



# **TOWN PLANNING SCHEME POLICY NO. 44: AS-OF-RIGHT DEVELOPMENT**

**Adopted on the 14 August 2012 in accordance with  
Clause 8.2 of Town Planning Scheme No. 3.**

17 October 2023 - Attachment 9.1.2a

## 1. INTRODUCTION

Clause 6.1 Planning Consent of Town Planning Scheme No. 3 (the Scheme) states:

*6.1.1 Subject to Clause 6.1.2 a person shall not commence or carry out development of any land within the Scheme Area without first having applied for and obtained the planning consent of the Council.*

*6.1.2 The planning consent of the Council is not required for:*

- a) the use of reserved land for the purpose for which it is reserved under the Scheme where the land is owned by or vested in the Council or a Public Authority;*
- b) the use of land vested in a Public Authority, for any purpose for which it may be lawfully used by that Authority;*
- c) the erection of a boundary fence except as otherwise required by the Scheme;*
- d) the carrying out of any works on, in, over or under a street or road by a Public Authority acting pursuant to the provisions of any Act;*
- e) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building;*
- f) the carrying out of works urgently necessary in the public safety or for the safety or security of plant or equipment or for the maintenance of essential services.*

Taken literally, development includes digging of a hole to plant a rose bush. In this instance it would be inappropriate from all respects to require Planning Approval be obtained for development proposals of this type.

The Shire of Denmark considers there are various legitimate developments that are considered to be incidental and/or essential development that would not affect the amenity nor have impacts on neighbours, a street, a neighbourhood, locality or the Shire as a whole. Therefore in the absence of the Scheme providing for exempt developments, this policy seeks to provide guidance to applicants, the community and Planning Services staff as to what development proposals do not require Planning Approval to be obtained from the Shire of Denmark.

## 2. POLICY BASIS

Clause 8.2 of the Scheme provides for the preparation and subsequent adoption of Town Planning Scheme Policies. Town Planning Scheme Policy No. 44: As-Of-Right Development (Policy No. 44) has been prepared in accordance with the Scheme.

## 3. OBJECTIVES

To provide for the various legitimate developments that are considered to be incidental and/or essential development that would not affect the amenity nor have impacts on neighbours, a street, a neighbourhood, locality or the Shire as a whole.

## 4. DEFINITIONS

As-Of-Right Development: *development proposals that do not require Planning Approval to be obtained from the Shire of Denmark subject to compliance with the applicable development criteria.*

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## 5. POLICY STATEMENT CRITERIA

Notwithstanding any other provisions provided for in the Scheme and/or other adopted Town Planning Scheme Policies (including but not limited to *Part VII – Places of Heritage Value* of the Scheme which generally requires Planning Approval for most development proposals), the following development proposals are considered to be 'As-Of-Right':

