

11.4 Review of Local Planning Policy 7 'Vehicle Access to Properties via a Right-of-Way'

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| Location | Town-wide |
| Reporting officer | Leigh Parker |
| Responsible officer | Robert Cruickshank |
| Voting requirement | Simple majority |
| Attachments | <ol style="list-style-type: none">1. Reviewed Draft LPP7 'Development and Vehicle Access to Properties Abutting Rights-of-Way' [11.6.1]2. Existing LPP7 'Vehicle Access to Properties Abutting Rights-of-Way' [11.6.2] |

Recommendation

That Council:

1. Approves advertising of the draft revised Local Planning Policy 7 'Development and Vehicle Access to Properties Abutting Rights-of-Way' (as contained within Attachment 1) for public comment for a minimum period of 21 days in accordance with deemed Clause 4 of the *Planning and Development (Local Planning Schemes) Regulation 2015*; and
2. Requests that the Chief Executive Officer provides a further report to Council summarising and responding to any submissions received during the public advertising period along with a recommendation on whether or not to adopt draft revised Local Planning 7 'Development and Vehicle Access to Properties Abutting Rights-of-Way' with or without modifications.

Purpose

To consider proposed amendments to the existing Local Planning Policy 7 'Vehicle Access to Properties via a Right-of-Way' (LPP 7).

To resolve whether to grant consent to advertise draft revised LPP 7 for public comment.

In brief

- Council's Urban Planning service area have completed a review of LPP 7, as part of its comprehensive project to review all 37 Local Planning Policies (LPPs).
- The review has considered the adopted policies of a number of other metropolitan local governments as well as the Western Australian Planning Commission's (WAPC) Planning Bulletin 33/2017 'Rights-of-way or laneways in established areas', which recommends the incorporation of its provisions within local government Local Planning Policies.
- Internal engagement with officers from the Town's Place Planning, Urban Planning, Street Improvement and Community Development service areas has occurred to help refine the provisions of the draft policy and ensure it is aligned with cross-functional requirements.
- The major changes to the existing policy include:

- The incorporation of provisions from the WAPC’s Planning Bulletin 33/2017 ‘Rights-of-way or laneways in established areas’;
- Introduction of provisions for development abutting a right-of-way in relation to building design and surveillance, landscaping, lighting and fencing;
- Introduction of right-of-way building setback requirements for non-residential development which are currently not provided for in the Town’s local planning framework;
- Incorporation of the Town’s right-of-way widening and upgrading requirements in a single policy location, including the manner in which the Town will consider and apply relevant conditions to applications for development approval and built strata subdivision approval, as well as recommendations to the WAPC on applications for survey strata, freehold subdivision and amalgamation; and
- The incorporation of explanatory diagrams to visually communicate the Town’s requirements in relation to right-of-way widening, corner lot truncation requirements and visual sightline truncations.

Background

1. LPP 7 ‘Development and Vehicle Access to Properties Abutting Rights-of-Way’ was originally adopted as Town Planning Scheme No. 1 (TPS No. 1) Policy 3.10 ‘Vehicular Access to Dwellings via a Right-of-Way’ on 30 September 1998. The policy was later amended to ‘Vehicular Access to Properties via a Right-of-Way’ as part of Amendment 4 to TPS No. 1 gazetted 4 May 2001.
2. At the Ordinary Council Meeting on 9 February 2016, Council resolved to adopt the planning policies contained within the former TPS No. 1 Policy Manual, those adopted as Local Planning Policies prepared under the R-Codes, and those adopted as Administrative Policies (otherwise known as PLNG Policies) as Local Planning Policies.
3. Council’s Urban Planning service area are currently undertaking a comprehensive review of all 37 Local Planning Policies (LPPs). The local planning policies are being progressively amended, adopted and/or revoked following their review and public advertising of any recommended changes.
4. A formal resolution of Council is required to grant consent for the public advertising of a new or revised LPP.

