

# Local Planning Policy No 3

## Non Residential Uses in Residential Zones

September 2021



## Record of Adoption

Stage	Document Version	Approval Date
Draft for advertising	Version 1 May 2021	22 June 2021
Draft for Final Approval	Version 2 September 2021	28 September 2021

## Schedule of Modifications

No	Summary of Modifications	Document Version	Approval Date



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# 1. Introduction

## 1.1 Policy Objectives

The objectives of this Local Planning Policy are to:

- (a) Maintain the local character and amenity of residential areas;
- (b) Encourage non-residential uses to be located within close proximity to activity centres and areas that support a range of services;
- (c) Ensure that non-residential uses outside of activity centres are located on roads that can accommodate the additional traffic generated by the use;
- (d) Minimise the impacts of non-residential land uses on the amenity of surrounding landowners.

## 1.2 Background

Local Planning Policy No 3 – Non-Residential Uses in the Residential Zones replaces the following Local Planning Policies, in accordance with Clause 6(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015* Deemed Provisions:

- LPP 12 – Home Occupation
- LPP 13 – Child Care Premises
- LPP 16 – Medical Centres

This policy also incorporates provisions relating to the Parking of Commercial Vehicles within the Local Planning Scheme.

## 1.3 Application of the Policy

- (a) This Local Planning Policy is prepared, advertised and adopted pursuant to Part 2 Division 2 of the Deemed Provisions for Local Planning Schemes (as set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2) (Deemed Provisions)
- (b) Clause 3(5) and Clause 67(2)(g) of the Deemed Provisions state that the local government is to have due regard to a local planning policy in making a determination under the local planning scheme and applications for development approval.
- (c) This Local Planning Policy is applicable to the Residential, Canal and Rural Residential zones (hereby defined as 'residential area')



## 2. Medical Centre

### 2.1 Definition

A Medical Centre is defined within the local planning scheme as:

*means premises other than a hospital used by 3 or more health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care.*

An application for a medical centre within a residential area is to have regard to the provisions of this policy when submitted for assessment and determination by the local government.

### 2.2 Location

2.2.1 The following locations may be appropriate for the establishment of a medical centre:

- (a) A site that fronts (through direct access or via a parallel local road) onto a Major Road, District Integrator Road or Neighbourhood Connector Road, as identified on Figure 1;
- (b) Part of or within easy walking distance of commercial, recreation or community nodes and education facilities; or
- (c) A site well served by public transport.

2.2.2 It is unlikely that an application for a medical centre where the residential density coding is 'R5' or lower will be approved, due to the potential impact on the amenity of these areas.

### 2.3 Built Form

The built form of the proposed development shall be in accordance with the following:

- (a) The design of the development shall respect the character of the area having regard to land-use, building scale, built form and boundary setbacks;
- (b) The maximum building height, street walls/fences, street setbacks and lot boundary setbacks shall be in accordance with the Residential Design Codes for a residential dwelling.
- (c) Paths allowing pedestrian and universal access should be made with durable, non-skid surfaces and continuously provided across driveways; and
- (d) Signage shall be considered in accordance with Local Planning Policy No 2 - Signage.

### 2.4 Landscaping

Landscaping is to be in accordance with the following requirements:

- (a) A minimum of 10% of the site area shall be landscaped.
- (b) The landscaped area shall include a minimum strip of 1.5 metres wide adjacent to all street boundaries.
- (c) Landscaping is to be of a high quality through the use of trees within parking areas, the street verge and around buildings, complimented by extensive low-rise native landscaping. The City's Locality Street Tree Master Plan should be considered in design of landscaping.



## 2.5 Car Parking

The minimum car parking requirement for medical centres as required by the local planning scheme is 5 bays per practitioner. Design of on-site parking shall be as follows:

- (a) Parking of vehicles shall not visually dominate the street frontage, with some or all of the required on-site parking located behind the building line or sleeved within the development;
- (b) Safe vehicular and pedestrian access be from a road that is capable of handling additional traffic volumes and can accommodate the traffic generated by the use;
- (c) Vehicles will be required to enter and exit the site in a forward gear; and
- (d) The site layout and location shall minimise the impacts of noise and headlight glare of vehicles to bedrooms and major habitable rooms for adjacent or neighbouring dwellings.

