

2.4: CONSIDERATION OF FINAL APPROVAL TO AMEND LOCAL PLANNING SCHEME 1A AND 3 POLICY MANUAL FOR POLICY 2A – OUTBUILDINGS AND POLICY 2C – SEA CONTAINERS

Land Description	: City of Albany
Proponent	: City of Albany
Owner	: City of Albany
Business Entity Name	: N/A
Attachments	: Non-Habitable Structures Policy Schedule of Submissions Letters X2
Responsible Officer(s)	: Executive Director Planning & Development Services (Dale Putland)

IN BRIEF

- Council has recently advertised amendments to the City's Outbuilding Policy. Amendments including addressing development of outbuildings on vacant lots and the size of outbuilding relative to lot sizes.
- At the close of advertising, two submissions were received. One submission stated concerns in relation to the title change from 'Outbuilding Policy' to 'Non-Habitable Structures Policy' and the support being given for the development of non-habitable structures (outbuildings) on vacant lots. The other submission objected to a new provision that requires a building permit for a dwelling to be issued prior to considering approval for a non-habitable structure on a vacant lot.

RECOMMENDATION

ITEM 2.4: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council resolves to:

1. FINALLY ADOPT the proposed amendments to the Outbuildings Policy – Policy 2A of the Town Planning Scheme 1A and 3 Policy Manual.
2. RESCIND the Sea Containers Policy – Policy 2C;
3. On adoption refer the new Non Habitable Structures Policy to the WAPC for endorsement.

**ITEM 2.4: ALTERNATE MOTION BY COUNCILLOR DUFTY
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR DUFTY
SECONDED: COUNCILLOR HAMMOND**

Zoning	Max. Wall Height	Max. Ridge Height	Max. Floor Area (combined floor area of all non-habitable structures on lot)
Residential / Tourist Residential / Future Urban / Residential Development Zone (Lots < 450m ²)	2.4 metres	3 metres	<60m ² in area or 10% in aggregate of the site area, whichever is the lesser
Residential / Tourist Residential / Future Urban / Residential Development Zone (Lots 450m ² - 600m ²)	3 metres	4.2 metres	<60m ² in area or 10% in aggregate of the site area, whichever is the lesser
Residential / Tourist Residential / Future Urban / Residential Development Zone (Lots 600m ² - 1000m ²)	3 metres	4.2 metres	100m ²
Residential / Tourist Residential / Future Urban / Residential Development Zone (Lots 1000m ² – 2000m ²)	3 metres	4.2 metres	120m ²
Residential / Tourist Residential / Future Urban / Residential Development Zone (Lots 2000m ² – 4000m ²)	3 metres	4.5 metres	150m ²
Residential / Tourist Residential / Future Urban / Residential Development Zone (Lots > 4000m ²)	3.5 metres	4.5 metres	170m ²
Yakamia Creek Zone (Lots < 3000m ²).	3.5 metres	4.5 metres	120m ²
Yakamia Creek Zone (Lots > 3000m ²).	3.5 metres	4.5 metres	150m ²
Special Residential Zone (Lots < 4000m ²)	4.2 metres	4.8 metres	150m ²
Special Residential (Lots > 4000m ²)	4.2 metres	4.8 metres	170m ²
Special Rural Zone (Lots < 2ha)	4.2 metres	4.8 metres	200m ²
Special Rural Zone (Lots 2ha to 4ha)	4.2 metres	4.8 metres	220m ²
Special Rural Zone (Lots 4ha to 6ha)	4.2 metres	4.8 metres	240m ²
Special Rural Zone (Lots > 6ha)	4.2 metres	4.8 metres	300m ²
Rural Village Zone (Lots < 4000m ²)	3 metres	4.5 metres	150m ²
Rural Village Zone (Lots > 4000m ²)	4.2 metres	4.8 metres	170m ²
Rural Zone (Lots < 2ha)	4.2 metres	4.8 metres	200m ²
Rural Zone (Lots 2ha to 3.99ha)	4.2 metres	4.8 metres	220m ²
Conservation Zone (Lots < 2ha)	3.5 metres	4.8 metres	170m ²

Conservation Zone (Lots > 2ha)	4.2 metres	4.8 metres	220m ²
CARRIED 12-0			

BACKGROUND

1. In 2011, the City adopted its Local Planning Scheme 1A & 3 Policy Manual with provisions governing the development of outbuildings and sea containers.

