the case of Reserve land is the authority listed on the Management Order. On Reserve land with Management Order with the Shire of Broome and RNTBC (Yawuru), Yawuru Park Council will be the authority consulted.

'Nearby Land' means any land, other than neighbouring or adjoining land, which may be adversely affected by a development proposal and, where appropriate, may include owners of land within a neighbouring Shire.

'Notify' means written communication by the Shire or the proponent of a development proposal containing relevant information about the development proposal for the purpose of advice or seeking comment.

'Public Advertisement' means notification by way of an advertisement in a local newspaper, signs erected on the application site, signs on public notice boards or such other activities as may be necessary to inform the general public of the proposal concerned inviting comment.

'**Relevant Information**' means the principal details of a development proposal as determined by the Shire to be sufficient to describe the proposal and its potential impacts. Each such notification is to provide further information as to where and when full particulars of the development proposal can be inspected during the period which comments are sought.

'**Submitters**' means those affected persons who have provided written comment on a proposal within the formal comment period.

1.0 Policy

Consultation Categories Levels and Methods

1.1 In those instances where consultation is to be conducted, the consultation will generally take either the form of a letter and/or a public advertisement in a local newspaper, unless otherwise specified in a Community Engagement Plan. All items advertised for public comment will generally be accompanied by a consultation summary (example provided in Appendix No 1) that will:

- i. The reasons for undertaking the consultation.
- ii. Set out details of the proposal or a part thereof in respect of which comment is being sought;
- iii. Explain any policy variations being sought;
- iv. Set out how to a member of the public could provide comment; and
- v. Specify the timeframe within which any comments or submissions should be made.

1.2 Due to the lack of postal delivery in Broome, the Shire of Broome is unable to consult with occupiers. It is the responsibility of any landowner to advise an occupier of a proposal in which public comment is being sought.

1.3 Where deemed appropriate by officers, consultation may occur with government departments/referral agencies at any consultation level.

1.4 This Policy does not provide guidance on consultation with regards to Aboriginal heritage or cultural matters. A separate Policy will be prepared to in this regard and must be referred to when considering planning matters.

Level A – No Consultation

1.4.1.5 No consultation will occur where the proposal:

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- i. is determined as having no predictable detrimental impact on the character or amenity of the immediate or general locality likely; and
- ii. is not required under Clause 9.4.1 of TPS 4; or
- iii. has previously occurred and only minor modifications or modifications that address previous concerns raised are proposed.

Level B – Consultation with Owners of Adjoining Land

4.51.6 For a residential development where the Deemed to Comply provisions of the Residential Design Codes are not complied with, the owner(s) of land adjoining the application site affected by the non-compliance will be consulted unless the proponent has already undertaken the necessary consultation and secured agreement or obtained comment.

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4.61.7 Where, in respect of other proposals, a proposed development:

- i. will be visible from any road or other public place; or
- ii. will be likely to have an impact on the streetscape or amenity of properties in immediate proximity to the site;

the owners of properties adjoining, and those on the other side of any street immediately opposite the application site, will be consulted.

4.71.8 The owners of properties determined as being potentially affected by a development proposal will be consulted in writing providing a minimum of 14 days (or such other period as prescribed by the relevant legislation) for the lodgement of any submission.

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4.81.9 Where an affected land owner is consulted by the proponent of a development proposal, evidence of the acceptability of the proposal should be provided by way of a signed letter of non-objection and endorsement by way of no-objection comment, signature, printed name and full address on a copy of plan(s) submitted for Shire approval.

Level C – Consultation with owners of near-by land

4.91.10 Where a proposed land use or development is determined by the Shire as having the potential to impact on not only the use or enjoyment of land adjoining the application site but also other near-by land, the owners of those properties will be consulted.

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4.101.11 The owner(s) of properties determined as being potentially affected by a development proposal will be consulted in writing providing a minimum of 21 days (or such other period as prescribed by the relevant legislation) for the lodgement of any submission.

