

## 1 Purpose

This planning bulletin provides a summary of the main outcomes of the review of State Planning Policy 3.1 Residential Design Codes ('R-Codes'). It details the major amendments to the R-Codes (including consequential changes to DC Policy 2.2) which have been approved and will be gazetted and become operational on **2 August 2013**.

## 2 Background

The R-Codes are premised upon a sliding scale of development standards correlated to residential density. They are a longstanding State Planning Policy ('SPP') of the WAPC that are automatically introduced by reference into local planning schemes by virtue of s 77 of the *Planning and Development Act 2005* ('P&D Act') via provisions in the Model Scheme Text ('MST'). The R-Codes provide a comprehensive basis for the control of residential development throughout Western Australia.

The R-Codes have been amended several times over the years by the WAPC and embody a performance standards approach to residential development regulation. The current review follows on from the previous amendment to the R-Codes to incorporate amended provisions for multiple dwellings, which was gazetted and became operational on the 22 November 2010.

The WAPC recognised the need to undertake a review of the R-Codes, to investigate a wide range of procedural and substantive issues. The primary objective of the review was to examine the effectiveness and continued relevance of various aspects of the R-Codes.

The WAPC considered the following major issues as part of the review of the R-Codes:

- Need for, and operation of, an independent adjudication body (for interpretation and dispute resolution);
- Review of subdivision controls dealt with in the R-Codes;
- Need to standardise the format of local planning policies which vary the R-Codes;
- Need to address new and emerging residential design trends;
- Need to incorporate design elements into the R-Codes which promote sustainability;
- Investigate the role of detailed area plans and the relationship with the R-Codes; and
- Potential to develop separate 'design for climate' provisions for each of the climatic zones across the state.

The review did not seek to review provisions relating to multiple dwellings as these were recently introduced in November 2010.

Consultants were appointed in September 2010 to assist the WAPC in undertaking the review. A Technical Advisory Group ('TAG') was established to provide professional, local government and development industry perspectives and advice.

The review consultation paper, draft amended R-Codes and explanatory guidelines were released in July 2011 for public comment for 3 months. Over 100 submissions were received from State and local government, development industry, architects, builders, community members and professional associations.

All submissions were thoroughly considered and, where possible and appropriate, addressed by further

changes and refinements being made to the R-Codes.

On 16 May 2013 the Governor granted final approval to the R-Codes.

In addition, the WAPC has published revised explanatory guidelines, a schedule of amendments, and R-Codes FAQ document.

These documents are available on the R-Codes web-page in the Planning WA web-site:  
[www.planning.wa.gov.au/637.asp](http://www.planning.wa.gov.au/637.asp)

## 3 Summary of submissions to the advertised R-Codes

One hundred and eight (108) submissions were received on the proposed changes to the R-Codes from State and local government, development industry, architects, builders, professional associations and community members.

A detailed report on submissions has been prepared is also available on the R-Codes web-page in the Planning WA web-site:  
[www.planning.wa.gov.au/637.asp](http://www.planning.wa.gov.au/637.asp)

Generally, the local government and community sought increased certainty, whilst the development industry sought increased flexibility. Often these fundamental differences in opposing views and positions resulted in conflicting objectives, issues and comments, which required careful consideration and analysis. Wherever possible, a considered and balanced outcome was found.

Submissions generally supported many of the proposed changes and textual improvements to the advertised R-Codes and explanatory guidelines. Many submissions included detailed advice and suggestions on a range of matters, including editorial and other corrections, to improve interpretation and operation of the R-Codes.

Some issues and comments raised in submissions were beyond the scope of the review.

The key issues canvassed during consultation included:

- Administration and interpretation;
- Objectives;
- Neighbour consultation;
- Relationship to subdivision control;
- Relationship to building control;
- Aged persons dwellings ('APDs');
- Ancillary accommodation ('granny flats');
- Content of 'Table 1';
- Open space;
- Overshadowing;
- Parking concessions; and
- Use and format of Detailed Area Plans (now termed Local Development Plans) and Local Planning Policies.

Majority of these key issues are dealt with under Section 4 - Review Outcomes where amendments are included, under respective headings.