Development Proposal	Acceptable Development Criteria
Cubby House/Tree House	<ul style="list-style-type: none"> <li>Floor area not exceeding 10m<sup>2</sup>.</li> </ul>
Children's Play Equipment	<ul style="list-style-type: none"> <li>Located within the property boundary.</li> </ul>
Shade Sails	<ul style="list-style-type: none"> <li>Made from pervious cloth.</li> <li>Aggregate sail area not exceeding 20m<sup>2</sup>.</li> <li>Supporting poles not exceeding 3.5 metres in height above the existing ground level.</li> </ul>
Pergolas (i.e. structure that either has no roof or a pervious cloth roof (e.g. shade cloth)) associated with a dwelling	<ul style="list-style-type: none"> <li>No more than 2.4m in height.</li> <li>Covers an area not exceeding 20m<sup>2</sup>.</li> </ul>
Flag Pole	<ul style="list-style-type: none"> <li>Not exceeding 6 metres in height.</li> <li>Flags not utilised for commercial advertising purposes.</li> <li>Located within the property boundary.</li> </ul>
Domestic swimming pools	<ul style="list-style-type: none"> <li>Located within the property boundary.</li> </ul>
Retaining walls	<ul style="list-style-type: none"> <li>No more than 0.5 metre in height.</li> </ul>
Incidental development associated with dwellings: <ul style="list-style-type: none"> <li>letterbox</li> <li>clothes line</li> <li>air conditioner(s)</li> <li>television aerial(s)</li> <li>landscaping</li> <li>paving work(s)</li> <li>unroofed deck area(s)</li> </ul>	<ul style="list-style-type: none"> <li>Located within the property boundary.</li> </ul>
Domestic Satellite Dish/Antenna	<ul style="list-style-type: none"> <li>If attached to a building, no higher than 2 metres above the point of attachment on the building.</li> <li>If not attached to a building: <ul style="list-style-type: none"> <li>No higher than 3 metres from the ground level; and</li> <li>Located such that they are not visible from the street.</li> </ul> </li> </ul>
Dog kennel(s), Chicken Coops/ Bird aviaries	<ul style="list-style-type: none"> <li>Dog kennels – does not apply to dog kennels associated with kennel establishments approved/registered in accordance with Town Planning Scheme No. 3 and the Shire of Denmark's <i>Dogs Local Law 2011</i> (as amended from time to time).</li> <li>Chicken coops/bird aviaries – although no planning approval required, refer relevant requirements as provided for within the Shire of Denmark's <i>Health Local Laws 1998</i> (as amended from time to time).</li> </ul>
Cattle/Stock Yard Associated with Farming Activities	<ul style="list-style-type: none"> <li>Located within the property boundary.</li> </ul>
Use of Land for Rural Pursuits (excluding Private Tree Plantations & Feedlot Farming)	<ul style="list-style-type: none"> <li>Located within the property boundary.</li> </ul>
Temporary Offices, Sheds or Sanitary Facilities	Is to be used by a builder in connection with building work carried out on the subject land on which the office/shed/sanitary facility is proposed to be located.

Those proposals that do not comply with the applicable development criteria will require Planning Approval to be obtained from the Shire of Denmark (Planning Services).

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## 6. ADDITIONAL APPROVALS REQUIRED

The issuance of planning approval is not permission to commence building where a Building Permit is required to be submitted and approved by Building Services as per the *Building Regulations 2012*.

All of the development proposals referenced in Clause 5 of this policy do not require a Building Permit to be obtained with the exception of the following:

- Swimming pools within gazetted Townsite boundaries; and
- Retaining walls on property boundaries where they are not associated with any other building work or with the protection of land adjoining the land on which the retaining wall is located.

Notwithstanding the provisions of Clause 5 of this policy, other approvals may be required to be obtained as per the Shire of Denmark's Local Laws as amended from time to time.

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- (2) A person who owns land in the area covered by a local development plan may request the local government to amend the plan.
- (3) The procedures for making a local development plan set out in this Part, with any necessary changes, are to be followed in relation to an amendment to a local development plan.
- (4) Despite subclause (3), the local government may decide not to advertise an amendment to a local development plan if, in the opinion of the local government, the amendment is of a minor nature.
- (5) An amendment to a local development plan does not extend the period of approval of the plan unless, at the time the amendment is approved, the local government agrees to extend the period.

### **Part 7 — Requirement for development approval**

#### **60. 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) development approval is not required for the development under clause 61.

Note:

1. Development includes the erection, placement and display of advertisements.
2. Approval to commence development may also be required from the Commission if the land is subject to a region planning scheme.

*[Clause 60 amended: SL 2020/252 r. 69.]*

#### **61. Development for which development approval not required**

- (1) Development approval is not required for works if —
  - (a) the works are of a class specified in Column 1 of an item in the Table; and

- (b) if conditions are set out in Column 2 of the Table opposite that item — all of those conditions are satisfied in relation to the works.

