



**TOWN PLANNING SCHEME
POLICY NO. 48:
INLET DRIVE AND MINSTERLY
ROAD PRECINCTS**

**Adopted on the 17th December 2019 in accordance with
Clause 8.2 of Town Planning Scheme No. 3.**

1. INTRODUCTION

This Policy applies to proposals and applications within the area as defined in Figure 1 (to be called the 'Precincts'). It particularly relates to varying the side setbacks for new or extended dwellings, new outbuildings and for retaining walls.

Many lots in the precincts are characterised by being long but having a narrow width. Some lots are around 20m wide and there are some with widths less than 20m.

The precincts are zoned 'Residential R2' and 'Residential R2.5'. The R-Codes set a setback standard of 10 metres from side and rear boundaries for land coded R2, while a 7.5m side and rear setback applies for land coded R2.5.

Many proposals cannot meet the side setbacks applicable under an R2 or R2.5 coding. In some instances, no dwelling design for the property can comply for instance with a 10m side setback standard given some lots have a 20m width.

Given the above, the local government has on many occasions, accepted side setbacks variations for development in the precincts. There are many buildings in the precincts that have been approved and built with a 1m side setback.

[State Planning Policy 3.1 Residential Design Codes \(R-Codes\)](#) includes provisions for decision-makers to prepare local planning policies to replace certain development standards of the R-Codes where a specific local need arises. Additionally, clause 61(4)(c) of the Deemed Provisions from the *Planning and Development (Local Planning Schemes) Regulations 2015* (to be called the 'Regulations') enable Local Planning Policies to amend or replace the deemed-to-comply requirement of the R-Codes.

The R-Codes set out that proposals that do not satisfy the deemed-to-comply requirements of the R-Codes will need to address the design principles of the R-Codes. The design principles provide different ways of achieving an acceptable design outcome if this is consistent with the objectives of the R-Codes.

This Policy provides variations to relevant deemed-to-comply requirements of the R-Codes, within the precincts, to assist in implementing appropriate development to meet the local context.

2. POLICY BASIS

This is a local planning policy prepared under the Planning and Development (Local Planning Schemes) Regulations 2015 and the Shire of Denmark Town Planning Scheme No. 3 (the 'Scheme').

3. OBJECTIVES

The objectives of this Policy are to:

- set out variations to the R-Codes and provide alternative deemed-to-comply requirements for side setbacks and retaining walls;
- provide further interpretation of the R-Codes in the assessment of residential development, outbuildings and retaining walls;

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- provide the basis for consistent assessment and decision making; and
- secure the privacy and amenity of the locality through appropriate development requirements while noting the precinct's context including lot shapes.

4. DEFINITIONS

Definitions in this Policy are as per the Scheme and in the R-Codes.

5. POLICY PROVISIONS

5.1 General

Table 1 of this Policy provides a comparison of the side setback requirements under the R2 and R2.5 density codes.

R-Code	R-Code side setback	Local Planning Policy No. 48 side setback
R2	10 metres	Variable based on wall height and whether or not there are major openings. Uses Table 2a and Table 2b from the R-Codes.
R2.5	7.5 metres	Variable based on wall height and whether or not there are major openings. Uses Table 2a and Table 2b from the R-Codes.

5.2 Alternative deemed-to-comply requirement for precincts

Table 2 of this Policy establishes alternative deemed-to-comply requirements for land zoned Residential R2 and R2.5 within the Precincts outlined in Figure 1 of this policy.

Amend the "other/rear" minimum setback established at column 7 of Table 1 of the R-Codes as follows:

	R-Code 'deemed to comply' standard			Local Planning Policy No. 48 side setback		
Column 1	Column 7			Column 7		
R-Code	Minimum Setbacks (m)			Minimum Setbacks (m)		
	primary street	secondary street	other/rear	primary street	secondary street	other/rear
R2	20	10	10	20	10	*/10
R2.5	15	7.5	7.5	15	7.5	*/7.5

* see Tables 2a and 2b and Clauses 5.1.3 & 5.3.8

Note: This change to Table 1 of the R-Codes effectively applies the same side setback standards as applies to all other density codes in the R-Codes for the erection or extension of a single house, an outbuilding or a new retaining wall.

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This Policy does not change the zoning, R-Coding or other R-Code standards including the front setbacks.

This Policy should be read in conjunction with the R-Codes, including the Explanatory Guidelines, which provide a guide for assessment.

5.3 Outbuildings

Policy requirements relating to outbuildings are set out in the R-Codes and in *Town Planning Scheme Policy No. 13.4 Outbuildings*. Outbuildings in the Precincts are required to meet the side and rear setback requirements based on Tables 2a and 2b of the R-Codes. Maximum area and height standards for the precincts are set out in *Town Planning Scheme Policy No. 13.4 Outbuilding* relating to the Residential Zone.

5.4 No development approval required in certain circumstances

No development approval is required for the erection or extension of a single house, outbuilding or retaining wall that complies with the alternative deemed-to-comply requirements set out in this Policy (and all other deemed-to-comply requirements of the R-Codes), in accordance with clause 61(4)(c) of the Deemed Provisions from the Regulations.

Note - a Building Permit is always required to be submitted and approved as per the Building Regulations 2012.

5.5 Where the alternative deemed-to-comply requirements are not met

As per the R-Codes, where proposals do not meet the Deemed-to-Comply requirements, development approval is required. The development application will be assessed by the local government having regard to the relevant design principles of the R-Codes.

5.6 Consultation

Development Applications that do not comply with the alternative deemed-to-comply requirements of this Policy, or other deemed-to-comply requirements of the R-Codes, will be subject to consultation with neighbours.

Related Policies	<i>Town Planning Scheme Policy No. 13.4 Outbuildings</i> <i>Town Planning Scheme Policy No. 40 Rainwater Tanks and Greywater Re-Use Systems</i>
Related Procedures and Documents	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> <i>State Planning Policy No. 3.1 Residential Design Codes of Western Australia</i> <i>State Planning Policy 3.7: Planning in Bushfire Prone Areas</i>
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