

TOWN PLANNING SCHEME NO.1

6.1 DETERMINATION OF APPLICATIONS FOR DEVELOPMENT APPROVAL	
Date Adopted	30 August 2011
Date Reviewed	11 October 2016 11 December 2018
Authority	<i>Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 Part 10 cl 82</i>
Reference	<i>Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 – Deemed provisions for local planning schemes</i> Part 8 Applications for development approval Part 9 Procedure for dealing with applications for development approval <i>Town Planning Scheme No.1 (TPS 1);</i>
Delegation	<p><i>Authority to determine applications for development approval, including the exercise of discretion under Town Planning Scheme No. 1, the Residential Design Codes, Local Planning Policies and other planning instruments, pursuant to deemed clause 68(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 with the exception of the following:</i></p> <p>(a) Applications which in the opinion of the Director Future Life and Built Life or Executive Manager Built Life are major or should be considered by Council, or may have the potential to impact upon the community;</p> <p>(a) Applications requiring the exercise of a discretion under Clause 38 29 of TPS 1 by “Absolute Majority”;</p> <p>(b) Applications for a non-residential development that are not supported by Council Officers, but excluding minor additions/alterations (see condition 2(iv) below);</p> <p>(c) Applications for modification to a planning development approval previously considered by Council where the modifications increase the extent of non-compliance determined approved by Council, or result in a non-compliance issue that cannot be dealt with under delegated authority;</p> <p>(d) Applications involving for a change of use to an Unlisted Use or building works to an Unlisted Use;</p> <p>(e) Applications involving for a change of use from a non-conforming use to another non-conforming use, or building works to a building with a non-conforming use, but excluding minor additions/alterations (see condition 2(iv) below);</p> <p>(f) Applications for development approval (where required) which propose demolition of an existing building dwelling that is:</p> <ul style="list-style-type: none"> • listed in the State Register of Heritage Places; or • listed in the Town’s Municipal Heritage Inventory; <p>(g) Applications which result in propose either a parking shortfall (in the case of a new development) or a net increase in an existing parking shortfall where the shortfall is not supported by Council Officers.</p>

	<p>(h) Applications where the Town is not the determining authority (see Delegations 6.3 and 6.10).</p>
<p>Conditions</p>	<ol style="list-style-type: none"> 1. Delegation 6.1 is not to be exercised : where an objection is received to any application that has been the subject of community consultation, and <ol style="list-style-type: none"> (i) where three (3) or more Elected Members have submitted a written request to the CEO for the application to be referred to Council for determination (“call-in”); or (ii) for applications which in the opinion of the Director Future Life and Built Life or Executive Manager Built Life Chief Community Planner or Manager Development Services are major or should be considered by Council, or may have the potential to impact upon the community; 2. Delegation 6.1 may be exercised in relation to: <ol style="list-style-type: none"> (i) The approval or refusal of an application for new residential dwellings, or works associated with or incidental to residential dwellings; or (ii) Applications where one or more objections are received and the delegated Officer has determined that the objections : <ul style="list-style-type: none"> • are not valid cannot be upheld as the development or the specific variations that were the subject of consultation satisfy relevant objectives or design principles; or • are not planning considerations: or • do not relate to the matters that were the subject of consultation; or • have or can be addressed through amended plans or conditions; (iii) The approval or refusal of applications for signs, or the refusal of ‘X’ (prohibited) uses; or or minor additions/alterations, notwithstanding Clauses (c), (e) and (f) above. (iv) The approval or refusal of applications for minor additions/alterations to the development types listed in clauses (b) and (e) above; or (v) Applications for an amendment to a development approval which seek to extend the period of time within which the development is to substantially commence; or (vi) Amendments to DAP applications where the applicant has requested the application to be determined by the Town provided that the exceptions listed above do not apply; or (vii) Parking shortfalls, subject to clause (g). In exercising this discretion, Council Officers are to have regard to the following matters in determining the acceptability of the parking provided : <ul style="list-style-type: none"> • The extent of the shortfall;

