

# minutes

## Policy Committee

MEETING HELD ON **MONDAY 24 FEBRUARY 2020**

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## CITY OF JOONDALUP

MINUTES OF THE POLICY COMMITTEE MEETING HELD IN CONFERENCE ROOM 2,  
JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON MONDAY  
24 FEBRUARY 2020.

### ATTENDANCE

#### Committee Members

Cr Christine Hamilton-Prime	<i>Presiding Member</i>
Mayor Hon. Albert Jacob, JP	
Cr Kerry Hollywood	<i>Deputy Presiding Member</i>
Cr Christopher May	
Cr Nige Jones	
Cr Russ Fishwick, JP	
Cr John Chester	

#### Observers

Cr Tom McLean, JP	
Cr John Raftis	<i>from 5.46pm</i>
Cr Suzanne Thompson	

#### Officers

Mr Garry Hunt	Chief Executive Officer	<i>from 5.46pm</i>
Mr Jamie Parry	Director Governance and Strategy	
Ms Dale Page	Director Planning and Community Development	
Mr Chris Leigh	Manager Planning Services	
Mrs Vivienne Stampalija	Acting Manager Governance	
Mrs Deborah Gouges	Acting Governance Coordinator	
Mrs Wendy Cowley	Governance Officer	

### DECLARATION OF OPENING

The Presiding Member declared the meeting open at 5.45pm.

**DECLARATIONS OF INTEREST**

Nil.

**APOLOGIES / LEAVE OF ABSENCE****Leave of Absence previously approved**

Cr Russ Fishwick, JP	25 February to 3 March 2020 inclusive;
Cr John Logan	12 to 15 March 2020 inclusive;
Cr John Logan	26 April to 3 May 2020 inclusive;
Cr Christine Hamilton-Prime	1 May to 8 June 2020 inclusive.

**CONFIRMATION OF MINUTES****MINUTES OF THE POLICY COMMITTEE MEETING HELD ON 5 AUGUST 2019 AND SPECIAL POLICY COMMITTEE MEETING HELD ON 4 NOVEMBER 2019**

**MOVED** Cr Hollywood, **SECONDED** Cr Chester that the minutes of the following meetings of the Policy Committee be confirmed as a true and correct record:

- 1 Policy Committee meeting held on 5 August 2019;**
- 2 Special Policy Committee meeting held on 4 November 2019.**

**The Motion was Put and**

**CARRIED (7/0)**

**In favour of the Motion:** Cr Hamilton-Prime, Mayor Jacob, Crs Chester, Fishwick, Hollywood, Jones and May.

**ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION**

Nil.

**IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC**

In accordance with Clause 5.2 of the City's *Meeting Procedures Local Law 2013*, this meeting was not open to the public.

**PETITIONS AND DEPUTATIONS**

Nil.

*Cr Raftis and the Chief Executive Officer entered the Room at 5.46pm.*

## REPORT

### ITEM 1 DRAFT PLANNING CONSULTATION LOCAL PLANNING POLICY – CONSIDERATION FOLLOWING ADVERTISING

<b>WARD</b>	All
<b>RESPONSIBLE DIRECTOR</b>	Ms Dale Page Planning and Community Development
<b>FILE NUMBER</b>	108216, 101515
<b>ATTACHMENTS</b>	Attachment 1 Draft <i>Planning Consultation Local Planning Policy</i> - as advertised Attachment 2 Community Engagement Outcomes Report Attachment 3 Draft <i>Planning Consultation Local Planning Policy</i> - proposed modifications (tracked) Attachment 4 <i>Draft Planning Consultation Local Planning Policy</i> - proposed modifications (clean) Attachment 5 Updated Local Planning Policies Attachment 6 Proposed Fees and Charges
<b>AUTHORITY / DISCRETION</b>	Legislative - includes the adoption of local laws, planning schemes and policies.

## PURPOSE

For Council to consider the draft *Planning Consultation Local Planning Policy* following public advertising.

## EXECUTIVE SUMMARY

At its meeting held on 21 November 2017 (CJ177-11/17 refers), Council committed to preparing a new planning framework for infill development. Council also resolved to request the preparation of a *Planning Consultation Policy* to provide greater certainty and transparency regarding consultation on planning proposals.

The draft *Planning Consultation Local Planning Policy* (the draft LPP):

- elaborates and clarifies the various provisions relating to consultation contained in the *Planning and Development (Local Planning Schemes) Regulations 2015* and the State Government's *Residential Design Codes*
- reflects current consultation practices being undertaken by the City
- proposes consultation that goes above and beyond the requirements of the afore-mentioned planning legislation

- retains some flexibility around planning consultation. Given the varying scale and context of planning proposals, it is not possible or appropriate to mandate a standard method of consultation in all instances for all applications.

At its meeting held on 20 August 2019 (CJ110-08/19 refers), Council resolved to proceed to advertise the draft LPP (Attachment 1 refers) for a period of 21 days. Advertising concluded on 21 November 2019, with 142 submissions received.

A wide range of comments, suggestions and objections was received on various parts of the draft LPP and in general. These comments are all outlined in the *Community Consultation Outcomes Report* at Attachment 2 to this Report.

Following analysis of the submissions, a series of modifications are proposed to the policy, as outlined in this report, which are generally aimed at increasing visibility of consultation on planning proposals. It is therefore recommended that Council supports final adoption of the draft LPP, with modifications.

## BACKGROUND

At its meeting held on 21 November 2018 (CJ177-11/17 refers), Council as part of consideration of a report on addressing issues in Housing Opportunity Areas resolved, in part, the following:

*“...2 Requests the preparation of a Planning Consultation Policy to provide greater certainty and transparency regarding consultation for planning proposals;...”*

The requirement for consultation on planning proposals is principally governed by the *Planning and Development (Local Planning Schemes) Regulations 2015* (the LPS Regulations) and *State Planning Policy 7.3 – Residential Design Codes* (the R-Codes). The R-Codes collectively now includes both Volume 1 (relating to single and grouped dwellings) and Volume 2 (relating to multiple dwellings - previously known as Design WA).

