



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, Part 7, deemed clause 61 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), and Schedule A of the 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 the additional exemptions from development approval that apply in the Town.

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

OBJECTIVES

- a) To identify development types that are exempt from development approval, in addition to exemptions that exist under other planning provisions (refer below); and
- b) To exempt certain forms of minor development from the requirement for development approval, where they qualify with specified standards to ensure consistency and minimal risk of adverse impacts on the amenity of neighbouring properties, the streetscape or within the Town generally.

SCOPE

This Policy applies to all land within the Town of Victoria Park.

This Policy does not exempt development on land that is either:

- a) Entered in the State Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
- b) The subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
- c) The subject of a heritage agreement entered into the under the *Heritage of Western Australia Act 1990* Section 29; or
- d) Included on a heritage list prepared in accordance with this Scheme; or
- e) Located within an area designated under the Scheme as a heritage area.
unless approved in writing by the Town.

This Policy outlines exemptions from development approval only. While a particular development type may be exempt from development approval, other required approvals or licenses may still need to be obtained from the Town or other bodies, including but not limited to the following:

- Building Permit
- Environmental Health Permits
- Approval under Local Laws
- Technical Services Approval
- Public Event Approvals
- Other strata owners

DEFINITIONS

Unless otherwise 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).

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

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

- 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;
- waterproof;
- capable of meeting wind and other live load requirements; and
- has durability properties similar to or greater than awning canvas.

Maintenance and repair means minor works that are undertaken to fix, or prevent, a building, structure or place from deteriorating or falling into a state of disrepair. The works are to be undertaken to the same details, materials and specifications of the building, structure or place prior to the deterioration or disrepair occurring. These works include :

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

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

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. The following works are exempt from the requirement for development approval from the Town, where they comply with the relevant conditions contained in Table 1 below.

TABLE 1 – WORKS THAT ARE EXEMPT FROM DEVELOPMENT APPROVAL		
WORKS	CONDITIONS TO BE EXEMPT	GUIDANCE NOTES
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.	-
Ancillary dwelling (new or additions to)	Refer to clause 61(1)(d) of the Regulations.	-
Animal enclosure	Maximum 2.4m height	-
Basketball or netball hoop	Nil - exempt	-
Builders shed, office or sanitary facilities	Connected with building work on the land on which the shed, office, shed or sanitary facility is located	-
Carport or garage	Refer to clause 61(1)(d) of the Regulations.	
Car parking bays	Where associated with a residential development, and meets the deemed-to-comply provisions of the R-Codes relating to vehicle access and car parking	Where relevant, a crossover approval will still be required.
Children's play equipment (but not including a Cubby House)	Nil - exempt	-
Clothes lines and drying facilities	Nil - exempt	Should be screened from view from a street.
Cubby house	<ul style="list-style-type: none"> • The floor level is no more than 1.0m above natural ground level; and • The wall height is no more than 3.0m above natural ground level; and • 1.0m minimum setback from boundaries; and • Less than 10m² area 	While the visual privacy provisions of the R-Codes do not apply to cubby houses, it is recommended that any doors or windows be positioned to face into the site rather than external boundaries.
Decking	<500mm above the natural ground level at any point below the deck	-
Demolition	Demolition (in full or part) of a single house or ancillary dwelling – exempt. Demolition of incidental structures, including an outbuilding, external fixture, boundary wall	A demolition permit may still be required.



