



6.1.24 – PLANNING PRECINCT EXEMPTIONS

Purpose

The purpose of this Policy is to exempt residential development that meets the deemed to comply provisions of the Western Australian Planning Commission's (WAPC) State Planning Policy 7.3 Residential Design Codes Volume 1 (the R-Codes) and/or the Shire of Manjimup's Local Planning Policy 6.1.3 Outbuildings.

Objectives

The objectives of this Policy are to:

- a) clarify when applications for residential development in Planning Precinct Statement Areas are required to be submitted;
- b) ensure that compliant development is not unduly burdened by administrative requirements associated with development application processes; and
- c) enable the timely delivery of development where there is no impact on the amenity of the locality.

Application of Policy

In accordance with Schedule 2, Part 7, clause 61(1)(i) of the Deemed Provision for Local Planning Schemes in the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), this policy provides for development that does not require development approval.

This Policy applies to the development of a retaining wall less than 0.5m in height, a single dwelling, including in the opinion of the local government, any extension to a single dwelling, ancillary outbuildings, tennis courts and swimming pools within an area covered by a Planning Precinct Statement designated under the Scheme.

The Policy is to be read in conjunction with the Scheme and any other relevant Local Planning Policies.

Policy Exclusions

This Policy excludes the following:

- proposed single dwellings on lots greater than or equal to 1,100m² and located in designated Bushfire Prone Areas where a Bushfire Attack Level of greater than 29 is achieved;
- the proposed development is located on property or area included on the Heritage List;
- development which comprises of transportable buildings or second-hand buildings or part thereof;
- proposed single dwelling abuts a major road reserved in the Scheme and under the control of Main Roads WA; and
- the construction of a tennis court which involves the use of lighting for night

games.

Relationship to Building Code of Australia

All development exempt under this policy may still be required to obtain a Building Permit unless otherwise stated.

Background / Issues

Local Planning Scheme No. 4 (the Scheme) Clause 8.4(iii)(a) exempts:

- a single dwelling including in the opinion of the local government any extension to a single dwelling;
- ancillary outbuildings;
- tennis courts; and
- swimming pools

except where located in a Heritage Area, Special Control Area, Bushland Protection zone or an area covered by a Local Planning Policy or Planning Precinct Statement.

The above requirement for development approval does not align with the intent of the Clause 61(1)(c)(d) of the Regulations, exemptions for a single house, extension, ancillary dwelling, outbuilding, etc on a lot if the R-Codes apply and the deemed-to-comply requirements of the R-Codes are satisfied.

Providing a clarification to when development should be exempt in a Planning Precinct if the R-Codes apply and the deemed-to-comply requirements of the R-Codes are satisfied, will remove unnecessary 'red tape' for landowners in areas that are not subject to future planning requirements.

Policy Measures

Applications for Development Consistent with Deemed-to-Comply

Provisions

Outbuildings and shipping containers that meet the deemed-to-comply provisions of Local Planning Policy 6.1.3 Outbuildings in a Planning Precinct Area are exempt from the need to obtain Development Approval.

Erection or extension of:

- a single house;
- ancillary dwelling;
- external fixture;
- boundary wall or fence;
- retaining wall or earthworks if less than 0.5 metres;
- patio;
- pergola;
- veranda;
- garage;
- carport; or
- swimming pool

on a lot, if the R-Codes apply to the development and the development satisfies the deemed-to-comply requirements of the R-Codes, and where located in a Planning

Precinct Statement Area, are exempt from the need to obtain Development Approval.

Administration

Applications Requiring Judgement of Merit

Non-compliance with a deemed-to-comply provision is not to be employed as grounds for refusal of a proposal. Instead, where a proposal does not meet one or more relevant deemed-to-comply provisions, it will require judgement of merit by the local government.

The following process will apply to judgement of merit applications:

- a) An Application for Development Approval is to be lodged with the local government that shows how all objectives and the design principle contained in the R-Codes have been met for any matters that are not deemed-to-comply;
- b) The local government is to consult with any neighbouring property owner that it considers may be affected by the variation(s) to the deemed-to-comply provision, in accordance with the relevant local planning policy relating to advertising of planning proposals. Details of the variation(s) sought are to be provided to the neighbour to allow for proper consideration;
- c) The local government is to give due regard to any comments made during the consultation period. Where no comment is received, the local government will assume the neighbour has no objection to the variation(s) proposed; and
- d) The local government is to assess the proposal against the objectives and design principle contained in the R-Codes and/or Local Planning Policy 6.1.3 Outbuildings, taking into account the merits of the proposal and determine if the development should be approved as proposed, refused as proposed or conditioned to ensure compliance with the R-Codes objectives and design principles.

Delegated authority is not to be exercised for judgement of merit applications where an objection based on material planning grounds has been received from an affected neighbouring property owner.

Delegated authority can be exercised where an objection is withdrawn after negotiation between the applicants and objecting neighbour that the local government is satisfied allows for the development to proceed in a manner consistent with the relevant design principle contained in this Policy.

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NEXT DUE FOR REVIEW – DECEMBER 2028

The Administration of this Policy is by the Development and Regulation Division.