These documents outline minimum, and sometimes maximum consultation periods as well as the various methods which can be used for consultation.

For many types of planning proposals/applications, the LPS Regulations do not specifically stipulate how the planning proposal must be advertised. Rather, the LPS Regulations:

- outline that the City should give notice of the proposed use or development to owners and occupiers of properties in the vicinity of the development who, in the opinion of the City, are likely to be affected by the granting of development approval
- provide a range of methods and options that can be employed to do so, only requiring that one (or more) of the methods be used.

In relation to consultation on planning proposals, the R-Codes Volume 1 outlines the following:

- Where a proposal meets deemed-to-comply requirements of the R-Codes, it will not require advertising to adjoining owners and occupiers.
- Where a proposal requires assessment against one or more design principles of the R-Codes, and this may have a possible impact on the amenity of adjoining owners and occupiers, then there may be grounds to advertise the proposal to these owners and occupiers.

- Where the decision-maker needs to judge the merits of a proposal and the merits of the proposal are a matter of technical opinion; and the decision-maker is satisfied it will not adversely impact the adjoining residential property or the street, it is not necessary to seek comment from adjoining owners and occupiers about the proposal, except where specifically required by the scheme or a relevant local planning policy.
- Where a matter is advertised for comment the notification should direct adjoining owners and occupiers to focus their comments to the particular design principle(s) that the proposal is addressing.
- The decision-maker, upon receipt of any comment(s) from adjoining owners and occupiers, is required to consider and balance comment(s) with its technical opinion when it exercises its judgement to determine the proposal.

## DETAILS

### Purpose of planning consultation

As outlined in the LPS Regulations and the R-Codes (above), the primary purpose of planning consultation is to engage with owners and occupiers in the vicinity of a development site or planning proposal who may potentially be affected by a development or strategic planning proposal, if approved.

The purpose of planning consultation is not to simply notify residents or the broader community of a planning proposal, but to seek feedback from those consulted on how a planning proposal may affect them. It is noted, however, that consultation does serve a function of raising a general awareness of development activity in an area.

Submissions received from a planning consultation play an important role in informing decision-making; however, it is one component of a range of matters that need to be taken into account by the decision-maker. Other factors include the relevant planning legislation or frameworks and the professional judgement of the assessor as to whether the proposal meets the objectives of the frameworks and thereby is considered to have planning merit.

Further, for a submission to have weight and contribute to the decision-making process, it needs to be based on planning merit that is relevant to the specific planning proposal. Consultation on planning proposals is not a 'numbers game', whereby the number of submissions received, or the majority vote of a consultation determines the outcome. In some cases, proposals are refused even when no submissions are received and, in other cases, proposals are approved if they meet the requirements of the planning framework and have planning merit, even if there are many objections to the proposal.

### Context of draft *Planning Consultation Local Planning Policy*

Planning legislation and state planning policies have requirements and guidance as to how and when consultation should be undertaken. These requirements and principals must be given a high level of regard when undertaking consultation on planning proposals.

The draft LPP as advertised retains some flexibility around planning consultation. Given the varying scale and context of planning proposals, it is not possible or appropriate to mandate a standard method of consultation for all applications. For example, the level of consultation required on a setback of a patio from the lot boundary versus a large multiple dwelling will be different.

There appears to some misunderstanding within some submissions received that if a development proposal is not placed on the City's website then no consultation is or will be undertaken. This is an incorrect assumption. Consultation often occurs via letters to adjoining and nearby neighbours on applications where minor discretion is being sought, for example, for a building setback to a boundary where the potential impact of the development is confined to the immediately adjoining residents. This form of consultation does not change under the draft policy.

It is important to note that the draft LPP is largely based on the City's current consultation practices for planning proposals and would not result in any reduction in the number of applications where consultation would occur.

The draft LPP as advertised contains the following:

- Objectives.
- Provisions, including:
  - criteria that will be considered when determining the extent of written consultation (such as letters to affected and nearby owners)
  - an appendix containing the duration and methods of consultation for specific types of planning proposals
  - ensuring the availability of appropriate supporting and technical material
  - how consultation over the Christmas and Easter periods will be managed
  - an 'opt-in' option, to receive further updates from the City on the proposal, for example, dates of forthcoming Council meetings and the final decision
  - cost associated with consultation - to be borne by the applicant in accordance with updated fees to be included in the City's *Schedule of Fees and Charges*.

It should be noted that, given the varying scale and context of planning proposals, the draft LPP continues to allow a degree of judgement to be applied to consultation processes, as it is not possible for a 'one size fits all' approach to accommodate all planning proposals. As such, arbitrary limits on the extent of consultation (for example, a set radius) are not included in the draft policy. Rather, a set of criteria has been included to assist in establishing the extent of consultation, given the potential impact a specific proposal may have, being:

- the requirements of the R-Codes in relation to consultation requirements
- the scale and scope of the planning proposal
- the location and proximity to the property in question
- the potential impact of the planning proposal on local amenity, such as vehicle movements, streetscapes and landscaping, among others.