WORKS	CONDITIONS TO BE EXEMPT	GUIDANCE NOTES
	<p>or fence, patio, pergola, retaining wall, verandah, garage, carport, swimming pool or spa – exempt.</p> <p>Demolition (in full or part) of a non-residential building – exempt unless the building is an original shopfront on Albany Highway or an ‘original shop’ in the Residential Character Study Area or a heritage listed property on the Town’s MHI or the State Register of Heritage Places</p>	<p>Note ‘Scope’ section of this Policy for circumstances where exemptions do not apply.</p>
<p>Earthworks (excavation and/or fill)</p>	<p>Either excavation (no limit) or fill to a maximum height of 500mm above the natural ground level.</p>	<p>Any excavation or fill to be adequately retained where necessary.</p>
<p>Maintenance and repair (see ‘Definitions’)</p>	<p>Nil.</p> <p>This exemption does not apply to :</p> <ul style="list-style-type: none"> - Changes from one roofing material to another; or - Significant changes in the wall materials ie. facebrick to render; 	<ul style="list-style-type: none"> • Original features including doors, windows and architectural elements should be maintained and repaired rather than be replaced. • Repainting of walls should preferably be to neutral tones.
<p>Fabric awning</p>	<ul style="list-style-type: none"> • 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; • An awning, including any part thereof, projecting into the verge shall: <ul style="list-style-type: none"> ○ Be at least 500mm, measured horizontally, clear of the face of the kerb of the adjacent road; ○ Be not less than 2.75 metres above the footpath or verge level; ○ Be not more than 3 metres above the footpath or verge level at the lowest point of the awning; ○ 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; 	<ul style="list-style-type: none"> • A building permit is required in all instances for fabric awnings. • Any awning be designed to carry, in addition to its own weight, a live load of at least 50 kilograms per square metre. • 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. • A fabric awning shall be kept in good repair to the satisfaction of the Town.



WORKS	CONDITIONS TO BE EXEMPT	GUIDANCE NOTES
		The Town reserves the right to order an owner to repair, replace or remove a fabric awning not kept in good repair.
Fencing (including lattice extensions)	<ul style="list-style-type: none"> • Where associated with a residential development, compliant with the provisions for street walls and fences outlined in Council’s Local Planning Policy ‘Streetscape’; or • A dividing fence located on the boundary between two lots, where behind the building lines; or • Screening material attached to the top of a dividing fence not exceeding a height of 2.4m above the higher ground level • All fencing complying with the Town’s <i>Local Laws Relating to Fencing</i> in any instance. 	-
Flagpole	<p>To a residential development – where not exceeding a maximum height of 6m and not containing commercial advertising.</p> <p>To a non-residential premises – where compliant with the Town’s Signs Local Law or an adopted Local Planning Policy relating to signs.</p>	-
Hot water systems	Nil - exempt	Should be screened from view from a street, or where on the roof, then flush mounted.
Letterboxes	Nil - exempt	Sightlines to be maintained for vehicle egress.
Outbuildings	Where associated with a residential development, compliant with the provisions for outbuildings outlined in the R-Codes and Council’s Local Planning Policy ‘Streetscape’	-
Outdoor blinds	Nil - exempt	-
Outdoor cooking facilities (ie. BBQ; pizza oven)	Nil - exempt	-
Patio	Where associated with a residential development, compliant with the provisions for patios outlined in the R-Codes and Council’s Local Planning Policy ‘Streetscape’	-
Pergola or vergola	Nil - exempt	-



WORKS	CONDITIONS TO BE EXEMPT	GUIDANCE NOTES
Retaining walls	<500mm above the natural ground level at any point; or below natural ground level in all instances.	To be constructed of concrete or masonry to relevant specifications.
Roller shutters	To a residential development - nil - exempt	Discouraged given the negative streetscape and surveillance outcomes.
Satellite dish	Refer to Schedule A of the Scheme and clause 61(1)(d) of the Regulations.	-
Sea Containers	Compliant with the provisions of Council's Local Planning Policy 34 'Sea Containers'	-
Shade sails	Where associated with a residential development, compliant with the provisions for shade sails outlined in Council's Local Planning Policy 'Streetscape'	-
Single house (new dwelling or additions to)	Refer to clause 61(1)(c) of the Regulations.	-
Signs	In accordance with Local Planning Policy 38 – Signs.	-
Solar collectors	If located on the roof or another part of the building.	Preferably flush mounted or no more than 500mm above the roof where on a frame.
Swimming pools or spas	Nil - exempt	-
Temporary viewing platform	On-site for less than 90 days	-
TV antennas	Nil - exempt	-
Water tanks	Not located in a street setback area and does not exceed a height of 2.4m above natural ground level.	-
Water features	Nil - exempt	-
Any other works of a minor nature as determined by the Town in writing on a case-by-case basis.		

