

P20/3934 - REVIEW OF LOCAL PLANNING POLICY 3.1 RESIDENTIAL DEVELOPMENT AND LPP 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)

Ward : All
 Category : Policy
 Application Number : Not applicable
 Property : Not applicable
 Proposal : Review of Local Planning Policy 3.1 Residential Development
 Applicant : Not applicable
 Owner : Not applicable
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : P11/3248 Final Adoption Urban Planning Policies – Residential Development Policy – 20 September 2011
 P13/3438 Amendment to Council Policy 078 Residential Development 19 November 2013
 P16/3728 Review of Council Policy CP-078 – 15 November 2016 Ordinary Meeting of Council.
 P16/3718 - Review of Planning Policies – 20 September 2016 Ordinary Meeting of Council.
 Responsible Officer : Peter Prendergast
 Manager Statutory Planning

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

P20/3934 - REVIEW OF LOCAL PLANNING POLICY 3.1 RESIDENTIAL DEVELOPMENT AND LPP 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- In May 2020, the Western Australian Planning Commission began a review of Volume 1 State Planning Policy 7.3 Residential Design Codes (the R-Codes).
- The review was initiated as part of the State Government's planning reform agenda and in response to the Covid 19 Pandemic. The focus of the interim review was to remove the need for development approval where there was little to no value add, simplifying planning provisions and addressing common design issues.
- The key amendments to the R-Codes include;
 - Some simplification of the boundary setback requirements;
 - The inclusion of additional design requirements for carports, ancillary dwellings and front fencing;
 - Additional landscaping requirements including the need to provide a minimum number of trees and a tree planning area.
- The provisions of the R-Codes allow local government to prepare local planning policies which amend the deemed to comply provisions of the R-Codes.
- Local Planning Policy LPP 3.1 (LPP3.1) provides amendments to the R-Code deemed to comply provisions as they apply to the City of Melville. This LPP now requires amendment to reflect the changes to the R-Codes. These changes are largely administrative and do not change the overall objectives or scope of the Policy. The proposed changes to LPP 3.1 also result in a need to amend LPP 1.17 Additional Development Exemptions.
- The changes are minor in nature and as such it is recommended that they are adopted without advertising as permitted by the Planning and Development (Local Planning Schemes) Regulations 2015. A notice to advise the public of the changes to the local planning policies will be published in the local newspaper and on the City's website.

BACKGROUND

The City of Melville has maintained a Residential Development policy in its current format since 2011 and has reviewed this periodically in response to changes to the planning framework, including the R-Codes. The policy modifies a number of the deemed to comply provisions of the R-Codes to ensure that development is of a high quality, taking into account the character and amenity of residential areas, and those specific to certain aspects of residential development in the City of Melville.

During 2020 in response to the state of emergency brought about by COVID-19, the State Government initiated a range of planning reform measures aimed at stimulating the economy by making it easier for people to make minor changes to their homes or businesses.

P20/3934 - REVIEW OF LOCAL PLANNING POLICY 3.1 RESIDENTIAL DEVELOPMENT AND LPP 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)

As a part of this planning reform, an interim review of the R-Codes has been undertaken and the update version of the R-Codes will be gazetted on 2 July 2021. The focus of this review was:

- 1. Addressing provisions that commonly trigger development applications for single houses and additions to single houses, where there is little or no value in undertaking this additional layer of assessment;*
- 2. Simplifying provisions to enable more consistent interpretation and streamlined assessment;*
- 3. Amending provisions to address common design and development issues that have led to some local governments adopting supplementary local planning policies to address those issues.*

More information regarding the R-Codes interim review is available on the Department of Planning, Lands and Heritage website.

Given that the R-Codes have been modified it is necessary to update LPP3.1. The proposed changes to LPP 3.1 will also require a change to LPP 1.17 Additional Development Exemptions. Both of these changes are minor and can be accommodated without advertising.

Scheme Provisions

MRS Zoning	:	N/A
LPS Zoning	:	N/A
R-Code	:	N/A
Use Type	:	N/A
Use Class	:	N/A

Site Details

Lot Area	:	N/A
Street Tree(s)	:	N/A
Street Furniture (drainage pits etc.)	:	N/A
Site Details	:	N/A

P20/3934 - REVIEW OF LOCAL PLANNING POLICY 3.1 RESIDENTIAL DEVELOPMENT AND LPP 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)

DETAIL

Local Planning Policy 3.1 Residential Development is currently operating well, allowing for good design outcomes. As such it proposed to retain the policy's key provisions with minor changes to reflect the new wording in the R-Codes. It is also proposed to insert a provision relating to outbuildings and to delete the outbuilding section of 1.17.

