



POLICY NO:-

SDev CP091 - LOCAL PLANNING POLICY – EXEMPTED DEVELOPMENT AND LAND USE

GOVERNANCE INFORMATION

Procedure Link:

NA

Administrative Policy Link:

NA

ADMINISTRATION INFORMATION

History:					Synopsis:	
Version		New	OCM 26/02/2020	Res: 25-20	Synopsis:	Draft Policy created.
Version	2	Adopted	OCM 29/04/2020	Res: 82-20	Synopsis:	Adopted by Council
Version	3	SDev CP091	OCM 30/09/20	Res: 269-20	Synopsis:	Reviewed and Adopted by Council
Version	4	SDev CP091	OCM 31/03/21	Res: 61-21	Synopsis:	Reviewed and Adopted by Council

1. RESPONSIBLE DIRECTORATE

Sustainable Development

2. PURPOSE OR OBJECTIVE

This Policy establishes the Shire’s position in relation to development that is exempt from requiring development approval. These exemptions are in addition to the use and development types identified as being exempt in Schedule 2 (‘Deemed Provisions’) of the Planning and Development (Local Planning Schemes) Regulations 2015.

The objectives of this Policy are to:

1. Provide certainty about what is considered minor development and to exempt such development from the need for development approval;
2. To streamline the land use planning regulatory process and to reduce red tape;
3. Ensure acceptable development outcomes are maintained;

This policy is made pursuant to Division 2, Part 2, Schedule 2 of the Deemed Provisions for local planning schemes of the Planning and Development (Local Planning Schemes) Regulations 2015.

3. REFERENCE DOCUMENTS

- Planning and Development Act 2005
- Planning and Development (Local Planning Schemes) Regulations 2015
- Shire of Dardanup Local Planning Scheme No. 3 (TPS3)

4. DEFINITIONS

In this policy, “substantially commenced” means that the footings of an approved dwelling have been completed.

All other words and expressions in this policy have their normal and common meaning, and as defined in Part 1, Clause 1.8 of the Shire of Dardanup Town Planning Scheme No.3, the *Planning and Development Act 2005*, the *Planning and Development (Local Planning Schemes) Regulations 2015* or State Planning Policy 7.3 - Residential Design Codes of WA.

5. POLICY

Prior to the commencement of development works, land owners and applicants are encouraged to discuss all development proposals with Shire Planning Staff to determine whether the terms and requirements of this policy apply.

Exemptions in Schedule 2 ('Deemed Provisions') of the Planning and Development (Local Planning Schemes) Regulations 2015 apply to land even though it may be located in the Landscape Protection Area under TPS3. Exemptions in Schedule 2 ('Deemed Provisions') do not apply to land that is designated as Bushfire Prone Area under the Fire and Emergency Services Act 1998 and development approval is required under clause 78D(3) for the development.

Before carrying out any development listed in Table 1, any other licences, permits or approvals required must be obtained in accordance with any other law.

In addition to the exemptions in Schedule 2, Development approval is not required for any development listed in Table 1 'Exempted Development' providing:

- 5.1 The proposal complies with the listed zones and criteria contained in the corresponding 'Applicable Zone' and 'Conditions' columns;
- 5.2 The land use or development does not represent an 'X' (Prohibited Use) in Appendix I – Zoning Table of the Shire of Dardanup Town Planning Scheme No.3;
- 5.3 The proposal does not vary any standards or requirements prescribed in the Scheme or the Planning and Development (Local Planning Schemes) Regulations 2015, or any other requirements of the R-Codes (if applicable).

Table 1 – Development Exempt from Development Approval

EXEMPTED DEVELOPMENT	APPLICABLE ZONE (UNLESS 'X' IN LAND USE TABLE)	EXEMPTION CRITERIA
Arbor, archway or gateway - or similar type of decorative structure that defines a pedestrian entrance.	All zones	<ul style="list-style-type: none"> • Maximum height 3 metres; and • Maximum width 2.5 metres
Bed and Breakfast	General Farming Residential Short Stay Residential Small Holding Tourist	<ul style="list-style-type: none"> • Minimum lot size 900m² • Maximum of two bedrooms and two bathrooms may be used for the bed and breakfast • One onsite car parking space is required per guest bedroom in addition to two spaces for the residential use
Family Day Care	All zones	Where development complies with the Scheme definition of a 'Family Day Care'
Fences	Residential	<p>Where the fence is not located within a Heritage Area or on a lot that contains a place on the Heritage List and meets any of the following criteria:</p> <ul style="list-style-type: none"> • is a front fence and meets the acceptable development provisions of the Residential Design Codes, including; <ul style="list-style-type: none"> ○ front fences within the primary street setback area

