



**LOCAL PLANNING POLICY 1.2: REMOVAL OF OCCUPANCY RESTRICTIONS**

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## 1 PURPOSE

- 1.1 To outline the provisions relating to the removal of occupancy restrictions on residential properties and ancillary dwellings imposed under the Additional Use provisions of the City of Nedlands Town Planning Scheme No. 2 (TPS2) or the older version of the Residential Design Codes (R-Codes).

## 2 APPLICATION OF POLICY

- 2.1 This Policy applies to all applications for the removal of occupancy restrictions imposed on residential zoned lots under the Additional Use provisions of the former TPS2.
- 2.2 This Policy also applies to all ancillary dwellings within the City of Nedlands required to be burdened with occupancy restrictions under the older version of the R-Codes.

## 3 RELATIONSHIP TO OTHER POLICIES AND LEGISLATION

- 3.1 This Policy has been prepared in accordance with Schedule 2 Part 2 Clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- 3.2 This Policy should be read in conjunction with the following planning instruments and its requirements apply unless specifically stipulated elsewhere in any of the below:
- *Planning and Development Act 2005*
  - *Planning and Development (Local Planning Schemes) Regulations 2015*
  - *City of Nedlands Local Planning Scheme No. 3*
  - *State Planning Policy 7.3 – Residential Design Codes (R-Codes)*

## 4 OBJECTIVES

- 4.1 To provide a framework for the removal of occupancy restrictions on certain developments imposed under the former TPS2 and the older version of the R-Codes.

## 5 POLICY MEASURES

### 5.1 Occupancy Restrictions – Aged and Dependant Persons Dwellings (Over 55's Dwellings)

- 5.1.1 All properties restricted to Aged and Dependant Persons Dwellings (Over 55's Dwellings) through the provision of an Additional Use and associated Development Approval issued under TPS2 shall no longer be required to maintain this occupancy restriction.
- 5.1.3 The properties shall remain burdened by the occupancy restriction mechanism imposed over the site by a condition of development approval or notification on the Certificate of Title until the owner of the subject property completes the process for removal of the occupancy restriction mechanism via development approval from the local government in accordance with Schedule 2 Clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

### 5.2 Occupancy Restrictions – Ancillary Dwellings

- 5.2.1 All ancillary dwellings that were previously restricted to occupancy by Aged and Dependant Persons or family members through a condition of a Development Approval shall no longer be required to maintain this occupancy restriction.



**5.2.2** The properties shall remain burdened by the occupancy restriction mechanism imposed over the site by a condition of development approval or notification on the Certificate of Title until the owner of the subject property completes the process for removal of the occupancy restriction mechanism via development approval from the local government in accordance with Schedule 2 Clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

**Notes:** For guidance on the process of removing a notification on a Certificate of Title after development approval has been granted, refer to the *Procedure for the Removal of Notifications on Title (Over 55's Accommodation / Ancillary Dwellings)*.

## 6 OTHER CONSIDERATIONS – HEALTH AND BUILDING APPROVAL

**6.1** The applicant is advised to consult with the City's Building Services & Environmental Health Services to determine if a Building or Health approval is required.

## 7 DEFINITIONS

**7.1** For this Policy, the following definitions apply:

Definition	Meaning
<b>Additional Use</b>	A class of use for specified land that are additional to the classes of use permissible in the zone in which the land is located.
<b>Aged Person</b>	A person who is aged 55 years or over.
<b>Ancillary Dwelling</b>	As defined by the Residential Design Codes.
<b>Dependent Person</b>	A person with a recognised form of disability requiring special accommodation for independent living or special care.
<b>Over 55's Dwellings</b>	Dwellings where at least one occupant must be aged 55 years of age or over. Occupancy restrictions on the Certificate of Title or Strata Plan are often used as mechanisms to enforce this occupancy restriction.

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