The key changes to the document are as follows:

1. Updated scope;
2. Updated policy clauses to reflect the wording in the amended R-Codes;
3. Deletion of clauses relating to garage width and street trees as these are adequately addressed in the R-Codes.
4. Addition of a clause relating to Outbuildings.
5. Removal of reference to clauses in State Planning Policy 7.3 Residential Design Codes Volume 2.

A version of the policy with the tracked changes is attached to demonstrate the extent of the modification. While the changes look substantial, the key aspects of the original policy have been retained. For example, the emphasis of the policy on the development of corner lots, and the desire that development on such lots is designed and sited to address both street frontages is retained, as is the need to retain more generous setbacks on the secondary street and incorporate visually permeable fencing to both street frontages.

Further detail is provided in the commentary below:

Setback of buildings, garages and carports

As part of the interim review it was identified that structures such as porches, balconies and verandahs can have a positive impact on the street providing increased residential amenity and visual interest. It was identified that the current R-Codes were overly restrictive in terms of the design of these spaces and this limited their use. The updated R-Codes, allows for these structures to project forward of the building line, without the need to provide compensating space, as was the previous requirement.

In addition to the above, it was also recognised that carports have less building bulk than garages and also allow for high levels of visual surveillance to the street. The updated R-Codes allow for carports forward of the building line subject to meeting certain design requirements.

LPP 3.1 has generally been updated to reflect these changes however it is noted that the policy maintains a need for garages to be setback 3.0 metres from the secondary street and clarifies the need for carports on the secondary street to be designed to be compatible with the dwelling. This is considered to be consistent with the policy objectives of reducing the impact of car parking on the street and ensuring development makes a positive contribution to existing streetscapes.

P20/3934 - REVIEW OF LOCAL PLANNING POLICY 3.1 RESIDENTIAL DEVELOPMENT AND LPP 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)

Garage width

The garage width provisions contained in Clause 3 – C2.2 were designed to provide applicants and owners with certainty with regard to how a lot between 10.5 metres and 12 metres in width could be developed with a double garage. While these provisions were useful, the majority of new side by side lots developed in the City of Melville are 10 metres wide or less meaning that those provisions do not apply and can only be referred to as a part of a performance assessment of a proposal.

The amended R-Codes are clearer in terms of the expectation for garage width, stating that a garage should only take up 50% of the frontage on a single storey dwelling and up to 60% for a two storey dwelling. Any proposal which does not meet this development standard will be required to be considered against the relevant design principles. It is also noted that the deemed to comply provisions of the R-Codes require high levels of street surveillance through the provision of a clearly defined entrance and habitable rooms facing the street.

The City has the ability to positively impact on the design outcomes of dwellings through the DA process. It is therefore proposed that the City align itself with the R-Codes in this regard and to delete the existing policy provision contained within LPP 3.1.

Street Trees

Clause 5.3.5 Vehicular access states that driveways shall be:

- Located so as to avoid street trees, or where this is unavoidable, the street trees replaced at the applicant's expense or replanting arrangements to be approved by the decision maker.

Where a proposed development impacts a street tree, a development application will now be required to be lodged with the City and assessed against the design principles. Alternatively, amended plans may be provided which remove this conflict.

In view of these changes to the R Codes, it is unnecessary to maintain this clause in the City's policy.

Outbuildings

The amended R-Codes, contain deemed to comply provisions for small and large outbuildings. Clause 7.3.1 has also been amended to allow a local government to modify these deemed to comply provisions by way of a local planning policy. As part of this review it is recommended that an outbuilding clause be added to LPP3.1 with minor changes to the deemed to comply provision in relation to wall height and boundary wall. These provisions are similar to those that already exist in LPP1.17 Exemptions Policy and as such the outbuildings clause in the exemptions policy is proposed to be deleted.

LPP1.17 Exemptions Policy allows for Outbuildings to be located on the boundary subject to meeting the boundary wall requirements of LPP 3.1. This policy provision has been in place for a number of years and is a practical approach, allowing a landowner to make effective use of their property without having a negative impact on the amenity of adjoining properties. It also consistent with recent State Government initiatives to remove the need for development approval for small residential projects.