## 2.6 Traffic

A traffic impact assessment and/or traffic management report, prepared by a suitably qualified Transport Consultant, may be required to be submitted with an application for development approval. The requirement for which, will be determined where there are concerns of traffic impacts from the proposal. The assessment / report should address:

- (a) The site characteristics and surrounding area;
- (b) The proposal and its expected trip generation;
- (c) Parking requirements, including the design of parking areas, and any pick-up and drop off facilities;
- (d) Existing traffic conditions and any future changes expected to the traffic conditions;

- (e) Current road safety conditions, including an accident history in the locality;
- (f) The expected impact of the proposed development on the existing and future traffic conditions; and
- (g) The impact on surrounding verges and the management of parking overflow.

The proposed use should be approved only if it will have a minimal impact on the functionality and amenity of an area and will not create or exacerbate any unsafe conditions for pedestrians or road users.

## 2.7 Noise

A Noise Assessment, prepared by a suitably qualified Acoustic Consultant, may be required for the development of a medical centre, where it is determined that the proposal may negatively impact the surrounding properties through the generation of noise.

This requirement will be determined on a case-by-case basis, based on residential density, existing buildings, hours of operation and proposed scale of operations.

## 2.8 Waste Management

A Waste Management Plan (WMP) is required to be prepared and submitted as part of the application for development approval. The WMP shall be prepared in accordance with the City's Commercial and Industrial Development Template and shall detail how bins will be stored and serviced in a way that protects the residential amenity of the area.





## 3. Child Care Premises

### 3.1 Definition

A Child Care Premises is defined under the local planning scheme as:

*means premises where –*

- a) *an education and care service as defined in the Education and Care Services National Law (Western Australia) Act 2012 section 5(1), other than a family day care service as defined in that section, is provided; or*
- b) *a child care service as defined in the Child Care Services Act 2007 section 4 is provided;*

An application for a child care premises within a residential area is to have regard to the provisions of this policy when submitted for assessment and determination by the local government.

### 3.2 Location

3.2.1 The following locations may be appropriate for the establishment of a child care premises:

- (a) A site that fronts (through direct access or via a parallel local road) onto a Major Road, District Integrator Road or Neighbourhood Connector Road, as identified on Figure 1;
- (b) Part of or within easy walking distance of commercial, recreation or community nodes and education facilities (as generally identified on Figure 1);
- (c) In areas where adjoining uses are compatible with a child care premises (includes considering all permissible uses under the zoning of adjoining properties); or
- (d) A site well served by public transport.

3.2.2 Child care premises generally would not be suitable at the following locations, unless the applicant can demonstrate to the satisfaction of the local government that the following matters listed will not have a detrimental impact on the child care premises:

- (a) Access is from an arterial route or in close proximity to a major intersection, as identified on Figure 1 to an arterial route where there may be safety concerns;
- (b) Access is from a local street where there may be impacts on amenity due to traffic and parking;
- (c) The current use or any permissible use under the zoning of the adjoining premises produces unacceptable levels of noise, fumes or emissions or poses a potential hazard by reason of activities or materials stored on-site;
- (d) Noise produced by roads and railways are likely to have an adverse impact on the site;
- (e) The site may be subject to contamination, within close proximity to high-voltage electricity transmission lines, or subject to external impacts that may be harmful to the staff and children; or
- (f) A site less than 1,000 square metres in area.





### 3.3 Hours of Operation

The hours of operation for a child care premises within a residential area should be limited to the following:

Monday to Friday	7:00am – 6:00pm
Saturday	8:00am – 5:00pm

An application proposing to operate outside of these hours will be assessed based on the potential impact to the neighbouring residential amenity.

### 3.4 Built Form

The built form of the proposed development shall be in accordance with the following:

- (a) The design of the development shall respect the character of the area having regard to land-use, building scale, built form and boundary setbacks;
- (b) The maximum building height, street walls/fences, street setbacks and lot boundary setbacks shall be in accordance with the Residential Design Codes as for a residential dwelling;
- (c) Paths allowing pedestrian and universal access should be made with durable, non-skid surfaces and continuously provided across driveways;
- (d) Signage shall be in accordance with Local Planning Policy No 2 Signage; and
- (e) Where possible, outdoor and indoor play areas for a Child Care Centre should:
  - i. Be in a safe location on the site and away from any adjoining noise sensitive premises;

- ii. Be north facing and/or accessible to the winter sun;
- iii. Create opportunities for casual surveillance of the outdoor play area from the premises building(s), adjacent land uses and the public domain where appropriate; and
- iv. Have a regular shape in order to avoid the creation of poorly surveyed spaces.

