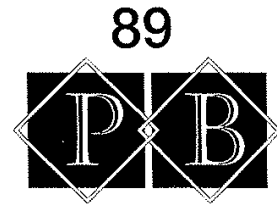




Planning Bulletin 89

R-Codes Amended



February 2008

1 Purpose

This planning bulletin details outcomes of the review of the operations of the Residential Design Codes. It details the changes to State Planning Policy 3.1 Residential Design Codes (R-Codes or codes) which have been adopted by the Western Australian Planning Commission (WAPC) and are to be gazetted on 29 April 2008.

The review of the operation of the R-Codes began in 2004. In March 2006 the WAPC sought public comment on the recommended changes which were detailed in:

- State Planning Policy 3.1 Residential Design Codes (Draft variation 1, draft for public comment);
- Residential Design Codes Explanatory Guidelines (draft for public comment); and
- Planning bulletin 77.

The comments on the recommended changes have been considered in the revised R-Codes and explanatory guidelines adopted by the WAPC. The subsequent amendments to the two documents constitute the final outcome of, and complete, this review. The review process also identified important design issues and trends which are beyond the scope of the present review. The WAPC intends to consider these in a future substantial review of the R-Codes.

The revised codes are set out in amended State Planning Policy 3.1 which takes effect on gazettal. On publication, the codes are automatically introduced by reference to all local government local planning schemes that formerly included reference to the 2002 codes.

2 Background

The current codes were gazetted in October 2002 (the 2002 codes) after a comprehensive review of the 1991 Residential Planning Codes of Western Australia (the 1991 codes). The codes provide a comprehensive basis for the control, through local government, of residential development throughout Western Australia. They are intended to cover all requirements for development control and minimise the need for local governments to introduce separate planning policies or variations to address these matters. The codes, together with other state planning policies, also guide the assessment of residential subdivisions by the WAPC.

The 2002 codes are set out in a state planning policy prepared under section 26 of the *Planning and Development Act 2005*. On their publication the codes were automatically introduced by reference into all local government planning schemes that formerly included reference to the 1991 codes and have since been included by reference into all other local planning schemes in the state.

Within 18 months of the gazettal of the 2002 codes the WAPC accepted that a further review was necessary to address some operational issues and errors brought to its attention by users in the initial implementation of the codes.

In 2004, after consultation with stakeholders and research into comparative interstate residential design policies, modified codes and explanatory guidelines were prepared under the guidance of an R-Codes review committee. The committee included representatives from state and local government, the development industry, architects and surveyors, and other key stakeholders.

The modified codes and the associated explanatory guidelines were advertised for public comment

from March to the end of June 2006. Several late submissions were received until August 2006.

The WAPC invited comment and feedback from users on significant modifications to the codes (the advertised codes):

- the separation of the codes and the explanatory guidelines;
- the changes in relation to the scope of local planning policies;
- the proposed changes to the method for calculating the minimum site area for battleaxe lots (design element 1 - acceptable development provision cl 6.1.2 A2ii);
- the change relating to grouped dwellings in R20 coded areas (design element 1 - housing density, acceptable development provision (cl 6.1.3 A3iv), which proposed a time limit of 31 October 2008 for the 450 m² average site area concession provided in the current codes;
- the proposal to insert into design element 3 (setbacks) a new acceptable development provision (cl 6.3.2 A2ii) so buildings can be constructed, as-of-right, on both a side and a rear boundary in areas coded R20 and R25;
- the proposed change to design element 6 (site works), acceptable development provision (cl 6.6.1 A1.4), to increase the allowable site fill height within 1 m of a common boundary from 0.5 m to 1 m;
- the extensive changes proposed to element 8 (privacy); and
- the extensive changes proposed to part 7 (special provisions) cl 7.1.2 relating to aged or dependent persons' dwellings.

While the WAPC did not set out to undertake a major review of the codes, the review process highlighted important design issues and trends which went beyond the scope of this initial review. The WAPC has deferred the following matters for future consideration as part of a more substantial review of the codes:

- the need for, and operation of, an independent adjudication body (for interpretation and dispute resolution);
- the review of subdivision controls dealt with in the codes;
- the need to standardise the format of local planning policies that seek to vary the codes;
- the need to address new and emerging residential design trends;
- the need to incorporate design elements into the codes which promote sustainability;
- an investigation of the role of detailed area plans and the relationship with the codes; and
- the potential to develop separate design-for-climate provisions for each of the climatic zones across the state.

3 Summary of submissions to the advertised codes

There were 65 submissions received on the proposed changes to the 2002 codes, comprising:

- 22 from metropolitan and country local governments;
- 19 from interested individuals and affected home/land owners;
- 9 from developers, builders, architects, surveyors and consultants;
- 6 from peak industry groups (Urban Development Institute of Australia, Master Builders Association, Building Designers Association, Spatial Sciences Institute, Australian Association of Planning Consultants, Local Government Planners Association);
- 4 from state government agencies (Departments of Land Information, Housing and Works, and Environment and Conservation, and the Heritage Council); and

- 5 from officers or branches of the Department for Planning and Infrastructure.

