

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.

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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.

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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.

~~f)g)~~ Works and land uses that have previously received development approval are still bound by that development approval and the associated conditions of approval. An exemption under this Policy does not supersede a previous development approval or replace the need for previously approved works and land uses to comply with that approval.

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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.

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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.
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. 	<ul style="list-style-type: none"> 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.
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. 	<ul style="list-style-type: none"> 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> may be required from the City's Health team.

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.

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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 <u>variations departures</u> to the R-Codes <u>Volume 1</u>: <ol style="list-style-type: none"> <u>Part B Outdoor Living Area, Open Space and Boundary Wall length deemed-to-comply standards;</u> <u>or</u> <u>Part C Private Open Space, Site Cover, Solar Access and Ventilation and Boundary Wall length deemed-to-comply standards.</u> 	<ul style="list-style-type: none"> A <u>Building Permit</u> from the City's Building team may be required for the works. <u>The R-Codes Volume 1 Part B applies to properties coded R25 and below, and Part C applies to those coded R30 and above.</u>
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.

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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.

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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 Building Permit 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 Building Permit 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 Building Permit 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 Building Permit 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 Building Permit 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 Building Permit 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 – <u>Community Markets</u>	Public land.	<ol style="list-style-type: none"> The temporary use or event is in existence for a single period of 426 consecutive hours or less <u>over one day</u> in any one week period; Written notification is provided ed 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. An Event Application has been submitted to the City; The temporary use or event shall commence no earlier than 7:00am on Monday to Saturday or 9:00am on Sunday and public holidays, and shall end no later than 10:00pm on any day; and The temporary use or event is limited to no more than 40 stallholders. 	<ul style="list-style-type: none"> <u>Community markets includes farmers markets, hawkers markets, fairs, swap meets or other similar events predominantly involving the display and sale of goods from stalls by independent vendors, with the events open and accessible to the public at all times without charge.</u> The 42 consecutive hours does not includes time for the set-up and pack-down of equipment and structures associated with the temporary use or event. <u>An Event Application will be required to be submitted to the City prior to the temporary use or event occurring.</u> 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.
2	<u>Temporary Uses and Events</u>	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 <u>over one day</u> in any one month period; Written notification is provided ed to all adjoining residential properties a minimum of one week prior to first event occurring; and The temporary use or event is not of a high scale, impact or intensity, as determined by the City. An Event Application has been submitted to the City; and The temporary use or event shall commence no earlier than 7:00am on Monday to Saturday or 9:00am on Sunday and public holidays, and shall end no later than 10:00pm on any day. 	<ul style="list-style-type: none"> <u>As part of an Event Application, the following details would need to be submitted to the City for assessment against the relevant City policies, local laws and State legislation;</u> <ul style="list-style-type: none"> <u>Dates, times, location, estimated attendances and set-up/pack down periods.</u> <u>A description of the event activities and operations.</u> <u>Details on the sale of food and alcohol, noise creating devices and sound level emissions, and any temporary structures or seating that would be required.</u> <u>Details on any required groundworks, lighting, signage and vehicle access.</u> <u>Traffic and parking details and management, including temporary arrangements and road or car park closures.</u> <u>Waste details and management, including generation, collection and bin requirements.</u> <u>Accessibility requirements and details.</u> <u>Notification of the relevant Emergency Services provides and security/crowd control details.</u> <u>Further information may be required from the City as your application is assessed.</u> <u>Temporary structures that are accessible by the public (for example, a marquee) will require a temporary Occupancy Permit from the City's Building team, and depending on their size a Building Permit may also be required.</u> <u>For signs associated with the temporary use or event, refer to the City's Local Planning Policy relating to Signs and Advertising for exemptions for signage.</u> <u>For a temporary use or event on public land, they are still bound and required to comply with any terms or conditions of any lease, licence, permit or other agreement with the City for the use of the land.</u>

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23	Temporary Construction Infrastructure and Activities	Public land or all zoned land under the Scheme.	<ol style="list-style-type: none"> 1. The temporary construction infrastructure and activities may include offices, sheds, containers, site yards or any other development and: <ol style="list-style-type: none"> a. 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; b. must be removed from the site/s upon completion of the construction works; and c. 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.
34	Temporary Viewing Platforms	Public land or all zoned land under the Scheme.	<ol style="list-style-type: none"> 1. The platform is associated with a development which has a valid development approval; 2. The platform is erected for a maximum period of three months from the date of issue of the building permit for the platform; 3. 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 4. 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.

