

PLANNING POLICY 3.1.7

HERITAGE CONSERVATION AND DEVELOPMENT POLICY



1. Introduction

The City of Rockingham contains a significant collection of heritage places as identified in its Municipal Heritage Inventory. Heritage places are identified as places having cultural heritage significance to the local community.

Places considered worthy of protection are identified on the Heritage List established under Town Planning Scheme No.2. A copy of the Heritage List is attached as Appendix 2.

This Policy:

- Applies the development control principles contained in the State Planning Policy 3.5 Historic Heritage Conservation;
- Provides development and design guidance for development of places in the Heritage List established pursuant to the City of Rockingham Town Planning Scheme No.2; and
- Details procedures for making applications for approval of heritage-related development.

2. Policy Application

This Policy applies to all places entered in the Heritage List pursuant to Town Planning Scheme No.2.

This Policy should also be read in conjunction with Planning Policy No.3.1.8 - East Rockingham Heritage Conservation and Development Policy (**draft**) for development affecting places on the Heritage List along Mandurah and Day Roads in East Rockingham.

Aboriginal heritage is protected by the *Aboriginal Heritage Act 1972*. This Policy does not apply to the conservation of aboriginal heritage, except in cases where aboriginal heritage places are entered into the Heritage List or a designated Heritage Area.

3. Policy Objectives

The objectives of the policy are:

- (i) To conserve and protect places of cultural heritage significance within the City of Rockingham;
- (ii) To ensure that development does not adversely affect the significance of heritage places;
- (iii) To ensure that heritage significance is given due weight in decision making for applications for planning approval; and

- (iv) To provide greater certainty to landowners and the community about the planning processes for heritage identification and protection in the City of Rockingham.

4. Policy Statement

4.1 Relevant Considerations for Development Assessment

In considering any planning applications in relation to a place entered in the Heritage List, the City will apply and have regard to:-

- (i) the conservation and protection of any place or area that has been registered in the State Register of Heritage Places under the Heritage of Western Australia Act 1990, or is the subject of a Conservation Order under the Act;
- (ii) the conservation and protection of any place which is included in the Heritage List under clause 5.4.2 of the City of Rockingham Town Planning Scheme No.2;
- (iii) whether the proposed development will adversely affect the significance of any heritage place, including adverse affect resulting from the location, bulk, form or appearance of the proposed development;
- (iv) the level of heritage significance of the place, based on a relevant heritage assessment;
- (v) measures proposed to conserve the heritage significance of the place and its setting;
- (vi) the structural condition of a place, and whether a place is reasonably capable of conservation;
- (vii) whether the place is capable of adaptation to a new use which will enable its retention and conservation; and
- (viii) State Planning Policy 3.5 Historic Heritage Conservation.

4.2 Development Control Principles

The following 'development control principles' must be applied in considering applications for planning approval in relation to a place entered in the Heritage List under the City of Rockingham Town Planning Scheme No.2. The weight given to heritage as a consideration will vary, depending on the degree of significance of a place or area, and relevant economic, social or environmental factors that may apply.

Alterations, extensions or change of use affecting a heritage place

- (i) Development should conserve and protect the cultural heritage significance of a heritage place based on respect for the existing building or structure, and the least possible change to the significant fabric.
- (ii) Alterations and additions to a heritage place should not detract from its significance and should be compatible with the siting, scale, architectural style and form, materials and external finishes of the place. Compatibility requires additions or alterations to work with the original fabric rather than simply copying or mimicking it.
- (iii) In some cases, the conservation and protection of a heritage place may require a change of use to ensure a reasonable beneficial use or return. Sympathetic adaptation and change of use should be supported in such cases.

- (iv) Development should be in accordance with any Planning Policies relating to heritage.
- (v) Where a Conservation Plan has been prepared for a place, development must be in accordance with the conservation policies under the Conservation Plan.

Demolition of a heritage place (including a place within a heritage area)

- (i) Demolition of a heritage place with exceptional or considerable significance is rarely appropriate and should require the strongest justification. Demolition of a heritage place with moderate or low significance should be avoided wherever possible, although there may be circumstances where demolition is justified. The onus rests with the applicant to provide a clear justification.
- (ii) Demolition approval should not be expected simply because redevelopment is a more attractive economic proposition, or because a building has been neglected. Consideration of a demolition proposal should be based upon the significance of the building or place; the feasibility of restoring or adapting it, or incorporating it into new development; and the extent to which the community would benefit from the proposed redevelopment.

Any person or organisation who is considering or proposing to develop or alter a heritage place should seek advice from a qualified heritage architect or heritage consultant prior to progressing any application. The City's Regional Heritage Advisor may also be contacted to provide advice on appropriate development of heritage places; the Regional Heritage Advisor can be sought by contacting the City's Planning Services.

4.3 Levels of Significance

The level of heritage significance of a place is one of the matters considered in determining an application.

