

Local Planning Policy 3.12: Minor Structures behind the Street Setback Area

INTRODUCTION

Minor structures such as pergolas, shade sails, cubby houses, outdoor decking, and screening are beneficial to the Australian residential setting, however they have increasingly become a source of concern for neighbouring properties, especially in regards to visual privacy.

Although these structures are not classified as buildings in the Residential Design Codes, Clause 3 of the Planning and Development (Local Planning Schemes) Regulations 2015 - Deemed Provisions allows for the Council to make a Local Planning Policy relating to matters related to the planning and development of the Scheme Area.

The Policy provides clarification in relation to common forms of residential development which are considered minor or incidental to a dwelling. In order to ensure that minor structures are not detrimental to the amenity of adjoining properties, this policy sets out circumstances where planning approval is required for minor structures on residential land.

Along with the provisions outlined in this Policy, minor structures behind the street setback area are to comply with all other relevant provisions of R-Codes, and the Town's Local Planning Policies and Local Laws, such as open space, solar access, setbacks, storm water management and fencing provisions where applicable. Minor structures located in the street setback area are to comply with the Town's Local Planning Policy 3.1: Streetscape.

Note: Structures with a floor level elevated 1.0 metres or more above natural ground level may be subject to further structural and safety requirements at the building permit stage.

AIMS

- To ensure that minor structures are appropriately located to preserve the amenity of the area, reduce impacts on adjoining properties including overlooking and limit visual impact of minor structures by controlling bulk (size and height).
- To provide certainty for applicants, residents and Council regarding the forms of residential structures located behind the street setback areas which are considered minor or incidental in nature.

APPLICATIONS SUBJECT TO THIS POLICY

This Policy applies to minor structures behind the street setback area that are incidental to a single house or grouped dwelling development in the Residential zones.

DEFINITIONS

For the purpose of applying this Policy, the following definitions apply:-

Adjoining Dividing Fence Height means the height of the dividing fence including any retaining walls or attached privacy screen as measured from natural ground level at the lot boundary.

Animal Enclosures means a dog kennel, beehive, aviary and the like.

Cubby House means a structure, such as a small-scale replica of a dwelling, and includes platforms, used primarily by children for the purposes of play and entertainment.

Decking and Landing Structures means an outdoor platform capable of supporting weight, similar to a floor, often elevated from the ground, which may or may not be attached to a building such as decking, terraces or landings.

Dividing Fence means a fence that separates the land of different owners whether the fence is on the common boundary of adjoining lands or on a line other than the common boundary.

Gatehouse and Arbour Structures means a tunnel-like structure with climbing vines and plants trained over the framework.

Natural Ground Level means the levels on a site which precede the proposed development, excluding any site works unless approved by the decision-maker or established as part of subdivision of the land preceding development.

Outdoor Cooking and Heating Facilities means an outdoor gas-fuelled, electric or wood-fired barbecue, oven, heater and the like.

Pergola means an open-framed structure covered in a water permeable material or unroofed, which may or may not be attached to a dwelling.

Shade Sail means a piece of flexible cloth or canvas like material (which may be water permeable or impermeable) supported between a building or posts to provide shade to an outdoor area.

Tree House means a structure attached to a tree, such as a small-scale replica of a dwelling, and platforms, used primarily by children for the purposes of play and entertainment.

Vergola means an unenclosed structure similar to a patio or pergola but with louvered roof panels which can be opened or closed.

POLICY

1. Pergolas, Vergolas, Shade Sails and Gatehouses

- (a) Pergolas, Vergolas and Shade Sails are exempt from requiring planning approval where subject to the following:-
 - (i) The overall height of the structure (including posts or roof structure) does not exceed 3.5 metres above natural ground level;
 - (ii) Structures up to 2.5 metres above natural ground level or no taller than the adjoining dividing fence height, may be built up to the lot boundary;
 - (iii) If greater than 2.5 metres in height or taller than the adjoining dividing fence, the structure is set back in accordance with the R-Codes lot boundary setback deemed-to-comply requirements; and
 - (iv) Structures with a floor level elevated 0.5 metres or more above natural ground level must comply with the R-Codes visual privacy deemed-to-comply requirements.
- (b) Gatehouse and arbour structures are exempt from requiring planning approval subject to the following:-
 - (i) The structure has a maximum plate height of 2.4 metres and the overall height does not exceed 3.5 metres above natural ground level; and
 - (ii) Structures over 2.5 metres high are set back in accordance with the R-Codes lot boundary setback deemed-to-comply requirements.

