

# **INCORPORATED PLAN**

UNDER THE PROVISIONS OF CLAUSE 43.01  
HERITAGE OVERLAY

Prepared for

**City of Yarra**

Planning permit exemptions

July 2014

**LOVELL CHEN**

ARCHITECTS & HERITAGE CONSULTANTS

LEVEL 5, 176 WELLINGTON PARADE  
EAST MELBOURNE 3002 AUSTRALIA  
TEL +61 (0)3 **9667 0800**  
FAX +61 (0)3 9416 1818  
[www.lovellchen.com.au](http://www.lovellchen.com.au)  
[enquiry@lovellchen.com.au](mailto:enquiry@lovellchen.com.au)

## **Contents**

<b>Contents</b>	<b>1</b>
<b>1.0 Introduction</b>	<b>2</b>
1.1 Definitions	2
1.2 Exemptions from permits within the Planning Scheme (Heritage Overlay)	2
<b>2.0 Permit Exemptions</b>	<b>3</b>
2.1 Repairs and maintenance	4
2.2 Roofing	4
2.3 Painting	4
2.4 Modifications and alterations	5
2.5 Outbuildings	6
2.6 Pergolas, verandahs and decks	9
2.7 Fences and roller doors	11
2.8 Domestic services normal to a dwelling, utility installations and rainwater tanks	12
2.9 Domestic swimming pool and spa	14
2.10 Signage	15

## 1.0 Introduction

This Incorporated Plan establishes planning permit exemptions for properties included in Yarra's Schedule to the Heritage Overlay, under the provisions of *Clause 43.01 Heritage Overlay*. In accordance with *Clause 43.01-2*, no permit is required for works identified in this Incorporated Plan. People using this document should contact Council to confirm that there are no planning permit requirements triggered under other parts of the planning scheme. Confirmation should also be sought regarding whether a planning permit is required under the Heritage Overlay provisions at *Clause 43-01-1* and whether works are already exempt from requiring a planning permit under *Clause 62 Uses Buildings, Works, Subdivisions and Demolition not Requiring a Permit*. A building permit may also be required.

The provisions of this Incorporated Plan variously apply to properties graded individually significant, contributory and not contributory in Heritage Overlay precincts;<sup>1</sup> and to properties individually included in the Heritage Overlay. Reference to 'all properties' below includes all these properties. The plan does not apply to places included on the Victorian Heritage Register.

Types of properties to which the exemptions apply are clearly stated as being residential buildings/uses or non-residential buildings/uses, or both. These broad categories include residential, commercial, industrial/manufacturing and institutional properties, reflective of the range of places included in Yarra's Heritage Overlay.

In some instances, exemptions do not apply to corner located properties.

Exemptions vary depending on the grading of the heritage place. Contact Council to confirm property gradings.

### 1.1 Definitions

Some definitions of terms used in this Incorporated Plan are provided below.<sup>2</sup>

### 1.2 Exemptions from permits within the Planning Scheme (Heritage Overlay)

Under the provisions of *Clause 43.01-2 No Permit Required*, no permit is required under the Heritage Overlay for a limited number of work types. These are:

- For anything done in accordance with an incorporated plan specified in a schedule to this overlay.
- To internally alter a church for liturgical purposes if the responsible authority is satisfied that the alterations are required for liturgical purposes.
- For interments, burials and erection of monuments, re-use of graves, burial of cremated remains and exhumation of remains in accordance with the Cemeteries and Crematoria Act 2003.
- To develop a heritage place which is included on the Victorian Heritage Register.

*Clause 43.01-1 Permit Requirement* also identifies works which do not require a permit under the Heritage Overlay.

---

<sup>1</sup> Yarra's *Clause 22.02 Development Guidelines for Sites Subject to the Heritage Overlay* includes definitions for these property gradings.

<sup>2</sup> Definitions cited are based on those included in *Clause 43.01 Heritage Overlay*, *Clause 22.02 Development Guidelines for Sites Subject to the Heritage Overlay*, and *Clause 72 General Terms (Yarra Planning Scheme)*.

## **2.0 Permit Exemptions**

Under *Clause 43.01-2* the following works are exempt from the requirement for a planning permit.

