



LOCAL PLANNING POLICY NO. 44: EXEMPTIONS FROM DEVELOPMENT APPROVAL

**Adopted on the 17th October 2023 in accordance with
Schedule 2, Part 2 of the *Planning & Development (Local Planning
Schemes) Regulations 2015***

1. INTRODUCTION

This Local Planning Policy has been prepared under the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) and the *Shire of Denmark Local Planning Scheme No. 3* (the Scheme).

Part 7 of the Regulations establishes the requirement for development approval:

“A person must not commence or carry out any works on, or use, land in the Scheme area unless —
(a) the person has obtained the development approval of the local government under Part 8; or
(b) the development is of a type referred to in clause 61.”

Clause 61 specifies types of development and land use for which approval is not required.

Clause 61(1) also allows for local governments to identify, in addition to the exemptions that are specified in the Regulations, other types of development and land use that will be exempt from the need for approval. The purpose of this policy is to detail these exemptions.

This provides for specified development to take place without the requirement of development (planning) approval on the basis that it is minor, incidental or essential and does not require assessment to determine whether or not it is appropriate, if within the acceptable development standards identified.

2. OBJECTIVES

This Policy aims to:

- Exempt various incidental, minor and/or essential development from the requirements of development approval.
- Exempt specified residential development which complies with all relevant planning provisions.
- Streamline the development approval process and reduce red tape.
- Minimise adverse amenity impacts to neighbouring properties and the streetscape.

3. DEFINITIONS

Land use classes and other terms used in this Policy are consistent with the Scheme, the Residential Design Codes (R-Codes) and the Regulations unless otherwise stated. This includes the following definition of ‘development’ as defined in the *Planning and Development Act 2005*:

Development means the development or use of any land, including —
(a) any demolition, erection, construction, alteration of or addition to any building or structure on the land;
(b) the carrying out on the land of any excavation or other works;
(c) in the case of a place to which a protection order made under the Heritage Act 2018 Part 4 Division 1 applies, any act or thing that —
(i) is likely to change the character of that place or the external appearance of any building; or
(ii) would constitute an irreversible alteration of the fabric of any building;

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4. DEVELOPMENT APPROVAL REQUIREMENTS

Approval is required for all development or land uses except as specified at Clause 61 of the Regulations, as identified in this Policy, or as identified in the following other local planning policies of the Shire of Denmark:

- Local Planning Policy No. 13 – Outbuildings & Water Tanks
- Local Planning Policy No. 32 – Signs
- Local Planning Policy No. 37 – Dams & Water Features
- Local Planning Policy No. 41 – Renewable Energy Systems

Clause 6.1.2 of the Scheme also identifies certain development that is exempt from the need for approval, including the use and development of reserves by a public authority.

Note: This policy identifies exemptions from development (planning) approval only. Other approvals or licences may be required under separate legislation, such as the registration of accommodation and food premises before starting a business and/or the issue of a building permit before commencing works. Proceeding without the approvals necessary may result in compliance action being taken by the Shire in accordance with the relevant legislation. If you are unsure of the approvals that you need, please enquire at the Shire for assistance.

5. POLICY PROVISIONS

5.1 Development Not Exempt

Development is only exempt from approval all the following applies, as determined by the Shire:

- a) The development location is not included on the Shire’s adopted Municipal Heritage Inventory, Heritage List and/or on the Heritage Council’s State Heritage Register.
- b) Where the development is located within a Bushfire Prone Area, the development has a Bushfire Attack Level (BAL) rating of BAL-29 or lower or the works are exempt from compliance with State Planning Policy 3.7 – Planning in Bushfire Prone Areas including the Guidelines for Planning in Bushfire Prone Areas.
- c) The development does not require the clearing of vegetation and is not located within 30 metres of a natural waterway or wetland.
- d) Approval of the development proposed does not require the use of discretion by the local government under the Town Planning Scheme (‘Scheme’) or other local planning policies.
- e) The development meets the acceptable development criteria in reference to that development or land use in this policy.

