

13.5 PROPOSED OUTBUILDINGS LOCAL PLANNING POLICY

Applicant:	Shire of Perenjori
File:	ADM
Date:	8 August 2022
Disclosure of Interest:	Nil
Voting Requirements:	Simple Majority
Author:	Simon Lancaster – Planning Advisor
Responsible Officer:	Paul Anderson – Chief Executive Officer
Attachments:	Draft Outbuilding Local Planning Policy

Summary

Council resolved at its 16 June 2022 meeting to instruct Shire staff to prepare a draft Outbuildings Local Planning Policy for its consideration. This report recommends that the draft Outbuildings policy be advertised for comment.

Background

The Shire of Perenjori does not presently have a policy in relation to residential outbuildings (i.e. sheds), and in the absence of such a policy the Residential Design Codes of Western Australia (the 'R-Codes') establish the criteria by which Shire staff may approve applications for sheds under delegated authority upon the residential zoned lots within its townsites.

Section 5.4.3.C3 of the R-Codes requires that outbuildings should collectively be not more than 60m² or 10% in aggregate of the site area whichever is the lesser. The R-Codes also establish that the outbuilding should not exceed a wall height of 2.4m and a ridge height of 4.2m.

Council may wish to consider adopting an Outbuildings Local Planning Policy that allows for sheds in its townsites of greater area and height than prescribed by the R-Codes. Many other Mid-West local governments have adopted such a policy to better respond to the needs of their communities, reflect localised planning issues and streamline the processing of applications.

Such policies establish a greater maximum outbuilding area/height in recognition that the R-Codes criteria are often metro-centric and do not adequately address the requirements for general domestic storage in a regional, rural townsite and rural-residential setting where residents may often own, and seek to store out of the elements, larger items such as 4WD's, trailers, caravans, campervans, boats, horse floats, ride-on mowers, motor/quadbikes and stock keeping/feeding items.

On this basis a draft Outbuildings Local Planning Policy has been prepared as a separate attachment for Council's consideration.

The policy would establish the procedure by which the Shire would process applications for outbuildings. Applications that complied with the policy provisions would either not require a planning application to be lodged (and could proceed straight to the building permit application stage) or would be approved by staff under delegated authority. Applications that proposed variation would be advertised for comment and presented to Council for its determination.

Statutory Environment

The policy refers to outbuildings in the 'Residential', 'Rural Townsite' and 'Rural Residential' areas and does not address sheds within the 'Light Industry' and 'General Industry' zones as these are covered by the Shire of Perenjori Local Planning Scheme No.3 ('the Scheme') provisions as contained within Table 4 of the Scheme.

The policy does not refer to outbuildings within the 'Rural' zone as these are generally exempted from the requirement to make planning application by Schedule A Clause 61(1)(23) of the Scheme except in certain circumstances such as if they would impact upon a heritage protected place.

Schedule 2 Part 2 Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (‘the Regulations’) provides Council with the ability to prepare Local Planning Policies.

- “3 *Local planning policies*
- (1) *The local government may prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.*
 - (2) *A local planning policy —*
 - (a) *may apply generally or in respect of a particular class or classes of matters specified in the policy; and*
 - (b) *may apply to the whole of the Scheme area or to part or parts of the Scheme area specified in the policy.*
 - (3) *A local planning policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.*
 - (4) *The local government may amend or repeal a local planning policy.*
 - (5) *In making a determination under this Scheme the local government must have regard to each relevant local planning policy to the extent that the policy is consistent with this Scheme.*
- 4 *Procedure for making local planning policy*
- (1) *If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows —*
 - (a) *publish in accordance with clause 87 the proposed policy and a notice giving details of —*
 - (i) *the subject and nature of the proposed policy; and*
 - (ii) *the objectives of the proposed policy; and*
 - (iii) *how the proposed policy is made available to the public in accordance with clause 87; and*
 - (iv) *the manner and form in which submissions may be made; and*
 - (b) *if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;*
 - (c) *give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.*
 - (2) *The period for making submissions specified in a notice under subclause (1)(a)(v) must not be less than the period of 21 days after the day on which the notice is first published under subclause (1)(a).*
 - (3) *After the expiry of the period within which submissions may be made, the local government must —*
 - (a) *review the proposed policy in the light of any submissions made; and*
 - (b) *resolve to —*
 - (i) *proceed with the policy without modification; or*
 - (ii) *proceed with the policy with modification; or*
 - (iii) *not to proceed with the policy.*
 - (3A) *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.*
 - (4) *If the local government resolves to proceed with the policy, the local government must publish notice of the policy in accordance with clause 87.*
 - (5) *A policy has effect on publication of a notice under subclause (4).*
 - (6) *The local government must ensure that an up-to-date copy of each local planning policy made under this Scheme that is in effect is published in accordance with clause 87.*
 - (7) *Subclause (6) is an ongoing publication requirement for the purposes of clause 87(5)(a).”*

Local Planning Policies are guidelines used to assist the local government in making decisions under the Scheme. The Scheme prevails should there be any conflict between a Policy and the Scheme.

Policy Implications

Where Council wishes to establish its own development guidelines and assessment criteria a Local Planning Policy can be more suited than Scheme provisions and allow for more consideration of local planning considerations than the state-wide R-Codes. A Policy is still considered as reasonable basis for Council to make determinations, and is an instrument that must be given due regard in instances where a development decision is appealed to the State Administrative Tribunal, but a Policy also has an improved, more responsive ability to be modified by Council where it considers that a Policy is no longer in-line with its planning, or Council considers that an individual application should be supported based upon its displayed merits.