P20/3934 - REVIEW OF LOCAL PLANNING POLICY 3.1 RESIDENTIAL DEVELOPMENT AND LPP 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)

The amended R-Codes allow for small outbuildings with a wall and ridge height 2.7 metres to be located on the boundary. Where this occurs, the outbuilding boundary wall does not contribute to the total amount of boundary wall permitted for the site. For larger outbuildings the amended R-Codes require buildings to be setback from the boundary and also set out a maximum wall height of 2.4 metres. These provisions are considered to be contradictory, indicating that an outbuilding on the boundary to 2.7 metres in height has an acceptable amenity impact on the adjoining landowners in some circumstances but not in others. To resolve this issue it is proposed to amend the large and multiple outbuildings deemed to comply provisions in the following manner.

Sub - Clause (ii) set back in accordance with Table 2A or comply with the boundary wall provisions of the policy.

Sub-Clause (iii) does not exceed a wall height of 2.7m

As noted above allowing outbuildings on the boundary results in a more effective use of space and reflect the existing exemption LPP1.17. The amended wall height reflects the wall heights allowable for small outbuildings and as such results in improved consistency.

STAKEHOLDER ENGAGEMENT

Advertising Required:	N/A
Neighbour's Comment Supplied:	N/A
Reason:	N/A
Support/Object:	N/A

I. COMMUNITY

The *Regulations* came into effect on 19 October 2015. Clause 5 of Schedule 2 of the Regulations contains requirements for amending a local planning policy. In accordance with subclause 5(2) the local government may amend a local planning policy without advertising if in the opinion of the local government the proposed changes are minor in nature. In this instance the changes to the policy are of an administrative nature to reflect the current statutory planning framework and advertising of the amended policy is not required.

A notice of the revised policy will be published in the local newspaper and on the City's website if it is adopted by Council.

II. OTHER AGENCIES / CONSULTANTS

Clause 4(4) of Schedule 2 of the Regulations requires that Council advise the Western Australian Planning Commission (WAPC) if it is of the opinion that it is inconsistent with any State Planning Policy.

P20/3934 - REVIEW OF LOCAL PLANNING POLICY 3.1 RESIDENTIAL DEVELOPMENT AND LPP 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)

The proposed changes bring LPP 3.1 into line with the recent changes made to the R-Codes. The changes to the R-Codes were advertised to various stakeholders for comment in 2020 by the Department of Planning, Lands and Heritage.

Given the above, the WAPC is not required to be consulted.

STATUTORY AND LEGAL IMPLICATIONS

No statutory or legal implication have been identified as a part of this review.

FINANCIAL IMPLICATIONS

There are no financial implications identified in relation to this policy change.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are no strategic, risk or environmental management implications with this application.

POLICY IMPLICATIONS

The local planning policies which are the subject of this report have been reviewed to ensure they remain consistent with the current planning framework. This review will ensure these continue provide a sound basis for the assessment and determination of planning applications.

COMMENT

State Planning Policy 7.3 Residential Design Codes has recently been reviewed by the State Government and was gazetted on 2 July 2021. LPP 3.1 Residential Development and LPP1.17 Additional Development Exemptions have been reviewed taking into account the changes to the R-Codes.

LPP 3.1 assists the City to deliver quality development outcomes and as such only a minor review of this policy is required.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Council may choose not to amend the policy however this is not recommended as it may lead to inconsistency between the R-Codes and the City's Local Planning frameworks. Council may also choose to make further changes to the proposed policy however this may result in the need for the policy to be advertised to the general public and the WAPC.

P20/3934 - REVIEW OF LOCAL PLANNING POLICY 3.1 RESIDENTIAL DEVELOPMENT AND LPP 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)

CONCLUSION

It is proposed to amend LPP 3.1 Residential Development and LPP 1.17 Additional Development Exemptions without advertising, as these are minor changes consistent with the recent review of the State Planning Policy 7.3 Residential Design Codes. LPP 3.1 retains key development controls relating to streetscapes which will continue to deliver on high quality residential development across the City.

The adopted changes would be advertised in the local newspaper and on the City's website following the Council decision as required by the Regulations.

OFFICER RECOMMENDATION (3934)

APPROVAL

That the Council:

- 1. pursuant to clause 4, schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 adopts the changes to Local Planning Policy 3.1 Residential Development and Local Planning Policy 1.17 Additional Development Exemptions as detailed below in the attachment.**
- 2. endorses the publication of a notification of the changes in the local newspaper and on the City's website as required by the Planning and Development (Local Planning Schemes) Regulations 2015.**

ATTACHMENTS:

[3934 LPP3.1 Residential Development Policy \(June 2021\)](#)

[3934 LPP 1.17 Additional Development Exemptions \(June 2021\)](#)