Level D – Consultation with owners of the land in the locality

4.111.12 Where a proposed land use or development is determined by the Shire as having the potential to impact upon:

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- i. the use and enjoyment of land within an area but not extending to the whole of the Shire district; or
 - ii. specific interest groups within that area;
- the community within that area will be consulted.

1.121.13 The Shire will:

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- i. publish a notice of the development proposal in a newspaper circulating in the area containing details set out in Appendix 1 of this Policy;
- ii. publish a notice of the development proposal on the Shire's website under the Public Comment section and also place a copy on the notice board at the front of the Administration Building in the form of Appendix 1 of this Policy;
- iii. cause the applicant to place a notice of the development proposal on a sign in a prominent position on the property subject of the development proposal in the form of Appendix 1 of this policy;
- iv. provide written notice in the form of a letter to all land owners within a radius of at least 100m of the application site for land within the townsite boundaries or at least 500m radius for land outside of a townsite;
- v. consult with the owners of land beyond the forgoing areas where, in the opinion of the Shire, there will be an impact along key transportation facilities, tourist routes or view-sheds; and
- vi. consult as necessary with other affected government agencies or statutory authorities as the case requires.

1.141.14 The notice and letters referred to in Clause 1.121 must detail the relevant information of the application and invite comment within a period not being less than 21 days or, where appropriate, such longer period as may be necessary to comply with relevant legislation.

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Level E – Community Engagement Plan

1.141.15 Where planning matters are of State, regional or shire-wide significance the community will be consulted. This level of consultation will require preparation of a Community Engagement Plan consistent with Community Development Policy 5.1.10 – Community Engagement.

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1.151.16 Specific objectives for Level E consultation which must be taken into consideration when preparing the Community Engagement Strategy, include but may not be limited to the following:

- i. Raise awareness about a particular issue/matter;
- ii. Establish communication links with the community and identify which sections of the community are to be targeted in engagement plan;
- iii. Encourage active participation in programs;
- iv. Collect views, opinions and ideas;

- v. Foster community pride, support and 'ownership'; and
- vi. Build trust and confidence between Council and the community.

4.161.17 Consultation mechanisms available for Level E include but are not limited to:

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- i. Newspaper advertising;
- ii. Letter/mail box drops or Council notices;
- iii. Signage and displays in relevant locations;
- iv. Media releases – press, radio, television (subject to availability and budget);
- v. Notice to be displayed on Council's website;
- vi. Formation of community or advisory committees under Local Government Act 1995;
- vii. Formation of working groups;
- viii. Workshops, forums or briefing/information sessions;
- ix. Public meetings; or
- x. Other procedures as required.

4.171.18 Notwithstanding the consultation methods adopted, a minimum level of consultation for Level E will be a comprehensive local newspaper notice repeated over the duration of the process (minimum of 2 notices) associated with a formal comment period of twenty one (21) days, or such longer period that may be necessary to comply with relevant legislation. Costs associated with the mechanisms adopted under the Community Engagement Plan developed shall be borne by the applicant or initiating agency, as relevant.

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Form of Submission

4.181.19 Where an invitation to comment on a development proposal or planning matter has been extended in accordance with this Policy, submissions should desirably be made on the Submission Form at Schedule No 2 of this Policy. To be considered valid, any submission will be required to be signed by the submitter who must provide contact details including an address for correspondence (including email address). Reasons for any objection to a development proposal should also be included.

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4.191.20 Where a written submission is received prior to the determination of an application and the Shire did not call for formal submissions, the submission must be considered as set out below under the title 'consideration of submissions'.

Consultation Matrix

4.201.21 Schedule 1 of this Policy outlines the matrix upon which the appropriate level of consultation with affected persons and the community will be determined for land use and development proposal. Where proposals occur that do not clearly fall within the matrix, the criteria outlined above will be used to establish the consultation process.