The submissions generally supported many of the proposed minor changes and textual improvements to the advertised codes and explanatory guidelines. Some submissions included detailed suggestions on a range of further editorial changes and corrections to improve the operation of the codes. Others raised issues requiring further investigation and, in many cases, indicated opposing views on fundamental issues.

4 Outcomes of the review

The WAPC resolved to adopt a range of further changes and corrections to the advertised codes and explanatory guidelines following careful consideration of all the issues raised in the submissions. Many of the changes are of an editorial nature and provide explanation for greater specificity and clarity of provisions, or are included to update definitions and references to legislation. However, there were a number of issues arising from the submissions of a more substantive nature. These matters are discussed below.

4.1 Separation of the R-Codes and explanatory guidelines

The 2002 codes were printed in one document with the codes and explanatory text interleaved. The review proposed to separate the codes and guidelines. Following mixed views received in submissions, the WAPC has resolved to publish the 2008 codes and explanatory guidelines as separate documents in a loose-leaf format. This format enables the WAPC to issue updates to the guidelines from time to time and means users can interleaf the codes and guidelines or keep them as separate documents. The 2008 codes are printed on blue edged paper and the explanatory guidelines on white paper, consistent with the 2002 codes.

4.2 Main changes to the 2002 codes and the advertised codes

The main changes to the 2002 codes and the advertised codes made in the review are summarised below.

Numbering of parts

The advertised codes and the 2008 codes are numbered differently to the 2002 codes. This is because the sections on accompanying information, neighbour consultation and local planning policies (included under part 2 – approval process in the 2002 codes) are now in separate parts 3, 4 and 5 respectively. As a result the design elements have been renumbered from part 3 to part 6 and special provisions from part 4 to part 7.

Part 1 - Preliminary

The 2002 codes have been updated into the state planning policy format with the addition of provisions relating to citation, purpose and application (cls 1.1, 1.2 and 1.4).

A provision explaining the relationship of the codes to the explanatory guidelines is included in the 2008 codes to provide a head of power for the separation of the two components, enable provision of more detailed guidelines as required, and remind users to refer to both documents when considering residential development (cl 1.5).

Part 2 - Codes approval process

2.4 Discretionary decisions

While the 2002 codes refer to discretionary decisions, a new clause is included in the 2008 codes to clarify when a discretionary decision applies. The advertised heading of this provision has been reworded in the 2008 codes in response to submissions received (cl 2.4).

2.5 Exercise of discretion

The 2002 codes contained a provision to the effect that a council should not refuse an application that meets acceptable development provisions unless there are more stringent scheme or local planning policy provisions that are not complied with (cl 2.3.4 in the 2002 codes). Clause 2.5.4 of the advertised codes proposed to delete the reference to schemes and to limit this clause to a local planning policy.

Most submissions from local councils to the advertised codes sought the reinstatement of the reference to scheme provisions. Councils viewed the ability to vary the codes based on either more stringent scheme or more stringent policy provisions as

necessary. Accordingly, the 2008 codes reinstate the capacity for councils to refer to both schemes and local planning policies.

Part 3 - Accompanying information

3.2 Applications for codes approval

Clause 2.4.2 of the 2002 codes has been expanded in the 2008 codes to include the titles of the forms referred to in appendix 2 and 3 (codes approval application form and codes approval decision form).

3.5(i) Proposed development site plan

The 2002 codes were silent on requirements for information on the areas of proposed strata subdivisions, so a clause to this effect was added in the advertised codes. In response to comments received, the 2008 codes modified the proposed amendment by limiting the reference to strata lots. Clause 3.5.1(i) now reads "proposed site area boundaries of the strata lots".

3.6 Special information requirements

The 2002 codes did not include a requirement for specific information to accompany applications for aged or dependent persons' dwellings. This anomaly is corrected in the 2008 codes with the inclusion of a new clause 3.6 (f) which states "In the case of proposed aged or dependent persons' dwelling developments under part 7 of the codes, the provision of sufficient plans and accompanying information to demonstrate compliance with the relevant provisions of AS4299:1995". The new provision ensures consistency with new special provisions in part 7 of the 2008 codes.

Part 4 - Neighbour consultation

4.2 Consultation procedure

The 2002 codes did not include the title of the form to be used by councils when seeking comments from potentially affected owners of adjoining properties. The title of the form has been added to the 2008 codes, emphasising the requirement for councils to use this form.

4.3.2 Opportunity to respond

The 2002 codes provided seven days for applicants to submit responses to councils on submissions from neighbours. Following comments received on the advertised codes, the period available for applicants to respond to a council has been extended in the 2008 codes to 10 days. This extra time includes weekends and other non-working days.

Part 5 - Local planning policies

Pre-existing local planning policies

The 2002 codes did not refer to existing local planning policies, making it unclear how users could address any differences between provisions contained in such policies and the codes. A requirement that the codes prevail over such a policy to the extent of the inconsistency was included in the advertised codes. This provision is retained in the 2008 codes (cl 5.2).

