

9.6 ADVERTISING OF AMENDED POLICY - LOCAL PLANNING POLICY NO. 7.5.1 - MINOR NATURE DEVELOPMENT

- Attachments:**
1. **Draft Local Planning Policy: Planning Exemptions**
 2. **Schedule of Modifications**

RECOMMENDATION

That Council PREPARES an amendment to Local Planning Policy No. 7.5.1 – Minor Nature Development, included in Attachment 1, for the purpose of community consultation, pursuant to Schedule 2, Part 2, Clause 5(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

PURPOSE OF REPORT:

For Council to consider a draft amendment to Local Planning Policy No. 7.5.1 – Minor Nature Development (Policy), for the purpose of community consultation, as detailed in **Attachment 1**.

BACKGROUND:

Local Planning Policy No. 7.5.1 – Minor Nature Development was adopted by Council on 27 March 2001. Minor amendments were made on 22 November 2005 and 11 June 2013, a major review has not been undertaken since the Policy's adoption.

A review of the existing Policy was undertaken by Administration in accordance with the City's Policy Development and Review Policy. This was presented to Elected Members in the May 2021 Policy Paper and a workshop was held in June 2021. This provided a general overview and identified opportunities for improvement with the Policy.

Elected Members provided feedback which is summarised as follows:

- Support for an improved policy structure;
- Support for removing existing planning exemptions relating to alfresco blinds and shopfront alterations;
- Support for additional planning exemptions relating to creative land uses and events; and
- Concerns with additional planning exemptions, in that barriers should only be removed where appropriate and where they would not impact the community.

Administration continued its review of the Policy following this and prepared a draft amended Policy. This was circulated to Elected Members in the June 2022 Policy Paper from 3 June 2022 to 17 June 2022 with no feedback received at the end of this period.

DETAILS:

The *Planning and Development Regulations (Local Planning Schemes) 2015* (the Regulations) identifies works and land uses which are exempt from requiring development (planning) approval across Western Australia. It also allows local governments to prepare local planning policies which specify additional works and land uses that are exempt from requiring planning approval.

It is recognised that within the City's unique context that it is appropriate to provide additional planning exemptions for works and land uses that are unlikely to have a negative impact on the community.

As a result of the review of the existing Policy and progression through the policy development and review process, a draft amended policy has prepared and included as **Attachment 1**, now titled the Planning Exemptions Policy. A schedule of modifications to the existing Policy is also included as **Attachment 2**.

The improvements that have been identified and made to the Policy are summarised as follows:

1. Policy Structure and Function

The structure and function of the existing Policy is not clear and user friendly. The draft amended Policy has been prepared to address this and to align with the Policy Development and Review Policy. For ease of use, the list of exemptions have been separated into tables for different types of exemptions and a policy operation section has been added to explain how to determine whether a proposal is exempt from requiring planning approval.

The table format is consistent with the structure for the exemptions listed under the Regulations. In addition, a guidance column has been added to assist users in determining whether their proposal is exempt and in understanding what other approvals they may require.

2. Consistency with the Regulations

As part of the State Government's Planning Reform, amendments to the Regulations came into effect on 15 February 2021. The amendments included a broader range of exemptions for certain land uses and small residential and non-residential works.

These expanded exemptions include types of works and land uses that are listed under the existing Policy. To prevent inconsistency with the Regulations, these types of works and land uses have been removed from the draft amended Policy as outlined in **Attachment 2**. This includes exemptions for home occupations, swimming pools, shade sails, water tanks and changes to existing signage, which are all now already exempt under the Regulations.

3. Improved Objectives

The current objective of the Policy is listed in **Attachment 2** and simply specifies the Policy's purpose and it does not provide guidance on what the Policy aims to achieve.

New objectives are included that refer to key aims of the Policy, including streamlining processes, facilitating thriving places and exempting low scale and impact development. The objectives also refer to why development should be exempt from requiring planning approval and under what circumstances.

4. Revised Exemption for Shopfront or Building Façade Works

The existing Policy identifies that most works to shopfronts are currently exempt from requiring planning approval. Many shopfronts within the City's town centres still have their traditional shopfront design and the current exemption allows changes to occur that could remove these elements.

The retention of traditional shopfronts is considered important as they add to the unique character and sense of place within the City's town centres. This exemption has been revised to limit the types of shopfront works that would be exempt, to better align this with the shopfront design provisions of the City's Local Planning Policy No. 7.1.1 – Built Form.

5. Removal of Exemption for Alfresco Blinds

The existing Policy identifies that transparent alfresco blinds are exempt from requiring planning approval. Alfresco blinds can detract from and reduce interaction with the street through their materials and visual appearance as they act to divide part of the footpath or road reserve into the private domain. The solid or semi-permeable plastic materials can obscure views between the street and the commercial tenancies, which reduces surveillance and interaction between the public and private realm.

The exemption for transparent alfresco blinds has been removed from the draft amended Policy. Rather than being exempt, proponents would be required to obtain planning approval for alfresco blinds. This would not affect alfresco blinds which have already been installed under the exemption in the existing Policy.

6. Additional Exemptions for Creative Land Uses

There is an opportunity to introduce exemptions for creative land uses. This would support these businesses to operate without requiring planning approval in locations where the land uses are unlikely to negatively impact the community. This would align with the State Government's Planning Reform which has exempted certain land uses from requiring planning approval subject to conditions.

The draft amended policy includes an exemption for Art Gallery land uses in Centre and Commercial zones and for Market, Reception Centre and Exhibition Centre land uses in the Pickle District, which is the only Industrial zoned area under the Metropolitan Region Scheme in the City of Vincent. This would be subject to their net lettable area being no more than 300 square metres. This would control their scale and is consistent with the limit applicable to other similar exempt land uses under the Regulations.

The Pickle District is defined as land bounded by Mitchell Freeway to the South, Loftus Street to the West and Newcastle Street to the North. This is considered an appropriate location for these other land uses to be exempt as it is the only large consolidated commercial zone in the City that is distinctly separated from residential areas. This would limit their potential to negatively impact the community.

7. Additional Exemptions for Minor Residential and Non-Residential Works

There is an opportunity to introduce exemptions for minor residential and non-residential works. Under the Regulations, there are existing exemptions for residential works, including new single houses, where they satisfy the deemed-to-comply standards of the Residential Design Codes. Some minor residential works may still require planning approval due to a technical departure from a standard, even when they are small in nature and would not impact the street or adjoining properties.