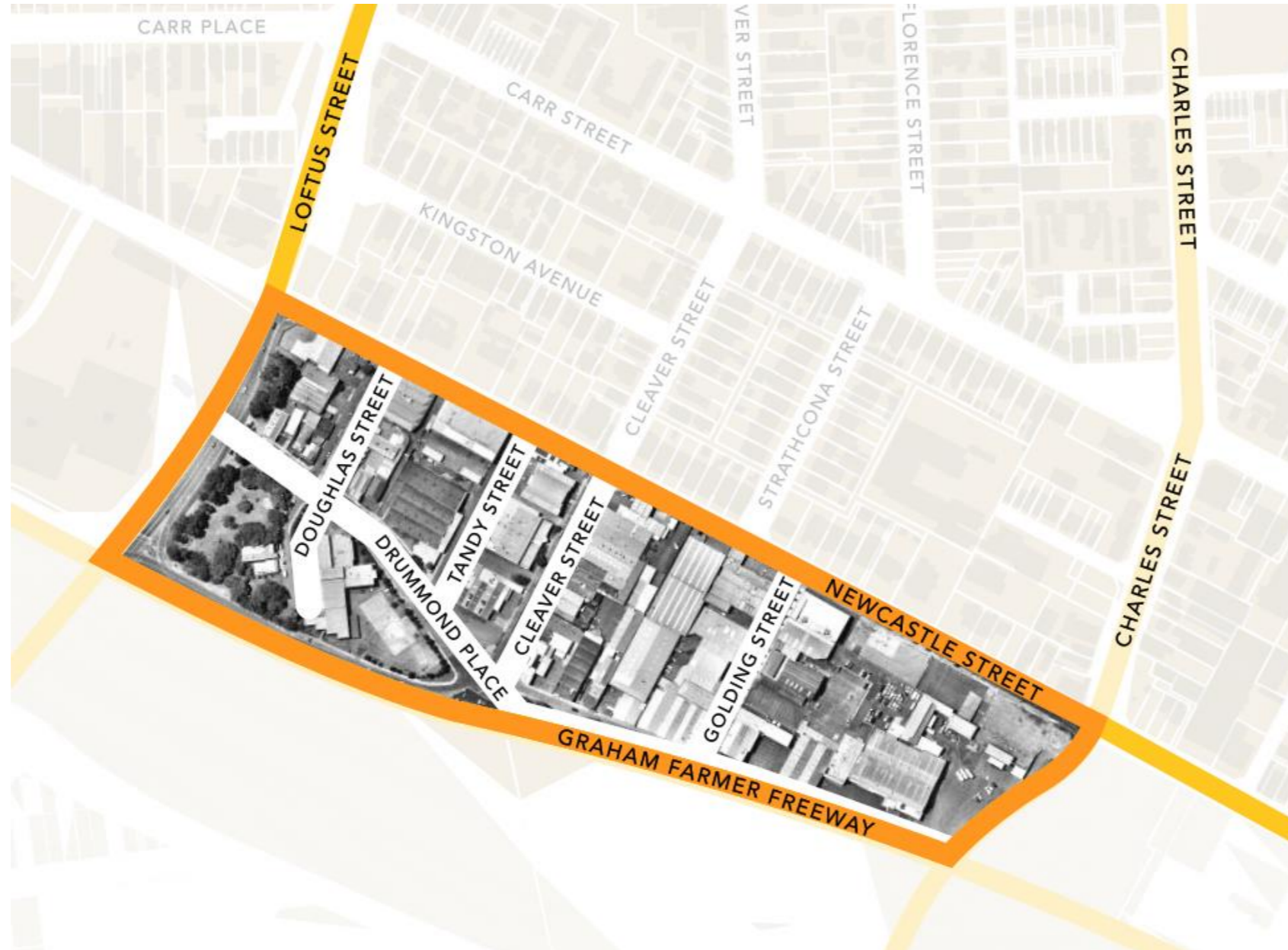
Note 1: To be exempt from development approval, the works or land use must be of a type referred to in Column 1, must be in the location referred to in Column 2 and must meet all conditions listed in Column 3.

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.

Note 3: Temporary land uses and/or works 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.

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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, 25 July 2023
Next Review Date	2028