



Community consultation is an important component of the City's planning application process. It provides an opportunity for everyone who is potentially affected by a particular matter to have their say and enables the decisions of the City to be informed by the views and knowledge of the community.

This FAQ sheet has been prepared to assist landowners and occupiers to understand the planning basics and processes involved when the City is asking for comment on a development proposal.

What are the Residential Design Codes?

The Residential Design Codes (R-Codes) are a state planning policy that applies to all residential development in Western Australia. The R-Codes set out design provisions for residential developments based on the development type and density.

The [R-Codes \(Volume 1\)](#) apply to all single houses and grouped dwelling developments. In Western Australia, an approval under the R-Codes can be obtained in one of two ways. This is by either meeting the 'deemed-to-comply' requirements or via a 'design principle' assessment pathway.

What does the 'deemed-to-comply' mean?

The deemed-to-comply criteria include a set of objective standards and numbers for different design themes. For example, the wall to a house may be required to be set back 2m from a boundary, or a front fence is to have a maximum height of 1.8m. Where a proposal meets the deemed-to-comply provisions, it is deemed to be acceptable.

What does the 'design principles' mean?

The design principles are subjective statements that outline the intent of each section making up the deemed-to-comply criteria of the R-Codes. Where a development does not satisfy the deemed to comply criteria (for example, the wall to a house is set back 1.5m from a boundary instead of 2m) a design principles assessment pathway is applied. This approach is the 'performance and merit based' assessment pathway and may require the City to exercise some discretion. Where discretion is required, the application may be advertised to affected landowners and occupiers as per the City's Consultation Policy.

What is considered in the 'merit-based' assessment?

This is balanced between the design principles, community input, and the fact and degree of the variation proposed. An assessment also considers the local planning scheme and regulation provisions, the City's legal responsibilities, and the reasonable expectation and rights of the applicant.

If you have been advertised to and asked to consider a development, it is because the applicant is seeking a 'design principles' pathway for one or more elements. You can review each of the relevant design principles 'points' which will be considered by the City.



This will reference the specific R-Codes clause and the design principles, which can be found on the left-hand column of the R-Codes.

5.1.3 Lot boundary setbacks

Example of clause

DESIGN PRINCIPLES	DEEMED-TO-COMPLY
<p><i>Development demonstrates compliance with the following design principles (P)</i></p> <p>P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:</p> <ul style="list-style-type: none"> • reduce impacts of building bulk on adjoining properties; • provide adequate sunlight and ventilation to the building and open spaces on the site and adjoining properties; and • minimise the extent of overlooking and resultant loss of privacy on adjoining properties. <p>P3.2 Buildings built up to boundaries (other than the street boundary) where this:</p> <ul style="list-style-type: none"> • makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas; • does not compromise the design principle contained in clause 5.1.3 P3.1; • does not have any adverse impact on the amenity of the adjoining property; • ensures sunlight to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and • positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework. 	<p><i>Development satisfies the following deemed-to-comply requirements (C)</i></p> <p>C3.1 Buildings which are set back in accordance with the following provisions, subject to any additional measures in other elements of the R-Codes:</p> <ol style="list-style-type: none"> i. buildings set back from lot boundaries in accordance with Table B and Tables 2a and 2b (refer to Figure Series 3 and 4); ii. for carports, patios, verandahs or equivalent structures, the lot boundary setbacks in Table B and Tables 2a and 2b may be reduced to nil to the posts where the structure*: <ul style="list-style-type: none"> • is not more than 10m in length and 2.7m in height; • is located behind the primary street setback; and • has eaves, gutters and roofs set back at least 450mm from the lot boundary. <p><i>Note: Pillars and posts with a horizontal dimension of 450mm by 450mm, or less, do not constitute a boundary wall.</i></p> <p><i>Note: *There are separate building code requirements which may also apply.</i></p> <ol style="list-style-type: none"> iii. unenclosed areas accessible for use as outdoor living areas, elevated 0.5m or more above natural ground level, set back in accordance with Table 2b as though they have a wall height of 2.4m above the floor level; iv. separate single house, grouped or multiple dwelling buildings on the same lot, or facing portions of the same multiple dwelling building, set back from each other as though there were a lot boundary between them; v. minor projections such as a chimney, eaves overhang, or other architectural feature, not projecting more than 0.75m into a setback area; and vi. the stated setback distances may be reduced by half the width of an adjoining right-of-way, pedestrian access way, communal street or battleaxe lot access leg, to a maximum reduction of 2m (refer to Figure 4f).