## 4 Review Outcomes

The WAPC resolved to adopt a range of further changes and corrections to the advertised R-Codes and explanatory guidelines following careful consideration of all the issues and comments raised in submissions.

In addition, a detailed schedule of modifications to the R-Codes has been prepared to assist users to rapidly identify all changes, particularly former and new R-Code clause numbering.

Many of the changes are of an editorial nature and provide explanation for greater specificity and clarity of provisions, or are included to update definitions and references to legislation. However, there were a number of issues and changes arising from the submissions of a more substantive nature.

### 4.1 Administration and Interpretation

The review sought to address operational and procedural aspects in addition to substantive content of the R-Codes. Key amendments advertised to secure this intent included:

- Redrafting of objectives;
- Revising terminology to better convey in 'plain english' style the intent and structure of performance standards;
- Inserting a flowchart clearly illustrating decision-making pathways;
- Clarification that proposals that meet all deemed to comply provisions cannot be refused; and
- Clarification that advertising is only expected for proposals that require discretion and that affect amenity. No advertising is required for proposals/components of proposals that meet 'deemed-to-comply' provisions.

Submissions during public consultation were generally supportive of these changes. Separation of the explanatory guidelines from the R-Codes, which was undertaken in the 2008 R-Codes, remains relevant. The explanatory guidelines have been reformatted to align with the format of the R-Codes to provide users with a choice to either interleave the relevant Explanatory Guidelines text with the relevant R-Code text under each part, or to separate them. In addition, electronic links are provided between the explanatory guidelines and the related R-Codes provisions for rapid reference and improved useability.

Further changes based on submissions and subsequently incorporated in the R-Codes are as follows:

- Incorporation of an 'information requirements matrix';
- Moving the R-Codes approval application, determination and adjoining property owner comment forms from Appendix 2, 3 and 4 of the R-Codes to the explanatory guidelines (to provide local government discretion to use/not use them – no longer mandatory);

- Figures reviewed, amended and additional figures from the explanatory guidelines moved to R-Codes; and
- Amended and additional definitions.

It should be noted that most of the 'core' development control provisions contained within Parts 5 & 6 have not been significantly altered, including their measurement, for example height, setbacks and open space provisions. Rather, minor refinements to various provisions have been made to provide increased clarity, remove ambiguity and reduce duplication.

The R-Codes parts, sub-parts and format (including clause numbers) have been changed. The format of Parts 1 to 4 remain essentially unchanged, however Parts 5, 6 and 7 have been changed. Part 5 (formerly Part 6) and Part 6 (formerly Part 7 'Multi Unit Housing Code') of the R Codes contain development provisions that provide the basis for controlling the design, siting and development of residential development. Parts 5 and 6 of the R-Codes are arranged to ensure proposals acknowledge and respond to the surrounding development context. They are divided into four design elements, being: Context; Streetscape; Site planning and design and Building design. Part 5 includes an additional design element - Special purpose dwellings.

Part 7 has been amended from 'Local planning policies' to 'Local planning framework' and has been relocated to the last part of the document to allow decision makers and users to insert relevant local planning policies (LPPs) and local development plans (LDPs) (also known as detailed area plans (DAPs)).

The development industry raised concerns in respect of planning governance, particularly the availability, inconsistency and ongoing use of LPPs and LDPs, particularly their 'visibility' beyond the first iteration of development.

As a way to assist users of the R-Codes, all relevant LPPs and LDPs should be noted and filed for reference within the R-Codes under Part 7. This is considered desirable for those persons not familiar with the R-Codes and interrelated LPPs and LDPs, particularly those without

internet access who attend the local government office or library to view the R-Codes. This will help to improve user understanding, transparency and ensure all relevant information is able to be easily accessed within a single document.

It should be noted that clause renumbering may require LPPs that references previous R-Codes clauses to be amended. The R-Codes schedule of amendments document references the previous R-Codes clauses to the new R-Codes clauses that have been amended, so they can be easily cross referenced. The R-Codes schedule of amendments is available on the R-Codes web-page in the Planning WA web-site: [www.planning.wa.gov.au/637.asp](http://www.planning.wa.gov.au/637.asp)

The term 'Council' has been removed from the R-Codes and replaced with the term 'decision-maker'. This is to acknowledge that while in most cases the determining authority is the local government, it could also be the WAPC or another decision maker, such as a Development Assessment Panel or the Metropolitan Redevelopment Authority. It also recognises that the R-Codes facilitate decisions being made under delegation by the decision-maker to suitably qualified officers, especially where proposals entirely satisfy relevant 'deemed-to-comply' requirements.

