

Local Planning Policy No. 32

Exemptions from Development Approval

Adopted: March 2012

Amended: 16 March 2021

Introduction

The purpose of this policy is to identify development types that are exempt from development approval, in addition to exemptions that exist under other planning provisions (refer below).

Schedule 2, deemed clause 61 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), and Schedule A of the Town of Victoria Park Town Planning Scheme No. 1 Scheme Text (the Scheme), identify development types that are exempt from development approval. Deemed clause 61 of the Regulations allows local governments to prepare local planning policies specifying additional development types that are exempt from development approval. This Local Planning Policy details a number of additional exemptions from development approval that apply in the Town, as well as those existing under the abovementioned planning instruments.

Should there be any inconsistencies between the provisions of this policy and other local planning policies the provisions of this policy prevail.

This policy is made pursuant to Schedule 2, Part 2, Division 2 of the Regulations relating to local planning policies.

Objectives

- a) To provide a single, comprehensive list of the development types that are exempt from development approval within the Town of Victoria Park, either by the Regulations or as additional exemptions made under the provisions of this policy;
- b) To detail the specific circumstances and requirements that must be met in order for specific types of development to qualify for an exemption from development approval;
- c) To exempt certain forms of minor development from the requirement for development approval (additional to the Regulations), where they qualify with specified standards to minimise the risk of adverse impacts on the amenity of neighbouring properties, the streetscape or within the Town generally;
- d) To stimulate economic growth and employment within the Town's activity centres and commercial areas by reducing the regulatory burden of the planning framework for a range of compatible land uses;
- e) To streamline the process to establish new businesses or to expand existing businesses within existing buildings;
- f) To increase opportunities for active ground floor land uses that enhance the Town's activity centres and commercial areas as vibrant, and increasingly pedestrian-orientated, retail and mixed-use environments; and
- g) To increase the accessibility and inclusiveness of commercial areas and non-residential buildings within the Town, through the granting of additional car parking concessions and exemptions from the requirement for development approval where existing car parking bays are converted to accessible car parking bays.

Scope

This policy applies all land within the Town of Victoria Park which is zoned or reserved under the Town of Victoria Park Town Planning Scheme No. 1.

Definitions

Where not defined below, words and terms used in this policy are as defined in the Scheme, the *Planning and Development Act 2005*, the Regulations or the Residential Design Codes (the R-Codes).

Cubbyhouse means an enclosed structure such as a small-scale replica of a dwelling, and includes a tree house, which is usually of simple construction and used primarily by children for the purposes of play, but excludes unenclosed platforms.

Drop-off refund point means a refund point that –

- (a) is located in a building; and
- (b) is not a container deposit recycling centre.

Fabric awnings includes any stable, fire-proof, flexible membrane material that is:

- a) capable of being shaped over a support structure and tensioned and fixed in a manner that prevents undue movement and associated noise under moderate wind conditions;
- b) waterproof;
- c) capable of meeting wind and other live load requirements; and
- d) has durability properties similar to or greater than awning canvas.

Heritage-protected place has the meaning given in Schedule 2, clause 1A(1) of the Regulations, namely a place that is:

- (a) entered in the State Register of Heritage Places under the *Heritage Act 2018* section 42; or
- (b) under consideration for entry into the State Register of Heritage Places (refer Schedule 2, clause 1A(2) of the Regulations)
- (c) the subject of an order under the *Heritage Act 2018* Part 4; or
- (d) the subject of a heritage agreement that has been certified under the *Heritage Act 2018* section 90; or
- (e) included on a heritage list established in accordance with Schedule 2, clause 8 of the Regulations; or
- (f) within a heritage area designated in accordance with Schedule 2, clause 9 of the Regulations.

Maintenance and repair works has the meaning given in Schedule 2, clause 1 of the Regulations, namely works that:

- (a) are carried out to maintain or repair any building, structure or land or otherwise to prevent any building, structure or land from deteriorating or falling into a state of disrepair; and
- (b) do not result in any material alteration to the building, structure or land, including any material alteration to the materials used in or on, or the design specification of, the

building, structure or land.

Examples of such works include:

- e) Repainting of existing painted surfaces;
- f) Rendering of existing rendered surfaces;
- g) Re-roofing with like-for-like materials and where there is no change to the roof form, pitch or colour;
- h) Replacement of cladding materials with like-for-like;
- i) Replacing or repairing materials, fittings or architectural features with like-for-like.

Net lettable area or **nla** is as defined by the Scheme, which means the area of all floors within the internal finished surfaces of permanent walls but does not include the following areas –

- (a) stairs, toilets, cleaner's cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
- (b) lobbies between lifts facing other lifts serving the same floor;
- (c) areas set aside as public spaces and thoroughfares and not for the exclusive use of occupiers of the floor or building; and
- (d) areas set aside for the provision of facilities or services to the floor or building where those facilities are not for the exclusive use of occupiers of the floor or building.

Refund point has the meaning given in the *Waste Avoidance and Recycling Act 2007* section 47C(1).

Screening material means a visually permeable structure including lattice, trellis or metal framing which may or may not be used to train vegetation.

Site works has the meaning given in Schedule 2, clause 1 of the Regulations, namely works that affect the ground level, whether by excavation or filling.

Temporary viewing platform means a removable structure that is to be erected for a limited time for the sole purpose of demonstrating the prospective views of a development.

Vergola means a structure similar to a patio or pergola, but which has a louvered roof which can be opened or closed.

Policy Requirements

1. Works

1.1 Exemption from development approval for works

- (a) Subject to clause 3 below, development approval is not required for works if:
 - i. the works are of a class specified in Column 1 of an item in **Table 1** (attached to this policy); and
 - ii. all of the conditions set out in Column 2 of **Table 1** opposite the specified works are satisfied in relation to the works.
- (b) Where a term in Column 1 or Column 2 of **Table 1** includes a numbered notation, reference should be made to the guidance of the same number in Column 3 opposite the specified works, prior to undertaking those works.