A level of significance, based on the Management Categories of the Municipal Heritage Inventory, has been applied to each place on the Heritage List. The requirements for each Management Category is included at Appendix 1 to this Policy.

4.4 Variation to Site and Development Standards

Clause 5.4.6 of Town Planning Scheme No.2 provides the Council with the ability to vary any site or development requirement specified in the Scheme or the Residential Design Codes to facilitate the conservation of a place listed in the Heritage List.

Council may consider varying one or more of the following site or development requirements set out in the Scheme and Residential Design Codes where it involves the conservation of a building on the Heritage List:-

- (i) Supporting the creation of a lot of a lesser area or approving a minimum site area of a grouped dwelling on a site area lesser than that specified on Table 1 of the Residential Design Codes provided the proposed variation is no more than 25% less in area than that specified on Table 1;

- (ii) Approving a variation to open space provision under the Residential Design Codes; and
- (iii) Approving variations to plot ratio; provided the proposed variation is no more than 25% than that specified in Table 1 of the Residential Design Codes.

The Council may consider variations to other development requirements to the Scheme or Residential Design Codes not listed above.

Any proposed variation to site and development standards will only be permitted where the proposed variation is consistent with the general and specific objectives of the Scheme and the objectives of the zone. Furthermore, variations will only be considered where there is a beneficial conservation outcome for the heritage place.

For any variation to site and development requirements under clause 5.4.6, the Council shall give notice to nearby owners and occupiers who, in the opinion of the Council, are likely to be affected by the proposal, shall be notified of the proposal in writing, and provided with an opportunity to comment on the proposed variations to the site and development requirements.

4.5 Other Incentives for Heritage Conservation

Where an application for development has been submitted, the City will consider waiving the following application fees for conservation works:-

- Planning Services fee for development proposals; and
- Building Licence fee.

Authority is delegated to the Chief Executive Officer to approve the waiving of such fees for any application that proposes development, where there is a beneficial conservation outcome for the heritage place. Fees will only be waived on the proportion of the proposal relating to conservation works. Where both development and conservation are proposed, the fee will be based on the total cost of development minus the cost of conservation works.

Other incentives provided by other organisations, such as grants and tax rebates, may apply for proposals to conserve heritage places. These are offered by the Heritage Council of Western Australia, Lotterywest, The National Trust of Australia (WA), and Australian Heritage Council. The Heritage Council of Western Australia's *Guide to Heritage Agencies and Assistance* provides advice on the various agencies and assistance programs that may be applicable to any project.

4.6 Heritage Agreements

Clause 5.4.4 of Town Planning Scheme No.2 allows the Council to enter into a Heritage Agreement with an owner or occupier of land or building, pertaining to a heritage place.

Heritage Agreements will be required where a development proposal seeks to improve a heritage place, particularly where a site or development standard is varied under section 2.5 of this Policy.

Where a caveatable agreement is proposed, it shall be prepared by the Council's solicitors at no cost to the applicant. The agreement is usually binding to successors in Title.

4.7 Procedure for Adding, Deleting or Amending Entries in the Local Heritage List

The procedures for adding places to the Heritage List are set out in clause 5.4.2 of the Town Planning Scheme No.2. The City may consider amending the Heritage List over time in the following circumstances:

Event	Council Policy
A place is found to be significant in a new or reviewed Municipal Heritage Inventory	The City will consider inclusion of a place in the Heritage List if the findings of a new or reviewed Municipal Heritage Inventory supports it.
A place is nominated for inclusion in the Municipal Heritage Inventory by the owner or a member of the public	The City will consider inclusion of a place in the Heritage List if assessment documentation to the required standard is provided by the nominator. If not, consideration will be deferred until a review of the Heritage List is scheduled.
A Heritage Impact Statement is prepared in conjunction with a development proposal	The City may consider inclusion of a place in the Heritage List if a Heritage Impact Statement is prepared: <ul style="list-style-type: none"> • As part of a Heritage Impact Statement submitted by an applicant, or • By the City at its own expense. Even the most thorough Inventory will have some gaps in it, and over time the need will arise to assess non-listed places that appear potentially significant.
A place is demolished, or substantially damaged or destroyed	The City will consider removing a place from the Heritage List if it is demolished or is damaged or destroyed, to the extent that its significance is lost.

The City will retain a record of all places destroyed, demolished and/or removed from the Heritage List to monitor the outcomes of this Policy.

5. **Application Procedure**

Applications for planning approval for the development or demolition of places entered on the Heritage List under Town Planning Scheme No.2, shall be made on the form prescribed by the Council, and shall be signed by the owner(s), and accompanied by the following information:-

- (a) A written submission describing the nature of the proposal, and which includes confirmation that the requirements of this Planning Policy can be achieved;

- (b) A break-up of the cost of the development, itemising a schedule of conservation works;
- (c) Such plans and other information that the City may reasonably require to enable the application to be determined. Refer to clauses 6.2.2 and 5.4.8 of Town Planning Scheme No.2;
- (d) In addition to the above information, the City may require an applicant to provide one or more of the following to assist Council in the determination of an application.