The terms 'acceptable development' and 'performance criteria' under the previous R-Codes had sometimes been misinterpreted as meaning 'acceptable' and 'unacceptable-except-where'. Some local governments adopted an approach that development which does not meet the acceptable development criteria is to be refused, notwithstanding that the proposal may be entirely appropriate for the site and the intended use under relevant performance criteria.

This misunderstanding has resulted in delays and refusals for non-compliance when in fact assessment should have been made on a performance criteria basis. The intention of the R-Codes has always been to encourage site specific design leading to innovation and the acceptable development requirements were identified as only one way in which to meet the 'performance criteria'.

The terminology has been amended to clarify and encourage developments that respond to individual site circumstances. The term 'acceptable development' has been re-named 'deemed-to-comply', which clearly acknowledges that these requirements meet the objectives and must be deemed acceptable and compliant.

'Performance criteria', which are generally criteria on which judgement of the decision-maker must be exercised, has been renamed 'design principles'. This reflects that there is always an opportunity to consider different ways to design for specific sites to achieve more appropriate outcomes than can be achieved under 'deemed-to-comply' requirements.

#### 4.2 Objectives

The objectives of the R-Codes were reviewed to consider if they aligned with expectations and current interpretation of the purpose of the R-Codes. The review confirmed the appropriateness and continued relevance of a number of the objectives, while also confirming that several objectives were either superfluous or caused confusion.

The revised objectives provide for:

- Appropriate built form, diversity and amenity (including affordable housing outcomes). Amenity for those in situ, for the surrounding residents and for the streetscape and the broader community and stakeholders, using existing or creating a new cohesive character.
- Clarity and certainty of process, balanced with flexibility to address site specific challenges, so that stakeholders (assessors, designers, developers etc.) can adopt an appropriate design and planning response to deliver good residential design in a timely manner.
- Streamline processes; the R-Codes should be illustrative, simple to interpret and able to be understood by design specialists and infrequent users.
- A consistent approach to the assessment of applications across the State, based upon clear and robust certainty in decision making and dealing with issues of efficiency, clarity and certainty.

#### 4.3 Neighbour Consultation

Referral of proposals for neighbour comment was raised as a concern during consultation because in some cases neighbours are offering objections to matters which are 'deemed-to-comply'. Determination may then be delayed because delegation by the decision maker to an officer to determine the proposal may not operate once an objection is received.

It is not the intent of the R-Codes that all proposals be referred to neighbours for comment, rather a proposal should only be referred to a neighbour if:-

- it is a scheme requirement or is required by the decision makers delegation instrument;
- the assessing officer is unable to make a judgement about off-site impacts and their impact on amenity for a proposal based on 'design principles'; or
- a proposal based on 'design principles' includes a measure which may require the consideration of a neighbouring property due to a potential adverse amenity impact.

In any circumstance where the assessment indicates that the 'deemed-to-comply' standards have not been met, then the assessment is deemed to be a 'design principle' proposal. In these cases the proponent must provide supporting information which demonstrates how the proposal meets the relevant 'design principles' and objectives.

The R-Codes have been amended to allow the applicant, instead of the decision maker, to undertake consultation with neighbours. This initiative was considered desirable to help reduce consultation and overall determination timeframes. However, the applicant is required to provide proof that they have provided notification of the proposal to neighbours in the form of a posting receipt via registered post.

#### **4.4 Relationship to Building Control**

The R-Codes do not require planning approval for single houses that comply with relevant 'deemed-to-comply' provisions under Part 5 of the R-Codes, and can be dealt with within the building permit system unless otherwise required by a local planning scheme.

The R-Codes do not require planning approval for single houses that fully comply with relevant deemed-to-comply provisions under Part 5 of the R-Codes, unless:

- (a) otherwise required by a scheme; or
- (b) the lot area is under 260m<sup>2</sup> and not subject to a local development plan or local structure plan.

