

## WA PLANNING MANUAL – DRAFT LOCAL PLANNING POLICIES CHAPTER

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**Disclaimer** – For the purposes of the draft document it is assumed that the *Planning and Development Regulations Amendment (Reviews of Planning Instruments) Regulations 2025* have been implemented as advertised. This document may be updated should there be any changes to those Regulations.

Version	Date	Details	Location
1.0	September 2024	Draft	
2.0	April 2025	Draft to include Planning and Development Regulations Amendment (Reviews of Planning Instruments) Regulations 2025 and refinements based on submissions received during the consultation period undertaken in late 2024.	

## 1.0. PURPOSE

The purpose of this document is to guide the preparation, implementation, review, amendment and revocation of Local Planning Policies (LPPs) across local governments. This will improve consistency, transparency, legibility and ensure local planning policies remain up to date and fit for purpose.

This document has been prepared by the Department of Planning, Lands and Heritage (the Department) on behalf of the Western Australian Planning Commission (WAPC) and forms part of the WA Planning Manual.

Practitioners and decision-makers should read this document, together with Schedule 2 (Deemed Provisions), Part 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations), and any other component of the planning framework relevant to local planning policies.

Note, this draft document has been updated to include proposed changes to Schedule 2 of the Regulations relating to local planning policies. These changes are being introduced through the *Planning and Development Amendment Act 2023 (Amendment Act)* and the supporting Planning and Development Regulations Amendment (Reviews of Planning Instruments) Regulations 2025 (Amendment Regulations) to:

- Clarify the principal purpose of a local planning policy is to provide guidance on how decision-makers will make determinations.
- Specify that a local planning policy must be prepared in a manner and form approved by the WAPC.
- Require transition of existing local planning policies from the current form to the approved manner and form within five years from the date of the Amendment Regulations being gazetted.
- Specify that a local planning policy will cease being effective five years from the date of the policy taking effect, or five years from the date of Amendment Regulations being gazetted; however, nothing prevents a policy from being reviewed or revoked earlier.
- Specify that a local government is to review the operation and effectiveness of a local planning policy before the five-year period expires, to determine whether the policy is satisfactory; satisfactory subject to amendments; to cease being in effect at the end of the effective period; or to be revoked before the end of the effective period.
- Specify that a local government may extend the duration of a local planning policy by up to five years if the review determines that the policy is satisfactory or satisfactory subject to amendments.
- Specify that the report of review is to assess the operation and effectiveness of all local planning policies that are in effect at the time of the review.

The Regulations (proposed by r.5 of the Amendment Regulations to be Schedule 2, cl.3(6)) require local planning policies to be prepared in a manner and form approved by the WAPC. Appendix 1 (including Appendix 1A-1D) of this document provides several manner and form templates to be used when preparing, reviewing and amending a local planning policy. Additionally, the Department may prepare model local planning policies relating to particular planning matters where it is considered that a more standardised or consistent approach across local government to that matter is desirable.

The document has been informed by the Residential Design Codes (R-Codes) Volumes 1 and 2 (where relevant) and includes details on their relationship to local planning policies. Further details on the ability to modify the R-Codes via a local planning policy, along with the WAPC approval requirements, are contained within Part A of the R-Codes Volume 1 and Part 1 of the R-Codes Volume 2.

This document will initially be reviewed after one year of coming into operation and then every two years, to reflect any policy changes or practice updates.

## 2.0. THE NEED FOR AND PURPOSE OF A LOCAL PLANNING POLICY

### 2.1. Role of a local planning policy

The Regulations (proposed by r.5 of the Amendment Regulations to be Schedule 2, cl.3 (1A)) specify that the principal purpose of a local planning policy is to provide guidance on how the local government will make, or consider making, determinations under the local planning scheme (scheme) in relation to the matters to which the policy applies. This same purpose also applies to determinations made by other decision-makers such as the Development Assessment Panel (DAP), the WAPC or State Administrative Tribunal (SAT) under the scheme.

The ability for a local government to prepare a local planning policy for a particular area within their planning scheme area is provided under the Regulations (Schedule 2, cl.3).

Local planning policies provide an avenue for timely, efficient, and contextually appropriate responses based on local government expectations that are driven by changing or unique local circumstances that will affect development within the local area. This contrast with other planning instruments such as a scheme which requires consideration by the WAPC and the approval of the Minister for Planning when being prepared or amended.

Local planning policies play an important role in the local government setting clear expectations for applicants preparing planning proposals, as well as the community in relation to planning processes that apply and planning outcomes that will be considered acceptable.

The Regulations (Schedule 2, cl.3(3)) states that a local planning policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the planning matter that it applies:

- **Strategic** - a policy dealing with strategic considerations may provide development standards and performance-based policy objectives and guidance to assist decision-makers in determining the acceptability of development applications or other planning proposals. For example, a local planning policy providing guidance on short-term rental accommodation (unhosted) in regional areas.
- **Operational** - a policy dealing with operational considerations may provide a process or procedure of the local government, guiding a planning assessment or other planning related process rather than the exercise of discretion. For example, a local planning policy which expands on the advertising requirements for development applications outlined in the Regulations.

A local planning policy can be prepared so that it applies to the whole scheme area, or the scope can be limited to a specified part (or parts) of the scheme area, zones/reserves. Similarly, a local planning policy can apply generally, or the scope can be limited to a specified class (or classes) of matters.

## 2.2 Role of the local government

The local government can prepare local planning policies that respond to planning matters in a way that is suited to the local context. The key roles of local government in relation to local planning policies include:

- **Preparation and maintenance** - maintaining its suite of local planning policies, including preparing, reviewing, amending, and revoking policies where necessary. The local government should ensure that an up-to-date copy of each active policy is published on the local government's website.
- **Implementation in decision-making** - giving due regard to local planning policies when assessing planning proposals and carrying out operational planning processes such as advertising a development application.
- **Seeking approval for modifications to the R-Codes** - identifying when provisions of a proposed policy require approval from the WAPC before it can be implemented and seeking this approval at the appropriate time.

## 2.3 Role of the WAPC

The WAPC has both approval and advisory roles in relation to local planning policies:

- **Preliminary advice** – local governments are encouraged to seek preliminary advice from the WAPC where a policy proposes modifications to the R-Codes that require WAPC approval, or if the policy may be inconsistent with any State planning policy. Further information is provided in section 3.1 of this document.
- **Approval of modification to the R-Codes** – the WAPC is responsible for approving local planning policy provisions in certain instances as specified under clause 3.2.3b (Volume 1) and clauses 1.2.3 and 1.2.4 (Volume 2) of the R-Codes before the local government can proceed with implementation. Further information is provided in section 3.3.1 of this document.
- **Variations to manner and form** – local governments which seek to modify the manner and form templates provided in Appendix 1 (including 1A-1D) will require approval from the WAPC as detailed in Section 3.6.

## 3.0. PREPARATION OF A LOCAL PLANNING POLICY

A local planning policy should only be prepared where it serves a valid planning purpose, is based on sound town planning principles, sets clear expectations for all policy users, and assists decision-makers in assessing a planning proposal or carrying out an operational process relating to a planning matter.

The following criteria should be considered when deciding whether to prepare a local planning policy:

- **Use and function** – would the policy be consistent with the criteria outlined in Tables 1 and 2 below?
- **Need and nexus** - is there a clear need and rationale for the policy from a planning perspective (such as a gap in the existing local planning framework or an emerging/recurrent issue specific to the local area), supported by evidence such as relevant facts, data, trends, and analysis?
- **Consistency in decision-making** – would the policy provide clarity and consistency on how a decision-maker will exercise its discretion and apply its judgement on planning matters or carry out a planning process?
- **Achieving strategic goals** – would the policy assist with implementing the established strategic vision and goals of the State and local planning framework, such as the local planning strategy or a particular State planning policy?

- **Legal considerations** – would the policy be consistent with the scheme or a relevant decision by the SAT?
- **Ability to implement** – would the policy be able to be effectively implemented and monitored?
- **Engagement with key stakeholders** – is preliminary consultation with key stakeholders required to ensure that future policy requirements are well informed and implementable, in addition to limiting any unintended consequences, such as unreasonable cost implications?
- **Consistency with State planning framework** – would the policy be consistent with State planning policies, planning codes (including the R-Codes) and Region planning scheme policies.
- Some examples of specific circumstances where it may or may not be appropriate for the local government to prepare a local planning policy are provided in Tables 1 and 2 below:

**Table 1 - When it may be appropriate to prepare a local planning policy**

<b>Local planning scheme</b>	Where a provision of the scheme (including Schedule 2 of the Regulations) requires or allows it, such as: <ul style="list-style-type: none"> <li>○ <b>Heritage</b> - to guide development of local heritage places, for an adopted heritage list, for a designated heritage area (Schedule 2, cl. 9).<sup>1</sup></li> <li>○ <b>Exemptions from Approval</b> - specifying types of works and use that do not require development approval (Schedule 2, cl. 61).</li> <li>○ <b>Complex applications</b> - identifying types of development applications that are a 'complex application' for the purpose of advertising (Schedule 2, cl. 1).</li> <li>○ <b>Where discretion is available</b> - any provision of the scheme where discretion is available, and users of the policy would benefit from further guidance being provided in regard to the considerations that will inform discretion.</li> </ul>
<b>State planning framework</b>	When a State planning policy or planning code allows it, such as amending, replacing and/or augmenting deemed-to-comply provisions of the R-Codes where there is a clear need for settings that respond to a specific issue and that may relate to an area, locality or region.
<b>Non-residential development</b>	To provide provisions to guide the assessment on non-residential development proposals, including (but not limited to): <ul style="list-style-type: none"> <li>○ Building design, including building height, setbacks, and plot ratio</li> <li>○ Parking and access</li> <li>○ Landscaping (including tree retention)</li> <li>○ The design, scale, application and management of discretionary ('D' and 'A') land uses and/or</li> <li>○ Strategic planning matters which are bespoke to individual local government areas – refer to any relevant items considered under Regulation (Schedule 2, cl. 67(2)).</li> </ul>
<b>Operational planning matters</b>	To set out a planning process or procedure of the local government, such as procedures that will be followed when advertising different planning proposals.

