

M2 Public Consultation – Formal Matters Policy

Statement of Intent

This Policy is designed to clearly define the various levels of consultation required to meet the statutory and 'standard' consultation requirements for the range of Council functions. This consultation provides the community with adequate and appropriate opportunity to:

- Respond and comment on issues and proposals;
- Be informed on current issues and proposals that may potentially affect them;
- Provide support and gain a sense of ownership of key Council functions and activities.

It is the intent of this policy to provide an additional avenue of communication between Council and the community in order to support rather than replace the Councillors role in receiving and generating ideas and input, into Council issues and decision making.

In relation to complex issues, Council is able to exercise flexibility in determining the level of consultation that is required.

Where a decision is likely to attract significant public interest Council will determine the required level of public consultation, notwithstanding the minimum requirements set out in the policy.

Any public submissions presented to Council become a public document. Once presented to Council access to copies of these submissions by the public is unrestricted.

Submissions are not to contain defamatory remarks, offensive language or matters pertaining to the personal affairs or actions of Council Members or employees.

Objectives

- To develop a method of identifying the level of impact of Council proposals and functions;
- To clearly define the level of consultation relevant to Council issues;
- To detail the requirements for consultation based on the level of impact;
- To outline the process Council will use when undertaking consultation and considering submissions.

1. 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:

- (a) That adjoins an application site; and / or
- (b) The enjoyment of which may be detrimentally affected by the use of an application site or the erection of a building on an application site.

Development means the development or use of any land, including any demolition, erection, construction, alteration of or addition to any building or structure on the land and the carrying out on the land of any excavation or other works and in the case of a place to which a Conservation Order made under section 59 of the Heritage of Western Australia Act 1990 applies, also includes any act or thing that –

- (a) Is likely to change the character of that place or the external appearance of any building; and
- (b) Would constitute an irreversible alteration to the fabric of any building.

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

Neighbouring Land means any land, other than adjoining land which may be adversely affected by the use of an application site for development (and includes properties in a neighbouring local Council area).

Notification means written advice provided by Council in accordance with the requirements of this policy, however does not provide persons notified with an opportunity to formally respond to and comment on, the information conveyed.

Submitters means those affected persons who have provided written comment on a proposal within the formal comment period or shortly thereafter at the discretion of Council.

Works means any physical alterations made to land or property within the municipality, either by Council or a government agency or third party authorised by the relevant agency.

2. Criteria to Assess Level of Impact

The level of consultation used by Council shall relate to the extent of community impact or interest associated with the proposed development, project or Council works, and shall be selected according to the following criteria:

(a) Level A – No Consultation

- (i) No detrimental impact on the character or amenity of the immediate or general locality likely;
- (ii) Consultation is not required or is precluded under relevant legislation;
- (iii) Consultation has previously occurred and only minor modifications or modifications that address previous concerns raised are proposed.

(b) Level B – Notification

- (i) Works or proposals of interest to properties fronting or adjoining the land subject to development but unlikely to involve detrimental impacts outside the subject land;
- (ii) Activities or events on reserves consistent with the reserve purpose where no detrimental impacts are likely;
- (iii) Works, activities and Council functions associated with a previously advertised schedule of works or statutory plan, where no significant alteration to the existing function or environment will occur;
- (iv) Statutory requirements for notification exist.

(c) Level C – Adjoining Landowner Comment

- (i) Development use or works involve additions or alterations that are visible or have an apparent impact on the owner or occupier of land immediately adjacent to the property affected.

(d) Level D – Neighbouring Landowner Comment

- (i) Development, use or works that involve potential detrimental impacts on the use or enjoyment of the land adjoining the application site or other neighbouring land.

(e) Level E – Locality

- (i) Development, use or activities that are likely to affect the amenity, character or function of an area greater than neighbouring properties.

(f) Level F – District

- (i) Proposals, projects or Council functions that are of Shire wide significance.

3. Function and Proposal Subject to Consultation

Schedule 1 outlines the matrix upon which the appropriate level of consultation with affected persons and the community may be determined, for key Council activities and types of development. Where proposals occur that do not clearly fall within the matrix, or where circumstances indicate that the

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standard level would not be appropriate, the criteria outlined above shall be used to establish the consultation process required. Notwithstanding, compliance proposals involving a substantial impact due to scale, size or nature of the proposal shall be referred to the Senior Management Group to determine the level of consultation required

4. Level of Consultation

Council shall undertake the following levels of consultation, based on the impact criteria developed in the previous part of the policy:

(a) Level A – No Consultation

(b) Level B – Notification

Written notification directly to the owners or occupiers of affected land is to be undertaken only (e.g. road upgrading – notify residents of the subject road). The notification letters are to be posted so they are received at least fourteen (14) days prior to the commencement of the development, work or activity. Liaison with relevant government agencies or community groups is also to be undertaken within this time period where appropriate or specified under relevant legislation. No formal public comment period applies at this level – the consultation process is only for the purpose of providing information to affected persons.

