

**CITY OF JOONDALUP — R-CODES**

*Grievance*

**MR J. NORBERGER (Joondalup)** [9.23 am]: My grievance to the Minister for Planning relates to R-codes. The grievance I raise was triggered a couple of months ago when I was out doorknocking in Joondalup. Whilst out and about in my community, I came across Coliban Grove, a quiet cul-de-sac with quite a startling and, I might say, unwanted recent addition. I understand that the minister has seen the photos that I supplied in advance of this morning's grievance, as I doubt words can do justice to the sight that greeted me. One of the home owners in Coliban Grove is well advanced in developing a three-storey tower on the front lawn. The structure is detached from the main house and quite literally would not have looked out of place in one of the *Lord of the Rings* epics. I was naturally shocked, and as I doorknocked the other home owners in the street, it became very clear that they, too, were totally shocked and very upset that such a development would get council approval. Residents told me that their inquiries with the City of Joondalup had indicated that the structure met planning guidelines. Many home owners were dismayed and felt that they were now in a position in which they would be unable to sell their homes with this addition to the otherwise harmonious street.

As members can imagine, I took the matter up with the City of Joondalup and received a briefing from the mayor and the city's director of planning. The city advised that one of the challenges it faces is, in its words, the key deficiencies and problems related to R-codes, which, in its view, makes it difficult for the city to reject development applications, such as the Coliban Grove application. The city subsequently provided me with a summary of what it felt were shortcomings in the R-codes, which I am raising with the minister now. The following is what was raised by the city. Firstly, there is a lack of control around design and quality. The R-codes do not deal with the design of development; they simply provide criteria or design elements that need to be addressed, which may not necessarily result in a good design outcome. The City of Joondalup also believes that more detailed standards are required for ancillary dwelling additions, such as granny flats, that are visible from the primary or secondary street. These structures should be designed to look like mini houses and not outbuildings, transportable rooms or castle towers! There is no consideration of the aesthetics or energy efficiency of materials and finishes. Standards should be included to prevent lower quality structures, such as Colorbond structures, in the front setback areas. In the city's opinion, the design principles are generally too vague and ambiguous. Sometimes, however, better design outcomes may be achieved by assessment against the design principles, but developers are discouraged to use that opportunity due to uncertainty of obtaining approval and the time added to the approval process. There is no definition of "amenity", yet it is referenced in various design principles. Screening to a height of 1.6 metres above the finished floor level is deemed to be sufficient under the R-codes to prevent overlooking onto an adjoining property. However, in a significant number of cases this is quite inadequate. The average Australian adult male is of a height that is above the deemed-to-comply screening height, invariably rendering screening insufficient. The explanatory guidelines fail to explain every clause, leading to different interpretations of several clauses. The diagrams associated with the provisions are not good enough, apparently. In most instances, the diagrams do not add any value to the deemed-to-comply provision. Figures can be difficult to interpret and can conflict with each other. Terminology used can often be confusing and the document is not written in plain English. It is felt that unless a planning officer interprets the document, most members of the general public cannot understand it. The R-codes are overly complicated and open to interpretation, leading to inconsistency in application and uncertainty for developers. Subdivision controls do not really address good lot design, especially relating to infill development.

That is the list that was provided to me by the City of Joondalup. I am certainly not a planning expert and I appreciate the complexities that this portfolio can present, but I am hoping the minister may be able to take this feedback on board, with a view of incorporating useful changes in any future reviews of the R-code provisions. I welcome the minister's feedback this morning as I for one would hate to see any repeat of developments such as I found in Coliban Grove.

**MR J.H.D. DAY (Kalamunda — Minister for Planning)** [9.28 am]: I thank the member for Joondalup for the information he provided to me and my office prior to his grievance this morning and for the photos that he sent through. I must say, like all of the staff in my office, when I first saw these pictures I was quite astounded that this development would have been approved. It reminds us of something from the East European bloc in the 1960s or 1970s and the fact that it is in a suburban area in Coliban Grove, Joondalup, really is quite amazing. I have not seen it on site and it will no doubt look better when it is completed than it does during construction.

*Tabling of Paper*

**Ms S.F. McGURK:** I would be interested to see some of those pictures. Perhaps they can be tabled at the end of the grievance.