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		<p>being visually permeable 1.2 metres above natural ground level; and</p> <ul style="list-style-type: none"> ○ fences being truncated or reduced to no higher than 0.75 metres within 1.5 metres of where the fence adjoins a vehicle access point, where the driveway meets a public street and where 2 streets intersect; <ul style="list-style-type: none"> • is located on a common boundary, is located greater than 4.5 metres from a primary street boundary and is no greater than 2 metres in height; • is located on a secondary street boundary and is not greater than 1.8 metres in height.
	General / Light Industry, Mixed Business	<ul style="list-style-type: none"> • Constructed of 50mm steel mesh; • Maximum height of 1.8m from natural ground level with a maximum overall height of 2.1m where barbed wire is placed on top of the fence; • Supported by steel galvanised pipe posts: <ul style="list-style-type: none"> ○ 2.7m in length ○ Nominal bore of 40mm and outside diameter of 48mm ○ Spaced at 4m centres ○ Sunk 0.6m into the ground, encased in concrete having diameter of 150mm; and ○ Terminal posts are braced in line of the fence with diagonal pipe braces having nominal bore of 50mm and outside diameter of 60mm • Centre and bottom high tensile galvanised steel wire.

EXEMPTED DEVELOPMENT	APPLICABLE ZONE (UNLESS 'X' IN LAND USE TABLE)	EXEMPTION CRITERIA
	General Farming, Small Holding, Tourist	<p>Where the fence meets all of the following criteria:</p> <ul style="list-style-type: none"> • is located within a 14 metre visual truncation on a corner lot and is no higher than 1.5 metres; • is located within a 3 metre visual truncation to a vehicular access way and is no higher than 1.5 metres; • is no higher than 1.8 metres in all other cases; • is constructed of post and wire or post and rail; • is not located within a heritage area and is not on a lot that contains a place on the Heritage List
Feature walls (Landscape Walls)	All zones	<ul style="list-style-type: none"> • Maximum 3m width at a max height of 2.1m from natural ground level; and • Setback behind the primary and/or secondary street setback.
Outdoor Cooking facilities - Pizza Oven, BBQ	All zones	<ul style="list-style-type: none"> • Maximum height 1.8m from natural ground level excluding chimney or flue; and • Structures above 1.8m from natural ground level need to be setback as required by the R-Codes (if applicable) or Scheme Setbacks. • The size of the structure shall not be larger than 3m²
Home Business	All Zones	Where development complies with the Scheme definition of a 'Home Business'
Horse Shelters	General Farming Small Holding	<p>Where the development meets all of the following criteria:</p> <ul style="list-style-type: none"> • External surfaces are clad with non-reflective materials. • No clearing of vegetation is required. • Compliant with the relevant setbacks/building envelope and building exclusion area

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		<p>requirements for the applicable zone/designation.</p> <ul style="list-style-type: none"> • A Greater Bunbury Region Scheme application is not triggered due to the land being affected by the Floodplain Management Policy 2017 and/or the Strategic Minerals and Basic Raw Materials Resource Policy and/or the land abuts a Region Scheme Reservation under the GBRs. <p>In the Small Holding zone where the number of livestock kept on the lot is equal to or less than the base (dry) stocking rate that applies to the land (as defined in the Agriculture Western Australia document titled "Stocking Rate Guidelines for Rural Small Holdings, Swan Coastal Plain and Darling Scarp").</p>
Industry – Cottage	General Farming Small Holding	<p>Where development complies with the Scheme definition of a 'Industry – Cottage' and the following criteria is met:</p> <ol style="list-style-type: none"> a) The cottage industry is attached or detached from the dwelling located on the property; b) The use is to remain ancillary to the main dwelling or the principal land use of the property; c) Retail of goods produced on-site is only permitted through the establishment of a small gallery located within the scheme floor area restrictions; d) Art and craft classes or demonstrations may be conducted at a rate of no more than 2 classes or demonstrations per week; e) The development does not involve the construction of any permanent works, structures or buildings

