



Local Planning Policy No. 3 Non-Residential Uses In or Adjacent to Residential Areas

Date of Adoption: 30 September 1998

Date Amended: 11 December 2018

INTRODUCTION

The Council recognises that certain non-residential uses can co-exist with and integrate into residential areas without adversely affecting residential amenity. A range of such uses is provided for under the Town Planning Scheme, and some of these are subject to separate policies.

The purpose of this Policy is to provide general guidance and development standards applicable to non-residential development in or adjacent to residential areas, notwithstanding any additional requirements stipulated under the relevant Scheme Precinct Plan or in other Policies or area-specific Design Guidelines adopted by the Council.

Non-residential uses are to have regard to the objectives and Statement of Intent contained in the relevant Precinct Plan for the locality in which they are located, and demonstrate that the use of the land for non-residential purposes and any associated amenity impacts will not detrimentally impact upon the amenity of residential properties and areas.

OBJECTIVES

The objectives of this policy are:

- a) to ensure non-residential uses are compatible with the residential character, scale and amenity of surrounding residential properties;
- b) to provide for non-residential uses which serve the needs of the community;
- c) to encourage the re-use of existing purpose built non-residential buildings for a mix of appropriate local convenience/service and commercial uses where it results in an economically viable use of the building and provides a service to the community;
- d) to minimise the impacts of non-residential development through appropriate and sufficient management of car parking and traffic generation, noise, visual amenity and any other form of emissions or activities that may be incompatible with surrounding residential uses;
- e) to ensure that the appearance and design of non-residential development is compatible with surrounding residential properties and the streetscape in terms of building size and scale, the provision of adequate landscaping treatments, the retention of existing mature trees and the suitable design and location of advertising signage;
- f) to maintain and enhance the amenity of residential environments through ensuring appropriate landscaping treatments, location of car parking and vehicular access legs, and the protection of visual privacy when considering applications for non-residential development;
- g) to avoid the concentration of non-residential uses where it would create a de-facto commercial area, isolate residential properties or contribute to the unplanned expansion of commercial or mixed use zones into surrounding residential zoned land.

POLICY SCOPE

This Policy applies to both :

- a) Non-residential development on Residential zoned land; and
- b) Non-residential development adjacent to Residential zoned land.

Unless otherwise specifically stated, the Policy provisions apply in both situations.

This Policy does not however apply to Home Occupations, which are subject to *Local Planning Policy 2*, or a Home Office.

POLICY REQUIREMENTS

1. Preferred Location

- a) Non-residential uses are generally encouraged to locate on sites which have access to main streets or major roads, and are discouraged from locating within a local access street or laneway. Other locations may be considered where it can be demonstrated that residential amenity can be protected;
- b) Should be located such that residential properties are not isolated between non-residential uses;

2. Traffic Generation

- a) Non-residential development should only be permitted where it does not negatively impact the function or safety of the adjacent roads or cause undue conflict through the generation of traffic or demand for parking.
- b) In assessing an application for non-residential development, in addition to considering matters such as traffic volumes, road capacity and road safety from a technical engineering perspective, Council will have also regard to these matters from a residential amenity perspective.
- b) A Transport Impact Statement (TIS) or Transport Impact Assessment (TIA) prepared by a suitably qualified independent traffic consultant may be required to be submitted as part of a development application, which assesses the likely traffic impacts associated with the proposed development.
- c) The appropriate level of traffic assessment required to be undertaken for the proposed development will be determined by Council having regard to the requirements of the Western Australian Planning Commission's (WAPC) (2016) *Transport Impact Assessment Guidelines*.

3. Control of Noise, Pollution or Other Impacts Associated with the Use

Non-residential development shall only be permitted where the nature of the non-residential use will not cause undue conflict or adversely affect the amenity of the neighbourhood through the emission of light, noise, fumes, odours, dust, vibration, electrical interference, waste water, or any other form of pollution which may be undesirable in residential areas. Development applications for a non-residential use should be accompanied by a statement and/or specialist reports outlining if and how any impacts arising from the activities proposed to be conducted on the site will be prevented or appropriately managed to ensure that the amenity of surrounding residential properties is maintained (e.g. Acoustic Report).

4. Plot Ratio

Non-residential development on Residential zoned land is required to comply with the plot ratio development standards for Multiple Dwellings of the relevant R-Code on which the development is located. For the purposes of this Policy, in areas with a density coding of less than R40, a plot ratio of 0.5:1 applies.

