

Planning Information Sheet: Variations to the Deemed-to-Comply Provisions

WHAT ARE THE DEEMED-TO-COMPLY PROVISIONS?

The deemed-to comply provisions of the Residential Design Codes - Volume 1 (R-Codes) are the planning standards set by the Western Australian Planning Commission to which development is permitted as-of-right. Where a proposal does not meet these provisions, the proposal is to be assessed using the Design Principle provisions.

The City of Canning (the City) shall not refuse to grant approval to an application where the application satisfies the deemed-to-comply provisions of the R-Codes and the relevant provisions of the scheme and any relevant local planning policy.

In some cases the City's local planning policies and their provisions replace the relevant provisions contained within the R-Codes – Volume 1. These policies are readily available on our website.

PROPOSING VARIATIONS TO THE DEEMED-TO-COMPLY PROVISIONS

When a variation to the deemed-to-comply provisions is proposed, the City is required to exercise its judgement to consider the proposal on its merits. We must have regard to the objectives of the R-Codes and balance these with the consideration of design principles.

Applicants MUST include a letter of justification addressing the following:

- a) identification of all design elements that are not deemed-to-comply; and
- b) written justification as to how the proposal meets the design principles and objectives of the R-Codes Volume 1 and any relevant scheme and local planning policy objectives and requirements.

If the above justification letter is not submitted with an application, it will be returned until such time as a suitable letter is submitted. In some cases engaging a suitably qualified person to assist in preparing an application is recommended.

HOW TO ADDRESS THE DESIGN PRINCIPLES

Provide evidence detailing how the proposal meets each provision of the Design Principles for the relevant clause. The Residential Design Codes Explanatory Guidelines document may assist in preparing the justification letter.

EXAMPLE – Proposing a variation to clause 5.1.3 C3.1 *Lot Boundary Setback*.

Clause	Design Principles Provision	Evidence
P3.1	<i>Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:</i>	How does the design moderate the visual impact of building bulk on a neighbouring property. Provide

	<ul style="list-style-type: none"> • <i>reduce impacts of building bulk on adjoining properties;</i> 	evidence and examples to support this.
P3.1	<i>Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:</i> <ul style="list-style-type: none"> • <i>provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties</i> 	How does the proposed setback allow adequate direct sun and ventilation to the affected buildings and open spaces. Provide evidence to support this.
P3.1	<i>Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:</i> <ul style="list-style-type: none"> • <i>minimise the extent of overlooking and resultant loss of privacy on adjoining properties.</i> 	How is the proposed reduced setback appropriate in maintaining privacy to neighbours. Provide evidence to support this.

IF AN INSUFFICIENT JUSTIFICATION LETTER IS SUBMITTED

Once an application is submitted and accepted by the City for assessment, if the information provided does not address each provision outlined in the Design Principles, the application may be put on hold while the City request further information to be provided. The onus is on the applicant to provide sufficient evidence to the City to support the variation being proposed.

CONSULTATION WITH AFFECTED LANDOWNERS

Where an application proposes a variation to the deemed-to-comply provisions and the City considers there to be a possible impact on the amenity of adjoining owners and occupiers, then there may be grounds for the City to advertise the proposal to these owners and occupiers. Consultation is conducted by the City in line with Local Planning Policy LP02. *Public Consultation of Planning Proposals*. A link to the policy is available on the City's Planning Services webpage. Please note there is an associated fee when consultation is required to be undertaken, which can be found on the City's Planning Fees Schedule also available on the City's web page.

USEFUL LINKS

- The Residential Design Codes – Volume 1: <https://www.wa.gov.au/system/files/2021-10/SPP7.3-Residential-design-codes-Volume-1-computer-%20version.pdf>
- R-Codes Volume 1 Explanatory Guidelines: https://www.wa.gov.au/system/files/2021-10/R_Codes_Vol_1_Explanatory_Guidelines_2021.pdf
- R-Codes Volume 1 Practice Notes: https://www.wa.gov.au/system/files/2021-09/R_Code_Practice_Notes_Sept2021.pdf

The City of Canning Planning Services webpage. The page provides checklists for applications and various information sheets to assist you at the bottom of the page: <https://www.canning.wa.gov.au/residents/building-here/planning-services>

Disclaimer

This information sheet is provided as generalised information. While we aim to keep the content of this document current and accurate, we accept no responsibility or warranties for actions based on the information provided. The City of Canning encourages you to seek professional advice before acting on any information contained in this document. Please contact the City of Canning if you wish to comment on the forms provided and information contained within. Any reported errors will be amended.

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