However, when a proposal does not comply with 'deemed-to-comply' standards, consideration must be given under the relevant 'design principles', which requires planning assessment and determination. This is usually undertaken by requiring a planning application but in some cases a separate Codes Approval application.

During consultation, some submissions advocated removing the development application ('DA') requirement for all single houses. Against this, the trend to increasing floorspace of homes at the same time as decreasing average lot sizes make ready compliance with standards problematic and the potential for amenity impacts greater.

The amended R-Codes reduce the lot area for which a DA is required to 260m<sup>2</sup>, which correlates with the minimum site area under the R30 code, and beyond which planning consideration of proposals is generally warranted. Also any single house lots created by an approved local structure plan or LDP would not require a DA.

Local planning schemes inconsistent with the 260m<sup>2</sup> lot size will require amendment, although existing scheme content would prevail to the extent of any inconsistency until amended.

#### **4.5 Aged Persons Dwellings**

The R-Codes permit a density bonus of up to one-third for provision of aged person's dwellings (APD's). Having regard to perceived amenity impacts, the draft amendments to the R-Codes proposed retaining the density bonus but reducing the floorspace control to 70m<sup>2</sup>. It was expected that introducing this control would have a similar effect to the R-Codes amendment relating to multiple dwellings, which emphasises plot ratio built form over density control by lot size.

Industry and other APD providers were strongly opposed as they considered it would inhibit flexibility to respond to market demand. Having regard to the operation of other controls securing amenity considerations and standards of APDs, the R-Codes retain the current provisions.

#### **4.6 Ancillary Accommodation**

Previous R-Codes require ancillary accommodation be occupied only by members of the family residing in the main dwelling and floorspace be limited to 60m<sup>2</sup>. The advertised R-Codes proposed deleting the family member occupancy restriction and increase floorspace to 70m<sup>2</sup>.

The proposed amendments were generally supported during consultation, although some submissions raised concerns in respect to increased density by stealth, amenity impacts, traffic and parking, stormwater and loss of landscaping/open space.

The proposed terminology amendment from 'ancillary accommodation' to 'supplementary accommodation' was generally not supported, as it did not provide clarity in terms of the relationship of this dwelling type to the primary dwelling.

The amendments to 'ancillary accommodation' is consistent with finding 30 and recommendation 19 of the Community Development and Justice Standing Committee Report '*A Fading Dream – Affordable Housing in Western Australia*' (2011).

The amended R-Codes retain the publicly advertised amendments (except terminology), but with an additional amendment to reduce car-parking requirements where

the site is proximate to public transport. An amendment to the definition of ancillary accommodation was made to make clear that the accommodation is on a single lot (subdivision is not implied and would be subject to separate approval only if consistent with local planning scheme and any other operative standards).

Any existing provisions in a local planning scheme regarding ancillary accommodation will prevail over the R-Codes, until amended.

#### **4.7 Content of Table 1**

Table 1 of the R-Codes contains site area and other development standards expressed against a figure corresponding to an 'R' code number. Theoretically, the 'R' code number is derived by a calculation of dwelling units per hectare. The significance of the 'R' code number is that it is used on local planning scheme maps to denote planning intentions and development potential for residential development, using a readily understood and common expression. Minimum and average site areas for each 'R' code number are used to enhance flexibility and facilitate use of Table 1 by the WAPC for the purposes of subdivision control.

However, beyond the lower 'R' code numbers (R2 to R17.5) the 'R' code numbers do not correspond exactly to the theoretical measurement of density derived from the calculation referred to above. Rather, the relationship is approximate, to facilitate interpretation and administration. The advertised R-Codes did not propose changing the underlying calculations of the 'R' code numbers, but did propose changing the relationship between minimum and averages across the 'R' code numbers for R25 to R60, so that the minimum site area per dwelling for an 'R' code number reflected the average of the next highest 'R' code number.

The intention in adopting this approach was to reflect the 'sliding scale' rationale embodied by Table 1 and better outline the range of site areas within each 'R' code number. This was achieved by slightly reducing minimum site areas in the R20 to R60 codes.