### 3.5 Landscaping

Landscaping is to be in accordance with the following requirements:

- (a) A minimum of 10% of the site area shall be landscaped;
- (b) The landscaped area shall include a minimum strip of 1.5 metres wide adjacent to all street boundaries; and
- (c) Landscaping is to be of a high quality through the use of trees within parking areas, the street verge and around buildings, complimented by extensive low-rise native landscaping. The City's Locality Street Tree Master Plan should be considered in design of landscaping.

### 3.6 Car Parking

The minimum car parking requirement for child care centres in the local planning scheme is 4.5 parking bays per 100m<sup>2</sup> of net lettable floor area. The design of on-site parking shall be as follows:

- (a) Parking of vehicles shall not visually dominate the street frontage, with some or all of the required on-site parking located behind the building line or sleeved within the development;



- (b) Safe vehicular and pedestrian access be from a road that is capable of handling additional traffic volumes and can accommodate the traffic generated by the use;
- (c) Vehicles will be required to enter and exit the site in a forward gear; and
- (d) The site layout and location shall minimise the impacts of noise and headlight glare of vehicles to bedrooms and major habitable rooms for adjacent or neighbouring dwellings.

### 3.7 Traffic

A traffic impact assessment and/or traffic management report, prepared by a suitably qualified Transport Consultant, may be required to be submitted with an application for development approval. The requirement for which, will be determined where there are concerns of traffic impacts from the proposal. The assessment / report should address:

- (a) The site characteristics and surrounding area;
- (b) The proposal and its expected trip generation;
- (c) Parking requirements, including the design of parking areas, and any pick-up and drop off facilities;
- (d) Existing traffic conditions and any future changes expected to the traffic conditions;
- (e) Current road safety conditions, including an accident history in the locality;
- (f) The expected impact of the proposed development on the existing and future traffic conditions; and

- (g) The impact on surrounding verges and the management of parking overflow.

The proposed use should be approved only if it will have a minimal impact on the functionality and amenity of an area and will not create or exacerbate any unsafe conditions for pedestrians or road users.

### 3.8 Noise

A Noise Assessment, prepared by a suitably qualified Acoustic Consultant, may be required for the development of a child care premises, where it is determined that the proposal may negatively impact the surrounding properties through the generation of noise. This requirement will be determined on a case-by-case basis, based on residential density, existing buildings, hours of operation and proposed scale of operations.

To reduce the impact of child care premise on surrounding properties, the following should apply:

- (a) Where a child care premises is located adjacent to a noise sensitive premises, the noise generating activities of the child care premises such as the outdoor play areas, parking areas and any plant and equipment are to be located away from the noise sensitive premises;
- (b) Where, due to design limitations or safety considerations, noise generating activities such as outdoor play areas are located close to noise sensitive premises, appropriate noise attenuation measures are to be undertaken; and
- (c) The design and construction of buildings may include noise attenuation measures to reduce impact from external sources and to achieve accepted indoor noise limits.



### **3.9 Waste Management**

A Waste Management Plan (WMP) is required to be prepared and submitted as part of the application for development approval.

The WMP shall be prepared in accordance with the City's Commercial and Industrial Development Template and shall detail how bins will be stored and serviced in a way that protects the residential amenity of the area.



## 4. Commercial Vehicle Parking

### 4.1 Definitions

A Commercial Vehicle is defined under the local planning scheme as:

*means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including –*

- (a) a utility, van, truck, tractor, bus or earthmoving equipment; and*
- (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a).*

Commercial Vehicle Parking is defined under the local planning scheme as:

*means premises used for parking of one or 2 commercial vehicles but does not include –*

- (a) any part of a public road used for parking or for a taxi rank; or*
- (b) parking of commercial vehicles incidental to the predominant use of the land.*

### 4.2 Assessment Criteria

In assessing an application for commercial vehicle parking within a residential area, the local government shall have regard to the following assessment criteria and/or requirements:

- (a) The subject site having a lot area of at least 500m<sup>2</sup> for one commercial vehicle or at least 2000m<sup>2</sup> for two commercial vehicles;
- (b) The proposed on-site parking location being adequately screened from view from the street;

- (c) The potential impacts on neighbouring residents with respect to noise, emissions, visual appearance or any other nuisance being minimised;
- (d) A restriction of movement (the commercial vehicle not to be taken from or brought to the lot) between the hours of 10:00pm and 7:00am;
- (e) Major repairs to the commercial vehicles are not undertaken on the lot. Any minor repairs are to be carried out within an outbuilding or screened from view from the street; and
- (f) All noise from the vehicle(s) is to comply with the Environmental Protection (Noise) Regulations 1997.