(c) Level C – Adjoining Landowner Comment

Written notification to the adjoining owners or occupiers potentially affected by any impact from development, work or activity shall be provided, with a minimum submission/comment period of fourteen (14) days or other statutory period as specified by the relevant legislation is to be undertaken by the relevant officer; alternatively, a signed letter of non-objection from affected landowner/s shall be provided by the applicant, including a signed copy of the site plan (if applicable).

(d) Level D – Neighbouring Properties Comment

Written notification to the owners or occupiers of all land within a minimum of two properties of the land subject to the proposed development, works or activity and any other owner or occupier likely to be directly affected by the proposal shall be undertaken by the responsible officer, specifying a minimum submission/comment period of twenty-one (21) days or other statutory period as specified under legislation.

(e) Level E – Locality

An advert in a local or state newspaper, notice to be displayed on Council's website, sign/s on site in a prominent location and written notice detailing the proposed development, works or activity, outlining a minimum twenty-eight (28) day submission/ comment period or other greater time period as appropriate or statutorily required. Furthermore, written notification to all owners occupiers within 100 metres of the land subject to the proposal within the Toodyay, Bejoording or West Toodyay townsites and 500 metres for land outside of townsites and to owners or occupants along key impact routes is to be undertaken by the responsible officer.

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Notwithstanding this specified area, the Senior Management Group may determine that a lesser distance may be appropriate where no impacts are envisaged within portions of the area identified above.

(f) Level F – District

All applications, projects and Council functions within this consultation category shall be subject to the development of a consultation program by the responsible officer, which shall be a brief summary outlining:

- (i) Specific objectives of the consultation;
- (ii) Consultation measures to be used;
- (iii) Timeline of the process and subsequent determination;
- (iv) Responsible officers and level of delegation;
- (v) Costs and budget implications; and
- (vi) Method of informing submitters and the community of any outcomes.

Specific objectives for Level F consultation may include, but not be limited to the following:

- (i) Raise awareness about a particular issue, facility or service;
- (ii) Establish communication links with the community;
- (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.

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

- (i) Newspaper advertising;
- (ii) Letter drops or Council notices;
- (iii) Signage and displays in relevant locations;
- (iv) Media releases – press, radio, television (subject to availability);
- (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.

Notwithstanding the consultation mechanisms adopted, a minimum level of consultation for Level F shall be a comprehensive local newspaper advertisement repeated over the duration of the process (minimum of two (2) separate advertisements) associated with a formal comment period of twenty-one (21) days or more if considered appropriate.

The consultation program is to be assessed and approved by the Senior Management Group or Council (whichever is appropriate).

5. Consultation Procedure

- (a) The consultation procedure shall be undertaken in the manner outlined in Section 3 of this policy.

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- (b) A formal display area shall be established in the reception area to allow for display of plans and other information for public inspection.
- (c) Council shall work towards the introduction of a web site and on-line availability of information on relevant issues or proposals, including the ability to make submissions on standard forms via the internet, at which stage the policy shall be reviewed to incorporate this option into the relevant levels of consultation.

6. Consideration of Submissions

- (a) Upon receipt of a submission, the records officer shall send correspondence to the submitter acknowledging receipt of the submission. Once a decision has been made on the relevant matter the responsible officer shall write to all submitters advising them of the outcome.
- (b) All submissions received will be summarised and scheduled for consideration by Council. When a decision is to be made by Council (as distinct from a delegated officer) the Schedule of the submissions received is to be included in attachments of the Agenda and therefore will be taken into account by the Council in determining the action to be taken.
- (c) Matters to be taken into account in the consideration of submissions are outlined as follows:
 - (i) Consideration outlined in the relevant Local Planning Scheme, Council policy or strategy;
 - (ii) Potential for detrimental impact on the enjoyment of nearby properties due to alteration of views to and from the proposed site, overshadowing, privacy, noise impact, proposed use or activities, or building scale, height, external appearance and bulk;
 - (iii) Impact of the proposal on streetscape and the amenity of the locality;
 - (iv) Heritage values or significance;
 - (v) The adequacy of access, egress, parking and manoeuvring including disabled access;
 - (vi) Traffic generation and probable effect on safety and traffic movement;
 - (vii) Whether the area contains species of endangered native flora and fauna;
 - (viii) Removal of, or increased threat to, native vegetation;
 - (ix) Any other environmental consideration including, but not limited to, potential for soil erosion or land degradation, water quality degradation, or increased environmental risk;
 - (x) Potential loss of any community service or benefit;
 - (xi) Adequacy of community and public utility services;
 - (xii) Any other matter relevant to the orderly and proper functioning of Local Government, as outlined in Section 3.1 of the Local Government Act 1995.

