



# Local Planning Policy 1.6

Heritage Administration  
and Procedures



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# Heritage Administration and Procedures

## Citation

This is a local planning policy created under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations). It may be cited as Local Planning Policy 1.6 – Heritage Administration and Procedures (LPP 1.6).

## Purpose

The purpose of this policy is to set out the administrative procedures relating to the listing and removal of properties on the heritage list, as well as the procedures and criteria to consider for heritage assessments as part of a development (planning) application.

Part 1 of this policy supplements the overarching procedures set out under the Regulations, the *Heritage Act 2018* and the Local Planning Scheme in relation to heritage management and seeks to outline the City's approach to heritage assessment and statutory protection processes.

Part 2 of this policy sets out the circumstances under which an archaeological investigation will be required and the criteria for any submitted archaeological management plan.

Part 3 of this policy provides guidance on the assessment of applications for development approval where the decision-making authority may consider exercising its discretionary power under clause 12 of the Deemed Provisions in Schedule 2 of the Regulations to vary any site or development requirement specified in the Scheme in order to improve heritage outcomes.

## Objectives

The objectives of this policy are to:

- Outline the guiding principles the City applies to the management of heritage;
- Define the criteria and method applied to heritage assessment, and Local Heritage Survey categories;
- Define how the City will manage requests to review heritage listings (either to add, amend or remove);
- Define when and how heritage assessments and heritage impact statements will be required;
- Provide guidance on how development applications may be determined;
- Set out the circumstances and manner in which an archaeological investigation will be required to be conducted; and
- Provide guidance on the submission, assessment and determination of applications for development approval under clause 12 of the Deemed Provisions in Schedule 2



of the Regulations to vary any site or development requirement specified in the Scheme.

## Application

This policy applies to the procedures and processes involved in the assessment and management of all heritage-protected places within the City of Fremantle Local Planning Scheme No. 4 area.

This policy works in conjunction with the following local planning policies:

- LPP 3.6: Heritage-protected Places Built Form and Land Use, which outlines the criteria for development to heritage-protected places;
- LPP 3.6.1: Heritage Areas Listings, which identifies the heritage area boundaries of each area, its statement of significance, and a list of properties identified as being contributory (where such process has been carried out); and
- LPP 1.7: Development Exempt from Approval Under Local Planning Scheme No. 4, which describes where development to a heritage-protected place does not require development approval.

## Policy statement

### Part 1: Principles and Procedures for Heritage Management

#### 1. Guiding Principles

The City of Fremantle uses *The Burra Charter – the Australia ICOMOS Charter for Places of Cultural Significance* as the key document guiding the management of heritage places.

#### 2. Heritage Assessments and Impact Statements

Heritage Assessments and Heritage Impact Statements are two different documents each with its own specific purpose:

- The purpose of a Heritage Assessment is to assess the cultural heritage significance of a place by examining the documentary and physical evidence, assessing the values of the place and defining a statement of significance.
- The purpose of a Heritage Impact Statement is to consider the impact of a specific proposal (e.g. development) on the cultural heritage significance of a heritage place or area. If sufficient Heritage Assessment information is not available for the preparation of a Heritage Impact Statement, then this will also be required.

Heritage Assessments and Heritage Impacts Statements should be undertaken by a qualified heritage professional in accordance with state government guidelines, using the City's preferred format and being guided by *The Burra Charter– the Australia ICOMOS Charter for Places of Cultural Significance*. For more information, refer to the [Heritage Council of Western Australia Assessment of Local Heritage Places](#) guidelines.

### **3. Development Application Requirements**

Refer to Appendix 1 for development application requirements summary table.

#### *3.1 Individually listed places*

Applicants for significant modification to heritage protected places are encouraged to submit a Heritage Impact Statement with the development application, and these may be required for any development proposal with potential to have significant impact on heritage significance of the place or locality where, in the opinion of the relevant manager, this is necessary to inform assessment of the proposal. These will usually be required for any significant change to a Category 1A, 1B or 2 listed place.

Heritage Impact Statements will not usually be requested for the following types of development for places listed as Category 2 or 3, or not included in the Heritage List:

- Small scale new structures which are not attached to the primary structure/building (such as outbuildings) and which are located out of the front setback area.
- Ancillary lightweight structures added to buildings (such as timber patios, sails, carports, pergolas) which are located out of the front setback area.
- Fixtures to buildings (such as antennae, aerials, air conditioning units, solar panels, signs), which do not face the street and where the installation would not involve any significant structural alteration to the building.
- Non-structural internal changes.
- Fences consistent with the Fences policy or any other specific local planning policy relating to a place or area.