<sup>1</sup> The Department on behalf of the Heritage Council of Western Australia has published separate guidance specific to the preparation of local planning policies for local heritage.

**Table 2 – When it may not be appropriate to prepare a local planning policy**

<b>Local planning scheme more appropriate</b>	Where the matter should be addressed through the scheme such as zoning land, allocating density codes, outlining land use permissibility, prohibiting a specific type of development, setting mandatory development requirements or limiting/removing discretion that is available through the scheme.
<b>Other local planning instrument more appropriate</b>	Where the matter would be more appropriately addressed through another defined planning instrument, such as: <ul style="list-style-type: none"> <li>○ <b>Local planning strategy</b> - setting out the long-term strategic planning directions for the local government.</li> <li>○ <b>Standard or precinct structure plan</b> - coordinating the future subdivision, zoning and/or development of an area of land.</li> <li>○ <b>Local development plan</b> - setting out specific and detailed guidance for a future development, including site and development standards that are to apply to the development. For example, a local planning policy should not be used to provide design guidelines that outline bespoke built form standards for the development or re-development of specific lots, a group of lots, or a small defined area such as a local activity centre.</li> <li>○ <b>Development contribution plan</b> – requiring development contributions for common infrastructure and facilities such as utilities, roads, and public open space.</li> </ul>
<b>State planning policy more appropriate</b>	The preparation of a local planning policy that would be inconsistent with a State planning policy should be avoided unless there is a specific need in a locality or region that is grounded in an evidence base to warrant the inconsistency and for which prior consultation has occurred with the WAPC / Department. <sup>2</sup>
<b>Developer contributions</b>	Requiring developer contributions outside of a development contribution plan area without an appropriate legislative head of power. <sup>3</sup>
<b>Non-planning matters</b>	Where the intent is to set operational requirements for matters that are not related to planning. For example, outlining how the local government will maintain its network of footpaths.
<b>Short term matters</b>	For matters that are temporary or short term in nature and can be addressed in another way, such as an information sheet.

<sup>2</sup> SAT has found that decision-makers still need to have due regard for a local planning policy that is inconsistent with the provisions of a State planning policy, but less weight would generally be given to the local planning policy. For example, the WAPC when determining an application for subdivision approval would have less regard to a local planning policy that is inconsistent with the provisions of a State planning policy than it would to its own policies. Western Australian Planning Commission and Hagan [2018] WASAT 25.

<sup>3</sup> Note, pursuant to State Planning Policy 3.6, public art contributions are not considered infrastructure items that can be included in a Development Contribution Plan (DCP). It is acknowledged that a significant number of metropolitan local governments have adopted a local planning policy on Percentage for Public Art, some of which have withstood challenges at the SAT.

### 3.1. Preliminary engagement with key stakeholders

The local government should carry out an appropriate level of due diligence when preparing a local planning policy to ensure that it will be fit for purpose and will not result in any unintended consequences, particularly where the policy is intended to respond quickly to a planning matter that is topical or trending.

Local governments may find it beneficial to engage early with key stakeholders. These stakeholders may include the WAPC, State Government agencies, planning and development industry groups, community groups, private developers, and planning practitioners. Early engagement aims to investigate and understand the potential implications and consequences of a proposed local planning policy before its preparation.

Where a local government is contemplating a local planning policy that proposes provisions that require WAPC approval (for example, where the policy may be inconsistent with State planning policy or the relevant WAPC manner and form templates) advice from the Department should be obtained as early as possible.

Note, further information related to preliminary engagement is provided in the current WAPC's [Guide to Best Practise Planning Engagement in Western Australia](#) (Engagement Guide).

### 3.2. Manner and Form

All local planning policies should be fit for purpose, legible, concise, and easy to navigate. Key to this, the Regulations (proposed by r.5 of the Amendment Regulations to be Schedule 2, cl.3(6)) specify that a local planning policy must be prepared in the manner and form approved by the WAPC. For ease of reference, the WAPC's manner and form is set out in Appendix 1 of this document. Local planning policies are to comprise the following seven components:

- Title
- Citation
- Introduction
- Objectives
- Application of this policy
- Policy provisions
- Document (or version) control table

Local planning policies may also include additional information such as maps, tables, figures, definitions and/or additional submission requirements for development applications as appendices where they assist with interpretation and implementation of the policy.

The WAPC may amend the manner and form for local planning policies from time to time. The local government is responsible for ensuring that a local planning policy is consistent with the manner and form provided in Appendix 1 when a policy is prepared, reviewed, or amended.

Minor adjustments to the manner and form may be undertaken by local government, subject to the seven components (listed above) remaining in the policy and the structure following the order outlined in Appendix 1. For example, a policy prepared in a report format (rather than a table), may be more suitable depending on the type of policy and the number of diagrams to be incorporated.

Note, manner and form templates are provided in Appendix 1A (Modifications to the Residential Design Codes), Appendix 1B (Non-residential policy provisions) and Appendix 1C (Exemptions from development approval). These are to be read in conjunction with the '5.0 policy provisions' section in

Appendix 1 (where relevant). Similarly, Appendix 1D would sit under the document control table section in Appendix 1.

Further information in relation to the seven components of a local planning policy is provided below.

### **3.2.1. Title**

All local planning policies should have a simple and concise title that clearly reflects the intent of the policy and matter(s) that it applies to.

A policy number may be included in the title but is not required. Where a policy number is used, the numbering convention should be consistent with the rest of the local planning policy suite to maintain legibility of the local planning framework.

### **3.2.2. Citation**

All local planning policies should include a citation which clearly identifies that it has been properly adopted under the Regulations as a local planning policy. The citation assists with distinguishing local planning policies from other policies of the local government such as corporate governance policies.

Where the Regulations or another planning instrument such as the scheme or the R-Codes specifically call for or allow the preparation of a local planning policy to deal with a particular matter, the relevant clause or regulation number should be included in the citation. For example, a policy proposing to modify provisions of the R-Codes Volume 1 should reference clause 3 of the R-Codes Volume 1 in the citation.

### **3.2.3. Introduction**

The introduction of a local planning policy is important as it provides the reader with the necessary contextual basis to understand the need for and rationale behind the policy's development as well as its intended outcomes. This assists with the development of well-informed planning proposals by applicants and consistency in the exercise of discretion by decision-makers. The introduction section is also critical when it comes to demonstrating that the policy is based on sound town planning principles.

### **3.2.4. Objectives**

The objectives of a local planning policy provide statements of the desired outcome or goal that a policy aims to achieve. Objectives should stem from the overarching purpose of the policy outlined in the introduction, providing a high-level framework that can be used by decision-makers to test whether a planning proposal or process effectively achieves this purpose. Objectives should also be consistent with the scheme and local planning strategy.

The objectives should not simply re-state the purpose of the policy. For example:

- ‘To provide guidance on the development approval requirements for outbuildings’ is the purpose of the policy, not an objective.

To frame an objective, the local government may ask ‘what does the policy seek to achieve every time it is applied/implemented’. This may also assist in developing objectives that are clearly defined and measurable, allowing for tracking of progress and evaluation of the policy’s effectiveness.

The objectives should assist applicants to demonstrate how their proposal complies with the intent/desired outcomes of the policy. Additionally, should a planning proposal not be entirely consistent with the policy provisions of a local planning policy, the objectives may:

- Assist decision-makers to assess the merits of the proposal and determine whether it is acceptable from an outcomes-based perspective; and
- Assist decision-makers to maintain consistency and fairness in the way that discretion is applied to a particular matter over time.

### 3.2.5. Application of this policy (scope)

This section of a local planning policy outlines the scope of the policy including how it should be read and applied. A well-defined scope assists with setting clear boundaries which prevent misinterpretation and the misapplication of the policy. Policies that do not have a well-defined scope can leave unintended gaps in the local planning framework, resulting in competing interpretations and unnecessary red tape.

The scope of a local planning policy can be defined in various ways and can also be multi-faceted. When considering the scope, a local planning policy should:

- **Complement** - should complement and support (but not repeat) other planning instruments by providing further guidance where necessary.
- **Not contradict** - must not contradict relevant planning legislation such as the Act, Regulations, scheme, and planning codes. Provisions of a local planning policy that contradict the requirements of relevant planning legislation lack validity and cannot be given any weight in decision-making.
- **Be consistent** - should be consistent with other 'due regard' planning instruments such as state planning policies, local planning strategies, structure plans, local development plans and other local planning policies. Any inconsistencies should be identified, and the policy should clarify which instrument prevails. For example, where a local planning policy applies to an area already covered by a precinct structure plan, the provisions of the precinct structure plan should prevail where there is any inconsistency with the content of the policy.