5. Building Setbacks

- a) Front setback requirements:
 - (i) For non-residential development on Residential zoned land – to comply with the requirements applicable to residential development under the relevant Precinct Plan, R-Codes and/or Council Policies.
 - (ii) For non-residential development adjacent to Residential zoned land or land used for residential purposes – to comply with the requirements applicable under the relevant Precinct Plan and/or Council Policies.
- b) Side setback requirements for non-residential development on Residential zoned land or those portions of a non-residential development adjacent to Residential zoned land:
 - (i) To be setback from side boundaries as per the requirements for residential development under the Residential Design Codes;
 - (ii) A wall containing a window, door or other opening which is capable of affecting the privacy or amenity (e.g. through associated access/activity/noise) of nearby residences or future residences will be treated as a 'major opening' for calculating the required side setback under this clause; and
 - (iii) A nil side setback may be permitted to an adjoining Residential zoned property where the length and height of the boundary wall complies with the requirements for residential development applicable to the adjoining residential property under Council's *Local Planning Policy No.26 – Boundary Walls*.

6. Visual Privacy

Major openings (any window, door or other opening which may affect the privacy of nearby residences or future residences) should be located such that they do not directly face or are screened from surrounding residential properties. This is particularly important where they may serve as a means of frequent access, allow the escape of noise, or serve as sources of overlooking into adjoining residential properties by staff or visitors/customers to the site.

Where located adjacent to existing residential properties, developments are to be designed to satisfy the following criteria:

- a) All major openings to operational rooms or amenities frequented by staff/customers of the development that have a finished floor level raised 0.5 metres or more above natural ground level which overlook any part of an adjoining residential property behind its street setback line, are to:
 - i. be setback, in direct line of sight, a minimum of 6.0 metres from the boundary of the adjoining residential property (as measured from a 45 degree cone of vision from the external face of the opening); or
 - ii. be provided with permanent vertical screening to a minimum height of 1.6 metres above



the finished floor level.

- b) All unenclosed outdoor spaces (balconies, decks, verandahs and the like) where the finished floor level is raised 0.5 metres or more above natural ground level which overlook any part of an adjoining residential property behind its street setback line, are to:
 - i. be setback, in direct line of sight, a minimum of 7.5 metres from the boundary of the adjoining residential property (as measured from a 45 degree cone of vision from the external perimeter of the unenclosed outdoor space); or
 - ii. be provided with permanent vertical screening to a minimum height of 1.6 metres above the finished floor level of the unenclosed outdoor space.

7. Building Design

The design and siting of new non-residential buildings/facilities on Residential zoned land should have regard to the existing neighbourhood character and reflect a residential scale and appearance, particularly with regard to the following elements:

- a) Building and roof form;
- b) Building height and setback;
- c) Design detail, including façade articulation, verandahs, window and door style and placement; and
- d) Building materials, colours and finishes.

8. Location of Vehicular Access/Car Parking and Provision of Boundary Fencing

- a) Where car parking or vehicular access ways are already provided in the vicinity of adjacent residential properties or cannot be (re)located elsewhere, suitable barriers shall be provided to protect boundary fencing, which may be required to be upgraded to protect the amenity and/or privacy of adjoining residents.
- b) New or upgraded boundary fencing should be a minimum of 1.8 metres high and be of masonry construction in a colour/finish that complements the development as well as being of compatible colours and materials to any neighbouring residential properties.
- c) It is recommended that the applicant obtain agreement with neighbouring properties regarding the height, materials and finish of any new/upgraded boundary fencing.
- d) The provision of new/upgraded boundary fencing may be applied as a condition of development approval where it is deemed necessary by the Council to reduce the potential impacts of the non-residential development on adjoining residential properties.

9. Location of Building Services and Bin Storage Areas

- a) Delivery, loading and building services areas are to be located such that they are not visible from the street or adjoining residential properties.
- b) Bin storage areas are to be appropriately screened and located so that they do not harm the amenity of surrounding residential properties by way of visual nuisance, noise, odours or other impacts.