	<ul style="list-style-type: none"> • Where provided, a parking needs/demand assessment prepared by the applicant, providing specific details of the nature of the use, hours of operation, number of staff, likely patronage etc; • Whether the development delivers a good urban design outcome or public benefit eg. Improved street activation; retention of mature on-site trees; retention of a building of heritage importance; • Whether the development is within 400m of a high frequency bus route or train station; • Whether the development is within 400m of a public car park; • Written justification from the applicant in support of the proposed car parking provision; • Demonstrated availability of on-street parking; • The provision of end-of-trip facilities; • The reciprocal use of car bays between uses on the same site where the demand for parking will not coincide; • Any other matters considered relevant. <p>(viii) Applications where under Local Planning Policy 23 'Parking' the on-site car parking provision is at Council's discretion as there is no prescribed parking requirement for the development proposed. In considering the adequacy of the parking provision, Council Officers are to have regard to the same criteria listed in condition 2(vii).</p>
Delegate	Chief Executive Officer
Sub-delegation	Yes

6.2 APPLICATIONS FOR SUBDIVISION AND/OR AMALGAMATION	
Date Adopted	30 August 2011
Date Reviewed	9 August 2016 11 December 2018
Authority	Local Government Act 1995 – s.5.42
Reference	Planning and Development Act 2005 Town Planning Scheme No. 1 Residential Design Codes
Delegation	Make recommendations to the Western Australian Planning Commission in relation to applications for subdivision and/or amalgamation (no more than 10 lots) and process applications for subdivision clearance.
Conditions	No
Delegate	Chief Executive Officer
Sub-delegation	Yes

6.3 APPLICATIONS FOR LAND USE OR DEVELOPMENT REQUIRING REFERRAL OR DETERMINATION BY OTHER STATUTORY AUTHORITIES

Date Adopted	30 August 2011
Date Reviewed	9 August 2016 11 December 2018
Authority	Local Government Act 1995 – s.5.42
Reference	Town Planning Scheme No. 1 Metropolitan Region Scheme Text
Delegation	Authority to refer and/or make recommendations to the Western Australian Planning Commission, DoP Department of Planning, Lands and Heritage (DPLH), Swan River Trust Department of Biodiversity, Conservation and Attractions (DBCA), Heritage Council WA and other government departments and instrumentalities in relation to applications for land use or development., except those considered by the Director Future Life and Built Life or Executive Manager Built Life Chief Community Planner or Manager Development Services to be major or requiring Council consideration.
Conditions	Nil.
Delegate	Chief Executive Officer
Sub-delegation	Yes

6.4 APPLICATIONS FOR REVIEW TO THE STATE ADMINISTRATIVE TRIBUNAL

Date Adopted	30 August 2011
Date Reviewed	9 August 2016 11 December 2018
Authority	Local Government Act 1995 – s.5.42
Reference	Planning and Development Act 2005 State Administrative Tribunal Act 2004 Town Planning Scheme No. 1
Delegation	Perform all functions associated with applications for review to the State Administrative Tribunal including preparing responses and representing Council except as outlined in Local Planning Policy 28.
Conditions	Where a reconsideration order is issued by the Tribunal, then the matter is to be reconsidered at the same level at which the original determination was made i.e. If the matter was determined by the Council then the Council reconsiders the matter; if the matter was determined by an Officer, then the Officer reconsiders the matter.
Delegate	Chief Executive Officer
Sub-delegation	Yes

6.5 ACKNOWLEDGE EXISTING USE – APPLICATION FOR DEVELOPMENT APPROVAL

Date Adopted	30 August 2011
Date Reviewed	9 August 2016 11 December 2018
Authority	Local Government Act 1995 – s.5.42
Reference	Town Planning Scheme No. 1
Delegation	Acknowledge existing use for purpose of application for development approval where current approval documentation is not available
Conditions	No
Delegate	Chief Executive Officer