2. Use of Land

2.1 Exemption from development approval for the use of land

- (a) Subject to clause 3 below, development approval is not required for the use of land if:
 - i. the use is of a class specified in Column 1 of an item in **Table 2** (attached to this policy); and
 - ii. the use is to be carried out on land within the zone or reserve set out in Column 2 of **Table 2** opposite the specified use; and
 - iii. the use is either a 'P' (permitted) or 'AA' (discretionary) use within the zone on which it is to be carried out, where it is located on zoned land; and
 - iv. all of the conditions set out in Column 3 of **Table 2** opposite the specified use are satisfied in relation to the use.
- (b) Where a term in Column 1, Column 2 or Column 3 of **Table 2** includes a numbered notation, reference should be made to the guidance of the same number in Column 4 opposite the specified use, prior to carrying out the use.

2.2 Access and facilities for people with disabilities

- (a) New or expanded businesses are encouraged to upgrade the access and facilities within their premises to meet the current requirements of the *Building Act 2011* and the *Disability Discrimination Act 1992*, even where the statutory requirement to do so is not required; and
- (b) A change of land use that results in a change of building classification or building use may be subject to the requirement to comply with the current standards for access and facilities for people with disabilities in accordance with the *Building Act 2011* and *Disability Discrimination Act 1992*. This may involve the need to upgrade the access and toilet facilities within the premises as well as trigger the requirement to provide one or more accessible car parking bays on the site.

2.3 On-site car parking

- (a) Where a land use or activity is exempt from development approval by virtue of **Table 2** of this policy, the exemption permits the land use or activity to occur with no new or additional car parking as per the Town's *Local Planning Policy 23 'Parking Policy'*;
- (b) Further to Clause 2.3(a) above, where the expansion of an existing business or change of land use or activity results in the need (or desire) to provide an accessible car parking bay on the site in order to meet the current requirements of the *Building Act 2011* and the *Disability Discrimination Act 1992* that is not already provided as part of the authorised car parking on the site, the following applies:
 - i. the Town will accept a reduction in the number of authorised car parking bays provided on the site by one (1) car parking bay, where the reduction is occurring to facilitate the conversion of two standard car parking bays to a single accessible car parking bay, where the existing authorised layout and dimension of the remaining car parking bays on the site and the existing vehicular access remains unaltered; and
 - ii. the conversion of two existing authorised car parking bays as per Clause 2.3(b)i. will be exempt from the requirement to obtain development approval; and
- (c) Any changes to the existing authorised car parking on the site other than those outlined in Clause 2.3(b) above will be deemed as works, and subject to the requirement for development approval.

3. Special circumstances where exemptions do not apply

The exemptions to development approval granted by clauses 1 and 2 of this policy do not apply in the following circumstances:

- (a) Development that is undertaken in a special control area and the special provisions that apply to that area under the Scheme provide that development approval is required for the development; or
- (b) Development that is undertaken on land designated by an order made under the *Fire and Emergency Services Act 1998* section 18P as a bush fire prone area and development approval is required under clause 78D(3) for the development; or
- (c) Development that is undertaken on land the subject of a Declaration of Planning Control Area made under the *Planning and Development Act 2005*.
 - i. In relation to (c) above, Planning Control Area 142 declared by the Minister for Planning over Orrong Road properties, as shown on Western Australian Planning Commission plans number 1.7924 and 1.7925 was declared on 20 March 2020, for a duration of 5 years. The purpose of the Planning Control Area is to protect land required for the future upgrade of Orrong Road through ensuring that no development occurs which might prejudice its ability to be reserved for Primary Regional Roads in the Metropolitan Region Scheme.

4. Requirements to be met prior to undertaking works or use of land

The following matters must be satisfied prior to the carrying out of any development listed as exempt within this policy:

- (a) Owners consent is to be obtained before carrying out or continuing any development;
- (b) Conditions of any current approval that relates to the land are not to be impacted or contravened by way of the development which is proposed to be undertaken;
- (c) Vehicular and pedestrian access remains compliant with the deemed-to-comply requirements of the R-Codes, or as otherwise approved by the Town;
- (d) All development is to be located outside of future road or right-of-way widening areas;
- (e) All stormwater shall be contained on the development site;
- (f) Any building works are to be contained within the boundaries of the lot which is the subject of development; and
- (g) All other approvals or licenses required by other legislation or requirements of Council are obtained from the Town where necessary, including but not limited to the following:
 - Building Permit
 - Environmental Health Permits
 - Approval under Local Laws
 - Street Operations (Engineering) Approval
 - Public Event Approvals
 - Other strata owners

5. Amendments to Approvals

Deemed clause 77(3) of the Regulations provides that where a development approval has been issued, the local government, at its discretion, may waive or vary the requirement to obtain development approval for minor amendments.

In this respect, the Town will not require a formal application for development approval to be submitted where the approval remains in substance the same type of works or use, and the amendments do not:

- (a) result in new variations to an applicable development standard applying under the Scheme or Council Policies, or a deemed-to-comply requirement of the R-Codes; or
- (b) increase the extent of non-compliance with an applicable development standard applying under the Scheme or Council Policies, or a deemed-to-comply requirement of the R-Codes; or
- (c) require consideration of any relevant planning and development matter where discretion (under Clause 29 of the Scheme) is required; or
- (d) require the addition, deletion or modification of a condition of the development approval, including an extension of time to substantially commence the development; or
- (e) result in a development that in the opinion of the Town makes a less positive contribution to the streetscape than that already approved.

In such situations, landowners and/or applicants should obtain written planning advice (form available from the Town's website) to confirm whether or not an amended approval is required in each instance.