**Table**

	<b>Column 1 Works</b>	<b>Column 2 Conditions</b>
1.	The demolition or removal of any of the following — (a) a single house; (b) an ancillary dwelling; (c) an outbuilding; (d) an external fixture; (e) a boundary wall or fence; (f) a patio; (g) a pergola; (h) a verandah; (i) a deck; (j) a garage; (k) a carport; (l) a swimming pool; (m) shade sails.	The works are not located in a heritage-protected place.
2.	The demolition of a building that is not a single house, ancillary dwelling, multiple dwelling or grouped dwelling.	(a) The building does not share a common wall with another building. (b) The works are not located in a heritage-protected place.
3.	The demolition or removal of a cubbyhouse.	The works are not located in a heritage-protected place.

**Planning and Development (Local Planning Schemes) Regulations 2015**

**Schedule 2** Deemed provisions for local planning schemes

**Part 7** Requirement for development approval

**cl. 61**

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	<b>Column 1 Works</b>	<b>Column 2 Conditions</b>
4.	The demolition or removal of a flagpole.	The works are not located in a heritage-protected place of a kind referred to in clause 1A(1)(a) to (e).
5.	Internal building work that does not materially affect the external appearance of the building.	Either — (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); or (b) the building, or a part of it, is located in a heritage-protected place of a kind referred to in clause 1A(1)(a), (c), (d) or (e), 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.
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.

	<b>Column 1 Works</b>	<b>Column 2 Conditions</b>
7.	<p>The erection or installation of, or alterations or additions to, any of the following on the same lot as a single house or a grouped dwelling —</p> <ul style="list-style-type: none"> <li>(a) an ancillary dwelling;</li> <li>(b) an outbuilding;</li> <li>(c) an external fixture;</li> <li>(d) a boundary wall or fence;</li> <li>(e) a patio;</li> <li>(f) a pergola;</li> <li>(g) a verandah;</li> <li>(h) a deck;</li> <li>(i) a garage;</li> <li>(j) a carport.</li> </ul>	<ul style="list-style-type: none"> <li>(a) The R-Codes apply to the works.</li> <li>(b) The works comply with the deemed-to-comply provisions of the R-Codes.</li> <li>(c) The works are not located in a heritage-protected place.</li> </ul>
8.	<p>The installation of, or alterations or additions to, any of the following on the same lot as a single house or a grouped dwelling —</p> <ul style="list-style-type: none"> <li>(a) a swimming pool;</li> <li>(b) shade sails.</li> </ul>	<p>The works are not located in a heritage-protected place.</p>



	<b>Column 1 Works</b>	<b>Column 2 Conditions</b>
9.	The temporary erection or installation of an advertisement.	<p>(a) The advertisement is erected or installed in connection with an election, referendum or other poll conducted under the <i>Commonwealth Electoral Act 1918</i> (Commonwealth), the <i>Referendum (Machinery Provisions) Act 1984</i> (Commonwealth), the <i>Electoral Act 1907</i>, the <i>Local Government Act 1995</i> or the <i>Referendums Act 1983</i>.</p> <p>(b) The primary purpose of the advertisement is for political communication in relation to the election, referendum or poll.</p> <p>(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 36<sup>th</sup> day before the day on which the election, referendum or poll is to be held.</p> <p>(d) The advertisement is removed no later than 48 hours after the election, referendum or poll is conducted.</p>

	<b>Column 1 Works</b>	<b>Column 2 Conditions</b>
		(e) The advertisement is not erected or installed within 1.5 m of any part of a crossover or street truncation.
10.	The erection or installation of a sign of a class specified in a local planning policy or local development plan that applies to the works as not requiring development approval.	<p>(a) The sign complies with any requirements specified in the local planning policy or local development plan in relation to the exemption from the requirement for development approval.</p> <p>(b) The sign is not erected or installed within 1.5 m of any part of a crossover or street truncation.</p> <p>(c) The works are not located in a heritage-protected place.</p>
11.	Works to change an existing sign that has been erected or installed on land.	<p>(a) The erection or installation of the existing sign was the subject of development approval or was exempt from the requirement for development approval.</p> <p>(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.</p>