For the most part Local Planning Policies are formulated and aligned with a strategic planning direction as set by Council. The establishment of Local Planning Policies aid in guiding the type and standard of development the Council views as appropriate within particular areas of the Shire and provide a consistent approach to approving land use and development.

In most circumstances the Council will adhere to the standards prescribed in a Local Planning Policy, however, the Council is not bound by the policy provisions and has the right to vary the standards and approve development where it is satisfied that sufficient justification warrants a concession and the variation granted will not set an undesirable precedent for future development.

A Local Planning Policy is not part of the Scheme and does not bind the local government in respect of any application for planning approval but the local government is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

Consultation

Schedule 2 Part Division 2 Clauses 4 & 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015* requires that Council advertise a proposed Local Planning Policy for a minimum period of 21 days.

The advertising is required to include as a minimum the placement of a notice on the Shire's website and can also include display of the documentation at the Shire office. A local government may also, where it considers it appropriate place a notice in a locally circulating newspaper.

At the conclusion of the advertising period Council can review any received submissions and proceed with the policy with/without modification, or not proceed with the policy.

The draft policy provided as a separate attachment proposes that applications seeking variation may be advertised by the Shire for comment to surrounding landowners, prior to the application, and any received submissions, being placed before a meeting of Council for consideration.

Section 7.3.1 of the R-Codes makes allowance for a local government to prepare a Local Planning Policy that amends/replaces the deemed-to-comply provisions relating to R-Code Clause 5.4.3-Outbuildings.

Financial Implications

Nil

Strategic Community Plan

The draft Outbuildings Local Planning Policy is intended to balance the expectations of the community on what is an appropriate standard of amenity, and the requirements for general domestic storage in a regional and rural-residential setting. This can often include larger items that the landowner seeks to have stored securely, and out of the elements, and it may also be preferable from an amenity viewpoint to have them stored out-of-sight within a shed rather than scattered about the yard.

It is always good practice for Council to review its policies be they procedural, financial or planning on a regular basis to ensure they are current, address changing circumstances, current and evolving development trends, community demands and meet Council's expectations.

The adoption of an Outbuildings Local Planning Policy would align with the following goals of the Strategic Community Plan:

Area 1: Infrastructure and Natural Assets

Natural and Built Environment

Goal: A community that develops and lives sustainably in a thriving natural and quality built environment, which meets and maintains current and future community needs.

Area 5: Investing in Councils Capacity – Our Leadership

Goal: Strengthen the Shire’s position as an innovative and proactive local government providing excellence in all areas of governance, management and leadership.

This strategy area will build the capacity of the Council to undertake ongoing planning, reviews and report on progress and develop leadership and management capacity within Council and staff. It will also ensure Council strategically targets fundraising strategies to achieve key projects.

Officer Comment

The draft Shire of Perenjori Local Planning Policy has been prepared with regard for the policies of neighbouring local governments in an attempt to achieve a level of regional consistency. A summary of several other Mid-West Councils’ policy requirements are provided below:

Maximum standards	Shire of Mingenew	Shire of Three Springs	Shire of Coorow	City of Greater Geraldton	Shire of Northampton* & Shire of Chapman Valley
Residential & Townsite (R10 and higher density) (i.e. lots generally < 2,000m²)					
Area (total aggregate)	80m ²	80m ²	120m ²	150m ² (120m ² enclosed/30m ² open)	120m ²
Wall Height	4m	4m	4m	3.6m	3m
Overall Height	5m	5m	4.5m	4.5m (with 5m being permitted subject to conditions e.g. not being higher than dwelling)	4.5m (*with 5m being permitted subject to conditions e.g. not being higher than dwelling)
Residential (R5 and lower density) (i.e. lots generally > 2,000m²)					
Area (total aggregate)	200m ²	80m ²	180m ²	270m ² (210m ² enclosed/60m ² open)	180m ² *240m ² (lots 2,000m ² +))
Wall Height	4m	4m	4.5	4.2m	4m
Overall Height	5m	5m	5m	5m (with 5.5m being permitted subject to conditions e.g. not being higher than dwelling)	5m *(with 5.5m being permitted subject to conditions e.g. not being higher than dwelling & 6.5m on lots 2,000m ² +))
Rural Residential / Rural Smallholding (Lots < 4 ha)					
Area (total aggregate)	Exempt from the area and height requirements of the policy	240m ²	200m ²	420m ² (300m ² enclosed/120m ² open)	360m ² (240m ² enclosed/120m ² open)
Wall Height		4.5m	5m	4.8m	4m
Overall Height		5.5m	6.5m	6.5m	5.5m 6.5m (double storey barn)
Rural Residential / Rural Smallholding (Lots > 4 ha)					
Area (total aggregate)	Exempt from the area and height requirements of the policy	240m ²	240m ² (less than 20ha) Exempt if greater than 20ha	420m ² (300m ² enclosed/120m ² open)*	360m ² (240m ² enclosed/120m ² open)
Wall Height		4.5m	5m (less than 20ha) Exempt if greater than 20ha	4.8m*	4m
Overall Height		5.5m	6.5m (less than 20ha) Exempt if greater than 20ha	6.5m* * applies for Rural Residential lots, Rural Smallholding lots are exempt from the policy	6.5m

OFFICER RECOMMENDATION

Council Resolution Number: 180822.11

Moved: Cr Hepworth

Seconded: Cr Fraser

That Council resolve, pursuant to Schedule 2 Part 2 Division 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, to prepare the Shire of Perenjori 'Outbuildings' Local Planning Policy, as contained in the attachment, and proceed to give notice to this effect, and at the conclusion of the advertising period return this matter to Council for further consideration.

Motion put and carried 6/0