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		<p>unless otherwise approved by the Shire of Dardanup;</p> <p>f) Does not unduly impact on vehicular or pedestrian accessibility;</p> <p>g) May include temporary works small in scale which includes, but is not limited to, the following:</p> <ul style="list-style-type: none"> • Marquees; • Stall setups; • Tables; or • Umbrellas <p>h) Operates within the hours of 7.00am and 10.00pm</p> <p>i) Noise must be compliant with the Environmental (Noise) Regulations 1997</p>
Keeping of Livestock	General Farming	No Conditions.
	Small Holding Tourist	Where the number of livestock kept on the lot is equal to or less than the base (dry) stocking rate that applies to the land (as defined in the Agriculture Western Australia document titled "Stocking Rate Guidelines for Rural Small Holdings, Swan Coastal Plain and Darling Scarp").
Outbuildings, Patios, detached garage, carports and lean-to structures attached to an outbuilding	Residential *Except where located in the Bushland Development Area	<p>Outbuildings and detached Garages where the development meets all of the following criteria:</p> <ul style="list-style-type: none"> • Where the outbuilding is to be constructed on a lot where a building permit for a dwelling has already been issued and the dwelling has been "substantially commenced" according to the definition in this policy; • Maximum outbuilding floor area - 80m² in aggregate or 10% in aggregate of the site area (whichever is the lessor); • A maximum wall height of 3m; • A maximum ridge height of 4.2m as per the Residential Design Codes; • Located behind the street setback;

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		<ul style="list-style-type: none"> • A nil setback to the side and/or the rear boundary setback and 1m setback to a secondary street boundary is permitted for a maximum wall length of 9m. <p>Carports and Patios where the development meets all of the following criteria:</p> <ul style="list-style-type: none"> • A maximum wall height of 3.5m; • A maximum ridge height of 4.2m as per the Residential Design Codes; • Located behind the street setback; • A nil side and/or rear boundary setback, and 1m setback to a secondary street boundary is permitted, for a maximum length of 12m along any boundary; • The roof cover being setback a minimum of 500mm from all lot boundary; • All other 'deemed to comply' requirements of the R-Codes being met; and • All stormwater including roof run off disposal is to be contained on site.
	Residential zoned lots in the Bushland Development Area	<p>Where the development meets all of the following criteria:</p> <ul style="list-style-type: none"> • Where the outbuilding is to be constructed on a lot where a building permit for a dwelling has already been issued and the dwelling has been "substantially commenced" according to the definition in this policy; • Maximum outbuilding floor area - 80m² in aggregate or 10% in aggregate of the site area (whichever is the lessor); • A maximum wall height of 3.5m; • A maximum ridge height of 4.4m; • A minimum setback of 2m to the side and the rear for Burekup; • A minimum setback of 2m to the side and 10m to the rear in Eaton; • Patios must be constructed in accordance with the above listed

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		<p>criteria however are not subject to a maximum aggregate floor area.</p> <ul style="list-style-type: none"> • All other 'deemed to comply' requirements of the R-Codes being met. • All Stormwater including roof run off disposal is to be contained on site.
	Small Holding	<p>Where the development meets all of the following criteria:</p> <ul style="list-style-type: none"> • Where the outbuilding is to be constructed on a lot where a building permit for a dwelling has already been issued and the dwelling has been "substantially commenced" according to the definition in this policy. • Maximum floor area – 300m² in aggregate where the lot size is less than 3ha. • Maximum floor area – 400m² in aggregate where the lot size is larger than 3ha. • A maximum wall height of 5m. • Compliant with the relevant setbacks/building envelope and building exclusion area requirements for the applicable zone/designation. • A Greater Bunbury Region Scheme application is not triggered due to the land being affected by the Floodplain Management Policy 2017 and/or the Strategic Minerals and Basic Raw Materials Resource Policy and/or the land abuts a Region Scheme Reservation under the GBRS. • All Stormwater including roof run off disposal is to be contained on site.
Rural shed or farm outbuilding	General Farming	<p>Where the development meets all of the following criteria:</p> <ul style="list-style-type: none"> • Buildings to be clustered with the farmhouse and other outbuildings, if there are existing buildings on the lot. • Compliant with the relevant setbacks for the zone.