### 3.2.6. Policy provisions

'Policy provisions' are specific measures such as design standards which, when implemented, are intended to deliver the desired planning outcomes expressed in the introduction, objectives and scope of the policy.

Local planning policy provisions are typically divided into four categories: residential, non-residential, operational and exemptions. However, it is acknowledged that non-residential provisions can cover a wide range of topics to address the unique characteristics of a local government area, including environmental, rural, commercial and industrial matters. A local planning policy may include a combination of these four groups. Further information is provided in section 3.3 of this document.

All policy provisions should adhere to the following set of general principles:

- Evidence-based – should be based on sound town planning principles.
- Appropriate terminology – cannot contradict or over-ride a provision of the scheme and should not be used to establish a mandatory or controlling status. The use of mandatory

language such as ‘shall’, ‘must’ and ‘not permitted’ in local planning policy provisions is to be avoided, instead, phrases such as ‘should’ and ‘may’ should be used.

- Easy to understand – should be written in clear, concise, and plain language, avoiding ambiguity and technical jargon where possible.
- Measurable – should generally be expressed as quantitative standards. Qualitative provisions that aim to achieve good planning and design outcomes are also acceptable but should be specific to provide increased certainty of appropriate development outcomes.
- Numbered – should be clearly numbered for ease of reference. Based on the nature and complexity of the policy, specific section headings can also be used to assist with the legibility of the policy provisions.
- Self-contained – should ensure a single source of truth by avoiding repetition of legislation and other policies.
- Fair and reasonable – the impacts of policy provisions on stakeholder groups should be well considered.

A local government may also consider including development provisions and performance-based principles, where development standards are proposed<sup>4</sup>. The most appropriate development standards should be considered. For example:

**Deemed to Comply:** These provisions allow for development without needing approval or advertising, simplifying the process if the development meets certain criteria.

**Acceptable Outcomes:** This method is suitable for specific situations like height variations, tree retention, and heritage assessments, where predefined criteria can streamline approval. While addressing the Acceptable Outcomes is likely to achieve the policy objectives, they are not deemed-to-comply and therefore not exempt. The proposal will be assessed in its entirety.

**Performance-Based:** This approach involves assessing the proposal in its entirety and whether a development meets policy objectives through the decision-maker exercising judgement. This approach may include public consultation, especially for more complex or subjective matters.

Note, the policy provisions must adhere to the WAPC’s manner and form templates included in Appendix 1 and Appendix 1A – 1D (where relevant).

### 3.2.7. Document (or version) control table

The document control table assists with promoting transparency and accountability by providing stakeholders with an appropriate level of contextual information about the history and status of the policy. This helps stakeholders understand the evolution of the policy and the reasons behind any modifications that have been made over time.

The document control table should also assist the local government to manage and schedule regular reviews of local planning policies, ensuring that policies remain up-to-date and fit for purpose.

Previous versions of a local planning policy should be marked as ‘revoked’ (including the revocation date) and should generally be removed from the local government website. Copies of revoked local planning policies should be retained for future reference according to record keeping requirements.

<sup>4</sup> Western Australian Local Government Association – Local Planning Policy Guide 2019

A consolidated record of all amendments to a local planning policy should be kept and made available to stakeholders if requested.

The document control table must adhere to the WAPC's manner and form templates included in Appendix 1 and Appendix 1D.

### 3.2.8. Appendices

Appendices can be used for the inclusion of supplementary information, data and supporting documents that provide additional context or detail but are not required within the main body of the local planning policy.

The intent of appendices is to improve the legibility of local planning policies. Maps, tables, and figures can also be provided in the main body of the local planning policy where this assists with overall legibility.

## 3.3. Further information for local planning policy provisions

### 3.3.1. Residential policy provisions

The R-Codes apply to all residential development throughout Western Australia, there are two Volumes that apply as follows:

- Volume 1 - all single houses and grouped dwellings, and multiple dwellings on land with a density code of R10-R60, including the residential component of mixed-use development at this density.
- Volume 2 - multiple dwellings on land with a density coded R80 and above, including the residential component of mixed-use development at this density.

It is recognised that there are variations across the State in terms of local heritage, character, community requirements, topography, climate, and the environment. Local planning policies may be used to facilitate contextually appropriate design within a local government area.

Clause 3.2.3 of the R-Codes Volume 1 and clause 1.2 of the R-Codes Volume 2 specify instances where a local planning policy can modify the R-Codes either with or without WAPC approval.

The R-Codes specify that the local government when preparing or determining a local planning policy, and the WAPC when approving provisions of a local planning policy are to ensure that all modifications are consistent with the requirements of Volume 1 and/or 2 of the R-Codes as summarised below:

- Warranted due to a specific need in that locality or region.
- Consistent with the relevant provisions of State Planning Policy 7.0 Design of the Built Environment.
- Consistent with any applicable objectives of the R-Codes - including the general objectives, the section objectives, and the element objectives or design principles.
- Able to be properly implemented and audited by the decision-maker as part of the ongoing building approval process; and
- Consistent with orderly and proper planning.

Further information on the WAPC approval requirements and process for local planning policy provisions that propose to modify the R-Codes is provided in section 3.6 of this document.

A local planning policy should clearly outline which volume and provisions of the R-Codes are being modified under the relevant section (refer to Appendix 1A). More specifically the policy should include:

- The Volume of the R-Codes that the policy relates to – i.e. Volume 1 or Volume 2.
- The Part of the R-Codes that the policy relates to – i.e. Part B, C or D (in Volume 1) or Part 1, 2, 3 or 4 (in Volume 2).
- The deemed-to-comply provisions (under Volume 1) or acceptable outcome (under Volume 2) which is being modified, including whether they are to be amended, replaced or augmented.
- Where it is necessary to provide clarity on the provisions which will remain, the provisions may be listed. Consider if it would be better to include this link under the deemed-to-comply provisions/acceptable outcomes heading. This could direct proponents to the remaining provisions under the R-Codes.
- The local housing objectives are the proposed amendments to augment the design principles. These are to be consistent with the general objectives of the R-Codes, as they are used to assist decision-makers with judging the merits of proposals for any aspect of residential development that does not meet the requirements or is not provided for under the R-Codes.

It is important to understand the relationship between policy provisions and the exemptions from the need to obtain development approval that are provided for under the Regulations (refer to Schedule 2, clause 61(7) of the Regulations).

The Regulations (Schedule 2, cl. 61(1)) specify that most single house developments that comply with the deemed-to-comply provisions of the R-Codes are exempt from the need to obtain development approval. The Regulations (Schedule 2, cl.1B) also specify that development is taken to comply with a deemed-to-comply provision of the R-Codes if it complies with a corresponding provision of a local planning policy.

SAT has established that a local planning policy provision which seeks to modify a deemed-to-comply provision of the R-Codes Volume 1 needs to be directly linked to the corresponding clause of the R-Codes to be given the weight of a deemed-to-comply provision when assessing a development application.<sup>5</sup>

To maintain consistency, legibility and transparency, modifications to the R-Codes must adhere to the WAPC's manner and form templates in Appendix 1 and Appendix 1A.

### 3.3.2. Non-residential policy provisions

Non-residential policy provisions are used to guide planning decisions for non-residential developments including the non-residential components of a mixed-use development. Non-residential policies may include environmental, rural, commercial, industrial or other strategic planning matters to respond to the unique characteristics of the local government area.

Subject to maintaining consistency with any relevant provisions in the scheme, non-residential policy provisions may cover (but are not limited to) following planning considerations:

- Building design, including building height, setbacks, and plot ratio.
- Parking and access.
- Landscaping.
- The design, scale, and management of discretionary land uses.

<sup>5</sup> Mastaglia and City of Cockburn [2021] WASAT 154

As a guide, Regulations (Schedule 2, cl. 67(2)) provide a range of planning matters which may be considered.

When preparing a local planning policy that includes both residential and non-residential provisions, the local government needs to clearly set out what type of development each provision applies to. This can be established in the scope section of the policy, or as a preamble under individual clauses in the policy provisions section. Refer to the WAPC's manner and form templates outlined in Appendix 1 and Appendix 1B.

### **3.3.3. Operational policy provisions**

An operational local planning policy sets out a planning process or procedure of the local government. It guides a process or assessment rather than the exercising of discretion in relation to a planning proposal.

For example, a policy related to the advertising of development applications may outline the types of development that constitute 'complex applications' in accordance with the Regulations (Schedule 2, cl. 1). Refer to the WAPC's manner and form templates outlined in Appendix 1 and Appendix 1B.

### **3.3.4. Exemptions from the need to obtain development approval policy provisions**

The Regulations (Schedule 2, cl.61) specify that development (works and/or use) can be specified in a local planning policy as not requiring development approval.

A local planning policy that provides exemptions from the requirement for development approval cannot conflict with or override existing exemptions that are prescribed under Schedule 2, clause 61 of the Regulations, or that may be prescribed in a scheme, they can only expand upon them. Refer to the WAPC's manner and form templates outlined in Appendix 1 and Appendix 1C.

