



CITY OF STIRLING

***Local Planning Scheme No. 3
Amendment No. 32***

***“Prohibit Multiple Dwellings on
Residential Zoned Lots Coded
Below R60”***

INTRODUCTION

AMENDMENT PURPOSE

To consider an Amendment to the City's Local Planning Scheme No 3 to prohibit Multiple dwellings on Residential zoned lots coded below Residential R60.

BACKGROUND

On 10 July Council resolved:

- 1. That an Amendment to Local Planning Scheme No.3, to prohibit 'Multiple Dwellings' on Residential zoned lots coded below R60, BE INITIATED.**
- 2. That an Amendment to Local Planning Scheme No.3, to increase the parking requirements for Multiple Dwellings on Residential zoned lots coded below R60 (as per Grouped Dwelling parking requirements), BE INITIATED.**
- 3. That Council NOTES that City officers will monitor the impact of 'Multiple Dwellings' on Residential zoned lots coded below R60 over the next 12 months.**
- 4. The City of Stirling REQUESTS that the State Government via WAPC amend its new Multi Unit Housing Code provisions as contained in the Residential Design Codes to only those areas coded R60 or higher.**
- 5. The Minister for Planning and all State Members of Parliament whose Electorates' cover the City of Stirling be ADVISED of Council's decision.**

Council formed the opinion that the impact of Multiple Dwellings in Medium Density areas coded under R60 to be detrimental to the amenity of these residential communities.

RELEVANT DOCUMENTS

On 10 July 2012, Council considered the following report:

10.1/CP4 NOTICE OF MOTION - COUNCILLOR PROUD - PROHIBIT
MULTIPLE DWELLINGS ON RESIDENTIAL ZONED LOTS CODED BELOW R60

Report Information

Location: City Wide
Applicant: Not Applicable
Reporting Officer: Acting Manager City Planning
Business Unit: City Planning
Ward: City Wide
Suburb: City Wide

Authority/Discretion

Definition

- Advocacy *when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive *the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative *includes adopting local laws, town planning schemes & policies. Review when Council reviews decisions made by Officers.*
- Quasi-Judicial *when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*
- Information Purposes *includes items provided to Council for information purposes only, that do not require a decision of Council (i.e. - for 'noting').*

Council Resolution

0710/004

Moved Councillor Italiano, seconded Councillor Proud

- 1. That an Amendment to Local Planning Scheme No.3, to prohibit 'Multiple Dwellings' on Residential zoned lots coded below R60, BE INITIATED.**
- 2. That an Amendment to Local Planning Scheme No.3, to increase the parking requirements for Multiple Dwellings on Residential zoned lots coded below R60 (as per Grouped Dwelling parking requirements), BE INITIATED.**
- 3. That Council NOTES that City officers will monitor the impact of 'Multiple Dwellings' on Residential zoned lots coded below R60 over the next 12 months.**
- 4. The City of Stirling REQUESTS that the State Government via WAPC amend its new Multi Unit Housing Code provisions as contained in the Residential Design Codes to only those areas coded R60 or higher.**
- 5. The Minister for Planning and all State Members of Parliament whose Electorates' cover the City of Stirling be ADVISED of Council's decision.**

The motion was put and declared CARRIED (7/3).

For: Councillors Boothman, Ferrante, Proud, Re, Sargent, Stewart and Willox.

Against: Councillors Italiano, Jenkinson and Michael.

Reason for change

Council forms the opinion that the impact of Multiple Dwellings in Medium Density areas coded under R60 to be detrimental to the amenity of these residential communities.

Committee Recommendation

That the item relating to Notice of Motion - Councillor Proud - Prohibit Multiple Dwellings on Residential Zoned Lots Coded Below R60 be REFFERED to the Council meeting to be held 10 July 2012 to enable further information to be provided to Councillors.

Officer's Recommendation

- 1. That an Amendment to Local Planning Scheme No.3, to prohibit 'Multiple Dwellings' on Residential zoned lots coded below R60, NOT BE INITIATED.**
- 2. That Council NOTES that City officers will monitor the impact of 'Multiple Dwellings' on Residential zoned lots coded below R60 over the next 12 months.**

Report Purpose

To consider the need to initiate an Amendment to Local Planning Scheme No.3 to prohibit 'Multiple Dwellings' on Residential zoned lots coded below R60.