### 4.3 Noise

A Noise Assessment, prepared by a suitably qualified Acoustic Consultant, may be required for the assessment of a commercial vehicle where it is determined that the proposal may negatively impact the surrounding properties through the generation of noise.

This requirement will be determined on a case-by-case basis, based on residential density, existing buildings, hours of operation and proposed scale of operations.



#### 4.4 Compliance

Should a commercial vehicle at a residential property become the subject of notice or complaint, the local government may undertake any of the following:

- (a) Ensure that conditions of any approval are being complied with, and should any conditions not be complied with:
  - i. Require the parking/operations to be altered; or
  - ii. Issue an infringement notice or alternative enforcement action.
- (b) Request a retrospective application, should the commercial vehicle be parked at a residential property without valid approval.



## 5. Home Based Businesses

### 5.1 Definitions

Home based businesses are divided into three different categories depending on the scale of operations and are defined within the local planning scheme as follows:

#### Home Office:

*means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation –*

- (a) *is solely within the dwelling;*
- (b) *does not entail clients or customers travelling to and from the dwelling;*
- (c) *does not involve the display of a sign on the premises; and*
- (d) *does not require any change to the external appearance of the dwelling.*

#### Home Occupation:

*means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation that –*

- (a) *does not involve employing a person who is not a member of the occupier's household;*
- (b) *will not cause injury to or adversely affect the amenity of the neighbourhood;*
- (c) *does not occupy an area greater than 20 m<sup>2</sup>;*
- (d) *does not involve the display on the premises of a sign with an area exceeding 0.2 m<sup>2</sup>; and*
- (e) *does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet;*

- (f) *does not –*
  - i. require a greater number of parking spaces than normally required for a single dwelling; or*
  - ii. result in an increase in traffic volume in the neighbourhood;*
- (g) *does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight;*
- (h) *does not include provision for the fuelling, repair or maintenance of motor vehicles; and*
- (i) *does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located.*

#### Home Business:

*means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession –*

- (a) *does not involve employing more than 2 people who are not members of the occupier's household;*
- (b) *will not cause injury to or adversely affect the amenity of the neighbourhood;*
- (c) *does not occupy an area greater than 50 m<sup>2</sup>;*
- (d) *does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet;*
- (e) *does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood;*
- (f) *does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and*  
*does not involve the use of an essential service that is greater than the use normally required.*



## 5.2 Requirement for Development Approval

In accordance with the Deemed Provisions, development approval is not required for a home office or home occupation.

An application for development approval is required for a home business.

## 5.3 Assessment Criteria

In assessing an application for a home business, the local government shall have regard to the following assessment criteria:

- (a) The nature, scale and hours of operation of the proposed home business being compatible with a residential area;
- (b) The relationship of the proposed home business with the adjoining land or on other land in the locality, including lot sizes;
- (c) The amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect of that traffic on the movement of traffic on that road system; and
- (d) Be compatible with its surrounds and not adversely affect the amenity of the area with respect to:
  - i. The parking of motor vehicles;
  - ii. The transporting of materials or goods to or from the dwelling;
  - iii. The hours of operation, which should generally be limited to the normal business hours of 8am to 6pm Monday to Saturday; and
  - iv. The creation of noise, vibration, electrical interference, or light emissions.

## 5.4 Administration

### 5.4.1 Advertising Procedure

Any home business that is likely to have an impact on neighbouring properties in regards to:

- (a) The creation of noise, vibration, electrical interference, or light emissions;
- (b) The parking of motor vehicles;
- (c) The transporting of materials or goods to or from the dwelling;
- (d) The hours of operation; or
- (e) Any home business associated with the repair, storage or maintenance of motor vehicles,

shall be advertised to surrounding landowners in accordance with clause 64 of the Deemed Provisions.

### 5.4.2 Compliance





Should a business that is operating from a dwelling become the subject of notice or complaint, the local government may undertake any of the following:

- (f) Ensure that conditions of any approval are being complied with, and should any conditions not be complied with:
  - i. Require business practices to be altered; or
  - ii. Issue an infringement notice or alternative enforcement action.
- (g) Request a retrospective application, should the business be operating without valid approval.








# Figure 1 - Location Criteria

## Road Network

-  Freeway
-  Major Road (Primary Distributor)
-  District Integrator Road
-  Neighbourhood Connector

## Urban Form / Activity Centres

-  Major Commercial Area (City Centre / District Centre / Neighbourhood Centre)
-  Recreation Facilities (Regional / District Facilities)
-  Peel Health Campus
-  Education Facilities
-  Residential Area with R-Code less than R5