Sub-delegation	Yes
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6.6 DIRECTION NOTICES AND INFRINGEMENT NOTICES FOR NON-COMPLIANCE	
Date Adopted	30 August 2011
Date Reviewed	9 August 2016 11 December 2018
Authority	Local Government Act 1995 – s.5.42 <i>Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 Part 10 cl 82(1)</i>
Reference	<i>Planning and Development Act 2005</i> s214 Illegal development, responsible authority's powers as to s228 Giving of infringement notice s230 Extending time to pay modified penalty s231 Withdrawal of infringement notice <i>Town Planning Scheme No. 1</i>
Delegation	Issue, withdraw or amend Direction Notices and Infringement Notices for non-compliance with the Town Planning Scheme pursuant to the <i>Planning and Development Act 2005</i>
Conditions	Pursuant to s234(2) of the <i>Planning and Development Act 2005</i>, a person who is authorised to give infringement notices is not eligible to be a designated person for the purposes of being able to extend time to pay modified penalty and withdraw an infringement notice.
Delegate	Chief Executive Officer
Sub-delegation	Yes

6.7 PROSECUTION FOR BREACH OF TOWN PLANNING SCHEME NO. 1 OR PLANNING AND DEVELOPMENT ACT 2005.	
Date Adopted	30 August 2011
Date Reviewed	9 August 2016 11 December 2018
Authority	Local Government Act 1995 – s.5.42
Reference	<i>Town Planning Scheme No. 1</i> and <i>Planning and Development Act 2005</i>
Delegation	Commence prosecution for breach of Town Planning Scheme No. 1 and <i>Planning and Development Act 2005</i> .
Conditions	No
Delegate	Chief Executive Officer
Sub-delegation	No

6.8 DECISIONS RELATING TO BUILT STRATA SUBDIVISIONS	
Date Adopted	11 September 2012
Date Reviewed	9 August 2016 11 December 2018
Authority	Local Government Act 1995 – s.5.42 <i>Planning and Development Act 2005 – Instrument of Delegation – Del 2009/03 Powers of Local Government</i>
Reference	<i>Strata Titles Act 1985</i> s 25 Certificate of Commission <i>Town Planning Scheme No. 1</i>
Delegation	Approve or refuse Form 24 and Form 26 applications for built strata subdivisions, acting on behalf of the Western Australian Planning Commission.
Conditions	No
Delegate	Chief Executive Officer

Sub-delegation	Yes
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6.9 SECTION 40 LIQUOR LICENCE APPLICATIONS	
Date Adopted	11 September 2012
Date Reviewed	9 August 2016 11 December 2018
Authority	<i>Local Government Act 1995 – s.5.42</i>
Reference	<i>Liquor Control Act 1988</i> s40 Certificate of planning authority as to whether use of premises complies with planning laws
Delegation	Approve or refuse requests for Authority to complete Section 40 'Certificate of Local Planning Authority'
Conditions	No
Delegate	Chief Executive Officer
Sub-delegation	Yes

6.10 DEVELOPMENT ASSESSMENT PANEL APPLICATIONS	
Date Adopted	11 June 2013
Date Reviewed	9 August 2016 11 December 2018
Authority	<i>Local Government Act 1995 – s.5.42</i> <i>Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 Part 10 cl 82</i>
Reference	<i>Planning and Development Act 2005,</i> Part 11A Development Assessment Panel and development control <i>Planning and Development (Development Assessment Panel) Regulations 2011</i> s12 Responsible authority must report to DAP <i>Town Planning Scheme No. 1</i>
Delegation	Make recommendations to the Metropolitan Central Joint Development Assessment Panel in relation to DAP applications, following community consultation (where required under Council's Consultation Policy and consideration (where necessary) by the Design Review Panel.
Conditions	This Delegation is not to be exercised where three (3) or more Elected Members have submitted a written request to the CEO for the application to be referred to Council for consideration ("call-in").
Delegate	Chief Executive Officer
Sub-delegation	Yes