5.2 Exemptions from Development Approval

Except as otherwise provided in the Scheme the following development does not require development approval:

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Development	Applicable Zones	Acceptable Development Criteria
<p>The erection, alteration, extension or addition to a Single House (including an associated Ancillary Dwelling) on a green title or survey strata lot.</p> <p><i>(Note: Refer to the Regulations for exemptions relating to the Residential Zone.)</i></p>	<p>Special Residential Professional Office</p>	<ul style="list-style-type: none"> • Comply with minimum lot boundary setbacks under the Scheme, Special Provisions of the zone or Local Planning Policy No. 5, or contained within an approved building envelope (as applicable). • In the Special Residential Zone, comply with the applicable development standards (including minimum lot boundary setbacks and maximum building heights) as specified in the Scheme, or otherwise no more than 6.0m in height above natural ground level. • In the Professional Office Zone, comply with the applicable development standards (including minimum lot boundary setbacks and maximum building heights) as per the Residential Design Codes. • Comply with all other Special Provisions of the Scheme relevant to the zone, where applicable. • Comply with the provisions of any Special Control Area of the Scheme, where applicable. • Comply with the development standards of any other applicable local planning policy. • Meet Visual Privacy setback requirements in accordance with the Residential Design Codes. • A crossover to the property is constructed in accordance with an approval granted by the Shire. • The development is serviced by a potable water supply (either connection to a reticulated water service or an on-site potable water supply in accordance with the requirements of the Scheme). • Connection to a reticulated sewerage service or an approved on-site wastewater disposal system.

<p>The alteration, extension or addition to an existing Single House or Ancillary Dwelling on a green title or survey strata lot.</p> <p><i>(Note: Approval is required for the initial construction of a Single House and designation of a building envelope.)</i></p>	<p>Special Rural Landscape Protection Rural</p>	<ul style="list-style-type: none"> • Comply with minimum lot boundary setbacks under the Scheme, Special Provisions of the zone or Local Planning Policy No. 5 (as applicable), contained within an approved building envelope. <ul style="list-style-type: none"> • In the case of additions or alterations to an existing building that is forward of the standard street setback, works are no closer to the street than the existing building line and are no greater in floor area than 50m². • Maximum 6 metres in height above natural ground level, or as otherwise limited in applicable Special Provisions of the Scheme for the zone. • Comply with all other Special Provisions of the Scheme relevant to the zone, where applicable. • Comply with the provisions of any Special Control Area of the Scheme, where applicable. • Comply any other applicable local planning policy. • Comply with the requirements of the <i>Guidelines for Planning in Bushfire Prone Areas</i>. • A crossover to the property is constructed in accordance with an approval granted by the Shire. • The development is serviced by a potable water supply (either connection to a reticulated water service or an on-site potable water supply in accordance with the requirements of the Scheme). • The development is serviced by a reticulated sewerage service or an on-site wastewater disposal system.
<p>Roofed or unroofed decking associated with an existing residential dwelling.</p>	<p>Professional Office Special Residential Special Rural</p>	<ul style="list-style-type: none"> • Comply with minimum lot boundary setbacks under the Scheme, Special Provisions of the zone or Local Planning Policy No. 5 (as applicable) or contained within an approved building envelope. <i>(Note: In the Professional Office Zone the standards of the Residential Design Codes apply.)</i>

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<p><i>(Note: May be attached to or detached from a residential dwelling.)</i></p>	<p>Landscape Protection Rural Rural Multiple Occupancy</p>	<ul style="list-style-type: none"> Finished floor level of no more than 0.5m above natural ground level; or a finished floor level of no more than 1.5m above natural ground level where the setback is greater than 10m.
<p>Incidental development associated with an existing residential dwelling, such as:</p> <ul style="list-style-type: none"> External fixtures to a dwelling, including air conditioners, patio blinds, retractable awnings, aerials, antennae and satellite dishes. Freestanding structures, including clotheslines, letterboxes, children’s play equipment, sporting equipment, aerials, antennae and satellite dishes. 	<p>Professional Office Special Residential Special Rural Landscape Protection Rural Rural Multiple Occupancy</p>	<ul style="list-style-type: none"> Located within the property boundary. If fixed to a building, no higher than 2.0m above or outwards from the point of attachment on the building. If not fixed to a building, no higher than 3.5m above natural ground level. Located so that it is obscured from view from any public street (except letterboxes).
<p>Landscaping, tree planting, retaining walls and site works associated with an existing residential dwelling.</p>	<p>Residential Professional Office Special Residential Special Rural Landscape Protection Rural Rural Multiple Occupancy</p>	<ul style="list-style-type: none"> Within the Residential and Professional Office zones, site works and retaining walls that are in accordance with the deemed to comply criteria of the Residential Design Codes and no greater than 1.5m above or below natural ground level at any point. Within the Special Residential, Special Rural, Landscape Protection, Rural and Rural Multiple Occupancy zones, in accordance with the following criteria: <ul style="list-style-type: none"> Retaining walls are no greater than 1.5m above or below natural ground level at any point and comply with the minimum setback requirements of the zone.

