



<b>POLICY NO</b>	Local Planning Policy 16
<b>POLICY</b>	<b>Heritage Places</b>

## CITATION

This is a Local Planning Policy prepared under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This Policy may be cited as Local Planning Policy 16 – Heritage Places.

## INTRODUCTION

This policy provides guidance on the assessment of development proposals which affect local heritage places and information to assist with the protection and conservation of local heritage places within the Shire of Wyndham East Kimberley (the Shire).

## OBJECTIVES

This policy seeks to:

- Conserve and protect places of local heritage significance;
- Ensure that development does not adversely affect the significance of local heritage places;
- Ensure that heritage significance is given due weight in local planning decision making;
- Provide certainty to landowners and community about the planning processes for heritage identification and protection; and
- Clarify the format and content of accompanying material for development applications.

## APPLICATIONS SUBJECT TO THIS POLICY

### Shire of Wyndham East Kimberley Heritage List

- This policy applies to all Category 1 and 2 places identified in the Heritage List.

#### Category 1 - State Register of Heritage Places (State Register)

Places listed on the State Register are protected by the *Heritage Act 2018*.

Proposed development for places on the State Register requires development approval and, unless exempt, may also require referral to the WA Heritage Council for heritage assessment prior to determination by the Shire.

Applicants can obtain further information from the Heritage Development Team at the Department of Planning, Lands and Heritage ([hcwareferrals@dplh.wa.gov.au](mailto:hcwareferrals@dplh.wa.gov.au)).

#### Category 2 – Places of considerable local heritage significance

Development approval is required for all Category 2 places listed on the Heritage List

### Shire of Wyndham East Kimberley Local Heritage Survey (Category 3 and 4 places)

- Category 3 and 4 places identified in the Local Heritage Survey do not have any heritage development constraints under this Policy, however in recognition of their heritage value the Shire will, upon request, consider the application of Sections 6 and 7 of this policy 'Incentives and Grants' for eligible projects.



## APPLICATIONS NOT SUBJECT TO THIS POLICY

- General Listings - Heritage List and/or Local Heritage Survey  
Unless separately identified as a specific heritage place, development approval under this Policy is not required for development on any land parcels located within the general listings of:
  - G1 'Gulley Road Precinct';
  - KD1 'Ord river Irrigation Area (ORIA) project';
  - WP3 'Original Wyndham Town Site'; or
  - WT1 'Wyndham Port Town'.
- Aboriginal Cultural Heritage  
Aboriginal Cultural Heritage in Western Australia is protected by the *Aboriginal Heritage Act 1972* and, following transition, the *Aboriginal Cultural Heritage Act 2021*. Information in relation to Aboriginal Cultural Heritage should be sought from the Department of Planning, Lands and Heritage (DPLH) and/or the Aboriginal Cultural Heritage Council (ACHC).

## POLICY PROVISIONS

The Shire of Wyndham East Kimberley Heritage List identifies the need for conservation and protection of local heritage places. This Policy applies the development control principles contained *State Planning Policy 3.5 Historic Heritage Conservation* and details procedures for making application for development approval at local heritage places.

### 1. Development Assessment of Places on the Heritage List:

- 1.1 All applications for development or works, including demolition, for places on the Heritage List require a development approval.

Places on the State Register will be referred to the WA Heritage Council for consideration prior to the Shire's development assessment. Depending on the extent of the proposed development or works a Heritage Impact Statement (HIS), prepared in accordance with the WA Heritage Council guidelines, may be required to accompany the application. Preparation of a HIS is at the Applicant's expense.

- 1.2 In addition to the accompanying materials required at clause 63 of the Deemed Provisions, all development applications must include written documentation identifying the existing heritage fabric of the place and how the proposed development responds to the heritage values of the place.

Depending on the extent of the proposed development or works, a Heritage Impact Statement (HIS) prepared in accordance with the WA Heritage Council guidelines may be required to accompany the application. Preparation of a HIS is at the Applicant's expense.

- 1.3 All applications in relation to a place on the Heritage List, will be assessed with regards to sections 6.5 and 6.6 of State Planning Policy 3.5 Historic Heritage Conservation (2007) (SPP 3.5), and the assigned level of significance as detailed in the Local Heritage Survey.

- 1.4 Excepting applications for demolition, where the application is assessed as being consistent with SPP 3.5 and the assigned level of significance, as detailed in the Local

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Heritage Survey, the application may proceed to determination by the Planning Services team.