2. In assessing applications against the provisions contained within the Policy Manual, a number of issues have arisen:
 - a. Some members of the public appear to be of the opinion that they can live in an outbuilding, even though an outbuilding is defined as a 'non-habitable structure'. To emphasise to the public that outbuildings are not to be used for human habitation it was considered appropriate to change the title 'Outbuilding Policy' to 'Non-Habitable Structures Policy'.
 - b. The definitions for carport and outbuilding in the Residential Design Codes are very similar. Their design, look and uses are also very similar. Some confusion exists amongst members of the public as to whether or not a carport is an outbuilding and vice-versa. This confusion also applies to other non-habitable structures such as gazebos, sea-containers and shade houses. To avoid confusion and to limit the total size of these structures on a lot, it is considered appropriate to assess them all under the one new policy and heading 'Non-Habitable Structures'.
 - c. The provisions governing the development of outbuildings are inadequate as they do not appropriately deal with visual and land use amenity issues for outbuildings on vacant lots. It was considered appropriate to include provisions to provide a guarantee that a dwelling will be built to accompany an outbuilding on a vacant lot and to support outbuildings of varying sizes relative to a lot size (i.e. the smaller the size lot, the smaller the structure/the larger the lot, the larger the structure).
 - d. The provisions governing the development of outbuildings are inadequate as they do not support sizes relative to the lot size. It was considered appropriate to increase permitted sizes for some larger lots and vice-versa for smaller lots.
 - e. Maximum floor areas stipulated in the policy for some residential lots is different to the maximum stipulated in the Western Australian Planning Commissions' 'Residential Design Codes'. It was decided to seek the support of the Western Australian Planning Commission on this variation.
 - f. A sea container is considered to be used in a similar way to outbuildings and it is therefore considered appropriate to assess sea containers under the new suggested 'Non-Habitable Structures Policy'. The current sea container policy can therefore be rescinded on adoption of the proposed Non-Habitable Structures policy.

3. As a result of the issues expressed above, a new set of provisions guiding the development of Non-Habitable Structures was drafted and advertised for public and government comment. At the close of advertising, 2 submissions were received, one from the Department of Planning and one from a local building company. The submissions are summarised as per an attached Schedule of Submissions.

4. The Department of Planning (DOP) supported variations to the Residential Design Codes in relation to building floor areas. The DOP, however, indicated concern in relation to the title change from 'Outbuilding Policy' to 'Non-Habitable Structures Policy' and the support being given for the development of non-habitable structures (outbuildings) on vacant lots.
5. The Department of Planning reasons for concern relates to:
 - a variation from the R-Codes defined term 'Outbuilding'; and
 - a variation from the definition of outbuilding, which is '*an enclosed non-habitable structure that is detached from any dwelling*'.
6. The building company is objecting to the new provision 2b), which states:

Development of a non habitable structure on a vacant lot that is zoned Residential, Tourist Residential, Future Urban, Residential Development, Special Residential or Special Rural shall not be considered unless...a Building Permit for a dwelling has been issued by the City.
7. Reasons for the building company objecting include:
 - This is too onerous a requirement; and
 - The requirement takes away the opportunity for a landholder to develop in stages when they can afford to (i.e. buy land, develop non-habitable structure and then develop residential dwelling).
8. The building company suggested that; instead of requiring a building permit for a dwelling, planning approval should be sought to assess the location of a dwelling and non-habitable structure, to ensure that the non-habitable structure is located to allow space for a future dwelling.

DISCUSSION

Purpose of new provision 2b)

9. The new provision, which applies to Residential, Tourist Residential, Future Urban, Residential Development, Special Residential or Special Rural zoned properties and requires a building permit for a dwelling prior to supporting a non-habitable structure has been introduced for the following reasons:
 - a. The community expressed concern that a non-habitable structure on a vacant property will impact the neighbourhood from a visual and land-use perspective; and
 - b. The community has on occasions expressed a need to have a non-habitable structure to store equipment while they build a dwelling.