## 2.1 Repairs and maintenance

Repairs and routine maintenance works that change the appearance of a heritage place or are not undertaken to the same details, specifications and materials as existing are permit exempt where (applies to residential buildings/uses and non-residential buildings/uses):

Individually significant	Contributory	Not contributory
Does not apply.	Does not apply.	All maintenance and repair works.

## 2.2 Roofing

New and replacement roofing material (including full or part demolition of the existing roofing material) is permit exempt where (applies to residential buildings/uses only):

Individually significant	Contributory	Not contributory
Does not apply.	Does not apply.	All new or replacement roofing.

## 2.3 Painting

Painting is permit exempt where (applies to residential buildings/uses and non-residential buildings/uses):

For unpainted surfaces:

Individually significant	Contributory	Not contributory
Does not apply.	Does not apply.	Painting an unpainted surface unless the painting forms part of an advertisement, artwork or mural.

In precincts with external paint controls:

Individually significant	Contributory	Not contributory
Repainting already painted surfaces of buildings and structures in the same colours.	Repainting already painted surfaces of buildings and structures in the same colours.	Repainting already painted surfaces of buildings and structures in the same colours.

## 2.4 Modifications and alterations

Modifications and alterations to rear walls or rear parts of buildings, including associated demolition (excluding the modification, alteration and demolition of roofs, rear property boundary walls or structures located on rear boundaries) are permit exempt where (applies to residential buildings/uses only):

Individually significant	Contributory	Not contributory
Does not apply.	The works are to ground floor rear building walls or rear parts of buildings on the ground floor as shown on Figure 1 & Figure 2.	The works are to the rear building walls or rear parts of buildings as shown on Figure 1 & Figure 2.

### Definition

Modification includes changes to the appearance of a building, involving some removal of existing fabric, form and details, and introducing new fabric (can include windows and doors). It does not include an extension to the building.

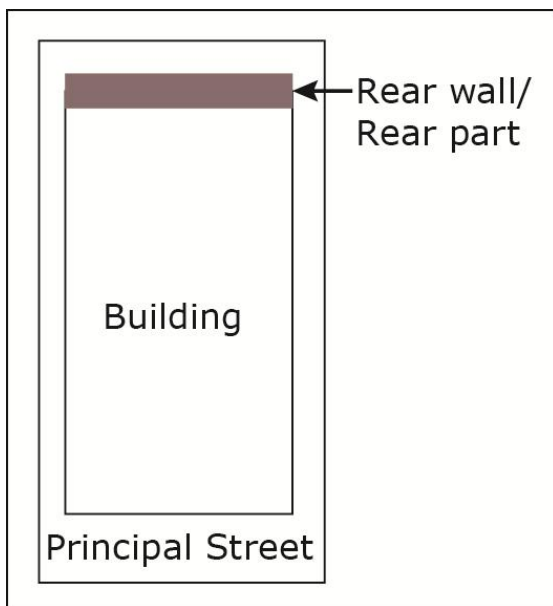


Figure 1 Modifications/alterations and associated demolition to rear walls or rear part of contributory or not contributory buildings.

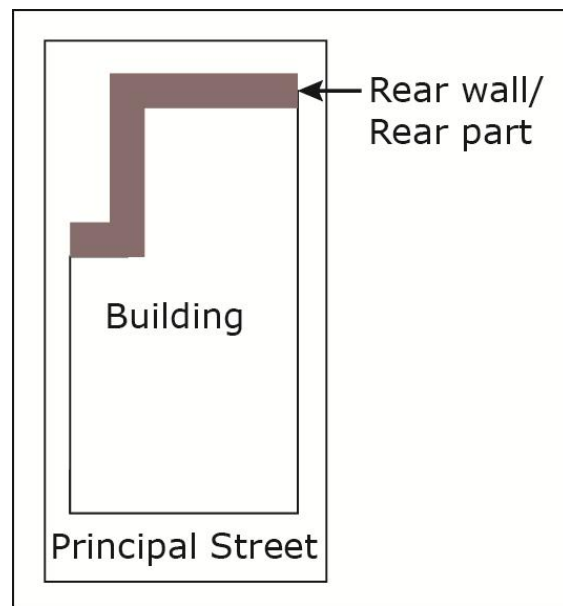


Figure 2 Modifications/alterations and associated demolition to rear walls or rear part of contributory or not contributory buildings.