Scope of local planning policies

Provisions in the 2002 codes created the impression that councils could adopt local planning policies that varied or replaced acceptable development standards relating to streetscape, building design, boundary walls, site works and building height design elements and the inner city special provisions. However, the intention was to limit the ability of a council to replace or vary specific acceptable development provisions of these elements. The advertised codes rephrased section 5.3 so it clearly listed those aspects of the design elements that may be the subject of local planning policies.

During the advertising period, many councils sought the ability to also make local planning policies to control the appearance of external fixtures and provide clearer requirements for mixed use developments. The changes proposed in the advertised codes and the requests from councils are included in the 2008 codes. In addition, the 2002 codes provision relating to local planning policies for regional variations is worded more clearly in the 2008 codes.

The 2002 codes required that any single aged or dependent persons' dwelling development should contain a minimum of five dwellings (cl 4.1.2 A2II). The advertised codes

proposed to delete the minimum number as a response to meeting the demographic trends towards an older population. However, a large number of submissions from local councils opposed deletion of the minimum on the grounds that the provisions would be open to abuse and grouping aged persons' dwellings is desirable for companionship and mutual support.

The 2008 codes reinstate the minimum number provision (cl 7.1.2 A2II) and also provide for councils to make local planning policies that reduce the minimum number of dwellings in such developments should they want to make additional provisions to facilitate ageing in place or special accommodation needs (part 5.3).

Part 6 - Design elements

Design element 6.1 Housing density requirements

6.1.1 Site area requirements

The provisions of the 2002 codes have been reworded for clarity.

6.1.2 Additional site area requirements/concessions

The 2002 codes did not contain a performance criterion for additional site area requirements/concessions and this caused difficulties for users in interpreting the provision. A performance criterion was inserted in the advertised codes which was supported in submissions, and is retained in the 2008 codes. The new provision provides direction and links the performance criterion and the acceptable development provisions.

The 2002 codes omitted reference to average site areas, hence the acceptable development criterion was expanded in the advertised codes to refer to both minimum and average site areas (cl 6.1.2 A2). This clause is retained in the 2008 codes and clarifies the relationship between this provision and columns 3 and 4 of table 1.

Revised method of determining the area of rear battleaxe lots

The 2002 codes required an additional site area for rear battleaxe lots to compensate for the sense of confinement associated with development on such lots. However, some users considered the method for determining the area of battleaxe lots problematic. In view of this, the

advertised codes proposed deleting column 4 of table 1 (which requires the larger area for battleaxe lots) and reverted to the simpler calculation based on the area of the lot excluding the access leg and area of any truncation.

However, many submissions did not support this change due to the unintended consequences of permitting battleaxe lots considerably smaller than provided for in table 1. The 2008 codes reinstate the 2002 method for determining the area of rear battleaxe lots including reinstatement of column 4 in table 1 (minimum lot area/rear battleaxe (m²) (cl 6.1.2 A2ii)). The explanatory guidelines have been expanded to clarify the method of measuring the access leg component.

The reinstatement of column 4 in table 1 maintains minimum lot areas for battleaxe lots and addresses the concerns raised in submissions on the undesirable impacts especially in R30 to R60 coded areas of the likely reduction in battleaxe lot sizes if column 4 had been deleted.

Variation to the minimum site area requirements

It was unclear in the 2002 codes if the provisions relating to variations to minimum site areas included strata and survey strata lots and grouped or multiple dwellings as well as green title lots and single houses. New provisions in the advertised codes included such properties and these changes were supported by submissions. Accordingly, the 2008 codes adopt the advertised provisions (cl 6.1.3 P3 and A3).

The proposed new clause in the performance criterion of the advertised codes enabling creation of a lot of a lesser area than that specified in table 1, to retain a significant element of an existing streetscape is considered an important mechanism for protecting streetscape values and is included in the 2008 codes.

The 2002 codes did not provide for the subdivision of existing authorised grouped dwelling or multiple dwelling developments constructed prior to the introduction of the codes. The advertised codes included a provision for the subdivision of such properties notwithstanding that the resulting lots may contain a lesser area than that specified in table 1. This provision is included in the 2008 codes.

Revised transition provisions for grouped dwellings in areas coded R12.5, R17.5, R60 and R20

The 2002 codes included transition periods for areas coded R12.5, R17.5 and R60 and allowed a 450 m² average site area concession for grouped developments on lots between 900 m² and 1000 m² in areas coded R20.

The advertised codes and the 2008 codes delete the arrangements for the R12.5, R17.5 and R60 coded areas because the transition period has expired.

For the R20 areas, the advertised codes limited the transition period to 31 October 2008. Following submissions, this has been extended to 30 April 2009 (cl 6.1.3 A3iv). This extension has taken account of delays in the Water Corporation's sewerage infill program. The WAPC will issue at least two public notices approximately six months and three months before the cut-off date advising of the expiration of the transitional concession period.

Design element 6.2 Streetscape requirements

6.2.1 Setback of buildings generally

Performance criteria in the 2002 codes ensured that buildings were setback appropriate distances to contribute to streetscapes and provide for privacy, open space and essential services easements. The provisions relating to these setbacks were deleted in the advertised codes. However, submissions sought a clear definition of the provision. In response, the 2008 codes reinstate this criterion.