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		Notwithstanding these exemptions, approval under the Greater Bunbury Region Scheme (GBRS) application may be required due to the land being affected by the Floodplain Management Policy 2017 and/or the Strategic Minerals and Basic Raw Materials Resource Policy and/or the land abuts a Region Scheme Reservation under the GBRS.
Parking of one (1) Commercial Vehicle	Residential	Where the parking of the vehicle complies with Clause 3.5 of the Scheme.
	All other zones	Where: a) The parking of the commercial vehicle/s is ancillary to the approved use; or b) Only one (1) commercial vehicle and one (1) associated trailer is parked per property; and c) Where the subject lot has a total area of equal to or greater than 10,000m ² (1 hectares); and d) The subject vehicle is rated a gross vehicle mass of less than or equal to 6.5 tonnes.
Pool Pump Shed	All zones	Subject to compliance with the provisions part 5.4.3 Outbuildings of the Residential Design Codes.

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Rainwater tank	All zones	<ul style="list-style-type: none"> • Maximum height 2.7m above natural ground level; • Compliant with the relevant setbacks/building envelope and building exclusion area requirements for the applicable zone/designation. • Permitted sizes by lot area: <table border="1" data-bbox="1018 495 1396 853"> <tbody> <tr> <td data-bbox="1018 528 1182 640">≥4,000m²</td> <td data-bbox="1182 528 1396 640">10m in diameter 212 000L tank</td> </tr> <tr> <td data-bbox="1018 640 1182 752"><4,000m² but ≥2000m²</td> <td data-bbox="1182 640 1396 752">3.88m in diameter 32 000L tank</td> </tr> <tr> <td data-bbox="1018 752 1182 853"><2,000m²</td> <td data-bbox="1182 752 1396 853">6000L tank no greater than 2.4m in height</td> </tr> </tbody> </table> • More than one rainwater tank is permitted in the General Farming and Small Holding Zones where the rain water tanks are clustered with the farmhouse and other outbuildings, and no clearing of vegetation is required. 	≥4,000m ²	10m in diameter 212 000L tank	<4,000m ² but ≥2000m ²	3.88m in diameter 32 000L tank	<2,000m ²	6000L tank no greater than 2.4m in height
≥4,000m ²	10m in diameter 212 000L tank							
<4,000m ² but ≥2000m ²	3.88m in diameter 32 000L tank							
<2,000m ²	6000L tank no greater than 2.4m in height							
Satellite Dishes, microwave antennae and radio masts	All zones	<p>The installation of satellite dishes, microwave antennae and radio masts or other low impact facilities which satisfy the following requirements:</p> <ul style="list-style-type: none"> (i) there are no other existing satellite dishes, microwave antennae or radio masts on the subject lot; (ii) in the case of satellite dishes in residential areas, the maximum diameter is 1.0 metres or less and is not located within any of the street setbacks; and in non-residential areas the maximum diameter is 3 metres; (iii) in the case of microwave antennae, the maximum diameter is 1.0 metre or less, the antennae does not project higher than 3 metres above the ridge line 						

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		<p>of the building and is not utilised to transmit electromagnetic waves;</p> <p>(iv) in the case of radio masts, the height does not exceed 8 metres, the radio mast is setback in accordance with the Scheme from any of the lot boundaries (or 6 metres whichever is greater) and the dimension of the antennae does not exceed 6 metres and is fully contained within the subject lot;</p> <p>(v) where the structure involves Amateur (Ham) Radio equipment shall be less than 10m above natural ground level and is setback no less than 4m from any lot boundaries;</p> <p>(vi) Is not visible from the primary street;</p> <p>(vii) and shall be clustered or located with existing development on site.</p>
Site Works and Retaining walls	All zones	<ul style="list-style-type: none"> • Where the extent of fill and/or height of the retaining wall(s) does not exceed 500mm above the natural ground level; or • Where extent of fill and/or height of the retaining wall(s) exceeds 500mm above the natural ground level, retaining walls shall be located on the boundary and fencing located atop to prevent overlooking (where the R-Codes apply); • Is located on a boundary other than the primary street boundary; • Is not located within a Flood Prone Area; • Is not located within a heritage Area and is not on a lot that contains a place on the Heritage List.

