



Ordinary Council Meeting

11 November 2020

NEW BUSINESS OF AN URGENT NATURE

REPORT & ATTACHMENT

ITEM NO

SUBJECT

14.2.1

ACCOMMODATION FOR SEASONAL WORKERS

14.2 ACCOMMODATION FOR SEASONAL WORKERS

LOCATION/ADDRESS	Shire of Augusta Margaret River
APPLICANT/LANDOWNER	N/A
FILE REFERENCE	LND/52
REPORT AUTHOR	Nick Logan, Director Sustainable Development and Infrastructure
AUTHORISING OFFICER	Stephanie Addison-Brown, Chief Executive Officer

Reasons for treating as urgent business

It is recommended that this matter be treated as urgent business under clause 4.12 of the Standing Orders Local law. This is on the basis that the nature of the matters considered in this report relate to the urgent provision of workers accommodation prior to peak demand for employment of seasonal workers. Holding this matter over until the next Council meeting may delay action on this matter.

IN BRIEF

- There is existing pressure on the availability of residential accommodation in the Shire. This situation is a significant impediment to securing seasonal workers for the key sectors of agriculture, tourism and hospitality in the coming months.
- An industry group has formed and made representation to the State Government to assist the current State and Federally funded seasonal agricultural worker programs and extend these programs to hospitality and tourism sector workers.
- There are some actions that the Shire can take to temporarily support an increase in the supply of seasonal worker accommodation.

RECOMMENDATION

The Council:

1. Notes the Shire's intent to promote the use of latent capacity in existing dwellings for seasonal workers accommodation;
 2. Modifies Local Planning Policy 17 as included as Attachment 1, to make the short stay accommodation of seasonal workers exempt in permanently occupied dwellings and permit permanent use of built accommodation permitted for short stay purposes. This modification to be undertaken as a minor amendment under clause 5(2) of the *Planning and Development (Local Planning Schemes) Regulations*;
 3. Notes the intent to progress planning applications for rural worker accommodation as a priority; and
 4. Notes that variations to existing caravan parks and nature-based camping areas to provide capacity for seasonal workers may be permitted as a temporary land use under Clause 61(f) of the *Planning and Development (Local Planning Schemes) Regulations*, on a case by case basis.
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BACKGROUND

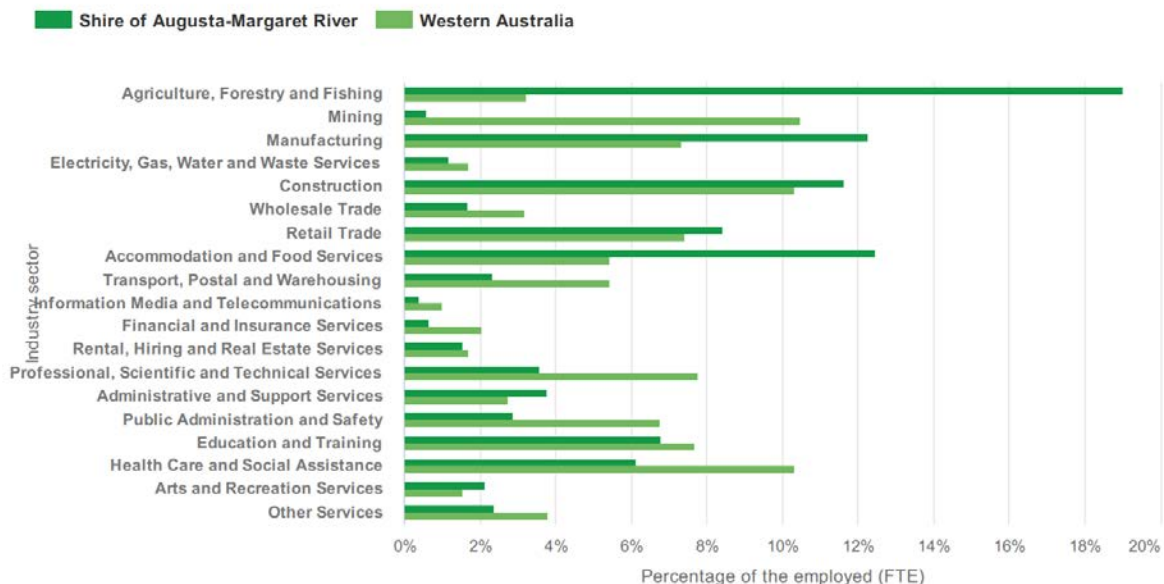
The Capes Region is currently experiencing pressure on housing availability due to a number of factors, with demand evident in reported high sales volumes of dwellings, and extremely low vacancy rates and availability of rental accommodation. It is likely that contributing factors include the well reported phenomenon of migration to regional areas as a consequence of COVID-19 related issues and high rates of domestic tourism occupying housing stock, coupled with underlying and consistently high population growth rates.