The 2002 codes did not make provision for setbacks from secondary streets, and in response to requests from users for greater clarity, an acceptable development provision was added in the advertised codes requiring setbacks in accordance with table 1, or in accordance with figure 1 reduced by up to 50 per cent if compensating areas were provided. However, many submissions to the advertised codes disagreed with the extent of the proposed clause, pointing out that the 50 per cent reduction concession was excessive and could result in setback distances that were too narrow to provide sufficient space between buildings and

secondary streets. Accordingly, the 2008 codes modify the acceptable development provision which now simply requires buildings to be setback from secondary streets in accordance with table 1.

6.2.4 Surveillance of the street

The 2002 codes provided for surveillance of the street with an acceptable development provision stating that at least a window of a habitable room of the dwelling was to have a clear view of the street and approach to the dwelling. Some users asked whether dwellings on battleaxe lots should likewise address surveillance of the street and the approach to the dwelling. The advertised codes confirmed that dwellings on battleaxe lots should also have a habitable room window with a clear view of the approach to the dwelling (cl 6.2.4 A4.2). The 2008 codes retain the new advertised clause.

6.2.5 Street walls and fences

The 2002 codes did not fully address passive solar design and a new performance criterion was added to the advertised codes to recognise that a balance may need to be achieved between providing front walls or fencing to promote surveillance and enhance the streetscape and the need to provide privacy to north-facing outdoor living areas. The 2008 codes retain this new criterion.

6.2.8 Garage doors

The 2002 codes made provision to the effect that where garages were located in front or within 1 m of the building, garage doors should not occupy more than 50 per cent of the frontage at the setback line, or 60 per cent for two-storey dwellings. The provision was amended in the advertised codes to confirm that garage doors include their supporting structures. This amended provision was supported in most submissions and is included in the 2008 codes.

The imprecise wording of the performance criterion in the 2002 codes caused difficulties for some users and was modified in the advertised codes. In response to submissions the 2008 codes further modify the criterion by deleting the word 'varied' and replacing it with 'desired streetscape not dominated by garages'. This more precisely clarifies the intention of the criterion.

Design element 6.3 Boundary setbacks requirements

The text in the body of the 2002 codes did not refer to related tables and figures. This has been corrected in both the advertised codes and 2008 codes.

6.3.2 Buildings on boundary

The 2002 codes limited the potential for walls to be built up to a boundary behind the front setback line except where a local planning policy established other limits. This provision was amended in the advertised codes to exempt garages setback a minimum 4.5 m from the front boundary. Many submissions opposed this modification so the 2008 codes retain the original provisions of the 2002 codes.

The 2002 codes contained a clause providing for the construction of walls of buildings up to one side boundary in areas coded R20 or R25 (cl 3.3.2 A2II). In the advertised codes it was proposed that, as an alternative, walls could be built up to the rear boundary. However, the majority of submissions did not support the change and the 2008 codes retain the 2002 provision.

The WAPC has resolved to review boundary setback requirements (building setback from boundaries other than street boundaries) in a future substantive review of the codes.

Reference to detailed area plans

The 2002 codes included limited references to detailed area plans. In design element 3 (boundary setbacks) reference was made to the scope to vary the codes side boundary setbacks where a detailed area plan applies to the land. The definitions section of the 2002 codes referred to them as design guidelines that address specific matters in the Liveable Neighbourhoods policy.

While the advertised codes did not propose to modify provisions relating to detailed area plans, a number of submissions sought the inclusion of a new part in the codes relating to detailed area plans on the basis that they are now more commonly used in a range of residential development or similar zones.

However, the main focus for detailed area plans is as a subdivision policy to demonstrate the ability to develop lots smaller than 350 m², and it was for this purpose that reference was

made to them in the 2002 codes. Accordingly, the provisions are not modified in the 2008 codes. The WAPC will explore provisions for detailed area plans as part of a future substantive review of the codes. In making this decision, the WAPC noted that detailed area plans are the subject of subdivision and as such they are addressed in the Liveable Neighbourhoods policy. The WAPC also acknowledged that they have the potential to vary the provisions of the R-Codes.

6.3.3 Setback of retaining walls

The 2002 codes provision relating to setbacks of retaining walls contained in design element 6 – site works has been moved to design element 3 – boundary setbacks in the 2008 codes. This is because retaining walls are generally located within boundary setback areas, hence relate more closely to this design element.

Design element 6.4 Open space requirements

6.4.2 Outdoor living areas

The 2002 codes included a performance criterion regarding the positioning of outdoor areas. A new criterion was added in the advertised codes to address solar access by permitting outdoor areas that take best advantage of the northern aspect of the site. This criterion was supported in submissions and is retained in the 2008 codes.

6.4.5 Landscaping requirements

The 2008 codes expand the requirement for landscaping to include the need to landscape common property areas of grouped and multiple dwelling developments as well as landscaping communal open spaces (cl 6.4.5). While this was not included in the advertised codes, a number of submissions sought inclusion of a provision to landscape common property areas where required.