6. Other Applicable Regulations and Legislative Requirements

- (a) The provisions of this policy do not exempt any proposed development/use from the need to comply with and/or obtain other relevant approvals under separate legislation including (but not limited to) the following:
 - i. *Building Act 2011*;

- ii. Building Regulations 2012;
- iii. National Construction Code;
- iv. *Disability Discrimination Act 1992*;
- v. *Disability (Access to Premises – Buildings) Standards 2010*;
- vi. *Food Act 2008*;
- vii. *Food Regulations 2009*;
- viii. *Public Health Act 2016*;
- ix. *Health (Public Buildings) Regulations 1992*
- x. *Liquor Control Act 1988*;
- xi. *Town of Victoria Park Health Local Law 2003*;
- xii. *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000*; and
- xiii. any other applicable local law;

Related Documents

Local Planning Policy 38 'Signs'

Planning and Development (Local Planning Schemes) Regulations 2015

Version Control

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|--------------------------|--|
| Date Initially Adopted : | Former Policy PLNG6 under Town Planning Scheme Policy Manual – adopted March 2012 |
| Date(s) Amended : | <ul style="list-style-type: none"> j) Adopted as Local Planning Policy 3 at Ordinary Council Meeting 9 February 2016; 1. Amended by Council resolution at Ordinary Council Meeting 12 December 2017. 2. Amended by Council resolution at Ordinary Council Meeting 13 November 2018. 3. Amended by Council resolution at Ordinary Council Meeting 15 September 2020. k) Amended by Council resolution at Ordinary Council Meeting 16 March 2021. |

Table 1 – Exempt Works

NB: Text highlighted grey below indicates an exemption that has been granted by this policy, which is additional to the range of exemptions (non-highlighted) granted by clause 61(1) of the Regulations.

| | Column 1 -Works | Column 2 –Conditions | Column 3 –Guidance |
|-----------|--|--|---|
| 1. | <p>Demolition¹ or removal of any of the following² —</p> <p>(a) a grouped dwelling;</p> <p>(b) a single house;</p> <p>(b) an ancillary dwelling;</p> <p>(c) an outbuilding;</p> <p>(d) an external fixture;</p> <p>(e) a boundary wall or fence;</p> <p>(f) a patio;</p> <p>(g) a pergola;</p> <p>(h) a verandah;</p> <p>(i) a deck;</p> <p>(j) a garage;</p> <p>(k) a carport;</p> <p>(l) a swimming pool;</p> <p>(m) shade sails;</p> <p>(n) a vergola.</p> | <p>(a) The works are not located in a heritage-protected place³.</p> <p>(b) Where the works are for demolition of a grouped dwelling, that do not involve the removal of any common or shared wall with any other dwelling.</p> | <p>1. A demolition permit may still be required from the Town’s Building Department.</p> <p>2. Refer to definitions of the bolded listed items in the R-Codes, with the exception of “vergola” (refer to Definitions in this policy).</p> <p>3. Refer to Definitions in relation to “heritage-protected place”.</p> |
| 2. | <p>Demolition¹ of a building that is not a single house, ancillary dwelling, multiple dwelling or grouped dwelling.</p> <p>Such works include the demolition of buildings used for non-residential purposes (e.g. commercial buildings).</p> | <p>(a) The building does not share a common wall with another building.</p> <p>(b) The works are not located in a heritage-protected place².</p> | <p>1. A demolition permit may still be required from the Town’s Building Department.</p> <p>2. Refer to Definitions in relation to “heritage-protected place”.</p> |
| 3. | <p>Demolition or removal of a cubbyhouse.</p> | <p>The works are not located in a heritage-protected place¹.</p> | <p>1. Refer to Definitions in relation to “heritage-protected place”.</p> |
| 4. | <p>Demolition or removal of a flagpole.</p> | <p>The works are not located in a heritage-protected place of a kind referred to in Clause 1A(1)(a) to (e) of the Regulations¹.</p> | <p>1. Refer to Definitions in relation to “heritage-protected place”.</p> |
| 5. | <p>Internal building work that does</p> | <p>Either –</p> | <p>1. Refer to Definitions in relation to “heritage-protected</p> |

| | Column 1 -Works | Column 2 –Conditions | Column 3 –Guidance |
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| | not materially affect the external appearance of the building. | (a) neither the building nor any part of it is located in a heritage-protected place of a kind referred to in Clause 1A(1)(a) to (e) of the Regulations ¹ ; or (b) the building, or a part of it, is located in a heritage-protected place ¹ of a kind referred to in clause 1A(1)(a), (c), (d) or (e) of the Regulations, but the interior of the building is specified as not being of cultural heritage significance in the relevant register, order, agreement or list referred to in that clause. | place”. |
| 6. | The erection of, or alterations or additions to, a single house on a lot. | (a) The R-Codes apply to the works. (b) The works comply with the deemed-to-comply provisions of the R-Codes. (c) The works are not located in a heritage-protected place ¹ . | 1.Refer to Definitions in relation to “heritage-protected place”. |
| 7. | The erection or installation of, or alterations or additions to, any of the following ¹ on the <u>same lot as a single house, grouped dwelling or multiple dwelling(s)</u> — (a) an ancillary dwelling ² ; (b) an outbuilding ³ ; (c) an external fixture ^{4, 5, 6, 7} ; (d) a boundary wall or fence ⁸ ; (e) a patio ⁹ ; (f) a pergola ; (g) a verandah ; (h) a deck ; (i) a garage ; (j) a carport ; (k) car parking bays ^{10, 11} . | (a) The R-Codes apply to the works. (b) The works comply with the <u>deemed-to-comply</u> provisions of the R-Codes, where they are associated with a single house or grouped dwelling ¹² . (c) The works comply with the <u>acceptable outcomes</u> of the R-Codes, where they are associated with one (or more) multiple dwellings ¹² . (d) The works are not located in a heritage-protected place ¹³ . | 1. Refer to definitions of the bolded listed items in the R-Codes or this policy, where defined. 2. An ancillary dwelling is permitted only in association with a Single House. 3. Where associated with a residential development, compliant with the provisions for outbuildings outlined in the R-Codes and Council’s Local Planning Policy 25 ‘Streetscape’. 4. External fixtures include solar collectors, rainwater storage tanks, clothes drying structures, power infrastructure, plumbing vents and pipes, external hot water systems ⁵ , television antennae and satellite dishes ⁶ , letterboxes ⁷ , air conditioning units ⁸ , outdoor cooking facilities or other fixtures as necessary for the residential use of the buildings on-site. 5. External hot water systems should be screened from view from a street, or where on the roof, then flush mounted. 6. Letterbox design and location must ensure compliant sightlines are maintained for vehicle egress. 7. Air conditioning units to be screened from view from a street, or where on the roof, then of a colour to match the roof colour. |