The draft amended Policy includes exemptions for minor residential and non-residential works with a maximum height of 3.5 metres and area of 30 square metres. There would be additional controls to ensure these works would not adversely impact the street or adjoining properties, as residential works would still be required to satisfy parts of the Residential Design Codes and non-residential works would not be directly visible from the street.

Administration completed a review of planning approvals issued by the City since the start of 2021, identifying that 19 of these would not have required planning approval under the proposed exemptions. The applications were generally for small patio or outbuilding additions and none required any changes to their plans as part of the application process.

8. Revised Exemption for Temporary Events

The existing Policy identifies a list of temporary events that are currently exempt from requiring planning approval, including garage sales, fair, fetes, circus, charity good sales and the like. Under the Regulations, there is currently an exemption for temporary land uses that are in existence for less than 48 hours in any 12 month period. This would apply to the types of temporary events currently listed in the Policy which occur as a one off or a few times a year for less than a total period of 48 hours.

There is an opportunity to revise this exemption so that it does not duplicate the Regulations and to provide exemption for events that occur on a more regular basis. The draft amended Policy includes exemptions for events which occur for no more than one day per week on public land or one day per month on private land. For example, a weekly event on public land that could be exempt is the Kyilla Markets or a monthly event on private land could be an art exhibition in the Pickle District.

To limit the potential of negative impacts on the community from these temporary events, conditions have been included requiring written notification to be provided to all adjoining residential properties prior to the first event occurring, and for the event to not be of a high scale, impact or intensity. Satisfaction of this condition would need to be determined by the City, with guidance included in the Policy on what would be considered when deciding whether the event or use is of a high scale, impact or intensity.

9. Revised Exemption for Temporary Construction Infrastructure and Activities

The existing Policy identifies that temporary offices and sheds associated with building works on a construction site are currently exempt from requiring planning approval.

This has been revised in the draft amended Policy to expand the limitation on what structures may be considered and to provide a condition allowing the construction yard to be located on a nearby site to the construction site. Satisfaction of this condition would need to be determined by the City, with guidance included in the Policy on what would be considered a nearby site. This would allow other infrastructure and activities to be exempt that share the purpose of supporting construction such as materials storage or worker parking. The temporary use of nearby vacant sites would assist in reducing the concentration of infrastructure and activities on constrained sites and the associated potential for impacts on surrounding properties.

To limit the potential for negative impacts on the community from the broader scope of the exemption, a condition has been included requiring the infrastructure and activities to be associated with and operate in line with an approved construction management plan that is in accordance with the standards of the City's Local Planning Policy No. 7.5.23 – Construction Management Plans.

10. Additional Exemption for Temporary Viewing Platforms

There is an opportunity to introduce exemptions for temporary viewing platforms given their temporary nature and their association with large developments which would have already received planning approval. Currently these structures are not exempt from planning and are guided by the City's Local Planning Policy No. 7.5.8 – Temporary Viewing Platforms (Temporary Viewing Platforms Policy).

The draft amended Policy includes an exemption for these viewing platforms subject to conditions consistent with the standards of the existing Temporary Viewing Platforms Policy. This includes that they need to be associated with and no higher than an approved development and that they are removed after three months. To reduce their impacts, a condition is included requiring the viewing platforms to be located away from any adjoining residential properties and for screening to be provided. Satisfaction of this condition would need to be determined by the City, with guidance included in the Policy on what proponents would need to demonstrate with the location and screening of these viewing platforms.

The above would allow the Temporary Viewing Platforms Policy to be rescinded as part of the review of this Policy. If the review proceeds as recommended and pending the outcome of consultation, the rescinded policy would be brought back to Council for consideration alongside consideration of this Policy.

11. New Guidance on Minor Amendments

There is an opportunity to introduce guidance on minor amendments to previous planning approvals. Under the Regulations, discretion is provided to local governments to not require planning approval for minor amendments. No further guidance is provided by the Regulations on what a minor amendment is or what should be considered in deciding this.

The draft amended Policy includes a definition for a minor amendment and a set of considerations for when determining whether an amendment is minor. This would provide guidance to the City and clarity and transparency to the community on what would be considered in determining whether an amendment to an approved development is minor and subsequently does not require planning approval.

12. Vibrant Public Spaces Proposals

The draft amended Policy includes exemptions for vibrant public space proposals listed under the City's Vibrant Public Spaces Policy, excluding other proposals. This is to clarify through a local planning policy that these types of proposals do not require planning approval. This is consistent with what is already stated in the Vibrant Public Spaces Policy which has been adopted by Council and is now operational.

CONSULTATION/ADVERTISING:

In accordance with the City's Community and Stakeholder Engagement Policy, community consultation of all new and significantly amended policies must be provided for a period exceeding 21 days in the following ways:

- notice published on the City's website;

- notice posted to the City's social media;
- notice published in the local newspapers;
- notice exhibited on the notice board at the City's Administration and Library and Local History Centre; and
- letters distributed to relevant local businesses and community groups.

Public notice of this proposed new policy will be provided from August 2022.

LEGAL/POLICY:

Schedule 2, Clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the requirements to make a local planning policy.

The City's Policy Development and Review Policy sets out the process for the development and review of the City's policy documents.

RISK MANAGEMENT IMPLICATIONS

Low: It is low risk for Council to undertake community consultation of the proposed amended policy.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's *Strategic Community Plan 2018-2028*:

Connected Community

An arts culture flourishes and is celebrated in the City of Vincent.

Thriving Places

We are recognised as a City that supports local and small business.

We encourage innovation in business, social enterprise and imaginative uses of space, both public and private.

Sensitive Design

Our built form is attractive and diverse, in line with our growing and changing community.

Our built form character and heritage is protected and enhanced.

Our planning framework supports quality design, sustainable urban built form and is responsive to our community and local context.

Innovative and Accountable

We are open and accountable to an engaged community.

SUSTAINABILITY IMPLICATIONS:

This does not contribute to any environmental sustainability outcomes. This action/activity is environmentally neutral.

PUBLIC HEALTH IMPLICATIONS:

This does not contribute to any public health outcomes in the *City's Public Health Plan 2020-2025*.

FINANCIAL/BUDGET IMPLICATIONS:

Community consultation of the proposed draft amended Policy will be met by operational budgets.

COMMENTS:

The draft amended Policy has been prepared to update its structure and function in line with current practice, to be consistent with the amended Regulations, and to respond to risks and opportunities from a review of the existing Policy.