Details

5. A review of LPP 7 has been undertaken by Council Officers, which has included consideration of:
 - (a) the effectiveness of the current Policy including any issues of interpretation, application and gaps or deficiencies;
 - (b) like Policies of other Local Governments;
 - (c) alignment with relevant State legislation, policy and/or guidelines (where applicable);
 - (d) greater clarity in the objectives of the Policy; and
 - (e) improving the presentation of the Policy.
6. The review of existing LPP 7 has identified the following shortcomings and/or opportunities for improvement:
 - (a) The policy deals only with the issue of legal access to a right-of-way, and whether or not vehicular access will be granted by Council dependant on the construction standard of the right-of-way.
 - (b) It does not capture the requirements and recommended provisions contained in the WAPC’s *Planning Bulletin 33 ‘Rights-of-way or laneways in established areas’*.
 - (c) It does not contain provisions applicable to new development abutting rights of way. An opportunity exists to align requirements for residential development (under existing LPP 25 ‘Streetscape’) with non-residential development to identify common standards and requirements applicable to all development types adjacent to rights-of-way.
 - (d) An opportunity exists to incorporate provisions that provide a policy basis for the standard practices and procedures Council undertakes with respect to conditions imposed or recommended to be imposed on applications for development approval, built strata subdivision, green title subdivision, amalgamation or survey strata subdivision in relation to right-of-way widening and upgrading.
7. As a result of the review the following changes are proposed to existing LPP 7:

- (a) Broadening the scope of the policy to deal with both vehicular access and development generally on properties abutting rights-of-way, with the policy being retitled to 'Development and Vehicle Access to Properties Abutting Rights-of-Way'.
- (b) Providing an Introduction, Objective and Scope to outline and justify the basis of the policy and what it seeks to achieve.
- (c) Expand and explain scope and intent of policy to emphasise intent for new developments to utilise existing rights-of-way with the eventual goal being their transition to pleasant streetscape environments.
- (d) As is currently the case under LPP 25 'Streetscape' and the R-Codes for residential development, state as a general requirement for all development types, that where vehicular access from a right-of-way is available for new development, sole vehicular access is to be taken from the right-of-way. (Refer Clause 1)
- (e) Insert new provisions regarding the removal of redundant crossovers and verge reinstatement (refer Clause 3), and provisions of pedestrian access to the primary/secondary street (refer Clause 4 and accompanying diagram) for rear infill development/subdivision of lots abutting rights-of-way.
- (f) Insert new clauses and accompanying diagrams explaining the Town's requirements and methods of calculation for the widening of underwidth rights-of-way, corner lot truncation requirements and right-of-way upgrading requirements. (Refer Clauses 5, 6 and 7)
- (g) Insert new provisions relating to development and building design to outline right-of-way building setback requirements, incorporate crime prevention through environmental design (CPTED) principles in terms of passive surveillance, security and crime deterrent measures through appropriate window size and location, permeable fencing to rights-of-way and provision of lighting at pedestrian and vehicular access points. (Refer Clauses 11, 12 and 14)
- (h) Insert provisions relating to landscaping, visual sightlines and vehicle manoeuvring requirements (Refer Clauses 13 and 15).
- (i) Insert provisions detailing how the Town will apply or recommend relevant conditions to ensure compliance with the revised policy for applications for development approval, built strata, survey strata, or freehold subdivision and amalgamation. (Clauses 16, 17 and 18)

Strategic alignment

Civic Leadership

| Strategic outcome | Intended public value outcome or impact |
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| CL02 – A community that is authentically engaged and informed in a timely manner. | Community consultation and public advertising occurring in accordance with State legislative requirements and LPP37 'Community Consultation on Planning Proposals' |
| CL10 – Legislative responsibilities are resourced and managed appropriately, diligently and equitably. | The review of the Town's LPPs to ensure they remain relevant, effective and consistent with current legislative requirements and State Planning Policies. |

Environment

| Strategic outcome | Intended public value outcome or impact |
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| EN01 - Land use planning that puts people first in urban design, allows for different housing options | The appropriate development and subdivision of properties abutting rights-of-way and the widening |

