R60 DEVELOPMENT UNDER CLAUSE 4.2.5 OF LPS4

ADOPION DATE: 27 June 2018
REVISION DATE: 22 May 2019
AUTHORITY: Planning and Development (Local Planning Schemes) Regulations 2015, Local Planning Scheme No.4

STATUTORY BACKGROUND

Planning and Development (Local Planning Schemes) Regulations 2015
Schedule 2, Deemed Provisions for local planning schemes, Part 9, Clause 67 - requires the Local Government to consider a broad range of matters when determining an application.

Schedule 2, Deemed Provisions for local planning schemes, Part 2 - provide the making of a local planning policy.

City of Fremantle’s Local Planning Scheme No 4 (LPS4 or Scheme)
Clause 4.2.2 states that unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform to the provisions of the Residential Design Codes.

Clause 4.2.5 states that Notwithstanding the requirements of Clause 4.2.3 residential density in the Local Centre, Neighbourhood Centre and Mixed Use zones may be increased up to R60, where residential development is part of a mixed use development, where, in the opinion of Council the proposal is not detrimental to the amenity of the area.

Definition of mixed use:
means, when used in relation to a Planning Application, a combination of one or more of the residential use classes specified in Table 1 - Zoning and any other land use or uses, and where the residential use class and any other one use class each comprise a minimum of 25 per cent of the gross lettable area of the development.

State Planning Policy 3.1 - Residential Design Codes (R-codes)
Part 7 - 7.3.1 states that a local planning policy may contain provisions that:
(b) augment the R-codes by providing local housing objectives to guide judgements about the merits of proposals for any aspect of residential development that does not meet the requirement or is not provided for, under the R-codes.

APPLICATION
This policy applies to land in the Local Centre, Neighbourhood Centre and Mixed Use zones and development applications within these that seek an increased residential density beyond the ‘base density’ shown on the scheme map, up to R60, under clause 4.2.5 of LPS4.
In the event that there is a conflict between this policy, and a provision contained within a Local Area Planning Policy, the most specific policy provision shall prevail.

OBJECTIVE

The local housing objective for residential development in the Local Centre, Neighbourhood Centre and Mixed Use zones is to accommodate higher density residential development within these zones where this is compatible with the existing scale, character and amenity of development in the area, as part of an orderly and well-mannered evolution. Where the increase in density is deemed to result in a detrimental impact on amenity, it will not be supported.

PURPOSE

The purpose of this policy is to provide guidance on the criteria against which impact on amenity will be assessed under Clause 4.2.5 of LPS4 in order to provide greater certainty and consistency of decision-making, and promote better built form and community outcomes. Because the LPS4 provides for a discretionary increase in residential density only where not detrimental to the amenity of the area, it is incumbent on the Council to consider this in its broader sense. As such, compliance with the provisions of the R-Codes for the higher density will not be deemed to demonstrate no detrimental impact. Conversely, definition of an area’s amenity extends beyond immediately adjoining neighbours so a decision on whether a proposal impacts negatively on an area needs to amortise those felt by neighbours with the general standard of amenity experienced within the immediately surrounding street block/s.

POLICY

1. Assessment of the impact on the amenity of the surrounding area of development seeking an increase in residential density under clause 4.2.5 of LPS4 will focus on the effect of the additional density and will take into account:
   - Impact on streetscape and public open space
   - Impact on heritage character and fabric
   - Impact on neighbour amenity in terms of bulk and scale, overshadowing, overlooking, noise and privacy
   - Traffic and traffic safety
   - Impact on existing trees
   - General quality of the built environment being created.

2. Assessment of applications will be undertaken in the first case against the height, setback, open space, privacy and solar access provisions of the site’s base residential density code (i.e. that shown on the scheme map). Applications compliant with the deemed-to-comply development standards applicable to the base code under Volume 1 of the R-Codes for these elements and all other applicable policy, scheme and R-Code Volume 2 requirements will be deemed acceptable.

