

	<p><b>Local Planning Policy 129</b> <b>Residential Amenity</b></p>
<p><b>Key Focus Area</b> Liveability</p>	<p><b>Responsible Directorate</b> Planning and Development</p> <p><b>Relevant Council Delegation</b> Nil</p>

### Purpose

This Policy has been prepared by the Town of Claremont in response to community concerns regarding the incompatibility of some new dwellings, and additions to existing dwellings, with existing residential development. The community believes that some aspects of residential development are not suitably addressed by the Residential Design Codes (**RDC**) and may result in unreasonable amenity impacts.

The Town of Claremont seeks to protect neighbourhood amenity.

This Policy is highly selective in terms of the areas of its application. It applies to single dwelling developments in the first instance, however may also apply to other forms of residential development in the locality.

The RDC encourages local governments to prepare local planning policies to address local issues.

Local Planning Scheme No. 3 (**LPS3**) (Clause 46) requires (among other things) that development in the Residential zone shall have regard to the following objectives:

- the continuation of the domestic scale and architectural character of the area of the proposed development and
- the preservation of the traditional housing character of the zone.

The Claremont community has registered some disquiet with various residential development proposals, and more generally with the erosion of amenity resulting from zincalume or other highly reflective roofs and overlooking from significant windows to non-habitable rooms.

### Policy

The objectives of this Policy are to:

- ensure that when new residential development is proposed, due consideration is given to the preservation of reasonable amenity for occupiers of adjoining properties and the surrounding area.
- provide guidance in the consideration of amenity impacts arising from proposals seeking a Building Permit without the submission of a Development Application due to exemptions for development provided for under Schedule 2, Part 7, Clause 61 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regs).
- to ensure development does not impact on local amenity in terms of roof reflectivity or overlooking

from large windows to non-habitable rooms and areas which may otherwise comply with the deemed-to-comply provisions of the (RDC).

### **Status/Application:**

When dealing with applications for a Building Permit or Development Application for residential development, an assessment of the amenity impacts of the development is to be taken of the proposal consistent with the intent of Clauses 76 and 77 of LPS3 and Schedule 2, Part 7, Clause 67 of the LPS Regs.

This Policy has initially adopted under Clause 82 of LPS3 as a Local Planning Policy and reviewed under Schedule 2, Part 2, Clause 5 of the LPS Regs. This means that both the Town and prospective applicants for Building Permits and Development Approvals are obliged to take the Policy into account. Variations and departures may be possible, however these will need to be suitably justified by the both the applicant and the Town.

This Policy endeavours to complement the RDC by augmenting and further developing specific provisions with more specific policy measures pertinent to residential development within the Town of Claremont. If there are inconsistencies between the provisions of the RDC and this Policy, the provisions of this Policy shall prevail.

### **Interpretations:**

Amenity for the purposes of this Policy means all those factors which combine to form the character of an area and include the present and likely future amenity.

### **Policy Statement:**

In considering the impacts of a proposed residential development on the amenity of an adjoining property and/or the surrounding locality, the Council may have regard to any factor relevant to the amenity of the adjoining property and/or the surrounding locality and the impact of the proposed development upon that amenity including but not limited to:

- Impacts of roof reflectivity and glare.
- The design and external appearance of a wall cladding of any new building or addition and its effect on the amenity of existing buildings on the adjoining properties or on the surrounding area.
- Impacts of overlooking from non-habitable rooms and areas.
- Access to daylight and ventilation to major openings.
- The sense of confinement resulting from cumulative building bulk.
- Any relevant development amenity matter relating to residential development which is not addressed under the provisions of the RDC.
- Any other relevant aspect of the character of the adjoining property and/or the surrounding area (as the case may be) that may be affected by the proposed development.

### **Development Applications:**

The definition of development and requirements for submissions of Development Applications are as set out in ~~LPS3~~ Schedule 2, Part 8 of the LPS Regs.

Under LPS3 a Development Application must be submitted for any development on land zoned for residential use where it is not exempted from this requirement under the terms of ~~LPS3~~ Schedule 2, Part 7, Clause 61 of the LPS Regs. If an application is lodged for a Building Permit which complies with the

deemed-to-comply provisions of the RDC, LPS3 provisions or requirements of other local planning policies, Structure Plans or Detailed Area Plans adopted by Council in accordance with LPS3 and Schedule 2, Part 7, Clause 2 of the LPS Regs, and the plans do not adequately address the amenity considerations of this Policy, the building plans are to be modified to address the amenity considerations of this policy to the satisfaction of the Town, or the owner is to lodge a formal application for Development Approval for the determination of the amenity impacts of the development in accordance with the provisions of Schedule 2, Part 7, Clause 67 of the LPS Regs.

<b>Document Control Box</b>			
<b>Business Unit:</b>	Planning and Development		
<b>Legislation:</b>	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i>		
<b>Organisational:</b>	Residential Design Codes Local Planning Scheme No. 3		
<b>Review Frequency:</b>	Annual	<b>Next Due:</b>	2021
<b>Version #</b>	<b>Decision:</b>	<b>OCM Date:</b>	<b>Resolution Number:</b>
1.	Adopted	19/05/2015	89/15
2.	Reviewed	15/12/2015	226/15
3.	Reviewed	13/12/2016	206/16
4.	Modified	18/12/2018	228/18