

# Gladstone Regional Council

## Council Policy

<b>Title</b>	<b>RESIDENTIAL BOUNDARY RELAXATION POLICY</b>
<b>Policy Number</b>	<b>P-2023-05</b>
<b>Business Unit/s</b>	<b>CUSTOMER EXPERIENCE</b>
<b>Date of Adoption</b>	
<b>Resolution Number</b>	
<b>Review Date</b>	
<b>Date Repealed</b>	

### 1.0 PURPOSE:

To set out the guidelines to be applied by Council in assessing applications for Residential Building Relaxations made for certain types of Building Works proposed within the Gladstone Regional Council Local Government Area. For the purpose of assessment, Gladstone Regional Council has the role of a Concurrence Agency under the *Planning Act 2016* and *Planning Regulation 2017*.

### 2.0 SCOPE:

This Policy applies only to Building Works triggered under Schedule 9, Part 3, Division 2, Table 3, Item 1 of the *Planning Regulation 2017* being:

- a) The Queensland Development Code Part 1.1, 1.2 or 1.3 applies to the Building Work and, under the Part, the proposed building or structure does not include an Acceptable Solution for a relevant Performance Criteria under the Part; or
- b) Under the *Building Act 1975*, section 33, an alternative provision applies for the Building Work and, under the provision, the proposed building or structure is not of the quantifiable standard for a relevant qualitative statement under the provision; or
- c) All of the following apply—
  - i. Under the *Building Regulation 2021*, sections 4 and 5, the Planning Scheme includes a provision about a matter provided for under Performance Criteria P4, P5, P7, P8 or P9 of the Queensland Development Code, Parts 1.1 or 1.2
  - ii. The provision applies for Building Work
  - iii. Under the provision, the proposed building or structure is not of the quantifiable standard for a relevant qualitative statement under the provision.

### 3.0 RELATED LEGISLATION:

- *Building Act 1975*
- *Building Regulation 2021*
- *Planning Act 2016*
- *Planning Regulation 2017*

#### 4.0 RELATED DOCUMENTS:

- Development Services Request Form - Residential Boundary Relaxation
- National Construction Code
- Our Place Our Plan Gladstone Regional Council Planning Scheme
- Queensland Development Code MP 1.1, 1.2 and 1.3

#### 5.0 DEFINITIONS:

To assist in the interpretation of this Policy the following definitions apply:

**Amenity** means a desirable or useful feature or facility, pleasantness or attractiveness of a building or place

**Building Height** has the same meaning as defined in the Queensland Development Code MP 1.1, 1.2 and 1.3

**Building Work** has the same meaning as the *Planning Act 2016* and the *Building Act 1975*

All other terms in this Policy have the meaning assigned to them under the *Planning Act 2016*, *Planning Regulation 2017*, *Building Act 1975*, the Our Place Our Gladstone Regional Council Planning Scheme and the Queensland Development Code MP 1.1, 1.2 and 1.3.

#### 6.0 POLICY STATEMENT:

##### 6.1 APPLICATION REQUIRED TO BE MADE

In accordance with Schedule 9, Part 3, Division 2, Table 3, Item 1 of the *Planning Regulation 2017*, certain types of Building Works within the Gladstone Regional Council Local Government Area will require an application for a Residential Boundary Relaxation to be lodged and assessed by Council. These types of Building Works include:

- a) Construction of any Class 10 or Class 1 building or structure located within six (6) metres of the front property boundary and/or a Council controlled road
- b) Construction of any Class 10a building, or combination of 10a buildings, within 1.5m of any side or rear boundary and having a wall length, or combined wall length, exceeding nine (9) metres
- c) Construction of any Class 1a single storey building, or Class 10a where used for patio/deck/entertainment, located within 1.5 metres to the side or rear of a property boundary
- d) Construction of any Class 1a building where located in any of the following setbacks:
  - Within 1.5m of the side or rear of a property boundary where 4.5m or less in height
  - Within 2m of the side or rear of a property boundary where greater than 4.5m but less than 7.5m in height
  - Within 2m, plus 0.5m for each 3m or part thereof, of the side or rear of a property boundary where greater than 7.5m in height

- e) Construction of any Class 10a building exceeding a mean Building Height of 3.5 metres or a total height of 4.5 metres located within 1.5 metres of the side or rear of a property boundary
- f) Construction of any Class 10b structure or a combination of structures which exceed two (2) metres in Building Height and located within six (6) metres of the front property boundary and/or a Council controlled road
- g) Construction of any Class 10b structure or a combination of structures which exceed two (2) metres in height and located within 1.5 metres of the side or rear of a property boundary.

#### **6.1.1 Form of Application**

All applications for a Residential Building Relaxation will be required to be lodged with Council prior to the Building Work being undertaken by completion of the Development Services Request - Residential Boundary Relaxation Form and payment of the application fee.

#### **6.1.2 Applicable Application Fee**

The application fee for this assessment will be set by Council as part of its determination of fees and charges.

### **6.2 MATTERS COUNCIL MAY HAVE REGARD TO DURING ASSESSMENT**

Council may have regard to the following matters in making its Residential Building Relaxation assessment:

- a) Current approved use of the site
- b) Any adverse Amenity impacts created as a result of the proposal on the established built form and character including adjoining neighbours or public places
- c) Any underground Council controlled infrastructure and/or easements located within the site
- d) All existing structures and the established built form immediately visible from the site including building line setbacks. Note that consideration will not be given to existing structures located outside of the immediate visible streetscape
- e) The differences in contours of the land on which the building is proposed compared with the contours of adjoining land and road frontage
- f) The dimensions of the land on which the building is proposed and whether the site is a corner site
- g) Whether adjoining landowners have consented to the proposal
- h) The fire separation and safety requirements within the National Construction Code
- i) Built form and Amenity requirements in the relevant Planning Scheme Zone Code; and

j) Any other factors which Council may consider relevant given the nature of the proposal.

**6.3 UNACCEPTABLE STRUCTURES**

Council will generally not accept the following types of structures:

- a) Enclosed 10a structures in the front six (6) metres of the property boundary
- b) Structures that would result in a total cumulative site cover exceeding 50% in residential zones.

**7.0 ATTACHMENTS:**

Nil

**8.0 REVIEW MECHANISM:**

This Policy will be reviewed when any of the following occur:

- 1. The related legislation or governing documents are amended or replaced; or
- 2. Other circumstances as determined by resolution of Council or the CEO; or
- 3. Five (5) years from date of adoption.

TABLE OF AMENDMENTS			
Document History	Date	Council Resolution No.	Notes (including the prior Policy No, precise of change/s, etc)
Originally Approved	20 March 2018	G/18/3350	Introduced to: <ul style="list-style-type: none"> <li>• to meet statutory obligations as a result of the introduction of <i>the Planning Act 2016</i></li> <li>• to mitigate risk of challenge to the Building and Development Dispute Resolution Committee; and</li> <li>• to clarify assessment criteria specific to Boundary Relation matters.</li> </ul>
Amendment 1	6 June 2023		Change summary: <ul style="list-style-type: none"> <li>• Rewording and ordering of triggers to provide clarity and consistency</li> <li>• Inclusion of the Planning Scheme Zone Code and the fire separation requirements of the National Construction Code within the Assessment criteria; and</li> <li>• Inclusion of ‘Unacceptable Structures’ to provide clear parameters for the community prior to lodging applications that are unlikely to be supported.</li> </ul>

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**CHIEF EXECUTIVE OFFICER**