## 2.5 Outbuildings

Construction or extension of an outbuilding is permit exempt where (applies to residential buildings/uses only):

Individually significant	Contributory	Not contributory
Does not apply.	<p>The outbuilding is situated within the rear yard area as shown in Figure 3 and Figure 4 and:</p> <p>the eave height of the outbuilding (from natural ground level) does not exceed the eave height of an existing single-storey building on the site, or the ground floor height of an existing two-storey building on the site (see eaves height as indicated in Figure 6); and</p> <p>the outbuilding is not attached to the existing building; and</p> <p>the outbuilding does not extend beyond the line of the side elevations of the existing building.</p>	<p>The outbuilding is situated within the rear yard area as shown in Figure 5, and:</p> <p>the eave height of the outbuilding (from natural ground level) does not exceed the eave height of an existing single-storey building on the site, or the ground floor height of an existing two-storey building on the site (see eaves height as indicated in Figure 6); and</p> <p>the outbuilding is not attached to the existing building.</p>
	<p>This exemption does not apply to:</p> <p>Corner located properties.</p> <p>An outbuilding, other than a garage or carport, where the gross floor area of the outbuilding exceeds 10 square metres and the maximum building height is greater than 3 metres above ground level.</p>	<p>This exemption does not apply to:</p> <p>Corner located properties.</p> <p>An outbuilding, other than a garage or carport, where the gross floor area of the outbuilding exceeds 10 square metres and the maximum building height is greater than 3 metres above ground level.</p>

Demolition of outbuildings is permit exempt where (applies to residential buildings/uses and non-residential buildings/uses):

Individually significant	Contributory	Not contributory
Does not apply.	Does not apply.	Any outbuilding on the property.

### Definition

Outbuildings include a carport, garage, shed, children's cubby house or similar structure which is detached from (not a component of) the main building.

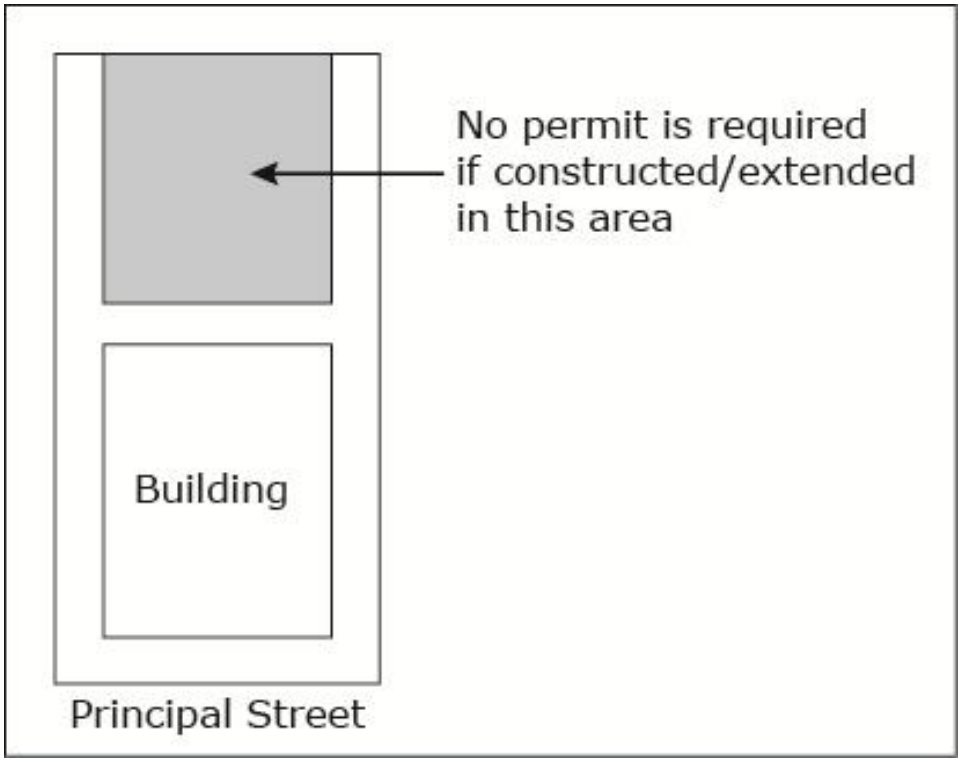


Figure 3 Construction/extension of outbuilding to a contributory property (not located on a corner site).