Additional and revised exemptions are proposed in relation to creative land uses, events, and minor residential and non-residential works. This would support community members to undertake small projects, operate businesses and to hold events that are subject to appropriate conditions to ensure they are unlikely to have a negative impact on the community and which are aligned with the City's *Strategic Community Plan*.

Following the June 2022 Policy Paper, the following updates were made to the draft amended Policy:

- Minor changes to the definitions, policy operation section and exemptions tables. These changes were made for the purpose of clarification after being further reviewed by Administration; and
- Removal of a proposed exemption for amendments to existing approved land uses where the land uses would now be exempt under the Regulations if they had not started operating prior to 15 February 2021. Further review by Administration identified concerns with the validity, documentation and enforcement of this exemption, and also that the intent could still be achieved through revised internal processes when planning applications are received for these amendments.



LOCAL PLANNING POLICY: PLANNING EXEMPTIONS

Legislation / local law requirements	This Policy has been prepared under the provisions of Schedule 2, Part 2 and 3 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .
Relevant delegations	16.1.1 Determination of various applications for development approval under the City's Local Planning Scheme.
Related policies, procedures and supporting documentation	<ul style="list-style-type: none"> Local Planning Policy: Built Form Local Planning Policy: Child Care and Family Day Care Vibrant Public Spaces Policy

PRELIMINARY

INTRODUCTION

The *Planning and Development Regulations (Local Planning Schemes) 2015* (the Regulations) identifies works and land uses which are exempt from requiring development (planning) approval across Western Australia. The Regulations allow local governments to prepare local planning policies which specify additional works and land uses that are exempt from development approval.

The City of Vincent recognises the need to remove barriers for proposals that are unlikely to have a negative impact on the community, and that it is appropriate for additional works and land uses to be exempt in the City.

PURPOSE

The purpose of this Policy is to exempt additional works and land uses not already identified in the Regulations or other Local Planning Policies from requiring development approval in the City of Vincent.

OBJECTIVE

The objectives of this Policy are:

1. To streamline planning processes and remove barriers to enable development and to support new and existing businesses.
2. To facilitate thriving places and sensitive design which responds to the City of Vincent's unique character and identity.
3. To exempt works, land uses and minor amendments which meet specified conditions and are of a low scale and impact, are appropriately designed and located, would not adversely impact the amenity of the community and surrounding properties, and would not adversely impact the appearance of the streetscape and public realm.
4. To ensure that proponents of exempt works and land uses understand that other approvals may be required under other Legislation.

LOCAL PLANNING POLICY: PLANNING EXEMPTIONS



5. To provide a definition for a minor amendment under the Regulations and to provide guidance on what should be considered when deciding whether an amendment is minor.

SCOPE

The provisions of this Policy apply to all works and land uses within the City of Vincent that are listed below and meet the conditions specified.

This Policy refers to other policies where they include standards which the works or land uses must meet to be exempt from development approval, including the City's Local Planning Policies relating to Built Form and to Child Care and Family Day Care, and the City's Policy relating to Vibrant Public Spaces. Where other Local Planning Policies or the Regulations specify other instances where works and land uses are exempt from development approval, these instances apply in addition to those listed in this Policy.

POLICY PROVISIONS

DEFINITIONS

Where they are not defined below, words and terms referred to in this Policy are as defined in the City's Local Planning Scheme No. 2 (the Scheme), the *Planning and Development Act 2005*, the Regulations or the Residential Design Codes (the R-Codes).

Minor Amendment means an amendment to a condition of approval or an aspect of an approved development which does not result in a substantial change to the approved development and is inconsequential when considering the following:

- The overall size and scale of the approved development;
- The potential impact of the amendment on the amenity of the adjoining properties and streetscape;
- The potential for the amendment to result in new or additional off-site impacts on the surrounding area, including but not limited to, noise, traffic and parking impacts;
- The level of visibility of the amendment from the adjoining properties, streetscape and surrounding area;
- The impact of the amendment on the approved development outcome overall, the conditions of development approval and the individual departures to the planning framework standards that were approved; and
- The cumulative impact resulting from the nature and the total number of amendments which are being or have been made to the approved development.

Public Land means all City owned and managed land, Crown land or any other land which is owned and managed by a State Government body or another public authority.

Temporary Viewing Platform means a removable structure that has been erected for a limited period of time, only at an approved location, for the sole purpose of demonstrating the prospective views of a new residential, mixed use or commercial development.

LOCAL PLANNING POLICY: PLANNING EXEMPTIONS



EXEMPTIONS

1. Policy Operation for Exemptions

- a) The works and land uses that are exempt from development approval are separated into the following tables:

- Table 1 – Land Uses
- Table 2 – Residential Works
- Table 3 – Non-Residential and Other Works
- Table 4 – Temporary Uses and Works

Please refer to the relevant table below for the works or land use type proposed.

- b) Each table is separated into the following columns:

- Column 1 – The type of works or land use which could be exempt.
- Column 2 – The location where the works or land use must be located to be exempt.
- Column 3 – Conditions that the works or land use must meet to be exempt.
- Column 4 – Guidance for satisfying the condition, other relevant information or other approvals that may be required before the works or land use can commence.

- c) To be exempt from development approval, the works or land use must be of a type referred to in Column 1, must be in the location referred to in Column 2 and must meet all conditions listed in Column 3.

If a condition in Column 3 states that it needs to be determined by the City, confirmation is required to be received from the City that the proposed works or land use would satisfy this condition before they can commence. The interpretation of the exemptions from development approval listed is also subject to the guidance in Column 4 and the notes under each table.

- d) Although the works or land use may be exempt from development approval, other approvals may be required from the City before the works or land use can start.
- e) Where works and land uses don't meet the specifications below then a development application will be required to be submitted to the City for these proposals, unless they don't require development approval under other Local Planning Policies or the Regulations.
- f) For works and land uses on public land, and unless otherwise listed in this Policy, development approval is not required for these works and land uses where they have received and hold a valid approval or permit from the City under an applicable Local Law.

2. Exemptions for Minor Amendments

Under Schedule 2 Clause 77(3) of the Regulations, the City is provided with discretion to waive the requirement for development approval for minor amendments to approved developments. In considering a proposal to amend an aspect or a condition of an approved development, the City will exercise its discretion in accordance with the definition of minor amendment outlined in this Policy.



