

OCTOBER 2020 – VERSION 1.0

## 1. PURPOSE

To identify standards for consultation and related stakeholder engagement arising from the application of the *Heritage Act 2018* (the Act).

## 2. OVERVIEW

The Act requires consultation as part of various statutory processes. In certain circumstances, a requirement for consultation may also be triggered by other legislation such as the *Native Title Act 1993*.

The process of administering the Act will also give rise to opportunities for consultation that is not mandatory, but is considered to be relevant and necessary.

Finally, there are also matters relating to consultation and stakeholder engagement that do not feature in the Act, but for which the Council has adopted a standard.

Depending on the matter under consideration, the Council has determined that certain forms of consultation will be applied, over and above the requirements of the Act.

## 3. SCOPE

This Policy applies to:

- all consultation required or allowed for in the Act and associated Regulations
- other consultation requirements arising out of Council activities that may constitute a Future Act under the provisions of the *Native Title Act 1993* ('the Native Title Act')
- consultation relating to the Council's functions as set out in other legislation
- consultation conducted in the administration of the Act by the Council, or the Department on its behalf.

Consultation is considered to include all those actions taken to invite or otherwise secure input from stakeholders on statutory processes under the Act. This may include notification, advertising, correspondence, or other forms of communication, and incorporates those processes required to inform relevant stakeholders of key outcomes.

Stakeholder engagement in this context relates to a broader strategic process or plan that supports consultation.

## 4. OBJECTIVES

This Policy will:

- support a consistent and transparent approach in those areas of consultation that are discretionary or otherwise open to interpretation
- assist in management of stakeholder expectations in relation to consultation processes and the handling of submissions.

## 5. POLICY REQUIREMENTS

### 5.1 GENERAL

- 5.1.1 Notwithstanding the minimum standards for consultation, notification and advertising detailed in the Act, associated regulations or within this policy, further discretionary activities may be carried out as determined necessary by the Council or the Department to inform any matter.
- 5.1.2 Where there is no statutory timeframe for a consultation or notification process, the Council and Department will use their best endeavours to ensure that these are carried out in a timely manner.
- 5.1.3 The Council acknowledges the principles of procedural fairness and will endeavour to apply these in its consultation and decision-making processes.

5.1.4 Public consultation that is likely to be complex, contentious or otherwise requiring particular care will be undertaken consistent with a Stakeholder Engagement Plan for that exercise.

## 5.2 NOTICE FOLLOWING A NOMINATION

5.2.1 While there is no statutory requirement to notify the owner of a place that the place has been nominated under s.39 of the Act, such action may be taken where the Council or Department identifies that the nomination should be brought to the attention of the owner or any other party for the purposes of due diligence or other substantial reason.

5.2.2 Where a place nominated under s.39 is a precinct, notice of the determination as to whether the place warrants further review under s.40(1) will be given as a general notice as described under r.47 of the *Heritage Regulations 2019*.

## 5.3 PROTECTION ORDERS AND REPAIR NOTICES/ORDERS

5.3.1 A property owner will be provided with relevant material being used to inform any consideration of an order relating to their property. The owner will also be provided reasonable opportunity to respond to material and make submissions or otherwise be heard by the Council before a decision is made.

5.3.2 Material provided to an owner may be summarised, redacted or otherwise amended to remove confidential information or personal details, or other content that is not of material relevance to the consideration of the order.

5.3.3 Policy 5.3.1 may be varied or set aside where the statutory process or urgent conservation needs of a place limit the time available for consultation and engagement.

5.3.4 A Repair Notice will not be considered unless the Council, or the Department on behalf of the Council, has used its best endeavours to consult with the owner and occupier of the related property in order to:

- alert them to the Council's concerns
- explore opportunities to undertake repairs
- offer appropriate support to address the issues raised by the Council.

## 6. RELATED DOCUMENTS

[Procedural Fairness](#) (Natural Justice), Ombudsman Western Australia, April 2019

The Department of Planning, Lands and Heritage recognises the diversity of the Aboriginal peoples of Western Australia and acknowledges the Traditional Owners and custodians and their connection to this land and its waterways. We pay our respect to Elders past and present and those who will follow in their footsteps.

### Disclaimer

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Published by the  
Department of Planning, Lands and Heritage  
Gordon Stephenson House  
140 William Street  
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Locked Bag 2506  
Perth WA 6001

Published date: October 2020  
Approval date: 25 September 2020  
Effective date: 25 September 2020

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