

LOCAL PLANNING POLICY NO.1 (DRAFT) EXEMPTION TO THE REQUIREMENT FOR DEVELOPMENT APPROVAL FOR DEEP DRAINAGE WORKS ON RURAL ZONED LAND	
	
Responsible Officer	Chief Executive Officer
Council Resolution Number	TBC
Council Resolution Date	x-y-2025
Next Scheduled Review	October 2027
Relevant Local Government Documents	• Shire of Kent Local Planning Scheme No.3 • Shire of Kulin Policy Manual
Relevant Legislation	• <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 'Local Planning Policy No.1 – Exemption to the Requirement for Development Approval for Deep Drainage Works on Rural Zoned Land'.

2. INTRODUCTION

Deep drains are used where shallow or rising water tables, waterlogging and groundwater discharge (seepage) are occurring within the landscape. Deep drains aim to allow cropping to continue in areas that are threatened by rising water tables and salinity or to reclaim land that is waterlogged and/or salt affected. Their purpose is to capture sub-surface seepage and groundwater in order to control the depth of the water table below the soil surface, reduce waterlogging and salinity by lowering the water table level, and convey the discharge to a safe disposal point.

Under the terms of the *Planning and Development Act 2005*, *Planning and Development (Local Planning Schemes) Regulations 2015* and the Shire of Kent Local Planning Scheme No.3 development approval is technically required from the local government for deep drainage works on all 'Rural' zoned land in the Shire's municipal district.

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 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.

Given the need for landowners to obtain approval from the Commissioner of Soil and Land Conservation for deep drainage works pursuant to the specific requirements of the *Soil and Land Conservation Act 1945* and associated regulations, there is a strong case for preparing and adopting a local planning policy to provide an exemption to the need for development approval for works of this type on all 'Rural' zoned land in the Shire's municipal district to support landowners efforts to manage water logging and salinity.

The proposed exemption will prove highly beneficial as it will:

- a) assist rural landowners develop their properties with greater ease by reducing the regulatory burden and associated cost of having to seek and obtain the local government's development approval for deep drainage works in each and every instance as is currently the case; and

- b) allow the local government's administration to focus its attention on other regulatory requirements and reduce the time and costs associated with processing development applications.

3. INTENT

The intent of this policy is to provide an express exemption to the need for development approval for deep drainage works on all 'Rural' zoned land in the Shire's municipal district subject to compliance with a number of acceptable development criteria.

4. OBJECTIVES

The objectives of this policy are to:

- 4.1 Facilitate deep drainage works on all 'Rural' zoned land in the Shire's municipal district 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, key essential services including roads and drainage culverts, or the natural environment; and
- 4.3 Assist rural landowners 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

Deep Drain – An open or leveed channel excavated to a depth 1.0 to 3.0 metres that intercepts the water table in order to capture and convey groundwater.

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.

Leveed Drain – An open channel excavated to a depth 1.0 to 3.0 metres that has continuous spoil banks placed on both sides of the channel to prevent surface flows from entering the channel and reduce the risk of erosion and batter collapse.

Open Drain – An open channel excavated to a depth 1.0 to 3.0 metres with spoil banks placed on one side of the channel that allows the inflow of surface water.

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 Zone – Land designated in the Shire of Kent Local Planning Scheme No.3 as being suitable to accommodate agricultural, primary production, and other rural-related activities.

Special Control Area - A designated area within a local planning scheme that allows for the application of specific planning provisions to manage development in a particular location to ensure it is compatible with the location's unique characteristics or specific needs.

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 Kent Local Planning Scheme No.3.
- 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 any provisions contained in this policy are inconsistent with the Shire of Kent Local Planning Scheme No.3, the requirements of the Scheme shall prevail. 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 regarding the need for development approval or not.

7. LIMITATIONS

This Local Planning Policy only applies to deep drainage works on 'Rural' zoned land in the Shire's municipal district. It does not apply to deep drainage works on any other zoned or reserved land.

8. POLICY PROVISIONS

8.1 Exemption

Development approval is not required for deep drainage works on all 'Rural' zoned land in the Shire's municipal district subject to compliance with all of the following acceptable development criteria:

- a) All works are sited, designed and constructed in accordance with the guidelines published by the Department of Primary Industries and Regional Development.....
[Deep drains to manage groundwater.pdf](#).
- b) The works are not undertaken in a heritage-protected place or any Special Control Area listed in Part 5 of Local Planning Scheme No.3.
- c) The works are only undertaken where shallow or rising water tables, waterlogging and groundwater discharge (i.e. seepage) are clearly occurring within the local landscape.
- d) The works are sited and oriented to minimise their visual impact on the local landscape.
- e) The works are not constructed within and/or do not obstruct, divert or diminish the natural flow of any existing waterways, watercourses, wetlands and/or drainage lines such as rivers, lakes, streams or creeks unless otherwise approved by the Department of Water and Environmental Regulation.
- f) The works do not involve the removal of any existing native vegetation unless otherwise approved by the Department of Water and Environmental Regulation or an express exemption is applicable under other legislation.
- g) Spoil / levee banks are no greater than three (3) metres in height including suitable stabilisation to reduce sedimentation of the drainage channel.
- h) Drainage channels do not have sharp bends that can result in extensive erosion and the undercutting of batters and spoil / levee banks.
- i) A suitable outlet is provided to dispose of the quantity and quality of water collected by the drain. All drain outlets must be stable and on a grade to prevent ponding or erosion.
- j) Drains are fenced in their entirety to prevent access by livestock and native animal species.
- k) Drains do not cross a dedicated, constructed or unconstructed public road or any land owned by the State of Western Australia including Crown reserves or unallocated Crown land.

8.2 Non-Compliance and Requirement for Development Approval

Any proposal for deep drainage works on 'Rural' zoned land in the Shire's municipal district that does not comply with the acceptable development criteria listed in clause 8.1 above will require the local government's formal development approval 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* prior to the commencement of development.