LOCAL PLANNING POLICY: PLANNING EXEMPTIONS

Table 1 – Land Use Exemptions

	Land Use	Location	Conditions	Guidance
1	Art Gallery	Centre and Commercial zoned land.	<ol style="list-style-type: none"> The net lettable area of the premises is no more than 300m²; and The development: <ol style="list-style-type: none"> has no works component; or is not required to receive development approval for any works component. 	<ul style="list-style-type: none"> Refer to the definition of Net Lettable Area in the Scheme and Regulations. Refer to Table 3 below or the Regulations to confirm whether development approval is required for the works component. A <u>Building Permit</u> from the City's Building team may be required for any associated works (including internally). An <u>Occupancy Permit</u> will be required from the City's Building team to change the use or classification of the building. A <u>Food Business registration</u> will be required from the City's Health team if you plan to sell or supply food or drinks at the premises A liquor licence may be required from the Department of Liquor. They may require a <u>Section 39 certificate</u> and <u>Section 40 certificate</u> to be obtained from the City's Health and Planning teams. A <u>Public Building certificate</u> will be required if you plan to host gatherings, events or activations at the premises. If there is any 'assembly' of people at a particular time for a particular purpose at the premises, a <u>Public Building certificate</u> will be required from the City's Health Team. An <u>Outdoor Eating Area permit</u>, <u>Goods Display permit</u> and/or <u>Portable Signage permit</u> will be required to have an eating area or to display goods or signage in the verge or footpath. An <u>Event Application</u> will be required to be submitted to the City if the land use will be hosting any events or gatherings.
2	Exhibition Centre	Commercial zoned land.	<ol style="list-style-type: none"> The net lettable area of the premises is no more than 300m²; The development must be located within the area bounded by the Graham Farmer Freeway, Loftus Street and Newcastle Street in West Perth as per the map in Appendix 1; and The development: <ol style="list-style-type: none"> has no works component; or is not required to receive development approval for any works component. 	
3	Market	Commercial zoned land.	<ol style="list-style-type: none"> The net lettable area of the premises is no more than 300m²; The development must be located within the area bounded by the Graham Farmer Freeway, Loftus Street and Newcastle Street in West Perth as per the map in Appendix 1; and The development: <ol style="list-style-type: none"> has no works component; or is not required to receive development approval for any works component. 	
4	Reception Centre	Commercial zoned land.	<ol style="list-style-type: none"> The net lettable area of the premises is no more than 300m²; The development must be located within the area bounded by the Graham Farmer Freeway, Loftus Street and Newcastle Street in West Perth as per the map in Appendix 1; and The development: <ol style="list-style-type: none"> has no works component; or is not required to receive development approval for any works component. 	
5	Family Day Care Services	All zoned land under the Scheme.	<ol style="list-style-type: none"> The Family Day Care Services satisfies the general requirements and requirements specific to Family Day Care Services in the City's Local Planning Policy relating to Child Care and Family Day Care. The development: <ol style="list-style-type: none"> has no works component; or is not required to receive development approval for any works component. 	

Note 1: To be exempt from development approval, the land use must be of a type referred to in Column 1, must be in the location referred to in Column 2 and must meet all conditions listed in Column 3.

Note 2: Land uses are as per the definitions in the Scheme.

Note 3: The additional approvals which may be required before the land use can operate are underlined in the Guidance column. These are only the main approvals that may be required from the City and the State Government, and there may be other approvals required. These approvals are also subject to change.

Note 4: Land uses and any associated noise generating activities are required to comply with the *Environmental Protection (Noise) Regulations 1997*. Noise from these activities should be appropriately minimised to ensure that they do not impact of the amenity of surrounding properties.

Note 5: In accordance with Schedule 2 Clause 77E(1) of the Regulations, land uses listed above are not required to comply with the applicable minimum on-site parking requirement.



LOCAL PLANNING POLICY: PLANNING EXEMPTIONS

Table 2 – Residential Works Exemptions

	Works	Location	Conditions	Guidance
1	Pergolas	All zoned land under the Scheme.	<ol style="list-style-type: none"> The works are not located in a heritage-protected place; and The pergola or vergola are not located within the primary or secondary street setback of a building. 	<ul style="list-style-type: none"> A <u>Building Permit</u> from the City's Building team may be required for the works.
2	Minor Works	All zoned land under the Scheme.	<ol style="list-style-type: none"> The works are not located in a heritage-protected place; The works are associated with a single or grouped dwelling; The works are of the following types of structures or works (excluding those used for vehicle parking and shipping containers): <ol style="list-style-type: none"> Outbuilding; Patio, Alfresco or equivalent; Verandah, Porches or equivalent; and Alterations and Additions to extend or alter an existing dwelling's footprint; and The works: <ol style="list-style-type: none"> Are not located within the primary or secondary street setback of a building; Have an area of no more than 30 square metres; Have a total height of no more than 3.5 metres above natural ground level; Have a floor level no more than 0.5 metres above natural ground level; and Do not result in variations to the R-Codes Outdoor Living Area, Open Space and Boundary Wall length deemed-to-comply standards. 	<ul style="list-style-type: none"> A <u>Building Permit</u> from the City's Building team may be required for the works.
3	Fences – Multiple Dwellings	All zoned land under the Scheme.	<ol style="list-style-type: none"> The works are not located in a heritage-protected place; The works are associated with multiple dwellings; and The street fences, walls and gates must fully satisfy the deemed-to-comply standards or acceptable outcomes of the R-Codes, the City's Local Planning Policy relating to Built Form and the City's Local Law relating to Fencing. 	<ul style="list-style-type: none"> A <u>Building Permit</u> from the City's Building team may be required for the works. Refer to the Regulations for the exemption for fences associated with single and grouped dwellings.
4	Site Works and Retaining Walls – Grouped and Multiple Dwellings	All zoned land under the Scheme.	<ol style="list-style-type: none"> The works are not located in a heritage-protected place; and The fill, excavation and retaining walls must not exceed 500 millimetres in height from natural ground level. 	<ul style="list-style-type: none"> A <u>Building Permit</u> from the City's Building team may be required for the works. Site works can include alterations to ground levels with structures such as decking, paving, ramps and similar structures which alter the apparent ground level without involving the fill or excavation of soil. Site works completed under this exemption does not change the natural ground level of the site, which is defined in the Regulations.

Note 1: To be exempt from development approval, the works must be of a type referred to in Column 1, must be in the location referred to in Column 2 and must meet all conditions listed in Column 3.

Note 2: A heritage-protected place is defined in Schedule 2 Clause 1A of the Regulations. This includes, but is not limited to, any place listed on the State Register of Heritage Places or any place listed on the City's Municipal Heritage Inventory either individually or as part of a heritage area.

