

# Minor Residential Development Local Planning Policy

## Responsible Directorate: Planning and Community Development

**Objectives:** To provide conditions and objectives to guide and control minor residential development within the City of Joondalup.

To ensure that minor residential development does not have a negative impact on surrounding residential amenity, particularly visual impact on adjoining owners and the streetscape.

### 1. Authority:

This Policy has been prepared in accordance with Schedule 2, Part 2 of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* which allows the local government to prepare local planning policies relating to planning and development within the Scheme area.

### 2. Application:

This policy applies to all minor residential development, as detailed in Table 1, in the City of Joondalup.

### 3. Definitions:

**“amenity”** means all those factors which combine to form the character of an area and include the present and likely future amenity as defined in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

**“cubby house”** means an enclosed structure, such as a small-scale replica of a dwelling, and includes tree houses, which is usually of simple construction and used primarily by children for the purposes of play, but excludes unenclosed platforms. A cubby house may also be commonly referred to by other names, such as an outdoor fort or children’s den.

**“natural ground level”** means the levels on a site which precede the proposed development, excluding any site works unless approved or established as part of subdivision of the land preceding development.

**“residential development”** means the following types of development:

- Single house
- Grouped dwelling
- Multiple dwellings
- Aged and dependent persons dwellings
- Single bedroom dwellings
- Ancillary dwelling
- Residential building
- Caretaker’s dwelling.

**4. Statement:**

The *Planning and Development (Local Planning Schemes) Regulations 2015* provide exemptions from the need to obtain development approval for some categories of minor residential development. This local planning policy also provides exemptions from the need to obtain development approval for some further categories of minor residential development. Where an application for development approval is required, this local planning policy provides a framework to guide the approval process to ensure that the quality of the streetscape and the amenity of adjoining residents is considered.

**5. Details:**

The Minor Residential Development table of this policy (Table 1) applies to the minor development as stated. The ‘Conditions’ column sets out the development conditions that apply for minor development to be exempt from the need for development approval. Where the conditions are not met or are not applicable, an application for development approval is required and the proposed development will be assessed against the corresponding ‘Development Objectives’ set out in the table.

**6. Community consultation:**

Refer to the City’s *Planning Consultation Local Planning Policy*.

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| <b>Creation Date:</b>         | May 2022   |
| <b>Amendments:</b>            | CJXX-05/22   |
| <b>Related Documentation:</b> | <ul style="list-style-type: none"><li>• <i>Planning and Development (Local Planning Schemes) Regulations 2015</i></li><li>• <i>Local Planning Scheme No 3</i></li><li>• <i>Planning Consultation Local Planning Policy</i></li></ul> |

**Table 1. Minor Residential Development**

| Development           | Exemption Conditions   | Development Objectives   |
|-----------------------|--|--|
| <b>Cubby House</b>    | <p><i>As per Schedule 2, Part 7 cl. 61 (1) 13. of the LPS Regulations:</i></p> <ul style="list-style-type: none"> <li>a. The cubbyhouse is not erected or installed in the street setback area of a building.</li> <li>b. The floor of the cubbyhouse is no more than 1 m above the natural ground level.</li> <li>c. The wall height of the cubbyhouse is no more than 2.4 m above the natural ground level.</li> <li>d. The building height of the cubbyhouse is no more than 3 m above the natural ground level.</li> <li>e. The area of the floor of the cubbyhouse is no more than 10 m<sup>2</sup>.</li> <li>f. The cubbyhouse is not erected or installed within 1 m of more than 1 boundary of the lot.</li> </ul> | <ul style="list-style-type: none"> <li>a. The degree to which the cubby house impacts the amenity of adjoining properties and/or the streetscape.</li> <li>b. The need to protect the privacy of adjoining properties by preventing views into adjoining active habitable spaces and outdoor living areas.</li> <li>c. A cubby house to more than one boundary is considered acceptable where the other conditions are met.</li> </ul>   |
| <b>Flag Poles</b>     | <p><i>As per Schedule 2, Part 7 cl. 61 (1) 14. of the LPS Regulations:</i></p> <ul style="list-style-type: none"> <li>a. The height of the flagpole is no more than 6 m above the natural ground level.</li> <li>b. The flagpole is no more than 200 mm in diameter.</li> <li>c. The flagpole is not used for advertising.</li> <li>d. There is no more than 1 flagpole on the lot.</li> </ul>   | <ul style="list-style-type: none"> <li>a. As per the design principles of clause 5.4.4 of the <i>State Planning Policy 7.3 Residential Design Codes Volume 1: "...external fixtures integrated into the design of the building to not be visually obtrusive when viewed from the street and to protect the visual amenity of surrounding properties."</i></li> </ul>   |
| <b>Satellite Dish</b> | <ul style="list-style-type: none"> <li>a. The satellite dish is located on the roof and has a diameter of not greater than 0.9 m.</li> <li>b. If located at ground level, the combined satellite dish and support is 2.4 m or less in any dimension (the dish is to be located so as not to be visible from any street or adjoining property).</li> <li>c. There is a maximum of one satellite dish per property.</li> </ul>   | <ul style="list-style-type: none"> <li>a. The satellite dish is to be located to minimise the visual impact on adjoining properties.</li> <li>b. The satellite dish is to be located or screened so as not to be visible from the street.</li> <li>c. A satellite dish with a diameter greater than 0.9 m should be located at ground level only. Any dish located at ground level is to be a maximum height (combined dish and support) of 4 m above natural ground level.</li> </ul> |

