

LOCAL PLANNING POLICY

LPP23: OUTBUILDINGS IN RESIDENTIAL & MIXED USE ZONES

<i>Responsible Department</i>	Development Services
<i>Resolution Number</i>	C.3602
<i>Resolution Date</i>	21/06/2017
<i>Next Scheduled Review</i>	2021
<i>Related Shire Documents</i>	Local Planning Scheme No. 6
<i>Related Legislation</i>	Planning and Development Act 2005 Planning and Development (Local Planning Schemes) Regulations 2015

OBJECTIVES

- (a) Recognise the unique characteristics of outbuilding development in the Shire not adequately catered for by the R-Codes;
- (b) Provide appropriate development standards for outbuildings that reflect the Shire's climate, lifestyle and built form and do not detrimentally affect the amenity of the property or adjoining properties.

SCOPE

Purpose

The purpose of this Policy is to provide local variation to the provisions of the R-Codes relating to outbuildings.

Application

This Policy applies to new residential outbuildings on land zoned 'Residential' and 'Mixed Use' as identified by the Scheme.

Definitions

Carpport has the meaning given to it in the R-Codes, namely a roofed structure designed to accommodate one or more motor vehicles unenclosed except to the extent that it abuts a dwelling or a property boundary on one side, and being without a door unless that door is visually permeable.

Carports are not considered outbuildings for the purposes of this Policy or the R-Codes and are to be assessed under the provisions of the R-Codes relating to carports.

Deemed-to-comply requirements means those provisions of the R-Codes that does not require the exercise of a discretion for it to be implemented.

Deemed-to-comply development provisions are listed in the right-hand column of Part 5 and Part 6 of the R-Codes and are related to the **design principle* and objectives.

- * Design principles are listed in the left-hand column of Part 5 and Part 6 of the R-Codes and provide guidance on matters which must be addressed and demonstrated by a proposal and the means of achieving the objective/s.

Garage has the meaning given to it in the R-Codes, namely *any roofed structure, other than a carport, designed to accommodate one or more motor vehicles and attached to the dwelling.*

Detached Garages

For the purposes of this Policy and application of the R-Codes, a garage that is detached from the house is considered an outbuilding.

Attached Garages

Garages that are incorporated into the house design and under the same roof line are to be assessed under the provisions of the R-Codes relating to garages and are not considered outbuildings for the purposes of this Policy or the R-Codes.

Lean-to is an ancillary structure to an outbuilding that is attached to an existing or proposed outbuilding and has at least three open sides, generally designed to accommodate one or more motor vehicles.

Natural Ground Level or "NGL", is the level on a site which precedes the proposed development, excluding any site works unless approved by the Council or established as part of subdivision of the land preceding development.

Outbuilding has the meaning given to it in the R-Codes, namely *an enclosed non-habitable structure that is detached from any dwelling.*

Policy deemed-to-comply requirements means those provisions listed under section 6.1 up to and including 6.11 of this Policy.

Primary Street has the meaning given to it in the R-Codes, namely *unless otherwise designated by the local government, the sole or principal public road that provides access to the major entry (front door) to the dwelling.*

R-Codes means the State Planning Policy 3.1 *Residential Design Codes of Western Australia.*

Secondary Street has the meaning given to it in the R-Codes, namely *in the case of a site that has access from more than one public road, a road that is not the primary street but which intersects with or adjoins that road.*

Exclusions

This Policy does not apply to:

- Residential outbuildings on land zoned 'Rural Residential', 'Rural Smallholding' or 'Rural' as Local Planning Policy No.24 'Outbuildings in the Rural Residential, Rural Smallholding and Rural Zones' applies in this case;
- Carports, either attached or detached from a house as this form of development will be considered under the R-Codes requirements;
- Garages attached to a house and incorporated under the same roof line;
- Verandahs, patios, pergolas, unenclosed gazebos and similar, as this form of development will be considered under the R-Codes requirements;
- Garden sheds with a floor area of less than 10m² and height of 2.4m and not located in the front setback area;
- Commercial or industrial sheds and outbuildings;
- Detached buildings that are to be used for habitable purposes, such as ancillary dwellings ('granny flats'), as this form of development will be considered under the R-Code requirements for ancillary dwellings, including the provisions of Local Planning Policy No.13 'Ancillary Accommodation'; and
- Sea Containers and other similar storage structures as this form of development will be considered under Clause 4.23 of the Scheme and the provisions of Local Planning Policy No.5 – 'Use and Control of Sea Containers and Similar Storage Containers'.

Relationship of this Policy to other Local Planning Policies

This Policy is to be read in conjunction with any other relevant Local Planning Policy.

Authority to prepare and adopt a Local Planning Policy

Division 2 of Schedule 2, Part 2, clause 3(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, also known as the '*deemed provisions for local planning schemes*', allows Council to prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme area.

This policy will be made effective once Council has completed the process stipulated in clause 4(1) up to and including clause 4(4) of the *deemed provisions for local planning schemes*.