| | Column 1 -Works | Column 2 –Conditions | Column 3 –Guidance |
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| | | | <p>8. Fencing (including lattice extensions):</p> <ul style="list-style-type: none"> a) Where associated with a residential development, compliant with the provisions for street walls and fences outlined in Council’s Local Planning Policy ‘Streetscape’; or b) A dividing fence located on the boundary between two lots, where behind the building lines; or c) Screening material attached to the top of a dividing fence not exceeding a height of 2.4m above the higher ground level; and d) All fencing complying with the Town’s <i>Local Laws Relating to Fencing</i> in any instance. <p>9. Patios associated with a residential development compliant with the provisions for patios outlined in the R-Codes and Council’s Local Planning Policy 25 ‘Streetscape’.</p> <p>10. Where relevant, a crossover approval will still be required.</p> <p>11. All car parking bays, including associated manoeuvring areas, must be designed, constructed and linemarked in accordance with Australian Standard AS2890.1.</p> <p>12. Consent and/or approval of strata owners may be required for any works, in particular where they are located in, or affixed to, any portion of common property or affect the external appearance of the building/complex.</p> <p>13. Refer to Definitions in relation to “heritage-protected place”.</p> |
| 8. | The installation of, or alterations or additions to, any of the following ¹ on the same lot as a single house, grouped dwelling or multiple dwelling(s) ² — | <ul style="list-style-type: none"> (a) The works are not located in a heritage place². (b) Animal enclosures to be maximum height of 2.4m above natural ground level. | <ul style="list-style-type: none"> 1. Refer to definitions of the bolded listed items in the R-Codes, where defined. 2. Consent and/or approval of strata owners may be required for any works, in particular where they are located in, or affixed to, any portion of common |

| | Column 1 -Works | Column 2 –Conditions | Column 3 –Guidance |
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| | (a) a swimming pool ; (b) shade sails ³ ; (c) animal enclosure ⁴ ; (d) basketball or netball hoop ; (e) play equipment (excluding a cubby house); (f) outdoor blinds ; (g) roller shutters ; (h) water features . | | property or affect the external appearance of the building/complex. 3. Shade sails associated with a residential development, compliant with the provisions for shade sails outlined in Council’s Local Planning Policy 25 ‘Streetscape’. 4. Roller shutters are discouraged given the adverse impact they may have on the visual amenity of the streetscape and as they obstruct surveillance between the dwelling and the street/public realm. 5. Refer to Definitions in relation to “heritage-protected place”. |
| 9. | Site works (excavation and/or fill) ¹ | (a) Either excavation (no limit) or fill to a maximum height of 500mm above the natural ground level. (b) The works are not located in a heritage-protected place ² . | 1.Any excavation or fill to be adequately retained where necessary. 2.Refer to Definitions in relation to “heritage-protected place”. |
| 10. | Retaining walls | Less than 500mm above the natural ground level at any point; or below natural ground level in all instances. | 1.To be constructed of concrete or masonry to relevant specifications. |
| 11. | The temporary erection or installation of an advertisement | (a) The advertisement is erected or installed in connection with an election, referendum or other poll conducted under the <i>Commonwealth Electoral Act 1918 (Commonwealth)</i> , the <i>Referendum (Machinery Provisions) Act 1984 (Commonwealth)</i> , the <i>Electoral Act 1907</i> , the <i>Local Government Act 1995</i> or the <i>Referendums Act 1983</i> . (b) The primary purpose of the advertisement is for political communication in relation to the election, referendum or poll. (c) The advertisement is not erected or installed until the writ or writs have been issued or, for an election, referendum or poll under the <i>Local Government Act 1995</i> , until the 36th day before the day on which the election, referendum or poll is to be held. (d) The advertisement is removed no later than 48 hours after the election, referendum or poll is conducted. (e) The advertisement is not erected or installed within 1.5m of any part of a crossover or street truncation. | |

| | Column 1 -Works | Column 2 –Conditions | Column 3 –Guidance |
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| 12. | The erection or installation of a sign of a class specified in a local planning policy ¹ or local development plan that applies to the works as not requiring development approval. | <ul style="list-style-type: none"> (a) The sign complies with any requirements specified in the local planning policy¹ or local development plan in relation to the exemption from the requirement for development approval. (b) The sign is not erected or installed within 1.5m of any part of a crossover or street truncation. (c) The works are not located in a heritage-protected place². | <ul style="list-style-type: none"> 1. Refer to Council’s Local Planning Policy 38 in relation to permissible sign types and requirements. 2. Refer to Definitions in relation to “heritage-protected place”. 3. A building permit may still be required for the erection of a sign. |
| 13. | Works to change an existing sign that has been erected or installed on land | <ul style="list-style-type: none"> (a) The erection or installation of the existing sign was the subject of development approval or was exempt from the requirement for development approval. (b) The changes do not alter the size or location of the existing sign or result in the sign containing any illumination, animation, movement or reflective, retro-reflective or fluorescent materials. (c) The sign is not used for advertising (other than the advertising of a business operated on the land). (d) The works are not located in a heritage-protected place. | <ul style="list-style-type: none"> 1. Refer to Definitions in relation to “heritage-protected place”. |
| 14. | Fabric awning ^{1, 2, 3, 4, 5} | <ul style="list-style-type: none"> (a) No part of a fabric awning shall be erected under any cantilever veranda and the ends of an awning shall be clear of an adjoining cantilever veranda by at least 500mm; (b) An awning, including any part thereof, projecting into the verge shall: <ul style="list-style-type: none"> (i) Be at least 500mm, measured horizontally, clear of the face of the kerb of the adjacent road; (ii) Be not less than 2.75 metres above the footpath or verge level; (iii) Be not more than 3 metres above the footpath or verge level at the lowest point of the awning; (c) If the awning is wider than 2 metres, be fitted with guttering and downpipes sufficient to prevent rainfall run-off from cascading on to the verge; (d) The works are not located in a heritage-protected place⁶. | <ul style="list-style-type: none"> 1. A building permit is required in all instances for fabric awnings. 2. Any awning be designed to carry, in addition to its own weight, a live load of at least 50 kilograms per square metre. 3. No separate sign panel shall be affixed to any part of an awning but signage may be incorporated in or painted on the awning cover material or fascia provided that the details of such lettering or signage are in accordance with the provisions of the Town’s Local Planning Policy 38 – Signs. 4. A fabric awning shall be kept in good repair to the satisfaction of the Town. 5. The Town reserves the right to order an owner to repair, replace or remove a fabric awning not kept in good repair. 6. Refer to Definitions in relation to “heritage-protected place”. |
| 15. | The installation of a water tank | <ul style="list-style-type: none"> (a) The water tank is not installed in the street setback area of a building. | <ul style="list-style-type: none"> 1. Refer to Definitions in relation to “heritage-protected place”. |