	<b>Column 1 Works</b>	<b>Column 2 Conditions</b>
		<p>(c) The sign is not used for advertising (other than the advertising of a business operated on the land).</p> <p>(d) The works are not located in a heritage-protected place.</p>
12.	The installation of a water tank.	<p>(a) The water tank is not installed in the street setback area of a building.</p> <p>(b) The volume of the water tank is no more than 5 000 L.</p> <p>(c) The height of the water tank is no more than —</p> <p>(i) for a tank fixed to a building — the height of the eaves of the building; or</p> <p>(ii) for a tank that is not fixed to a building and is more than 1 m from each boundary of the lot — 2.4 m; or</p> <p>(iii) for a tank that is not fixed to a building and is 1 m or less from a boundary of the lot — 1.8 m.</p> <p>(d) The works are not located in a heritage-protected place.</p>

	<b>Column 1 Works</b>	<b>Column 2 Conditions</b>
13.	The erection or installation of a cubbyhouse.	<ul style="list-style-type: none"> <li>(a) The cubbyhouse is not erected or installed in the street setback area of a building.</li> <li>(b) The floor of the cubbyhouse is no more than 1 m above the natural ground level.</li> <li>(c) The wall height of the cubbyhouse is no more than 2.4 m above the natural ground level.</li> <li>(d) The building height of the cubbyhouse is no more than 3 m above the natural ground level.</li> <li>(e) The area of the floor of the cubbyhouse is no more than 10 m<sup>2</sup>.</li> <li>(f) The cubbyhouse is not erected or installed within 1 m of more than 1 boundary of the lot.</li> </ul>
14.	The erection or installation of a flagpole.	<ul style="list-style-type: none"> <li>(a) The height of the flagpole is no more than 6 m above the natural ground level.</li> <li>(b) The flagpole is no more than 200 mm in diameter.</li> <li>(c) The flagpole is not used for advertising.</li> <li>(d) There is no more than 1 flagpole on the lot.</li> </ul>

**Planning and Development (Local Planning Schemes) Regulations 2015**

**Schedule 2** Deemed provisions for local planning schemes

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	<b>Column 1 Works</b>	<b>Column 2 Conditions</b>
		(e) The works are not located in a heritage-protected place.
15.	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.
16.	Maintenance and repair works.	Either — (a) the works are not located in a heritage-protected place; or (b) the maintenance and repair works are of a kind referred to in the <i>Heritage Regulations 2019</i> regulation 41(1)(b) to (i).
17.	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.
18.	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 of a kind referred to in clause 1A(1)(a), (b) or (d).

	<b>Column 1 Works</b>	<b>Column 2 Conditions</b>
19.	Works that are wholly located on an area identified as a regional reserve under a region planning scheme.	
20.	Works specified in a local planning policy or local development plan that applies to the works as works that do not require development approval (other than works referred to in item 10).	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.
21.	Works of a type identified elsewhere in this Scheme 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.

Notes for this subclause:

1. Approval may be required from the Commission for development on a regional reserve under a region planning scheme.
  2. Section 157 of the Act applies in respect of the carrying out of works necessary to enable the subdivision of land if the Commission has approved a plan of the subdivision.
  3. Section 6 of the Act applies in respect of the carrying out of public works.
  4. Clause 1B sets out circumstances in which development is taken to comply with a deemed-to-comply provision of the R-Codes.
- (2) Development approval of the local government is not required for the following uses —
- (a) a use that is wholly located on an area identified as a regional reserve under a region planning scheme;

Note for this paragraph:

Approval may be required from the Commission for development on a regional reserve under a region planning scheme.