The proposed amendments were generally supported during public

consultation. Comments received advocated further amendments to the minimum and average site area requirements in particular to:

- Restore the historical 450m<sup>2</sup> average site area for R20, which was previously adjusted upwards to 500m<sup>2</sup> in the 2002 R-Codes (although areas coded R20 prior to the 2002 gazettal date retained the lower average site area of 450m<sup>2</sup>);
- Introduce R80 minimum, average and battle axe site areas, open space and setback requirements to provide increased flexibility and address market trends for small, narrow frontage lots;
- Reduce open space for R50 and R60, from 45% to 40%; and
- Adjust ‘battleaxe’ site areas, which correspond to the proposed reduced minimum site areas.

Table 1 has been revised accordingly. No major amendments to Tables 2a & b, 3 and 4 have been made.

#### **4.8 Overshadowing**

In the context of increasing interest and concern for dwelling energy efficiency by stakeholders, overshadowing provisions of the R-Codes were the subject of attention during the review. The R-Codes contain ‘design for climate’ requirements, which includes provisions relating to ‘solar access for adjoining sites’. The provisions require proponents to calculate the theoretical overshadowing that would be caused by the development at midday on the winter solstice (21 June). The provisions prescribe maximum overshadowing limits for various density codes expressed as a percentage of the adjoining site area.

While identifying the issue, the proposed amendments to the R-Codes did not propose any major amendments to provisions. However, submissions raised concerns about deficiencies in the operation of the overshadowing provisions resulting from definitional issues.

Taking into consideration comments, further amendments made include:

- Inserting a new clause ensuring proportionate percentage when a lot adjoins more than one lot; and,

- Promoting that no more than 50% of any adjoining roof mounted solar collectors and north facing major openings be overshadowed;

The definition of ‘solar collectors’ and figures have also been amended to reflect contemporary usage and interpretation.

#### **4.9 Parking concessions**

Previous versions of the R-Codes required two car parking spaces for each dwelling. However, for some areas with good access to public transport the proportion of car journeys is significantly reduced. Long term planning for Perth seeks to reduce the mode split to car to about 70%. This requires encouragement of public transport use.

The R-Codes include revised ‘deemed-to-comply’ provisions to reflect flexibility for on-site parking which relates to proximity to public transport, reciprocity, safety, convenient access and layout. This provision has also been amended to a table format to align with the previous changes for multiple dwellings in Part 6.

#### **4.10 Use and Format of Local Planning Policies and Local Development Plans.**

The R-Codes are read into local planning schemes and accordingly have force and effect as part of a local scheme. The intent is to provide a uniform basis for residential development throughout WA. However, it is also desirable that local governments retain some flexibility to vary provisions when appropriate to account for local circumstances and character.

The R-Codes hence include provisions enabling variation of some content, via the use of local planning policies (‘LPPs’), local development plans (LDPs) (also known as detailed area plans), local structure plans and activity centre plans.

To avoid confusion with the recently initiated Development Assessment Panels, which has given rise to an identical acronym, it was proposed, as part of consultation, to adopt the term ‘area specific plans (ASPs)’ instead of detailed area plans. This proposal did not enjoy wide support, and

several alternatives were proposed. In order to align with contemporary terminology relating to ‘local planning schemes’, ‘local structure plans’ and ‘local planning policies’, the term ‘local development plans’(LDPs) was determined to be the most suitable replacement. It should be noted that any existing provisions in a local planning scheme that refer to ‘detailed area plans (DAPs)’ will prevail over the R-Codes until they are amended to ‘local development plans (LDPs)’.

LPPs often are used to provide for ongoing variation of R-Code provisions, usually for existing (brownfield) urban areas with unique character, while LDP’s are used in particular for new (greenfield) urban areas to complement local structure plans and subdivisions containing small, uniquely configured, lots with special design characteristics.

The advertised version of the R-Codes proposed a ‘model local planning policy’ and ‘model LDP pro-forma’ to achieve greater consistency in terminology, format and interpretation for LPPs and LDPs. The consultation paper also recommended that all LPPs and LDPs be physically located within R-Codes ring binders, be located with schemes and provide links to local government and WAPC websites.

Whilst many of these proposals were generally well received, various local governments were concerned as to the status and operation of existing LPPs and LDPs, and potential confusion/inconsistency and conversion issues should LPP and LDP formats be mandatory in the R-Codes. Many local governments advised their LPP’s align to a corporate style/format, which would result in inconsistency.