Relevant Documents

Attachments

Nil.

Available for viewing at the meeting

Plans of the Multiple Dwellings approved under the revised R-Codes.

Background

At the Council meeting held 29 May 2012 Council resolved (Council Resolution Number 0512/097) as follows:-

"That a report be PRESENTED to the Planning and Development Committee in respect to initiating an Amendment to Local Planning Scheme No 3 to prohibit 'Multiple Dwellings' on Residential zoned lots coded below R60".

The purpose of this report is to address the issues involved in respect of Council's resolution.

Comment

1. Transition from DPS2 to LPS3

On 14 December 2004 Council (Item 11.1/PL 11) adopted the draft District Planning Scheme No.3 (later changed to Local Planning Scheme No.3 - LPS3) for forwarding to the Western Australian Planning Commission for consent to advertise. The draft Scheme was prepared with the primary intent of bringing the then current District Planning Scheme No.2 (DPS2) in line with State Legislation, Strategies, Policies and other documents (i.e. Model Scheme Text, Town Planning Regulations, Residential Planning Codes, etc).

The draft LPS3 Scheme Text as adopted by Council in December 2004 contained a Note in the Zoning Table which read - "*Multiple Dwellings ... not permitted in areas coded R40 or below*" (that is, Permitted in R50 or above). The then current DPS2 Scheme Text showed '*Multiple Dwellings as not permitted below R60*'. It should be noted that the only R50 coded land in the City was a relatively small number of lots east of Wanneroo Road south of Reid Highway in Westminster. In effect, the difference between the then current DPS2 and the draft LPS3 in this regard was considered relatively minor.

The draft LPS3 was referred to the Western Australian Planning Commission and officers from the Department of Planning and Infrastructure (now Department of Planning) subsequently advised the City in late 2005 that a number of modifications needed to be made to the Scheme prior to it being advertised for public comment. The list of modifications was comprehensive and included changes to the Zoning Table. On 19 September 2006 Council resolved (Item 11.1/PS1) that "*the revised draft District Planning Scheme No. 3 Scheme Text and Scheme Maps modified in response to the suggestions of the Department for Planning and Infrastructure ... be adopted and forwarded to the Western Australian Planning Commission for approval to be advertised for public comment*". Over the ensuing months the Department officers provided comments and requested further modifications to the documents prior to presenting the Scheme to the Commission and Minister for approval to advertise. The City subsequently received consent from the Commission on 30 October 2007 to advertise the draft Scheme.

The draft Scheme version approved by the Commission to be advertised contained a Note in the Zoning Table which read - "*Multiple Dwellings not permitted in areas coded R35 or below*". This requirement was in line with the provisions of the Residential Design Codes. The difference between the original draft Scheme (December 2004) and

the subsequent version (October 2007) was that Multiple Dwellings would be permitted in R40 coded areas.

The draft Scheme was subsequently advertised for public comment between 2 November 2007 and 8 February 2008. It is significant to note that no submissions were received in respect of this specific aspect of the Scheme during the advertising period. On 20 May 2008 Council considered the modified Scheme (and the submissions received) and resolved that the matter be heldover to allow a workshop for further consideration by Councillors (the workshop was subsequently held 26 May 2008).

Following the workshop and consideration of all the submissions received, on the 17 June 2008 Council adopted (Council Resolution Number 0608/070) the Scheme and forwarded the documents to the Commission and Minister for final approval. The Note contained in the Zoning Table ("*Multiple Dwellings not permitted in areas coded R35 or below*") was not modified and subsequently retained in the gazetted version of the Scheme (6 August 2010).