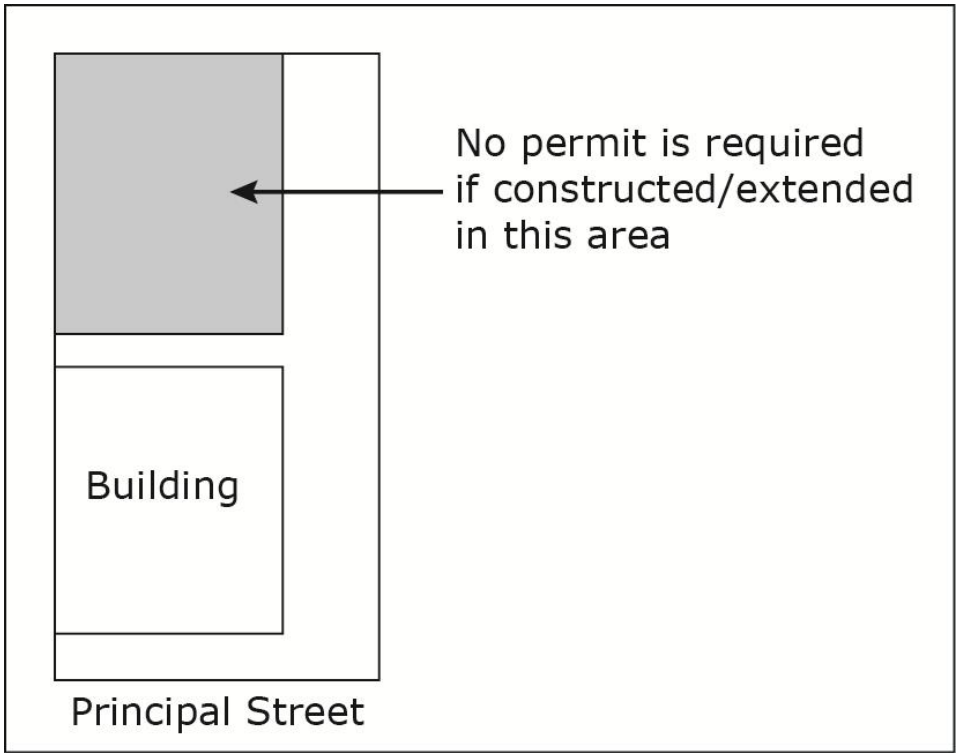


Figure 4 Construction/extension of outbuilding to a contributory property (not located on a corner site).