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| for people with different housing need and enhances the Town's character. | and upgrading of underwidth rights-of-way can contribute to greater housing choice and diversity to meet existing and future community needs. |
| EN02 - A safe, interconnected and well maintained transport network that makes it easy for everyone to get around. | The widening and upgrading of the Town's rights-of-way through the development and subdivision process can help relieve pressures and congestion on public streets, allow for more efficient use of land and contribute to the overall improvement of the road transport network. |

Engagement

| Internal engagement | |
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| Stakeholder | Comments |
| Community Development | Has reviewed the draft policy and helped to inform new provisions addressing CPTED principles that support passive surveillance and crime deterrence through appropriate building design, fencing and lighting. |
| Street Improvement | Have reviewed draft policy and contributed to refinement of several provisions to ensure they are aligned with relevant engineering and right-of-way upgrading requirements. |
| Urban Planning | Have reviewed the draft policy and contributed to development of its form and content to ensure it is clear and relatively easy to administer and can be understood by the general public, land owners and developers. |
| Place Planning | Have reviewed the draft policy and support the proposed changes. |

Legal compliance

- *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations)

The amendment of a Local Planning Policy is to be undertaken in accordance with deemed clauses 4 and 5 of the Regulations, including:

- Community consultation for a period of not less than 21 days; and
- Consideration of public submissions and a Council resolution to proceed with the new or amended policy with or without modifications, or not to proceed.

As per deemed clause 4(5) and clause 6(b)(ii), the adoption of a new or revised local planning policy, or the revocation of an existing local planning policy, takes effect upon publication of a notice in a newspaper circulating within the Scheme Area.

- Local Planning Policy 37 – Community Consultation on Planning Proposals

Risk management considerations

| Risk and consequence | Consequence rating | Likelihood rating | Overall risk analysis | Mitigation and actions |
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| Compliance Application of Policies which could contain clearer and more comprehensive provisions in order to more effectively achieve their intent and objectives. | Moderate | Likely | Low | Consent to public advertising of draft revised LPP 7. |
| Compliance Application of standardised practices and procedures which are not underpinned by a Local Planning Policy or other adopted instrument within the Town's local planning framework. | Moderate | Likely | Low | Consent to public advertising of draft revised LPP 7. |

Financial implications

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| Current budget impact | Sufficient funds exist within the annual budget to address this recommendation. |
| Future budget impact | Not applicable. |

Analysis

8. The proposed changes to existing LPP 7 draw together and provide a policy basis for a wide range of Town requirements applicable to development and subdivision of properties abutting rights-of-way.
9. It is considered that the revised policy will benefit and provide clarity to property owners, developers, and the general community. It will also assist Council Officers to explain and refer community members to the applicable requirements of the Town as they are a) currently set out across a number of policies, b) are not documented within a policy and/or c) are State Government recommended provisions.
10. Existing LPP 25 'Streetscape' contains a number of provisions relating to building setbacks and CPTED design principles, however these are not currently specified for non-residential development within the Town's local planning framework despite being relevant considerations in the design of such development. The proposed changes to LPP 7 include new provisions for non-residential development and build upon those existing in LPP 25 for residential development, providing alignment, consistency in approach and clarity to the requirements applicable to all forms of development abutting rights-of-way.
11. The revised policy also recognises that its Town-wide provisions may not be appropriate for specific localities where the scale or nature of intended future development requires controls specific to that locality, including provisions applicable to development abutting rights-of-way. Examples of such localities include Belmont Peninsula, the Albany Highway Precinct and Burswood Station East. Accordingly, the policy includes clauses specifying that where area-specific provisions contained within a Council adopted LPP, Design Guidelines or other planning instrument exist, then these will prevail over the requirements contained within draft revised LPP 7, to the extent of the inconsistency.
12. Draft revised LPP 7 has been subject to substantial internal review and refinement and it is recommended it now proceed to public advertising. A further report will be presented to Council in the future following the conclusion of the advertising period, reporting on any submissions received, and seeking a final decision from Council as to whether or not to adopt the draft revised policy, with or without modifications.

Relevant documents

[WAPC Planning Bulletin 33/2017 'Rights-of-way or laneways in established areas'](#)