



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

DEVELOPMENT MANAGEMENT INFORMATION GUIDELINES SERIES

PRE-APPLICATION CONSULTATIONS

10



What pre-application consultations are, and how they can help you prepare a development proposal and ensure efficient decision-making.

Making progress possible. Together.

This booklet forms part of a series published by the City of Cape Town to help you understand and make better use of the planning system

LANGUAGE POLICY:

In line with the City of Cape Town's language policy, any booklet in this series is also available in Afrikaans and isiXhosa on request by e-mailing lums@capetown.gov.za.

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Although based on law, the information provided in this booklet is presented in an informal and plain language format for the purposes of providing advice on development matters and procedures to customers and members of the public. Should there be any discrepancy with provisions in the underlying legislation, the actual legislation takes precedence and should be consulted directly. Alternatively, please obtain independent professional advice on the matter. The City of Cape Town does not accept any liability for any action taken on the basis of the information contained herein.

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Contents

- 04 Background to the pre-application consultation
- 05 Application types requiring a pre-application consultation
- 06 Procedure for pre-application consultation
- 08 What the pre-application consultation is not
- 10 Some key questions about the pre-application consultation
- 16 Contact details

BACKGROUND TO THE PRE-APPLICATION CONSULTATION

The development and use of land and buildings are controlled in terms of various laws and regulations. In Cape Town, this is mainly done in terms of the City of Cape Town Municipal Planning By-law of 2015 and the National Building Regulations of 1977.

Landowners must also comply with the provisions of the Development Management Scheme, which forms part of the Municipal Planning By-law which sets out the rights and restrictions in respect of a specific land unit. If you want to use or develop your property in a way that does not comply with the Development Management Scheme then the City first needs to consider an application for approval of the proposal.

The City of Cape Town's Development Management Department processes applications for building plans and land use changes. This department has many district offices throughout the city, and officials are available to provide information and advice to owners who want to develop their land. For many years, applicants and officials have had informal meetings about building plan and land use applications. Where land use applications are concerned, these informal meetings have now been formalised into "pre-application consultations" by the Municipal Planning By-law, which took effect on 1 July 2015.



APPLICATION TYPES REQUIRING A PRE-APPLICATION CONSULTATION

The Municipal Planning By-law allows the City to insist on a pre-application consultation. It also allows for the City Manager to determine whether a specific type of application requires a pre-application consultation, as well as the nature of the information that is required, the procedures to be followed, and the time periods within which such meetings must take place. The City Manager has prescribed application types that require a pre-application consultation, and the processes and timeframes to be followed.

They are as follows:

- (i) A rezoning of land currently zoned Open Space 1-3 (OS 1-3), Agricultural (AG) and Rural (RU)
- (ii) Rezoning from any zone to/from General Residential 4-6 (GR 4-6), General Business 4-7 (GB 4-7), Mixed Use 3 (MU 3), General Industry 2 (GI 2) and Risk Industry (RI)
- (iii) Amendment, suspension or deletion of a restrictive condition
- (iv) Any development outside the approved urban edge
- (v) A proposal not complying with the Municipal Spatial Development Framework, relevant district plan, structure plan listed in schedule 1 and 2 of the Municipal Planning By-law, or any valid section 4(6) or 4(10) structure plan approved in terms of the Land Use Planning Ordinance of 1985
- (vi) Rezoning, subdivision or site development plan application involving the development of an area exceeding 1 ha (which refers to the physical development area, not the size of the erf)
- (vii) Where a site development plan application is required for the following:
 - commercial developments exceeding a floor area of 1 000 m²
 - industrial developments exceeding a floor area of 5 000 m²

PROCEDURE FOR PRE-APPLICATION CONSULTATION

The City Manager has also determined the following procedural requirements for pre-application consultations:

1. A request for pre-application consultation will be considered and if required, a planning case officer will be allocated.
2. Pre-application consultation meeting should be held within 14 days, or such further period as agreed to between the City and the applicant, after the request by the applicant;
3. Planning case officer will determine the relevant parties who need to be invited to the meeting (in conjunction with the applicant);
4. A record of the pre-application consultation must be prepared by the applicant and forwarded to the planning case officer who attended the meeting for vetting within 7 days of the meeting, or such further period as agreed to between the City and the applicant. After vetting of the records the case office will retain and store the record for future reference.