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1.211.22 Prior to commencing consultation of a planning application, the application must be listed for discussion at the Development Control Unit meeting, where the Officer must present the level of consultation to be undertaken, consistent with this Policy.

Consideration of Submissions

1.221.23 All submissions received will be summarised into issues inserted into a Schedule of Submission when determinations are being made. Those officers required to examine the submissions will also provide comment and/or a recommendation as to the way in which the submissions should be determined.

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1.231.24 Matters to be taken into account in the consideration of the submission are outlined as set out in Clause 10.2 of TPS 4.

1.241.25 In making the determination on the application/planning matter, Council or the delegated decision-maker, will consider the Schedule of Submission and will make determinations of all of the submissions made during the consultation period.

1.251.26 Once a determination of the matter has been made, a letter will be sent to each submitter:

- i. acknowledging receipt of submission; and
- ii. advising of the determination of the development proposal concerned.

1.261.27 For 'E' level consultation, the method of responding to comments received will be determined as part of the consultation program.

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Cost of Consultation

1.271.28 The full cost of the consultation requirements specified within this policy are to be met by the applicant.

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1.281.29 Council's fee schedule sets the cost for consultation,

1.28 Access to Planning Applications where no consultation required

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1.28 In situations where a member of the public requests access to view a planning application which does not require public consultation, the written consent of the applicant must be obtained to view the documents submitted. In the event written consent is not obtained the person must make formal application under the Freedom of Information Act.

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SCHEDULE 1 – CONSULTATION MATRIX

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DEVELOPMENT PROPOSAL / PLANNING MATTERS	CONSULTATION LEVEL
Local Planning Scheme Review	E*
Development Strategies for Selected Areas	E
Scheme Amendment	D*
Development Plans / Structure Plans	D%
Subdivision Referrals from WAPC	A
Development – 'P' Uses	A
Development – 'D' Uses – except the following: <ul style="list-style-type: none"> • an office ancillary to industrial development in the Light and Service Industry zone and Industry zone for which Level A consultation is required. • Single House, Grouped or Multiple Dwellings in the Residential and Mixed Use zone for which Level A consultation is required. 	B
Development – 'S' Uses – except a Home Business, refer below.	D
Development – Home Business	B
Uses not mentioned in Zoning Table;	C
Extension to a Non-Conforming Use	C
Extractive Industry	D
Local Planning Policy Development/Review	E#

* Additional consultation requirements prescribed in the Town Planning Regulations 1967.

The minimum public consultation is detailed in clause 1.16Z of this Policy and in addition to this may include workshops with key stakeholders where deemed appropriate.

% Comment period is 28 days in accordance with Clause 2.25.3.3 of TPS4.

SCHEDULE 2 – SUBMISSION FORM

**DEVELOPMENT APPLICATION
SUBMISSION FORM**

PROPOSED: Officer to insert Description	Responsible Officer:
FILE REFERENCE: Officer to insert	Insert Name

Submitter: _____

Postal Address: _____

Property Address: _____

Phone Number _____ Email Address: _____

Your Support (tick one box): Support Object Undecided

Comments

Signature of Submitter: _____ **Date:** _____

Post To: Chief Executive Officer
Shire of Broome
PO Box 44
BROOME WA 6725

APPENDIX 1 - FORM OF PUBLIC NOTICE FOR CONSULTATION PURPOSES

PROPOSED DEVELOPMENT FOR PUBLIC COMMENT

It is hereby notified for public information and comment that the Shire of Broome has received the following *development application/development plan (delete as applicable)* to develop land for the purpose described hereunder;