## **3.4. Design review of local planning policies**

Design review is an independent and impartial evaluation process through which a panel of built environment professionals assesses the design of a proposal.

Design review is generally associated with the review of development proposals, but it can also be beneficial for advising on the design quality matters of prospective local planning policies.

There may be cases where a design review process is not warranted or practical, but where design advice is still sought by the relevant determining body. This may be most appropriate for the development of local planning policies.

The design review should be undertaken in accordance with [State Planning Policy 7.0 – Design of the Built Environment](#).

### 3.5. Advertising local planning policies

The Regulations (Schedule 2, cl.4 and cl.87) outline the procedure and minimum duration (21 days) for advertising local planning policies. The purpose of public advertising is to provide stakeholders (including the community) with the opportunity to comment on the proposed policy.

The WAPC's [Engagement Guide](#) may assist with planning and designing communications, consultation and engagement when preparing a local planning policy.

Note, as part of advertising procedure under Regulations (Schedule, cl4(1) (b)), the local government must give notice of the policy to the WAPC if it is inconsistent with a State planning policy. A local planning policy that is not consistent with a State Planning Policy is generally not acceptable, except in exceptional circumstances. In such circumstances the WAPC may make a submission to the local government during the advertising period.

#### 3.5.1. Reviewing submissions

The Regulations (Schedule 2, cl.4 3(a) and 3(b)) state that after the advertising period has closed the local government must review any submissions that were received before deciding whether to:

- Proceed with adopting the policy without modifications.
- Proceed with adopting the policy with modifications; or
- Not proceed with the policy.

The local government should continue communicating with stakeholders who made a submission during the advertising period and close the loop once a decision has been made. The local government may consider maintaining a webpage that is dedicated to the local planning policy that is being prepared to assist with managing communications throughout the life of the project.

#### 3.5.2. WAPC approval to vary or waive advertising requirements

The Regulations (Schedule 2, cl. 4(1)) specify that the local government can make a request to the WAPC for agreement to vary or waive any of the mandatory advertising requirements listed under section 3.5 of this document. Any such requests should be accompanied by written justification. The WAPC has delegated this function to officers of the Department.

The WAPC may consider a range of matters including those listed below (to the extent that they are relevant) when making its decision:

- **Use and function** - the criteria outlined in [Table 1 and 2](#) under section 3.0 of this document.
- Manner and form – whether the policy would be consistent with the manner and form approved by the WAPC.
- **Model local planning policy** - whether the policy would be implementing a WAPC approved model local planning policy.
- **Community interest** - whether the policy is likely to generate significant interest from the community and whether streamlining the approval and implementation of the policy would be in the interest of the community (depending on the nature and complexity of the policy).
- **Potential impact** - whether the policy has the potential to have an adverse impact on a particular stakeholder or group of stakeholders.

- **Local government specific challenges** - whether there are challenges specific to the local government area that impact its ability to comply with the requirements of the Regulations, such as difficulties for the public in accessing materials online in regional or remote areas.

### 3.6. WAPC decision (when R-code modifications are required)

The Regulations (Schedule 2, cl.4(3A)) specify that WAPC approval is required for local planning policy provisions that propose to modify certain provisions of the R-Codes, before the local government can resolve to proceed with adopting the policy.

Local planning policies are required to clearly outline which acceptable outcomes or deemed-to-comply provisions are being amended, replaced and/or augmented by reference to the design element (such as lot boundary setbacks, visual privacy, or outbuildings). Noting that the WAPC will only consider whether to grant approval for the specific provisions that require its approval (not the entire policy). Refer to the WAPC's manner and form provided in Appendix 1A.

Where the local government is contemplating a local planning policy that proposes provisions requiring WAPC approval, advice from the Department should be obtained as early as possible.

Part A, 3.3 of the R-Codes Explanatory Guidelines provides detail for consideration when modifying deemed-to-comply provisions of the R-Codes through a local planning policy. The Explanatory Guidelines outlines the WAPC approval process, as provided in the flow chart below:

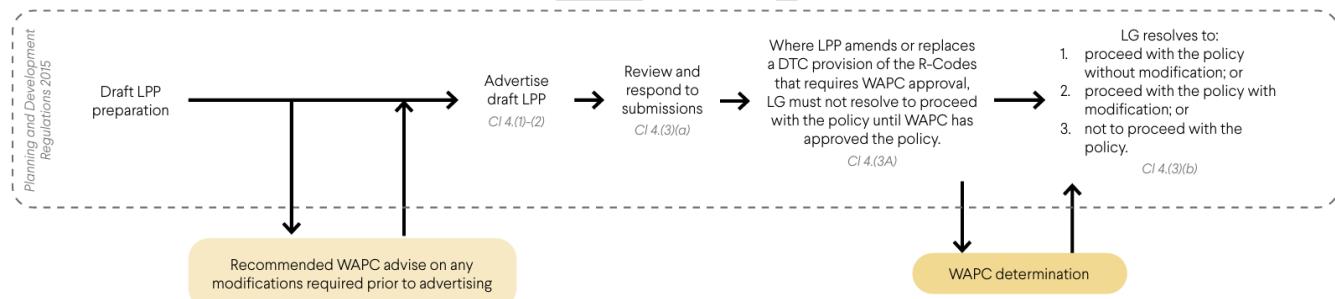


Figure 1 - Process for WAPC approval of a local planning policy

The Regulations do not specify a timeframe for the WAPC to decide on local planning policy provisions that require WAPC approval. However, where practicable the WAPC aim to decide within 60 days of the request being received. Where more time is required, the Department, on behalf of the WAPC, should contact the local government to discuss the amount of additional time that will be required and the reasons why.

The Explanatory Guidelines have been prepared to be read in conjunction with the R-Codes Volume 1, but the information is also relevant and should be given consideration by local governments when preparing policies that propose modifications to the R-Codes Volume 2. An assessment template that can be used by the local government when preparing a local planning policy proposing modifications to the R-Codes that require WAPC approval, is provided [here](#).

### 3.7. Publication of local planning policies

The Regulations (Schedule 2, cl.4(4)) require that if the local government resolves to proceed with adopting a new local planning policy, it must publish notice of the policy in accordance with clause 87 of the Regulations.

The Regulations (Schedule 2, cl.4(5)) specify that a local planning policy takes effect from the date on which the abovementioned notice is published, not the date that the policy is adopted by the Council. A template that can be used by the local government when preparing the notice is included in Appendix 4.

The Regulations (Schedule 2, cl.4(6)) also require that the local government ensures ongoing publication of an up-to-date copy of each policy that is in effect and published in accordance with clause 87.

### 3.8. Website display of local planning policies

To assist in improving the overall legibility of the Western Australian planning system, the way that local planning policies are displayed on local government websites should be generally consistent. For example:

- **Consistent acronyms** - if the local government is referring to a local planning policy in short form when displaying the policy or referring to it in reporting, only the acronym 'LPP' should be used. A policy number may also be used.
- **Clearly distinguished** – where possible, local planning policies should be clearly distinguished from other Council policies that have not been approved under the Regulations.
- **Categorisation** - policies should be grouped into appropriate categories.
- **Contextual information** - additional contextual information should be provided alongside the policy name, including the date that it was created, the date that it was last reviewed, and a link to the Council meeting minutes where it was adopted.

Local governments may choose to utilise the template included in [Appendix 6](#) when displaying local planning policies on their website.

## 4.0. IMPLEMENTATION OF A LOCAL PLANNING POLICY

### 4.1. Using a local planning policy in decision-making

A local planning policy is a guiding document that is given due regard in the decision-making process, unlike a scheme which has statutory effect.

Decision-makers are not legally bound by local planning policies. Notwithstanding, they have an obligation under the Regulations (Schedule 2, clauses 3(5) and 67(2)) to use the local planning policy when assessing and determining development applications and other planning proposals that are relevant to or the subject of the policy. This means the decision-maker is to have more than just mere consideration and is required to give proper, genuine and realistic consideration of the relevant matter.<sup>6</sup> This may include considering the policy's purpose, objectives and provisions to the extent that they are consistent with the prevailing scheme provisions – together with any relevant planning instruments that apply.

<sup>6</sup> Western Australian Planning Commission and Hogan [2018] WASAT 25 [91]

The amount of weight that should be given to a particular local planning policy will vary depending on how relevant the policy is to the planning proposal that is being contemplated or planning process that is being carried out. The SAT has established the following five criteria as the test to ensure that local planning policies are given the correct amount of weight in decision-making:

- Whether it is based upon sound town planning principles.
- Whether it is a public, rather than a secret policy.
- Whether it is a public policy conceived after considerable public discussion.
- The length of time that it has been in operation.
- Whether it has been continuously applied.<sup>7</sup><sup>8</sup>

The local government should be mindful of these considerations not just when making decisions, but also when preparing or amending local planning policies.

The WAPC has published the [Development Application Exercise of Discretion Guidelines](#) (Discretion Guidelines) to assist decision-makers in the use and exercise of discretion. The SAT has established that discretion should only be exercised when there is a clear and logical (cogent) reason to depart from the baseline or standard of the local planning policy.<sup>9</sup>

The ‘application of this policy’ section of a local planning policy should clearly outline how discretion will be exercised where a planning proposal does not satisfy the provisions of the policy. For, example, there can be more than one way to satisfy the purpose and objectives of a local planning policy and some of these may not have been conceived at the time that the policy was initially developed.

