



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.**

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"> Floor area not exceeding 10m².
Children's Play Equipment	<ul style="list-style-type: none"> Located within the property boundary.
Shade Sails	<ul style="list-style-type: none"> Made from pervious cloth. Aggregate sail area not exceeding 20m². Supporting poles not exceeding 3.5 metres in height above the existing ground level.
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"> No more than 2.4m in height. Covers an area not exceeding 20m².
Flag Pole	<ul style="list-style-type: none"> Not exceeding 6 metres in height. Flags not utilised for commercial advertising purposes. Located within the property boundary.
Domestic swimming pools	<ul style="list-style-type: none"> Located within the property boundary.
Retaining walls	<ul style="list-style-type: none"> No more than 0.5 metre in height.
Incidental development associated with dwellings: <ul style="list-style-type: none"> letterbox clothes line air conditioner(s) television aerial(s) landscaping paving work(s) unroofed deck area(s) 	<ul style="list-style-type: none"> Located within the property boundary.
Domestic Satellite Dish/Antenna	<ul style="list-style-type: none"> If attached to a building, no higher than 2 metres above the point of attachment on the building. If not attached to a building: <ul style="list-style-type: none"> No higher than 3 metres from the ground level; and Located such that they are not visible from the street.
Dog kennel(s), Chicken Coops/ Bird aviaries	<ul style="list-style-type: none"> 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). 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).
Cattle/Stock Yard Associated with Farming Activities	<ul style="list-style-type: none"> Located within the property boundary.
Use of Land for Rural Pursuits (excluding Private Tree Plantations & Feedlot Farming)	<ul style="list-style-type: none"> Located within the property boundary.
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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