NB: It is important for both applicants and officials to be clear on what is being assessed and what not, and this should be clearly reflected in the record of the meeting. Therefore, the applicant should take great care in drafting the record, noting exactly what was discussed and agreed. For example, just because the planning official indicated that the City would in principle support densification with group housing it does not necessarily mean that the number of units nor layout proposed would be supported.


5. The pre-application consultation meeting would usually deal with (but not limited to) the following issues :
 - (a) information which must be submitted with the application;
 - (b) nature of the public notification to be carried out in accordance with the Municipal Planning By-law;
 - (c) investigations which must be carried out by the applicant;
 - (d) further applications that may be required in terms of the By-Law or any other relevant law;

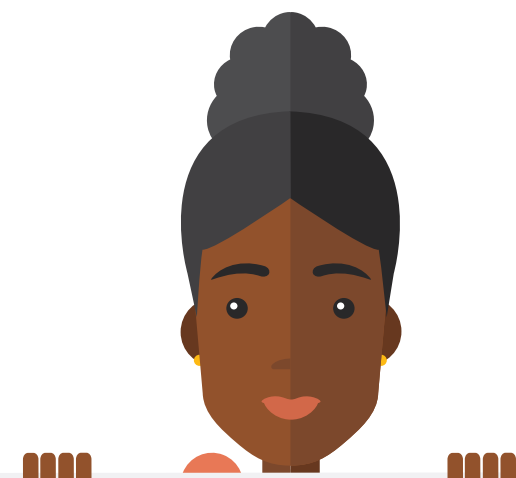


- (e) sequence in which the applications should be processed;
- (f) possible combination of advertising of different applications required in terms of different laws;
- (g) engineering services required and the need to liaise with other organs of state for services regarding engineering services;
- (h) liaison required with other organs of state in order to align procedures for processing applications in terms of different legislation; and
- (i) In certain very large developments, the City may require a package-of-plans process to be followed. This is normally the case where the development will have a major impact on the availability of engineering services and/or the developer needs to obtain in-principle agreement for the detailed development proposal on the property.




It is not...

- ...an opportunity to “retrofit” your application by seeking various departures from the development rules. Always start by complying with the development rules for the base zone. Don’t design a development and then try to change the rules.
 - ...a mechanism to scrutinise or follow up on a submission that has already been made. It can only take place before you submit an application to the City.
 - ...meant to deter or discourage you. These types of meetings should be seen in a positive light, namely as an opportunity for you to get a clearer idea as to whether your development concepts are likely to create issues that need to be addressed, as well as what application processes and submission information will be required.
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On the whole, a pre-application consultation should significantly benefit both applicants and officials, and largely eliminate the risk of major concerns about a development proposal only surfacing long after it has been submitted.





What constitutes a pre-application consultation?

A pre-application consultation may result either from a by-law requirement or an applicant's own request, and is managed by an authorised planning case officer of the City. A pre-application consultation cannot start until the case officer has been identified and has determined the requirements for the consultation. It cannot be concluded until there is a record of the meeting that the authorised official accepts as an accurate record of the consultation outcome.

A pre-application consultation is also not limited to a single meeting, but could consist of multiple meetings, depending on the nature and scale of the development or the need for having further discussions.



What happens if the case officer and applicant do not agree on the submission process or requirements?