Visual Amenity – Residential Streetscapes

10. Residential streetscapes are characteristic of a residential dwelling located adjacent to the street with non-habitable structures located either alongside or behind the dwelling. A non-habitable structure developed as a standalone structure on a lot (without a dwelling) is considered inappropriate as the stand alone structure is a variation from the standard streetscape, which will potentially create visual and land-use conflict.

Land-use – Residential Lots

11. The purpose of a residential lot is to cater for human habitation. This occurs via the development of a dwelling. Non-habitable structures provides for storage units in association with the human habitation that is occurring within the dwelling. A non-habitable structure developed without any intent to act as an incidental use to the dwelling is not in keeping with the predominant “residential “ land use (human habitation).

Building Permits

12. For a landholder to acquire a building permit, a substantial amount of financial resource needs to be outlaid:
- detailed plans need to be drawn by an architect/designer,
 - a builder needs to be nominated – this often requires a deposit to be outlaid and a contract negotiated;
 - alternatively to become an owner builder, fees need to be paid to the Builders Registration Board;
 - application fees need to be paid to the Local Government.

Conclusion

13. As expressed above:
- the community is adamant that an outbuilding developed on a lot without a dwelling will impact on the visual and land-use characteristics of their neighbourhood;
 - an outbuilding developed just prior to a dwelling could facilitate the development of the dwelling; and
 - by requiring that a building permit for a dwelling is issued prior to supporting a non-habitable structure, because of the resources outlaid (time, finance, contracts), it would be rare for the owner not to proceed with the development of the dwelling.

GOVERNMENT CONSULTATION

14. The Department of Planning was requested to make comment as the proposed amendments are not consistent with the State Planning Policy 3.1 - Residential Design Codes. Refer to the Schedule of Submissions (attachment), which summarises the Department of Planning comments.

PUBLIC CONSULTATION / ENGAGEMENT

15. The Council resolved to advertise amendments to the City’s Policy Manual, and subsequently an advertisement was placed once a week for two consecutive weeks in the local newspaper and letters were sent to local builders inviting them to make comment. One submission was received from the public – refer to the Schedule of Submissions (attachment), which summarises comments.
16. Following final endorsement, details thereof shall be advertised publicly and a copy kept with the scheme documents (Policy Manual) for inspection during normal office hours.

STATUTORY IMPLICATIONS

17. Clauses 6.9 of the City of Albany Town Planning Scheme 3 and 7.21 of Town Planning Scheme 1A set out the processes to adopt and modify town planning scheme policies and also provides direction on what function the policies have in the decision-making process. The Policy may only be altered or rescinded by:
- (a) Preparation and final adoption of a new policy, specifically worded to supersede an existing policy; and
 - (b) Publication of a formal notice of rescission by the Council twice in a newspaper circulating in the area.
18. As per the above requirements, the new ‘Non-Habitable Structures Policy’ has been developed and advertised to supersede the existing Outbuilding and Sea-Container Policies.

STRATEGIC IMPLICATIONS

19. The amendments are consistent with the City’s Strategic Plan as follows:
Governance: The City of Albany will be an industry leader in good governance and service delivery.

POLICY IMPLICATIONS

20. After the advertising period has been completed and the amended Policy Manual is re-presented to Council for final consideration, Council will need to formally rescind the existing sea container policy.
21. This has been included as a resolution to be voted on by the Council.