#### *3.2 External Treatments to Level 1 or 2 Listed Buildings*

Planning applications that propose the treatment of the external surface of a building must include the following information:

- a) A 'painting methodology' to demonstrate that the type of paint, as well as the preparation of the building and application of the paint will contribute to the conservation of the building, and will not significantly compromise the significant heritage fabric of the building.
- b) Evidence of research into original colour schemes in the form of a paint scraping and/or historical research into the style of building.

#### *3.3 Heritage Areas*

For both contributory and non-contributory properties within a heritage area, any development application for significant additions and alterations that may be visible from the street, or any new infill development, will require a streetscape analysis be submitted consisting of:

- (a) a drawing or photomontage illustrating the prevailing streetscape
- (b) an analysis of the key characteristics of the prevailing streetscape, including but not limited to:
  - (i) siting of buildings and structures, including setbacks and levels
  - (ii) scale, form, and massing of buildings and structures
  - (iii) floor to ceiling heights of buildings
  - (iv) verandah and / or awning lines
  - (v) orientation and proportion of doors, windows, and other openings
  - (vi) materials and finishes
  - (vii) detailing and decoration
  - (viii) boundary walls and / or fences; and
  - (ix) landscaping; and
- (c) a drawing or photomontage of the proposed development within the prevailing streetscape illustrating how it fits within and complements that streetscape.

For both contributory and non-contributory properties within a heritage area, any development application for development within a significant landscape should include a landscape analysis consisting of:

- (a) a drawing or photomontage illustrating the landscape context
- (b) an analysis of the key characteristics of the landscape, including but not limited to:
  - (i) levels
  - (ii) location of any water bodies
  - (iii) surface treatments
  - (iv) location and details of any trees and / or vegetation, including size and species
  - (v) location and details of any structures, street furniture, lighting, statues, monuments, and / or art installations
  - (vi) location and details of any buildings and structures, including setbacks and levels; and
  - (vii) location and details of any boundary walls and / or fences; and
- (c) a drawing or photomontage of the proposed development within the landscape, illustrating how it fits within and complements that landscape.

The need for a streetscape or landscape analysis may be waived at the discretion of City officers.

### 3.4 Demolition Applications

A (proponent-commissioned) Heritage Assessment will be required in support of any development application where demolition is proposed of a place which:

- Is included on the State Register of Heritage Places;
- Is included on the Heritage List; and/or
- Is identified as a 'contributory' place within a Heritage Area.

## 4. Assessment of Cultural Heritage Significance

Assessment of the heritage significance of places is undertaken in accordance with [Heritage Council of Western Australia Assessment of Local Heritage Places](#) guidelines and using the criteria defined under the Burra Charter. Places will be assessed against the following values: aesthetic; historic; scientific; social; and spiritual. Where a proposal is accompanied by a proponent-commissioned Heritage Assessment or Heritage Impact Assessment, the City will undertake its own assessment but may draw on information submitted.

## 5. Types & Categories of Listing

### Local Heritage Survey (LHS)

The Local Heritage Survey (LHS) comprises the inventory of places which in the opinion of Council are, or may become, of cultural heritage significance as required under the *Heritage Act 2018*. Listing on the Local Heritage Survey alone holds no statutory significance.

The City of Fremantle's Local Heritage Survey is a database that holds heritage assessment information which defines the heritage values, provides the statement of significance and applies the management category that establishes the extent of conservation required to retain these values for each identified place. The following classifications are applied to places included on the Local Heritage Survey:

- *Management category – Level 1a – Exceptional Significance – State Listed*

The City of Fremantle has identified this place as being of exceptional cultural heritage significance in its own right within the context of Fremantle and its conservation is required. This place is entered into Western Australia's State Register of Heritage Places.

- *Management category – Level 1b – Exceptional Significance – Not State Listed*

The City of Fremantle has identified this place as being of exceptional cultural heritage significance in its own right within the context of Fremantle, and its conservation is required. It is recommended that this place be considered for entry in the Heritage Council of Western Australia's Register of Heritage Places.

- *Management category – Level 2 – Considerable Significance*

The City of Fremantle has identified this place as being of considerable cultural heritage significance in its own right within the context of Fremantle and its conservation is a priority.

- *Management category – Level 3 – Some Significance*

The City of Fremantle has identified this place as being of some cultural heritage significance for its contribution to the heritage of Fremantle in terms of its individual or collective aesthetic, historic, social or scientific significance, and/or its contribution to the streetscape, local area and Fremantle. Its contribution to the urban context should be maintained and enhanced and its significant parts conserved.