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		<ul style="list-style-type: none"> ○ Site works that are: <ul style="list-style-type: none"> - No more than 1.5m above or below natural ground level at any point. - No closer than 2.0m to any lot boundary. - Slope of earthworks no greater than 1:3. <p><i>(Note: Setbacks apply from the closest point of works – ie. top of cut or toe of batter.)</i></p> <ul style="list-style-type: none"> ○ Stormwater associated with any impervious areas is retained on site.
<p>The erection, alteration, extension or addition to a domestic non-habitable structure that does not meet the definition of an outbuilding.</p> <p>This may include structures such as:</p> <ul style="list-style-type: none"> ● Carports ● Gazebos, pergolas and patios ● Green and shade houses ● Animal shelters, aviaries and pens <p><i>(Note: A structure/ building is classified as an outbuilding when it is enclosed in a non-permeable material on 3 or more sides. This exemption relates to structures/ buildings used for domestic purposes only. Structures/</i></p>	<p>Professional Office Special Residential Special Rural Landscape Protection Rural Rural Multiple Occupancy</p>	<ul style="list-style-type: none"> ● Existing approved residential dwelling on the site, excluding the Rural Zone. ● Comply with minimum lot boundary setbacks under the Scheme, Special Provisions of the zone or Local Planning Policy No. 5 (as applicable) or contained within an approved building envelope. ● Comply with all other Special Provisions of the Scheme relevant to the zone and Local Laws, where applicable. ● Within the Professional Office Zone, compliant with the deemed to comply standards of the Residential Design Codes. ● Within the Special Residential Zone, not located within the primary or secondary street setback area. ● Maximum wall height above natural ground level (including site works) of: <ul style="list-style-type: none"> ○ Professional Office or Special Residential zones – 3.2m ○ Special Rural or Landscape Protection zones – 3.5m ○ Rural or Rural Multiple Occupancy zones – 5.0m ● Maximum ridge height above natural ground level (including site works) of: <ul style="list-style-type: none"> ○ Professional Office or Special Residential zones – 4.2m

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<p><i>buildings used for any commercial purpose require approval.)</i></p>		<ul style="list-style-type: none"> ○ Special Rural or Landscape Protection zones – 4.5m ○ Rural or Rural Multiple Occupancy zones – 6.0m ● No more than a maximum cumulative area of 200m² of non-habitable structures on any single site.
<p>The erection, alteration, extension or addition to a property entry statement.</p>	<p>Special Rural Landscape Protection Rural Rural Multiple Occupancy</p>	<ul style="list-style-type: none"> ● Located within the property boundaries. ● No greater than 2.5m in height above natural ground level at any point. ● Cumulative area of façade no greater than 20m². ● Located adjacent to a road crossover approved by the Shire. ● No commercial signage. <p><i>(Note: The erection of fencing is addressed in the Shire’s Local Laws. The construction of a brick, stone or concrete fence greater than 0.75m in height requires a building permit prior to construction.)</i></p>
<p>Rural produce stalls</p>	<p>Special Rural Rural Rural Multiple Occupancy</p>	<ul style="list-style-type: none"> ● Located within the property boundary. ● Selling products produced on the property only. ● Access and parking is via a crossover approved by the Shire and vehicles are able to return to the public road in a forward gear. ● Contained within a structure no greater than 10m² in area and 2.4m in height overall. <p><i>(Note: Structures/ buildings that exceed either of these standards may require planning and building approvals. For approval requirements and exemptions relating to signage please refer to Local Planning Policy No. 32 – Signs.)</i></p>

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Related Policies	<i>Local Planning Policy No. 13: Outbuildings & Water Tanks</i> <i>Local Planning Policy No. 32: Signs</i> <i>Local Planning Policy No. 37: Dams</i> <i>Local Planning Policy No. 41: Renewable Energy Systems</i>
Related Procedures and Documents	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> <i>Shire of Denmark Town Planning Scheme No. 3</i> <i>State Planning Policy No. 7.3 Residential Design Codes Volume 1</i>
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