

LOCAL PLANNING POLICY

LPP8: RETROSPECTIVE PLANNING APPLICATIONS & FEES

<i>Responsible Department</i>	Development Services
<i>Resolution Number</i>	C.2190
<i>Resolution Date</i>	18/12/2013
<i>Next Scheduled Review</i>	2021
<i>Related Shire Documents</i>	Local Planning Scheme No. 6
<i>Related Legislation</i>	Planning and Development Act 2005 Planning and Development (Local Planning Schemes) Regulations 2015

OBJECTIVES

The primary objectives are to:

- (a) Ensure that no development or use adversely impacts upon the amenity of the area or upon vistas from public roads;
- (b) Provide certainty for landowners of the requirements within the Shire by ensuring that all development issues are considered when applying for retrospective planning approval and that the rural nature of the Shire is maintained;
- (c) Ensure that constructed developments are not utilised illegally; and
- (d) Provide guidance to the Shire's officers when considering applications made under this policy.

DEFINITIONS

The following are definitions that may be used as part of this policy in addition to the definitions included in Local Planning Scheme No 6:

"Act" means the Planning and Development Act 2005.

"Council" means the elected members of the Shire.

"LPS 6" means Local Planning Scheme No 6.

"Owner" means an owner of land that is located within a development contribution area.

“**Scheme**” means Local Planning Scheme No 6.

“**Shire**” means the Shire of Northam.

STATUTORY POWERS

This Local Planning Policy is made pursuant to clause 2.2 of the Shire’s Scheme.

POLICY STATEMENT

All applications for the retrospective approval of land use and/or development will be assessed against this policy prior to a decision being made under the provisions of the Scheme. Where an application is deemed to be consistent with the objectives and provisions of the Policy, consent may not be required from Council.

In determining the application, the Shire may:

- (a) Approve the application; or
- (b) Approve the application with conditions; or
- (c) Refuse the application and require removal of the unapproved development or cessation of the unapproved land use; and/or
- (d) Initiate legal prosecution against the landowner.

Planning consent is valid for a period of two (2) years from the date of consent, during which time, a Certificate of Building Compliance must be obtained or the consent will be extinguished.

Need for a Certificate of Building Compliance

Notwithstanding that retrospective planning approval may be granted by the Shire, a Certificate of Building Compliance is required to be sought and issued by the Shire’s building surveyor within twenty-one (21) days of retrospective planning approval being issued.

Advertising

All applications for retrospective planning approval are required to be advertised in accordance with Clause 9.4 of the Scheme.

Approval Without Referral to Council

Development that complies with the criteria as set out in Table 1 may be approved by delegated authority without referral to Council.

Referral to Council

Development that fits one or more of the criteria outlined in Table 2 will be referred to Council for determination.

Table 1 – Development That May be Approved Without Referral to Council

Development Type	Zone	Design/Location
Structures	All Zones	Where the development: (a) Complies with a permissible or discretionary use under the Scheme; (b) Complies with the provisions of the Scheme and/or the provisions of any Local Planning Policy created under that Scheme; (c) Following advertising, no objections based on planning grounds, in the opinion of the delegated officer, are received; and (d) In the opinion of the delegated officer does not warrant the attention of Council.
Keeping of Stock	All Zones	(a) Where the keeping of stock is a permissible or discretionary use under the Scheme; (b) Where the keeping of stock complies with the provisions of the Scheme and the provisions of any Local Planning Policy created under that Scheme; (c) No environmental damage has occurred in the opinion of the Shire; (d) The applicant submits an acceptable stock management plan; (e) Following advertising, no objections based on planning grounds, in the opinion of the delegated officer, are received; and (f) In the opinion of the delegated officer, does not warrant the attention of Council.
Change of Use	All Zones	Where the land use: (a) Complies with a permissible or discretionary use under the Scheme; (b) Complies with the provisions of the Scheme and/or the provisions of any Local Planning Policy created under that Scheme; (c) Following advertising, no objections based on planning grounds, in the opinion of the delegated officer, are received; and (d) In the opinion of the delegated officer, does not warrant the attention of Council.
Earthworks	All Zones	Where the earthworks: (a) Do not exceed 1m of fill; (b) Does not comprise more than one third of the total land area;

Development Type	Zone	Design/Location
		<p>(c) Would be consistent with the requirements, in the opinion of the Shire's Executive Manager Development Services, under the building program; and</p> <p>(d) In the opinion of Shire staff, does not constitute negative amenity impact to the local area or to adjoining landowners.</p>

Table 2 – Development That Will be Referred to Council for Determination

Development Type	Zone	Design/Location
Structures	All Zones	<p>Where the development:</p> <p>(a) Is not a permissible or discretionary use under the Scheme;</p> <p>(b) Does not comply with the provisions of the Scheme and/or the provisions of any Local Planning Policy created under that Scheme;</p> <p>(c) Following advertising, objections based on planning grounds, in the opinion of the delegated officer, are received; and</p> <p>(d) In the opinion of the delegated officer, does warrant the attention of Council.</p>
Keeping of Stock	All Zones	<p>(a) Where the keeping of stock is not a permissible or discretionary use under the Scheme;</p> <p>(b) Where the keeping of stock does not comply with the provisions of the Scheme and/or the provisions of any Local Planning Policy created under that Scheme;</p> <p>(c) Where environmental damage has occurred in the opinion of the Shire;</p> <p>(e) Following advertising, objections based on planning grounds, in the opinion of the delegated officer, are received; and</p> <p>(d) In the opinion of the delegated officer, does warrant the attention of Council.</p>
Change of Use	All Zones	<p>Where the land use:</p> <p>(a) Is not a permissible or discretionary use under the Scheme;</p> <p>(b) Does not comply with the provisions of the Scheme and/or the provisions of any Local Planning Policy created under that Scheme;</p> <p>(c) Following advertising, objections based on planning grounds, in the opinion of the delegated officer, are received; and</p>

Development Type	Zone	Design/Location
		(d) In the opinion of the delegated officer, does warrant the attention of Council.
Earthworks	All Zones	Where the earthworks: <ul style="list-style-type: none"> (a) Exceeds 1m of fill; (b) Comprises more than one third of the total land area; (c) Would not be consistent with the requirements, in the opinion of the Shire's Executive Manager Development Services, under the building program; and (d) In the opinion of Shire staff, constitutes negative amenity impact to the local area or to adjoining landowners.

Part 13 – Division 3 of the Act – Infringement Notices

The Shire, at its discretion, may issue an infringement notice to the landowner for the commencement of unapproved development as prescribed in the *Planning and Development Act 2005*.

Fees

The fees payable for applications under this policy are set by Council each year in accordance with its budgetary process and in accordance with the *Planning and Development Regulations 2009*.

Retrospective fees (twice the original designated application fee) are also applicable to any application assessed against this policy.

Legal prosecution and/or a planning infringement notice may also be initiated against the landowner for any unapproved development and/or land use undertaken in the Shire without prior approval of the local government as provided for under the Scheme.