Where an applicant proposes a design solution that is not consistent with a provision(s) of a local planning policy, decision-makers should consider whether the proposal would still achieve the stated purpose and objectives of the policy and would result in an appropriate planning and/or design outcome.

The Discretion Guidelines provide further information, including the five guiding principles for exercising discretion.

#### 4.2. Seriously entertained draft local planning policy

The decision-maker is also to have due regard for any proposed local planning policy that it is seriously considering adopting, this is commonly referred to as a ‘seriously entertained’ local planning policy.

A definitive position should not be taken regarding when a local planning policy is ‘seriously entertained’ and each policy should be considered on a case-by-case basis. A general guide is that a local planning policy becomes ‘seriously entertained’ when, following advertising it has received support from the local government and/or WAPC, and there is “certainty and imminence” that it will come into effect in the form that it is in.<sup>10</sup>

Further to the criteria established in the SAT decision of *Permanent Trustee v City of Wanneroo* which are outlined in section 4.1 of this document, the following additional criteria should be considered when determining how much weight should be afforded to a draft local planning policy:

<sup>7</sup> *Permanent Trustee Australia LDP v City of Wanneroo* [1994] 11 SR(WA) 1

<sup>8</sup> Note, in the SAT hearing *Arise Rockingham Pty Ltd and Presiding Member of Metro South West JDAP* [2019] WASAT 64, the Tribunal placed weight on the LPP as it was recently adopted, based on sound town planning principles and involved strategic planning aimed at achieving urban renewal for the locality.

<sup>9</sup> *Marshall v Metropolitan Redevelopment Authority* [2015] WASC 226

<sup>10</sup> *Waddell & Anor and Western Australian Planning Commission* [2007] WASAT 82

- The degree to which the draft addresses the planning proposal.
- The degree to which the draft is based on sound town planning principles.
- The degree to which its ultimate approval could be regarded as “certain”.
- The degree to which its ultimate approval could be regarded as “imminent”.<sup>11</sup>

As an example, where the local government is in the process of amending an existing local planning policy and the proposed amendment(s) have been advertised, the decision-maker may give due regard to the version of the policy that is in effect as well as the draft amended policy. In doing so the local government will need to balance relevant provisions and reconcile different/conflicting provisions. It should be noted that even if a draft local planning policy is ‘seriously entertained’, that does not elevate it to a status above the provisions of other existing planning instruments.<sup>12</sup>

## 5.0. DURATION AND REVIEW OF A LOCAL PLANNING POLICY

Local planning policies currently have effect until they are revoked as the Regulations do not specify a duration or a requirement to review. In some instances, this has led to a proliferation of local planning policies, some of which no longer fit for purpose, or are misaligned with the broader planning framework, or create unnecessary red tape.

To ensure that regular review of local planning policies takes place and that they remain up-to-date and in line with the State and local planning framework, proposed changes to the Regulations include provisions relating to:

- The duration of local planning policies (Schedule 2, cl.5A).
- The review of local planning policies (Schedule 2, cl.5B).
- Health checks for local planning when conducting a review of the scheme (‘report of review’ process).

### 5.1. Five-year duration of a local planning policy

The Regulations (proposed by r.6 of the Amendment Regulations to be Schedule 2, cl.5A) specify that a local planning policy has effect for a duration of five years from the date that it was published. A five-year duration also applies to local planning policies that were already in effect when clause 5A was introduced into the Regulations. However, the five-years is taken from the date that the amended Regulations were gazetted instead of the date that the policy was published. This five-year duration period is referred to as the ‘effective period’.

When the five-year effective period ends the policy will expire unless the policy is reviewed, and the period of operation is extended for up to an additional five years by way of resolution of the local government (see section 5.2 of this document). Local planning policies that have expired cease to have any effect and are no longer a matter to be considered by decision-makers when making determinations on planning proposals or matters.

<sup>11</sup> Nicholls and Western Australian Planning Commission [2005] WASAT 40

<sup>12</sup> Kimber and Western Australian Planning Commission [2007] WASAT 31

## 5.2. Review and extension of duration of a local planning policy

The Regulations (proposed by r.6 of the Amendment Regulations to be Schedule 2, cl.5B) specify that the local government must review the operation and effectiveness of a local planning policy before the expiry of the five-year effective period to determine whether:

- It remains satisfactory, not requiring amendments;
- It remains satisfactory subject to amendments; or
- It is no longer satisfactory and should be revoked (at the end of the effective period, or earlier).

This means reviewing the desired function and outcomes of the policy as well as the degree to which it has been successfully delivering on these. The review should also consider following matters:

- **Use and function** – is appropriate with reference to the criteria outlined in Tables 1 and 2 under section 3 of this document.
- **Need and nexus** – serves a clear planning purpose and has not become redundant.
- **Evidence-based** – is based on sound town planning principles.
- **Manner and form** – is consistent with the manner and form approved by the WAPC.
- **Consistency with legislation** – does not conflict with the requirements of the scheme (including Schedule 2 of the Regulations).
- **Consistency with State planning framework** – is consistent with State planning policies and planning codes (including the R-Codes) or any inconsistency is warranted due to a specific need in that locality or region.
- **Superseded by another instrument** – has been or is to be replaced or superseded by another planning instrument or is otherwise no longer required.
- **Appropriate terminology** – is the policy be written in a way to avoid mandatory or controlling language such as ‘shall’, ‘must’ and ‘not permitted’?

Where the local government determines that the local planning policy remains satisfactory and addresses the above matters, it may extend the effective period for up to an additional five years.

The ‘review’, ‘amendment’ and ‘extension’ of a local planning policy are three separate procedural mechanisms provided for under the Regulations. However, it is important to note that they are related to one another in the following ways:

- A review of a policy must occur before the duration can be extended; and
- An amendment to a policy can occur without a review being undertaken, although the amendment itself does not extend the duration of the policy in the absence of a review. This should generally only occur where the amendments are ‘minor,’ refer to section 6.0 of this document for further information regarding ‘minor’ amendments.

To enable streamlined processes and avoid unnecessary red tape, the local government may approve an amendment to a local planning policy that has been prepared in accordance with the Regulations (Schedule 2, cl.5) and determine to extend the duration of the policy concurrently. For example, the amendment could be approved, and the duration extended at the same Council meeting. A template that may be used by the local government when preparing resolutions for Council is included in Appendix 2.

Where the local government determines that the local planning policy remains satisfactory without amendments or subject to ‘minor’ amendments, it may extend the effective period without having to advertise. Where the local government determines that an amendment to a local planning policy is

not minor and requires advertising, they should factor in sufficient time to ensure that the amendment process is completed before the policy expires.

If the local government decides to extend the effective period of a local planning policy, it must publish a notice of the extension in accordance with clause 87 of the Regulations before the original expiration date of the policy. A template that can be used by the local government when preparing the notice is included in Appendix 4.

Where the local government determines that the policy is not satisfactory it should be revoked (see section 7.0 of this document).

A local planning policy may be extended on more than one occasion provided that the review process is carried out each time and the policy is determined to remain satisfactory, or satisfactory subject to amendment(s) being carried out first (such as bringing the policy in line with the current WAPC manner and form). Note, the review of a local planning policy can be undertaken at any time during the five-year effective period.

### 5.3. Ten-year scheme 'report of review' local planning policy health check

Section 64 of the Amendment Act (proposed to be s.132C of the PD Act) requires the local government to carry out and report to the WAPC on a review of its scheme at least once every 10 years. The report which is known as the 'report of review' should be holistic, strategic, and encompass all the relevant planning instruments which are approved under and implement the scheme, this includes local planning policies.

The Regulations (proposed by r.4 of the Amendment Regulations to be r. 67(2) of the LPS Regulations) specify that the report of review is to assess the operation and effectiveness of all local planning policies that are in effect at the time of the review. The operational and effectiveness is taken to mean a high-level review of the local planning policy suite with a focus on the expiry date, next review status and any key issues that should be assessed more thoroughly before the end of the five-year effective period. The local government should consider the following matters when determining key issues:

- **Delivery of outcomes** - whether the outcomes being delivered are achieving the purpose and objectives of the policy.
- **Legislation** - consistency with the scheme (including Schedule 2 of the Regulations) and any other relevant legislation.
- **State planning framework** - consistency with any relevant State planning instruments.
- **Long-term strategic goals** - achievement of long-term planning directions set by the local government through its local planning strategy, scheme, other local planning instruments and alignment with State or regional strategic planning outcomes.

The intent of this health check is to assist the local government with prioritising and scheduling its review agenda for local planning policies, as well as understanding the resourcing requirements associated with implementing this agenda to ensure that its suite of local planning policies is properly maintained.

The report of review is separate to the requirement of the local government to review a local planning policy before the expiry of the five-year effective period, but the two can be carried out concurrently

where the assessment of the operation and effectiveness of the policy is extended to capture the matters listed under sections 3 and 5.2 of this document.

The report of review must be in the manner and form approved by the WAPC which can be found in Appendix 2 ([here](#)) of the local planning schemes chapter of the WA Planning Manual.

