14.3.2 DRAFT LOCAL PLANNING POLICY POL-LP-1.20 - MODIFICATIONS TO THE RESIDENTIAL DESIGN CODES

Ward	All Wards
Disclosure of Interest	Nil
Business Unit	Statutory Planning
Authorised Officer	Executive Director Planning and Development
Voting Requirements	Simple Majority

KEY ISSUES

- Division 2 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 provides for a local government to prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area. Such matters may include amending or replacing deemed-to-comply provisions of the Residential Design Codes of WA(R-Codes) which regulate residential development.
- This proposed Local Planning Policy seeks to amend certain deemed-to-comply provisions of the R-Codes pertaining to boundary setbacks for carports, patio's, verandahs and other ancillary structures, front fencing treatments, the wall heights for sheds and the placement of vehicular access to lots that have two street frontages.
- Relaxing these specific provisions of the R-Codes by proposing new deemed-to-comply standards will facilitate development compliant with these new standards to be exempt from the need to obtain planning approval. Such exemption will reduce the time and cost to homebuilders of obtaining planning approval for aspects of residential development that in almost all instances do receive planning approval because they are considered to have no adverse impact on residential amenity.

BACKGROUND

Capacity for local governments to prepare local planning policies are set out in Part Two of the City's Local Planning Scheme No.17 and at Division 2 of the Deemed Provisions at Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015. (the Regulations)

Specifically, Clause 4. (3A) of the Regulations reference local planning policies that seek to amend or replace deemed-to-comply provisions of the R-Codes and states:

The local government must not resolve under subclause (3) to proceed with the Policy if -

(a) The proposed policy amends or replaces a deemed-to-comply provision of the R- Codes; and

(b) Under the R-Codes, the Commission's approval is required for the policy; and

(c) The Commission has not approved the Policy

R-Codes provisions on modifications to deemed-to-comply provisions

Part A of the R-Codes addresses the capacity of local planning frameworks to amend, replace and/or augment the Deemed-to-Comply provisions of the R-Codes Volume 1.

This identifies those provisions of the R-Codes that may be modified through a local planning policy without first requiring the approval of the Western Australian Planning Commission. These provisions include:

5.1.3 *Lot boundary setbacks – Clause 3.2-3.3*

5.2.4 Street walls and fences – all clauses

5.3.5 *Vehicular access* – C5.1

5.4.3 *Outbuildings – all clauses*

DETAILS

The provisions of Part B of the R-Codes that this proposed Local Planning Policy seeks to amend or augment are in accordance with the following table:

CLAUSE		CURRENT WORDING	PROPOSED CHANGES
1	Part B – Clause 5.1.3 – Lot Boundary Setbacks C3.1(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*: • 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. *Note: Pillars and posts with a horizontal dimension of 450mm by 450mm, or less, do not constitute a boundary wall.* *Note: *There are separate building code requirements which may also apply.*	**<u>To be replaced with:</u>** For carports, patios, verandahs or equivalent structures (with pillars and posts with a horizontal dimension of 450mm by 450mm, or less), the lot boundary setbacks in Table B and Tables 2a and 2b may be reduced to nil to the posts where the structure*: • Is no more than 10m in length. • Structures do not exceed a wall height of 3.5m. • Structures do not exceed a ridge height of 4.2m. • Is located behind the primary street setback; and • Has eaves, gutters, and roofs setback at least 450mm from the lot boundary. *Note: Pillars and posts with a horizontal dimension of 450mm by 450mm, or less, do not constitute a boundary wall.* *Note: *There are separate building code requirements which may also apply.*

CLAUSE		CURRENT WORDING	PROPOSED CHANGES
2	Part B – Clause 5.2.4 – Street walls and fences - New C4.3	NEW C4.3 TO BE ADDED	**New C4.3 to be added:** For the purposes of housing a utility/meter box, solid fencing within the primary setback area is permitted where it is: i. a maximum 1.0m in width; and ii. a maximum 1.8m in height; and iii. located on a blade boundary wall, where the blade wall is attached to the garage; and setback at least 1.5m from where a vehicle access point intersects with a street, including on neighbouring properties.
3	Part B – Clause 5.3.5 – Vehicular Access C5.1	Access to on-site car parking spaces to be provided: • where available, from a communal street or right-of-way available for lawful use to access the relevant site and which is adequately paved and drained from the property boundary to a constructed street; or • from a secondary street where no right-of-way or communal street exists; or • from the primary street frontage where no secondary street, right-of way, or communal street exists.	**To be replaced with:** Vehicle access to on-site car parking spaces to be provided via the lowest available street in the hierarchy, as follows: • Where available, from a right-of-way or communal street available for lawful use to access the relevant site and which is trafficable and drained from the property boundary to a constructed street; or • From the secondary street or primary street where no right-of-way or communal street exists.
4	Part B – Clause 5.4.3 – Outbuildings C3 (ii)	B. Large and multiple outbuildings: i. individually or collectively does not exceed 60m2 in area or 10 percent in aggregate of the site area, whichever is the lesser;	**To be replaced with:** B. Large and multiple outbuildings: i. Individually or collectively does not exceed 60m^2 in area or 10% in aggregate of the site area, whichever is the lesser. ii. Is set back in accordance with Table 2a.