10. Antisocial Behaviour & Crime Prevention

The development should demonstrate that it has been designed and will operate in a manner that



does not encourage crime or antisocial behaviour to occur. Non-residential development should be designed in accordance with relevant Crime Prevention Through Environmental Design (CPTED) principles, having regard to the Policies adopted by Council as well as relevant State Planning Guidelines, to address matters including propensity for crime and antisocial behaviour to occur, personal safety, passive surveillance, vandalism/graffiti etc. Roller doors/shutters will not be acceptable in any instance.

11. Landscaping

- a) A high quality of landscaping should be provided to soften the appearance of the development, screen car parking areas and provide for a pleasing aspect that is compatible with the streetscape and amenity of surrounding residential properties.
- b) For non-residential development on Residential zoned land, a minimum of twenty five per cent (25%) of the site area is to be landscaped, and a minimum of fifty per cent (50%) of the front setback area is to be soft landscaping.
- c) For non-residential development adjacent to Residential zoned land or land used for residential purposes, on-site landscaping is to be provided in accordance with any standards applicable under the Precinct Plan and/or Council Policies.
- d) Car parking areas located within the front setback area are to be setback from the front property boundary behind a soft landscaping strip of at least 1.5 metres in width.
- e) The development to be designed to retain and conserve existing mature trees on the site as well as existing Council verge trees, wherever possible.
- f) Where a vehicular access way or car parking area is located adjacent to any residential property and is unable to be (re)located elsewhere, it shall be setback behind a barrier to protect neighbouring boundary fencing that incorporates a planted perimeter strip of at least 1.0 metre in width between the car park/vehicular access way and any adjoining residential property.

12. Signage

- a) All signage associated with the non-residential development should be detailed as part of the development application for the main (re)development. Where final specifications are unknown, a signage strategy identifying the location, size and type of external advertising signage to be installed on the building/site is to be submitted to Council as part of the development application.
- b) All signage is to be designed and located so as to provide a balance between providing appropriate identification for visitors to the site and ensuring that the signage has regard to its residential context and minimises any adverse amenity impacts, as follows:
 - i. being designed integrally with the building, and being of a modest size and scale that respects the amenity and streetscape of surrounding residential properties;
 - ii. where illuminated, not contain any flashing, pulsating or chasing light, and being located and baffled to prevent light spill/glare into surrounding residential properties;
 - iii. not comprise highly reflective materials or visually 'loud'/obtrusive colour schemes that cause glare or visual nuisance in direct line of site of adjoining residential properties; and
 - iv. are generally located (or are provided with screening or landscaping) such that they primarily face the street/public realm and do not directly face dwelling entries or

windows to habitable rooms of adjoining residential properties.

- c) The design, type, location and number of signs on the site/building is subject to the requirements of Council's Local Planning Policy and/or Local Law related to Signs and/or a signage strategy approved by Council as part of a development application.

13. Hours of Operation

- a) Hours of operation for all non-residential uses will be considered having regard to the nature and intensity of the use and the context of the site and surrounding areas.
- b) Loading and unloading of vehicles should only occur between the hours of 7am to 7pm.

CONSIDERATION OF APPLICATION FOR DEVELOPMENT APPROVAL

Submission Requirements

A development application should be accompanied by the following:

- a) a description of the proposal that responds to the requirements of this Policy, including proposed hours and days of operation, number of staff, type and frequency of deliveries, number of visitors/patrons/customers, length of appointments and any other relevant information;
- b) a traffic impact statement or traffic impact assessment should be provided where the proposed development is of a scale that warrants their submission, in accordance with the WAPC's *Transport Impact Assessment Guidelines* (Refer to Clause 2 of this Policy);
- c) a written explanation of the need for the proposed facility or service in the area; and
- d) details of how amenity impacts will be managed to an acceptable level, which may include specialist reports (e.g. an Acoustic Report to address noise).

Conditions of approval

The Council shall have regard to and may apply conditions relating to matters including hours and days of operation, number of clients/customers to the site, car parking, deliveries, advertising signs (including hours of illumination), provision of landscaping and boundary fencing, and other matters pertaining to the design and operation of the development.

VERSION CONTROL

Date Initially Adopted :	Former Policy 3.5 under Town Planning Scheme Policy Manual – adopted 30 September 1998
Date(s) Amended :	1. Adopted as Local Planning Policy 3 at Ordinary Council Meeting 9 February 2016; 2. Amended by Council resolution at Ordinary Council Meeting 11 December 2018.