RISK IDENTIFICATION & MITIGATION

The risk identification and categorisation relies on the City’s Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Organisational Operations Poor decision making as a result of peculiarities, inconsistencies and lack of provisions in the City’s Policy Manual.</i>	<i>Likely</i>	<i>Medium</i>	<i>Medium</i>	<i>Adopt amendments to the Policy Manual to solve peculiarities, inconsistencies and lack of provisions.</i>

FINANCIAL IMPLICATIONS

22. There are no financial implications related to this item.

LEGAL IMPLICATIONS

23. There are no legal implications related to this item.

ALTERNATE OPTIONS

24. Council has the options of resolving:
- a. Not to support any changes to the Policy Manual;
 - b. To support the advertised amendments to the Policy Manual, which include amendments to the Outbuilding Policy and rescinding the Sea Containers Policy;
 - c. To support amendments to the Policy Manual, including amendments recommended as a result of considering government and public comments;

SUMMARY CONCLUSION

25. The Council resolved to advertise amendments to their Policy Manual, which included modifications to the Outbuilding Policy and rescinding the Sea-Containers Policy. At the close of advertising:
- one submission requested that the new proposed Clause 2b), which requires a building permit for a dwelling being issued prior to considering an application for an outbuilding on a vacant lot, be withdrawn;
 - the other submission supported variations to the Residential Design Codes for floor areas and requested that the original policy name 'Outbuilding' be kept and a requirement included to - not support the development of outbuildings on vacant lots.
26. In the interest of the community and for ease of control, it has been recommended that:
- Non-habitable structures be supported on vacant lots subject to a building permit for a dwelling being issued; and
 - All non-habitable structures (carports, outbuildings, sea-containers, shade houses and gazeboes) are assessed under the one policy titled 'Non-Habitable Structures'.

Consulted References	:	Local Planning Scheme 1A and 3 Policy Manual
File Number (Name of Ward)	:	City of Albany
Previous Reference	:	OCM 19/04/11 - Item 1.1 (Adoption of Final version of Policy Manual). OCM 28/08/12 – Item 2.11 (Consideration of amendments to Local Planning Scheme 1A And 3 Policy Manual For Policy 2a – Outbuildings – It was resolved to 'lay the item on the table'). OCM 20/12/12 – Item 2.3 (Resolved to support the advertising of proposed amendments to Local Planning Scheme 1A And 3 Policy Manual).



City of Albany

Planning Policy

NON-HABITABLE STRUCTURES

(i.e. Outbuildings, Sheds, Gazeboes, Carports, Sea-containers, Shade Houses)

Version: March 2013
Author: Planning and Development Services
File Ref: ? | Synergy Ref: <Insert >

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Version Control

Version	Date	Status	Distribution	Comment
1	December 2012	Draft - Advertising	Internal/External	
2	March 2013	Draft – Final	Internal/External	

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City of Albany - NON-HABITABLE STRUCTURES POLICY

(i.e. Outbuildings, Sheds, Gazeboes, Carports, Sea-containers, Shade houses)

1. Objective

1. To achieve a balance between providing for various legitimate storage needs of residents whilst minimising any adverse impacts non-habitable structures may have on the locality.

2. Scope

1. Non-habitable structures include structures that are not attached to a dwelling and commonly known as outbuildings, sheds, gazeboes, carports, sea containers and shade houses.
2. Garden structures (i.e. structures without a solid roof - pergolas with shade cloth and arbours) are considered exempt from the provisions of the policy.
3. This policy applies to non-habitable structures on lots designated for 'Residential', 'Tourist Residential', 'Future Urban', 'Special Residential', 'Special Rural', 'Rural Village', Yakamia Creek, 'Rural' (<4ha) and 'Conservation' purposes. This Policy does not apply to non-habitable structures on lots designated 'Rural' (>4ha), 'Industrial' or 'Commercial'.
4. Setbacks for non-habitable structures in the 'Residential', 'Tourist Residential', 'Future Urban' and 'Residential Development' zones are to conform to the Table 1, 2a or 2b of the Residential Design Codes WA. Setbacks for non-habitable structures in the 'Rural', 'Conservation', 'Special Rural', 'Special Residential' and 'Rural Village' zones are to comply with the provisions listed in the scheme applicable to each area. Where requirements are not clearly defined, compliance shall be in accordance with the objective of this policy.
5. A non-habitable structure with a floor area of 10m² or less and under 2.4m in height is considered exempt from the provisions of the policy (i.e. small garden shed). A second non-habitable structure with a floor area of 10m² or less and under 2.4m in height is to be assessed in accordance with the Non-habitable structure Policy.