- 1.5 If the application is not consistent with SPP 3.5 and the assigned level of significance, as detailed in the Local Heritage Survey, the application shall be referred to the Council for consideration.
- 1.6 As part of its assessment, the Shire may vary any site or development requirements of the Scheme as deemed necessary, and as identified in Section 7 of this Policy.

## **2. Proposed Demolition**

- 2.1 All development applications for demolition or part demolition of a place listed on the Heritage List shall be referred to the Council for consideration.
- 2.2 All applications for demolition or part demolition of a place listed on the Heritage List must be accompanied by written justification for the demolition or part demolition of the place, together with a structural condition assessment report, if structural failure is cited as a reason for demolition.

Written justification shall be in the form of a Heritage Impact Statement (HIS), prepared in accordance with the WA Heritage Council guidelines and at the applicants cost.

A structural condition assessment report, shall be prepared by a registered structural engineer and provided to substantiate that the structural integrity of the building has failed and cannot be rectified without the removal of the building.

- 2.4 All approved applications for demolition or part demolition of a local heritage place listed on the Heritage List shall be conditional on the preparation of an archival record, prior to commencement of any development.

## **CONDITIONS OF APPROVAL**

In addition to standard conditions, conditions that may be imposed on a development approval for a heritage place, may include, but are not limited to:

- The preparation of a Heritage Impact Statement (HIS) in accordance with the Heritage Council guidelines;
- The preparation of an archival record;
- The preparation of interpretative material or an Interpretation Plan;
- The signing of a heritage agreement.;
- Any other condition which secures a positive conservation outcome.

## **3. Archival Record**

An archival record may be required as a condition of approval in the case of demolition or partial demolition to a place listed on the Heritage List.

An archival record records information on places and can be prepared by an applicant without the need to engage a professional.

Archival records must be prepared in accordance with the WA Heritage Council's standard for archival recording and shall be submitted to the Shire in electronic format.

## **4. Interpretative materials and Interpretation Plans**



An Interpretation Plan or other interpretative materials may be required as a condition of approval or as a requirement of a Heritage Agreement.

Interpretation enhances understanding and strengthens relationships between the community and its heritage. The Shire encourages the use of interpretative materials as a means of conveying the cultural heritage significance of a place.

Interpretive material will not require a separate development approval however, a building permit may still be required, dependent upon what is proposed.

In determining whether Interpretation is required for a particular proposal, the following criteria will be considered by the Shire:

- The extent of proposed development to the local heritage place;
- The extent to which the proposal will impact on the significant fabric or cultural heritage value of the local heritage place; and
- The level and nature of cultural heritage significance of the local heritage place and the extent to which interpretative material will increase community understanding of the place.

Appropriate interpretive techniques will vary depending on the level and nature of significance of the building or place to be interpreted and the location of the interpretive element so that it does not interfere with the fabric of a building, or views of the place. The following list is not exhaustive, however the following interpretive techniques may be considered:

- Where appropriate, restoration of the original fabric of the heritage building (original colours, features, finishes, fittings and furnishings) and/or original landscape treatments;
- Installation of appropriate interpretive panels or signage, explaining the significance and history of the local heritage place or building;
- Art works that illustrate historic themes of the local heritage place and the area, including former use of the local heritage place or building;
- Media or publications based on research of the local heritage place or building, which may include documentary research and/or oral history;
- Monetary contribution towards heritage conservation projects in the relevant area, which may include heritage trails, heritage interpretation projects etc. This could include Shire projects or community-based projects.

The content of all interpretative materials must be culturally appropriate and if relating to Aboriginal significance must be approved by the relevant agency.

## 5. Heritage Agreements

The use of a heritage agreement may be considered where there is a specific need or desire to preserve or protect a local heritage place with suitable cultural heritage significance. A heritage agreement is a legal agreement between the Shire and a land owner of a local heritage place.

A heritage agreement may be considered where the Shire offers planning concessions or other incentives or, where specific interpretation material is required to ensure the legal commitment of the land owner to a particular outcome.



## INCENTIVES AND GRANTS

### 6. Incentives

Heritage provisions under the Scheme allow for development standards to be varied and the Shire is committed to assisting private land owners to conserve heritage places wherever possible.

The following incentives can be considered for private land owners of local heritage places listed on the Heritage List or the Local Heritage Survey:

- Waiving of Development Application fees:  
The Shire will waive Development Application fees for local heritage places listed on the Heritage List or the Local Heritage Survey, where the applicant/owner proposes development that will enhance or maintain the heritage aspects of the place.