Should a local government wish to prepare a new or amend an existing LPP or LDP, the format provided in the explanatory guidelines can be used, however whilst desirable, it’s not compulsory.

In addition, the R-Codes recognise that in many greenfield sites, Liveable Neighbourhoods may require the preparation of LDP (also known as detailed area plans) for small lots. Where this more detailed planning has been undertaken, issues associated with the smaller lot size are considered to have already

been dealt with. Therefore, planning approval under the R-Codes for single houses is not required on lots less than 260m<sup>2</sup> provided they comply with an approved LSP and/or LDP.

#### 4.11 Appendix 1 - Definitions

The R-Codes include definitions and are contained in Appendix 1 towards the end of the document.

A number of the definitions contained in the previous R-Codes have been modified, many in response to submissions, to remove anomalies or correct errors. All definition amendments are outlined within the schedule of amendments document published on the Planning WA website.

Provisions of the R-Codes have also been amended to differentiate words which have a corresponding definition. **Bolded words** provisions have been applied to alert the reader that a definition of those words is provided.

#### 4.12 Figures

The R-Codes as amended contain more figures than in earlier versions. Many submissions considered the figures helpful to understand and interpret R-Code provisions by depicting them diagrammatically. Many of the figures included in the R-Codes are taken directly from the explanatory guidelines, however have been modified and updated for clarity and accuracy.

### 5 Use of the R-Codes, explanatory guidelines, R-Codes FAQ & R-Codes 'share forum'

The R-Codes and explanatory guidelines are used when designing and assessing residential development in Western Australia.

The R-Codes FAQ provides answers to many frequently asked questions and should be reviewed prior to enquiries being made to the relevant decision-maker. The R-Codes share forum, accessed via the Planning WA website, allows users to discuss R-Codes issues and interpretation. The forum will be monitored to identify issues raised which may require formal response/position to be

provided by the WAPC. The WAPC's response on identified issues will be provided via updates to the R-Codes FAQ.

Local governments are requested to post on their websites the R-Codes, explanatory guidelines, R-Codes FAQ and this Planning Bulletin, together with all existing and relevant LPP's, LDP's and local structure plans, for central 'portal' ease of access and reference.

Alternatively, local governments may post a link to the Planning WA R-Codes webpage: [www.planning.wa.gov.au/637.asp](http://www.planning.wa.gov.au/637.asp) which contains all the above documents, together with all existing and relevant LPP's, DAP/LDP's and local structure plans.

**Enquiries relating to site/development specific proposals, including decision-maker interpretation and assessment, must be directed to the relevant decision-maker, which in most cases is the local government.**

**It is strongly recommended that persons seeking to undertake development upon their land consult with the relevant decision-maker and/or suitably qualified person(s).**

### 6 Changes to DC 2.2 Residential Subdivision

The R-Codes are used for the assessment of small scale and infill residential subdivision proposals by the WAPC although they are not intended to prescribe subdivision design. The WAPC's operational policy DC 2.2, cross-referenced to Table 1 of the R-Codes, provides the basis of this approach. The consultation paper canvassed the possibility of severing this link. For example, assessment of development on individual lots might be generally based on the lot size rather than the R-Code so that development of lots is related specifically to the lot itself.

As a result of amendments to the R-Codes, consequential changes to operational policy DC 2.2 Residential Subdivision are required. The changes to DC 2.2 include the following:

- Update background notes, legislative and WAPC references for consistency;

- Remove of the 'R20 transitional provisions' under section 3.2.3 given Table 1 of the R-Codes has reduced the R20 average lot size from 500m<sup>2</sup> to 450m<sup>2</sup>.
- Amend sections 3.4 (Single Residential Lots) and 3.5 (Small Residential Lots) from 500m<sup>2</sup> and 350m<sup>2</sup> respectively to 260m<sup>2</sup>, as per clause 2.3 of the R-Codes.

The changes to DC 2.2 take effect on **2 August 2013**.

## 7 Further information

Enquires or correspondence on this planning bulletin should be sent to [rcodesreview@planning.wa.gov.au](mailto:rcodesreview@planning.wa.gov.au) or directed to:

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