7. Cost of Consultation

The full cost of the consultation requirements specified within this policy are to be met by the applicant, as set out in the Schedule of Fees contained in the annual budget of Council.

8. Late Submission

Late submission may be included for consideration at the discretion of the CEO where:

- (a) The submission is from a referral agency (e.g. Department of Environmental Regulation, Main Roads WA);

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- (b) The consultation does not relate to a planning matter funded by a planning applicant; and
 - (i) Consideration of the submission will not delay consideration of the matter to be considered; or
 - (ii) The submission is from a key stakeholder where exclusion would compromise the quality of the decision

9. Schedule 1

The following Schedule only lists those functions that do not require consultation under another Policy, Local Law or Legislation:

FUNCTION	CONSULTATION LEVEL
PLANNING	
Local Planning Scheme Review	F
Scheme Amendment	E*
Planning Strategies for Selected Areas	F
Management Plans (Local)	E
Outline Development Plans & Structure Plans	E
Subdivision Referrals	A
Development – P or X Uses	A*
Development – D Uses	C
Development – A Uses, Uses not mentioned in Zoning Table or Extension to a Non-Conforming Use	E*
Building Envelope Variation – Minor Extension	A*
Building Envelope Variation – Complete Relocation	C
Setback Variation – unless the proposed development is attached to an existing structure and the development is not encroaching any further into the established setback line.	C
Planning Application (including demolition of a building) – Proposal within the Heritage Area or building listed on the Heritage List	A #
Planning Application for Signage within the Heritage Area or a building listed on the Heritage List	A #
Planning Application for Signage	A
BUILDING	
Building Applications	A
HEALTH	
Offensive Trades	B
ENGINEERING	
Forward Infrastructure Management Programs (e.g. 5 year road upgrade programs, waste management strategy)	E
Road Upgrading (e.g. resealing, re-sheeting)	B
Road Maintenance	A
Road/Footpath Construction	B

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Street Tree Removal	B
Street Tree Planting	B
Road Closure –Permanent (DLI)	E*
Road Closure – Temporary (Local Government)	E*
Road Closure – Festivals and Events	^^
FUNCTION	CONSULTATION LEVEL
ASSET MANAGEMENT	
Development Plans – Council Reserves	D
GOVERNANCE	
Policy Development – Council/Admin procedures only	A
Policy Development – Involves specific user groups	E
Policy Development – major Shire/regional/State impact	F
Changes to Council function/service provisions (e.g. library opening times, rubbish collection)	E
New Rating Structure/Format	F*
Pre Budget Consultation	E
Strategic Plan Consultation	F

* Consultation Procedures already set out by Local Law, existing legislation (Local Government Act 1995, Land Administration Act, Town Planning Scheme, Residential Planning Codes, Road Traffic Code, etc.).

Includes consultation with Council's Heritage Advisor

^^ As per Council's Policy A.13 – Temporary Road Closures

Reference Information

Related Documents

Related Legislation *Local Government Act 1995 (WA)*

Associated Forms and Attachments

Version Control Information

Version No.	Issue Date	Nature of amendment	Developed By	Approved By
V007	24/07/18	Minor	CEO	Council

Document Control Information

Document Theme	Governance
Document Category	Executive
Document Title	M2 Public Consultation – Formal Matters Policy
Document ID	NPP16256 / Resolution No. 162/07/18
Document Owner (position title)	CEO
Author (position title)	CEO
Date of approval	24/07/18
Approving authority	Council
Access restrictions	
Date Published	24/07/18
Date of last review	Reviewed Council Meeting 24 November 2005 Amended Council Meeting 16 November 2006 Amended Council Meeting 15 November 2007 Reviewed Council Meeting 21 May 2009 Amended Council Meeting 13 May 2010 Amended Council Meeting 10 December 2013
Date of next review	2020
Archived antecedent documents and previous versions	

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