3. Where the development application seeks a variation to the deemed-to-comply development standards of the base density in order to achieve additional density under Clause 4.2.5, the development is to demonstrate compliance with the design principles applicable to the base coding and the following criteria. These matters will be
considered collectively in forming an opinion on whether or not the proposal is detrimental to the amenity of the area in the context of clause 4.2.5:

3.1 Impact on streetscape and public open space
   3.1.1 Consistent with the scale of development in the area.
   3.1.2 Consistent with the form, alignment and rhythm of development in the streetscape.
   3.1.3 Positive interface with the street, including activation of the ground floor frontage with upper storey street setbacks that are appropriate to a mixed use, urban form taking into account the attributes of the prevailing streetscape (or, where a centre-specific policy applies, the desired streetscape). Blank walls to the street or public open space will not be supported. Where development up to the street (i.e. nil or minimal setback) is proposed, weather protection for pedestrians should be included in the design.

3.2 Impact on heritage character and fabric
   3.2.1 Conserves elements of heritage value where deemed appropriate following assessment of this in accordance with the City’s heritage requirements.

3.3 Impact on neighbour amenity in terms of bulk and scale, overshadowing, overlooking, noise and privacy
   3.3.1 Provides a respectful interface, including sufficient sunlight to outdoor living areas and major openings (including those which, on older buildings, may have been built closer to the boundary than is currently permissible).
   3.3.2 Where adjoining properties enjoy multiple living areas, highest priority should be placed on maintaining light and privacy to the primary living areas (namely any existing screened courtyard or outdoor living area, and living room areas).
   3.3.3 Bin stores, service areas and plant are to be located away from the primary outdoor living areas and openings to habitable rooms of adjoining dwellings, or otherwise treated to minimise noise, odour and nuisance.

3.4 Traffic and traffic safety
   3.4.1 Traffic management and safety should comply with the City’s standards.
   3.4.2 Parking provision for residential dwellings shall be in accordance with the provisions of the R-Codes for the density of development sought, including visitor parking.
   3.4.3 Parking provision for non-residential uses shall be assessed on their merits against provisions of LPS4

3.5 Impact on existing trees
   3.5.1 Substantial trees on site should be retained or replaced with suitable species providing similar or greater levels of canopy cover and greening.

3.6 General quality of the built environment being created.
   3.6.1 Open space areas should be usable and accessible to all residents of the development, and incorporate landscaping to create amenable spaces.
   3.6.2 A Deep Planting Zone is to be incorporated into the development at a minimum size of 12% of the development site area.
   3.6.3 Outdoor living areas cannot be reduced by more than half the deemed-to-comply requirement for the base code.
3.6.4 Achievement of privacy requirements through the full screening of balconies will not be supported: a minimum of 25% of the perimeter of each balcony must remain unscreened.

3.6.5 Fully internalised habitable rooms will not be supported. Every habitable room is to have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight is not to be borrowed from other rooms.

4 Notwithstanding part 2 of this policy, development under clause 4.2.5 of LPS4 can be considered at the R-code R60 density coding plot ratio requirements, however, increases in plot ratio beyond the deemed-to-comply requirement of the R-codes for R60 will not be supported.

DEFINITIONS

Deep Planting Zone (DPZ): means an area of the lot for the exclusive use of supporting plant life. The deep planting zone shall be a minimum length and width dimension of 4.5 metres and water permeable, unpaved and uncovered and landscaped**. The deep planting zone shall not be used for vehicle parking or access and contain no buildings, structures, or pergolas.

Residential Density: For the purposes of this policy residential density referred to in clause 4.2.5 of LPS4 refers to the site area per dwelling or plot ratio requirements of State Planning Policy 3.1 - Residential Design Codes (R-codes), only.

Base Density: means the density code allocated to the site on the scheme map prior to application of clause 4.2.5.

All other definitions are as defined in the State Planning Policy 3.1 - Residential Design Codes and the City’s Local Planning Scheme No.4.

PROCEDURE

In addition to normal submission requirements, development applications seeking additional density under Clause 4.2.5 of the scheme must provide a site context assessment* to demonstrate how the proposal would integrate into the local context. The site context assessment is to include, but is not limited to, the following:

- Site location and wider context plan
- Aerial photograph
- Local context plan
- Site context and survey plan
- Streetscape elevations and sections
- Overshadowing diagram
- Visual privacy diagram
- Traffic impact statement
- An assessment of the development undertaken by the applicant on the relevant state and local planning policies and schemes.

*Draft Apartment Design - Volume Two of State Planning Policy No. 7.3 Residential Design Codes Guidance for multiple-dwelling and mixed-use developments provides guidance on what is required for a site context assessment.
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