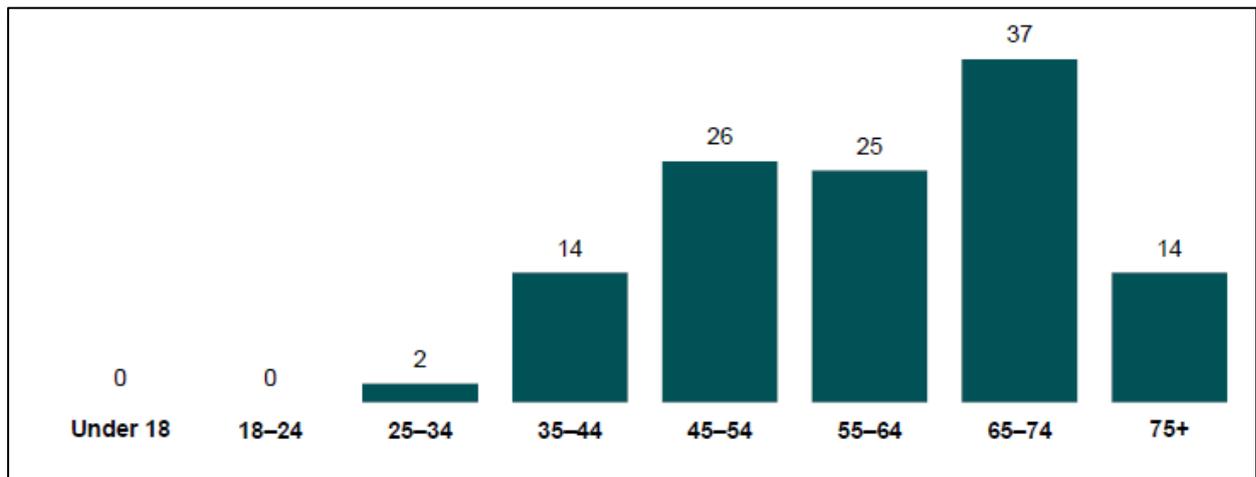
The only exception to the above is for proposed telecommunication towers, where a 400-metre radius is already specified in the City's *Telecommunications Local Planning Policy*.

### Submissions

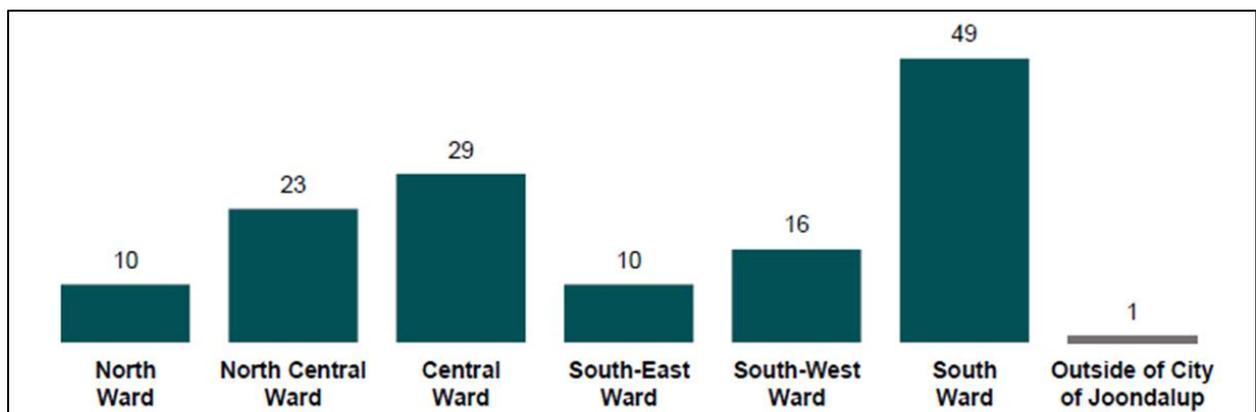
142 valid submissions were received, representing a response rate of 3% of those stakeholders directly contacted (3,231). Valid submissions are those which contain contact details, enable identification and which were submitted during the advertising period. Where multiple submissions were made, these were considered a single response.

It is noted that a number of individual submissions contained identical or repeated statements, similar phrasing and/or similar paragraphing. This suggests these may have been originally written by the same person or persons or developed using a proforma submission. Notwithstanding this, these have been treated as individual submissions where different, individual contact details have been provided.

The age and ward profiles of submitters are shown in the following tables.



Age profile



Ward profile

The full *Community Engagement Outcomes Report* is included as Attachment 2 to this Report.

Many submitters took the opportunity to state their objection to infill development in general and/or state that the policy is attempting to reduce the level of consultation; however, did not provide specific comment on the provisions contained within the draft LPP.

Some general themes from the submissions include:

- objections to infill development in general - not specifically the content of the draft LPP
- greater transparency is needed
- all planning proposals should be advertised on the website - applications for new grouped dwellings (less than five) should continue to be placed on the City's website
- all proposals requiring any form of discretion should be advertised
- all residents adjoining a proposed development should be provided with a letter and copy of plans as part of consultation
- all stakeholders must be provided with information as to how objections have been addressed or why they have not been acted on
- the community has the right to be consulted and should always be able to provide feedback
- the City should always take community feedback into account and should always respond to feedback received.

The key themes of the submissions received, that pertain specifically to the different sections of the draft LPP are discussed below.

### Definitions

Comment was received requesting that information or definitions of 'D' (discretionary), 'A' (must be advertised) and 'P' (permitted) be included in the draft LPP.

It is considered appropriate that these definitions be included.

### Statement

Comment was received requesting that the policy statement be expanded to include a requirement that all development applications and determinations and/or all building applications and permits issued be reported on the City's website on a monthly basis.

Currently, this information is available as follows:

- A report is included in each Ordinary Council meeting agenda outlining the planning applications determined under delegated authority and the City's recommendations to the Western Australian Planning Commission on subdivision applications for the preceding month.
- A list of the planning and building applications determined in the last month is available on the City's website as part of the online application system (known as ICON). A search on a specific property will provide any applications determined for that property.

It is acknowledged that the above information may not be considered by the community as being readily accessible. The City is therefore already separately investigating improvements to how planning and building data is collated and how these development metrics are reported in a more meaningful and easier to understand way.

It is, however, not considered necessary for this to be included as a statement within the policy as this is more procedural in nature.

#### 5.1.1 Stakeholders

##### *Identification of stakeholders*

Comment was made that the identification of stakeholders is insufficient and should include measures such as a radius around a development site for notification letters, or diagrams outlining specific properties to be consulted (for example, adjoining and diagonally and opposite).

Applying a mandatory radius may create comfort for some people, given there would be more certainty about who would get a letter and who would not. However, this does not mean it is an appropriate or effective method of consultation and it may also pose some risk and challenges.