Note 3: The additional approvals which may be required before the works can start are underlined in the Guidance column. These are only the main approvals that may be required from the City and the State Government, and there may be other approvals required. These approvals are also subject to change.



LOCAL PLANNING POLICY: PLANNING EXEMPTIONS

Table 3 – Non-Residential and Other Works Exemptions

	Works	Location	Conditions	Guidance
1	Fences	All zoned land under the Scheme.	<ol style="list-style-type: none"> The works are not located in a heritage-protected place; and The street fences, walls and gates must fully satisfy the acceptable outcomes of the City's Local Planning Policy relating to Built Form and the City's Local Law relating to Fencing. 	<ul style="list-style-type: none"> A <u>Building Permit</u> from the City's Building team may be required for the works.
2	Minor Works	All zoned land under the Scheme.	<ol style="list-style-type: none"> The works are not located in a heritage-protected place; and The works: <ol style="list-style-type: none"> Are not directly visible from a primary or secondary street; Have an area of no more than 30 square metres; Have a total height of no more than 3.5 metres above natural ground level; and Have a floor level no more than 0.5 metres above natural ground level. 	<ul style="list-style-type: none"> A <u>Building Permit</u> from the City's Building team may be required for the works.
3	Site Works and Retaining Walls	All zoned land under the Scheme.	<ol style="list-style-type: none"> The works are not located in a heritage-protected place; and The fill, excavation and retaining walls must not exceed 500 millimetres in height from natural ground level. 	<ul style="list-style-type: none"> A <u>Building Permit</u> from the City's Building team may be required for the works. Site works can include alterations to ground levels with structures such as decking, paving, ramps and similar structures which alter the apparent ground level without involving the fill or excavation of soil. Site works completed under this exemption does not change the natural ground level of the site, which is defined in the Regulations.
4	Roof Replacements	All zoned land under the Scheme.	<ol style="list-style-type: none"> The works are not located in a heritage-protected place; and The roof shall be a like-for-like replacement of the existing roof in terms of its area, height and roof pitch. 	<ul style="list-style-type: none"> A <u>Building Permit</u> from the City's Building team may be required for the works.
5	Shopfront or Building Façade Alterations	All zoned land under the Scheme.	<ol style="list-style-type: none"> The works are not located in a heritage-protected place; and The works: <ol style="list-style-type: none"> Do not alter any part of the alignment of the shopfront or building façade in relation to its proximity to the street boundary; Do not result in the removal of any features of traditional shopfront design, including recessed doorways, stall risers, seating ledges and sills; Maintain a shopfront or building façade which has an active and interactive relationship with the street; and Do not include the installation of roller doors, shutters or the equivalent. 	<ul style="list-style-type: none"> A <u>Building Permit</u> from the City's Building team may be required for the works. The shopfront or building façade alterations do not include signage. Refer to the City's Local Planning Policy relating to Signs and Advertising for exemptions for signage.
6	Signs and Advertising on Public Spaces	Public land.	<ol style="list-style-type: none"> The signs and advertising must relate to the following: <ol style="list-style-type: none"> the functions of government, a public authority or the Council of a local government, excluding those of a promotional nature constructed or exhibited by, or on behalf of, any such body; required for the management and control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed, exhibited by or at the direction of a government department, public authority or the Council of a local government; or required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein. 	<ul style="list-style-type: none"> A <u>Building Permit</u> from the City's Building team may be required for the works.
7	Street Furniture	Public land.	<ol style="list-style-type: none"> The street furniture is subject to an approved and current Vibrant Public Space Agreement. 	<ul style="list-style-type: none"> Refer to the City's Vibrant Public Spaces Policy for guidance.



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8	Affixed Eating Area Furniture	Public land.	1. The affixed eating area furniture is subject to an approved and current Vibrant Public Space Agreement.	<ul style="list-style-type: none"> Refer to the City's Vibrant Public Spaces Policy for guidance.
9	Pop-Up Parklet or Pop-Up Eatlet	Public land.	1. The pop-up parklet or pop-up eatlet is subject to an approved and current Vibrant Public Space Agreement.	<ul style="list-style-type: none"> Refer to the City's Vibrant Public Spaces Policy for guidance. A <u>Building Permit</u> from the City's Building team may be required for the works.
10	Parklet or Eatlet	Public land.	1. The parklet or eatlet is subject to an approved and current Vibrant Public Space Agreement.	<ul style="list-style-type: none"> Refer to the City's Vibrant Public Spaces Policy for guidance. A <u>Building Permit</u> from the City's Building team may be required for the works.

Note 1: To be exempt from development approval, the works must be of a type referred to in Column 1, must be in the location referred to in Column 2 and must meet all conditions listed in Column 3.

Note 2: A heritage-protected place is defined in Schedule 2 Clause 1A of the Regulations. This includes, but is not limited to, any place listed on the State Register of Heritage Places or any place listed on the City's Municipal Heritage Inventory either individually or as part of a heritage area.

Note 3: The additional approvals which may be required before the works can start are underlined in the Guidance column. These are only the main approvals that may be required from the City and the State Government, and there may be other approvals required. These approvals are also subject to change.

Note 4: Non-residential works includes works associated with mixed use developments.



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Table 4 – Temporary Use and Works Exemptions