3. Definitions

“Reflective Materials” includes factory applied finishes such as zincalume, galvabond and light colorbond colours such as white, off-white and surfmist.

“Height” is the height of the non-habitable structure as measured vertically from the natural ground level to the highest point of the building above that point, as stipulated in the Residential Design Codes of Western Australia, and not the measurement taken above the proposed finished floor level of the non-habitable structure.

“Maximum Floor Area” the combined total floor area of all existing and proposed non-habitable structures on a lot.

4. Policy Provisions

1. Subject to provision 2 (below), non-habitable structures do not require planning approval.
2. Except as otherwise provided, the following development requires planning approval:
 - a) Development of a sea container;
 - i. A sea container shall not be considered unless:
 - Plans indicate re-development measures to make more visually appealing. This can be done by painting and/or re-cladding to a colour and design similar to surrounding development; and
 - neighbours comments have been considered.

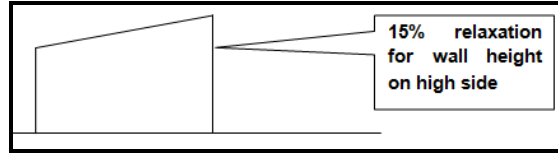
Screening by planting trees or shrubs or by any other methods shall be considered to reduce the visual impact of the sea container.

- b) Development of a non habitable structure on a vacant lot that is zoned Residential, Tourist Residential, Future Urban, Residential Development or Special Residential shall not be considered unless:
 - A Building Permit for a dwelling has been issued by the City; and
 - neighbours comments have been considered.

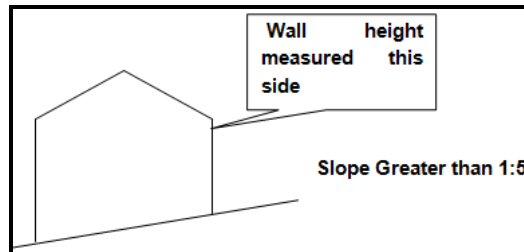
Screening by planting trees or shrubs or by any other methods may be required to reduce the visual impact of the non-habitable structure on the vacant lot.

- c) Where development varies from the following policy requirements.
 - i. Except as provided below, the size of a non-habitable structure shall comply with the provisions in Table 1.

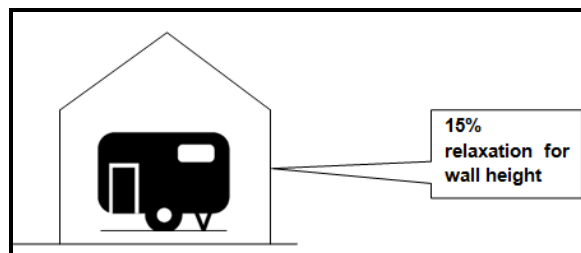
- For mono-pitched (skillion) roofed non-habitable structures (not ridged roofs), a relaxation of the height of the wall (on high side - up to 15%) may be supported; or



- where the land upon which the non-habitable structure is to be erected has a slope greater than 1 in 5, the height of the wall shall be measured on the wall that is located at the higher point of the site where the land has not been subject to cut and/or fill; or



- where in order to accommodate larger boats, caravans or motor-homes, the applicant is to demonstrate proof of ownership of such vehicle/vessel and a relaxation of the height of the wall (up to 15%) may be supported on Residential / Tourist Residential / Future Urban / Residential Development Zone lots that are less than 4000m²; or



- A discretionary allowance of an extra 5m² over the maximum permitted floor area may be considered in cases where the stated maximum floor area allowed is unworkable due to the dimensions of a standard design.
- ii. Non-habitable structures shall be located away from the primary or secondary street areas (i.e. to the rear of the lot).
 - iii. Non-habitable structures that exceed 60m² in floor area shall be constructed out of non-reflective materials.