## 6.0. AMENDING A LOCAL PLANNING POLICY

The Regulations (Schedule 2, cl.5) specify that the local government may make amendments to existing policies as and when required. When preparing an amendment to a local planning policy the local government must follow the same procedure as when preparing a new policy but does not need to advertise the amendment if it is determined to be 'minor'. An amendment would generally be determined to be minor where it does not materially alter the strategic intent or application of the policy. This may include amendment(s) that relate to the following considerations:

- **Administrative** - correct administrative errors such as typographical errors, updates to references, or other non-material adjustments.
- **Clarification** - clarify the existing policy without introducing new provisions or significantly altering existing ones.
- **Manner and form** - bring the policy in line with the manner and form approved by the WAPC.
- **Align with local planning scheme** - address conflicts with the scheme (including Schedule 2 of the Regulations).
- **Align with State planning framework** - address inconsistencies with the State planning framework.

If the local government is unsure about whether the amendment is minor it is recommended that the local government seek advice from the WAPC or that advertising be undertaken to maintain a transparent and accountable planning process. Where it is determined that advertising is not required, the reasons why the amendment has been determined to be minor should be noted in the document control table.

Where the local government is preparing a scheme amendment that will result in a conflict with an existing local planning policy if approved, the local government should prepare an amendment to the existing policy (or outline its intention to revoke the policy) concurrently.

## 7.0. REVOKING A LOCAL PLANNING POLICY

The Regulations (Schedule 2, cl.6) specify that a local planning policy may be revoked by the local government by preparing a subsequent local planning policy that expressly revokes the original policy or by the publishing of a notice of revocation.

The local government should revoke a local planning policy if it is no longer satisfactory with regard for the criteria listed under sections 3.0 and 5.0 of this document and where amending the policy would not reasonably resolve the matter without fundamentally changing the strategic intent of the policy.

The Regulations do not require that the local government notify stakeholders (the community or users of a local planning policy) before revoking it. However, there may be situations where it is appropriate

to do so to maintain transparency, accountability and community engagement. This may include situations where:

- **Previous impact** - the policy has had a considerable impact on a particular stakeholder or group of stakeholders.
- **Previous involvement** - stakeholders have previously expressed a strong interest or have been actively involved in the development or implementation of the policy.
- **Potential future impact** - revoking the policy could result in economic, social, or environmental implications for stakeholders that are not insignificant.
- **New policy** - the policy is intended to be replaced by a new policy. The intent to revoke the existing policy should be noted as part of the advertising material when preparing the new policy.

As a courtesy, the WAPC should also be informed of the revocation of a policy where the WAPC has approved the policy provisions (such as the modifications to the R-Codes).

Templates that may be used by the local government when preparing resolutions for Council and notices of revocation are included in Appendix 3 and 5 respectively.

## ATTACHMENT 2 - APPENDICES

### APPENDIX 1 – LOCAL PLANNING POLICY MANNER AND FORM

#### FORMAT AND CONTENT OF A LOCAL PLANNING POLICY

A local planning policy is an important planning instrument for guiding decision-making in the consideration of matters relating to the planning and development of a local planning scheme area. Schedule 2, clauses 3 and 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) set out the principles and local government functions in preparing and using a local planning policy in decision-making.

Schedule 2, clause 3(6) of the Regulations (proposed by r.5 of the Amendment Regulations) requires that local planning policies are prepared in manner and form approved by the Western Australian Planning Commission (WAPC).

The following is the approved manner and form for local planning policies, with guidance on the format and content. The manner and form comprise seven key components – Title, Citation, Introduction, Objectives, Application, Policy Provisions and Document (or Version) Control table. Where necessary, a local planning policy may include an Appendix with relevant maps, tables, figures, definitions, and additional submission requirements.

Refer to 3.2 Manner and Form of this guidance for further information.

Title	Local Planning Policies – Manner and Form
	<p>All local planning policies should have a simple and concise title, adhering to the following naming convention:</p> <p>Local Planning Policy - &lt;Insert Policy Name&gt; <span style="float: right;">&lt;Insert Council Logo&gt;</span></p> <p><b>Note:</b> A policy number may be included.</p>
<b>1.0. Citation</b>	<p>The following citation should be included at the start of all local planning policies:</p> <p>“This is a Local Planning Policy prepared under Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>. This policy may be cited as Local Planning Policy (LPP) - &lt;Insert Policy Name&gt;.”</p> <p><b>Note:</b> For consistency, all local planning policies should be referred to using the acronym/prefix “LPP”.</p>
<b>2.0. Introduction</b>	<p>The ‘introduction’ section of a local planning policy should include:</p> <ul style="list-style-type: none"> <li>• <b>Purpose</b> - A brief statement outlining the policy's purpose and planning justification. <ul style="list-style-type: none"> <li>○ “The purpose of this policy is to &lt;insert details&gt;.”</li> </ul> </li> <li>• <b>Background information</b> - a concise overview of any relevant background information for more complex policies (if applicable).</li> <li>• <b>Legislative references</b> - reference to any specific clauses/regulations of relevant planning legislation that the policy seeks to provide guidance on (if applicable).</li> </ul>
<b>3.0. Objectives</b>	<p>Local planning policy objectives help determine if a planning proposal aligns with the policy's purpose and should be approved, especially when not all provisions are met. Objectives should be:</p> <ul style="list-style-type: none"> <li>• <b>Evidence-based</b> - be performance-based and based on sound town planning principles. However, operational local planning policies may not require performance-based objectives because they set out administrative processes rather than assessment criteria.</li> <li>• <b>Legible</b> - be clear, unambiguous, and written in dot points (unless there is only one objective).</li> </ul>

Title	Local Planning Policies – Manner and Form
	<ul style="list-style-type: none"> <li>• <b>Actionable</b> - begin with the infinitive form of the verb. For example, 'the objective/s of this policy is/are: <ul style="list-style-type: none"> <li>○ to promote...</li> <li>○ to enable...</li> <li>○ to preserve...</li> <li>○ to conserve...</li> </ul> '</li> </ul>
<b>4.0. Application of this Policy</b>	<p>The 'application of this policy' section should outline how the policy is to be read and applied, including:</p> <ul style="list-style-type: none"> <li>• <b>Extent of scope</b> - what planning proposal/s (or planning matter/s) are subject to assessment against the policy, considering: <ul style="list-style-type: none"> <li>○ Geographical area.<sup>1</sup></li> <li>○ Local planning scheme zone/s; and</li> <li>○ Development type/s – considering both works and land use.</li> </ul> </li> <li>• <b>Exceptions</b> - when establishing that the policy applies to specific types of development, geographic areas and/or scheme zones, are there any exceptions and under what circumstances these exceptions apply.</li> <li>• <b>Relationship with State and local planning frameworks</b> – is there a relationship between the policy and other existing planning instruments and if so, what is the hierarchy for the purposes of assessment.</li> <li>• <b>Type of assessment required</b> – what type of assessment applies, is it a performance-based assessment where a proposal should be lodged to assess its acceptability against the policy provisions and objectives or is development that satisfies the policy provisions exempt from requiring development approval.</li> <li>• <b>How discretion will be exercised</b> – what process should be followed to determine the acceptability of a proposal that does not strictly satisfy the policy provisions.<sup>2</sup></li> </ul>
<b>5.0. Policy Provisions</b>	<p>'Policy provisions' are specific measures such as design standards which, when implemented, are intended to deliver the desired planning outcomes expressed in the introduction, objectives and scope of the policy.</p> <p>All policy provisions should adhere to the following set of general principles:</p> <ul style="list-style-type: none"> <li>• <b>Evidence-based</b> – should be based on sound town planning principles.</li> <li>• <b>Appropriate terminology</b> – cannot contradict or over-ride a provision of the scheme and should not be used to establish a mandatory or controlling status. The use of mandatory language such as 'shall', 'must' and 'not permitted' in local planning policy provisions is to be avoided, instead, phrases such as 'should' and 'may' should be used.</li> <li>• <b>Easy to understand</b> – should be written in clear, concise, and plain language, avoiding ambiguity and technical jargon where possible.</li> <li>• <b>Measurable</b> – should generally be expressed as quantitative standards. Qualitative provisions that aim to achieve good planning and design outcomes are also acceptable but should be specific to provide increased certainty of appropriate development outcomes.<sup>3</sup></li> <li>• <b>Numbered</b> – should be clearly numbered for ease of reference. Based on the nature and complexity of the policy, specific section headings can also be used to assist with the legibility of the policy provisions.</li> </ul>

<sup>1</sup> **Guidance:** Where a local planning policy applies to a large or complex geographical area, a map should be used to illustrate this.

<sup>2</sup> **Guidance:** Further guidance is provided in Principle 3 outlined in the 'Development Application Exercise of Discretion Guidelines' prepared by the Department of Planning Lands, and Heritage – February 2024.

<sup>3</sup> **Guidance:** For example, if the existing character of the surrounding area should be retained, describe what the existing character is as well as the desired built form outcomes that should be implemented to retain it.