A record of the meeting indicating disagreement will be prepared, and can be submitted as part of the application. Remember, the case officer must be satisfied that the submission includes all required information. Failure to reach agreement in the pre-application consultation would only mean that the case officer would be able to determine that the submission was incomplete, and to call for the additional information/applications in terms of the Municipal Planning By-law. If an applicant disputes the necessity of the additional information, (s)he may request the City Manager to make a determination.



When should a site development plan be submitted at a pre-application consultation?

The submission of a site development plan at the pre-application consultation is not a prerequisite, but rather an outcome of discussions during the pre-application consultation. However, applicants may consider the following in deciding whether or not to present a draft site development plan at a pre-application consultation:

- The nature and scale of the formal planning submission in terms of the Development Management Scheme: If the Development Management Scheme stipulates that either a site development plan or a package-of-plans approach is required for the relevant zone, it would make sense to present a first draft of a site development plan for consideration by the planning official earlier rather than later.
- Whether the draft site development plan can aid the discussion during the pre-application consultation and help the case officer better understand the development concept.
- Whether the official indicated prior to the pre-application consultation that (s)he would like a site development plan to be tabled at the pre-application consultation, and if so, whether it should be tabled at the meeting or emailed in advance.



- If a site development plan is to be given it should be tabled at the meeting or preferably emailed to the case officer prior to the meeting so that the officials can usefully consider the detail.

The above may serve as guidelines. Yet, the pre-application consultation can and should be the vehicle to determine which documentation and information should ultimately be submitted.

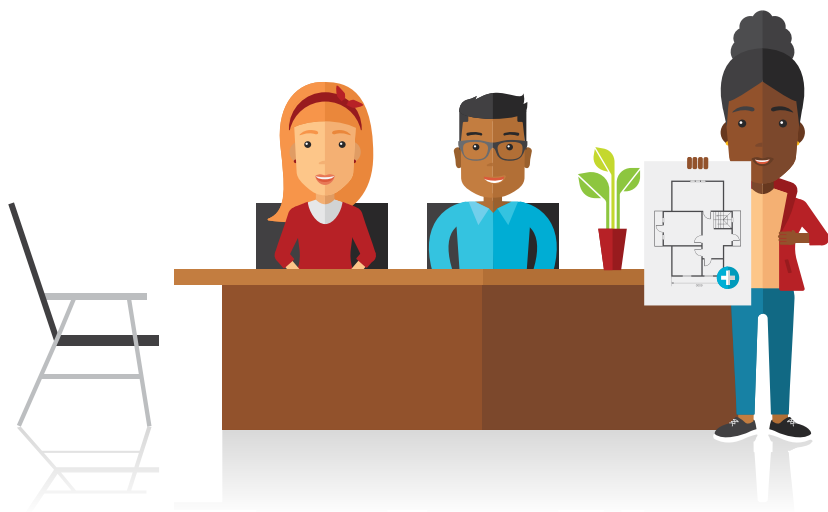


What level of information should be presented at a pre-application consultation?

The level of information should be determined and recorded during the pre-application consultation meeting. The applicant should request the reasons why specific information is required, if questioned, and such reasons should also be recorded in the minutes to be taken by the applicant for the later submission of the application.

Here is some guidance that should be considered by the applicant when determining the level of information to present:

- You should have conceptualised your proposed development and should be prepared to present this to the officials. It is not a prerequisite to present information at the pre-application consultation. The first meeting could be used to clarify the required information to be submitted at the next meeting. Pre-application consultations can therefore be used to progressively move to a position where the applicant clearly understands what needs to be submitted as part of a complete application.