**TABLE 1: NON-HABITABLE STRUCTURE SPECIFICATIONS**

Zoning	Max. Wall Height	Max. Ridge Height	Max. Floor Area (combined floor area of all non-habitable structures on lot)
Residential / Tourist Residential / Future Urban / Residential Development Zone (Lots < 450m ²)	2.4 metres	3 metres	<60m ² in area or 10% in aggregate of the site area, whichever is the lesser
Residential / Tourist Residential / Future Urban / Residential Development Zone (Lots 450m ² - 600m ²)	3 metres	4.2 metres	<60m ² in area or 10% in aggregate of the site area, whichever is the lesser
Residential / Tourist Residential / Future Urban / Residential Development Zone (Lots 600m ² - 1000m ²)	3 metres	4.2 metres	100m ²
Residential / Tourist Residential / Future Urban / Residential Development Zone (Lots 1000m ² – 2000m ²)	3 metres	4.2 metres	120m ²
Residential / Tourist Residential / Future Urban / Residential Development Zone (Lots 2000m ² – 4000m ²)	3 metres	4.5 metres	150m ²
Residential / Tourist Residential / Future Urban / Residential Development Zone (Lots > 4000m ²)	3.5 metres	4.5 metres	170m ²
Yakamia Creek Zone (Lots < 3000m ²).	3.5 metres	4.5 metres	120m ²
Yakamia Creek Zone (Lots > 3000m ²).	3.5 metres	4.5 metres	150m ²
Special Residential Zone (Lots < 4000m ²)	4.2 metres	4.8 metres	150m ²
Special Residential (Lots > 4000m ²)	4.2 metres	4.8 metres	170m ²
Special Rural Zone (Lots < 2ha)	4.2 metres	4.8 metres	200m ²
Special Rural Zone (Lots 2ha to 4ha)	4.2 metres	4.8 metres	220m ²
Special Rural Zone (Lots > 4ha)	4.2 metres	4.8 metres	240m ²
Rural Village Zone (Lots < 4000m ²)	3 metres	4.5 metres	150m ²
Rural Village Zone (Lots > 4000m ²)	4.2 metres	4.8 metres	170m ²
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Conservation Zone (Lots > 2ha)	4.2 metres	4.8 metres	220m ²

Note: Prior to considering an application for a non-habitable structure that proposes a variation to this policy, it is recommended that the Council first consider varying the policy. In order to do so, the Council will need to seek comment from the public and the Western Australian Planning Commission. Alternatively, it is recommended that such an application be refused.

Schedule of Submissions – Non Habitable Structures Policy

As a result of advertising, two submissions were received. The following schedule has been developed as a means to review comments made.

Non-Habitable Structures Policy			
Submissions	Comment - Submission	Comment – City of Albany	Recommendation – City of Albany
Koster's Steel Constructions Pty Ltd	<p>This submission received suggests that the new proposed provision 2b) is too onerous. Provision 2b) requires that a building permit for a dwelling is issued prior to considering an application for a non-habitable structure on a vacant lot.</p> <p>The submission suggests that, any adverse impact that a non-habitable structure developed without a dwelling may have on the character of an area can be resolved through planning assessment alone. Where the intent is to build a non-habitable structure on a vacant lot, the developer should be required to apply for planning approval, which will include details showing the location and design of a dwelling and non-habitable structure on the lot. The planning approval notice can ensure that the non habitable structure is located and designed in keeping with the location and design of an indicative dwelling.</p>	<p>The process suggested by this submission may prove that enough space has been left for a dwelling to be built at the front of a lot and that the non-habitable structure is located at the side or rear of the lot.</p> <p>Unfortunately it facilitates development of a non-habitable structure on a vacant lot without a dwelling being constructed in the short term.</p> <p>Where a street is predominantly occupied by residential dwellings, a non-habitable structure developed without a dwelling has the potential to detrimentally impact the streetscape and attract unfamiliar uses to a residential neighbourhood (i.e. commercial storage).</p> <p>In order to obtain a building permit for a dwelling, a builder needs to be nominated, detailed drawings need to be drafted and an application needs to be submitted, all at a substantial cost. Because of the high</p>	<p>The City recommends that the new provision 2b) is kept and applied to Residential, Tourist Residential, Future Urban, Residential Development and Special Residential zoned lots but not Special Rural zoned lots.</p> <p>Because of the size and general land use characteristics of Special Rural lots (i.e. 2ha lots used for special rural activities - horse riding), a non habitable structure developed without a dwelling is not expected to create land use conflict or impact on the streetscape.</p> <p>It is therefore recommended that the clause 2b is changed to read as follows:</p> <p><i>Development of a non habitable structure on a vacant lot that is zoned Residential, Tourist Residential, Future Urban, Residential Development or</i></p>