PROPOSAL	<i>(proposed Local Development Plan)</i>
LEGISLATIVE FRAMEWORK	<i>(Planning and Development Act 2005)</i>
LOT/LOCATION	<i>(Lot 26)</i>
STREET NUMBER	<i>(preferred where possible)</i>
STREET/ROAD	<i>(Sanctuary Road)</i>
LOCALITY	<i>(Cable Beach)</i>
COUNCIL DECISION TO CONSULT	<i>(OCM 26.03.13 – Item 9.2.1) delete if N/A</i>
LEVEL OF CONSULTATION	<i>(Level D – consultation with landowner in locality)</i>

DETAILS OF PROPOSAL ON WHICH COMMENT IS SOUGHT

A Local Development Plan to guide the future subdivision and development of Lot 26 Sanctuary Road, Cable Beach has been submitted. The Local Development Plan proposes to subdivide the site into 84 residential lots with an average lot size of 826m² and also propose the development of a local centre to service surrounding population.

PERIOD FOR SUBMISSION	<i>(21 days)</i>
CLOSING TIME/DATE FOR SUBMISSIONS	<i>(4.00pm 10 SEPTEMBER 2013)</i>
APPLICATION NUMBER &/OR FILE REF	<i>(2013/25)</i>
CONTACT OFFICER	<i>(John Citizen)</i>

Details of the above proposal(s) are available for inspection at the Shire Office. Any person wishing to comment should do so in writing on or by the closing date as indicated above, with all submissions quoting the above relevant application number. If you wish to make an appointment to discuss any of the above proposals please phone the above contact officer on (08) 9191 3456. This proposal has been advertised to provide an opportunity for public comment. It should not be construed that Council has determined the application. The Council reserves the right to determine the application on merit, giving due regard to any submissions received as a result of this advertising period.

Chief Executive Officer (date)

SCHEDULE OF SUBMISSIONS – PROPOSED LPP- PUBLIC CONSULTATION

ATTACHMENT 2

#	Name	Date	Submission	Staff Comments	Recommendation
1	Goolarabooloo Millibinyari Indigenous Corporation	2.04.14	<p>1. Goolarabooloo are responsible for a large area of the Dampier Peninsula associated with the body of Aboriginal law known as the northern tradition, within the Yawuru Determination area and the Goolarabooloo and Jabirr Jabirr native title claim areas. This area, known as the Song Cycle System, is of ultimate cultural, social, religious and environmental importance to Goolarabooloo and other Indigenous people within the Shire of Broome.</p> <p>Our members are Goolarabooloo people and include the senior law bosses Phillip Roe and Richard Hunter. The law bosses have authorised this submission.</p> <p>2. These submissions are made in response to the draft LPP – Public Consultation. This submission does not address the Native Title implications of the draft policy.</p> <p>3. We understand that the Shire intends to prepare a separate consultation policy that deals with Aboriginal cultural heritage within the Shire of Broome. We would like to request that Goolarabooloo and other stakeholders, be actively involved in the preparation of this new policy.</p> <p>4. The draft LPP should require consultation with Goolarabooloo, and other traditional owners, in relation to any development that may impact cultural heritage within the Shire of Broome.</p> <p>5. The draft LPP, the Town Planning Scheme and the <i>Planning and Development Act</i> do not define the term 'land owners'. This term, as it is used throughout the policy, should be defined to</p>	<p>1. Noted.</p> <p>2. Noted. The LPP has been prepared to establish when consultation would occur (consistent with the Scheme) and in which manner it should occur. The LPP does not address Native Title, this is a matter dealt with under legislation not regulated by the Shire of Broome.</p> <p>3. The Shire of Broome will be preparing a separate LPP with regard to Aboriginal cultural and heritage matters and is awaiting advice from the State in this regard. The process for preparation of this policy has not yet been formalised by the Shire.</p> <p>4. Noted, see comments above.</p> <p>5. It is noted that the specific term of land owner is not included in the Policy. A definition has been recommended. It is not proposed to refer to traditional owners as</p>	<p>That the submission be noted.</p> <p>It is recommended that the Policy be amended to include definition of land owner, as set out below: 'land owner' means the person(s) listed as the registered owners on the Certificate of Title or in the case of Reserve</p>