- *Management category – Level 4 – Historic Record Only*

The City of Fremantle has identified places on this place as being of interest for historical reasons and/or for structures that no longer exist. These places are part of Fremantle's rich cultural heritage but are not included on the Heritage List.

### Heritage List

The Heritage List is a statutory list of places, derived from the Local Heritage Surveyor or a separate review, and identified by Council as worthy of conservation. Additional planning controls apply to places on the Heritage List. The Heritage List includes the same management category classifications as the LHS above.

### Heritage Areas

Heritage Areas are precincts where special planning control is needed to conserve and enhance the streetscape significance of the area. Additional planning controls apply to places within a Heritage Area.

Places within Heritage Areas can be defined as either 'contributory' or 'non-contributory'.

Contributory places are those that the City of Fremantle has identified as being of some cultural heritage significance for its contribution to the heritage of Fremantle in terms of its collective aesthetic, historic, social or scientific significance as part of a heritage streetscape or area. Its contribution to and within the urban context should be maintained and enhanced and the original external parts of the building that contribute to the streetscape or area should be conserved.

Contributory places are determined by Council having due regard to an assessment against the criteria of the Burra Charter and may include representative examples of a place type, period or style, places which contribute to the streetscape; and/or one which combines with other related places to demonstrate the historic development of a heritage area.

A contributory place may or may not also be individually listed.

A non-contributory place is a building that has been determined to not contribute to the heritage significance of the area. New development on these lots must still fit in with the heritage streetscape context without attempting to create mock or faux heritage.

Where mapping of contributory places has not been undertaken for a heritage area, or is incomplete, properties will be assessed as part of the development (planning) application process.



## **6. Process for inclusion, removal or amendment of a place on the Local Heritage Survey (LHS), Heritage List or identified as 'Contributory' to a Heritage Area.**

The City maintains the Local Heritage Survey, Heritage List and heritage areas, including undertaking periodic reviews.

Any person or organization may nominate a place to be added, removed or amended on the Local Heritage Survey, Heritage List and/or as a contributory place to a heritage area, at any time. This shall be in the form of a written request to the City. Requests for changes to a heritage listing are encouraged to be accompanied by a Heritage Assessment to support the request.

The basis for inclusion/removal/amendments of places on the Local Heritage Survey, Heritage List and/or as a contributory place to a heritage area shall be based on *cultural heritage significance*, determined through a heritage assessment. Requests will be considered through an annual update. The City itself can also identify places for inclusion, removal or amendment as required.

Where a proponent wishes to pursue demolition of or significant modification to a heritage protected place, this effectively triggers review of its listing outside of the annual review process but is subject to the applicable development application fees and process.

## **Part 2: Archaeological Investigation Criteria**

### **7. Statutory Background**

Clause 13B of the City's Local Planning Scheme No. 4 (the Scheme) states that where development (planning) approval is granted in respect of a place within a Heritage Area or included on the Heritage List, the City may impose a condition which requires an archaeological investigation of the place to be undertaken and a report of that investigation to be provided to the City for its information prior to the commencement of that approved development.

Clause 13B(2) of the Scheme states that the condition referred to in clause 13B(1) may be imposed where:

- (a) the place to which the planning approval relates:
  - (i) is a vacant site at the time the planning approval is granted; or
  - (ii) will be wholly or substantially redeveloped if the planning approval is implemented.
- (b) the City has reasonable evidence the place may include contents, materials or objects that have aesthetic, historic, scientific, or social significance for the present community and future generations; and
- (c) the contents, materials and objects referred to in clause 13B(2)(b) are not subject to the *Aboriginal Heritage Act 1972*.



In the context of this policy, the term 'archaeological artefacts' will be taken as meaning any contents, materials or objects that have an aesthetic, historical, scientific or social significance for the present community and future generations, as outlined in clause 13(B)(2)(b) of the Scheme.

## **8. Reasonable Evidence**

Clause 13B(2)(b) of the Scheme states that in order for an archaeological investigation to be undertaken as a condition of planning approval, the City must have reasonable evidence that the place may have archaeological artefacts.

For this purpose, the City will consider the following as constituting reasonable evidence upon which to require an archaeological investigation:

- (a) any existing conservation plan;
- (b) in the case of a property listed upon the State Register of Heritage Places, any Heritage Council of Western Australia assessment;
- (c) any documented evidence that appears upon the City's Municipal Heritage Inventory or Heritage List; or
- (d) expert advice available to the City supported in the form of maps, historic photographs, recorded past uses, past finds or documented oral history which may indicate the potential for archaeological artefacts to exist upon the development site.