2. R-Codes - Multiple Dwelling Provisions

In late 2009 the Western Australian Planning Commission released draft changes to the Residential Design Codes (R-Codes) dealing with Multiple Dwellings (commonly referred to as the *Multi Unit Housing Code*) for public comment. On 16 February 2010 Council considered the proposed changes and subsequently resolved (Council Resolution Number 0210/064):-

"That the Western Australian Planning Commission be:

- a. *ADVISED that the City generally supports the proposed changes to the State Planning Policy 3.1 - Residential Design Codes to include a new Multi Unit Housing Code subject to these being applicable to only those areas coded R60 or higher.*
- b. *FORWARDED a copy of the report considered by Council; and*
- c. *REQUESTED to review the operation of the Multi Unit Housing Code within 18 months of its operation to better assess its impact and address any concerns which may arise."*

The Council formed the view that the draft Multi-Unit-Housing Code should only apply in areas coded R60 or higher, as per the provisions of the City's previous DPS2. However, the City's Local Planning Scheme No.3 was gazetted on 5 August 2010 which permitted Multiple Dwellings in areas coded above R35.

The Western Australian Planning Commission subsequently adopted the new Multi Unit Housing Code in November 2010 without the modification proposed by the City (the Commission wished to maintain uniformity within the R-Codes and was not prepared to vary the Codes in this instance).

In the previous version of the R-Codes in respect of Multiple Dwellings, the density was calculated by a ratio of land area per dwelling (e.g. in R40 - 1 dwelling per 220m² of land area). The new Multi Unit Housing Code provisions in the R-Codes base the number of dwellings on plot ratio (i.e. ratio of floor space to land area) with no restriction on the number of dwellings (other than requiring a diversity of unit types for developments of 13 or more dwellings). Generally, this has the potential to allow a greater number of dwellings on a site which would otherwise have not been permitted.

The Western Australian Planning Commission advised that a consultation strategy was undertaken with key users of the existing R-Codes, which included Local Government and development industry practitioners. The consultation period was undertaken to inform the development of the draft R-Code provisions and assist in the identification of a more appropriate structure and format. The key findings from the consultation were:-

- Strong support for improved operating provisions for multi unit development;
- General consensus that the form and operation of the R-Codes were acceptable for the lower density suburban scale developments;
- Shared sentiment that the R Codes were not designed for activity centres;
- Strong desire by local government, to be able to override any part of the Code with local planning provisions, to account for character spatial setting and values of different localities;
- Strong desire by the development industry to remove density control as their usage acts against the objectives of Network city and creates a less affordable housing product;
- The format of the R-Codes with 'Acceptable Development' provisions and 'Performance Criteria' were noted as being helpful in creating certainty but acknowledged as not necessarily being the best design outcome. Applicants often seek compliance with as many acceptable development provisions which can lead to a homogeneous building appearance;
- There is a need to provide better guidance for residential development within mixed use precincts and provide additional information to assist in the development of 'good design' outcomes;
- The R-Codes address different types of development from single houses to multi storey developments which has a limiting affect particularly on the higher density developments. Some issues need to be dealt with differently as the objectives and expectations change significantly with the different building form;
- Any new code should be drafted with usability in mind bearing in mind the difficulty for first time users of the current Codes; and
- The development industry identified that Councils were often unwilling to rezone land without an additional level of planning in place (structure plan/guidelines) which could be perceived as a general lack of faith in the development outcome that is expected by high density development under the R-Codes.

The objectives of the new Multi Unit Housing Code are:-

- To expand the permissible range of housing within individual residential codings so as to more effectively meet the housing needs of the community;
- To facilitate the development and redevelopment of existing housing sites;
- To reduce the disincentive for smaller dwellings in favour of increased diversity of housing within a framework of form-based design guidance;
- To improve the standard of design for multi-unit housing, and encourage the development of housing with performance standards appropriate to form; and
- To build the capacity of local governments to interpret and apply new methods for assessment and promotion of multi-unit housing and mixed use development.