- (b) development that is a class P use in relation to the zone in which the development is located, if —
    - (i) the development has no works component; or
    - (ii) development approval is not required for the works component of the development;
  - (c) development that is an exempt class D use under subclause (3) in relation to the zone in which the development is located, if —
    - (i) the development has no works component; or
    - (ii) development approval is not required for the works component of the development;
  - (d) the use of premises as a home office;
  - (e) the use of premises as a drop-off refund point if —
    - (i) the premises are otherwise used as a shop (as defined in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1 clause 38); or
    - (ii) 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;
  - (f) temporary use that is in existence for less than 48 hours, or a longer period agreed by the local government, in any 12-month period;
  - (g) 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;
  - (h) use of a type identified elsewhere in this Scheme as use that does not require development approval.
- (3) For the purposes of subclause (2)(c), a use of land is an exempt class D use in relation to the zone in which the land is located if —
- (a) the use is a class D use in relation to the zone; and
  - (b) the use is of a class set out in Column 1 of an item in the Table; and

- (c) the zone is of a class set out in Column 2 of the Table opposite that item; and
- (d) if conditions are set out in Column 3 of the Table opposite that item — all of those conditions are satisfied in relation to the use.

**Table**

	<b>Column 1 Use</b>	<b>Column 2 Zones</b>	<b>Column 3 Conditions</b>
1.	Shop	Commercial, centre or mixed use zone	Net lettable area is no more than 300 m <sup>2</sup> .
2.	Restaurant/cafe	Commercial, centre or mixed use zone	Net lettable area is no more than 300 m <sup>2</sup> .
3.	Convenience store	Commercial, centre or mixed use zone	Store is not used for the sale of petroleum products.
4.	Consulting rooms	Commercial, centre or mixed use zone	No more than 60% of the glass surface of any window on the ground floor of the consulting rooms is obscured glass.
5.	Office	Commercial, centre or mixed use zone	Office is not located on the ground floor of a building.
6.	Liquor store — small	Commercial, centre or mixed use zone	Store is in the metropolitan region or Peel Region Scheme area.



	<b>Column 1 Use</b>	<b>Column 2 Zones</b>	<b>Column 3 Conditions</b>
7.	Small bar	Commercial, centre or mixed use zone	(a) Small bar is in the metropolitan region or Peel Region Scheme area.  (b) The lot on which the small bar is located does not directly adjoin a residential zone.
8.	Recreation — private	Commercial, centre or mixed use zone  Light industry zone	(a) Premises are in the metropolitan region.  (b) Net lettable area of any indoor area of the premises is no more than 300 m <sup>2</sup> .  (c) No more than 60% of the glass surface of any window on the ground floor of a building on the premises is obscured glass.
9.	Home occupation	All zones	

(4) A reference in Column 1 of the Table to subclause (3) to a class of land use is a reference to that use as defined in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1 clause 38, whether or not —

- (a) the relevant definition is included in this Scheme; or
- (b) this Scheme includes a different definition for that use; or

- (c) this Scheme refers to that class of land use by a different name.
- (5) Subclause (2) has effect despite the zoning table for this Scheme.
- (6) Despite subclauses (1) and (2), an exemption under those subclauses does not apply to development if —
  - (a) the development is undertaken in a special control area and the special provisions that apply to that area under this Scheme provide that development approval is required for the development; or
  - (b) the development 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.
- (7) An exemption from the requirement for development approval that applies under this clause (other than an exemption under item 10 or 20 in the Table to subclause (1)) is not affected by any provision of a local planning policy or local development plan.
- (8) If development consists of both works and use of land —
  - (a) subject to subclause (2)(b)(ii) and (c)(ii), any exemption under subclause (1) that applies to the works does not affect whether development approval is required for the use; and
  - (b) any exemption under subclause (2) that applies to the use does not affect whether development approval is required for the works.