Demand for rental accommodation is typically reflected in an increase in the viability of new dwelling construction and recent activity in the residential building sector in the Shire suggests that demand factors, coupled with the State and Federal residential construction stimulus measures, are indicating a medium term increase in dwelling supply will ease pressure on the availability of rental accommodation. The actual delivery of this supply is likely to be at least six to nine months from this point in time.

SHIRE OF AUGUSTA MARGARET RIVER
URGENT BUSINESS – 11 NOVEMBER 2020 ORDINARY COUNCIL MEETING

At the same time as there is pressure on accommodation supply, there is a further known issue with the availability of workers, specifically seasonal workers, in the agricultural, tourism, hospitality and retail sectors. In 2018 the agriculture (1,116 people or 19.0%), accommodation and food services (732 people or 12.5%) and manufacturing (720 people or 12.3% - which includes wine production) sectors collectively employed 2,568 people or 43.8% of the Shire's workforce. The continued success of these sectors and the broader economy in the Shire is critical to the economic well-being of the community. The comparative importance of these industries is evident in the breakdown of workers in the Shire shown in Figure 1.

Employment (FTE) 2018/19



The availability of workers in these key sectors is both an existing issue reported by local business, and a very real potential issue for the upcoming agricultural/wine manufacturing seasons and peak holiday periods, given the lack of itinerant workers as a result of COVID-19 related border restrictions. It is anticipated that the total volume of the pool of international workers is currently less than 50% at a national level. At the same time schemes such as the Federal Government's Trail Harvest Service and the State's 'Work and Wander out Yonder' are supplementing traditional efforts by local employment services to source employees. The recent relaxation of border controls may also serve to alleviate restrictions on the internal migration of labour supply in the short term.

In general terms business appears confident to be able to attract employees however, the ability of staff to secure accommodation in the region is an obstacle to the connection of employer and employee. This situation is not unique with the NSW State Government working with industry bodies in the Hunter and Central West regions to establish temporary campsites to address harvest worker accommodation requirements. Within the Shire, accommodation for local employees in these key sectors remains a challenge in the Shire's competitive residential accommodation market.

It is likely that different sectors and different types of workers have different accommodation needs and the full scope of employees in these sectors could be accommodated in a variety of forms of accommodation including private dwellings, camping, and rural workers accommodation facilities.

An Industry Group comprised of the Margaret River Busselton Tourism Association (MRBTA), Margaret River Wine Association (MRWA), Busselton Chamber of Commerce and Industry (BCCI), Margaret River Chamber of Commerce and Industry (MRCCI), and the Augusta Chamber of Commerce and Industry (ACCI) together with the City of Busselton and Shire of Augusta Margaret River have met to discuss the issue. To date the Group has progressed a multi-faceted approach including:

- Lobbying for an expansion of the State accommodation subsidy under the 'Work and Wander Scheme', to provide a phased subsidy for homeowners making rooms available for key workers.

- Potentially making some forms of traditional short stay accommodation available for longer periods for continuously employed workers, with a further phased subsidy payment being made available to operators taking up this opportunity.
- Ensuring at a Local Government level, the opportunities described above are facilitated by the approach taken to permissibility of land use.

While there is imperfect data about the current issue and some generalised assumptions, the impending peak holiday period and agriculture season means any response to assist to resolve this issue is time critical, requiring an immediate response.

CONSULTATION AND ADVICE

External Consultation

Several accommodation providers have approached the Shire expressing a desire to increase or provide accommodation capacity for key workers on a temporary basis. These discussions will continue based on the context set for accommodation options by the Council.

The Industry Group provides a forum covering a wide group of stakeholders and provides an avenue for a coordinated response to the issue. Members of this group have held further discussions with local employment

Internal Consultation

Potential flexibility in the approval process has been the subject of discussion with internal technical business areas to ensure any flexibility for providing non-conventional forms of residential accommodation can occur in a manner meeting health, safety and amenity requirements embodied in building and environmental health related legislation.

