



Draft Amendments to Local Planning Policy 3.1 – Residential Development & Proposed Revoking of Local Planning Policy 1.9 – Building Heights

Purpose:

Provide a briefing on the key proposed changes – namely simplification and alignment with case law

Presented by:

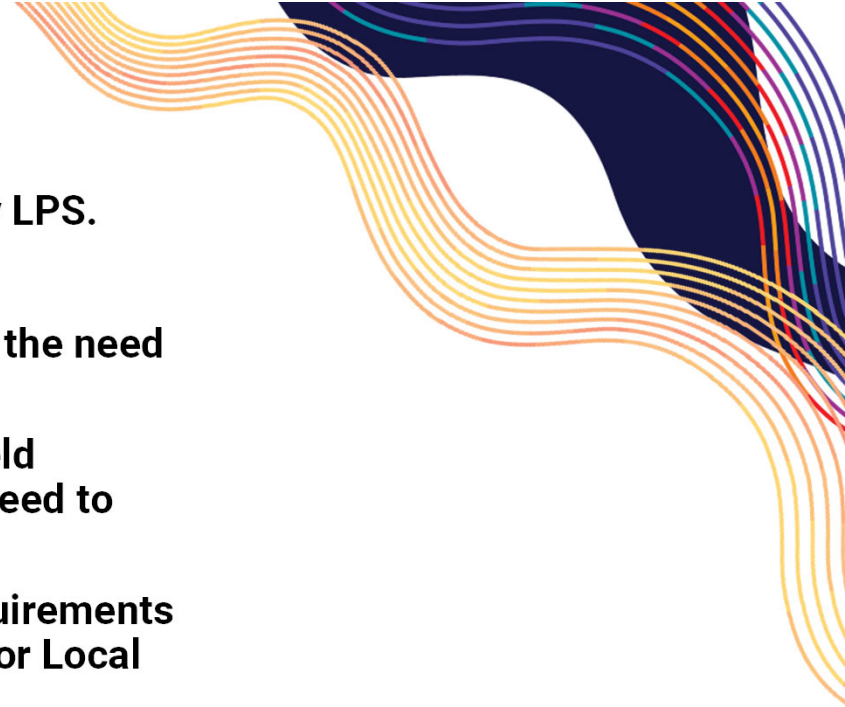
Manager Development Approvals, Ms Kate Bainbridge



City of
Melville

Context

- **R-Codes provisions can be augmented by a LPP or entirely by LPS.**
- **The City's LPP 1.9 and LPP 3.1 do this.**
- **The R-Codes have been updated since last review – reducing the need for some provisions.**
- **Supreme Court case findings have contradicted previously held practice of augmenting R-Codes – LPS/LPP provisions now need to align with Regulations exemptions.**
- **SAT case findings – LPP provisions augmenting the DTC requirements of the R-Codes need to have an associated Design Principle (or Local Housing Objectives)**



LPP 1.9 - Proposed to be revoked

- **Currently applies to all Residential Development**
- **R-Codes Vol. 2 and Part C of Vol. 1 – modernised and appropriate given density coding and development typology**
- **Cannot have definitions within LPP which are covered in the R-Codes**
- **R-Codes now account for skillion roofs and more generous wall height measurement methodology**
- **Current LPP 1.9 provides for ‘as of right’ heights which exceed R-Codes**
- **Heights permitted are inappropriate in some contexts – some still ‘pushing the boundaries’**
- **Recommendation to revoke and use R-Codes and some provisions within LPP 3.1 (for Part B – lower density)**
- **Can still apply to build to same heights as current LPP 1.9 – but requires a DA and exercise of discretion (hence more rigorous assessment and more consultation)**

LPP 3.1 Key changes

Change proposed	Rationale
Up front policy purpose and citation	To provide clarity on policy purpose and application for ease of use
Introduction of additional objective for building height	To cover relevant objectives from LPP 1.9 (proposed to be deleted)
Clarification that applies to Part B of R-Codes	To reflect changes to R-Codes in 2024
Secondary street setbacks deleted	To ensure consistency with Regulations exemptions – simplified
Setback of garages and carports deleted	To ensure consistency with Regulations exemptions – simplified
Garage width simplified	To ensure consistency with Regulations exemptions Single Storey dwelling permitted to have 60% width as garage with good design met (R-Codes permits 50%)

LPP 3.1 Key changes cont.

Change proposed	Rationale
Fences and Street Walls updated	To allow existing secondary street fencing provisions to be enforceable and primary street fencing provisions to be as per R-Codes
Sightlines updated	Updated to remove contradictions in terms of definition and improve sightline through pier to be located adjacent to driveway.
Screen wall reference removed from boundary walls section	To be consistent with R-Codes definitions (which cannot be augmented by LPP)
Introduction of residential building height provisions	More appropriate within LPP 3.1 than in separate policy

Comparison

	Current Policy	New provision
Secondary street setbacks	<ul style="list-style-type: none"> • Refers to wrong table in R-Codes • Reduction of primary street setback where car parking at rear • Larger setbacks required for corner lot subdivided lots and development adjacent to communal streets. • Includes minor projections up to 0.7m into street setback area 	<ul style="list-style-type: none"> • Deleted – use R-Codes • Deleted – use R-Codes (noting vehicle access and landscaping provisions encourages garage at rear) • Deleted – increased secondary street setbacks cannot be enforced • Deleted – definition of setback requires that the distance is measured from the wall to the boundary
Setback of garages and carports	<ul style="list-style-type: none"> • Setback 3m from secondary street 	As per R-Codes (1.5m)
Garage width	<ul style="list-style-type: none"> • 10-12m wide lots max 6m where meeting design criteria • 60% for two-storey with good design (inc. front door visible) 	<ul style="list-style-type: none"> • 60% of single storey with good design • Two-storey – as per R-Codes

Comparison

	Current Policy	New provision
Fences and Street Walls	<ul style="list-style-type: none"> • Non-enforceable secondary street fencing provisions (permeability requirement) as there is no supporting design principle/Local Housing Objective 	<ul style="list-style-type: none"> • New Local Housing Objectives introduced to enable enforcement
Sightlines	<ul style="list-style-type: none"> • 0.35m pier within sightline; remainder 80% permeable fencing 	<ul style="list-style-type: none"> • 4+ dwellings = 2m x 2.5m as per AS2890.1 • <4 dwellings = 0.35m pier to be located directly adjacent to driveway and updated terms to remove conflicts with R-Codes definitions
Building height	<ul style="list-style-type: none"> • <R40 <ul style="list-style-type: none"> • Eaves 8m; concealed roof 9m; overall 10.5m • R50+ <ul style="list-style-type: none"> • As per R-Codes • Definitions which have questionable legal enforceability 	<ul style="list-style-type: none"> • New Local Housing Objectives • Vol 1 Part B varied to allow additional 1m where lot slopes more than 1m <ul style="list-style-type: none"> • Max 8m wall height; 9m for skillion/concealed; overall 11m • Highest point AHD still needs to be 7m; 8m; 10m • As per R-Codes for Vol 1 Part C, Vol 2 and definitions

Conclusion

- **Crux of the amendments are to simplify and be consistent with Supreme Court and SAT decisions**
- **Building height changes mean that developments with heights more than the R-Codes need a DA**
- **As part of DA assessment – need to ensure consistency with design principles (performance criteria) and policy objectives**

- **Advertise for 21 days**
- **If comments received – refer back to Council**
- **If no comments received – CEO adopt and finalise**