	Land Use and/or Works	Location	Conditions	Guidance
1	Temporary Uses and Events	Public land. Public land or all zoned land under the Scheme.	<ol style="list-style-type: none"> The temporary use or event is in existence for a single period of 12 consecutive hours or less in any one week period; Written notification is providing to all adjoining residential properties a minimum of one week prior to first occurrence of the event or use; and The temporary use or event is not of a high scale, impact or intensity, as determined by the City. 	<ul style="list-style-type: none"> The 12 consecutive hours does not include time for the set-up and pack-down of equipment and structures associated with the temporary use or event. An <u>Event Application</u> will be required to be submitted to the City prior to the temporary use or event occurring. The written notification shall at minimum include the name of the event or use, the exact location, the activities involved, the start and finish time of the event or use, the dates that the event or use will occur on and the name and contact details of the event organiser and manager. The City will determine whether the temporary use or event is not of a high scale, impact or intensity. It will consider the use or event's location, size, expected patron numbers, operating hours, the activities involved, the nature and scale of any required equipment and structures, and the potential to generate adverse off-site impacts such as noise, parking and traffic. Types of uses or events that may be exempt include markets, fairs, goods sales, art exhibitions and food and drink-related events. Temporary structures that are accessible by the public (for example, a marquee) will require a temporary <u>Occupancy Permit</u> from the City's Building team, and depending on their size a <u>Building Permit</u> may also be required.
2	Temporary Construction Infrastructure and Activities	Public land or all zoned land under the Scheme.	<ol style="list-style-type: none"> The temporary construction infrastructure and activities may include offices, sheds, containers, site yards or any other development and: <ol style="list-style-type: none"> must be associated with and used by builders or contractors who are directly associated with approved construction works and must be located on the same site or on a nearby site to where these works are occurring, as determined by the City; must be removed from the site/s upon completion of the construction works; and must be associated and operate in accordance with a construction management plan which has been approved by the City. 	<ul style="list-style-type: none"> Refer to the City's Local Planning Policy relating to Construction Managements Plans. The construction management plan must be approved by the City prior to the temporary construction infrastructure being set up or used. The City will determine whether the site proposed to be used for temporary construction infrastructure and activities is nearby to the construction site. Generally a nearby site is one which is either directly adjoining or directly opposite (on the other side of a street or right-of-way) to the construction site. Other sites within close proximity of the construction site may be considered when there are no alternative directly adjoining or directly opposite sites available and where there would not be an adverse impact on the surrounding area. Temporary construction infrastructure and activities does not include sites primarily used for the purpose of dewatering activities or for the storage or accumulation of waste. A <u>Building Permit</u> from the City's Building team may be required for the works.
3	Temporary Viewing Platforms	Public land or all zoned land under the Scheme.	<ol style="list-style-type: none"> The platform is associated with a development which has a valid development approval; The platform is erected for a maximum period of three months from the date of issue of the building permit for the platform; The platform is located away from adjoining residential properties and the viewing floor/s shall be screened appropriately to restrict views downwards and towards adjoining residential properties, as determined by the City; and The maximum height of the platform is no higher than the maximum height of the approved development. 	<ul style="list-style-type: none"> A <u>Building Permit</u> from the City's Building team will be required for the works. The platform will be required to comply with AS1657 – Fixed Platforms, Walkways, Stairways and Ladders (as amended). The City will determine whether the temporary viewing platform has been appropriately located and screened. The platform should be located on the side of the development site furthest away from adjoining residential properties. Where there are adjoining residential properties on multiple sides of the site, the platform should be located centrally. The platform should be provided with screening devices around all sides of the viewing floor/s and stairs where facing adjoining residential properties. These devices should be a minimum of 75 per cent obscure and be of a sufficient height, setback and design to restrict views on a downward angle towards adjoining residential properties and should only permit views directly out or upwards from the viewing floor/s.

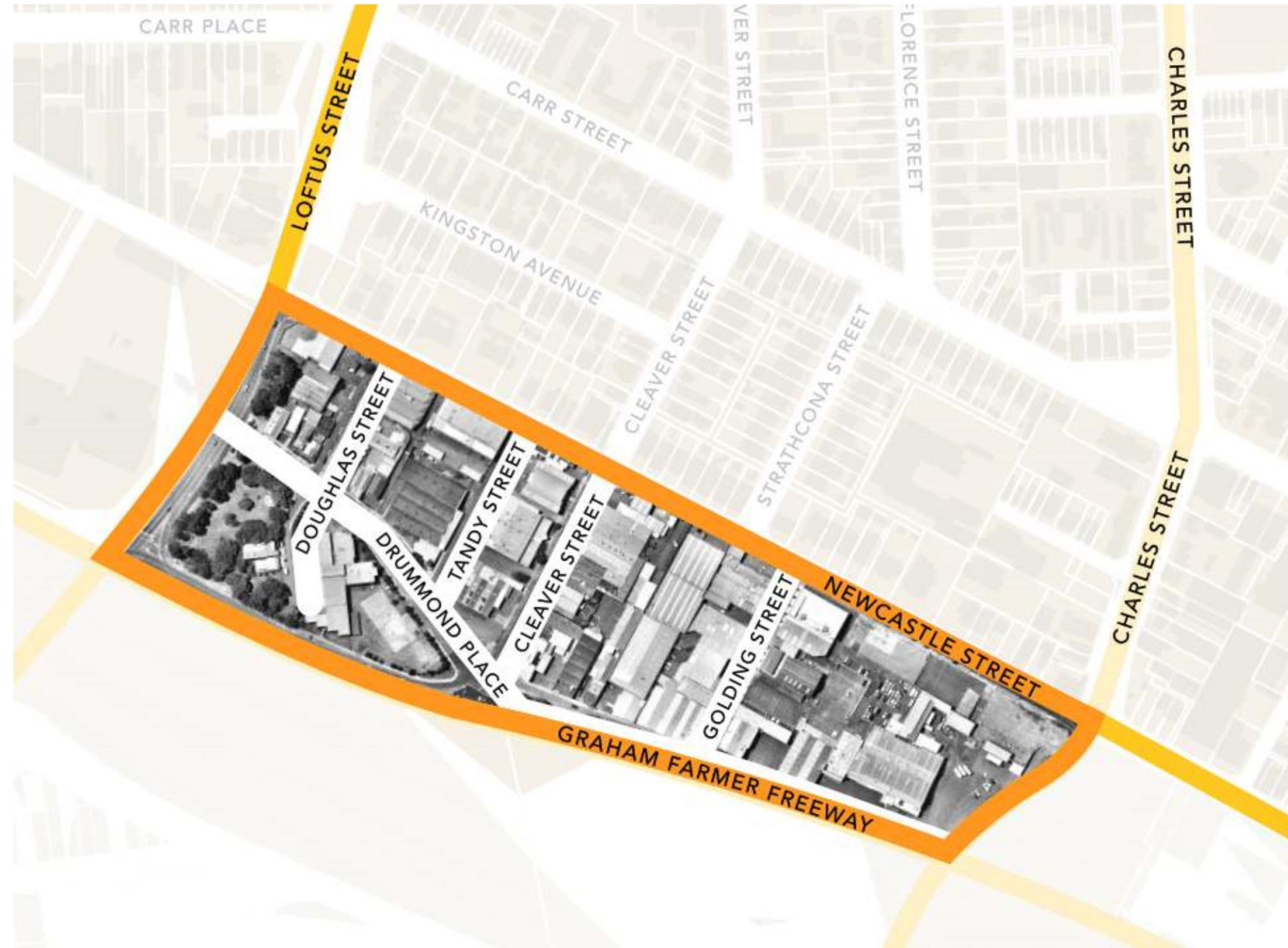
Note 1: To be exempt from development approval, the works or land use must be of a type referred to in Column 1, must be in the location referred to in Column 2 and must meet all conditions listed in Column 3.