PLANNING FRAMEWORK

The requirements for planning approval are set out in Local Planning Scheme No. 1 (LPS1), with exemptions from the need to get approval detailed in the *Planning and Development (Local Planning Schemes) Regulations*, the Shire's Local Planning Policy 17 – Exemptions from Planning Approval, and the Ministerial Notice of Exemptions in response to COVID-19 related issues. The Ministerial notice was put in place for a temporary period (until 1 May 2023) to provide greater flexibility in the planning system, with the DPLH noting that:

Planning approval requirements can create a lag in the response of land use rights to emerging issues. The Pandemic has highlighted three major issues with Western Australia's planning system:

- *An immediate crisis response can be inhibited when existing conditions of development approvals either prohibit or constrain actions that are in the State or national interest.*
- *Existing businesses can be prevented from responding to sudden changes in circumstances.*
- *Local governments may be constrained in responding rapidly to a crisis.*

Following from the principles of providing flexibility in the planning system to respond to unforeseen and urgent requirements, there are a number of options open to the Shire to provide expedient planning outcomes, including:

- Providing further exemptions from certain activities through LPP17. Providing written exemptions requires absolute clarity on the nature of the activity being exempted. Any modification to LPP17 must follow the process detailed at clause 4 of the *Planning and Development (Local Planning Schemes) Regulations*. This requires advertising and further consideration of Council post advertising. Under clause 5 of these regulations the Shire may set the advertising and further consideration requirements aside if it is satisfied that the amendment to the policy is a minor amendment.
- Acknowledging that certain activities may occur on a temporary basis without obtaining planning approval. An element of discretion can be applied through this approach, judging each specific issue on merit without the requirement for formal approval. This is likely to be the most flexible approach. Clause 61(f) of the *Planning and Development (Local Planning Schemes) Regulations* provides the exemption for 'temporary works which are in existence for less than 48 hours, or a longer period agreed by the local government, in any 12-month period'. Delegation exists for staff to implement this approach.

- Not taking enforcement or compliance action over certain activities occurring without approval. While enforcement and compliance is discretionary, the decision not to enforce specific requirements needs to be made both strategically and with a clear view of the potential consequences of allowing non-compliant development or use to continue and carries significant risk.

There are typically a number of key policy criteria and planning considerations that are weighed when considering accommodation proposals through the planning system and any consideration of temporary exemptions from this system need to ensure that the principles of these policy directives are not being compromised. Any exemptions from the planning system would need to be exercised with due regard to broader policy considerations and compliance with other statutory requirements. These include:

- Compliance with the principles of the State Planning Policy 3.7 – Planning in Bushfire prone Areas.
- Ensuring that land use doesn't introduce land use conflict or compromise the primary purpose of a particular site or surrounding land use.
- The relationship of land use to other forms of regulation, such as the need for a change of classification of buildings under the Building Act.

With respect to ensuring that key considerations are still enshrined in the permissibility of different forms of accommodation, the planning methods used to consider whether accommodation can be used for seasonal workers needs to enable application of these considerations. Table 1 further below describes methods for each potential form of accommodation.

DISCUSSION / OFFICER COMMENTS

Measures discussed by the Industry Group to address the issue of key worker availability are a combination of:

- Providing a financial incentive to key workers and accommodation providers.
- Measures from training providers to upskill the local workforce.
- Ensuring that options for accommodation are, as much as possible, facilitated by a flexible approach to the nature of permitted accommodation.
- Communicating the approach to accommodation provision to encourage supply to meet the needs for seasonal workers, including local residents that are also employees in the aforementioned key industry areas.
- Making the connection between seasonal workers and the potential suppliers of accommodation.

The Industry Group has met and made representation to the State Government requesting an adjunct to the \$40 nightly subsidy made available under the Work and Wander Out Yonder Scheme and relocation assistance (up to \$6,000) available to agricultural workers under the federal agricultural workers relocation assistance scheme. In particular this Industry Group representation sought to extend the scheme from agricultural workers to relocated hospitality and tourism employees. The Federally funded relocation assistance scheme for agricultural workers also has some limitations through not applying to employees in the hospitality and tourism sectors and by requiring continuous and minimum hours of employment which could be difficult to consistently meet.

The Shire's participation in a wider Industry Group solution ensures consistency in a planned response to key worker accommodation issues. In particular there are actions that the Shire could take to temporarily address the supply side of the accommodation issue. There is likely demand for different forms of accommodation for different types of workers, with the underlying requirement that all forms of accommodation should meet basic requirements for health, safety and the wellbeing of those residents.

