

LOCAL PLANNING POLICY

LPP10: DEVELOPMENTS ABUTTING RIGHTS OF WAY

<i>Responsible Department</i>	Development Services
<i>Resolution Number</i>	C.2190
<i>Resolution Date</i>	18/12/2013
<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

The primary objectives are to:

- (a) Ensure that no development or use adversely impacts upon the amenity of the area or upon vistas from public roads;
- (b) Provide certainty for landowners of the requirements within the Shire by ensuring that all development issues are considered when applying for planning approval and that the rural nature of the Shire is maintained;
- (c) Ensure the provisions of the Laneway Strategy are accommodated and accomplished;
- (d) Allow sufficient scope for the siting of buildings sympathetic with landscape features, distance from neighbouring properties and roads;
- (e) Provide guidance to the Shire's officers when considering applications made under these policies.

DEFINITIONS

The following are definitions that may be used as part of this policy in addition to the definitions included in Local Planning Scheme No 6:

“**Council**” means the elected members of the Shire.

“**LPS 6**” means Local Planning Scheme No 6.

“**Owner**” means an owner of land that is located within a development contribution area.

“**Residential Design Codes**” or “**RDC**” means State Planning Policy 3.1 issued by the Department of Planning.

“**ROW**” means any Right of Way or Laneway.

“**Scheme**” means Local Planning Scheme No 6.

“**Shire**” means the Shire of Northam.

STATUTORY POWERS

This Local Planning Policy is made pursuant to clause 2.2 of the Shire’s Scheme.

POLICY STATEMENT

Unless otherwise stated in the Scheme, where there is a conflict between this policy and other policies this policy shall prevail. The following standards are in addition to the Acceptable Development standards contained in the Residential Design Codes of Western Australia (“R-codes”).

This Policy applies to all developments abutting a Rights of Way (“ROW”) or a dedicated road which was originally created as a ROW. Reference to ROW hereinafter includes ROW and includes dedicated laneways that were recognised by the Shire’s Laneway Strategy adopted by Council on 17th August 2011.

The Shire is seeking to promote the use of some ROWs for primary access. (Reference to ‘primary access’ in this policy means a road or ROW which provides the principal access to the major entry (front door) of a dwelling.)

General Development Provisions

In assessing an application for planning approval for development abutting all ROW the following provisions shall apply:

- (a) Provide sufficient reversing and manoeuvring area for vehicular access to the satisfaction of the Shire (as per Australian Standards AS/NZS 2890);
- (b) Provide a minimum 1.5 metre wide pedestrian / service access to the pre-existing primary street where a development uses a ROW for primary access (Refer to ‘Service Access’ section below);
- (c) Provide a visual truncation to provide a sight line to allow safe reversing for all developments utilising a ROW for vehicular access or abutting a development utilising a ROW for vehicle access;

- (d) Provide corner truncations free of costs to the Crown for corner lots abutting ROW including:
- (i) 3.0m x 3.0m corner truncation for lots at the intersection of two ROW for ROW at least 6.0 m wide;
 - (ii) 2.0m x 2.0m corner truncations for lots at the intersection of a ROW at least 6.0m wide and a street;
 - (iii) Corner truncations to Shire's satisfaction for ROW less than 6.0 metres wide; and
 - (iv) Provide sealing and drainage to ROW to the satisfaction of the Shire where a development utilises an unmade ROW for vehicle access.

Specific Development Provisions

1. Commercial Development

Commercial Developments are required to provide lighting in parking areas accessed from the ROW. Commercial developments providing parking areas accessed from the ROW will be encouraged and may be required to provide pedestrian access from parking areas to the commercial property. Commercial developments providing parking areas accessed from the ROW will be required to integrate this with parking of abutting commercial properties, wherever possible. The location of multi-storey car parking adjacent to a ROW is not permitted.

Consideration of the impact of the development potential and streetscape of the ROW will be required in location and design of abutting buildings, fencing, bin stores, storage etc. Bin stores along ROW with residential land opposite should be screened, well maintained and managed to limit noise, odour emissions and pests.

2. Residential Development

Residential developments involving residential infill are required to use the ROW for primary access.

Where residential developments abut commercial development across a ROW, applications will be assessed on their merits to ensure that residential amenity is protected and traffic problems are avoided. This may involve the relaxation of some or all of the provisions below including the requirement to orientate to the ROW. In particular, where a ROW is dominated by commercial developments or where the significant majority of abutting lots have no development potential, setbacks will be assessed on a case-by-case scenario;

Where a development uses a ROW for primary access, the R-Codes provisions relating to primary streets shall apply, except where they conflict with the provisions below. This includes the requirement to ensure adequate

surveillance between the dwelling and the ROW, but excepting provisions relating to setbacks from that street. Setbacks are specified below; and

Residential developments utilising a ROW for vehicle and/or pedestrian access are required to provide adequate porch or carport light, preferably sensor activated.