Where the City considers that there is reasonable evidence that indicates the possibility for archaeological artefacts to be located upon the development site, the City may require an archaeological investigation to be carried out as a condition of development approval.

## **9. Suitably Qualified Person**

For the purpose of undertaking an archaeological investigation, the City considers that a suitably qualified person under Clause 13B(3)(b) of the Scheme is an archaeologist that is listed in the Heritage Council of Western Australia's Directory of Heritage Specialists (InContact), and/or is registered with the Australian Association of Consulting Archaeologists.

Any archaeologist selected for undertaking an investigation must be responsible for providing adequate indemnity against liability for all loss, damage or injury to persons or property caused as a result of the investigation.

## **10. Archaeological Investigation**

Once the services of an archaeologist are secured, the chosen archaeologist is expected to be responsible for the submission of a final report outlining the archaeological investigation.

The final archaeological report should include:

- (a) a brief summary of the subject site, including a study background of the property referencing the evidence upon which the investigation has been requested;

- (b) a description of the site investigations carried out, including location and dimensions of any exploratory dig(s) undertaken;
- (c) all detailed recordings of any findings of archaeological artefacts through surveyed measurements, drawings, documented descriptions and/or photographs, all portrayed upon a site plan(s) when appropriate;
- (d) an analysis of the historical archaeological (including built environment) evidence with the archival documentation (e.g. maps, photographs, documented past use); and
- (e) an archaeological conservation plan including recommendations for heritage interpretation, if warranted.

Whilst an archaeological investigation may be undertaken in order to satisfy a condition of planning approval, this investigation in itself will not be considered the substantial commencement of the development, as prescribed within the term of planning approval.

### **11. Archaeological Findings**

The City recognises that since an archaeological investigation was instigated as a condition of planning approval, any archaeological evidence consequently discovered cannot form the basis of the City rescinding a legal planning approval.

The applicant is entitled to proceed with the development upon the property in accordance with the planning approval granted unless voluntarily modified by the applicant.

In circumstances where a property owner may not wish to retain possession of any artefact(s) that may be excavated in the course of an archaeological investigation, the owner is encouraged to contact the City's Heritage Services Department in the first instance to discuss the possible voluntary donation or loan of the artefact(s) to another party.

## **Part 3: Varying Scheme Provisions on Heritage Grounds**

### **12. Statutory Background**

Clause 12 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Deemed Provisions) states:

- (1) *The local government may vary any site or development requirement specified in this Scheme to –*
  - (a) *facilitate the built heritage conservation of a place entered in the register of Places under the Heritage of Western Australia Act 1990 or entered in the heritage list; or*
  - (b) *enhance or preserve heritage values in a heritage area.*
- (2) *A variation under sub-clause (1) may be unconditional or subject to any conditions the local government considers appropriate.*

- (3) *If the local government is of the opinion that the variation of site or development requirements is likely to affect any owners or occupiers in the general locality of the place or the heritage area the local government must –*
- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 64; and*
  - (b) have regard to any views expressed prior to making its determination to vary the site or development requirements under this clause.*

Site and Development requirements can include, but are not limited to, height, setbacks, plot ratio, provision of car parking, etc. These site and development requirements will vary depending upon the site and the development being proposed.

### **13. Development Assessment**

- (a) Any development application which, in order to be approved, requires the exercise of discretion by the decision-maker under clause 12 of the Deemed Provisions to vary any Scheme site or development requirement must include information which clearly demonstrates that an outcome of the proposed variation(s) will be to either:
  - i. facilitate the built heritage conservation of a heritage listed place; or
  - ii. enhance or preserve heritage values in a heritage area.
- (b) The information referred to in 13(a) must be provided by the applicant in the form of a written Statement of Justification. The Statement of Justification must provide a clear rationale for the design approach adopted for the proposed development which requires the variation, and also explain how it achieves one of the outcomes referred to in 13(a).
- (c) The Statement of Justification should address the following issues:
  - i. the physical relationship (including the nature and extent of the relationship) between the elements of the proposed development which require the variation and one of the heritage outcomes referred to in 13(a);
  - ii. whether and, if so, how the heritage outcomes achieved through the variations make a contribution to the public realm (e.g. streetscape);
  - iii. whether the extent of the variation (e.g. additional building height) is the minimum necessary to achieve the heritage outcome;
  - iv. the proportionality between the nature and extent of the variation sought and the heritage values and level of the heritage significance of the place or area; and
  - v. the spatial relationship (including degree of proximity) between the place or heritage area (as the case may be) and the development in respect of which a variation is sought.