| | Column 1 -Works | Column 2 –Conditions | Column 3 –Guidance |
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| | | (b) The volume of the water tank is no more than 5000 L. (c) The height of the water tank is no more than — (i) for a tank fixed to a building — the height of the eaves of the building; or (ii) for a tank that is not fixed to a building and is more than 1 m from each boundary of the lot — 2.4m; or (iii) for a tank that is not fixed to a building and is 1m or less from a boundary of the lot — 1.8m. (d) The works are not located in a heritage-protected place ¹ . | |
| 16. | The erection or installation of a cubbyhouse | (a) The cubbyhouse is not erected or installed in the street setback area of a building. (b) The floor of the cubbyhouse is no more than 1m above the natural ground level. (c) The wall height of the cubbyhouse is no more than 2.4m above the natural ground level. (d) The building height of the cubbyhouse is no more than 3m above the natural ground level. (e) The area of the floor of the cubbyhouse is no more than 10m ² . (f) The cubbyhouse is not erected or installed within 1m of more than 1 boundary of the lot. | |
| 17. | The erection or installation of a flagpole | (a) The height of the flagpole is no more than 6 m above the natural ground level. (b) The flagpole is no more than 200mm in diameter. (c) The flagpole is not used for advertising. (d) There is no more than 1 flagpole on the lot. (e) The works are not located in a heritage-protected place ¹ . | 1.Refer to Definitions in relation to “heritage-protected place”. |
| 18. | The installation of solar panels on the roof of a building | (a) The solar panels are parallel to the angle of the roof. (b) The works are not located in a heritage-protected place ¹ . | 1.Refer to Definitions in relation to “heritage-protected place”. |
| 19. | Maintenance and repair works ^{1,2,3} | Either — (a) the works are not located in a heritage-protected place ¹ ; or (b) the maintenance and repair works are of a kind referred to in the Heritage Regulations 2019 regulation 41(1)(b) to (i) ⁴ . | 1.Refer to Definitions in relation to “maintenance and repair works”. 2.Original features including doors, windows and architectural elements should be maintained and repaired rather than be replaced. 3.Repainting of walls should preferably be to neutral tones. |

| | Column 1 -Works | Column 2 –Conditions | Column 3 –Guidance |
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| | | | 4.Refer to Definitions in relation to “heritage-protected place”. |
| 20. | Sea Containers | (a) Compliant with the provisions of Council’s <i>Local Planning Policy 34 ‘Sea Containers’</i> ¹ . (b) The works are not located in a heritage-protected place ² . | 1.Refer to Council’s <i>Local Planning Policy 34 ‘Sea Containers’</i> . 2.Refer to Definitions in relation to “heritage-protected place”. |
| 21. | Temporary works | The works are in existence for less than 48 hours, or a longer period agreed by the local government, in any 12-month period. | |
| 22. | Temporary builders shed, office or sanitary facilities | (a) Connected with building work on the land on which the shed, office, shed or sanitary facility is located. (b) To be removed prior to occupation of the development/building works to which they relate. | |
| 23. | Temporary viewing platform | (a) Connected with building work on the land. (b) On-site for less than 90 days. | |
| 24. | Works that are urgently necessary for any of the following — (a) public safety ; (b) the safety or security of plant or equipment ; (c) the maintenance of essential services ; (d) the protection of the environment . | The works are not located in a heritage-protected place ¹ of a kind referred to in clause 1A(1)(a), (b) or (d). | 1.Refer to Definitions in relation to “heritage-protected place”. |
| 25. | Works that are wholly located on an area identified as a regional reserve ¹ under a region planning scheme. | | 1.Approval may be required from the Western Australian Planning Commission for development on a regional reserve under a region planning scheme. |
| 26. | Works specified in a local planning policy or local development plan ^{1,2,3} that applies to the works as works that do not require development approval (other than works referred to in item 12). | The works comply with any requirements specified in the local planning policy or local development plan in relation to the exemption from the requirement for development approval. | 1.The development of a Single House compliant with the provisions of Local Development Plan (LDP) No. 1 (applicable to Lots 169-185 Victoria Park Drive, Burswood) as well as the deemed-to-comply requirements of the R-Codes not varied by the LDP, is exempt from the requirement for development approval. 2.Works other than a Single House that comply with the |