EXEMPTED DEVELOPMENT	APPLICABLE ZONE (UNLESS 'X' IN LAND USE TABLE)	EXEMPTION CRITERIA
Trading or Events - The use of any land which is approved through a license or permit issued under a local law	All zones	<ul style="list-style-type: none"> • The activity does not involve alterations to the land or construction of permanent structure(s); • Each event is in existence for less than 48 hours; • Does not require a greater period than 5 days setup and breakdown of event infrastructure, or such other period as is specified in the approval by the Shire; and • The cumulative total number of events at the property does not exceed more than 5 events in any 12 month period.
Trellis – or similar perforated material attached to Common or Dividing Fence	Residential	<p>If located adjacent to a side or rear (not secondary street) dividing fence,</p> <ul style="list-style-type: none"> • The combined height of the fence and trellis does not exceed 2.4m from natural ground level; and • Setback 6m from primary street boundary. OR <p>If located on a primary street dividing fence.</p> <ul style="list-style-type: none"> • The combined height of the fence and trellis does not exceed 1.5m; and • The trellis does not cover more than 25% of the frontage.
Temporary Offices and sheds	All zones	<p>(i) offices and sheds (including sea containers) used by builders directly associated with the building works occurring on site for the duration of completing the works; and/or</p> <p>(ii) offices (including sea containers) used by real estate agents directly associated to the sale of lots and/or dwellings on the development site for a period of 24 months.</p>
Vegetation Removal	All zones	For removal, destruction or lopping of any vegetation that is not identified as being significant vegetation on a Structure Plan, and meets any of the following:

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		<p>(i) to create or maintain a 20m wide Asset Protection Zone from the external walls of the primary dwelling on the property, for bushfire management;</p> <p>(ii) To create or maintain a 20m wide Asset Protection Zone from the external walls of any building that is 10m or less from the primary dwelling on a property;</p> <p>(iii) all vegetation other than trees within 80m of the Asset Protection Zone (i) above, for bushfire hazard reduction.</p> <p>(iv) any harmful weed species identified on an approved list of any Federal or Western Australian Government Agency, including those listed by Department of Primary Industries and Regional Development (DPIRD) as Declared Plant, prescribed as a pest plant under the <i>Biosecurity and Agriculture Management Act 2007</i> (BAMA), or any other weed species as advised by DPIRD or</p> <p>(v) Where the vegetation removal does not require a 'Clearing Permit' under the (WA) <i>Environmental Protection Act 1986</i>.</p> <p>* Note: Despite any exemption in this section, approval may still be required under the (Cwlth) <i>Environmental Protection and Biodiversity Conservation Act 1999</i>, or a Clearing Permit may be required under the (WA) <i>Environmental Protection Act 1986</i>, in some instances. The applicant should check with DWER.</p>
Water Feature	All zones	<p>Where the structure constructed on a residential lot and associated with a dwelling –</p> <ul style="list-style-type: none"> Maximum height of 2.4m above natural ground level if located behind the primary street setback;

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		<ul style="list-style-type: none"> • Maximum height of 1.2m above natural ground level if located within the primary street setback; and • Permitted with a nil boundary setback. <p>All other zones shall be located in accordance with the Scheme setbacks</p>
Windmills and Wind Turbines	General Farming Small Holding Tourist *Where development is located in the Landscape Protection Area a Development Application is required	<ul style="list-style-type: none"> • Incidental to a use occurring on the land which has Council approval, or does not require Council approval; • Compliant with the relevant setbacks/building envelope requirements for the applicable zone/designation. • A maximum height of 12m. • One Windmill or Wind Turbine is permitted per lot. • Noise must be compliant with the Environmental (Noise) Regulations 1997
Works to a building in a dangerous state or state of emergency (i.e. a building that presents a public hazard) Or Painting / Maintenance of a Building	All zones	<ul style="list-style-type: none"> • The repairs will replicate the external appearance of the structure in its original state; and • No additions are applied or implemented to the structure as part of the works.

6. APPLICATION

This Policy applies to all zoned land applicable under the Shire of Dardanup Town Planning Scheme No.3 inclusive of the land contained within the Landscape Protection Areas shown on the Scheme Map according to the legend thereon.

It should be noted that whilst the Policy identifies certain development types that do not require development approval, a building permit or other approval may still need to be obtained from the Shire.