The Statement of Justification may also address other issues which the applicant wishes the decision-maker to consider.

- (d) The Statement of Justification may include drawings, photographs or other relevant information in support of the written statement. The local government may request the applicant to provide additional information prior to determination of the application if it does not consider sufficient information has been provided in the initial Statement of Justification submitted with the application to enable the decision-making authority to make a properly informed judgement regarding whether the proposed development will enable one or both of the heritage outcomes specified in clause 12(1)(a) and (b) of the Deemed Provisions to be achieved.
- (e) The fact that financial benefit derived from the development will be used to fund heritage works will not be considered a sufficient reason to demonstrate the outcomes specified in clause 12(1)(a) or (b) of the Deemed provisions.
- (f) The matters set out in 13(c) above will be considered by the decision-making authority in assessing whether the relationship between a development proposal and the outcomes for a heritage place or area justify the exercise of discretion under the provisions of clause 12 of the Deemed Provisions.
- (g) When an application for development approval is granted on the basis of the exercise of discretion under clause 12 of the Deemed Provisions, the decision-making authority may impose conditions on the approval. Such conditions may include a requirement for a legal agreement between the local government and the owner of the land to which the approval relates to ensure that the heritage outcome associated with the approved development is achieved when the development is undertaken. The requirements of any condition will depend upon the nature of the development and its relationship with the heritage outcome associated with the development.

## Appendix 1 – Development Application Quick Reference

Management Category	Level of Significance	Development Application (DA)
Level 1A	Exceptional Significance – State Listed	<ul style="list-style-type: none"> <li>Heritage Council WA (HCWA) Referral occurs as part of DA process.</li> <li>Heritage Impact Statement submitted with DA</li> <li>Conservation Plan preferred.</li> <li>Detailed Heritage Assessment to accompany all demolition applications (whole or partial demolition) or substantial development.</li> <li>Subdivision and Amalgamation pre-lodgement advice recommended.</li> </ul>
Heritage Order or Heritage Agreement	Heritage Order or Agreement– under Heritage of WA Act	<ul style="list-style-type: none"> <li>Heritage Impact Statement submitted with DA.</li> <li>Conservation Plan encouraged.</li> <li>Detailed Heritage Assessment to accompany all demolition applications (whole or partial demolition) or substantial development.</li> <li>Subdivision and Amalgamation pre-lodgement advice recommended.</li> </ul>
Level 1B	Exceptional Significance – Not State Listed	<ul style="list-style-type: none"> <li>Heritage Impact Statement submitted with DA.</li> <li>Conservation Plan encouraged.</li> <li>Detailed Heritage Assessment to accompany all demolition applications (whole or partial demolition) or substantial development.</li> <li>Subdivision and Amalgamation pre-lodgement advice recommended.</li> </ul>
Level 2	Considerable Significance	<ul style="list-style-type: none"> <li>Heritage Impact Statement submitted with DA.</li> <li>Conservation Strategy encouraged.</li> <li>Detailed Heritage Assessment to accompany all demolition applications (whole or partial demolition).</li> <li>Subdivision and Amalgamation pre-lodgement advice recommended.</li> </ul>
Level 3	Some Significance	<ul style="list-style-type: none"> <li>Heritage Impact Statement submitted with DAs for two-storey additions, development altering the original place, or substantial development visible from the street.</li> <li>Detailed Heritage Assessment to accompany all DAs for demolition (whole or partial).</li> <li>Subdivision and Amalgamation pre-lodgement advice recommended.</li> </ul>

Contributory but not listed	Some significance	<ul style="list-style-type: none"> <li>Detailed Heritage Assessment to accompany all DAs for demolition (whole or partial).</li> <li>Streetscape analysis submitted with DA for two-storey additions or substantial alterations to the original building outline.</li> <li>Subdivision and Amalgamation pre-lodgement advice recommended.</li> </ul>
Non-Contributory in a Heritage Area	Little or no significance	<ul style="list-style-type: none"> <li>Streetscape analysis submitted with DA for new houses, two-storey additions or substantial alterations visible from the street.</li> <li>If listed, refer to relevant requirements above.</li> </ul>
Level 4	Historic Record Only	<ul style="list-style-type: none"> <li>Nil</li> </ul>

#### Responsibility and review information

<b>Responsible officer:</b>	Manager Strategic Planning and City Design
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