Title	Local Planning Policies – Manner and Form
	<ul style="list-style-type: none"> <li>• <b>Self-contained</b> – should ensure a single source of truth by avoiding repetition of legislation and other policies.</li> <li>• <b>Fair and reasonable</b> – the impacts of policy provisions on stakeholder groups should be well considered.</li> </ul> <p>Local planning policy provisions can generally be categorised into four groups – <b>residential, non-residential, operational and exemptions</b> (refer to appendices 1A, 1B and 1C for further details). It is common for a local planning policy to include a combination of these four groups. The key considerations pertaining each are outlined below:</p> <p><b>(a) Residential policy provisions</b></p> <p>To maintain consistency, legibility and transparency, policy provisions modifying the R-Codes should adhere to the manner and form included in <b>Appendix 1A</b>. The template seeks to ensure that stakeholders and decision-makers are provided with the necessary contextual information to properly interpret and apply residential provisions, including:</p> <ul style="list-style-type: none"> <li>• <b>Design element</b> - which clause of the R-Codes is being modified and is it the entire clause or only part of the clause.</li> <li>• <b>Type of provision</b> - whether the policy is modifying a deemed-to-comply provision or augmenting a design principle.</li> <li>• <b>Type of modification</b> - where the policy is modifying a deemed-to-comply provision, whether the provision is being amended, replaced, or augmented.</li> <li>• <b>WAPC approval</b> - whether the modification requires WAPC approval and if so, registering the date that this approval is granted.</li> </ul> <p><b>(b) Non-residential policy provisions</b></p> <p>To maintain consistency, legibility, and transparency, policy provisions guiding non-residential development should adhere to the manner and form included in <b>Appendix 1B</b>.</p> <p>Subject to any relevant provisions in the local planning scheme, non-residential policy provisions may cover (but are not limited to) following planning considerations:</p> <ul style="list-style-type: none"> <li>• Building design, including building height, setbacks, and plot ratio.</li> <li>• Parking and access.</li> <li>• Landscaping.</li> <li>• The design, scale, and management of discretionary land uses ('A' and 'D').</li> </ul> <p>Provisions may also address strategic planning matters – refer to Regulation 67(2) as a guide.</p> <p><b>(c) Operational policy provisions</b></p> <p>An operational local planning policy sets out a planning process or procedure of the local government. It guides a process or assessment rather than the acceptability of an individual development proposal.</p> <p>The 'policy provisions' section of an operational policy should outline the steps and/or matters to be considered for the assessment of a planning proposal (or planning matter) or undertaking a planning process.</p> <p><b>(d) Exemptions from the need to obtain development approval policy provisions</b></p> <p>When preparing a local planning policy which has a primary purpose of specifying development for which development approval is not required, the manner and form in <b>Appendix 1C</b> should be used.</p> <p>Note, the specific policy provisions outlined above (Appendices 1A-1C) would sit within the policy provision section of a local planning policy.</p>
Document Control Table	A document (or version) control table should be included, as per the manner and form in <b>Appendix 1D</b> .

Title	Local Planning Policies – Manner and Form
Appendices	<p>Appendices may include:</p> <ul style="list-style-type: none"> <li>• <b>Maps</b> – should be used where the scope of the local planning policy applies to a large or complex area.</li> <li>• <b>Tables</b> – should be used to display complex quantitative policy provisions.</li> <li>• <b>Figures</b> – should be used to illustrate how specific policy provisions will be applied and may also provide examples of development outcomes that would be considered to satisfy the policy provisions.</li> <li>• <b>Definitions</b> – should refer to and not conflict with or repeat definitions that are included in existing legislation such as the Act, Regulations, or scheme. Definitions should only be used within a local planning policy where they assist with interpretation and consistency of policy application. Defined terms should be shown in bold text where they are used throughout the policy.</li> <li>• <b>Submission requirements</b> – in accordance with the Regulations (Schedule 2, cl. 63(1)), a local planning policy may outline any specialist reports (dealing with matters such as traffic, heritage, and environmental impact), or additional information that should be submitted to assist with consideration against the policy provisions. It is noted that some local governments may have an operational local planning policy dedicated solely to application requirements.</li> </ul> <p><i>Note: Maps, tables, and figures can be provided in the main body of the local planning policy where this assists with overall legibility.</i></p>

## Appendix 1A – Modifications to the Residential Design Codes

<b>R-Codes Volume 1</b>	
<b>Part B</b>	
<b>1. Clause 5.1.2 - Street Setback</b>	
<b>Deemed-to-comply provisions being modified</b>	
Describe the parts of the clause that are being amended, replaced or augmented. Refer to specific Volume, Part and Clause numbers.	
<b>Local Housing Objectives (Design Principles)</b>	
Insert new local housing objectives for R-Codes Volume 1 (clause 7.3.1 (b)).	
<p><b>Note:</b> new local housing objectives:</p> <ul style="list-style-type: none"> <li>• Are to be written for the purpose of guiding judgements about the merits of a proposal.</li> <li>• Should not seek to establish a mandatory or controlling status.</li> <li>• Must be consistent with the general objectives of the R-Codes.</li> </ul>	
<p><b>Note:</b> Local housing objectives cannot replace the design principles, only add to them. Local housing objectives are to relate to aspect which are not provided for, under the R-Codes Volume 1.</p>	
<p><b>Note:</b> When adding local housing objectives, this should be proceeded by a preamble stating “In addition to the existing design principles:”</p>	
<b>Deemed-to-comply</b>	
Insert new deemed-to-comply provisions for R-Codes Volume 1.	
<p><b>Note:</b> new deemed-to-comply provisions:</p> <ul style="list-style-type: none"> <li>• Are be written in accordance with clause 3.1 of the R-Codes Volume 1.</li> <li>• Should be quantitative.</li> <li>• Are to be consistent with the relevant design principles.</li> <li>• Should have a clear need and nexus with the design element to which it relates.</li> </ul>	
Should use terminology consistent with that used within the R-Codes. For example, “Street Setback”, rather than “Setbacks from the Street”.	
<b>WAPC Approval Required (Yes/No) <sup>4</sup></b>	
Refer to:	
<ul style="list-style-type: none"> <li>• clause 4(3A) of the Regulations <a href="#">here</a>; and</li> <li>• clause 3.2 of the R-Codes Volume 1 <a href="#">here</a>.</li> </ul>	
<b>2. Clause 5.1.3 - Lot Boundary Setback</b>	
<b>Deemed-to-comply provisions being modified</b>	
<b>Deemed-to-comply</b>	
<b>Local Housing Objectives (Design Principles)</b>	
<b>WAPC Approval Required (Yes/No) <sup>5</sup></b>	

R-Codes Volume 2											
Part 3											
3. Clause 3.3 – Tree Canopy and Deep Soil Areas											
<b>Deemed-to-comply provisions being modified</b>											
Describe the parts of the clause that are being amended, replaced or augmented. Refer to specific Volume, Part and Clause numbers.											
<b>Acceptable Outcomes</b>											
Insert new acceptable outcomes for R-Codes Volume 2.											
<b>Note:</b> new acceptable outcomes:											
<ul style="list-style-type: none"> <li>• Are be written in accordance with clause 1.2.3 of the R-Codes Volume 2.</li> <li>• Should be quantitative.</li> <li>• Are to be consistent with the relevant element objectives.</li> <li>• Should have a clear need and nexus with the design element to which it relates.</li> </ul>											
Should use terminology consistent with that used within the R-Codes. For example, "Street Setback", rather than "Setbacks from the Street".											
<b>Element Objectives</b>											
Insert new objectives for R-Codes Volume 2 (clause 1.2.4).											
<b>Note:</b> new objectives:											
<ul style="list-style-type: none"> <li>• Are to be written for the purpose of guiding judgements about the merits of a proposal.</li> <li>• Should not seek to establish a mandatory or controlling status.</li> <li>• Must be consistent with the general objectives of the R-Codes.</li> </ul>											
<b>Note:</b> Objectives cannot replace the element objectives, only add to them. Objectives are only to relate to an aspect that is not provided for under the R-Codes Volume 2 and is required within the local context.											
<b>Note:</b> When adding new objectives, this should be proceeded by a preamble stating "In addition to the existing element objectives."											
<b>Design Guidance</b>											
<table border="1"> <tr> <td><b>WAPC Approval Required (Yes/No)</b><sup>6</sup></td> <td><b>Date Approved by WAPC (If Applicable)</b></td> </tr> <tr> <td>Refer to:</td> <td></td> </tr> <tr> <td> <ul style="list-style-type: none"> <li>• clause 4(3A) of the Regulations <a href="#">here</a>; and</li> <li>• clause 1.2 of the R-Codes Volume 2 <a href="#">here</a>.</li> </ul> </td> <td></td> </tr> <tr> <td> </td> <td></td> </tr> <tr> <td> </td> <td></td> </tr> </table>		<b>WAPC Approval Required (Yes/No)</b> <sup>6</sup>	<b>Date Approved by WAPC (If Applicable)</b>	Refer to:		<ul style="list-style-type: none"> <li>• clause 4(3A) of the Regulations <a href="#">here</a>; and</li> <li>• clause 1.2 of the R-Codes Volume 2 <a href="#">here</a>.</li> </ul>					
<b>WAPC Approval Required (Yes/No)</b> <sup>6</sup>	<b>Date Approved by WAPC (If Applicable)</b>										
Refer to:											
<ul style="list-style-type: none"> <li>• clause 4(3A) of the Regulations <a href="#">here</a>; and</li> <li>• clause 1.2 of the R-Codes Volume 2 <a href="#">here</a>.</li> </ul>											
<b>4. Clause 3.4 – Communal Open Space</b>											
<b>Deemed-to-comply provisions being modified</b>											
<b>Acceptable Outcomes</b>											
<b>Element Objectives</b>											
<b>Design Guidance</b>											
<table border="1"> <tr> <td><b>WAPC Approval Required (Yes/No)</b><sup>7</sup></td> <td><b>Date Approved by WAPC (If Applicable)</b></td> </tr> <tr> <td> </td> <td></td> </tr> </table>		<b>WAPC Approval Required (Yes/No)</b> <sup>7</sup>	<b>Date Approved by WAPC (If Applicable)</b>								
<b>WAPC Approval Required (Yes/No)</b> <sup>7</sup>	<b>Date Approved by WAPC (If Applicable)</b>										

## Appendix 1B – Non-Residential Policy Provisions - Manner and Form

### Discretionary Land Uses

*Note: may include specific objectives if appropriate*

E.g., Fast food outlets, service stations

- Objectives

**Note:** local planning policies cannot prescribe land use permissibility, but they can provide guidance on the intensity and management of discretionary land uses.