| | Column 1 -Works | Column 2 –Conditions | Column 3 –Guidance |
|-----|--|--|--|
| | | | <p>provisions of Local Development Plan (LDP) No. 1 (applicable to Lots 169-185 Victoria Park Drive, Burswood) are taken to satisfy the corresponding deemed-to-comply requirements of the R-Codes and may qualify for an exemption under Items 7 or 8 of Table 1 above, provided all other applicable deemed-to-comply requirements of the R-Codes are satisfied.</p> <p>3.Works that comply with the provisions of Local Development Plan No. 2 (applicable to No. 37-41 Cohn Street, Carlisle) are taken to satisfy the corresponding deemed-to-comply requirements of the R-Codes and may qualify for an exemption under Items 6, 7 or 8 of Table 1 above, provided all other applicable deemed-to-comply requirements of the R-Codes are satisfied.</p> |
| 27. | Works of a type identified elsewhere in this Scheme ¹ as works that do not require development approval . | The works comply with any requirements specified in this Scheme in relation to the exemption from the requirement for development approval. | 1.Refer to Schedule A of the Scheme which specifies additional exemptions supplemental to clause 61 of the Regulations. |
| 28. | Works necessary to enable the subdivision ¹ of land. | The Western Australian Commission has approved a plan of the subdivision. | 1.Section 157 of the <i>Planning and Development Act 2005</i> applies in respect of the carrying out of subdivision works. |
| 29. | Any other works of a minor nature ¹ as determined by the Town in writing on a case-by-case basis. | <p>(a) Subject to written planning advice (form available from the Town’s website) from the Town that the works are exempt by this Policy.</p> <p>(b) Any exemption granted may be subject to conditions to mitigate or prevent adverse amenity (or any other) impacts, to the satisfaction of the Town.</p> <p>(c) The works are not located in a heritage-protected place².</p> | <p>1.The works should be of a demonstrably minor, unsubstantial nature, that poses negligible risk of adverse impacts upon the streetscape/public realm or the amenity of adjoining property owners or occupiers.</p> <p>2.Refer to Definitions in relation to “heritage-protected place”.</p> |

Notes to Table 1:

1. Refer to Clause 3 of this policy, in relation to circumstances where an exemption listed within Table 1 above may not apply to a proposed development.
2. Section 6 of the *Planning and Development Act 2005* applies in respect of the carrying out of public works.

3. *Clause 1B of the Regulations sets out circumstances in which development is taken to comply with a deemed-to-comply provision of State Planning Policy 7.3 – Residential Design Codes (the R-Codes). Clause 1B states that a development is taken to comply with a deemed-to-comply provision of the R-Codes if the development complies with –*
 - (a) *a provision of a local development plan, precinct structure plan or local planning policy if –*
 - (i) *the provision amends or replaces the deemed-to-comply provisions; and*
 - (ii) *for a provision of a local development plan or local planning policy where the plan or policy is required to be approved by the Commission under the R-Codes – the plan or policy is approved by the Commission; or*
 - (b) *a provision that –*
 - (i) *is in a structure plan that was approved before 19 October 2015; and*
 - (ii) *amends or replaces the deemed-to-comply provision.*
4. *An exemption from the requirement for development approval that applies under Clause 1 of this policy (other than an exemption under item 12 or 26 in Table 1) is not affected by any provision of a local planning policy or local development plan.*

Table 2 – Exempt Land Uses

NB: Text highlighted grey below indicates an exemption that has been granted by this policy, which is additional to the range of exemptions (non-highlighted) granted by clause 61(2) of the Regulations.

| | Column 1 – Use of land | Column 2 – Zone or Reserve | Column 3 – Conditions | Column 4 - Guidance |
|-----------|--|---|--|---|
| 1. | 'P' (permitted) uses ^{1, 2, 3} | All zoned land under the scheme. | (a) The use is a 'P' (permitted) use in the specific zone ^{1,2} in which it is being carried out; and (b) The development: (i) has no works component; or (ii) is not required to obtain development approval for any works component. | 1. Exemption granted by clause 61(2) of the Regulations. 2. Refer to the relevant Precinct Plan and Zoning Table to identify if the proposed use is a 'P' (permitted) use for the specific zone in which it is located. 3. Examples of 'P' uses include Consulting Rooms, Office and Restaurant/Café in the Commercial, District Centre and Local Centre zones. |
| 2. | Art Gallery ¹ | Commercial, District Centre, Local Centre, Residential/Commercial, Office/Residential* zones ² . *Excludes the Office/Residential zone within Precinct P10 – Shepperton Precinct. | (a) Net lettable area is no more than 300m ² ; and (b) The development: (i) has no works component; or (ii) is not required to obtain development approval for any works component. | 1. Exemption granted by this Local Planning Policy. 2. Art Gallery is an 'AA' (discretionary) use in these zones. |
| 3. | Consulting rooms ^{1, 2} | Special Use* zone within Precinct P2 – Burswood Precinct ³ . | (a) No more than 60% of the glass surface of any window on the ground floor of the consulting rooms is obscured glass; and (b) The development: (i) has no works component; or (ii) is not required to obtain development approval for any works component. | 1. Exemption granted by clause 61(2) of the Regulations. 2. Consulting Rooms is an exempt 'P' (permitted) use in the Residential/Commercial, Local Centre, District Centre, Industrial (1), Industrial (2), Office/Residential (excluding the Office/Residential zone in Precinct P10 – Shepperton Precinct where it is a 'X' (prohibited) use) zones, as well as the Special Use zone within Precinct P10 – Shepperton Precinct (refer to Item 1 of Table 2 above). 3. Office is an 'AA' (discretionary) use in this zone. |