		<p>costs and efforts involved, it's almost guaranteed that the dwelling will be constructed within a required 2 year period.</p>	<p><i>Special Residential shall not be considered unless...a Building Permit for a dwelling has been issued by the City.</i></p>
<p>Department of Planning</p>	<p>Part 5 of the State Planning Policy 3.1 – Residential Design Codes require local planning policies that affect residential development to be consistent with the provisions of the codes. Some of the maximum floor areas nominated in the non-habitable structures policy is in-excess of the maximum stated in the Residential Design Codes.</p> <p>The Department of Planning considered the variations to Residential Design Codes to be acceptable. The reason being, Albany accommodates a 'sea-change' lifestyle, which includes a need to accommodate boats and caravans in larger outbuildings.</p> <p>The Department of Planning are of the opinion that:</p> <ul style="list-style-type: none"> the title 'Outbuilding' should be kept as it is a defined term in the R-Codes; and outbuildings should not be supported where a dwelling does not exist as a means to comply with the outbuilding definition, which is <i>'an enclosed non-habitable structure that is <u>detached from any dwelling</u>'</i>. 	<p><u>Policy Title</u> The new policy title was changed from 'Outbuilding' to 'Non-Habitable Structure' to include assessment of carports and to enlighten the public of the appropriate use being non-habitable.</p> <p>The R-Codes defines a carport as:</p> <p><i>'a roofed structure...unenclosed...'</i></p> <p>Because an outbuilding is defined differently (<i>'enclosed non-habitable structure'</i>), a landholder can rightly apply for an outbuilding in accordance with maximum size limits and in addition, a carport. The maximum size limits applied and visual amenity are potentially eroded.</p> <p>In-order to limit the total size of non-habitable structures (carports, outbuildings, sheds, gazeboes, sea-containers and shade houses) under the one policy, it is considered appropriate to assess the structures under the new heading 'Non-Habitable Structures'.</p> <p>Because an outbuilding</p>	<p>Maintain the title 'Non-Habitable Structures' and the new provision 2b), which supports non-habitable structures on vacant lots where a building permit for a dwelling has been issued.</p>

		<p>is defined as being a <i>non-habitable structure</i> the new name is not considered to be a variation from the intent of the term 'Outbuilding'.</p> <p>Customers often enquire whether or not they can live in an outbuilding. There are cases where persons unknowingly live in outbuildings.</p> <p>In order to send a clear message to landholders that outbuildings are not for human habitation, it is considered appropriate that the policy title is changed to 'Non-Habitable Structures'.</p> <p><u>Development on Vacant Lots</u></p> <p>The public has sent a clear message to the City that it is not supportive of non-habitable structures developed as standalone structures on lots (without dwelling).</p> <p>In saying this, landholders value the storage potential of an outbuilding on a lot whilst a dwelling is being constructed.</p> <p>In order to find a balance between community needs, it is considered appropriate that a non-habitable structure may be supported where a guarantee is given that a dwelling will be constructed. A Building Permit is considered by the City to be an</p>	
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		<p>appropriate form of guarantee. In order to acquire a Building permit, a substantial amount of time, research and financial resource needs to be outlaid. There is the risk that a developer does not build the dwelling, however, the chance of a developer pulling out from a permit is considered to be very low.</p>	
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Government of **Western Australia**
Department of **Planning**

Great Southern Region

Your ref: LP.PLA.4/LT1369090

Enquiries: Deanne Sheppard

13 February 2013

Department of Regional Development and Lands
Lands Division
State Lands - South East
Locked Bag 2506
Perth, WA 6001

Attention:

Dear Adrian Nicoll,

City of Albany - Variation of residential design codes by local planning policy

I refer to your letter dated 2nd January 2013 seeking comment on the above-mentioned matter.

