

1.0 Citation

This is a Local Planning Policy prepared under Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015. This Policy may be cited as Local Planning Policy (LPP) 9.16 - Local Planning Policy – Exempt Development.

2.0 Introduction

Under Clause 61 of Schedule 2 - Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, certain works and uses are exempt from the requiring development approval. Sub-clauses 61(1) and 61(2) give the ability for the Shire to adopt a Local Planning Policy to specify any works or use that do not require development approval.

The purpose of this Local Planning Policy is to define what forms of development, in addition to the types listed in Clause 61 and Schedule A of Local Planning Scheme No. 7 (LPS7), are exempt from the need to obtain development approval.

3.0 Objectives

- 3.1 To provide certainty about what is exempt development and therefore does not require development approval.
- 3.2 To streamline the land use planning regulatory process.
- 3.3 To ensure acceptable development outcomes are maintained.

4.0 Definitions

“Arbor” means a feature that defines the pedestrian entry, walkway or passageway consisting of vertical posts or pillars that may also support a roof.

“Bushfire Attack Level (BAL) Assessment” means an assessment prepared in accordance with *Australian Standard 3959: Construction of buildings in bushfire-prone areas* or the *Planning for Bushfire Guidelines*, to determine a Bushfire Attack Level (BAL).

“Bushfire Prone Area” means an area that has been designated by the Fire and Emergency Services Commissioner under s. 18P of the *Fire and Emergency Services Act 1998* as an area that is subject, or likely to be subject, to bushfires.

“Commercial Vehicle” means a vehicle, whether licensed or not, that has a gross vehicle mass of greater than 4.5 tonnes, including:

- a. A utility, van, truck, tractor, bus or earthmoving equipment; and
- b. A vehicle that is, or is designed to be an attachment to, a vehicle referred to in (a) above.

"Family Day Care" means premises used to provide family day care within the meaning of the *Community Services (Child Care) Regulations 1988*.

"Habitable Building" means a permanent or temporary structure on land that –

- a. Is fully or partially enclosed; and
- b. Has at least one wall of solid material and a roof of solid material; and
- c. Is used for a purpose that involves the use of the interior of the structure by people for living, working, studying or being entertained, as defined in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

"Heritage-protected place" has the same meaning as in Clause 1A of the Deemed Provisions for Local Planning Schemes under the *Planning and Development (Local Planning Schemes) Regulations 2015*.

"Horse Shelter" means a small building unenclosed on at least one side, for the purpose of providing a place for horses to be protected.

"Outbuilding" means an enclosed non-habitable structure that is detached from any dwelling and may include a detached garage.

"Street setback area" means the area between the street boundary and a building, measured at right angles (90 degrees) to the street boundary.

"Temporary Use" in accordance with Clause 8.2.1 (g) is where any use is in existence for less than 48 hours or such longer time as the local government agrees. For the purpose of this Policy, temporary use is less than 120 contiguous hours (i.e. the use of land for a maximum of 5 consecutive days).

"Trellis" means an architectural structure, usually made from an open framework or lattice of interwoven or intersecting pieces of wood, bamboo or metal.

5.0 Policy Provisions

5.1 Development Approval is not required for any development listed in Table 1 providing:

- a) The proposal complies with the listed zones and conditions set out in Table 1;
- b) The land use associated with the development is not an 'X' (prohibited) use in the zoning table of LPS7;

- c) No variations are proposed to any development standards in LPS7, the Deemed-to-Comply provisions of the Residential Design Codes ('R-Codes'), where applicable, or to any adopted Local Planning Policy; and
- d) The development is not located in a heritage-protected place, unless otherwise specified in Table 1.

5.2. Before carrying out any development listed in Table 1, any other licenses, permits, or approvals required under separate legislation must be obtained.

TABLE 1 – Development Exempt from Development Approval

Type of Development	Applicable Zone (unless 'X' in land use table)	Exemption Conditions
Arbor 	All zones	• Maximum height: 3 metres • Maximum width: 2.5 metres
Al fresco (outdoor) dining	Road Reserves or other Crown Reserves with a Management Order in favour of the Shire	• The al fresco (outdoor) dining is associated with an approved land use on an adjoining property. • Prior to the use commencing, the Shire has issued a permit under the <i>Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2001</i>.
Ancillary Dwelling	Rural Residential Rural Smallholdings Rural	• The ancillary dwelling meets the Deemed-to-Comply requirements in Clause 5.5.1 - Ancillary Dwellings of the <i>Residential Design Codes Volume 1</i>; • The development is not located within a Special Control Area under Local Planning Scheme No. 7; • The development is not on a landlocked lot with no gazetted road access or on a lot where the only access is via an unconstructed road; and