3. Impact of Multi Unit Housing Code

It appears that the main concerns in respect of Multiple Dwellings relate to the R40 coded areas (as previously mentioned, the number of R50 coded sites is relatively minor). In this context the following comments are made:-

a. **Applications Received**

The following developments have been approved for Multiple Dwellings since LPS3 came into operation in August 2010, wherein Multiple Dwellings became permitted in areas coded higher than R35:-

- DA10/3427, House Number 11, Andrew Street, Scarborough. 701m², zoned R40. Four (4) multiple (4x3 bed) dwellings approved. Maximum of three (3) grouped dwellings would be permitted;
- DA11/1847, House Number 158, Powell Street, Joondanna. 837m² zoned R40. Six (6) multiple (4x2 bed and 2x1) dwellings approved. Maximum of three (3) grouped dwellings would be permitted;
- DA11/2594, House Number 123, Waterloo Street, Tuart Hill. 1012m² zoned R40. 10 multiple dwellings (8x1 bed and 2x2 bed) approved. Maximum of four (4) grouped dwellings would be permitted;
- DA11/3169, House Number 192, Albert Street, Osborne Park. 2023m² zoned R40. An additional eight (8) multiple dwellings (6x1 bed and 2x2 bed) approved to the existing 10 multiple units on site. Maximum of nine (9) grouped dwellings would be permitted; and
- DA12/0151, House Number 216, Flamborough Street, Doubleview. 1290m² zoned R40. 11 multiple dwellings (8x2 bed and 3x1 bed) approved. Maximum of five (5) grouped dwellings would be permitted.

The City has a number of Multiple Dwelling applications awaiting assessment. However, there has not been the expected initial rush of applications for Multiple Dwellings that was originally envisaged, but the number of applications now being received appears to be increasing.

b. **Housing Choice**

In the Residential R30 and R40 coded zones the floor area of Grouped Dwellings being constructed has slowly increased in size over recent years, with average often exceeding 150m². These dwellings are often occupied by one (1) to two (2) people only (who may well have sought a smaller unit if one had been available in the area). It should also be noted that the smaller dwellings are also likely to be more affordable (particularly for first time buyers and those other wishing to downsize). It may be argued that permitting Multiple Dwellings within the R40 coded, provides a better choice of housing to suit the needs of residents in accordance with the objectives of the Multi Unit Housing Code.

c. **Bulk and Scale**

The quality of Multiple Dwelling developments approved appears to be of a reasonable standard and provides more flexibility in design (and thereby achieving the objectives of the Multi Unit Housing Code). For example, the bulk and scale for Grouped Dwellings in R40 is likely to be greater than for Multiple Dwellings, as there is no maximum Plot Ratio for the Grouped Dwellings (the Plot Ratio for Multiple Dwellings is 0.6). For example, a brief assessment of the plot ratio being achieved in R40 and R50 Grouped Dwelling developments indicates that a similar (if not higher) plot ratio compared to Multiple Dwellings is being achieved. It appears that the smaller the lot, the greater the plot ratio being built.

Building heights for Multiple Dwellings are comparable to Grouped Dwellings (i.e. generally 6.0m) in R40 coded zones. Furthermore, the Front Street Setback requirements are identical in R40 coded zones and Secondary Street Setback requirements are actually greater (i.e. 1.5m rather than 1.0m).

It would be difficult to argue that Multiple Dwelling developments have a greater impact than Grouped Dwellings on an area from a bulk and scale point of view. From this perspective, there seems little justification to prohibit Multiple Dwellings on lots coded below R60.

d. **Parking**

The main difference between the development standards for Multiple Dwellings and Grouped Dwellings is the parking requirement (which appears to be of most concern to local residents). The difference between the parking standards may be summarised as follows:

- Grouped Dwelling requires 2.25 bays (0.25 is the visitor parking component); and
- Multiple Dwelling requires 1.25 bays if less than 75m²; 1.5 bays if greater than 75m² and 1.75 bays if greater than 110m² (inclusive of 0.25 bays for visitor parking). The requirement may be reduced if the development location is within 800m of a train station.

From a planning viewpoint, reduced parking requirements for Multiple Dwellings is generally considered in-line with the principles of providing a greater range of affordable dwelling types and sizes (that is, increasing the parking would make such dwellings less affordable). It should be noted that these requirements are standard provisions within the R-Codes and are not normally able to be varied by the City.