*[Clause 61 inserted: SL 2020/252 r. 70.]*

**61A. Advice by local government that development approval not required for erection of, or alterations or additions to, single house**

- (1) This clause applies only if —
  - (a) the Scheme area is wholly or partly in the metropolitan region or the Peel Region Scheme area; or



# **LOCAL PLANNING POLICY NO. 44: EXEMPTIONS FROM DEVELOPMENT APPROVAL**

**Adopted on the XX<sup>th</sup> Month 20XX 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 <b>Single House</b> (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"> <li>• 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).</li> <li>• 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.</li> <li>• 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.</li> <li>• Comply with all other Special Provisions of the Scheme relevant to the zone, where applicable.</li> <li>• Comply with the provisions of any Special Control Area of the Scheme, where applicable.</li> <li>• Comply with the development standards of any other applicable local planning policy.</li> <li>• Meet Visual Privacy setback requirements in accordance with the Residential Design Codes.</li> <li>• A crossover to the property is constructed in accordance with an approval granted by the Shire.</li> <li>• 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).</li> <li>• Connection to a reticulated sewerage service or an approved on-site wastewater disposal system.</li> </ul>

<p>The alteration, extension or addition to an existing <b>Single House</b> 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"> <li>• 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"> <li>• 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 50m<sup>2</sup>.</li> </ul> </li> <li>• Maximum 6 metres in height above natural ground level, or as otherwise limited in applicable Special Provisions of the Scheme for the zone.</li> <li>• Comply with all other Special Provisions of the Scheme relevant to the zone, where applicable.</li> <li>• Comply with the provisions of any Special Control Area of the Scheme, where applicable.</li> <li>• Comply any other applicable local planning policy.</li> <li>• Comply with the requirements of the <i>Guidelines for Planning in Bushfire Prone Areas</i>.</li> <li>• A crossover to the property is constructed in accordance with an approval granted by the Shire.</li> <li>• 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).</li> <li>• The development is serviced by a reticulated sewerage service or an on-site wastewater disposal system.</li> </ul>
<p>Roofed or unroofed <b>decking</b> associated with an existing residential dwelling.</p>	<p>Professional Office Special Residential Special Rural</p>	<ul style="list-style-type: none"> <li>• 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></li> </ul>

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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"> <li>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.</li> </ul>
<p><b>Incidental development</b> associated with an existing residential dwelling, such as:</p> <ul style="list-style-type: none"> <li>External fixtures to a dwelling, including air conditioners, patio blinds, retractable awnings, aerials, antennae and satellite dishes.</li> <li>Freestanding structures, including clotheslines, letterboxes, children’s play equipment, sporting equipment, aerials, antennae and satellite dishes.</li> </ul>	<p>Professional Office Special Residential Special Rural Landscape Protection Rural Rural Multiple Occupancy</p>	<ul style="list-style-type: none"> <li>Located within the property boundary.</li> <li>If fixed to a building, no higher than 2.0m above or outwards from the point of attachment on the building.</li> <li>If not fixed to a building, no higher than 3.5m above natural ground level.</li> <li>Located so that it is obscured from view from any public street (except letterboxes).</li> </ul>
<p><b>Landscaping, tree planting, retaining walls and site works</b> 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"> <li>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.</li> <li>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"> <li>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.</li> </ul> </li> </ul>