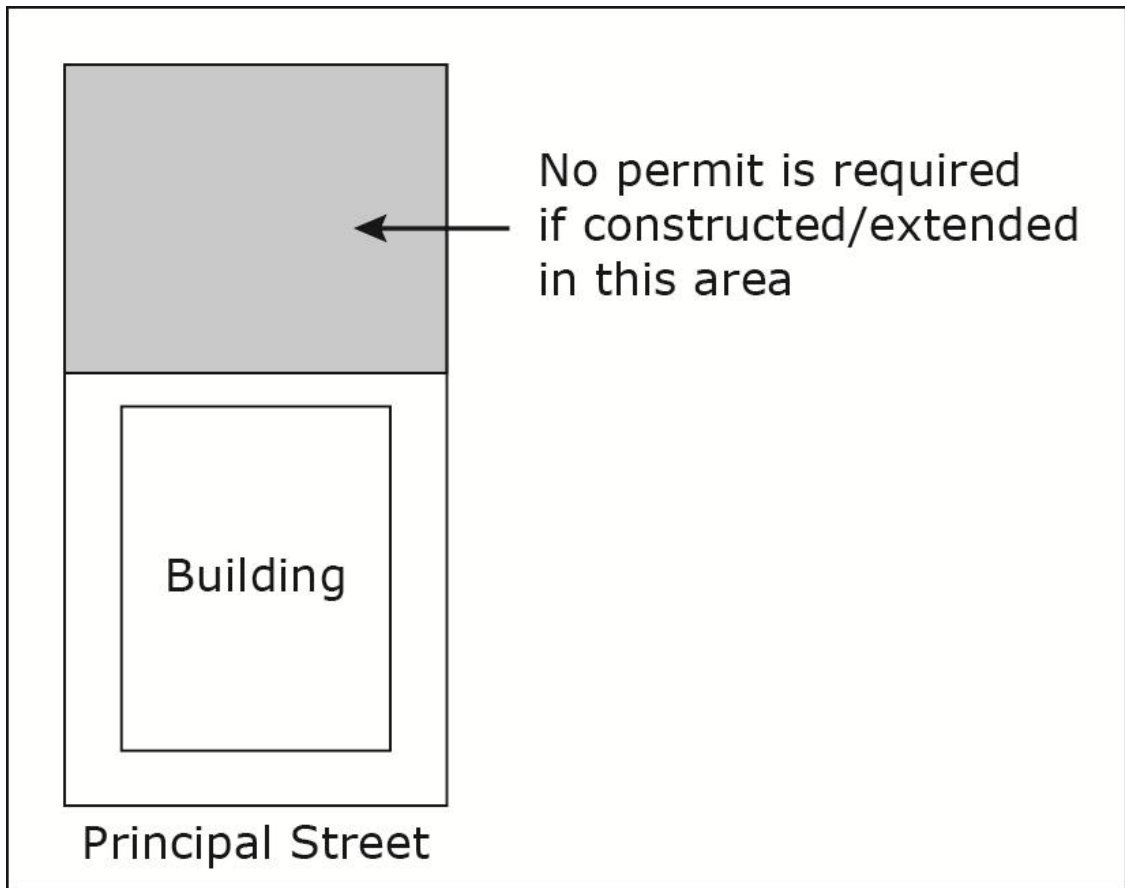


Figure 5 Construction/extension of outbuilding to a not contributory property (not located on a corner site).

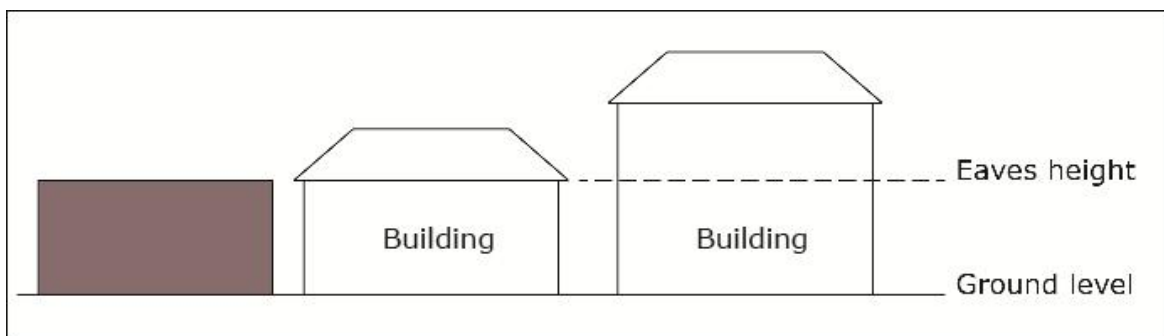


Figure 6 Eave height envelope for construction of an outbuilding to a contributory or not contributory property; pergola/verandah to a contributory or not contributory property (see 2.6 below); and shade sail to all properties (see 2.8 below).

## 2.6 Pergolas, verandahs and decks

Construction or extension of an open-sided pergola or verandah, including those attached to an existing building, are permit exempt where (applies to residential buildings/uses only):

Individually significant	Contributory	Not contributory
Does not apply.	The pergola/verandah is to the rear of an existing building in the area shown in Figure 7; and where (from ground level) the top of the new structure does not exceed the eave height of an existing single-storey building on the site, or the ground floor height of an existing two-storey building, as per Figure 6.	The pergola/verandah is to the rear of an existing building in the area shown in Figure 7; and where (from ground level) the top of the new structure does not exceed the eave height of an existing single-storey building on the site, or the ground floor height of an existing two-storey building, as per Figure 6.
	This exemption does not apply to:  Corner located properties.  A pergola or verandah, including an open-sided pergola or verandah to a dwelling with a finished floor level more than 800mm above ground level and a maximum building height greater than 3 metres above ground level.	This exemption does not apply to:  Corner located properties.  A pergola or verandah, including an open-sided pergola or verandah to a dwelling with a finished floor level more than 800mm above ground level and a maximum building height greater than 3 metres above ground level.