For example, the impact of a minor addition or a new house, or one or two new dwellings on a site, is different to the impact of a larger multiple dwelling (apartment) development. Using the same radius for notification letters for these developments would not be appropriate. Employing different radii for different types of proposals would become very confusing and would not achieve the aim of creating more certainty in relation to who would be consulted directly on a planning application, and who would not.

Further, employing a mandatory radius to determine who to write to is very prescriptive and would not necessarily ensure that all properties potentially affected by a planning proposal would be directly contacted. Conversely, a radius would also inevitably include properties where there would be no direct impact on that property.

As shown in the example below, a defined radius around the property crosses a major road. The properties located on the southern side of the major road and those located further away in separate cul-de-sacs would not be impacted by the development of the highlighted property and the degree to which any submission from those properties could be given would be limited considering the lack of any direct impact.



It is therefore recommended that the draft LPP not be amended to require the application of a radius around a development site for the purposes of sending out consultation letters. Instead it is recommended that the City continues to apply common sense to make sure those people likely to be directly affected by a proposal receive a letter inviting them to comment, noting that anyone else interested in the proposal can still lodge a submission if they see a sign on site (if one is required), see the plans on the website or hear about the proposal from another party.

In relation to the use of diagrams to outline which properties will be contacted directly, there may not be merit in doing so, as demonstrated in the following examples:

This diagram shows who could be affected by and, therefore, who should potentially receive a letter for an application proposing a new dwelling, or more than one dwelling, that could impact on neighbours and the streetscape:



However, the diagram below shows who could justifiably be impacted by an application for an extension to the rear of an existing dwelling, perhaps for a new family room and alfresco area. Such a proposal could realistically only affect the side and rear neighbours and it may not be necessary or appropriate to write to the people across the road.



As outlined in the diagram below, for a proposal where a new garage or part of a dwelling is proposed with a wall on one side boundary, this would realistically only affect the neighbour on that side, so it brings into question the need to write to all surrounding neighbours.



The last example (below) is of minor development at the back of a dwelling, such as a shed in one back corner. The location of this development may impact only two or three neighbours, so it does not make sense to write to people across the road seeking their views on the proposal.



It is unclear why some submitters have a view that the wider community should have input into proposals that would only affect specific neighbours, given that routinely writing to a defined number of properties would not assist in informing the outcome of that planning proposal given the location of the objection.

As outlined above, there are potentially many development proposals or scenarios, which would have different levels of impact based on the nature and scale of the proposal. Unless the City adopted a position where it wrote to all neighbours around a site for every development proposed, the inclusion of different diagrams for different scenarios in the draft LPP would potentially be complicated and confusing.

It is therefore recommended that a diagram(s) is not included in the draft LPP and, instead, the City continues to write to those people who the City considers would be legitimately impacted by a proposal, noting that larger proposals that could negatively impact a broader catchment around a site, will be advertised more broadly in any case.

There may be times when a resident questions why they were not directly consulted on a proposal. Therefore, when placing a consultation on the City's website, there may be benefit in providing some general information as to which properties have been directly notified of a planning proposal given the potential impact on those properties. This change in approach is procedural in nature and, as such, no amendment to the draft LPP is required in this regard.

#### *Notification of resident / ratepayer groups and Community Engagement Network*

Comment was made that resident and ratepayer groups and the City's Community Engagement Network should be notified on all occasions where a consultation is posted on the City's website. This request is not supported.

The primary purpose of the Community Engagement Network is to provide an opportunity for community involvement in the City's projects and associated decision-making processes. It is not intended for highly localised consultations given, in these circumstances, the City would identify and consult directly with those affected.

It is also respectfully suggested that as part of their role, it would seem prudent for resident and ratepayer groups to regularly monitor the City's website for relevant consultations and the City should not write to these groups whenever a small-scale planning proposal is received.

Currently, if the City considers that a proposal is of a scale that could affect a large portion of residents in a neighbourhood or area, and/or if there would be benefit from dissemination of information to residents, then the City will write to the relevant resident and ratepayer group. However, it is not considered necessary to write to them about typical, smaller scale development applications that would only affect a handful of people the City would write directly to anyway.

It is therefore recommended that the draft LPP not be amended to require resident and ratepayer groups and the City's Community Engagement Network to be notified whenever a consultation is posted on the City's website.

#### *Inclusion of owners and occupiers*

Comment was made requesting clarification that stakeholders include owners and occupiers. This is currently the case and intended to be continued under the draft LPP. The draft LPP can be updated to clarify that notification letters are sent to both owners and occupiers of residential properties.

### 5.1.2 Methodology

#### *Advertising discretion*

Comment was received that all applications where any discretion is to be considered should be advertised widely.

In accordance with the LPS Regulations, the purpose of consultation is to notify owners and occupiers in the vicinity of a development site who, in the opinion of the local government, are likely to be affected by the granting of development approval. It is sometimes misconstrued that if discretion is being sought, this equates to the proposal not complying with the 'rules' and that fact in and of itself constitutes the basis for objection. The fact that discretion is being contemplated should not be the issue or the basis of objection. Rather, it is the possible impact a proposal could have on an adjoining property or streetscape that should be the issue or the basis of any objection.

It is the case that in some instances, the exercise of discretion may not actually have a potential impact on any property. For example, a small portion of a front fence that exceeds the standard height of 1.8 metres above natural ground level, due to the slope of the land in that particular location, is unlikely to be discernible as a discretion and therefore would be unlikely to have an impact on any adjoining properties. Advertising of the proposal would be difficult to justify given the lack of potential impact.

There are also potentially significant cost implications associated with advertising every application that involves some level of discretion. Approximately 30% of all development applications determined are the subject of consultation at an average consultation cost to the City of \$163 per application (excluding corporate overheads) or approximately \$52,000 per annum.

Around 95% of all development applications involve some form of discretion. The high proportion of applications received requiring discretion arises from the fact that if no discretion was being sought, it is likely the proposal would not require a planning application at all.

The City receives, on average, over 1,200 development applications per year. If all applications that involve discretion were to be advertised, based on the average cost of consultation per application, the cost to the City would rise to approximately \$182,000 (excluding corporate overheads).