| | Column 1 – Use of land | Column 2 – Zone or Reserve | Column 3 – Conditions | Column 4 - Guidance |
|----|---|---|---|--|
| 4. | Use of premises as drop off refund point ^{1, 2} | All zones ³ | (a) The premises are otherwise used as a shop; or (b) the premises are not in a residential zone and the use of the premises as a drop-off refund point is an incidental use of the premises; | 1. Exemption granted by clause 61(2) of the Regulations. 2. Refer to Scheme definition of 'drop off refund point'. 3. Must meet condition (a) if located in a Residential zone. |
| 5. | Exhibition Centre ¹ | Commercial, District Centre, Local Centre, Residential/Commercial and Office/Residential zones ² . | (a) Net lettable area is no more than 300m ² ; and (b) The development: (i) has no works component; or (ii) is not required to obtain development approval for any works component. | 1. Exemption granted by this Local Planning Policy. 2. Exhibition Centre is an 'AA' (discretionary) use in these zones. |
| 6. | Family Day Care ^{1, 2, 3, 4} | Residential and Residential/Commercial zones ⁵ . | (a) It is for five (5) children or less (including any children of the service provider(s)); and (b) Operates within the hours of 7am and 7pm by no more than one person other than an occupier of the dwelling. | 1. Exemption granted by Schedule A of the Scheme. 2. Family Day Care is an exempt 'P' (permitted) use in the Office/Residential zone (refer to Item 1 of Table 2 above). 3. Refer to Scheme definition of 'family day care', which requires a family day care service to be provided from a residential dwelling. 4. Refer to <i>Local Planning Policy 6 'Family Day Care and Child Care Premises'</i> . 5. Family Day Care is an 'AA' (discretionary) use in these zones. |
| 7. | Home Office ¹ | All zones | | 1. Exemption granted by clause 61(2) of the Regulations and Schedule A of the Scheme. 2. Refer to Scheme definition of 'home office' and <i>Local Planning Policy 2 'Home-based businesses'</i> . |

| | Column 1 – Use of land | Column 2 – Zone or Reserve | Column 3 – Conditions | Column 4 - Guidance |
|-----|---|---|--|---|
| 8. | Home Occupation ^{1, 2, 3} | Residential, Residential/Commercial, Local Centre, District Centre and Commercial zones (all Precincts), and the Special Use zone within Precinct P2 – Burswood Precinct ⁴ . | (a) The development: (i) has no works component; or (ii) is not required to obtain development approval for any works component. | <ol style="list-style-type: none"> Exemption granted by clause 61(2) of the Regulations. Refer to Scheme definition of 'home occupation' and <i>Local Planning Policy 2 'Home-based Businesses'</i>. Home Occupation is an exempt 'P' (permitted) use in the Office/Residential zone, and the Special Use zone within Precinct P10 – Shepperton Precinct (refer to Item 1 of Table 2 above). Home Occupation is an 'AA' (discretionary) use in these zones. |
| 9. | Liquor Store – Small ^{1, 2} | Commercial, and Office/Residential zones ³ . | (a) The development: (i) has no works component; or (ii) is not required to obtain development approval for any works component. | <ol style="list-style-type: none"> Exemption granted by clause 61(2) of the Regulations. Liquor store – small is an exempt 'P' (permitted) use in the Residential/Commercial, Local Centre and District Centre zones (refer to Item 1 of Table 2 above). Liquor store – small is an 'AA' (discretionary) use in these zones. |
| 10. | Office ^{1,2} | <p>Special Use* zone within Precinct P2 – Burswood Precinct³.</p> <p>The following zones³:</p> <ul style="list-style-type: none"> Industrial (1) Industrial (2) | <ol style="list-style-type: none"> Office is not located on the ground floor of a building; and Office use is incidental to a primary industrial use and the net lettable area is no more than 100m²; and The development: (i) has no works component; or (ii) is not required to obtain development approval for any works component. | <ol style="list-style-type: none"> Exemption granted by clause 61(2) of the Regulations. Office is an exempt 'P' (permitted) use in the Residential/Commercial, Office/Residential, Local Centre, District Centre zones (all Precincts), as well as the Special Use zone within Precinct P10 – Shepperton Precinct (refer to Item 1 of Table 2 above). Office is an 'AA' (discretionary) use in this zone. |

| | Column 1 – Use of land | Column 2 – Zone or Reserve | Column 3 – Conditions | Column 4 - Guidance |
|------------|---|--|---|---|
| 11. | Recreation — Private¹ | <p>Commercial, District Centre, Local Centre, Residential/Commercial, Office/Residential* and Industrial (1) zones².</p> <p>*Excludes the Office/Residential zone within Precinct P10 – Shepperton Precinct.</p> | <p>(a) Net lettable area of any indoor area of the premises is no more than 300m²;</p> <p>(b) No more than 60% of the glass surface of any window on the ground floor of a building on the premises is obscured glass; and</p> <p>(c) The development:</p> <p>(i) has no works component; or</p> <p>(ii) is not required to obtain development approval for any works component.</p> | <p>1. Exemption granted by clause 61(2) of the Regulations.</p> <p>2. Recreation – Private is an ‘AA’ (discretionary) use in these zones.</p> |
| 12. | Restaurant/ Cafe^{1,2} | <p>The following zones³:</p> <ul style="list-style-type: none"> Residential/Commercial zone (all Precincts); Office/Residential zone (within Precinct P3 – Causeway Precinct only); and Special Use zone (within Precinct P2 – Burswood Precinct and Precinct P10 – Shepperton Precinct only). | <p>(a) Net lettable area is no more than 300m²; and</p> <p>(b) The development:</p> <p>(i) has no works component; or</p> <p>(ii) is not required to obtain development approval for any works component.</p> | <p>1. Exemption granted by clause 61(2) of the Regulations.</p> <p>2. Restaurant/Cafe is an exempt ‘P’ (permitted) use in the Local Centre, District Centre, Commercial, Industrial (1), Industrial (2) and Office/Residential zones (excluding the Office/Residential zone within Precinct P3 – Causeway Precinct and Precinct P10 – Shepperton Precinct) (refer to Item 1 of Table 2 above).</p> <p>3. Restaurant/Café is an ‘AA’ (discretionary) use in these zones.</p> |