The waiving of planning fees only applies to the standard development (planning) application fee and does not include the following fees:

- WAPC subdivision, amalgamation and clearance fees;
  - Home Occupation or Home Business fees;
  - Rezoning fees;
  - Other fees charged by the Local Government.
- Relaxation / Variation of Planning Requirements:  
The Shire will consider the flexible application of Local Planning Scheme and the Residential Design Code requirements in relation to local heritage places and will consider variations to certain development standards including, but not limited to, the following:
    - Parking requirements
    - Residential density
    - Use categories
    - Setbacks
    - Other development standards

All applications for variations of development standards will be assessed on merit and applicants are encouraged to provide sufficient justification to enable consideration of any variations.

### 7. Heritage Grants for Conservation Works

The local government is committed to providing support for private land owners of local heritage places listed on the Shire's Heritage List and Local Heritage Survey to undertake conservation works.

Applications may be made to the Shire under the Heritage Grant Program and further information regarding eligibility and specific criteria is detailed in the Shire's Heritage Grant Guidelines.

## CONSULTATION

Dependent upon the nature of the proposal, development applications may require advertising for public comment and may also be referred to relevant stakeholders and/or government

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agencies in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015* (as amended).

The Shire may also seek the advice of a qualified Heritage Consultant.

## DEFINITIONS

Unless otherwise noted, terms used in this Policy have common meanings and include those defined in the *Planning and Development Act 2005*, *Planning and Development (Local Planning Schemes) Regulations 2015* and the *Heritage Act 2018*.

**Aboriginal Cultural Heritage Council (ACHC)** means the body established under the *Aboriginal Cultural Heritage Act 2021*. The Council provides advice to the Minister for Aboriginal Affairs, designates local Aboriginal cultural heritage services and approves permits and management plans.

**Archival Record** means a record of a heritage place, building or object. An archival record must fall within one of three categories: detailed, standard or photographic.

**Conservation** means the continuous protective care of a place, and its setting.

**Deemed Provisions** means the provisions set out in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

**Fabric** means all the physical material of the place, including elements, fixtures, contents and objects.

**Heritage Agreement** means an agreement providing commitments by the land owner and obligations of the owner regarding conservation of the subject land and may include any other provision necessary for the purposes of carrying into effect the objectives of the *Heritage Act 2018*.

**Heritage Impact Statement** means a written account which describes and evaluates the likely impact, positive and negative, of a proposal.

**Heritage List** means a heritage list adopted by Council, which contains places which have the highest cultural heritage significance and have been assigned a management Category 1 or 2.

**Impact** means the manner in which proposed works will, or are likely to, affect the cultural heritage significance of a place.

**Interpretation** means all the ways of presenting the significance of an object, building or place.

**Interpretation Plan** means a document providing policies, strategies and detailed advice for ensuring that the heritage significance of places, objects, buildings or traditions can be communicated.

**Local Aboriginal Cultural Heritage Services (LACHS)** means a corporation designated by the Aboriginal Cultural Heritage Council to provide Local Aboriginal Cultural Heritage services for an area of the State.



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**Local heritage place** means a place that meets the definition of a heritage-protected place in clause 1A, Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, with the exception of any place that is:

- Entered in the State Register of Heritage Places under the *Heritage Act 2018* section 42;
- The subject of an order under the *Heritage Act 2018* Part 4; or
- The subject of a heritage agreement that has been certified under the *Heritage Act 2018* section 90, to which the Heritage Council of Western Australia is a party.

**Local Heritage Survey** means a local government adopted document that identifies and records places that are of cultural heritage significance to the local community. Management categories are used to reflect the value of each of these places and range from Category 1 – Exceptional Significance down to Category 4 – Little Significance

**Restoration** means returning a place to a known earlier state by removing accretions or by reassembling existing elements without the introduction of new material.

**Significant fabric** means fabric identified as contributing to the cultural heritage significance of the place.

### DOCUMENT CONTROL

<b>Responsible Directorate</b>	Planning and Community Development	
<b>Responsible Officer</b>	Manager Planning and Regulatory Services	
<b>Council Adoption</b>	Date:	Resolution No:
<b>Reviewed/Modified</b>	Date:	Resolution No:
	Date:	Resolution No:
<b>Review Due</b>	Date:	
<b>Compliance Requirements</b>		
<b>Legislation</b>	Planning and Development (Local Planning Schemes) Regulations 2015	
<b>Organisational</b>	Local Planning Scheme No. 9	
<b>Strategic Community Plan</b>	Focus Area 1 - People	