| Development  | Exemption Conditions  | Development Objectives  |
|--|---|---|
| <b>Antenna/Aerial/Mast (including an internet dish of no more than 400 mm in diameter)</b> | <ul style="list-style-type: none"> <li>a. The antenna/aerial/mast is not greater than 2 m in height if mounted on the roof.</li> <li>b. The antenna/aerial/mast does not project more than 2 m above the roof ridge if located at ground level.</li> <li>c. The antenna/aerial/mast is not located between the street and the house.</li> <li>d. A domestic television antenna is not greater than 4 m in any dimension.</li> <li>e. A maximum of one form of antenna/aerial/mast is permitted per property, exclusive of a domestic antenna.</li> </ul>  | <ul style="list-style-type: none"> <li>a. The antenna/aerial/mast to be located to minimise the visual impact on adjoining properties and the streetscape.</li> </ul> |
| <b>Sea Containers (temporary)</b>  | <ul style="list-style-type: none"> <li>a. The sea container is only used in conjunction with building construction or subdivision work that is occurring or approved to occur on the subject site, and only up to a maximum of 12 months; or</li> <li>b. The sea container is only used for the loading or unloading of goods that is occurring on the subject site and only up to a maximum of 7 days; and</li> <li>c. The sea container is positioned so as not to obscure vehicle sightlines; and</li> <li>d. A formal request is received and a letter issued from the City approving the temporary use of the sea container, and its period of use, in accordance with the provisions of cl. 61(2)(f) of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>; and</li> <li>e. The sea container shall not be used for commercial or industrial purposes.</li> </ul> <p>Note. Does not apply if the sea container is in place for less than 48 hours (in accordance with clause 61(2)(f) of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>).</p> | <ul style="list-style-type: none"> <li>a. Temporary sea containers are only allowed in accordance with the exemption conditions.</li> </ul>                           |

| Development                       | Exemption Conditions | Development Objectives   |
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| <b>Sea Containers (permanent)</b> | Not applicable.      | <ul style="list-style-type: none"> <li>a. The sea container is only to be used in conjunction with an approved use on the lot.</li> <li>b. The sea container is not visible from the street.</li> <li>c. The sea container is clad with materials and is a colour that matches or is complementary to, the materials and colour of the existing buildings on the property.</li> <li>d. The sea container shall not be used for commercial or industrial purposes.</li> </ul> |

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| <b>Amendments:</b>            | <a href="#">CJXX-05/22</a>   |
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| <b>Flag Poles</b>     | <p><i>As per Schedule 2, Part 7 cl. 61 (1) 14. of the LPS Regulations:</i></p> <ul style="list-style-type: none"> <li>a. The height of the flagpole is no more than 6 m above the natural ground level.</li> <li>b. The flagpole is no more than 200 mm in diameter.</li> <li>c. The flagpole is not used for advertising.</li> <li>d. There is no more than 1 flagpole on the lot.</li> </ul>   | <ul style="list-style-type: none"> <li>a. As per the design principles of clause 5.4.4 of the <i>State Planning Policy 7.3 Residential Design Codes Volume 1: "...external fixtures integrated into the design of the building to not be visually obtrusive when viewed from the street and to protect the visual amenity of surrounding properties."</i></li> </ul>   |
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|--|---|---|
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| <b>Sea Containers (temporary)</b>  | <ul style="list-style-type: none"> <li>a. The sea container is only used in conjunction with building construction or subdivision work that is occurring or approved to occur on the subject site, and only up to a maximum of 12 months; or</li> <li>b. The sea container is only used for the loading or unloading of goods that is occurring on the subject site and only up to a maximum of 7 days; and</li> <li>c. The sea container is positioned so as not to obscure vehicle sightlines; and</li> <li>d. A formal request is received and a letter issued from the City approving the temporary use of the sea container, and its period of use, in accordance with the provisions of cl. 61(2)(f) of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>; and</li> <li>e. The sea container shall not be used for commercial or industrial purposes.</li> </ul> <p>Note. Does not apply if the sea container is in place for less than 48 hours (in accordance with clause 61(2)(f) of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>).</p> | <ul style="list-style-type: none"> <li>a. Temporary sea containers are only allowed in accordance with the exemption conditions.</li> </ul>                           |