SCHEDULE OF SUBMISSIONS – PROPOSED LPP- PUBLIC CONSULTATION

ATTACHMENT 2

#	Name	Date	Submission	Staff Comments	Recommendation
			<p>specifically include traditional owners and custodians of the land, in order to ensure that their interest, which are independent of land tenure, are protected in the development application and planning process.</p> <p>6. The requirement to consult directly, in relation to impacts on cultural heritage, should not be discretionary; such consultation should be a prerequisite for approval of planning matters within the Shire of Broome.</p> <p>7. Goolarabooloo should be consulted directly. Commencing with written notification, in relation to any development proposal or planning matter that may impact on their cultural heritage within the Shire of Broome. This consultation with Goolarabooloo should be required for any planning matter that may have an impact on cultural heritage within the area of traditional responsibility known as the Song Cycle Path, either directly or indirectly. The significance and extent of the Song Cycle Path has been extensively documented over 30 years. The extent of the area can be seen generally in the maps at Appendix 1 (attachment 1a).</p> <p>8. Consultation under this policy, in relation to cultural heritage, should be based on the principles of Free and Prior Consent (attachment 1b) and in line with internal standards and obligations (attachment 1c). This requires that any development, within Goolarabooloo Country and the area of the Song Cycle System, should only occur.</p> <p>a) With the free, prior and informed consent of the Goolarabooloo Community and Law Bosses.</p> <p>b) In a culturally and environmentally appropriate way (in accordance with the</p>	<p>this aspect of consultation will be dealt with in a separate policy.</p> <p>6. This LPP does not address consultation with regard to Aboriginal cultural or heritage issues.</p> <p>7. See comment in 6 above.</p> <p>8. This LPP and more generally the planning approval process does not deal with an applicant's responsibility to address Aboriginal heritage issues under the <i>Aboriginal Heritage Act</i> or native title implications under the <i>Native Title Act</i>. Comments and submissions received from the representative Aboriginal group and people on matters of heritage and cultural importance and Native Title are matters to be considered in determining a planning application; however this is not the principal or determinative consideration. Planning</p>	<p>land is the authority listed on the Management Order. One Reserve land with Management Order with the Shire of Broome and RNTBC (Yawuru), Yawuru Park Council will be the authority consulted.</p>

SCHEDULE OF SUBMISSIONS – PROPOSED LPP- PUBLIC CONSULTATION

ATTACHMENT 2

#	Name	Date	Submission	Staff Comments	Recommendation
			<p>principles set out in attachment 2b). These principles should be incorporated into the consultation policy.</p>	<p>applications are considered based on a number of factors including the zoning and strategic framework established through a Local Planning Strategy.</p>	
			<p>9. These submissions in relation to TPS4 apply similarly to any subsequent development and planning under the LPS6.</p>	<p>9. Noted.</p>	
			<p>10. As indicated in point 3 above, we understand that the Shire intends to prepare another consultation policy in relation to Aboriginal cultural heritage matters. Goolarabooloo submit that this specific cultural heritage policy should be appropriately referred to within this general public consultation policy. This will ensure that the requirements of both policies are adequately met when considering planning matters within the Shire of Broome.</p>	<p>10. Noted. While the LPP on consultation with regard to Aboriginal heritage and cultural matters has not been developed it is considered that it should be appropriately recognised in this LPP that such an LPP will exist and must be referred to.</p>	<p>It is recommended that an additional clause be included stating the following: <i>This Policy does not provide guidance on consultation with regards to Aboriginal heritage or cultural matters. A separate Policy will be prepared to in this regard and must be referred to when considering planning matters.</i></p>
			<p>11. Goolarabooloo further request the right to be actively involved in the preparation of this second cultural heritage consultation policy and reserve the right to make further specific comments in relation to it when required.</p>	<p>11. Noted, see comments section 3 above.</p>	