

TITLE:	EXEMPT DEVELOPMENT
ADOPTED:	OMC 30 July 2015 – Pages 28 – 40
REVIEWED:	OMC 17 December 2015 – Pages 110 – 121 OMC 25 May 2017 – Pages 85 – 260 OMC 14 December 2017 – Pages 1030 – 1043 OMC 12 December 2019 – Pages 213 - 221 OMC 30 May 2024 – Pages 10 –16
ASSOCIATED LEGISLATION:	Planning and Development Act 2005 Local Planning and Development (Local Planning Schemes) Regulations 2015 Planning Scheme No 7 (LPS7)
ASSOCIATED DOCUMENTS:	
REVIEW RESPONSIBILITY:	Director Development Services
DELEGATION:	Delegations are exercised in accordance with delegation granted in terms of Section 5.42 of the Local Government Act 1995 as amended or other statutes as applicable to specified officers.
APPLICATION:	This policy applies to the LPS7 area.

Background

Under Clause 61 of the deemed provisions certain works and uses are exempt from the requiring development approval. –Sub-clause 61 (1)(i) and 61 (2) gives the ability for the Shire to adopt a Local Planning Policy to specify any works or use that do not require development approval.

The purpose of this Local Planning Policy is to define what forms of development in addition to the types listed in Clause 61 is exempt from the need to obtain development approval.

Objectives:

- Provide certainty about what is exempt development and therefore does not need development approval.
- Streamline the land use planning regulatory process.

- Ensure acceptable development outcomes are maintained.

Definitions:

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

“Exclusive Use” means the use of public land whereby the nature of the activity would exclude a member of the public usual access rights to the land and/or the activity would impose a charge (or requirement for the purchase of an item) for a member of the public to use the land.

Note: an example of an activity that is an exclusive use is where public land is fenced off and a member of the public which would ordinarily have access would be denied such as the fencing off of a lawn for a concert. If a trader is parked or has safety barriers erected to undertake an activity this does not constitute exclusive use.

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





“Trellis” means an architectural structure, usually made from an open framework or lattice of interwoven or intersecting pieces of wood, bamboo or metal that is normally made to support and display climbing plants, especially shrubs.







Policy:





Prerequisites

- 1.1 Before carrying out of development listed in Table 1 the following matters must be satisfied.
 - (i) No variation to any of the development standards prescribed in the LPS7 or the Deemed to Comply Development standards within the Residential Design Codes (R-Codes) can be undertaken without the issue of development approval.
 - (ii) If required under the Building Act and Regulations of WA a Building Permit must be obtained.
- 1.2 Any works or uses listed in Table 1 is exempt from the need to obtain development approval.

TABLE 1 - Development that is exempt from development approval

Development Type Description	Example Image	Conditions that apply These are in addition to the Prerequisites listed above
<p>Agriculture – Extensive</p> <p>any buildings/structures/fences or land use associated with a pastoral activity.</p>		<ul style="list-style-type: none"> • Located within the 'Rural' or 'Cultural and Natural Resource Use' zone.
<p>Arbor, archway or gateway</p> <p>or similar type of decorative structure that defines the pedestrian entry to a property.</p>		<ul style="list-style-type: none"> • Maximum height 3 metres • Maximum width 2.5 metres. • Only in the Residential zone.
<p>Change of use to a 'P' (Permitted) land use.</p>	<p>N/A</p>	<ul style="list-style-type: none"> • Site and Development requirements under the applicable zone are satisfied.
<p>Decking</p>		<ul style="list-style-type: none"> • Maximum height above natural ground level of 650 mm. • Setback a minimum of 1.5 metres from the property boundary at any point excluding street boundaries. • The deck does not change the land use.
<p>Fencing</p>		<ul style="list-style-type: none"> • Any fence within the Residential zone that meets with the provisions of LPP 5.8 or any local law; • Any fence within the 'Industry' and 'Light Industry' zones or 'Port Reserve' which meets with the provision of LPP 5.8 or any local law. • Any fence in the 'Cultural and Natural Resource Use,' 'Rural Residential,' 'Rural Smallholdings zones which meets with the provision of LPP 5.8 or any local law.

<p>Outdoor Cooking facilities. Pizza Oven, BBQ</p>		<ul style="list-style-type: none"> • Maximum height 1.8 metres excluding chimney or flue. • Structures need to be setback as required by the R-Codes.
<p>Rain Water Tank</p>		<ul style="list-style-type: none"> • Must be located behind the primary street frontage. • Maximum height 2.4 metres above ground level; • Maximum capacity of 6000 litres. • Structures and tanks need to be setback as required in terms of the R-Codes. • Tank must be ancillary to residential use.
<p>Retaining Walls in the Residential Zone</p>		<ul style="list-style-type: none"> • Maximum height 650 mm above natural ground level and setback as required in R-Codes.
<p>Satellite Dishes, Masts and Antennas.</p>		<ul style="list-style-type: none"> • Maximum diameter of 1.8m; • Is sited in a position that does not face a street; • Is not sited on a building or land included in the Heritage List. • Maximum projection of 3m from the highest point of the building to which it is attached.
<p>Solar Panels.</p>		<ul style="list-style-type: none"> • Solar panels are positioned on the roof of an existing building. • Is not sited on a building or land included in the Heritage List. • Incidental to an approved land use.
<p>Sail and Shade Structures</p>		<ul style="list-style-type: none"> • No part of the fabric is closer than 750mm to any boundary. • The shade sail does not change the land use. • Is made of permeable material.

<p>Trading or Events</p> <p>The use of any land which is approved through a license or permit issued under a local law</p>		<ul style="list-style-type: none"> • The activity does not involve alterations to the land or construction of permanent structure(s); and • The activity is not an exclusive use or it is temporary use.
<p>Trellis - Lattice or similar perforated material attached to Common or Dividing Fence</p>		<ul style="list-style-type: none"> • If located adjacent to a side or rear (not secondary street) dividing fence, • The combined height of the fence and trellis does not exceed 2.4 metres. • Setback 6 metres from primary street boundary. • Not located on any fence within the primary street setback.
<p>Water Feature</p>		<ul style="list-style-type: none"> • Maximum height of 2.4 metres above natural ground level if located behind the primary street setback • Maximum height of 1.2 metres above natural ground level if located within the primary street setback.
<p>Windmills</p>		<ul style="list-style-type: none"> • If proposed to be constructed in the 'Rural,' 'Rural Residential,' 'Rural Smallholdings and 'Cultural & Natural Resource' zone.
<p>Wind Turbines (to generate power) associated with a residential or agricultural use.</p>		<ul style="list-style-type: none"> • If proposed to be constructed in the 'Rural,' 'Rural Residential' , 'Rural Smallholdings' and 'Cultural & Natural Resource' zone. • Maximum height not exceeding 7.5 metres. • There are no noise emissions that would impact on the amenity of adjoining properties.

SHIRE OF BROOME LOCAL PLANNING SCHEME No. 7 (LPS7) – LOCAL PLANNING POLICIES

This Policy is a Local Planning Policy adopted pursuant to Part 2 clause 4 of the deemed provisions of LPS7. LPS7 is administered by the Shire of Broome as the responsible authority under the Scheme. LPS7 was gazetted and came into operation on the 28 September 2023.

Planning policies adopted under LPS7 may be amended or rescinded after the procedures set out in Part 2 of the deemed provisions of LPS7 have been completed.