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| Development                       | Exemption Conditions | Development Objectives   |
|-----------------------------------|----------------------|--|
| <b>Sea Containers (permanent)</b> | Not applicable.      | <ul style="list-style-type: none"> <li>a. The sea container is only to be used in conjunction with an approved use on the lot.</li> <li>b. The sea container is not visible from the street.</li> <li>c. The sea container is clad with materials and is a colour that matches or is complementary to, the materials and colour of the existing buildings on the property.</li> <li>d. The sea container shall not be used for commercial or industrial purposes.</li> </ul> |

| <b>MINOR DEVELOPMENT LOCAL PLANNING POLICY – COMMUNITY CONSULTATION SUBMISSIONS</b> |   |   |
|---|---|---|
| <b>Policy element</b>   | <b>Summary of submitters comment</b>  | <b>City comment</b>   |
| Application   | <ul style="list-style-type: none"><li>• Application reads as an incomplete statement.</li></ul> | <ul style="list-style-type: none"><li>• The sentence has been modified to reflect that the policy applies to private property, i.e. does not include the verge.</li></ul> |

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| Cubby House | <ul style="list-style-type: none"> <li>• Inclusion of diagrams to demonstrate requirements.</li> <li>• Support cubby houses but allow floor to be more than 1m above ground level.</li> <li>• Clarification if the street setback area includes the verge.</li> <li>• Does amenity include noise and if so what is the acceptable decibel range?</li> <li>• Does the objective allowing cubby houses to more than one boundary mean it can be placed anywhere that is more than 1.0m away?</li> <li>• In the development objectives, maintain the height restrictions specified in the exemption conditions.</li> </ul> | <ul style="list-style-type: none"> <li>• A demonstration of the requirements via diagrams in an information sheet is considered a more appropriate location and will be considered in the event that the draft policy receives Council approval.</li> <li>• The floor level of a cubby house greater than 1 metre can be considered through the development application process.</li> <li>• The 'Application' section is proposed to be modified to include reference to private property only.</li> <li>• While noise can be considered a factor of amenity, it is important to consider the context in which noise is being considered. In this instance, whether or not a cubby house is exempt from the need for planning approval, the noise from children playing in the backyard of a residential property is unlikely to be fundamentally different. In addition, it is unlikely that children generally playing in a backyard would be a relevant consideration under the Noise Regulations.</li> <li>• A cubby house more than 1 metre away from any boundary that meets all other exemption conditions will not need planning approval.</li> <li>• The purpose of the development objectives is to provide broader parameters in which to consider a proposal that does not meet the exemption conditions against, rather than restating the exemption conditions.</li> </ul> |
| Flag Poles  | <ul style="list-style-type: none"> <li>• Does advertising include sporting club flags?</li> </ul>   | <ul style="list-style-type: none"> <li>• The <i>Planning and Development (Local Planning Scheme Regulations) 2015</i> (LPS Regulations)</li> </ul>   |

| <b>MINOR DEVELOPMENT LOCAL PLANNING POLICY – COMMUNITY CONSULTATION SUBMISSIONS</b> |   |  |
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| <b>Policy element</b>   | <b>Summary of submitters comment</b>  | <b>City comment</b>  |
|   | <ul style="list-style-type: none"> <li>• Are there any Australian government legislation standards that should be included in respect of flying the Australian flag?</li> </ul> | <p>provide for a definition of ‘advertisement’. It is unlikely that a sporting club flag would be considered an advertisement for the purposes of the LPS Regulations.</p> <ul style="list-style-type: none"> <li>• Any such legislation would not be appropriate to include in the draft policy as this would not be the responsibility of the City to regulate.</li> </ul> |

| <b>MINOR DEVELOPMENT LOCAL PLANNING POLICY – COMMUNITY CONSULTATION SUBMISSIONS</b> |   |   |
|---|---|---|
| <b>Policy element</b>   | <b>Summary of submitters comment</b>  | <b>City comment</b>   |
| Satellite Dish  | <ul style="list-style-type: none"> <li>• Are there sufficient details in the R-Codes to deal with these structures?</li> <li>• Does the diameter align with what is currently being offered in the marketplace?</li> <li>• Is the objective for the dish to be located or screened to not be visible from the street feasible if the required 'line of sight' is obstructed by other residences?</li> <li>• In the development objectives, maintain the combined dimensions specified in the exemption conditions.</li> </ul> | <ul style="list-style-type: none"> <li>• Clause 5.4.4 of the R-Codes requires antennas, satellite dishes and the like visible from the street to be subject to a planning application. In practice, these structures, while being domestic in scale, are still often visible from the street and adjoining properties, meaning they would always require planning approval. The exemption parameters in the policy provide an appropriate way for these smaller and common dishes to be permitted without the need for someone to go through the planning application process.</li> <li>• The satellite dish measurements within the policy align with current domestic market offerings.</li> <li>• A proposal that does not meet the criteria to be exempt from planning approval could still be considered through a development application process. The specific circumstances of the proposal would be considered in the determination of the proposal.</li> <li>• The purpose of the development objectives is to provide broader parameters in which to consider a proposal that does not meet the exemption conditions against, rather than restating the exemption conditions.</li> </ul> |