Construction or extension of a deck, which can be attached to an existing building, is permit exempt where (applies to residential buildings/uses only):

Individually significant	Contributory	Not contributory
The deck is to the rear of an existing building in the area shown in Figure 7, and the finished floor level of the deck does not exceed 800mm above ground level.	The deck is to the rear of an existing building in the area shown in Figure 7, and the finished floor level of the deck does not exceed 800mm above ground level.	The deck is to the rear of an existing building in the area shown in Figure 7, and the finished floor level of the deck does not exceed 800mm above ground level.

Any demolition works associated with construction or extension of the deck, involving the existing rear yard surface treatment, building, outbuildings or other structures, is not covered by this exemption, but may be covered under a different section of this plan.

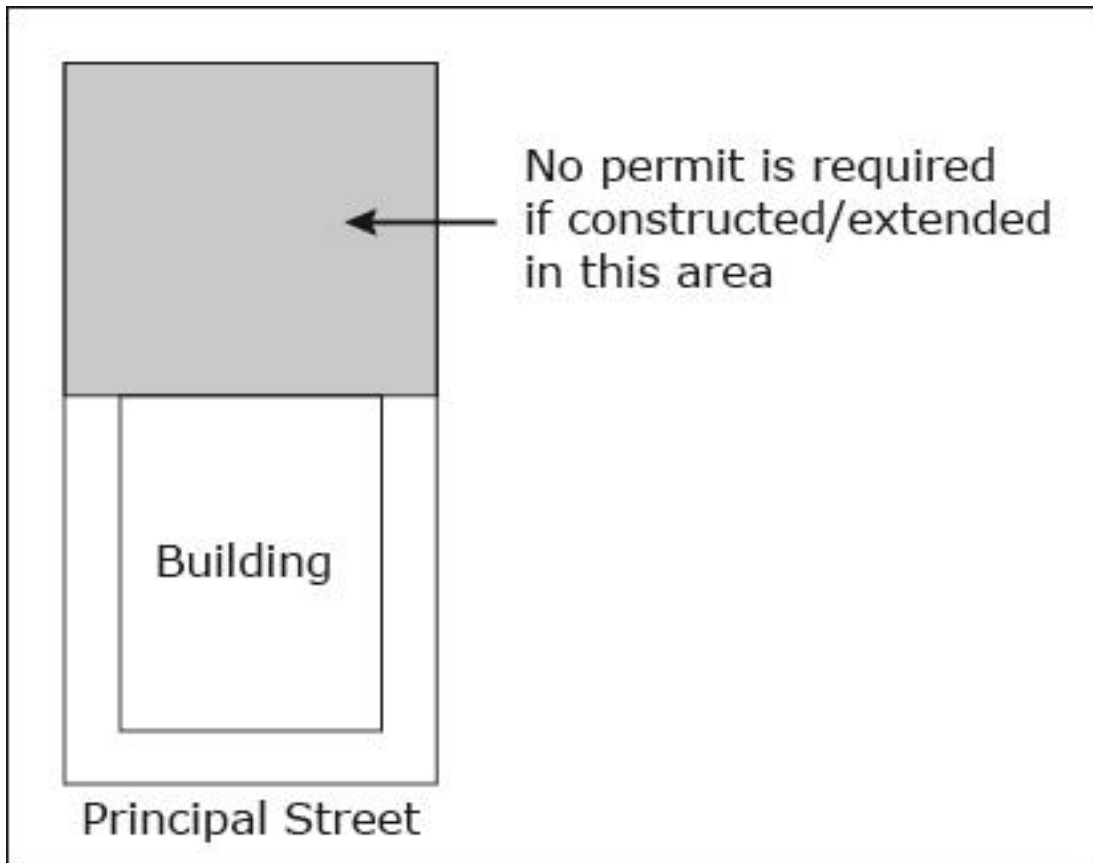


Figure 7 Construction/extension of a pergola/verandah to a contributory or not contributory property (not located on a corner site); and a deck to all properties.