The Shire typically has a comparatively high rate of unoccupied dwellings. In 2016, a total of 72.5% of the dwellings in the Shire of Augusta-Margaret River were occupied on Census night, compared to 80.8% in Regional WA. The proportion of unoccupied dwellings was 26.7%, which is larger compared to that found in Regional WA (18.5%). In 2016 approximately 75% of dwellings in the Shire had three (38%) or more (37%) bedrooms the typical occupancy rate for dwellings, while the average occupancy rate for occupied dwellings sat at 2.38 people per dwelling. This suggests that there is significant capacity for accommodation in existing dwellings, and a number of unoccupied dwellings that could be utilised.

SHIRE OF AUGUSTA MARGARET RIVER
URGENT BUSINESS – 11 NOVEMBER 2020 ORDINARY COUNCIL MEETING

The Caravan Park and Camping Grounds Regulations 1997 provide some flexibility to existing licence holders to operate an overflow area. The use of an overflow area is subject to Shire approval and the Shire has the authority to place specific conditions on the use of the area. Conditions may include stipulating the period of time the overflow area can be used and requiring additional facilities such as temporary toilets. In addition, there is an ability to vary Caravan Park licences to introduce the ability to use sites for what is termed 'long stay' or greater than a three-month period which is often otherwise restricted by conditions of existing approvals.

Nature-based campgrounds can be approved under the Caravan Park and Camping Grounds Regulations 1997 where camping in areas that are predominantly characterised as having natural elements. The Shire can apply flexibility with regards to the provision of facilities in these parks, depending on the target market. For example, if the park caters to fully self-sufficient travellers, this may remove the requirement to provide ablutions, water, and electricity.

There are properties in the Shire that have permanent ablution facilities that are used sporadically for camping, for example, in association with an event. The cancellation of larger events due to COVID has resulted in owners looking for alternative sources of income. Depending on the facilities and location, these properties could be licenced under the Caravan Park and Camping Grounds Regulations on a temporary basis.

Potential accommodation options, solutions and any necessary action from the Shire is described in Table 1:

Potential Accommodation	Current Impediments	Potential Shire Response
Latent capacity in existing dwellings	<ul style="list-style-type: none"> • People unaware of demand for accommodation or hadn't considered renting spare space. • Potentially short stay of workers for less than three months being technically short stay use under the Shire's LPS1 requiring Shire approval. • Dwellings being used for short stay accommodation without approval and in areas intended for permanent residential accommodation. 	<ul style="list-style-type: none"> • Support the promotion of the use of unoccupied dwellings and bedrooms for permanent accommodation. • Make the exemption for the short stay accommodation of key workers in occupied dwellings explicit in the Shire's LPP17. • Undertake a concerted seasonal compliance process to ensure short stay accommodation of entire houses has the necessary approvals.
Rural workers accommodation	This form of accommodation provides for accommodation additional to a dwelling, in a rural context where occupied by people working on the property. The main impediment here to resolve the current issue is not permissibility, but the time to establish this form of accommodation given the need for construction/establishment and necessary services.	Progress any applications for rural workers accommodation as a priority.
Nature based camping	Nature based camping sites have been established in the Shire. These are generally low key campsites based in natural areas where a flexible approach is taken to the nature of facilities provided and applied on a case by case basis.	Permit temporary expansion of nature-based camping facilities, where capacity is for key workers and on a site by site basis where facilities and site conditions are conducive to temporary expansion. This requires consideration of the nature of facilities and the site

SHIRE OF AUGUSTA MARGARET RIVER
URGENT BUSINESS – 11 NOVEMBER 2020 ORDINARY COUNCIL MEETING

		and should be considered on a case by case basis as a temporary land use.
Expansion of existing camping areas and change of operating conditions	There are a number of camping areas established within the Shire that either have capacity for expansion with existing facility provision, could potentially be expanded with a minimal expansion of supporting facilities, could be supported to expand temporarily based on the use of temporary facilities, or could modify short stay sites for longer stays	Permit a temporary expansion of camping areas where additional capacity is reserved for key workers and where additional temporary facilities can be provided or where capacity exists in existing facility provision. This requires consideration of the nature of facilities and the site and should be considered on a case by case basis as a temporary land use.
Use of built tourism accommodation for permanent accommodation	Tourism accommodation is typically constrained to short stay accommodation only. With some subsidy provided it may be possible that accommodation providers would make a portion of this accommodation available to key workers.	Provide an exemption in LPP17 for a temporary period to utilise tourism accommodation to accommodate seasonal workers.

