

LOCAL PLANNING POLICY NO.10

EXEMPTION TO REQUIREMENT FOR DEVELOPMENT APPROVAL NON-HABITABLE FARM BUILDINGS & INCIDENTAL FARM STRUCTURES



Responsible Officer	Chief Executive Officer
Council Resolution Number	07/1223
Council Resolution Date	20-12-2023
Next Scheduled Review	December 2025
Relevant Local Government Documents	<ul style="list-style-type: none">• Shire of Kulin Local Planning Scheme No. 2• Shire of Kulin Policy Manual
Relevant Legislation	<ul style="list-style-type: none">• <i>Planning and Development Act 2005</i>• <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>

1. CITATION

This is a Local Planning Policy prepared under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations). This policy may be cited as 'Policy No.10 – Exemption to Requirement for Development Approval for Non-Habitable Farm Buildings and Incidental Farm Structures'.

2. INTRODUCTION

Under the terms of the *Planning and Development Act 2005*, *Planning and Development (Local Planning Schemes) Regulations 2015* and the Shire of Kulin Local Planning Scheme No.2 development approval is required from the local government to construct non-habitable farm buildings and incidental farm structures on all 'Rural' zoned land used for extensive agricultural purposes (i.e. broadacre cropping and grazing).

Clauses 61(1)b and 61(2)g in Part 7 of the Deemed Provisions in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* expressly state that an exemption to the need for development approval can be provided by a local government for any works and/or uses specified in a local planning policy adopted under a local planning scheme.

There is a strong case for preparing and adopting a local planning policy to provide an exemption to the need for development approval for non-habitable farm buildings and incidental farm structures on any land classified 'Rural' zone in the Shire of Kulin used for extensive agricultural purposes given the significant size of most rural landholdings and the limited impact such development typically has on the rural environment.

The proposed exemption to the need for development approval is likely to prove highly beneficial as it will:

- a) assist local growers develop their properties more easily by reducing the regulatory burden and associated cost of having to seek and obtain the local government's development approval in each and every instance as is currently the case; and
- b) allow the local government's administration to focus its attention on other more important regulatory requirements and reduce the time and costs associated with processing development applications.

3. INTENT

The intent of this policy is to provide an exemption to the need for development approval for the construction and use of non-habitable farm buildings and incidental farm structures on all 'Rural' zoned land in the Shire of Kulin municipal district used for extensive agricultural purposes (i.e. broadacre cropping and grazing) subject to compliance with a number of acceptable development criteria.

It should be noted this policy does not negate or override the need for a building permit approval under the *Building Act 2011* and associated regulations as may be required depending upon the type and class of any structure proposed to be constructed.

4. OBJECTIVES

The objectives of this policy are to:

- 4.1 Facilitate the development of non-habitable farm buildings and incidental farm structures on all 'Rural' zoned land used for extensive agricultural purposes (i.e. broadacre cropping and grazing) without the need for development approval subject to compliance with a number of acceptable development criteria;
- 4.2 Provide details of all criteria that must be satisfied to ensure an acceptable standard of development is achieved that does not detrimentally affect the amenity of the locality or the natural environment; and
- 4.3 Assist local growers develop their properties more easily by reducing the regulatory burden and associated cost of having to seek and obtain the local government's development approval in each and every instance as is currently the case.

5. DEFINITIONS

Abattoir - Premises used commercially for the slaughtering of animals for the purposes of consumption as food products.

Animal Establishment - Premises used for the breeding, boarding, training or caring of animals for commercial purposes but does not include intensive animal husbandry or veterinary centre.

Biodiversity Conservation – The conservation and protection of biodiversity and biodiversity components (i.e. native species, habitats, ecological communities, genes, ecosystems and ecological processes).

Basic Raw Materials - Sand (including silica sand), clay, hard rock, limestone (including metallurgical limestone), agricultural lime, gravel, gypsum and other construction and road building materials.

Extensive Agriculture - Premises used for the raising of stock or crops but does not include intensive agriculture or intensive animal husbandry.

Farm Buildings – Non-habitable buildings and structures or parts of non-habitable buildings and structures that are used for the storage of agricultural machinery and equipment, fertiliser, agricultural produce grown on the land and the keeping and/or rearing of animals and livestock.

Habitable Building – A permanent or temporary structure on land that is fully or partially enclosed, has at least one wall of solid material and a roof of solid material and is used for a purpose that involves the use of the interior of the structure by people for living, working, studying or being entertained.

Heritage-Protected Place – As defined in the *Planning and Development (Local Planning Schemes) Regulations 2015*, typically a place on the State or Local Heritage List or in a heritage area defined by the Scheme maps.

Incidental Farm Structures – A non-habitable structure that is associated with but incidental to any agricultural use or rural pursuit and includes, but is not limited to, external fixtures, fences and gates, dams, soaks and associated infrastructure, water storage tanks, lean-to's, silos, vehicle access and loading ramps, animal holding pens, water and feed troughs.

Intensive Agriculture – Premises used for trade or commercial production purposes, including outbuildings and earthworks, associated with any of the following:

- (a) the production of grapes, vegetables, flowers, exotic or native plants, or fruit or nuts;
- (b) the establishment and operation of plant or fruit nurseries;
- (c) the development of land for irrigated fodder production or irrigated pasture (including turf farms);
- (d) aquaculture.