## 2.7 Fences and roller doors

Demolition and construction of fences and roller doors are permit exempt where (applies to residential buildings/uses and non-residential buildings/uses):

Individually significant	Contributory	Not contributory
The demolition and construction involves timber paling fences to rear and side property boundaries, with the replacement fence being of the same material and in the same location, and does not exceed the height of the existing fence.	The demolition and construction involves timber paling fences to rear and side property boundaries, with the replacement fence being of the same material and in the same location, and does not exceed the height of the existing fence.	The demolition and construction involves timber paling fences to rear and side property boundaries, with the replacement fence being of the same material and in the same location, and does not exceed the height of the existing fence.
Does not apply.	Does not apply.	The demolition and construction of the rear fence (any material) where the new fence is constructed of any materials, provided the replacement fence is in the same location and does not exceed the height of the existing rear fence.
The demolition and construction of roller doors to rear and side property boundaries, involves a replacement roller door of the same materials and dimensions, in the same location, and the size of the opening remains unaltered, as per the existing roller door.	The demolition and construction of roller doors to rear and side property boundaries, involves a replacement roller door of the same materials and dimensions, in the same location, and the size of the opening remains unaltered, as per the existing roller door.	The demolition and construction of roller doors to rear and side property boundaries, involves a replacement roller door of the same materials and dimensions, in the same location, and the size of the opening remains unaltered, as per the existing roller door.
<p>This exemption does not apply to:</p> <p>Fences and roller doors located at the front (principal address) of properties.</p> <p>A side fence within 3 metres of the principal street.</p>	<p>This exemption does not apply to:</p> <p>Fences and roller doors located at the front (principal address) of properties.</p> <p>A side fence within 3 metres of the principal street.</p>	<p>This exemption does not apply to:</p> <p>Fences and roller doors located at the front (principal address) of properties.</p> <p>A side fence within 3 metres of the principal street.</p>

## 2.8 Domestic services normal to a dwelling, utility installations and rainwater tanks

The installation (and associated demolition) of the following domestic services normal to a dwelling if visible from a street (other than a lane) or public park are permit exempt where:

Air conditioners, cooling or heating systems, access ladders, hot water services and barbeques (applies to residential buildings/uses only):

Individually significant	Contributory	Not contributory
<p>The ancillaries and services are attached to the rear wall of the building, or within the rear setback.</p> <p>Where attached to a side wall, or within a side setback, the ancillaries and services are setback not less than 4 metres from the front facade of the building.</p>	<p>The ancillaries and services are attached to the rear wall of the building, or within the rear setback.</p> <p>Where attached to a side wall, or within a side setback, the ancillaries and services are setback not less than 4 metres from the front facade of the building.</p>	<p>The ancillaries and services are attached to the rear wall of the building, or within the rear setback.</p> <p>Where attached to a side wall, or within a side setback, the ancillaries and services are setback not less than 2 metres from the front facade of the building.</p>
<p>This exemption does not apply to corner located properties.</p>	<p>This exemption does not apply to corner located properties.</p>	<p>This exemption does not apply to corner located properties.</p>

Downpipes and flues, water meters, shade sails, rooftop mounted lighting, roof skylights, security screens/bars to windows and doors, and external security systems and cameras (applies to residential buildings/uses only):

Individually significant	Contributory	Not contributory
<p>The downpipes, flues and water meters are attached to the rear wall of the building or within the rear setback.</p> <p>Where the water meter is attached to the side wall or within a side setback, the setback is not less than 4 metres from the front facade of the building.</p> <p>This exemption does not apply to corner located properties.</p>	<p>The downpipes, flues and water meters are attached to the rear wall of the building or within the rear setback.</p> <p>Where the water meter is attached to the side wall or within a side setback, the setback is not less than 4 metres from the front facade of the building.</p> <p>This exemption does not apply to corner located properties.</p>	<p>The downpipes, flues and water meters are attached to the rear wall of the building or within the rear setback.</p> <p>Where the water meter is attached to the side wall or within a side setback, the setback is not less than 2 metres from the front facade of the building.</p>
<p>The shade sail is to the rear of the building.</p> <p>The height of the shade sail does not exceed the maximum height for a verandah or pergola as</p>	<p>The shade sail is to the rear of the building.</p> <p>The height of the shade sail does not exceed the maximum height for a verandah or pergola as</p>	<p>The shade sail is to the rear of the building.</p> <p>The height of the shade sail does not exceed the maximum height for a verandah or pergola as</p>

shown in Figure 6.	shown in Figure 6.	shown in Figure 6.
Does not apply.	Does not apply.	The rooftop mounted lighting is located on any part of the roof.
Does not apply.	Does not apply.	The roof skylights are located on any part of the roof.
The security screens/bars are located on windows or doors on the rear wall of the building.	The security screens/bars are located on windows or doors on the rear wall of the building.	The security screens/bars are located on windows or doors on the rear wall of the building.
Does not apply.	Does not apply.	The external security systems and cameras are attached to any part of the building.