Table 1. Potential Accommodation Options

These potential accommodation options outlined in Table 1 could therefore be facilitated by:

1. Supporting the promotion of latent capacity in existing dwellings.
2. Modifying Local Planning Policy 17 to make the short stay accommodation of seasonal workers exempt in permanently occupied dwellings and permit permanent use of built accommodation permitted for short stay purposes. Draft modifications to LPP17 are included as Attachment 1 and are proposed to be progressed as a minor amendment to the policy.
3. Progress applications for rural workers applications as a priority.
4. Permit variations to existing caravan parks and nature based camping areas to provide capacity for seasonal workers as a temporary land use under Clause 61(f) of the *Planning and Development (Local Planning Schemes) Regulations*.

The quantum of accommodation required cannot be completely determined with any degree of accuracy given the dynamic nature of employment requirements and the relative ability of potential employees to secure accommodation. It is envisaged that the above measures would need to accommodate hundreds of key workers and the capacity exists in these solutions to provide that level of accommodation.

At the same time as accommodation is required for key workers, accommodation for permanent residents, including those already employed in the agriculture, tourism and hospitality sectors is a critical need for the community. Providing scope for additional accommodation of key workers is intended to introduce new capacity into the accommodation supply market. The alternative measure of not taking action runs a very real risk that accommodation remains constrained, becomes increasingly competitive and an impediment for seasonal workers. In the case of workers in the hospitality and tourism sectors peak demand and accommodation requirements will commence shortly, with peak demand for agricultural (and agricultural manufacturing) workers commencing early in the new year. In that respect these accommodation requirements predate the State eviction moratorium for rental tenancies which, at this stage, ceases on 28 March 2021. Providing flexibility in the supply side of accommodation in the short term is anticipated to have the effect of reliving, rather than creating, pressure on housing availability.

STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS

Caravan Parks and Camping Grounds Act 1997

Caravan Parks and Camping Grounds Regulations 1997

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

STRATEGIC PLAN / POLICY IMPLICATIONS

Community Strategic Plan 2036 (CSP)

Corporate Business Plan 2019-2023

Key result area 4: Vibrant and diverse economy

Community Outcome 4.1: Strong agriculture and viticulture sectors

Strategic Response: Ensure Shire processes support the development of strong, sustainable and innovative agriculture, viticulture and aquaculture sectors

Service level strategy/plan: Local Planning Scheme No. 1.

FINANCIAL IMPLICATIONS

Implications

There are no direct implications for the Shire's budget.

Long Term Financial Plan

There are no direct implications on the Shire's LTFP.

Whole of Lifecycle considerations

This issue does not include any Shire owned assets.

SUSTAINABILITY IMPLICATIONS

Environmental

There is unlikely to be any environmental impacts arising from the recommended decision.

Social

The social impacts of integrating the seasonal workforce into other forms of accommodation is limited by the short duration of the initiative. All accommodation solutions proposed have the ability to ensure a safe and healthy living environment for seasonal workers. As the response is about building supply and capacity in the accommodation to house seasonal workers, the chosen methods are considered to avoid negative effects on existing residents.

Economic

Seasonal workers provide an essential workforce for the key industry sectors of hospitality, tourism and agriculture. The pressure to secure these workers is becoming critical, with the availability of accommodation a major impediment. Taking no action on this issue may compromise the ability of these industries to function effectively.

ADVOCACY

A primary role that the Shire can fulfil is to participate in wider industry-based solutions and advocate for appropriate State and Federal Government responses.

IMPLICATIONS OF ALTERNATIVE RESOLUTION

There is no requirement or directive to act on the issue of seasonal worker accommodation. Should no action be taken, it is possible that options for assisting to accommodate seasonal workers would be lost.

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

The Council:

1. Notes the Shire's intent to promote the use of latent capacity in existing dwellings for seasonal workers accommodation;
2. Modifies Local Planning Policy 17 as included as Attachment 1, to make the short stay accommodation of seasonal workers exempt in permanently occupied dwellings and permit permanent use of built accommodation permitted for short stay purposes. This modification to be undertaken as a minor amendment under clause 5(2) of the *Planning and Development (Local Planning Schemes) Regulations*;
3. Notes the intent to progress planning applications for rural workers applications as a priority; and

SHIRE OF AUGUSTA MARGARET RIVER
URGENT BUSINESS – 11 NOVEMBER 2020 ORDINARY COUNCIL MEETING

4. Notes that variations to existing caravan parks and nature-based camping areas to provide capacity for seasonal workers may be permitted as a temporary land use under Clause 61(f) of the *Planning and Development (Local Planning Schemes) Regulations*, on a case by case basis.