| MINOR DEVELOPMENT LOCAL PLANNING POLICY – COMMUNITY CONSULTATION SUBMISSIONS        |   |   |
|---|---|---|
| Policy element  | Summary of submitters comment   | City comment  |
| Antenna/Aerial/Mast (including an internet dish of no more than 400 mm in diameter) | <ul style="list-style-type: none"> <li>• Maximum number of antennas is not noted.</li> <li>• Domestic antenna at 4.0m height is dimensionally excessive.</li> <li>• Consideration should be given to the roof shape and orientation to avoid funneling of high-speed winds.</li> <li>• Is the objective for an antenna/aerial/mast to be located or screened to not be visible from the street feasible if the required 'line of sight' is obstructed by other residences?</li> </ul> | <ul style="list-style-type: none"> <li>• Exemption condition e. allows for a maximum of one form of antenna/aerial/mast. A development application will be required for additional structures.</li> <li>• The provision has existed in the <i>Satellite Dishes, Aerials, and Radio Equipment Policy</i> since 2006. The provision is considered to provide a balance between ensuring access to free-to-air television and the potential impact on adjoining properties.</li> <li>• The structural elements of an antenna/aerial/mast would be considered through the building permit process, where required.</li> <li>• A proposal that does not meet the criteria to be exempt from planning approval would be considered through a development application process. The specific circumstances of the proposal would be considered in the determination of the proposal.</li> </ul> |

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| Sea containers (temporary)  | <ul style="list-style-type: none"> <li>• There are no associated objectives. A fact sheet could deal with these requirements.</li> <li>• The policy mandates an exemption for the use which would have previously been approved in almost every circumstance, with the policy rather seeking to exempt the works component.</li> <li>• Requiring a confirmation letter where this is associated with a permitted use (i.e. single house) seems to be unnecessary layers of planning.</li> <li>• Vehicle sightline requirements should also apply for those sea containers in place for less than 48 hours.</li> </ul> | <ul style="list-style-type: none"> <li>• Unlike a fact sheet, a local planning policy can specifically set out the exemptions from the requirement for development approval as is the case for a temporary sea container.</li> <li>• The comment is not clear however it is noted that the exemption for the use negates the need for a full development approval (60-day statutory timeframe).</li> <li>• The confirmation letter from the City provides the appropriate mechanism under the LPS Regulations to allow for a simpler approval process proportionate to the request to use a sea container temporarily.</li> <li>• The LPS Regulations permit works and uses that are in existence for less than 48 hours as a right. The City is unable to place any restrictions on these temporary works and uses.</li> </ul> |



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| Other | <ul style="list-style-type: none"> <li>• Unclear what the value of the policy is. There seems to be a lot of effort for a policy that is really just a glorified fact sheet.</li> <br/> <li>• Recommend that the policy be revoked or alternatively amalgamate with another similar policy.</li> <br/> <li>• Sensible proposals.</li> <li>• Opportunity should be taken to ban play equipment on verges.</li> <br/> <li>• The policy should include other minor developments. Carports, garden sheds and fences should be included to avoid the need for planning approval.</li> <br/> <li>• Provide examples of what constitutes a single bedroom dwelling and ancillary dwelling in list of residential developments.</li> </ul> | <ul style="list-style-type: none"> <li>• Given the exemption from the need for development approval in certain circumstances is now included in the LPS Regulations, guidance is needed in the situations where those exception parameters are not met and a development application is required. The policy sets out the development objectives to be achieved in those situations. A local planning policy is recognised in the LPS Regulations as a legitimate planning instrument that needs to be considered as part of decision-making. A fact sheet, whilst helpful in providing guidance, does not carry any weight when it comes to enforcing or making a decision on a planning application.</li> <li>• If adopted by Council, this new policy will see the provisions of three other policies incorporated into the policy, and those policies revoked.</li> <li>• Noted.</li> <li>• It is proposed to clarify that the policy only applies to minor development on private property, not the verge. The use of the verge, including for play equipment, is governed by other legislation and guidelines, including the City's Street Verge Guidelines.</li> <li>• Local Planning Scheme No. 3 and the Residential Design Codes outline various exemptions from the need to obtain planning approval for other minor structures.</li> <li>• These types of developments are defined in the Residential Design Codes.</li> </ul> |
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