Type of Development	Applicable Zone (unless 'X' in land use table)	Exemption Conditions
		• The development is not located within a Bushfire Prone Area; or • The development is located within a Bushfire Prone Area, and has a BAL of BAL-LOW in a Bushfire Attack Level (BAL) Assessment undertaken by a suitably qualified professional; or • The development is located within a Bushfire Prone Area, has a BAL between BAL12.5 and BAL-29 in a BAL Assessment undertaken by a suitably qualified professional, and is provided with a reticulated water supply.
Commercial Vehicle Parking	Rural Residential Rural Smallholdings	• A maximum of one commercial vehicle and one associated trailer is parked per property; • The commercial vehicle is not parked within the street setback area and is effectively screened from the street; • the commercial vehicle is not designed for the transportation of livestock, or the transportation or disposal of liquid or solid wastes; and • The commercial vehicle is operated in accordance with the <i>Environmental Protection (Noise) Regulations 1997</i> and other relevant legislation.
Commercial Vehicle Parking	All other zones besides 'Residential' 'Special Development,' 'Rural Residential,' and 'Rural Smallholdings'	• A maximum of two commercial vehicles is parked per property. • The parking of the commercial vehicle(s) is ancillary to the predominant use of the property; • The parking of the commercial vehicle(s) does not lead to the amount of parking bays on site being less than what is

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		required under LPS7 or Council's Local Planning Policy 9.6 - Car Parking for the approved land use, or less than the number of parking bays approved for the use in a valid Development Approval; and • The commercial vehicle is operated in accordance with the <i>Environmental Protection (Noise) Regulations 1997</i> and other relevant legislation.
Decking 	All zones	• The maximum floor height of the decking is not more than 0.5 metres above natural ground level; • The decking is set back a minimum of 1.5 metres from all side and rear boundaries; • The decking complies with all other requirements of the R-Codes, if the R-Codes apply to the development; and • The decking does not change the land use.
Development incidental to an existing single house, including an outbuilding, an external fixture, a boundary wall or fence, a patio, a pergola, a verandah, a garage or a carport.	Rural Residential	• The development is not located within a Special Control Area under Local Planning Scheme No. 7; • Any proposed outbuildings comply with the Shire's Local Planning Policy 9.4 - Outbuildings. • The development is not located within a Bushfire Prone Area; or • The development is not a habitable building and is located a minimum of 6 metres from any habitable building; or • The development is an extension to an existing single house, and will not result in an increase in visitors, residents, or employees on the site.

Type of Development	Applicable Zone (unless 'X' in land use table)	Exemption Conditions
Development, inclusive of any buildings, structures, windmills, fences, dams or land use associated with 'Agriculture-Extensive' land use	Rural	• The development is not located within a Special Control Area under Local Planning Scheme No. 7; • The development is set back a minimum of 30 metres from the primary street boundary and a minimum of 20 metres from all side and rear boundaries; and • The structures are non-habitable.
EV charging station	Road Reserves	• The development is incorporated into verge car parking associated with an adjacent business premises. • The development will not obstruct vehicular sight lines. • The development will not emit a level of noise or illumination that is considered to adversely impact the amenity of the area. • Prior to the use commencing, the Shire has issued a permit under the <i>Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2001</i>.
Events or Trading	Road Reserves or other Crown Reserves with a Management Order in favour of the Shire	• The activity does not involve alterations to the land or construction of permanent structure(s); • The use is a temporary use; or • Prior to the use commencing, the Shire has issued a permit under the <i>Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2001</i>.
Family Day Care	All zones	• Where development complies with the definition of 'Family Day Care.'
Horse Shelters	Rural Rural Smallholdings Rural Residential	• Within the 'Rural Residential' and 'Rural Smallholdings' zones, all external surfaces

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		are clad in non-reflective materials. - Each shelter is no greater than 16m² in area, with a maximum height of 3 metres above Natural Ground Level. - Each shelter is setback from boundaries in accordance with LPS7 requirements. Within the 'Rural' zone, shelters are to be a minimum of 30 metres from the primary street boundary and a minimum of 20 metres from all side and rear boundaries. - No clearing of vegetation is required. - Within the 'Rural Residential' and 'Rural Smallholdings' zones, the number of horses permitted per property is in accordance with the Department of Primary Industry and Regional Development's <i>Stocking Rate Guidelines for Rural Small Holdings, Swan Coastal Plain and Darling Scarp and Surrounds, Western Australia</i>. Note: Horse Shelters complying with these Conditions are not included in the floor area calculations for Outbuildings/Sheds.
Outdoor Cooking Facilities (Pizza Oven, Barbeque) 	All zones	- Maximum height of 1.8 metres above Natural Ground Level, excluding chimney or flue; - The facilities are not visible from the primary street; and - The facilities are set back from side and rear boundaries in accordance with the R-Codes (treated as a wall with no major openings) and LPS7 requirements, as relevant.
Painting or External Maintenance (including of a	All zones	The works will be 'like for like' and will not alter the external