ADVICE TO APPLICANT / PROPONENT

Nil

ATTACHMENTS

1. Proposed revisions to Local Planning Policy 17



Local Planning Policy 17 – Exemptions from Development Approval

AMRShire Local Planning Policy

January 2017

Local Planning Policies are guidelines used to assist the local government in making decisions under the Scheme. In considering an application for planning approval, the local government must have due regard to relevant Local Planning Policies.

1.0 Introduction

This Local Planning Policy is to be read in conjunction with the Explanatory Guidelines which are provided to support the Local Government's Local Planning Policies. This Local Planning Policy compliments Part 7 of the Deemed Provisions of Local Planning Scheme No. 1 in exempting specified development.

2.0 Objectives

This Local Planning Policy aims to achieve the following objectives:

- (a) To exempt specified development from the requirement for development approval.
- (b) To compliment Part 7 Deemed Provisions of the Scheme.
- (c) To streamline the development approval process.

3.0 Scope

This Local Planning Policy administers provisions to exempt specified development from the requirement for development approval throughout the Scheme area.

3.1 Limitations & Exclusions

This Local Planning Policy does not deal with exemptions for:

- (a) Development as provided under clause 61 of the Deemed Provisions of the Scheme; and
- (b) Outbuildings and fences which are administered under a separate Local Planning Policy; and
- (c) Signs which are administered under Schedule 5 of the Scheme; and
- (d) Development that requires a discretionary decision of the Shire.

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4.0 Policy Measures

Except as otherwise provided in the Scheme*, or any relevant Local Planning Policy adopted under Part 2 of the Scheme, the following development does not require the development approval of the local government:

- (a) the erection of a single house, or the extension, addition (including ancillary dwellings) or alteration to a single house on a lot in the Rural Residential, Priority Agricultural and General Agricultural zone where:
 - i) in the case of a Rural Residential zoned land, the development is contained within an approved building envelope or where there is no approved envelope within an appropriately shaped envelope compliant with clause 4.22.2(e) of the Scheme and the setback requirements setout in Schedule 9; or
 - ii) in the Priority Agriculture and General Agriculture Zones the development is compliant with the setback requirements setout in Schedule 9; and
 - iii) the development is located in a Bushfire Prone Area, achieves a Bush Fire Attack Level of 29 or lower without vegetation removal being required unless exempt under clause 5.20.1 of the Scheme;
 - iv) the development is compliant with the height limitations as set out in clause 5.13 of the Scheme;
 - v) in the case of Rural Residential development, the development is compliant with any specific requirements setout in Schedule 7 of the Scheme;
 - vi) the development is compliant with the relevant requirements of Visual Management Areas where applicable;
 - vii) the development is not located in a place that has been entered in the Register of Places under the *Heritage of Western Australia Act 1990*;
 - viii) the development is not the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*;

- ix) the development is not included on the Heritage List under Part 3 of the Deemed Provisions;
or
- x) the development does not require the exercise of discretion by the local government under the Scheme.

***Development approval is required in the Leeuwin Naturaliste Ridge Conservation and Leeuwin Naturaliste Ridge Landscape Amenity Zones, any Special Control Area identified at Part 6 of the Scheme or as required under specific Scheme provisions (including Colyer Drive Hamelin Bay).**

- (b) the demolition of any building or structure not otherwise listed at 61(1)(e) of the Deemed Provisions except where the building or structure is:
 - i) located in a place that has been entered in the Register of Places under the *Heritage of Western Australia Act 1990*;
 - ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*; or
 - iii) included on the Heritage List under Part 3 of the Deemed Provisions.
- (c) minor additions to existing caravan park sites which do not increase the number or change the nature or use of available accommodation units.

Temporary Seasonal Worker Accommodation Exemptions

(d) until 30 June 2021:

- (i) the permanent occupation of any premises approved for short stay purposes for a period of longer than three (3) months in that period; or
 - (ii) the occupation of portion of a dwelling or a portion thereof for short stay accommodation provided the dwelling is also occupied by a permanent resident who is present overnight for the duration of the stay;
- provided that accommodation under (d)(i) or (d)(ii) is limited to seasonal workers in the tourism, hospitality or agricultural sectors and their dependents.

Responsible Department:	Sustainable Development
Adopted for Advertising:	25 January 2017
Adopted by Council:	22 March 2017
Production Date:	January 2017