Note 2: The additional approvals which may be required before the works can start are underlined in the Guidance column. These are only the main approvals that may be required from the City and the State Government, and there may be other approvals required. These approvals are also subject to change.



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Appendix 1 – Map of the area bounded by the Graham Farmer Freeway, Loftus Street and Newcastle Street in West Perth



OFFICE USE ONLY	
Responsible Officer	Manager Development and Design
Initial Council Adoption	27 March 2001
Previous Title	Local Planning Policy No. 7.5.1 – Minor Nature Development
Reviewed / Amended	22 November 2005, 11 June 2013
Next Review Date	2027

CLAUSES	COMMENTS	MODIFICATION
<p><u>Objective</u> To define development of a minor nature which, although complying with provisions of the City of Vincent Town Planning Scheme No. 1, is exempt from the need to obtain planning approval in accordance with Clause 33(d) of the City of Vincent Town Planning Scheme No. 1. A Building Licence is required for building works of a minor nature where this is appropriate.</p>	<p>The objective of the current Policy reads like the purpose of the policy.</p> <p>The note that a Building Licence may be required does not belong in the objective of the policy.</p>	<p>Moved to purpose section and simplified wording. Added new objectives which reflect the aims that the Policy seeks to achieve.</p> <p>Moved to policy operation section and included more detailed advice in the guidance for each exemption on other approvals required.</p>
<p><u>Policy Statement</u> 1. Development of a minor nature does not require planning approval and is generally characterised as: 1.1 small in scale and composition and which will not unduly adversely affect the locality by way of emissions of any kind nor generate excessive amounts of traffic; 1.2 of a temporary nature occurring on one-off occasions (although may occur on a number of days) but not of any permanent nature or reoccurrence; 1.3 uses of a limited nature considered to support or be ancillary to the overall operations of the primary approved use; 1.4 uses which will not adversely affect the amenity, streetscape or day-to-day activities of the locality or any other use which, in the opinion of the City of Vincent, constitutes a minor use; and 1.5 not located in a place that is: 1.5.1 in the Register of Places under the Heritage of Western Australia Act 1990; 1.5.2 the subject of an Order under Part 6 of the Heritage of Western Act 1990; or 1.5.3 listed in the City of Vincent Heritage List or Municipal Heritage Inventory; unless it is a home occupation that fully complies with clause 2.17 of this Policy.</p>	<p>The policy statement of the current Policy reads like a set of objectives.</p> <p>Clause 1.5 is a requirement rather than an objective.</p>	<p>Moved to objective section and simplified wording.</p> <p>Included Clause 1.5 as a condition that must be satisfied for works to be exempt from needing development (planning) approval.</p>

<p><u>Clause 2</u> Development of a minor nature includes but is not limited to such development/activities as:</p>	<p>This clause lists all the development and land uses that are exempt from development approval. There is a lack of categorisation or consistency in how the exemptions are set out.</p>	<p>Included a policy operation section explaining how the exemptions work and split the exemptions into tables for different types.</p>
<p><u>Clause 2.1</u> New street fences, walls and gates, including those adjacent to secondary street frontages and main roads that fully comply with the acceptable development provisions of the City of Vincent Policies, and Local Laws;</p>	<p>This clause outlines that street fences, walls and gates are exempt subject to compliance with the City's other Policies and Local Laws.</p> <p>This only applies to multiple dwelling, mixed use and commercial developments. Street fencing and walls to single houses and grouped dwellings are exempt under the Regulations.</p>	<p>Retained and updated wording to clarify what development types it applies to.</p>
<p><u>Clause 2.2</u> Retaining walls that do not exceed 500 millimetres in height;</p>	<p>This clause outlines that retaining walls are exempt under a certain height, and is consistent with the standards in the Residential Design Codes.</p> <p>This applies to grouped dwelling, multiple dwelling, mixed use and commercial developments. Retaining walls to single houses are exempt under the Regulations.</p>	<p>Retained and updated wording to clarify what development types it applies to. Combined with Clause 2.3 as retaining walls are generally associated with the filling and excavation of land.</p>
<p><u>Clause 2.3</u> Filling or excavation of land that does not exceed 500 millimetres in height or, in the opinion the City of Vincent, is over a limited area of the lot and will not constitute a significant alteration of the natural ground level of the land;</p>	<p>This clause outlines that fill and excavation of land is exempt under a certain height, and is consistent with the standards in the Residential Design Codes.</p> <p>This applies to grouped dwelling, multiple dwelling, mixed use and commercial developments. Filling and excavation of land to single houses is exempt under the Regulations.</p>	<p>Retained and updated wording to clarify what development types it applies to. Combined with Clause 2.2 as filling and excavation of land is generally associated with retaining walls.</p>
<p><u>Clause 2.4</u> Single storey pergolas, porches, roofs, patios, verandahs, garages, carports, outbuildings and external fixtures (such as those items attached to buildings as identified in 6.10 Element 10 - Incidental Development of the Residential Design Codes) appurtenant, to a single house, grouped</p>	<p>This clause outlines structures and development on Residential sites that are exempt subject to compliance with the City's other Policies and the Residential Design Codes.</p>	<p>Deleted.</p>

dwelling, multiple dwelling, that fully comply with the acceptable development provisions of the Residential Design Codes and the City of Vincent Policies;	This clause is an unnecessary duplicate as this type of development is now included as exempt in the Regulations.	
<u>Clause 2.5</u> Swimming pools where no part is more than 500 millimetres above the surrounding natural ground level;	This clause is an unnecessary duplicate as this type of development is now included as exempt in the Regulations.	Deleted.
<u>Clause 2.6</u> Sun-shade sails and the like, used for the purpose of providing shade provided that they: 2.6.1 are not located within any primary street setback area; 2.6.2 do not exceed 3.0 metres in height; and 2.6.3 do not exceed 20 square metres in area;	This clause is an unnecessary duplicate as this type of development is now included as exempt in the Regulations.	Deleted.
<u>Clause 2.7</u> Garage sales, fairs, fetes, circus, charity goods sales and the like;	This clauses outlines types of temporary one-off events that are exempt. This type of development is now included as exempt in the Regulations if they occur for a period of 48 hours or less in any 12 month period. This has been expanded to be less specific and to provide clarification on how often and how long these events can occur for subject to appropriate conditions to control their scale.	Retained general intent with an updated exemption which is in addition to that under the Regulations.
<u>Clause 2.8</u> Maximum of two amusement machines;	Amusement machines are neither a type of works or land use, and would generally be associated with an Amusement Parlour land use or as an incidental use to the predominant use of a premises. On this basis this exemption isn't considered necessary anymore.	Deleted.
<u>Clause 2.9</u> Shop front alterations where the alignment is unaltered, where not affecting heritage requirements or which do not include the installation of roller doors and shutters. Shopfronts are to maintain an active and interactive relationship between the development and the adjacent	This clauses outlines types of shop front alterations that are exempt. This has been retained with updated wording provided to clarify what these alterations can't affect or involve	Retained and updated wording.