Design element 6.5 Access and parking requirements

The 2002 codes provisions have been edited in the 2008 codes to clarify interpretation of on-site parking for single houses and grouped dwellings, and distances and widths of formed driveways serving multiple or grouped dwelling developments of fewer than or more than five units. The details relating to

the design of parking spaces in accordance with the Australian Standard for disabled access have been deleted as superfluous.

Reinstatement of plot ratio provisions (cl 6.5.1 A1II)

The 2002 codes included reference to, and a definition of, plot ratio which is generally considered to be a secondary form of density control for building bulk in the higher density codes. However, the plot ratio provisions were removed in the advertised codes because it was considered that other density controls were sufficient.

Submissions, particularly from councils, raised a number of concerns at the proposed deletion of plot ratio. Many submissions considered that plot ratio controls are a universal and well understood basis for controlling building bulk. Also it was found that an unintended consequence of replacing the definition of plot ratio and plot ratio area with the proposed new Building Code of Australia (BCA) definition of floor area would have resulted in an overprovision of car parking spaces in some developments. This is because the BCA definition is more inclusive and a greater amount of building area is included in calculations for car parking resulting in an undesirable increase in the area of land to be set aside for car parking.

Accordingly, the 2008 codes reinstate plot ratio as a secondary form of controlling building bulk for dwellings in higher coded areas. The plot ratio and plot ratio area definitions and the provisions in column 5 of table 1 are likewise reinstated.

Visitor parking provision for group dwellings (cl 6.5.1 A1II)

The 2002 codes provisions relating to the requirements for additional visitor parking spaces for grouped dwelling developments that share a common access were considered to be ambiguous by some users. Accordingly, the 2008 codes clarify the provision for visitor parking. The modification also ensures that the provisions for grouped dwelling developments involving two to four units sharing a common access are not excessive.

Design element 6.6 Site works requirements

The 2002 codes allowed a maximum of 0.5 m fill above natural ground level behind the street setback line and within 1 m of a common boundary. The amount of fill permitted was increased to 1 m in the advertised codes in response to representations that the provision was too onerous. However, the weight of submissions objected to the proposed increase. The 2008 codes reinstate the 2002 codes acceptable development provision. The maximum amount of fill permitted behind a street setback line and within 1 m of a common boundary is therefore retained at 0.5 m. The performance criterion (cl 6.6.1 P1) provides flexibility to permit fill above this height. The 2008 codes also enable local councils to vary the maximum fill by adopting a local planning policy.

Design element 6.7 Building height requirements

The 2002 codes included table 3 – maximum building heights for different areas, and accompanying notes, within the body of the text. The 2008 codes place these provisions in the tables and figures section at the end of the document.

Design element 6.8 Privacy requirements

The 2002 codes included the cone of vision method for determining privacy requirements. This method has proved problematic for users as did the issue of privacy in general which was first introduced in the 2002 codes to address the trend to larger two-storey houses on smaller lots.

The advertised codes proposed replacing the cone of vision with the horizontal plane of vision method for calculating privacy. Submissions indicated that the proposed method was not well understood and the applicability and usefulness of the notes and diagrams used to explain the concept were unclear. The submissions also highlighted the limited applicability of the horizontal plane of vision in addressing issues relating to the vertical dimension of overlooking and its potential to overstate the required privacy setback distance, particularly between upper floor openings and ground level outdoor living areas on neighbouring properties.

Accordingly, the 2002 codes cone of vision method of determining the extent of overlooking and all relevant provisions have been reinstated in the 2008 codes and explanatory guidelines. In addition a new acceptable development provision is included stating that major openings and unenclosed spaces in multiple dwelling developments should not overlook more than 50 per cent of the outdoor living area of a lower level dwelling that is directly below it.

A number of errors in the figures and text of the 2002 codes are also corrected in the 2008 codes. A future substantive review of the codes will review privacy considerations.

Design element 6.9 Design for climate requirements

The provisions in the 2002 codes have been edited for greater clarity and the performance criterion reference to solar heating devices is replaced by the more up to date term solar collectors.

Design element 6.10 Incidental development requirements

The 2002 codes did not provide councils with the ability to make local planning policies to control the appearance of fixtures. In response to submissions from councils, the 2008 codes make provision for local planning policies to control external fixtures visible from streets and provide alternative requirements for the siting of:

- radio, non-standard television antennae and satellite dishes;
- external hot water heaters;
- air conditioners; and
- rainwater tanks.

Solar collectors are deliberately excluded from this list as privacy must be given to maximising the efficiency of these units.

The 2002 acceptable development provision relating to essential facilities is expanded in the 2008 codes to clarify that single houses and grouped dwellings should be provided with adequate clothes drying areas screened from view from the primary or secondary street.

Part 7 - Special provisions

Aged or dependent persons' dwellings

The 2002 codes included a requirement for a minimum of five aged person dwellings in any one development to qualify for the one third site area reduction or density bonus. The advertised codes proposed deleting this minimum. However, most councils strongly opposed the change on the grounds that a relaxation in the density bonus would lead to the creation of very small houses and inappropriate forms of infill development at odds with prevailing density codes.