Design Principles 'Points'

How should we respond?

Comments can be made via email to planning@nedlands.wa.gov.au or through the YourVoice portal on the specified application.

Your submission should clearly state the reasons why you object to or support the development proposal and should relate directly to the variations proposed. The focus is explaining how and why a specific area may impact you or the enjoyment of your property. You are welcome to include suggestions which officers can provide back to the applicant for consideration in any amendments to plans. If the development does not impact you, you can either notify the City of no objection or not respond within the consultation period.

As the responsible planning authority, the City is not authorised to consider 'non-planning' matters. Therefore, submissions which are based on civil or non-planning matters will not be considered. Examples include possible impact on property values, ongoing disputes, previous compliance, dividing fences or areas which meet the deemed-to-comply provisions.

Your submission, along with others received, will be considered as part of an overall assessment.

I don't understand what it all means?

You are welcome to contact the assigned Planning Officer on the letter to discuss the proposal over the phone or visit the City's Administration Building. We can walk through



the areas which we are seeking comment on. If you would like to seek independent advice, you may wish to contact a private planning consultant. They can review the application and prepare a submission on your behalf.

What happens if we put in a submission?

All submissions play a vital role in the Planning Officer's consideration of an application where there is an exercise of merit. Following the period of consultation, the City's Officers will consider the merits of the application to ensure that the proposal is appropriate and will not have an undue impact on the amenity of the area. This is also balanced between the context of the City's legal responsibilities and reasonable expectation and rights of the applicant.

All submissions will be reviewed and provided to the applicant in a summarised version. Depending on the variation, the applicant may be advised of the source and issues raised to enable them to resolve any problems raised effectively.

The Planning Officers may contact you for a site visit and to discuss any concerns or suggestions. Further changes to plans may be made by the applicant, and you may be re-consulted if there is still a variation, or simply notified if it meets the deemed-to-comply criteria.

Will my personal details be provided to the applicant?

The Council is subject to the Freedom of Information laws and does not publish the names or addresses of those who make submissions. Your personal details will not be provided to the applicant without your prior consent.

How will we know when a decision is made?

All submitters will be notified of the outcome. If there are amendments to the plans which do not meet the deemed-to-comply provisions, you will be notified again. As of 1 July 2024, all single houses are to be determined by the City and not by Council.

Why would the City consider applications which don't meet the deemed-to-comply?

The City is unable to refuse to accept an application or refuse to grant approval solely because it does not meet the deemed-to-comply criteria. The planning framework in Western Australia gives the option to apply for either of the two pathways. In most cases for Single Houses there are no hard "rules" on standards. This is because the R-Codes are a state policy that gives the ability for the set of standards to be considered on their merits and can be varied. The design principles pathway considers the intent and objectives of the provision, as well as considering how a proposal may impact affected residents within the area.

Where there are hard rules on numbers which cannot be varied, such as within a scheme or regulations, officers have no discretion and are unable to determine the application for approval. You would not be notified in these instances.



Can a decision be appealed?

Once a decision has been made, the applicant can appeal that decision or any element of the decision to the State Administrative Tribunal (SAT) if they are dissatisfied with the outcome. There are no third party appeal rights in relation to planning decisions in Western Australia. However, if there is an appeal lodged by the applicant, then in certain circumstances it may be possible for a third party to participate in a planning appeal. Further information may be obtained by visiting the SAT website www.sat.justice.wa.gov.au or by telephone on (08) 9219 3111.

Disclaimer This information sheet is provided as generalised information. While we aim to keep the content of this document current and accurate, we accept no responsibility or warranties for actions based on the information provided. The City encourages you to seek professional advice before acting on any information contained in this document. Please contact the City if you wish to comment on the forms provided and information contained within. Any reported errors will be amended.