Heritage Impact Statement

A Heritage Impact Statement is a brief, independent evaluation by a heritage architect or heritage consultant. It is not to be confused with a Heritage Council Heritage Assessment or a Conservation Plan, which are more extensive and detailed documents.

If a proposal is likely to have a substantial impact on the exterior fabric of a place in the Heritage List, the City may require a Heritage Impact Statement to be submitted addressing three main questions:

- How will the proposed works affect the significance of the place?
- What alternatives have been considered to ameliorate any adverse impacts?
- Will the proposal result in any heritage conservation benefits that might offset any adverse impacts?

Conservation Plan

If a proposal affects a place that is entered in the State Register of Heritage Places, or a large or complex place of exceptional significance, the City may require a Conservation Plan to be prepared. Such cases will be rare.

A Conservation Plan is a guiding document for the conservation and future use of a place, and is prepared in accordance with the Heritage Council's *Conservation Plan Study Brief: Introduction to Conservation Plans*.

Structural condition assessment in the case of demolition

If structural failure is cited as a justification for the demolition of a place in the Heritage List, evidence should be provided from a registered structural engineer that the structural integrity of the building has failed, to the point where it cannot be rectified without removal of a majority of its significant fabric and/or prohibitive costs.

Archival recording in the case of demolition

If a proposal is for the demolition of a place entered in the Heritage List, or entered in the Municipal Heritage Inventory, the Council may require the applicant as a condition of approval to submit an archival record of the place, prior to the commencement of development.

The archival record is to be in accordance with the Heritage Council's standard for archival recording, and lodged with the City and the Rockingham District Historical Society.

- (e) The payment of an Administration Fee as detailed in the Council's Planning Information Bulletin No.2.2 - Scale of Fees for Planning Services. Council may decide to waive the Administration Fee in accordance with point 4.5 of this Policy.

6. Authority

This Planning Policy has been adopted by the Council under clause 8.9 of Town Planning Scheme No.2 and whilst it is not part of the Scheme and does not bind the Council in respect of any application for planning approval, the Council is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

7. Interpretations

For the purposes of this Planning Policy, the following terms shall have the same meaning as in Town Planning Scheme No.2:-

Conservation means, in relation to any place or Heritage Precinct, the management of that place or precinct in a manner that will:-

- (a) enable the cultural heritage significance of that place or precinct to be retained; and
- (b) yield the greatest sustainable benefit for the present community without diminishing the cultural heritage significance of that place or precinct,

and may include the preservation, stabilisation, protection, restoration, reconstruction, adaptation and maintenance of that place or precinct having due regard to relevant professional standards and the provision of an appropriate visual setting.

Council means the Council of the City of Rockingham.

Cultural Heritage Significance means the relative value which that place or precinct has in terms of its aesthetic, historic, scientific or social significance, for the present community and future generation.

Heritage List means a list of those places which, in the opinion of the Council, are of such cultural heritage significance to the Council that conservation and protection under the provisions of this Scheme is warranted.

Place means an area of land sufficiently identified by survey, description or otherwise as to be readily ascertainable and includes:-

- (a) an area of land situated below low water mark on the seashore or on the bank of tidal waters, or in the bed of any watercourse, lake or estuary;

- (b) any works or buildings situated there, their contents relevant to the purpose of this Scheme and such of their immediate surroundings as may be required for the purposes of the conservation of those works or buildings; and
- (c) as much of the land beneath the place as is required for the purposes of its conservation.

For the purposes of this Planning Policy, the following terms shall have the same meaning as in the Heritage of Western Australia Act 1990:-

Conservation Order means an Order made under section 59 of the Heritage of Western Australia Act 1990.

Heritage Council means the Heritage Council of Western Australia established pursuant to section 5 of the Heritage of Western Australia Act 1990.

State Register means the Register of Heritage Places compiled pursuant to section 46 of the Heritage of Western Australia Act 1990.

8. Delegation

Unless otherwise determined by the Manager of Statutory Planning, applications for planning approval for development of a place on a Heritage List under the Scheme with a Management Category of "B", "C" or "D" and demolition of a place with a Management Category of "D", which comply in all respects with the objectives and provisions of this Planning Policy will be dealt with under delegated authority, pursuant to clause 8.10 of Town Planning Scheme No.2 and Planning Procedure 1.1 – Delegated Authority.

All other applications for planning approval for the development or demolition of a place on a Heritage List will be referred to the Council for determination.

9. Adoption

This Planning Policy was adopted by the Council at its ordinary Meeting held on the 25th March 2008.

Appendices

1. Management Categories and Levels of Significance
2. Heritage List