3. Setbacks

All buildings are to be setback from the ROW:

- (a) A minimum of 2.0 m at ground floor level;
- (b) A minimum of 3.0 m at upper storey level;
- (c) Carports, garages and car-bays to residential developments using a ROW are to be setback a minimum of 5.5 m (to allow for casual visitor parking within the setback area as parking is not permitted in a ROW). A reduced setback of 2.0m may be acceptable where primary access to the dwelling is available from the primary street (note: primary access via a pedestrian access leg does not qualify for setback reduction); and
- (d) Carports, garages and car-bays to non-residential developments are to be setback a minimum of 2.0 m.

All setback provisions from the ROW are to be determined after allowing for any ROW widening requirement from the lot;

Where a development orientates to the ROW, the location of courtyards in the ROW setback will generally not be permitted, because of the need for these to have the ability to be adequately fenced and screened;

These setbacks apply to commercial developments, single houses and strata developments (grouped and multiple dwellings). Averaging of setbacks is not permitted. All other setbacks are as per the R-Codes. The setback provisions apply to all developments abutting a ROW even if it is not used for access. In case of lots abutting more than one ROW or a ROW and a secondary street, the secondary street setbacks specified in the R-Codes apply to the ROW not used for access;

Where a development on a corner lot has direct frontage to a street, the garage / carport setback to the ROW may be reduced to comply with the secondary street setback provision of the R-Codes, whether or not it orientates to the street or the ROW, provided that sufficient manoeuvring space is provided to the Shire's satisfaction;

Setback to shading structures such as pergolas, patios and sails that are open on the 3 sides closest to the ROW may be reduced to a minimum of 1.0m from

the ROW where a 2.0m setback is unreasonable or impossible due to the location of an existing building. In such cases, the roof component must be setback at least 1.0 m from the ROW.

4. Landscaping

Where a development uses a ROW for primary access, a significant component of soft landscaping within the setback of the ROW will be required to contribute to the creation of an attractive streetscape.

Commercial developments whether utilising the ROW for access or not, are required to provide a significant component of soft landscaping within the ROW setback area where the ROW also provides primary access to residential developments.

5. Fencing & Gates

Where a development uses a ROW for primary access, fencing within the ROW setback area is generally not permitted in order to contribute to the creation of an open and attractive streetscape.

Any fencing within the ROW setback area must be in accordance with Fencing Local Law 2010.

No fencing or gates are to be constructed in front of garages, carports or parking bays in such a fashion as to prohibit casual visitor parking.

Where a development does not use the ROW for primary access, a feature fence is required (to compensate for the loss of streetscape), fibro cement, metal deck, concrete slot-in and untreated pine timberlap fencing are not acceptable. The inclusion of a visually permeable section of fencing to facilitate passive surveillance is encouraged.

All fencing and retaining walls are to be setback a minimum of 0.5m from the ROW boundary unless land has been ceded from the lot for the widening of the ROW or the ROW is at least 6.0m wide.

Upgrading of ROW

Developments are required to comply with the relevant construction and/or development contribution requirements of the Shire in terms of the following:

- (a) Where a ROW is sealed and drained, Council seeks a cash-in-lieu contribution at subdivision/development stage equivalent to the cost of paving and drainage a 3.0m width of ROW abutting the development.

- (b) If a ROW is unsealed, owners/developers are required, at the time of development or subdivision, to seal and drain the ROW adjacent to their lot and make trafficable to the nearest street.
- (c) Developments which do not front the ROW (i.e. ROW not used as primary access) are also required to make a cash-in-lieu contribution.
- (d) Widening is sought for the majority of ROW to a width of 6.0m.

Service Areas

Notwithstanding whether a ROW has been dedicated or not, adequate provision for service access and rubbish collection must be made. In most instances, where a development utilises a ROW for primary access, this is required through provision of a 1.5m wide pedestrian access leg to the street.

Council *may* waive this requirement where all the following conditions are met:

- (a) The ROW is dedicated and sealed in its length;
- (b) The ROW is at least 6.0m wide;
- (c) The ROW has direct vehicular access to a normal public street at both ends (ie it is not at a 'T junction' with another ROW or a dead end); and
- (d) The ROW is less than 100m long or the walking distance from the development to the nearest full-width public street is not more than if the pedestrian access leg was provided.

A reduction in the width of the pedestrian access leg to 1.0m *may only* be considered where it is required to allow the retention of an existing house.

Variations

Only Council, subject to previous Council determinations, may vary any provisions contained within this policy.