**The SPEAKER:** Can the minister table those?

**Mr J.H.D. DAY:** I can give them to the member.

**The SPEAKER:** He will give them to you.

**Mr J.H.D. DAY:** I do not know that they need to be tabled in the record of Parliament, which I think would have that effect, but I am happy to do so.

[The paper was tabled for the information of members.]

*Grievance Resumed*

**Mr J.H.D. DAY:** Those are my introductory comments. I will now provide more information about the situation that applies to the planning approvals process and in particular how the state's R-codes and local government planning scheme and policies are applied to such developments.

The local government planning scheme is the primary statutory document to be used in the assessment of development applications. The City of Joondalup, as it is in this particular case, must consider the objectives and relevant specific clauses of its district planning scheme 2 in assessing all development applications. Residential design codes, normally known as the R-codes, are a state planning policy and are given effect in the development assessment process by way of provisions in each local government's planning scheme that adopts the R-codes as part of the scheme. Therefore, equal regard must be given to the R-codes as is given to other provisions of the scheme when assessing applications. The planning scheme also allows local governments to adopt local planning policies under the scheme that can be used to provide detailed guidance to planners or the council when determining development applications. Although adopted under the scheme, such policies are secondary to the scheme and when there are inconsistencies between a scheme provision and a policy, the scheme must prevail. Local governments may, if they choose to, adopt local planning policies that vary some of the so-called deemed-to-comply development standards in the R-codes when it is considered appropriate for local circumstances. For example, a local policy may vary height or setback requirements to be consistent with neighbourhood character, which varies from suburb to suburb.

With regard to the specific development at 3 Coliban Grove, Joondalup, I am advised that the site is zoned R20. The R-codes deemed-to-comply requirements for R20 sites include a maximum wall height of seven metres, or two storeys, and a minimum setback from the street of six metres. The application of these R-code requirements would have precluded the development as shown in the photos provided to my office. Clearly, it is a three-storey development with much less than a six-metre setback from the street. However, the City of Joondalup has adopted a local planning policy that varies the height and setback requirements of the R-codes. The City of Joondalup's policy 3.2, "Height and Scale of Buildings within Residential Areas", allows for walls of up to 8.5 metres, or three storeys, and a setback of only three metres from the street frontage. I understand that this development was approved by a City of Joondalup planning officer acting under delegated authority from the council. It appears that it was approved on the grounds of compliance with local planning policy 3.2 to which I just referred. However, this policy forms only one part of the statutory planning framework applicable to this development and, as I noted earlier, applications must be compliant with, firstly, the local government planning scheme and, secondly, any policies that are applied by that scheme, including being consistent with the objectives of local planning policies.

Although my office has not seen the full development application or undertaken a full assessment of the proposal, I will point out a few statutory planning provisions that I feel should have been given greater consideration in the assessment of the application, including the following objectives outlined in the city's district planning scheme 2 —

... To encourage urban design which is compatible with and appropriate to the natural, built and social environment of the City;

...

... maintain the predominantly single residential character and amenity of established residential areas;

Clause 8.2.1 of district planning scheme 2 states —

No building shall be so constructed, finished or left unfinished that its external appearance would significantly detract from the amenity of the locality or tend to depreciate the value of adjoining property ...

The objective of planning policy 3.2, "Height and Scale of Buildings within Residential Areas", states —

To ensure that all development within a residential area of significant height and scale is given appropriate consideration with due regard to the protection and enhancement of the amenity and streetscape character of the surrounding area.

Statutory requirements such as these could have been used as the basis for refusal of the development application and would have to be considered by the State Administrative Tribunal should a refusal have been submitted for

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Mr Jan Norberger; Mr John Day; Ms Simone McGurk; Speaker

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review by SAT. As I understand it, there are fewer discretions available to local governments in applying R-codes; they have been reduced in recent times. On the basis of this example, some might argue that perhaps there is still too much discretion available, but clearly with those objectives in the planning scheme that I just mentioned, I think that this development could and should have been refused. I would like to see local governments generally, when necessary, give greater consideration to scheme requirements, building design aspects and local amenity impacts in assessing development applications.

Some local governments and councillors complain when we shift planning control to the state and away from local government, but this sort of example demonstrates why in some cases the state needs to play the bigger role, which it is now doing.