CLAUSE		CURRENT WORDING	PROPOSED CHANGES
		ii. set back in accordance with Table 2a; iii. does not exceed a wall height of 2.4m; iv. does not exceed a ridge height of 4.2m; v. not located within the primary or secondary street setback area; and vi. does not reduce the open space and outdoor living area requirements in Table B.	iii. Does not exceed a wall height of 3m. iv. Does not exceed a ridge height of 4.2m. v. Is not located within the primary or secondary street setback area. vi. Does not reduce the open space and outdoor living area requirements in Table B.

Clause 5.1.3 Lot Boundary Setbacks

This proposed Local Planning Policy would seek to increase the maximum allowable height of 10 metre long walls for carports, patios, verandahs or equivalent structures situated on the boundary of a lot from 2.7 metres to 3.5 metres. There is considerable customer demand, no doubt associated with the desire to enhance the amenity of outdoor living areas or to incorporate larger vehicles or boats, to pursue larger and taller patio, verandah and carport structures beyond a 2.7 metre wall height.

In virtually all instances such taller structures pose no substantial amenity impacts on adjoining neighbours, who often have similar sized structures on or close to the lot boundary themselves. Proposing a 3.5 metre height as the deemed-to-comply standard alleviates the need to obtain a planning approval for such structures where such requirement has time and cost implications for those building a new home or adding to an existing one.

It should be noted that this proposed provision would require the approval of the WAPC before Council could adopt it. Such requirement at Clause 4. (3A) of the Regulations, however, does not preclude the Council from advancing its inclusion in a proposed draft Local Planning Policy and advertising it. The Commission’s consent to or refusal of the proposed provision would be obtained before any draft Local Planning Policy was presented to Council for a decision on adoption.

Clause 5.2.4 Street Walls and Fences

This proposed Local Planning Policy seeks to augment the deemed-to-comply provisions on street fencing by introducing a supplementary provision that would permit limited solid fencing within the primary street setback for the purpose of housing (and screening) a utility/meter box.

This proposed provision provides the capacity to have limited solid fencing of no more than 1 metre in width that can screen utilities proposed to the front of a house but which does not impact the intent for open streetscapes that provide clear sightlines between the street and the dwelling.

Clause 5.3.5 Vehicular Access

This proposed Local Planning Policy seeks to amend the deemed-to-comply provisions that require vehicular access to a lot to be provided from a secondary street, as opposed to the primary street in instances where a lot has two street frontages. Rather than mandating that vehicular access is from a

secondary street in preference to a primary street where lots have two frontages, it is instead proposed to provide flexibility to the homebuilder to elect the access point themselves, with either option being deemed-to-comply.

This allows the garage/carport orientation to be at the front of the house as opposed to the side of the house, where this likely constitutes a customisation of the standard housing design packages provided to homebuilders. This flexible provision removes the time and cost penalty to homebuilders seeking to pursue a preferred amenity choice in housing orientation. For corner lots with two street frontages the impact on streetscape is minimal by having the vehicular access to the front of the house. Requirements for vehicle crossovers to be a set distance from a street corner remain.

Clause 5.4.3 Outbuildings

This proposed Local Planning Policy seeks to amend the deemed-to-comply provisions pertaining to the wall height for large outbuildings or where more than one outbuilding is proposed, from 2.4 metres to 3 metres.

Similar to the customer desire for taller patios or carports, there is a desire for taller sheds to provide for greater utility in accommodating the storage of domestic items including larger vehicles, boats and the like. The deemed-to-comply provision on siting of such outbuilding remains the same and the additional 60cm of height is not considered to pose any adverse impacts to residential amenity.

CONSULTATION

The proposed Local Planning Policy will be required to be advertised for public comment for 21 days in accordance with Clause 4 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.

ATTACHMENTS

1. Draft Local Planning Policy POL-LP-1.20 Modifications to the Residential Design Codes [**14.3.2.1** - 3 pages]

STRATEGIC IMPLICATIONS

Built Environment
B3 Sustainable growth
B3.1 Facilitate urban growth, while minimising the impact on the natural environment

Governance
G2 Leadership and good governance
G2.2 Ensure the sustainable and optimal use of City resources through continuous improvement and innovation.

STATUTORY IMPLICATIONS

Planning and Development (Local Planning Schemes) Regulations 2015

City of Swan Local Planning Scheme No.17

FINANCIAL IMPLICATIONS

Application fee of approximately $147 for a minor modification application would not be required to be paid by applicants, with related cost savings to landowners/builders who will not have to incur the cost of the preparation and administration of development applications by consultants. Reduced staff time required.

RECOMMENDATION

That Council resolve to:

1. Grant approval for public advertising of the Draft Local Planning Policy POL-LP-1.20 Modifications to Residential Design Codes for a period of 21 days in accordance with Schedule 2, Part 2, Clause 4 of the Planning and Development (Local Planning Schemes) Regulations 2015.