street(s), to ensure surveillance and visual amenity of the public domain and communal spaces;	so that they don't result in the removal of features of traditional shopfront design.	
<u>Clause 2.10</u> Family day care centres for five or less children;	This clause states that some family day care services are exempt. The City's Local Planning Policy relating to Child Care and Family Day Care has been recently updated and this exemption should be updated to align with the standards of this policy for family day care centres.	Retained and updated wording to align with the Child Care and Family Day Care Policy.
<u>Clause 2.11</u> Communications facilities which are listed as being exempt from the requirement to obtain planning approval under the terms of Policy No. 3.5.5 relating to Domestic Satellite Dishes, Microwave Antennae and Tower Mast and Policy No. 3.5.6 relating to Telecommunication Facilities;	This clause states that the listed communications facilities that comply with the standards of the local planning policies are exempt. This clause is an unnecessary duplicate as this type of development is included as exempt under these local planning policies.	Deleted.
<u>Clause 2.12</u> Signs and advertising that fully comply with the City of Vincent Policy No. 3.5.2 relating to Signage and Advertising, including all signs and advertising which are not visible from any public street and/or adjacent property;	This clause states that signs and advertising that comply with the standards of the City's Local Planning Policy relating to Signs and Advertising are exempt. This clause is an unnecessary duplicate as this type of development is included as exempt under the Signs and Advertising Policy which has been recently updated.	Deleted.
<u>Clause 2.13</u> signs and advertising on public places and reserves relating to: 2.13.1 the functions of government, a public authority or the Council of a local government, excluding those of a promotional nature constructed or exhibited by, or on behalf of, any such body; 2.13.2 required for the management and control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed, exhibited	This clause states types of signs and advertising on public land that are exempt. This isn't a type of development that is exempt under the Regulations and clarifies that these types of signs and advertising don't require planning approval.	Retained.

<p>by or at the direction of a government department, public authority or the Council of a local government; and 2.13.3 required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein;</p>		
<p><u>Clause 2.14</u> Change of text and graphics on existing signs and advertising;</p>	<p>This clause is an unnecessary duplicate as this type of development is now included as exempt in the Regulations.</p> <p>This clause currently goes above and beyond the exemption in the Regulations as it does not specify whether the existing signs have to be previously approved or to previously have not required approval.</p>	<p>Deleted.</p>
<p><u>Clause 2.15</u> Works to a building in a dangerous state or of an emergency endangering any person, building or structure, such that the building will be a replication of the building before it became dangerous;</p>	<p>This clause is an unnecessary duplicate as this type of development is now included as exempt in the Regulations.</p>	<p>Deleted.</p>
<p><u>Clause 2.16</u> Temporary offices and sheds (including containers) used by builders or contractors directly associated with the building works occurring on site for the duration of completing those building works and operations. Containers are not allowed in any other instance;</p>	<p>This clause states that temporary offices and sheds associated with buildings works are exempt.</p> <p>This is retained with additional wording provided to clarify that these should associated with an approved construction management plan, that they can be located on nearby sites and their scope isn't limited to offices and sheds. A review of recent larger developments on constrained sites has identified that nearby vacant sites/areas have been used to support construction works with a variety of infrastructure and activities without adversely impacted adjoining properties.</p>	<p>Retained and updated wording to clarify its scope and the conditions for these temporary construction infrastructure and activities to be exempt.</p>

<p><u>Clause 2.17</u> home occupations that: 2.17.1 does not entail the retail sale, display or hire of goods of any nature; 2.17.2 does not cause injury to or prejudicially affect the amenity of the immediate area; 2.17.3 does not detract from the residential appearance of the dwelling house or domestic outbuilding; 2.17.4 does not entail employment of any other person; 2.17.5 does not occupy an area greater than 20 square metres; 2.17.6 does not display a sign exceeding 0.2 square metre in area; 2.17.7 does not attract customers or regular and frequent deliveries of goods or equipment to the site; 2.17.8 will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in a substantial increase in the amount of vehicular traffic in the vicinity; 2.17.9 does not entail the presence, parking and garaging of a vehicle of more than one (1) tonne tare weight; 2.17.10 does not involve the servicing or repair for gain of motor vehicles; and 2.17.11 in the opinion of the City is compatible with the principal uses to which land in the zone in which it is located may be put;</p>	<p>This clause is an unnecessary duplicate as this type of development is now included as exempt in the Regulations.</p>	<p>Deleted.</p>
<p><u>Clause 2.18</u> Alfresco Blinds on approved premises with Alfresco Dining Licences used for the purpose of outdoor weather protection provided that they: 2.18.1 are non-reflective, transparent and lightweight in appearance and do not have the visual or apparent effect of enclosing public space; 2.18.2 are removed from public areas at the close of business each day; 2.18.3 do not hinder use of public areas during and after trading hours; and</p>	<p>A review of existing alfresco blinds in the City has identified that they can produce poor outcomes for the streetscape and public spaces.</p> <p>This has been be deleted and future alfresco blind proposals will require development approval where the City can review the extent, location and appropriateness of these blinds.</p>	<p>Deleted.</p>

<p>2.18.4 do not cause injury to or prejudicially affect the amenity of the immediate area;</p>		
<p><u>Clause 2.19</u> Water Tanks, provided that: 2.19.1 the aggregated capacity is less than 2 cubic metres if located within the primary street setback area; and 2.19.2 no part is more than 2 metres above the natural ground level;</p>	<p>This clause is an unnecessary duplicate as this type of development is now included as exempt in the Regulations.</p>	<p>Deleted.</p>
<p><u>Clause 2.20</u> Works that fully comply with the acceptable development provisions of the Residential Design Codes and the City of Vincent Policies, where applicable.</p>	<p>This clause is an unnecessary duplicate as this type of development is now included as exempt in the Regulations.</p>	<p>Deleted.</p>