The draft LPP proposes to include additional charges to recover costs on larger consultations. While the City could attempt to recover consultation costs on all applications, the resources needed to recoup smaller costs (for example, the cost of letters/postage for less than 100 letters) would not lead to full cost recovery of the consultation costs.

Given the above, it is not considered justifiable to consult on every planning proposal simply because discretion is to be assessed.

#### *Availability of information*

A range of comments were received regarding how development plans and information is made available during the consultation period. For example, it was suggested that for every consultation, all plans be provided on the website and/or that hardcopy plans be provided when writing to adjoining and nearby neighbours.

Currently, most consultations undertaken involve written correspondence to adjoining and nearby owners and occupiers, who are advised that plans are available for viewing at the City's administration office during business hours. It is acknowledged, however, that this method is not always convenient for stakeholders.

As suggested in submissions, development plans could be placed on the City's website for all proposals where consultation is to be undertaken. This would be in addition to written notification of adjoining and/or nearby owners and occupiers, as is currently the case. This would allow ease of access to plans for those owners and occupiers who are consulted with as part of the proposal.

It would also allow any interested person to make a submission on the proposal. If this was to transpire, the City would assess the submission and make a judgement on the merit of that submission, given the potential (or lack of) impact on the submitter.

The above would require additional time and resources in the administrative requirements to arrange plans to be made available on the website, as well as the potential increase in the number of submissions that may be made on relatively minor proposals. However, this is considered a more appropriate response to the availability of plans given the printing and postage costs, as well as environmental considerations, that come with printing and sending of multiple hardcopies of often large sets of plans.

#### *Planning Alerts website*

Comment was also made that the Planning Alerts website be used to inform residents of planning consultations that are placed on the City's website.

The Planning Alerts website is run by the OpenAustralia Foundation, which is a charity funded by donations from users. The website uses volunteer programmers to write 'screen scrapers' that searches local government websites for data and sends emails to subscribers when applications are advertised, based on the address provided by the subscriber. However, when a website changes how it displays information, the 'screen scraper' for that website won't be able to function and consequently the Planning Alerts website will show that website is 'possibly broken', and no information will be emailed to subscribers.

The reliability of the program is therefore questioned and there is also the potential that the City may need to make changes to its website to accommodate Planning Alerts. Also, if the City were to subscribe to Planning Alerts, it may result in additional cost and time in responding to queries from the public in instances where the Planning Alerts website identifies the City's website as "possibly broken".

Notwithstanding, the City will continue to investigate the merits of the Planning Alerts website and other similar facilities, in conjunction with the improvements to the planning and building information that is reported on the City's website, as discussed earlier.

#### 5.1.3 Timing and Duration

Comment was received that the required number of consultation days should occur outside of any holiday periods.

As outlined in the draft LPP, the timing of consultation may be prescribed under legislation or there may be timeframes for specific types of applications that are required to be met.

The draft LPP supports the extension of consultation periods which fall within holiday periods by seven days where timeframes can still be met, as an appropriate balance between the timeframe requirements and the availability for stakeholders to engage during holiday periods.

Extending timeframes further will risk applications becoming 'deemed refused', whereby the applicant can then appeal to the State Administrative Tribunal and the decision on the application taken out of the City/Council's control. Extending consultation periods may also mean that the City may not be able to achieve timeframes set by Development Assessment Panels or the State Administrative Tribunal, again risking that the decision will be made without the City's input.

Therefore, while no change is recommended to the draft LPP regarding consultation over holiday periods, the wording can be updated to state that consultation will be avoided over extended holiday periods wherever possible. This will also align with the City's *Community Consultation Policy* that was adopted by Council at its August 2019 meeting.

#### 5.1.4 Supporting and Technical Material

Comment was made that the clause regarding supporting and technical material is vague. Comment was also made that the R-Codes checklist should be included in the materials placed on the website during consultation.

The R-Codes Volume 1 applies to single houses and grouped dwellings, and multiple dwellings in areas coded R30 and under. Volume 1 includes a checklist for applicant use; however, this checklist is only intended to identify where a proposal may depart from the 'deemed-to-comply' standards of the R-Codes and does not provide for any assessment against the design principles. Furthermore, completion of this checklist by an applicant is not compulsory, so there would be little value in the draft LPP requiring completion and publishing of this checklist on the website.

The R-Codes Volume 2 Assessment Template is required to be prepared by an applicant and submitted with multiple dwelling applications. This checklist or template is therefore already made available on the City's website when an application is advertised. It is therefore recommended that the draft LPP not be amended to require the submission of R-Code checklists.

In relation to making the section on making supporting and technical material easier to understand, it is considered appropriate to add some examples to the paragraph within the draft LPP to assist in understanding of the intent of the clause, as below (underlined):

*“In addition to any development plans required as part of a planning proposal, the City will ensure appropriate supporting and technical material is made available to consultation participants for the duration of the consultation period to support understanding of the planning proposal. These materials may include transport studies, environmental and acoustic reports, the applicant's planning justification and similar.”*

#### 5.1.5 Consultation Outcomes

Comment was made that all stakeholders must be provided with information as to how their objections have been addressed or why they have not been acted on.

Currently, once a planning proposal is determined, all submitters are advised of the decision and, if the application is approved submitters are provided with information as to whether the proposal was modified to address concerns raised in the submissions and how the application has met the requirements of the planning framework.

Individually tailored letters to every submitter on every point of objection would be very resource intensive and come at a cost to the City and its ratepayers. For example, an analysis of development applications processed over a three-month period indicated that consultation was undertaken on 80 development applications. This consultation generated 196 objections or an average of 2.45 objections per application. This extrapolates to approximately 784 objections in response to 320 consultations per year. It is estimated it would take approximately 1.5 hours, on average, to write a letter responding specifically to all areas of objection, noting that some submissions are shorter and simpler, but some submissions are long, detailed and complex. This would equate to just under 1,200 officer hours per year responding to objections and, at an average hourly rate for urban planners and senior urban planners, this would cost the City just under an extra \$52,000 a year, excluding corporate overheads.