Accordingly the 2008 codes reinstate the minimum number. An additional clause enables councils to allow a lesser minimum of aged persons' dwellings by adopting a local planning policy to this effect. The new provisions provide for the ageing and health needs of the population and recognise the benefits in allowing local councils to vary the R-Codes as appropriate to cater for the changing needs of their communities.

Mixed use development (part 7.2)

The 2002 codes provided for a minimum outdoor living area for a balcony or ground floor open space of 4 m² and not less than 1.5 m in depth. The 2008 codes retain these dimensions.

Some submissions sought an increase in the minimum outdoor living area from 4 m² to 10 m². The WAPC has agreed to review the minimum outdoor living area requirements for mixed use developments in a future review of the codes.

The 2002 codes definition of multiple dwellings did not address residential units located above commercial units in two-storey mixed use developments. These were strictly classified as grouped dwellings as they did not satisfy the definition of multiple dwellings. Accordingly, the 2008 codes definition of multiple dwelling is amended and now includes any dwellings above the ground floor in a mixed use development.

While the R-Codes are designed primarily to address residential development, mixed use development is becoming increasingly common. To accommodate these developments,

the 2008 codes provide that areas coded for mixed use development may be the subject of local planning policies.

Inner city housing requirements

The 2002 codes referred to plot ratio requirements in the acceptable development provision relating to housing density and built form. This reference was deleted in the advertised codes in keeping with the proposal to delete the definition of plot ratio. As the 2008 codes reinstate plot ratio, the reference in relation to serviced apartments or other self-contained residential suites is likewise reinstated.

Appendix 1 - Definitions

The 2002 codes included definitions as part of the general provisions. The 2008 codes include definitions in appendix 1 towards the end of the document.

A number of the definitions contained in the 2002 codes have been modified, many in response to submissions to the advertised codes, or to remove anomalies or correct errors. The changes are:

Adjoining property

The 2002 codes definition was proposed to be altered in the advertised codes. However, the proposed definition was not supported in submissions as it created errors particularly in design element 1 – housing density requirements. The 2008 codes retain the original 2002 definition.

Aged or dependent person

The 2002 codes definition included both aged and dependent persons. The advertised codes and the 2008 codes adopt two separate definitions to clarify that the two groups may or may not comprise the same people.

Battleaxe lot

The 2002 definition referred to a battleaxe lot or site. The advertised codes and the 2008 codes delete the reference to site which has a different meaning.

Common property

The 2002 codes referred to common property yet did not define it. The advertised codes and the 2008 codes include a definition.

Cone of vision

The 2002 codes definition has been reinstated in the 2008 codes. The definition of horizontal plane of vision proposed in the advertised codes has been deleted.

Development site

The definition in the 2002 codes is expanded with the addition of the word parent to more clearly define the type of lot referred to.

Detailed area plan

The 2002 codes definition is expanded for clarity in relation to the acceptability of detailed area plans.

Effective lot area

The 2002 codes referred to effective lot area, yet did not define it. The advertised codes and the 2008 codes include a definition.

Formed driveway

The 2002 codes definition of driveway has been deleted and replaced by a new definition of formed driveway to reflect submissions seeking to differentiate between paved vehicular and landscaped and / or pedestrian access areas.

Garage

The 2002 codes definition is expanded in the 2008 codes in keeping with that in the advertised codes.

Lot

The 2002 codes reference to the *Town Planning and Development Act 1928* has been updated to refer to the *Planning and Development Act 2005* in the 2008 codes.

Major opening

The 2002 codes definition was updated in the advertised codes and the 2008 codes.

Mixed use development

The 2002 codes definition has been expanded in the 2008 codes to more accurately reflect the multiple dwelling nature of this type of development.

Model Scheme Text

The 2002 codes reference to the *Town Planning and Development Act 1928* has been updated to refer to the *Planning and Development Act 2005* in the 2008 codes.

Multiple dwellings

The 2002 codes definition has been expanded in the 2008 codes in response to submissions and now also includes any dwellings above the ground floor in a mixed use development.

Outbuilding

The definition has been modified in the 2008 codes to delete reference to the requirement for outbuildings to meet the standards of the Building Code of Australia.

Parent lot

The 2002 codes did not define parent lot. The 2008 codes include a definition of this type of lot.

Patio

The 2002 codes definition has been expanded in the 2008 codes to clarify that such structures may or may not be attached to a dwelling.

Plot ratio

The 2002 definition has been retained. The advertised codes proposed to replace the definition of plot ratio and plot ratio area with that of floor area as defined in the Building Code of Australia. However, submissions did not support the change due to concerns that the broader definition of floor area could result in the need to provide more car parking.

Plot ratio area

The 2002 definition has been retained for the reason explained under plot ratio.

Primary street

The 2002 codes definition was expanded in the advertised and 2008 codes to include reference to a council's ability to designate a primary street and to refer to the major entry to the dwelling.