Relationship of this Policy to the Scheme

If a provision of this Policy is inconsistent with the Scheme, the Scheme prevails. This Local Planning Policy is not part of the Scheme and does not bind Council in respect of any application for development approval. However, Council shall have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

Relationship of this Policy to the Residential Design Codes

This Policy has been made in accordance with clause 7.3 of the Residential Design Codes (R-Codes). This Policy replaces the *deemed-to-comply* requirements relating to Outbuildings (i.e. Part 5, clause 5.4.3 and Part 6, clause 6.4.4) contained in the R-Codes. This Policy is to be read in conjunction with the R-Codes for other relevant provisions.

POLICY

APPROVAL REQUIREMENTS

Exemptions under the deemed provisions for local planning schemes

Under Clause 61(1)(i) of the *deemed provisions for local planning schemes*, the Development Approval of the Shire is not required for outbuildings that comply with the Policy *deemed-to-comply* requirements listed under section 6.1 up to and including 6.11 of this Policy.

The above-mentioned exemption does not apply if the outbuilding is located in a place that:

- comes under the *Heritage of Western Australia Act 1990*;
- is included on a heritage list;
- is located within an area designated under the Scheme as a heritage area;
- is within a Special Control Area under the Scheme; and/or
- accessed by an unconstructed road.

Variations to the Policy *deemed-to-comply* requirements

Council may approve a development at variance with the Policy *deemed-to-comply* requirements where it believes the variation and outbuilding as proposed:

- meets the stated *design principle* for outbuilding development;
- meets the primary objectives of this Policy; and
- will not set an undesirable precedent for future development.

Lean-To Requirements

The maximum size of an ancillary “Lean-To” shall be 30% of the roof cover of the existing or proposed outbuilding.

For the purposes of calculating total floor area of an outbuilding(s), a lean-to is deemed to form part of the overall floor area if it is enclosed on two (2) or more sides (including the shared wall with the existing or proposed outbuilding).

A lean-to shall be constructed of materials that match or complement the proposed / existing adjoining outbuilding.

Need for a Building Permit

Notwithstanding that Development Approval is not required or may be granted by Council (as the case might be), a **Building Permit is required to be sought and issued prior to on-site works commencing**. The outbuilding will need to meet all relevant requirements under the Building Code of Australia and Australian Standards. Building Permit fees and levies are payable in accordance with the current Shire of Northam Fees and Charges.

DEVELOPMENT GUIDELINES

Design Principle

The *design principle* for the development of outbuildings contained in the R-Codes applies, namely:

“Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties.”

POLICY DEEMED-TO-COMPLY REQUIREMENTS

The Policy *deemed-to-comply* requirements illustrate one way of meeting the stated *design principle* above. Where an outbuilding meets these provisions, it is permitted.

Where an outbuilding does not meet these requirements, Council must consider the proposal in accordance with section 4.2 of this Policy and will impose any conditions it considers necessary for the outbuilding to meet the *design principle* and Policy Objectives or determine the outbuilding cannot

adequately meet the *design principle* and Policy Objectives and refuse the application.

The following *deemed-to-comply* requirements replace those contained in clauses 5.4.3 (C3) and 6.4.4 (C4) of the R-Codes:

'Deemed-to-comply' Outbuildings are:

1. **Not** to be **attached** to a dwelling;
2. To be **non-habitable** (i.e. not used for residential purposes);
3. Outbuildings with **maximum permissible floor areas** as follows:

Lot Size	Maximum Aggregate Outbuilding Area (m ²)
Lot less than 1,000m ²	80m ² or 10% of the site area whichever is the lesser
Lot greater than 1,000m ² but less than 2,000m ²	90m ²
Lot greater than 2,000m ²	120m ²

Note: Carports, attached garages, garden sheds with a floor area less than 10m² and other non-enclosed structures are excluded.

4. **Not** to **exceed** a wall height (measured from NGL) of 3.5m, or 2.7m where the outbuilding is located on or less than 1.0m from a boundary.
5. **Not** to **exceed** a roof ridge height (measured from NGL) of 4.5m, or 4.2m where the outbuilding is located on or less than 1.0m from a side or rear boundary.
6. **Not** located **within** the primary street or secondary street setback areas;
7. **Not** to **reduce** the amount of open space required in Table 1 or Table 4 (as the case might be) of the R-Codes for the density code.
8. Setback:
 - (a) 1.0m from a side or rear boundary where the wall length is less than 9m; or
 - (b) 1.5m from a side or rear boundary where the wall length is greater than 9m; or
 - (c) Less than 1.0m from a side or rear boundary or on the boundary where:
 - i. the wall height does not exceed 2.7m;
 - ii. roof ridge height does not exceed 4.2m;
 - iii. wall length does not exceed 9.0m; and

- iv. stormwater is contained on the property.
- 9. Constructed of walls of masonry or non-reflective pre-painted steel cladding that is sympathetic to the surroundings and finish of the existing dwelling on the development site;
- 10. Constructed of new cladding material; and
- 11. Located on a property where a house is existing, or where a house is approved concurrently.