If consultation is then extended to all applications where discretion is involved (as requested by some submitters), then this cost could increase to approximately \$192,000 per annum, excluding corporate overheads.

This cost would need to be borne by the ratepayers and, given that submitters already receive a letter or email outlining the decision and the reasons why a proposal was considered to meet the required planning objectives, it is not considered justifiable to address every objection. It is therefore recommended that no change to the current practice or draft LPP be made in this regard.

#### Table 1 Consultation Requirements — Residential Development Applications

##### *Consultation periods*

Various comments were made that all consultation periods should be increased to 21 days, 28 days or two months for a variety of reasons including Australia Post delivery issues, people needing more time to respond as they have busy lives and people being on annual leave. Specific comment was received that the consultation duration for multiple dwellings and grouped dwellings (five or more) should be increased to 21 days.

As outlined earlier, there is a risk that increasing the consultation duration will impact on the ability to meet legislative deadlines and will risk applications becoming 'deemed refused', whereby the applicant can then appeal to the State Administrative Tribunal and the decision on the application taken out of the City/Council's control.

However, it is considered there is merit in providing a 21-day duration for the initial consultation on multiple dwelling and larger grouped dwelling proposals to recognise the generally larger scale and complexity of these proposals. Any subsequent consultation period would be 14 days as this follow-up consultation is likely to be a result of modifications to the existing proposal, possibly as part of a Development Assessment Panel or State Administrative Tribunal process.

It is also noted that all consultation letters are sent by priority post to minimise any delays in the letters being delivered. This approach is not proposed to change.

##### *Advertising of design principle assessments*

Comment was made that only consulting on discretions involving building height, visual privacy and solar access is insufficient. However, this comment appears to have resulted from a misinterpretation of the draft LPP provision.

The explanatory notes for Table 1 try to explain that the City will always consult where discretion is being sought regarding building height, visual privacy and solar access. Then, as is current practice, the City would still consult on design principle assessments for any other design element, if it was considered this would have a possible impact on the amenity of the street or adjoining properties.

This approach will expand the consultation requirements of the R-Codes, which states that for a proposal that is assessed against the design principles and has a possible impact on the amenity of the adjoining owners and occupiers, then there may be grounds for the decision-maker to advertise the proposal to these owners and occupiers.

Given the misinterpretation of the draft LPP provision by some, it is recommended to move the explanatory note into Table 1 for clarity and easier interpretation of the policy.

#### *Grouped dwellings (less than five)*

Comment was made that all grouped dwelling proposals, regardless of the number of dwellings, should continue to be placed on the City's website and that on-site signage should also be required.

The reason that the current draft LPP does not propose that all grouped dwelling proposals be placed on the website, is because sometimes these grouped dwelling applications only propose one or two additional dwellings and, in reality, these types of proposals would not impact many people beyond the immediate neighbours, who the City would write directly to anyway.

However, there has been some confusion about the consultation requirements for grouped dwellings (less than five) in that some people have misinterpreted the draft LPP to mean that there would not be any consultation for these proposals if they are not published on the website. This is not correct, as the draft LPP also indicates that these types of proposals would be advertised to stakeholders by letter.

Notwithstanding the above, because it is already proposed to put the plans for all consultations on the City's website for the convenience of those people who receive a letter from the City, and given the City has already adopted this as an interim practice whilst the draft LPP was being developed, this practice can be continued into the future, with some minor resourcing impacts.

However, it is not considered necessary to require a sign on the site, given the smaller scale of these proposals is likely to have a more localised potential impact and that the people actually affected by them will be directly contacted by the City anyway.

#### *Solar panels*

Comment was received that all solar panels that are elevated on flat roofs should require consultation.

However, the R-Codes specify that solar collectors installed on the roof or other parts of a building are 'deemed-to-comply', and therefore it is not possible to mandate the advertising of solar panels on residential development.

### Table 2 Consultation Requirements — Other Development Applications

#### *Non-residential development in the Residential zone*

Comment was made that on-site signage should be required for all non-residential development within the Residential zone.

The most common non-residential development in the Residential zone has been captured individually in Table 2 – namely child care centres and consulting rooms.

Currently, and as per the provisions of the City's *Child Care Centres Local Planning Policy*, a sign is required to be installed on site alerting people to the proposal, given that child care centres bring more traffic to a residential site and change the look of the property, most often because of the need for carparking and signage on site.

The requirement for an on-site sign could be extended to a proposed consulting room (which includes up to two medical practitioners) within a residential area on the basis that it is likely that the proposal will remove the residential use from the site and that modifications to the building, including the provision of car parking, will be required.

In addition, it is considered appropriate that an on-site sign be required for other proposed non-residential development that is not individually listed in the draft LPP, like a residential aged care facility, caravan park and civic use.

#### *Telecommunications infrastructure*

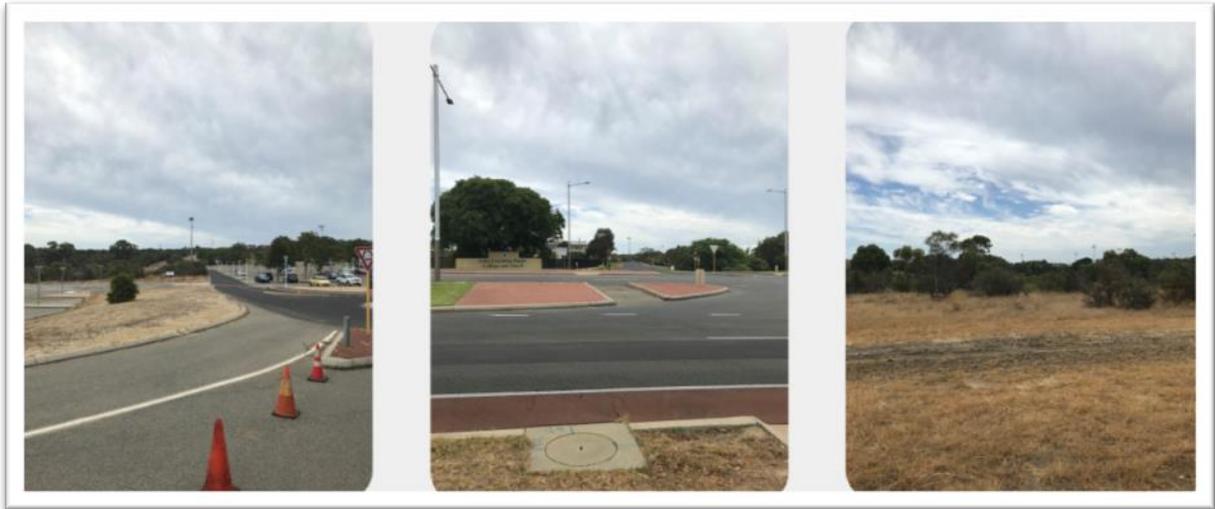
Comment was made that the radius for the notification of owners and occupiers of properties near telecommunication tower proposals be increased from the current 400 metres to 800 metres or one kilometre; that the advertising duration be increased from the current 21 days to 28 days, 42 days or 90 days; and that all available forms for notification be used (website, on-site sign, newspaper notice, noticeboard).