Intensive Animal Husbandry - Premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) or other livestock in feedlots, sheds or rotational pens.

Non-Habitable Building - A permanent or temporary structure on land that is not used for a purpose that involves the use of the interior of the structure by people for living, working, studying or being entertained.

Outbuilding – An enclosed non-habitable structure that is detached from any dwelling.

Rural Land Use – Land uses that are rural in nature and that support and are associated with primary production, basic raw material extraction, biodiversity conservation, natural resource management, public purposes (e.g. prisons, cemeteries, public utilities and waste management facilities) and the protection of landscapes and views.

Rural Pursuit – Premises, other than premises used for extensive agriculture or intensive agriculture that are used by an occupier of the premises to carry out any of the following activities if carrying out of the activity does not involve permanently employing a person who is not a member of the occupier's household:

- (a) the rearing, agistment, stabling or training of animals;
- (b) the keeping of bees;
- (c) the sale of produce grown solely on the premises.

Trade Supplies – Premises used to sell by wholesale or retail, or to hire, assemble or manufacture any materials, tools, equipment, machinery or other goods used for the following purposes including goods which may be assembled or manufactured off the premises:

- (a) automotive repairs and servicing;
- (b) building including repair and maintenance;
- (c) industry;
- (d) landscape gardening;
- (e) provision of medical services;
- (f) primary production;
- (g) use by government departments or agencies, including local government.

Tree Farm – Land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the *Carbon Rights Act 2003* section 5.

Winery – Premises used for the production of viticultural produce and associated sale of the produce.

6. GENERAL APPLICATION OF THE POLICY

- 6.1 This policy applies to all land in the local government's municipal district classified 'Rural' zone in the Shire of Kulin Local Planning Scheme No.2 that has or is proposed to be developed and used for extensive agricultural purposes (i.e. broadacre cropping and grazing).
- 6.2 This policy is effective from the date of publication by the local government in accordance with clause 87, Part 12, Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and may be amended or revoked at the discretion of the local government.
- 6.3 If a provision of this policy is inconsistent with the Shire of Kulin Local Planning Scheme No.2, the Scheme prevails. This policy is not part of the Scheme and does not bind the local government in respect of any determination made pursuant to the Scheme. The local government shall however have due regard for the provisions of this policy and its objectives before making any determination.

7. LIMITATIONS

This Local Planning Policy does not apply to the following:

- a) non-habitable buildings and incidental structures on all 'Rural' zoned land used for rural purposes including but not limited to abattoirs, animal establishments, basic raw material extraction, biodiversity conservation, intensive agriculture, intensive animal husbandry, natural resource management, public purposes including prisons, cemeteries, public utilities and waste management facilities, rural pursuits/hobby farms, trade supplies, tree farms or wineries;

- b) non-habitable buildings and incidental structures on all 'Rural' zoned land used for non-rural purposes; and
- c) non-habitable buildings or structures associated with any residential development on 'Rural' zoned land including outbuildings (i.e. sheds), external fixtures, boundary walls or fences, decks, patios, pergolas, verandas, shade sails, garages, carports or swimming pools for which an exemption to the need for development approval is already provided in Schedule A of the Shire of Kulin Local Planning Scheme No.2 subject to compliance with a number of acceptable development criteria.

8. POLICY PROVISIONS

8.1 Exemption

Development approval is not required for the development of non-habitable farm buildings and/or incidental farm structures on any land classified 'Rural' zone lawfully used for extensive agricultural purposes subject to compliance with all of the following acceptable development criteria:

- a) The relevant lot comprises a total area greater than 20 hectares.
- b) Are sited on any lot in accordance with the following minimum lot boundary setbacks:
 - Front - 20.0 metres
 - Rear - 15.0 metres
 - Side - 5.0 metres
- c) Do not alter or affect existing waterways or water table/s or involve the removal of any existing native vegetation, including vehicle access arrangements, unless otherwise approved by the Department of Water and Environmental Regulation or an express exemption is applicable under other legislation.
- d) Are not located on any portion of any land designated by the Department of Water and Environmental Regulation as being flood prone.
- e) Are not located in a heritage-protected place or any special control area listed in Part 5 of Local Planning Scheme No.2.
- f) Are sited and oriented in order to minimise their visual impact on the local landscape with ridgelines or hilltops to be avoided.
- g) All external materials, finishes and colours complement and harmonise with the surrounding environment and the existing development on the land.
- h) All stormwater runoff is contained and disposed on-site and not directed towards, or has scope to negatively impact upon, any immediately adjoining property or any environmentally sensitive areas on or off-site. In the case of fertiliser storage sheds, these shall be located at least 50 metres from the edge of any waterway, wetland or creek line.
- i) Any proposed new dam wall is not more than three (3) metres in height.
- j) No new vehicle access is required or proposed to a State road under the care, control and management of Main Roads WA.

8.2 Non-Compliance and Requirement for Development Approval

Where any proposed new non-habitable farm building and/or incidental farm structure does not comply with the acceptable development criteria listed in clause 8.1 above, an application for development approval shall be prepared and submitted to the local government pursuant to the specific requirements of Part 7 of the Deemed Provisions in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* for formal consideration and determination prior to the commencement of development.