2. Decking and Landing Structures

Unattached, freestanding decks and/or landings with a floor level elevated 0.5 metres or more above natural ground level are exempt from planning approval provided it complies with the R-Codes visual privacy deemed-to-comply requirements.

Note: Please refer to the "Balustrades and Handrails" section of the National Construction Code for specific standards for barriers and balustrades for structures above ground level.

3. Screening Structures

- (a) Privacy screens, trellis, or lattice adjacent to a dividing fence are exempt from planning approval subject to the following:-
 - (i) The overall height of the structure does not exceed 3.5 metres above natural ground level;
 - (ii) If the structure is less than 2.5 metres in height or no taller than an adjoining dividing fence, it may be built up to the lot boundary; and
 - (iii) Structures over 2.5 metres high are set back in accordance with the R-Codes lot boundary setback deemed-to-comply requirements.
- (b) Outdoor blinds or screens to outdoor living areas (verandahs, patios, pergolas and the like) are exempt from planning approval where:-

- (i) At least two of the other sides of the area remain open; or
- (ii) The material used is transparent, non-reflective, lightweight and does not permanently enclose the structure.

4. Animal Enclosures

Animal enclosures are exempt from planning approval provided that the overall height of the structure does not exceed 2.0 metres above natural ground level.

Note: Bird enclosures and aviaries must comply with the Town's Animal Local Law as amended October 2016. Bird enclosures must not be located any closer than 1.0 metre from a lot boundary in any circumstance.

5. Outdoor Cooking and Heating Facilities

- (a) Permanent outdoor cooking and heating facilities are exempt from planning approval subject to the following:-
 - (i) The overall height of the structure (including chimney flue and vents), does not exceed 3.5 metres above natural ground level;
 - (ii) Structures less than 1.8 metres high or no higher than the adjoining dividing fence height may be built up to the lot boundary; and
 - (iii) Structures above 1.8 metres in height are set back at least 1.0 metre from the lot boundary.

6. Children Play Structures

- (a) Cubby houses are exempt from planning approval subject to the following:-
 - (i) The structure not to exceed 6.0 square metres in area and have a maximum overall height of 4.5 metres above natural ground level;
 - (ii) Structures with a maximum height of 2.5 metres above natural ground level and no taller than an adjoining dividing fence height, may be built up to the lot boundary;
 - (iii) A cubby house greater than 2.5 metres in height to be set back in accordance with the R-Codes lot boundary setback deemed -to-comply requirements;
 - (iv) Openings to a cubby house with a floor level of 0.5 metres or more above natural ground level are to be setback at least 4.5 metres from any residential lot boundary or provided with screening up to 1.4m in height; and
 - (v) The structure will not be used for habitable purposes other than occasional children's play.
- (b) Tree houses are exempt from planning approval subject to the following:-
 - (i) The structure does not exceed 2.0 square metres in area;
 - (ii) The structure is set back at least 4.5 metres from any residential lot boundary; and
 - (iii) The structure will not be used for habitable purposes other than occasional children's play.

Note: Please refer to the "Balustrades and Handrails" section of the National Construction Code for specific standards for fencing and balustrades for structures above ground level.

7. Flag poles

Flagpoles are exempt from planning approval provided that it is a maximum of 6.0 metres in height, not used for commercial advertising nor contain offensive material, and located so that all flags are contained wholly within property boundaries.

DESIGN PRINCIPLES

Where the deemed-to-comply provisions above are not met, applications are to be assessed against the following design principles:-

- Structures to be located and set back from lot boundaries so as to:
 - reduce impacts of building bulk on adjoining properties;
 - provide adequate direct sun and ventilation to active habitable spaces, outdoor living areas and habitable rooms of adjoining properties;
 - minimise the extent of overlooking and resultant loss of privacy to active habitable spaces, outdoor living areas and habitable rooms of adjoining properties; and
 - make effective use of private open space without compromising the above.
- The dimensions and scale of the structure should allow for maintenance of:
 - adequate access to direct sun into buildings and appurtenant open spaces;
 - adequate daylight to major openings into habitable rooms; and
 - access to views of significance.
- Structures should be designed to minimise adverse impact on the amenity of adjoining properties. The extent of the structure's visual bulk, overshadowing impacts and obstruction of views should not exceed the deemed-to-comply requirements for a wall with major openings of the equivalent length and height.

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