To do so, the City would need to amend the Scheme accordingly. However, it is unlikely that the Western Australian Planning Commission would support such an Amendment.

4. **Options**

Should Council wish to better control (or lessen) the potential impact of Multiple Dwellings on the amenity of local streets, a number of Options may be considered. These being:-

- a. Option 1: Amend LPS3 to prohibit Multiple Dwellings below R60 (as per the Notice of Motion);
- b. Option 2: Amend LPS3 to increase parking requirements for Multiple Dwellings (refer earlier comment); and
- c. Option 3: Amend LPS3 to make Multiple Dwellings a Discretionary Use below R60 and prepare a Local Planning Policy to introduce additional requirements (e.g. minimum lot area before multiple dwellings could be considered, say 2000m²); minimum separation between multiple dwelling sites; say 150m, etc).

In summary, it is difficult to justify Option 1 as the differences in bulk, scale, height, etc are relatively minor and Option 2 addresses the main concern with such dwellings, but is unlikely to be supported by the WA Planning Commission. Option 3 would present the most flexibility for the City, but would require further research, analysis and preparation of appropriate standards. In this respect, City Officers could monitor the impact of such development over the next 12 months.

Strategic Implications

Goal 2: To plan, develop, enhance and maintain a quality built and natural environment based on sustainability principles.

Objective 2.1: Position the City as a flagship of sustainable urban local government, encouraging innovative, creative and inspirational built form and infrastructure.

SI 2.1.5: Develop and implement policies to support and promote sustainable building design.

Council adopted the Local Housing Strategy on 15 December 2009 (Council Resolution Number 1209/027) Item 10.2/CP3. The intended Outcomes of the Strategy accord with the principles of addressing Housing Needs and Housing Affordability and ensuring Design Quality of infill development.

Conclusion

The requirements for Multiple Dwelling developments provide more flexibility in design and are likely to achieve the original objectives of the Multi Unit Housing Code. On balance, in view of the lack of evidence demonstrating major issues with Multiple Dwellings and the small number of applications received, there appears little immediate need to amend the City's LPS3 at this stage.

However, it may be advantageous to monitor the impact of multiple dwellings over the next 12 months in order to assess the desirability of introducing additional requirements to better control such development.

PLANNING & DEVELOPMENT ACT 2005



CITY OF STIRLING

LOCAL PLANNING SCHEME NO 3 - AMENDMENT NO 32

Resolved that the Council, in pursuance of Section 75 of the Planning and Development Act, 2005 amends the above Town Planning Scheme by amending the Scheme Text to prohibit 'Multiple Dwellings' on Residential zoned lots coded below Residential R60.

Dated this

17

day of

September 2012

A handwritten signature in black ink, appearing to read 'Leah Jordan'.

CHIEF EXECUTIVE OFFICER

PLANNING & DEVELOPMENT ACT 2005



CITY OF STIRLING

LOCAL PLANNING SCHEME NO 3 - AMENDMENT NO 32

The City of Stirling Council under and by virtue of the powers conferred upon it in that behalf by the *Planning and Development Act, 2005* hereby amends the above Local Planning Scheme by:

1. Amending the Scheme Text by deleting 'Note: 1' of Table 1: Zoning Table and replacing it with the following:

"Note: 1. Multiple Dwellings - Not Permitted on land coded R50 or below."

PLANNING & DEVELOPMENT ACT 2005



CITY OF STIRLING

LOCAL PLANNING SCHEME NO 3 - AMENDMENT NO 32

Adopted by resolution of the Council of the City of Stirling at the meeting of the Council held on the 10 day of July 2012.



MAYOR

CHIEF EXECUTIVE OFFICER

Adopted for final approval by resolution of the City of Stirling at the Meeting of the Council held on the day of 201 and the Common Seal of the City of Stirling was hereunto affixed by the authority of a resolution of the Council in the presence of :

MAYOR

CHIEF EXECUTIVE OFFICER

Recommended/Submitted
for Final Approval

Delegated under S.16 of PD Act
2005

Date _____

Final Approval granted

MINISTER FOR PLANNING

Date _____