Most of these comments referenced the new 5G network and concern about potential negative health impacts. However, it is important to note that development applications are not required for low-impact facilities (being exempt via Federal legislation) and the State Government's planning policy and previous State Administrative Tribunal decisions have made it clear that the City cannot take perceived health impacts into account when making planning decisions on telecommunications infrastructure that are the subject of a development application.

The main and most common planning issue in relation to development proposals for telecommunications infrastructure is usually visual amenity and, taking this into account, the City's current *Telecommunications Infrastructure Local Planning Policy* specifies that owners and occupiers within a 400-metre radius of the site are to be notified. Information is also placed on the City's website.

The 400-metre radius has been established practice for a number of years, based on a walkable catchment used for other consultations on proposals considered to affect people on a neighbourhood scale. Other local governments utilise various radii (for example, 200 metres or 500 metres) or do not outline a specific notification radius at all, which indicates that there is no consistent or substantiated basis for such a consultation area.

In trying to illustrate the visual impact of a telecommunications tower, the following images of the telecommunications tower at HBF Arena have been taken at distances of 400 metres, 700 metres and 1 kilometre from the tower. Bearing in mind that the visual impact of different towers will be influenced by the design and location of the tower, the topography around the site and what built or natural screening elements exist around the site, these images indicate that as the distance from the tower increases, the visual impact of the tower is significantly lessened to a point where the tower is indistinguishable.



Given the City is unable to take perceived impacts of these facilities into account and that visual amenity impacts are the key planning consideration; and in the absence of any demonstrated need to increase the consultation radius, 400 metres is considered an appropriate distance for widespread notification of the proposal. It is therefore recommended that the draft LPP not be amended to increase the consultation radius for these proposals.

There is, however, merit in the placing of a sign on the site, which would be of particular benefit when the proposed infrastructure is within a park or other space frequented by many people and would assist to notify users of the proposal.

#### *All development types*

Comment was received that all development types outlined in Table 2 should be advertised via the City's website and have on-site signs.

As outlined previously, development plans could be placed on the City's website for proposals where consultation is to be undertaken. It is also agreed that for larger scale proposals, such as consulting rooms and telecommunication infrastructure, on-site signs would be appropriate. For other smaller-scale proposals where the potential impact is more localised, it is not considered that on-site signs are necessary, given the City will be contacting those most affected by these small scale proposals directly anyway.

#### Table 3 Consultation Requirements — Strategic Planning Proposals

##### *Minor amendments to strategic planning proposals*

Comment was received requesting all proposed minor amendments to structure plans, local development plans, local planning policies and be advertised, regardless of how minor the proposal.

Minor modifications to structure plans, local development plans and policies can be requested or can occur for a variety of reasons, including to rectify typographical errors and to update references to legislation. It is considered that these types of matters should not require consultation, however it is agreed that other minor modifications that may affect the development provisions or standards outlined in the documents could be advertised for comment. The draft LPP can be modified to rectify this.

It is also noted that all proposed amendments to these planning documents are referred to Council for determination or for a recommendation to the Western Australian Planning Commission, as appropriate. At this point, Council can review whether advertising of a minor amendment is warranted or not.

#### *Signage for large-scale scheme amendments*

Comment was received requesting that signs be erected around neighbourhoods for large-scale scheme amendments, for example in relation to Housing Opportunity Areas.

In undertaking large-scale planning consultations, the City utilises a range of measures in order to raise awareness in the community of the proposals. For large-scale consultations on matters such as those related to Housing Opportunity Areas, this will include writing to each owner and resident within those areas as the most direct way to convey information on those proposals.

Notwithstanding the additional cost, it is not envisaged that signage within a neighbourhood, such as static or moveable electronic message signs, would provide any additional awareness beyond the range of measures already utilised. No changes to the draft policy are recommended, noting that these types of signs could be utilised on a case by case basis where a particular benefit is identified.

#### Proposed modifications

Given the above discussion, the following modifications are proposed to the draft LPP (Attachments 3 and 4 refer):

- Include definitions of 'A', 'D' and 'P' uses.
- Reference owner and occupiers as stakeholders.
- State that the City will endeavour to avoid consultation over extended holiday periods.
- Modify clause 5.1.4 Supporting and Technical Material to read:

*“In addition to any development plans required as part of a planning proposal, the City will ensure appropriate supporting and technical material is made available to consultation participants for the duration of the consultation period to support understanding of the planning proposal. These materials may include transport studies, environmental and acoustic reports, the applicant's planning justification and similar.”*

- Reformat Table 1 so the intent of consultation on proposals that require a design principle assessment is clearer.
- Where any consultation is undertaken, require the plans and information to be placed on the City's website.
- Increase the advertising duration for the initial consultation on multiple dwellings and larger grouped dwelling proposals from 14 days to 21 days.
- Require on-site signage for non-residential proposals in the Residential zone, consulting rooms and telecommunications infrastructure proposals.