| | Column 1 – Use of land | Column 2 – Zone or Reserve | Column 3 – Conditions | Column 4 - Guidance |
|------------|-------------------------------|--|---|---|
| 13. | Shop^{1, 2} | <p>The following zones³:</p> <ul style="list-style-type: none"> • Commercial zone (all Precincts); • Office/Residential zone (excluding Precinct P10 – Shepperton Precinct); and • Special Use zone (within Precinct P2 – Burswood Precinct only). | <p>(a) Net lettable area is no more than 300m²; and</p> <p>(b) The development:</p> <p>(i) has no works component; or</p> <p>(ii) is not required to obtain development approval for any works component.</p> | <ol style="list-style-type: none"> 1. Exemption granted by clause 61(2) of the Regulations. 2. Shop is an exempt 'P' (permitted) use in the Residential/Commercial, Local Centre and District Centre zones (all Precincts), as well as the Special Use Zone within Precinct P10 – Shepperton Precinct (refer to Item 1 of Table 2 above). 3. Shop is an 'AA' (discretionary) use in these zones. |
| 14. | Small Bar¹ | <p>Commercial, District Centre, Local Centre, Residential/Commercial and Office/Residential* zones².</p> <p>*Excludes the Office/Residential zone within Precinct P10 – Shepperton Precinct.</p> | <p>(a) The lot on which the Small Bar is located does not directly adjoin a residential zone; and</p> <p>(b) The development:</p> <p>(i) has no works component; or</p> <p>(ii) is not required to obtain development approval for any works component.</p> | <ol style="list-style-type: none"> 1. Exemption granted by clause 61(2) of the Regulations. 2. Small Bar is an 'AA' (discretionary) use in these zones. |

| | Column 1 – Use of land | Column 2 – Zone or Reserve | Column 3 – Conditions | Column 4 - Guidance |
|-----|---|-----------------------------------|--|---|
| 15. | Temporary use ^{1, 2, 3, 4, 5} | All zones | (a) The use or activity is in existence for less than 48 hours, or a longer period agreed by the Town ⁶ , in any 12-month period. | <ol style="list-style-type: none"> 1. Exemption granted by clause 61(2) of the Regulations. 2. Examples include garage sales, fetes, fairs, circus, charity goods sales, community markets, street festivals and pop-up shops. 3. The use should not require the construction of any permanent works or structures, unless otherwise approved by the Town. 4. One temporary sign may be associated with the use, with a maximum size of 1.5m² and located within private property. 5. Temporary uses may require other approvals from Council. 6. When considering temporary uses exceeding 48 hours duration, the circumstances where development approval will generally be required by the Town are when: <ol style="list-style-type: none"> (i) the use cumulatively occurs on more than 20 days within a 12 month period; and/or (ii) the use occurs on more than 7 consecutive days within any 1 month. |

| | Column 1 – Use of land | Column 2 – Zone or Reserve | Column 3 – Conditions | Column 4 - Guidance |
|------------|---|---|--|---|
| 16. | Temporary use of a premises as a Fast Food Outlet or Service Industry use ¹ . | All zones | <p>(a) The temporary use is being carried out from a business premises that immediately prior to the temporary use was being legally operated (either under an existing development approval or under an exemption from development approval) as a Restaurant/Café, Fast Food Outlet, Lunch Bar, Small Bar, Hotel or Tavern; and</p> <p>(b) The temporary use is being carried out due to State Government imposed restrictions² limiting the operations of the business to the preparation, sale, distribution and/or delivery of food and/or beverages, only.</p> | <ol style="list-style-type: none"> 1. Exemption granted by this Local Planning Policy. 2. The operation of the business is required to revert to its prior approved or otherwise exempt use once the State Government imposed restrictions on its operations have been lifted. |
| 17. | Any other use specified in a local planning policy or local development plan that applies to the development as a use that does not require development approval ^{1, 2} | Any zoned land subject to a relevant local planning policy or local development plan that applies to the development as a use that is exempt. | <p>(a) The development satisfies and is undertaken in accordance with all relevant requirements of the local planning policy or local development plan applying to the use in order for it to qualify for an exemption from development approval.</p> | <ol style="list-style-type: none"> 1. Exemption granted by clause 61(2) of the Regulations. 2. Written planning advice (form available from the Town's website) of development approval requirements for a change of use on land covered by the Belmont Park Redevelopment Structure Plan, which outlines land use permissibility requirements for its sub-precincts, and is referred to by the Belmont Park Precinct C and Precinct D Local Development Plans, should be obtained from the Town to confirm if any exemption is applicable. |

| | Column 1 – Use of land | Column 2 – Zone or Reserve | Column 3 – Conditions | Column 4 - Guidance |
|------------|---|--|---|--|
| 18. | A use that is wholly located on an area identified as a regional reserve under a region planning scheme ^{1,2} | Reserved land under the Metropolitan Region Scheme | | <ol style="list-style-type: none"> 1. Exemption granted by clause 61(2) of the Regulations. 2. The proposed use or activity must be consistent with the purposes for which the land is reserved. |
| 19. | Educational establishment ^{1, 2} | The following zones ³ : <ul style="list-style-type: none"> • Local Centre zone • District Centre zone • Commercial zone (all Precincts); | (a) No more than a maximum of 10 students at any one time has been proposed. (b) The development: <ol style="list-style-type: none"> (i) has no works component; or (ii) is not required to obtain development approval for any works component. | |
| 20. | bulk goods showroom ^{1, 2} | The following zones ³ : <ul style="list-style-type: none"> • Residential/Commercial • Office Residential • District Centre • Commercial zone (all Precincts); | (a) Net lettable area is no more than 300m ² ; and (b) The development: <ol style="list-style-type: none"> (i) has no works component; or (ii) is not required to obtain development approval for any works component. | |
| 21. | Fast food outlet/lunch bar ^{1, 2} | The following zones ³ : <ul style="list-style-type: none"> • Office / Residential • Local Centre • District Centre • Commercial zone (all Precincts); • Industrial (1) • Industrial (2) | (a) Net lettable area does not exceed 300m ² and does not propose a drive-through service and (b) The development: <ol style="list-style-type: none"> (i) has no works component; or (ii) is not required to obtain development approval for any works component. | |

Notes to Table 2:

1. *Where a proposed use is a 'P' permitted use and meets the conditions required by Column 3 in relation to that exemption, it is not restricted by or required to meet the conditions required by any other exemption listed in Table 2 that may be more specific to that use.*
2. *Refer to Clause 3 of this policy, in relation to circumstances where an exemption listed within Table 2 above may not apply to a proposed development.*
3. *An exemption from the requirement for development approval that applies under Clause 2 of this policy is not affected by any provision of a local planning policy or local development plan.*