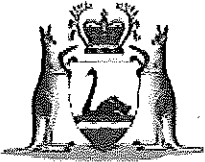
Part 5 of SPP 3.1 - Residential Design Codes requires local planning policies that affect residential development to be consistent with the provisions of the codes. Clause 5.3.1 of the codes allows variation or replacement of a number of provisions set out in parts 6 and 7 of the codes through the provisions of a local planning policy but Provision 6.1.10 is not nominated. However, Clause 5.3.2 provides for variation of any other acceptable development provision where it can be demonstrated to the satisfaction of the WAPC that there is a need specific to a particular region that warrants such a variation.

The City of Albany is seeking a variation to the maximum area of non-habitable structures. The acceptable development provisions limit the maximum area of an outbuilding to 60m² or 10% of the site area, whichever is lesser. Although appropriate to a metropolitan setting where lot sizes of 600m² or less are likely to predominate, the provisions do not adequately cater for the 'seachange' lifestyle of Albany where lots are generally larger and boat and caravan ownership are relatively common. The proposed R Code variation addresses a need specific to the Albany region and is supported.

The policy will change reference for 'Outbuilding' to Non-Habitable structure. The R-code definition of an outbuilding is:

'An enclosed non-habitable structure that is detached from any dwelling'. In order to maintain consistency it would be recommended that the term Outbuilding is maintained as it is a defined term.

The policy will allow the City to consider applications for structures on vacant lots, where a building permit has been issued for a dwelling. Although this is not a reference within the R-Code it is recommended that the development of outbuildings remains ancillary to an existing dwelling.



Government of **Western Australia**
Department of **Planning**

If you have any further queries, please contact Deanne Sheppard (Planning Officer) on 9892 7309 or by email at deanne.sheppard@planning.wa.gov.au

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Steve Petersen', written over a thin, curved line.

STEVE PETERSEN
REGIONAL MANAGER
GREAT SOUTHERN REGION
REGIONAL PLANNING & STRATEGY



Wednesday, 30th January 2013

City of Albany

Att: Adrian Nicoll

Re: Response to Draft Local Planning Scheme Policy - Non-Habitable Structures

Thank you for the opportunity to comment on the above policy – especially for sending out correspondence directly to us.

The clarification and updating of the policy is a positive initiative. It is good to see the background and the policy take into consideration the particular needs and circumstances of the residents and land-owners of Albany.

There is only one item in the new policy that we feel needs addressing;

4. Policy Provisions, item 2 b) "Development of a non-habitable structure on a vacant lot that is zoned , Tourist Residential, Future Urban, Residential Development, Special Residential or Special Rural shall not be considered unless:

- A Building Permit for a dwelling has been issued by the City; and
- Neighbours comments have been considered."

As noted in Discussion point 6 of the Planning and Development Services document, we accept that the lot needs to be designed to take into consideration the position of the Non-Habitable Structure allowing for the future building of a dwelling, but we feel that the requirement of a "full" building permit, which would mean that the land-owner will, in most cases, have had to engage a Builder and have a full building contract, to be too onerous. This takes away the opportunity for local residents to develop land as they can afford it. For example purchasing land, building a Non-Habitable structure, then planning and building the dwelling.

As Council, and locals, we should be encouraging residents to spend what they can afford and save up for the next step without going into a high debt situation by having to try and fund the total building / development of land in one hit.

Our suggestion would be that "planning" approval for the location of the dwelling and Non-Habitable structure be sought when applying for a building permit for the Non-Habitable structure on vacant land. This would give evidence that the Non-Habitable structure does not "adversely impact the street scape, character and environmental attributes of the area". (Quote from point 6)

We trust that you will take this concern seriously and look forward to an amendment being included in the final policy.

Thank you for your consideration

Yours sincerely

Jim Dijkstra – Director
Koster Steel Construction Pty Ltd

A handwritten signature in black ink, appearing to be "Jim Dijkstra", written over a white background.