<p>Right-of-way</p> <p>A reference to right-of-way in the definition was made in error in the 2002 codes. This has been corrected in the advertised codes and the 2008 codes.</p> <p>Scheme</p> <p>The 2002 codes reference to the <i>Town Planning and Development Act 1928</i> has been updated in the 2008 codes.</p> <p>Setback</p> <p>The 2002 codes definition of setback (ie measured at 90 degrees to the boundary) was proposed to be deleted in the advertised codes. However, in response to submissions it is reinstated in the 2008 codes.</p> <p>Street</p> <p>The inclusion of a definition in the advertised codes and the 2008 codes corrects an omission from the 2002 codes.</p> <p>Survey strata lot</p> <p>The 2002 codes definition of strata lot was amended in the advertised and 2008 codes for greater clarity.</p> <p>Survey strata plan</p> <p>The 2002 codes did not define a survey strata plan. The definition in the advertised codes is updated in the 2008 codes to refer to the Strata Titles Act.</p> <p>Visually permeable</p> <p>Following submissions, the 2002 codes definition is updated in the 2008 codes to include the option for horizontal as well as vertical screening.</p> <p>WAPC</p> <p>The 2002 definition of commission is replaced in the advertised codes and 2008 codes with a new definition, the Western Australian Planning Commission (WAPC).</p> <p>Tables and figures</p> <p>The figures and tables in the 2002 codes contained a number of errors which are corrected in the 2008 codes.</p>	<p>4.3 Explanatory guidelines</p> <p>Overview and separation from the codes document</p> <p>In the 2002 codes, the explanatory guidelines were referred to as explanatory text and formed part of a single codes document. They are now separate from the 2008 codes. The intention is to enable the guidelines to be readily updated with more details from time to time.</p> <p>With the exception of a new part 1 (preliminary) the content of the 2008 explanatory guidelines remains substantially unaltered from the 2002 explanatory text. Changes generally relate to editing, minor modifications or the addition of new explanations to clarify provisions.</p> <p>Numbering and titles of parts</p> <p>As explained, parts of the advertised codes and the 2008 codes have different titles and numbers to the 2002 codes. The headings in the following paragraphs are those of the 2008 codes.</p> <p>Part 1 - Preliminary</p> <p>A substantial addition in the advertised codes and the 2008 codes is part 1 - preliminary. This replaces the 2002 codes part 1. While sections remain the same or are similar to part 1 of the 2002 codes, the order of information presented differs and it includes some additional explanations. Part 1 of the 2008 codes explains the purpose of the guidelines and codes, their application, structure and performance approach, and their use as a local planning tool.</p> <p>Part 2 - Codes approval process</p> <p>The 2002 codes did not mention how new development should relate to existing and where known, proposed development. The introductory paragraph in the advertised codes included a sentence to the effect that new developments should respect and respond to such developments. This has been retained in the 2008 explanatory guidelines.</p> <p>All other provisions in the 2008 explanatory guidelines relating to the codes approval process remain substantially the same as the 2002 explanatory text.</p>	<p>Part 3 - Accompanying information</p> <p>The 2008 explanatory guidelines provisions relating to accompanying information requirements remain substantially the same as the 2002 explanatory text (part 2).</p> <p>Part 4 - Neighbour consultation</p> <p>A 2002 explanatory text provision relating to discretionary decisions was deleted in the advertised explanatory guidelines. This was because it repeated advice contained in the codes approval process part of the explanatory text. The 2008 explanatory guidelines likewise deletes this section.</p> <p>Part 5 - Local planning policies</p> <p>The provisions relating to local planning policies in the 2002 codes have been expanded and a number of corrections made. New clauses in the 2008 codes relate to the need for councils to send copies of local planning policies to the WAPC which in the opinion of the council may affect the interests of the WAPC. There is now potential for councils to make policies relating to alternative excavation or fill requirements; mixed use developments; minimum number of aged or dependent persons' dwellings; the siting of some external fixtures; and regional exceptions.</p> <p>Part 6 - Design elements</p> <p>Design element 6.1 Housing density</p> <p><i>Single houses and grouped dwellings</i></p> <p>The 2002 codes did not clearly explain the differences between single and grouped dwellings, and the advertised codes inserted a new explanation to clarify the difference between the two. Submissions supported the new clause and the 2008 codes provide that a dwelling on a survey strata lot without common property will be dealt with as a single house similarly to the case of a dwelling on a green title lot.</p> <p><i>Revised method of determining the area of rear battleaxe lots</i></p> <p>As explained, the 2008 codes reinstate the 2002 method for determining the area of rear battleaxe lots including reinstatement of column 4 in table 1 (minimum lot area/rear battleaxe (m²)). Additional</p>
