

# LOCAL PLANNING POLICY

5.14

<b>TITLE:</b>	<b>8.23 PUBLIC CONSULTATION – PLANNING MATTERS</b>
<b>ADOPTED:</b>	OMC 22 May 2014 – Item 9.2.3 – Pages 35 - 38
<b>REVIEWED:</b>	OMC 30 July 2015 – Pages 28 – 40 OMC 17 December 2015 – Pages 110 – 121 OMC 25 August 2016 – Pages 286 – 302 OMC 14 December 2017 – Pages 1030 – 1043 OMC 31 May 2018 – Pages 125 - 128
<b>ASSOCIATED LEGISLATION:</b>	Planning and Development Act 2005 Local Planning Scheme No 6 (LPS6)
<b>ASSOCIATED DOCUMENTS:</b>	Residential Design Codes of Western Australia Community Development Policy 5.1.10 – Community Engagement
<b>REVIEW RESPONSIBILITY:</b>	Director Development Services
<b>DELEGATION:</b>	Delegations are exercised in accordance with delegation granted in terms of Section 5.42 of the Local Government Act 1995 as amended or other statutes as applicable to specified officers.
<b>APPLICATION:</b>	This policy applies to the LPS6 area

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Previous Policy Number 8.23

## Background

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

Clause 64(1) of the Deemed Provisions establishes when consultation is required under the Scheme. Clause 64(3) of the Deemed Provisions sets out minimum consultation requirements and gives discretion on how an application is to be advertised. 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. 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. Gauge public comment when required or when deemed appropriate.
3. Detail the requirements for consultation based on the level of the proposals 'impact'.
4. Set out 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 development applications as established under Local Planning Policy or Shire Operating Procedure.

**'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 or signs on public notice boards.

**'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 people 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 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 articulate the following:
- 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 Broome has no roadside postal delivery as such 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**

- 1.5 No consultation will occur where the proposal:
- 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 64(1) of the Deemed Provisions; 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**

1.6 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.

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

- i. will be visible from any road or other public place; and
- 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.

1.8 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.

1.9 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 the land in the locality**

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

- 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.

1.11 The Shire will:

- 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.

1.12 The notice and letters referred to in Clause 1.12 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.

### **Level D – Community Engagement Plan**

1.13 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.

1.14 Specific objectives for Level D 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.

1.15 Consultation mechanisms available for Level D include but are not limited to:

- 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.

1.16 Notwithstanding the consultation methods adopted, a minimum level of consultation for Level D 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.

### **Form of Submission**

1.17 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.

1.18 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 ‘consideration of submissions’.

### **Consultation Matrix**

1.19 Schedule 1 outlines 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.

1.20 Prior to commencing consultation of a development 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**

1.21 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.

- 1.22 Matters to be taken into account in the consideration of the submission are outlined as set out in 61 of the Deemed Provisions.
- 1.23 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 each submission.
- 1.24 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.

### **Cost of Consultation**

- 1.25 The full cost of the consultation requirements specified within this policy are to be met by the applicant.
- 1.26 Council's fee schedule sets the cost for consultation.

### **Access to Planning Applications where no consultation required**

- 1.30 In situations where a member of the public requests access to view a development application which does not require public consultation, the written consent of the applicant/owner 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.

## **SHIRE OF BROOME LOCAL PLANNING SCHEME No. 6 (LPS6) – LOCAL PLANNING POLICIES**

This Policy is a Local Planning Policy adopted pursuant to Part 2 clause 4 of the deemed provisions of LPS6. LPS6 is administered by the Shire of Broome as the responsible authority under the Scheme. LPS6 was gazetted and came into operation on the 30 January 2015.

Planning policies adopted under LPS6 may be amended or rescinded after the procedures set out in Part 2 clause 5 & 6 of the deemed provisions of LPS6 have been completed.

### SCHEDULE 1 – CONSULTATION MATRIX

DEVELOPMENT PROPOSAL / PLANNING MATTERS	CONSULTATION LEVEL
Local Planning Scheme Review	<b>D*</b>
Development Strategies for Selected Areas	<b>D</b>
Scheme Amendment	<b>C*</b>
Structure Plans	<b>C%</b>
Subdivision Referrals from WAPC	<b>A</b>
Development proposing a variation to the Deemed to Comply criteria of the R-Codes	<b>B</b>
Development – ‘P’ Uses	<b>A</b>
Development – ‘D’ Uses	<b>A</b>
Development – ‘A’ Uses  – except the following: <ul style="list-style-type: none"> <li>• ‘Bed and Breakfast’ in the Residential and Rural Residential zones which Level B consultation is required.</li> <li>• ‘Family Day Care’ in the Residential, Rural Residential and Mixed Use zones which Level B consultation is required.</li> <li>• ‘Home Business’ in the Residential zone for which Level B consultation is required.</li> </ul>	<b>C</b>
Uses not mentioned in Zoning Table	<b>C</b>
Extension to a Non-Conforming Use	<b>C</b>
Extractive Industry	<b>C</b>
Local Planning Policy Development/Review	<b>D#</b>

\* Additional consultation requirements prescribed in the Planning and Development (Local Planning Schemes) Regulations 2015.

# The minimum public consultation is detailed in clause 1.17 of this Policy and in addition to this may include workshops with key stakeholders where deemed appropriate.

% Comment period must be a minimum of 14 days and a maximum of 28 days in accordance with Clause 18 of the Deemed Provisions.



SCHEDULE 2 – SUBMISSION FORM

DEVELOPMENT APPLICATION  
SUBMISSION FORM

PROPOSED: <b>Officer to insert Description</b>	Responsible Officer:
FILE REFERENCE: <b>Officer to insert</b>	<b>Insert Name</b>

Submitter: \_\_\_\_\_

Postal Address: \_\_\_\_\_

Property Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

Your Comment (tick one box): Support  Object  Undecided

Comments  
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*If necessary add additional pages to your submission.*

**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/STRUCTURE PLAN FOR PUBLIC COMMENT**

Notice is hereby given that [insert description of matter which public comment is being sought – i.e. *a Structure Plan for Lot 26 Sanctuary Road*] is available for public comment.

[Insert brief overview of the proposal – i.e. *The Structure Plan has been prepared to guide the future subdivision and development of Lot 26 Sanctuary Road, Cable Beach. The Structure Plan proposes to subdivide the site into 84 residential lots with an average lot size of 826m<sup>2</sup> and also propose the development of a local centre to service surrounding population*].

Copies of the [Structure Plan] will be available for viewing at the Shire of Broome Administration Centre, Weld Street Broome and will be open for inspection during normal office hours (8:00 AM to 4:00 PM) from [insert date] up to and including [insert date]. The [Structure Plan] will also be made available for viewing on the Shire's website at [www.broome.wa.gov.au](http://www.broome.wa.gov.au).

Submissions on the proposed [Structure Plan] may be made in writing and lodged to the Chief Executive Officer, P O Box 44 Broome WA 6725 or emailed to [shire@broome.wa.gov.au](mailto:shire@broome.wa.gov.au) before 4.00pm on [insert date].

If you would like to discuss the proposal further with the Shire please contact [insert officer contact details] on (08) 9191 3456.

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S Mastrolembro  
Chief Executive Officer.  
PO Box 44  
Broome WA 6725