- The more information you present to the officials, the more they will have to work with, and the more definitive advice and input they will be able to give.
- A good starting point is to obtain broad support for the planned land use at the pre-application consultation before you start with any detailed design work.
- Depending on the application, some other City departments may also be requested to attend the pre-application consultation. In such a case, specific information could be presented to enable those departments to provide meaningful input. For example, if the Urban Design Department is present, some representation of three-dimensional built form would be useful, or even a conceptual street-facing elevation to provide a sense of the potential impact of the development on the surrounding streets. For larger projects, contextual plans that frame the development in its broader context are recommended. These could include aerial photography and “street view” photography. The applicant or the authorized official may request the attendance of officials from specified departments if the development will or may impact on their functions. The applicant should make such request to the authorized official prior to the pre-application consultation meeting.
- If the proposed development will likely trigger certain approved City policy documents/criteria, such as the Urban Design Policy or the Tall Buildings Policy, it would be advisable to include relevant additional information in your presentation at a pre-application consultation, to show compliance with the policy or to motivate for a deviation from the policy. If for example the development proposal is earmarked in terms of the Urban Design policy or the Tall Buildings policy as requiring additional design criteria, it would be advisable to include this information in a site development plan to be presented at a pre-application consultation meeting.



Can I discuss possible public participation requirements for my application?

Public participation requirements are an important step in any application submitted to the City. The nature and extent of public participation may, however, vary from one application to another.

The By-law sets out certain requirements; the City Manager has also set certain requirements. The extent (i.e. which neighbours to consult) is for the case officer to determine. Under certain circumstances either all or part of the public participation may be exempted by the City Manager providing the requirements of national, provincial and municipal legislation are complied with. This function has been delegated to the District Manager in each District office.

While public participation ought to be an issue discussed at a pre-application consultation, it must be noted that a decision on the extent or possible exemption of all or part of the public participation process may only be made after the submission of all the documentation and the authorised officials have been able to comprehensively assess the documentation submitted. Although the By-law provides for an exemption, it may only be considered if the application does not materially and adversely affect the rights of the public.



What will happen if I do not request or fail to attend a pre-application consultation, and simply submit my application?

Whether an application is submitted at the counter or via the online portal, the case officer at the local district office must check, as part of the standard procedure, whether a pre-application consultation was a City Manager requirement.

If it is, the record of the consultation must form part of the submission. If a pre-application consultation was a requirement, but the record is not submitted, this will constitute a ground for refusal to accept the application, which will then be returned to the applicant.

A pre-application consultation meeting will then need to take place and the minutes recorded before the application can be submitted. Failure to undertake the consultation process may lead to significant additional work and possible re-design.



For any further questions about land use management issues, contact your nearest development management office on the numbers provided below:

Table Bay District

Media City Building, 2nd Floor, cnr. Adderley Street and Hertzog Boulevard, Cape Town

Postal address: PO Box 4529, Cape Town, 8000

Email address: Tablebay.hub@capetown.gov.za

Blaauwberg District

Municipal Building, 87 Pienaar Road, Milnerton

Postal address: PO Box 35, Milnerton, 7435

Email address: Blaauwberg.hub@capetown.gov.za

Northern District

Kraaifontein Administrative Building, Brighton Road

Postal address: PO Box 25, Kraaifontein, 7569

Email address: Northern.hub@capetown.gov.za

Tygerberg District

Parow Administrative Building,
cnr. Voortrekker Road and Tallent Street

Postal address: Private Bag X4, Parow, 7499

Email address: Tygerberg.hub@capetown.gov.za

Helderberg District

Somerset West Administrative Building, cnr. Andries Pretorius and Victoria streets

Postal address: PO Box 19, Somerset West, 7129

Email address: Helderberg.hub@capetown.gov.za

Mitchells Plain/Khayelitsha District

Stocks and Stocks Complex, Ntlazane Road, Ilitha Park, Khayelitsha

Postal address: Private Bag X93, Bellville, 7535

Email address: Khayemitch.hub@capetown.gov.za

Cape Flats District

Ledger House, cnr. Aden Avenue and George Street, Athlone Postal
address: PO Box 283, Athlone, 7760

Email address: CapeFlats.hub@capetown.gov.za

Southern District

Plumstead Administrative Building, cnr. Main and Victoria roads

Postal address: Private Bag X5, Plumstead, 7801

Email address: Southern.hub@capetown.gov.za



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