Rainwater tanks where visible from a street (other than a lane) or public park (applies to residential buildings/uses and non-residential buildings/uses):

Individually significant	Contributory	Not contributory
Does not apply.	The rainwater tank does not exceed 3000 litres in capacity, is located to the rear or sides of the building, and is setback not less than 4 metres from the front facade of the building.  This exemption does not apply to corner located properties.	The rainwater tank does not exceed 3000 litres in capacity, is located to the rear or sides of the building, and does not extend beyond the front facade of the building.

Demolition of domestic services and utility installations for all properties (applies to residential buildings/uses and non-residential buildings/uses) is permit exempt (for all property gradings) if one of the following:

Satellite dishes, solar panels, shade canopies and sails, access ladders, air conditioners, cooling or heating systems, hot water services, security systems and cameras, wall and roof top mounted lighting, water meters, telecommunications infrastructure, barbeques, security screens and aerials.

Demolition of rainwater tanks is also permit exempt for all properties (applies to residential buildings/uses and non-residential buildings/uses), and for all property gradings.

## **2.9 Domestic swimming pool and spa**

Construction or extension of an existing domestic swimming pool or spa and associated mechanical equipment and safety fencing to all properties is permit exempt (for all gradings) where:

- the pool is situated within the rear yard area as shown in Figure 7; and
- the pool is not elevated more than 1 metre above natural ground level.

This exemption applies to residential buildings/uses only. Any demolition works associated with construction or extension of the pool, involving the existing rear yard surface treatment, building, outbuildings or other structures, is not covered by this exemption, but may be covered under a different section of this plan.

## 2.10 Signage

The replacement or renewal of a lawfully displayed advertising sign in the same location is permit exempt where (applies to non-residential buildings/uses only):

Individually significant	Contributory	Not contributory
<p>The replacement or renewal works (for non-painted and non-leadlight signage) do not increase the size of the existing sign; and</p> <p>there is no change to the type of sign, meaning no change to the material, format or illumination of the existing sign; and</p> <p>the existing sign is located on the fascia of a verandah; at ground floor level under a verandah or canopy; or at ground floor level where there is no existing verandah or canopy.</p>	<p>The replacement or renewal works (for non-painted and non-leadlight signage) do not increase the size of the existing sign; and</p> <p>there is no change to the type of sign, meaning no change to the material, format or illumination of the existing sign; and</p> <p>the existing sign is located on the fascia of a verandah; at ground floor level under a verandah or canopy; or at ground floor level where there is no existing verandah or canopy.</p>	<p>The replacement or renewal works do not increase the size of the existing sign; and</p> <p>there is no change to the type of sign, meaning no change to the material, format or illumination of the existing sign; and</p> <p>the existing sign is located on the fascia of a verandah; at ground floor level under a verandah or canopy; or at ground floor level where there is no existing verandah or canopy.</p>
Does not apply.	Does not apply.	Painted signage on a wall or building, including a parapet, provided the replacement or renewal works do not increase the size of the sign.
Does not apply.	Does not apply.	The replacement of leadlight signage provided the replacement works do not increase the size of the sign.
This exemption does not apply to any signs or signage identified as significant in the property-specific statement of significance or precinct statement of significance (copies of statements can be obtained from Council).	This exemption does not apply to any signs or signage identified as significant in the property-specific statement of significance or precinct statement of significance (copies of statements can be obtained from Council).	

Decal signage is permit exempt where (applies to non-residential buildings/uses only):

Displayed on a ground floor window, not exceeding 1sqm in total size and for the purpose of advertising the name of a business or the history of the subject site/area.	Displayed on a ground floor window, not exceeding 1sqm in total size and for the purpose of advertising the name of a business or the history of the subject site/area.	Displayed on a ground floor window, not exceeding 1sqm in total size and for the purpose of advertising the name of a business or the history of the subject site/area.
---	---	---