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heritage protected place)		appearance of the structure; and • No additions are applied or implemented to the structure as part of the works.
Rural Produce Stall	Rural	• The stall is located within the property boundary; • The stall sells products produced on the property only; • Access and parking to the stall is via a crossover approved by the Shire and vehicles can return to the public road in a forward gear; and • The produce stall is contained within a structure no greater than 10m² in area and 2.4 metres in height. • A maximum of one sign no greater than 0.5m² in size and related to the produce stall only is permitted to be attached to the structure.
Satellite Dishes, Radio Masts and Antennae 	All zones	• There are no other existing satellite dishes, antennae or radio masts on the lot; • The structures are not visible from the primary street and are clustered with existing development on site. • Within the 'Residential' and 'Special Development' zones, the maximum diameter for a satellite dish is 1 metre. In other zones the maximum diameter is 3 metres. • The maximum diameter for microwave antennae is 1 metre. The antenna must not project higher than 3 metres above the ridge line of the building, and the antenna must not be utilised to transmit electromagnetic waves.

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		• The maximum height for radio masts is 8 metres, and the radio mast must be setback in accordance with LPS7 from all lot boundaries or a minimum of 6 metres, whichever is greater. The dimension of the antennae associated with the radio mast must not exceed 6 metres, and the antenna must be fully contained within the lot boundaries. • If the structure involves Amateur (Ham) Radio equipment, it must be a maximum height of less than 10 metres above natural ground level and be setback a minimum of 4 metres from any lot boundaries.
Single House	Rural Residential	• The development is not located within a Special Control Area under Local Planning Scheme No. 7; • The development is not on a landlocked lot with no gazetted road access or on a lot where the only access is via an unconstructed road; and • The development is not located within a Bushfire Prone Area; or • The development is located within a Bushfire Prone Area, and has a BAL of BAL-LOW in a Bushfire Attack Level (BAL) Assessment undertaken by a suitably qualified professional; or • The development is located within a Bushfire Prone Area, has a BAL between BAL12.5 and BAL-29 in a BAL Assessment undertaken by a suitably qualified professional, and is provided with a reticulated water supply.

Type of Development	Applicable Zone (unless 'X' in land use table)	Exemption Conditions
Site Works and Retaining Walls, where the R-Codes are not applicable	All zones	- The fill or retaining wall does not exceed 0.5 metres above natural ground level, if located less than 1 metre from a common boundary or within a street setback area; and - For fill or retaining walls within a lot exceeding 0.5 metres above natural ground level, the setback distance of the fill or retaining wall from side and rear lot boundaries is equal to or greater than the height of the fill or retaining wall.
Trellis, including lattice or similar perforated material attached to Common or Dividing Fence. 	Residential Special Development	- The fence is constructed on a side or rear boundary and not along a primary or secondary street frontage; - The combined height of the fence and trellis does not exceed 2.4 metres above natural ground level; - If constructed on a side boundary, the portion of the fence exceeding 1.8 metres in height is not located within a street setback area.
Water Tank	Rural Residential Rural Smallholdings Rural	- The water tank is not installed in a street setback area of a building. - The water tank has a maximum diameter of 8.5 metres and a maximum height of 3.5 metres above natural ground level. - Within the 'Rural Residential' and 'Rural Smallholdings' zones, the water tank is associated with an existing single house; and is constructed of non-reflective materials in a colour that will complement the existing natural character of the area.

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Wind turbines for on-site power generation, associated with a residential or agricultural use	All zones	• Within the 'Residential' and 'Special Development' zones, the maximum height for a pole or tower mounted system is 6 metres above natural ground level. • With the 'Rural' zone, the maximum height for a pole or tower mounted system is 15 metres above natural ground level. • Within all other zones, the maximum height for a pole or tower mounted system is 12 metres above natural ground level. • Within all zones, the maximum height of a roof-mounted turbine is 3 metres above the height of the roof. • Pole or tower mounted turbines are to be setback from side and rear boundaries an equal or greater length than the height of the turbine. • Roof mounted turbines are to be setback a minimum of 7.5 metres from any major opening of any building on adjoining properties. • Noise emissions are compliant with the <i>Environmental Protection (Noise) Regulations 1997</i>.

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