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		<ul style="list-style-type: none"> <li>○ Site works that are:             <ul style="list-style-type: none"> <li>- No more than 1.5m above or below natural ground level at any point.</li> <li>- No closer than 2.0m to any lot boundary.</li> <li>- Slope of earthworks no greater than 1:3.</li> </ul> </li> </ul> <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"> <li>○ Stormwater associated with any impervious areas is retained on site.</li> </ul>
<p>The erection, alteration, extension or addition to a <b>domestic non-habitable structure</b> that does not meet the definition of an outbuilding.</p> <p>This may include structures such as:</p> <ul style="list-style-type: none"> <li>● Carports</li> <li>● Gazebos, pergolas and patios</li> <li>● Green and shade houses</li> <li>● Animal shelters, aviaries and pens</li> </ul> <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"> <li>● Existing approved residential dwelling on the site, excluding the Rural Zone.</li> <li>● 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.</li> <li>● Comply with all other Special Provisions of the Scheme relevant to the zone and Local Laws, where applicable.</li> <li>● Within the Professional Office Zone, compliant with the deemed to comply standards of the Residential Design Codes.</li> <li>● Within the Special Residential Zone, not located within the primary or secondary street setback area.</li> <li>● Maximum wall height above natural ground level (including site works) of:             <ul style="list-style-type: none"> <li>○ Professional Office or Special Residential zones – 3.2m</li> <li>○ Special Rural or Landscape Protection zones – 3.5m</li> <li>○ Rural or Rural Multiple Occupancy zones – 5.0m</li> </ul> </li> <li>● Maximum ridge height above natural ground level (including site works) of:             <ul style="list-style-type: none"> <li>○ Professional Office or Special Residential zones – 4.2m</li> </ul> </li> </ul>

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<p><i>buildings used for any commercial purpose require approval.)</i></p>		<ul style="list-style-type: none"> <li>○ Special Rural or Landscape Protection zones – 4.5m</li> <li>○ Rural or Rural Multiple Occupancy zones – 6.0m</li> <li>● No more than a maximum cumulative area of 200m<sup>2</sup> of non-habitable structures on any single site.</li> </ul>
<p>The erection, alteration, extension or addition to a <b>property entry statement.</b></p>	<p>Special Rural Landscape Protection Rural Rural Multiple Occupancy</p>	<ul style="list-style-type: none"> <li>● Located within the property boundaries.</li> <li>● No greater than 2.5m in height above natural ground level at any point.</li> <li>● Cumulative area of façade no greater than 20m<sup>2</sup>.</li> <li>● Located adjacent to a road crossover approved by the Shire.</li> <li>● No commercial signage.</li> </ul> <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><b>Rural produce stalls</b></p>	<p>Special Rural Rural Rural Multiple Occupancy</p>	<ul style="list-style-type: none"> <li>● Located within the property boundary.</li> <li>● Selling products produced on the property only.</li> <li>● 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.</li> <li>● Contained within a structure no greater than 10m<sup>2</sup> in area and 2.4m in height overall.</li> </ul> <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 &amp; 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>
Adopted	Version 2 adopted XX Month 20XX.

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## SCHEDULE OF SUBMISSIONS

### Proposed Local Planning Policy 44: Exemptions from Development Approval

#### Submissions Received from Public

Ref No.	Submitter Details	Verbatim Submission	Planning Services Comment
1	[REDACTED]	<p><i>Submission form completed on Your Denmark</i></p> <p>Do you support the proposed reviewed Local Planning Policy for <i>Exemptions from Development Approval</i>?</p> <p>Yes</p>	Noted
2	[REDACTED]	<p><i>Submission form completed on Your Denmark</i></p> <p>Do you support the proposed reviewed Local Planning Policy for <i>Exemptions from Development Approval</i>?</p> <p>Yes</p> <p>What are your questions, comments or concerns?</p> <p>Agree with all proposed changes</p>	Noted
3	[REDACTED]	<p>I wish to submit a Public Comment on the Draft Revised Local Planning Policy No 44; Exemptions from Development Approval.</p> <p>I have been in consultation with Ms Jasmine Tohill and Mr William Hosken in relation to the above mentioned draft.</p> <p>I would like to suggest the inclusion of the exemption for Development Approval as follows.</p> <p>Application Zoning; Rural, Special Rural and Special Residential.</p> <p>Acceptable Development Criteria; Where the proposed addition to the existing single storey structure does not come closer to the road than the already established building line.</p>	<p>Noted, supported by officers.</p> <p>Proposal is further discussed in report to Council, including the addition of an exemption for additions that are forward of the standard street setback but applying in the Special Rural, Landscape Protection and Rural zones only. Application can be made for variations to setbacks in all other circumstances, which will be assessed on a case by case basis.</p>