- Clarify that a minor amendment to structure plans, local development plans and local planning policies includes the correction of typographical or formatting errors, updates to legislation references and similar but does not include an amendment to development provisions or standards.

#### Other initiatives

- Continue to investigate and develop improvements to the collation of planning and building data and how that information is reported to Council and the general public.

#### **Issues and options considered**

Council has the option to either:

- proceed with the draft *Planning Consultation Local Planning Policy*, without modifications
- proceed with the draft *Planning Consultation Local Planning Policy*, with modifications or
- not proceed with the draft *Planning Consultation Local Planning Policy*.

In the event Council proceeds with a final version of the draft LPP following advertising, the following local planning policies will need to be amended to update reference to consultation requirements given those requirements will have been incorporated within the new *Planning Consultation Local Planning Policy*:

- Child Care Premises.
- Consulting Rooms.
- Home-based Business.
- Non-residential Development in the Residential Zone.
- Satellite Dishes, Aerials and Radio Equipment.
- Short-term Accommodation .
- Telecommunications Infrastructure.

It is proposed that the current consultation clauses within the above policies would be updated to refer to the *Planning Consultation Local Planning Policy*, as outlined in the various updated policies at Attachment 5 to this Report.

The *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations) allow a local government to amend a local planning policy without advertising the amendment, if, in the opinion of the local government, the amendment is minor. In this instance, given the amendments proposed to the other existing local planning policies mentioned above are to avoid the double-up of consultation requirements in the various policies, it is considered that the amendments are minor and administrative in nature, and therefore further public advertising would not be warranted.

#### **Legislation / Strategic Community Plan / policy implications**

##### **Legislation**

*Planning and Development (Local Planning Schemes) Regulations 2015.*  
*Local Planning Scheme No. 3.*  
*State Planning Policy 7.3 - Residential Design Codes.*

**Strategic Community Plan**

<b>Key theme</b>	Governance and Leadership.
<b>Objective</b>	Active democracy.
<b>Strategic initiative</b>	Optimise opportunities for the community to access and participate in decision-making processes.
<b>Policy</b>	Revised draft <i>Community Consultation Policy</i> .

**Planning and Development (Local Planning Schemes) Regulations 2015.**

The *Planning and Development (Local Planning Scheme) Regulations 2015* stipulate the minimum, and sometimes maximum, requirements for public consultation on various planning proposals.

**Risk management considerations**

Not applicable.

**Financial / budget implications**

The costs associated with any public advertising and notice of any final adoption of the draft LPP will be approximately \$1,000.

It is proposed that some costs associated with consultation will be borne by the applicant in accordance with updated fees proposed to be included in the City's *Schedule of Fees and Charges*. The revised schedule will be included for consideration as part of the 2020-21 budget process (Attachment 6 refers).

**Regional significance**

Not applicable.

**Sustainability implications**

Not applicable.

**Consultation**

The deemed provisions as set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* require a new policy or major amendment to a policy to be advertised for public comment for a period of not less than 21 days.

The policy was advertised for 21 days as follows:

- A notice published in the local newspaper.
- A letter was sent to registered resident and ratepayer groups.
- An email was sent to subscribers of the City's Public Notice eNewsletter.
- An email was sent to members of the City's Community Engagement Network.
- A notice and documents were placed on the Community Consultation section of the City's website.
- A notice was placed on the City's social media platforms.

A total of 3,231 stakeholders were directly engaged. 142 valid submissions were received, representing a response rate of 3%.

The full Community Engagement Outcomes Report is included as Attachment 2 to this Report.

## COMMENT

The draft LPP outlines and provides clarity on the way the City currently undertakes consultation on planning proposals.

As a result of submissions on the draft LPP, it is considered that a number of modifications to the draft policy would be appropriate to increase the effectiveness of consultation undertaken on planning proposals.

It is recommended that Council proceed with the draft *Planning Consultation Local Planning Policy* with the modifications as discussed in this report.

## VOTING REQUIREMENTS

Simple Majority.

**MOVED** Cr Hollywood, **SECONDED** Cr May that Council:

- 1** In accordance with clause 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, **PROCEEDS** with the draft *Planning Consultation Local Planning Policy* with modifications, as shown in Attachment 4 to this Report;
- 2** **AMENDS** the following local planning policies to update references to public consultation requirements, as shown in Attachment 5 to this Report:
  - 2.1** Child Care Premises;
  - 2.2** Consulting Rooms;
  - 2.3** Home-based Business;
  - 2.4** Non-residential Development in the Residential Zone;
  - 2.5** Satellite Dishes, Aerials and Radio Equipment;
  - 2.6** Short-term Accommodation;
  - 2.7** Telecommunications Infrastructure;
- 3** In accordance with clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, **RESOLVES** that the amendments to the local planning policies outlined in Part 2 above are minor in nature, and therefore advertising of those amendments is not required;
- 4** **NOTES** that the fees and charges as outlined at Attachment 6 to this Report will be included for consideration as part of the 2020-21 budget process.

The Motion was Put and

**CARRIED (7/0)**

In favour of the Motion: Cr Hamilton-Prime, Mayor Jacob, Crs Chester, Fishwick, Hollywood, Jones and May.

*Appendix 1 refers*

To access this attachment on electronic document, click here: [Attach1agnPOLICY200224.pdf](#)

**URGENT BUSINESS**

Nil.

**MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**REQUESTS FOR REPORTS FOR FUTURE CONSIDERATION**

***Elected Members Entitlements Policy***

Mayor Jacob requested a report on the *Elected Member Entitlements Policy* highlighting the provisions in relation to ward surgeries.

**CLOSURE**

There being no further business, the Presiding Member declared the meeting closed at 6.02pm; the following Committee Members being present at that time:

Cr Christine Hamilton-Prime  
Mayor Hon. Albert Jacob, JP  
Cr Kerry Hollywood  
Cr Christopher May  
Cr Nige Jones  
Cr Russ Fishwick, JP  
Cr John Chester