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<p>guidance is inserted in the explanatory guidelines to assist users in calculating the maximum area of the access leg component.</p> <p><i>Transition period in R12.5, R17.5, R60 and R20</i></p> <p>The 2008 explanatory guidelines confirm deletion of transitional provisions for the R12.5, R17.5 and R60 codes and the expiration of the transition period for R20 coded areas on 30 April 2009.</p> <p>Design element 6.2 Streetscape requirements</p> <p>The 2002 codes contained a range of minor editorial mistakes and these are corrected in the advertised explanatory guidelines and the 2008 codes.</p> <p><i>Retained dwellings</i></p> <p>The 2002 codes did not explain procedures for retaining existing dwellings as part of a grouped dwelling development. The advertised codes and the 2008 codes include such a provision and the explanatory guidelines draw the attention of councils to the need to ask the WAPC to impose a condition to upgrade the existing building on a subdivision approval.</p> <p><i>Other structures</i></p> <p>The 2002 codes were silent on the permissibility of minor incursions into the setback area. The 2008 explanatory guidelines correct this oversight with a new clause explaining that where they do not exceed limits in the acceptable development provisions, they should not be taken into consideration when calculating average setback requirements.</p> <p>Design element 6.3 Boundary setbacks</p> <p>The 2008 explanatory guidelines include a number of minor editorial changes, in addition to the following:</p> <p><i>Calculation of boundary setbacks</i></p> <p>A new explanation is provided relating to the calculation of boundary setbacks relative to wall heights. The calculation relates to the height of the wall being taken at a point and not the average wall height, indicating that where the height of the wall varies in relation to natural ground level, so too should the setback distances.</p>	<p><i>Retaining walls</i></p> <p>The provisions for retaining walls in design element 6 – site works in the 2002 explanatory text has been moved to this section in the 2008 explanatory guidelines, as they are more logically placed here.</p> <p>Design element 6.4 Open space requirements</p> <p>Several minor editorial changes made to the 2002 explanatory text are included in the advertised explanatory guidelines and the 2008 explanatory guidelines.</p> <p>Design element 6.5 Access and car parking requirements</p> <p><i>Visitor parking provision for grouped dwellings</i></p> <p>An explanation is included in the 2008 explanatory guidelines regarding visitor parking for grouped dwelling developments. The explanation was added following submissions to the advertised codes requesting greater clarity in determining the number of visitor car parking bays for these developments. Accordingly the 2008 explanatory guidelines state the required number of car parking bays for grouped dwelling developments.</p> <p><i>Design of parking spaces</i></p> <p>The Australian Standard for the design of parking spaces was referred to in general terms in the 2002 explanatory text. The advertised codes referred to specific sections of the standards (parking facilities – off-street parking). The 2008 explanatory guidelines retain the advertised codes provisions.</p> <p>Design element 6.6 Site works requirements</p> <p><i>Excavation and retaining walls</i></p> <p>The 2002 codes were silent on how to treat retaining walls forming part of subdivision or a previous dwelling. The 2008 explanatory guidelines explain that such walls are regarded as natural features and are excluded from the requirements for excavation and filling.</p>	<p>Design element 6.7 Building height requirements</p> <p>Several minor editorial changes to the 2002 explanatory text are made in the advertised explanatory guidelines and the 2008 explanatory guidelines.</p> <p>Design element 6.8 Privacy requirements</p> <p>As explained above, the 2008 explanatory guidelines reinstate the 2002 cone of vision method for determining privacy, which submissions preferred to the alternative method proposed in the advertised codes.</p> <p>The 2002 explanatory text relating to privacy was relatively brief. Users sought greater assistance in interpretations and further guidance was included in the advertised codes on the basis for the privacy provisions. This guidance is likewise included in the 2008 explanatory guidelines.</p> <p>Several of the figures in the 2002 explanatory text were incorrect and these are corrected in the 2008 codes.</p> <p>The section of the 2002 codes relating to acoustic privacy was deleted in the advertised explanatory guidelines and is likewise deleted in the 2008 guidelines.</p> <p>Design element 6.9 Design for climate requirements</p> <p>The 2002 explanatory text drew users attention to the fact that while specific acceptable development provisions for solar access were not included in the codes, guidance in the text could be of assistance when considering applications according to the performance criterion. While the advertised explanatory guidelines proposed deletion of this paragraph, the 2008 explanatory guidelines reinstate the explanation due to the importance of this criterion.</p> <p>Figures in the 2002 explanatory text are corrected in the 2008 codes.</p> <p>Design element 6.10 incidental development requirements</p> <p>A number of minor editorial changes update the 2002 explanatory text in the advertised and the 2008 explanatory guidelines.</p>
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Part 7 – Special provisions***Titles of 7.1, 7.2 and 7.3***

The advertised explanatory guidelines erroneously referred to the titles of the special provisions as 'design elements'. The 2008 explanatory guidelines correct this error.

7.1 – Special purpose dwelling requirements***Aged or dependent persons' dwellings***

As explained, the 2002 explanatory text concessions relating to the density bonus for aged or dependent persons' dwellings is retained in the 2008 explanatory guidelines. Accordingly, the constraint relating to the requirement for a legal agreement restricting occupancy (which was proposed to be deleted in the advertised explanatory guidelines) is reinstated. For consistency with the 2008 codes, the 2008 explanatory guidelines also include a constraint requiring a minimum of five aged or dependent persons' dwellings in a single development, while giving councils the ability to introduce a local planning policy to reduce the minimum to facilitate additional aged or dependent dwellings.

In addition, a number of minor editorial changes made to the 2002 explanatory text are included in part 7 of the 2008 explanatory guidelines.

5 Use of the 2008 codes and explanatory guidelines

The 2008 codes should be used in conjunction with the 2008 explanatory guidelines when designing and assessing all residential development in Western Australia.

6 Further information

Any enquires or correspondence on this planning bulletin should be directed to:

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