### Policy Provisions

Provisions relating to the intensity and management of discretionary land uses. For example:

- Located within a certain area of the site:
- Maximum number of attendees/staff:
- Hours of operation:
- Noise/traffic management:

And/or

Policy provisions relating to other strategic planning matters.

### Design Elements

Notes:

- May include specific objectives if appropriate.
- The following are examples of which elements may be considered (but are not limited to):

### Policy Provisions

**Note:** If it is intended to provide a pathway where development that satisfies the policy provisions is exempt from requiring development approval, this should be established in the 'application of this policy' section

Building height	Minimum (if appropriate): Maximum:
Podium height (if appropriate)	Minimum (if appropriate) Maximum
Tower height (if appropriate)	Minimum (if appropriate) Maximum
Plot ratio (if appropriate)	Maximum
Development Bonuses/Incentives (if appropriate) -	Outline criteria for any bonuses/incentives e.g. additional plot ratio for community benefit
Street setback	Minimum Maximum
Side/ Rear setbacks Setbacks above podium (if appropriate)	Minimum
Building separation (if appropriate)	Minimum
Car, motorcycle, bicycle parking requirements	Minimum Maximum

## Appendix 1C – Exemptions from development approval – Manner and Form Template

Development for which development approval is not required			
	Development Type (Use/Works)	Zones/Local Reserves	Conditions
1			
2			
3			

## Appendix 1D – Document control table – Manner and Form Template

Local Planning Policy – Document Control			
Version	Decision to Adopt/Amend		
1.	Meeting Date   Meeting Type   Item Number (provide a hyperlink) <b>Note:</b> Version 1 should be the initial adoption of the policy adoption/amendment and review dates should be in the dd/mm/yyyy e.g., 23/01/2024.		
2.			
3.			
4.			
5.			
...			
<b>Public Consultation</b> (Yes/No)	New LPPs and major amendments to existing LPPs are required to be advertised. Consultation is not required for minor amendments to LPPs or LPPs that are revoked by Council (Schedule 2, cl.5 (2)).		
<b>WAPC Approval Required</b> (Yes/No)	If yes, include a brief reason (refer to clause 4(3A) of the Regulations).	<b>Date approved by the WAPC</b> (if applicable)	
<b>Document Reference</b>	For internal use		
<b>Next Review Date</b>	Should be no more than 5 years from date of adoption or last review.		

## NON – MANDATORY TEMPLATES

## Appendix 2 – Templates for Council resolution to review, amend, and extend a local planning policy

a. Resolution to review, proceed with minor amendments, and extend a local planning policy.

## RECOMMENDATION That Council:

1. **ENDORSES** the outcome of the review of Local Planning Policy **<INSERT POLICY NAME>**, pursuant to Schedule 2, Clause 5B (2) of the Planning and Development (Local Planning Schemes) Regulations 2015.
2. **PROCEEDS** with amendments to Local Planning Policy **<INSERT POLICY NAME>** as modified and contained within Attachment 1, pursuant to Schedule 2, Clause 5 of the Planning and Development (Local Planning Schemes) Regulations 2015.
3. **DETERMINES** that local planning policy **<INSERT POLICY NAME>** is to continue in effect for a further **<INSERT NUMBER>** years beginning immediately after the end of the effective period, pursuant to Schedule 2, Clause 5B (5) of the Planning and Development (Local Planning Schemes) Regulations 2015.
4. **REQUESTS** the Chief Executive Officer to arrange for publication of notice of the adoption and extended duration of amended Local Planning Policy **<INSERT POLICY NAME>**, in accordance with Schedule 2, Clauses 4 (4), 5B (6)(a) and 87 of the of the Planning and Development (Local Planning Schemes) Regulations 2015.

b. Resolution to review and advertise draft amendments to a local planning policy.

## RECOMMENDATION That Council:

1. **ENDORSES** the outcome of the review of Local Planning Policy **<INSERT POLICY NAME>**, pursuant to Schedule 2, Clause 5B (2) of the Planning and Development (Local Planning Schemes) Regulations 2015.
2. **PREPARES** and **PUBLISHES** a notice of amendments for local planning policy **<INSERT POLICY NAME>** as modified and contained within Attachment 1 for the purpose of advertising, in accordance with Schedule 2, Clauses 5 and 87 of the Planning and Development (Local Planning Schemes) Regulations 2015.
3. **NOTES** that any submissions received during the advertising period would be presented to Council for consideration.

These templates provide examples of how a Council resolution may be worded to give effect to a review, amendment, extension, and publication of a local planning policy in accordance with the requirements of the Planning and Development (Local Planning Schemes) Regulations 2015. The wording provided can be modified to suit specific details and circumstances that may apply.

**Appendix 3 – Template for Council resolution to revoke a local planning policy****RECOMMENDATION** That Council:

1. **REVOKE**s local planning policy **<INSERT POLICY NAME>**, pursuant to Schedule 2, Clause 6 of the Planning and Development (Local Planning Schemes) Regulations 2015.
2. **PUBLISH** a notice of revocation for local planning policy **<INSERT POLICY NAME>** pursuant to Schedule 2, Clauses 6(b) and 87 of the Planning and Development (Local Planning Schemes) Regulations 2015.

This template provides one example of how a Council resolution may be worded to give effect to revoking a local planning policy in accordance with the requirements of the Planning and Development (Local Planning Schemes) Regulations 2015. The wording provided can be modified to specific details and circumstances that may apply.

**Appendix 4 – Template for notice of publication of a local planning policy****Planning and Development Act 2005****City/Town/Shire of <INSERT NAME>****Notice of Publication – Local Planning Policies**

At its Ordinary Meeting held on the **<INSERT DATE>**, Council resolved to proceed with a **new/amendments to local planning policy <INSERT POLICY NAME>**.

In accordance with the requirements of the Planning and Development (Local Planning Schemes) Regulations 2015, public notice is hereby given of **this policy OR amendments to this policy**.

For details, please refer to the Council report and minutes available at **<INSERT LINK>**

For further information please contact the **City/Town/Shire's** Planning Services team via email to **<INSERT EMAIL ADDRESS>**, telephone **<INSERT PHONE NUMBER>**, or visit the **City/Town/Shire's** offices at **<INSERT ADDRESS>** during business hours **<INSERT BUSINESS HOURS>**.

Any submissions must be submitted by the consultation end date of XXXXXX.

**Appendix 5 – Template for notice of revocation of a local planning policy****Planning and Development Act 2005****City/Town/Shire of <INSERT NAME>****Notice of Revocation – Local Planning Policy / Policies**

At its Ordinary Meeting held on the <INSERT DATE>, Council resolved to revoke the following Local Planning Policy/policies on the basis that <INSERT REASON>:

- <INSERT POLICY NAME>
- <INSERT POLICY NAME OR DELETE>

In accordance with the requirements of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, public notice is hereby given of the revocation of this policy.

For details, please refer to the Council report and minutes available at <INSERT LINK>

For further information please contact the City/Town/Shire's Planning Services team via email to <INSERT EMAIL ADDRESS>, telephone <INSERT PHONE NUMBER>, or visit the City/Town/Shire's offices at <INSERT ADDRESS> during business hours <INSERT BUSINESS HOURS>.

## Appendix 6 – Template for display of local planning policies on local government websites

Policy Name	Date Created	Last Reviewed	Council Meeting Reference
<p>Note:</p> <ul style="list-style-type: none"> <li>Outlined below are suggested groupings which may be modified.</li> </ul>			
<b>1. Strategy Policies (Activity Centres)</b>			
LPP - <Policy Name>	DD-MM-YY	DD-MM-YY	<Insert Link>
<b>2. Residential and Non-Residential Mixed Use</b>			
LPP - <Policy Name>			
<b>3. Commercial and Industrial</b>			
LPP - <Policy Name>			
<b>4. Environment, Biodiversity or Conservation</b>			
<b>5. Transport and Infrastructure</b>			
<b>6. Heritage</b>			
<b>7. Rural</b>			
<b>8. Planning Procedures</b>			
<b>9. Miscellaneous</b>			
E.g. Design Review Panels			

Note, information sheets should follow the display of local planning policies.