2. The following uses are exempt from the requirement for development approval from the Town, where they comply with the relevant conditions contained in Table 2 below.

TABLE 2 – USES THAT ARE EXEMPT FROM DEVELOPMENT APPROVAL

USES	CONDITIONS TO BE EXEMPT	NOTES
Home Office	Not to involve clients or customers travelling to and from the dwelling.	-



USES	CONDITIONS TO BE EXEMPT	NOTES
Temporary uses included but not limited to the following: Garage sales, fetes, fairs, circus, charity goods sales, community markets, street festivals and pop-up shops.	<ul style="list-style-type: none"> • Where the use does not require the construction of any permanent works or structures, unless otherwise approved by the Town; and • One temporary sign is associated with the use, with a maximum size of 1.5m² and located within private property; and • The use does not cumulatively occur on more than 20 days within a 12 month period, and not on more than 7 consecutive days within any 1 month. 	Temporary uses may require other approvals from Council.
Uses that are ‘P’ (permitted) under the Scheme Zoning Table	<ul style="list-style-type: none"> • Refer clause 61 (2)(b) of the Regulations. 	-
Family day care centre	<ul style="list-style-type: none"> • Refer Schedule A of the Scheme. 	-
Use of footpath in front of a business premises for alfresco dining or the display of goods	Nil	A Free Trade Area permit is to be obtained from the Town.
Any other use of a temporary nature as determined in writing by the Town on a case-by-case basis.		

NOTES

1. The ‘Guidance Notes’ in Tables 1 and 2 above are provided for guidance only as to the Town’s expectations. Development that is not compliant with the ‘Guidance Notes’ is not required to obtain development approval unless note 2 (below) applies.
2. The following matters must be satisfied prior to the carrying out of any development listed within this policy:
 - Owners consent is to be obtained before carrying out or continuing any development;
 - 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;
 - Vehicular and pedestrian access remains compliant with the requirements of the R-Codes;
 - All development is to be located outside of future road or right-of-way widening areas;
 - All stormwater shall be contained on the development site;
 - Any building works are to be contained within the boundaries of the lot which is the subject of development; and
 - 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
 - Technical Services Approval



- Environmental Health Permits
- Approval under Local Laws
- Public Event Approvals

3. Notwithstanding that a particular use or works on land may not be specifically listed as exempt development under Table 1 or Table 2, the Town may on a case-by case basis, in writing, determine that the use or works are minor and does not require development approval.

3. Amendments to Approvals

Deemed clause 77(3) of the Regulations provides that where a development approval has been issued, the local government 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, R-Codes or Council Policies; or
- b) increase the extent of non-compliance with an applicable development standard applying under the Scheme, R-Codes or Council Policies; or
- c) require consideration of any relevant planning and development matter where discretion 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 makes a less positive contribution to the streetscape than that approved.

In such situations, landowners and/or applicants should obtain written advice from Council Officers confirming whether or not an amended approval is required in each instance.

VERSION CONTROL

Date Initially Adopted :	Former Policy PLNG6 under Town Planning Scheme Policy Manual – adopted March 2012
Date(s) Amended :	<ol style="list-style-type: none"> 1. Adopted as Local Planning Policy 3 at Ordinary Council Meeting 9 February 2016; 2. Amended by Council resolution at Ordinary Council Meeting 12 December 2017. 3. Amended by Council resolution at Ordinary Council Meeting 13 November 2018. 4. Amended by Council resolution at Ordinary Council Meeting 15 September 2020.