In accordance with section 8.2 (7) of the *City Of Swan's Meeting Procedures Local Law 2023* the Presiding Member invited a council member to move the officer's recommendation.

MOTION to adopt the officer's recommendation.

(Cr Kaur - Cr Miles)

RESOLVED (9/3) TO:

That Council resolve to:

1. Grant approval for public advertising of the Draft Local Planning Policy POL-LP-1.20 Modifications to Residential Design Codes for a period of 21 days in accordance with Schedule 2, Part 2, Clause 4 of the Planning and Development (Local Planning Schemes) Regulations 2015.

For: Mayor Richardson, Deputy Mayor Zannino, Cr Congerton, Cr Dean, Cr Kaur, Cr McCullough, Cr Miles, Cr Predovnik and Cr Toquero
Against: Cr Bowman, Cr Catalano and Cr Howlett

DRAFT LOCAL PLANNING POLICY
POL- LP-1.20 Modifications to the Residential Design Codes

1. Citation

This is a Local Planning Policy prepared under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations). This Policy may be cited as POL-LP-1.20 Modifications to the Residential Design Codes (POL-LP-1.20).

2. Introduction

2.1 Purpose

This policy seeks to modify the 'Deemed-to-Comply' requirements of the Residential Design Codes (R-Codes) in order to streamline statutory planning processes for minor and low-impact residential development, by exempting such development from the need to receive development approval.

2.2 Background Information

A review of development trends and assessment processes have identified a number of development types where community impact can be managed when specific criteria are satisfied. Establishing a local planning policy to address these matters provides a clear and consistent pathway for development control for Single House and Grouped Dwellings developments subject of R-Codes Volume 1 (Part B) within the City of Swan (The City). This approach supports a risk-based and outcomes-focused approach to development control.

2.3 Legislative References

The policy complements the development exemptions listed in:

- Schedule 2 ('Deemed Provisions') of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations)
- City of Swan Local Planning Scheme No. 17
- Residential Design Codes of Western Australia
- City of Swan Local Planning Policies

3. Objectives

The objectives of this policy are to:

a) To vary the R-Codes to provide amended 'deemed-to-comply' provisions.
b) Streamline the planning approval process by removing the requirement for formal approval for minor, or low-impact residential development subject to appropriate conditions.
c) Ensure acceptable development outcomes are maintained.
d) Ensure exempt development is of a scale, form, and nature that preserves residential amenity, streetscape quality, and the character of established and emerging areas; and
e) Ensure exempt development does not compromise public safety, environmental assets, heritage places, or hazard management outcomes, including bushfire risk.

DRAFT LOCAL PLANNING POLICY
POL- LP-1.20 Modifications to the Residential Design Codes

4. Application of this Policy

4.1 Extent of Scope

This policy should be read in conjunction with Schedule 2, Clause 61 of the *Planning and Development (Local Planning Schemes) Regulations* 2015, Schedule 5 and 5A of Local Planning Scheme No. 17 (LPS17), and the Residential Design Codes of Western Australia.

This policy applies to all Single House and Grouped dwellings subject to the R-Codes Volume 1 (Part B) within the City.

5. Policy Provisions

5.1 Modifications to the Residential Design Codes Deemed-to-Comply provisions – Part B

The provisions set out within **Table 1** outlines modifications to the Residential Design Codes (R-Codes) and replaces the 'deemed-to-comply' requirements as listed.

Table 1: Modification of the R-Codes		
Description		**Conditions**
1	Part B – Clause 5.1.3 – Lot Boundary Setbacks C3.1(ii)	To be replaced with: For carports, patios, verandahs or equivalent structures (with pillars and posts with a horizontal dimension of 450mm by 450mm, or less), the lot boundary setbacks in Table B and Tables 2a and 2b may be reduced to nil to the posts where the structure*: • Is no more than 10m in length. • Structures do not exceed a wall height of 3.5m. • Structures do not exceed a ridge height of 4.2m. • Is located behind the primary street setback; and • Has eaves, gutters, and roofs setback at least 450mm from the lot boundary. *Note: Pillars and posts with a horizontal dimension of 450mm by 450mm, or less, do not constitute a boundary wall.* *Note: *There are separate building code requirements which may also apply.*
2	Part B – Clause 5.2.4 – Street walls and fences - New C4.3	New C4.3 to be added: For the purposes of housing a utility/meter box, solid fencing within the primary setback area is permitted where it is: i. a maximum 1.0m in width; and ii. a maximum 1.8m in height; and iii. located on a blade boundary wall, where the blade wall is attached to the garage; and iv. setback at least 1.5m from where a vehicle access point intersects with a street, including on neighbouring properties.
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4	Part B – Clause 5.4.3 – Outbuildings C3 (ii)	To be replaced with: B. Large and multiple outbuildings: i. Individually or collectively does not exceed 60m^2 in area or 10% in aggregate of the site area, whichever is the lesser. ii. Is set back in accordance with Table 2a. iii. Does not exceed a wall height of 3m. iv. Does not exceed a ridge height of 4.2m. v. Is not located within the primary or secondary street setback area. vi. Does not reduce the open space and outdoor living area requirements in Table B.