

Schedule of Modifications

Amendment 88 to Town of Victoria Park Town Planning Scheme No. 1

Local Planning Policy 32 – Exemptions from Development Approval

Local Planning Policy – Character Retention Guidelines

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Table 1, 2 and 3: Modifications to Documents Made Prior to Advertising

1. Amendment 88

No.	Amendment as Adopted for Advertising by Council 15/09/2020	Modified Amendment as Advertised	Officer Justification for Modification
1.	<p>Section 3.0 Local Planning Strategy</p> <p>The Town is currently preparing a draft Local Planning Strategy, in September, the Western Australian Planning Commission requested modifications prior to the certification for public advertising.</p> <p>The draft Local Planning Strategy acknowledges the Scheme Amendment process currently being undertaken to establish a Special Control Area over the RCSA. In this regard, Part B section 14 identifies the following objective for the “Character Area (East and West)”:</p> <p>14.1 To require the conservation and retention of ‘original dwellings’ within a proposed Residential Character Study Area.</p> <p>14.2 To enhance the streetscape character that is attributed to the presence of original dwellings and the sympathetic character of new development.</p>	<p>Section 3.0 Local Planning Strategy</p> <p>On 21 April 2020 the Council endorsed a draft Local Planning Strategy (‘Strategy’) (dated April 2020) for public advertising following Certification by the WAPC. Chapter 14 Residential Character Area (East and West) included the following action to be undertaken during preparation of the new Local Planning Scheme No. 2:</p> <p><i>“14.1 Transition the current TPS No.1 zones, R-Code densities and development requirements into LPS No.2, including the proposed TPS No.1 amendment to introduce a Special Control Area (Character Retention Area) over the Character Retention Area and amendments to Local Planning Policy 25 - Streetscape.”</i></p> <p>In their assessment of the draft Strategy (April 2020) for Certification, the Department for Planning, Lands and Heritage instructed the Town to remove reference to the proposed Special Control Area as it was the subject of a current scheme amendment. The WAPC granted the DPLH delegation to Certify the draft Strategy in</p>	<p>Information under the ‘Local Planning Strategy’ heading in Section 3.0 of the Scheme Report was replaced in accordance with the Western Australian Planning Commission’s consent to advertise dated 30 March 2021 stated:</p> <p><i>“The WAPC has examined the amendment in accordance with regulation 37(4) of the planning regulations, and advises that it is suitable for advertising subject to section 3.0 of the scheme amendment document relating to the Town’s draft local planning strategy being modified to be consistent with the approach in the draft local planning strategy that was certified for advertising by the WAPC on 25 February 2021.”</i></p>

	<p>14.3 To ensure the special and particular elements of streetscape character are considered in all land use and development proposals.</p> <p>To achieve the specified objectives, the draft Local Planning Strategy outlines specific actions relating to the Character Area (East and West). The draft Local Planning Strategy states the following short term action:</p> <p><i>“Transition the current TPS No.1 zones, R-Code densities and development requirements into LPS No. 2, including the proposed TPS No. 1 amendment to introduce a Special Control Area (Character Retention Area) over the Character Retention Area and amendments to Local Planning Policy 25 – Streetscape.”</i></p> <p>Although the draft Local Planning Strategy is yet to commence advertising, the Town’s strategic direction is clear that including character protection and retention is intended to be a scheme provision of LPS No. 2. The proposed SCA is consistent with both the objectives and actions identified in section 14 of the draft Local Planning Strategy.</p>	<p>September 2020. Certification was provided in February 2021 and an amended draft Strategy (dated March 2021) was publicly advertised between 6 April and 31 May 2021.</p> <p>The draft Strategy (March 2021) Part Two – LPS Background Information and Analysis, Chapter 13 Character Area (East and West) acknowledges the Scheme Amendment process currently being undertaken to establish a Special Control Area over the RCSA. This is contained in the description of the Current Planning Framework – Local Planning Policy 25 Streetscapes (page 73) which states <i>“The Town has recently confirmed the community’s desire for conservation of heritage values through this neighbourhood and is updating the Policy to reflect contemporary needs, as well as initiating a Special Control Area in TPS No.1 to manage demolition and development for single houses.”</i></p> <p>The draft Strategy Part One - Local Planning Strategy, Chapter 8 Neighbourhood, Neighbourhood 5 Residential Character Area includes Objectives which provide the strategic basis for the Residential Character Area and the future Local Planning Scheme No. 2 (and other planning instruments) to ensure that character protection and retention is central to decisions made through the Scheme.</p> <p>The draft Strategy Objectives for the Residential Character Area are:</p>	
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		<p><i>“CA.1 To encourage the conservation and retention of original dwellings and streetscapes.</i></p> <p><i>CA.2 To enhance the streetscape character that is attributed to the presence of original dwellings and the sympathetic character of new development.</i></p> <p><i>CA.3 To ensure the special and particular elements of streetscape character are considered in all land use and development proposals.”</i></p> <p>As such, The Town’s strategic direction is clear that including character protection and retention is intended to be a focus of the strategic direction and future planning controls for the Residential Character Area.</p>	
2.	<p>1.3 Including the Character Retention Area within Schedule E of the Scheme Text as follows:</p> <p>Particular requirements</p> <p>1. Notwithstanding clause 61(1)(c), (d) and (e) of the deemed provisions, development approval is required for the following works:</p> <ul style="list-style-type: none"> a) the erection or extension of a single house on a lot, where visible from the street; b) the erection or extension of an ancillary dwelling, outbuilding, external fixture, front fence, patio, verandah, garage or carport on the same lot as a single house 	<p>1.3 Including the Character Retention Area within Schedule E of the Scheme Text as follows:</p> <p>Particular requirements</p> <p>1. Notwithstanding subclause 61(1) Items 1, 6 and 7 of the deemed provisions, development approval is required for the following works:</p> <ul style="list-style-type: none"> a) the erection of, or alterations or additions to, a single house on a lot, where visible from the street; b) the erection or installation of, or alterations or additions to, any of the following on the same lot as a single 	<p>At the Council meeting held on 15 September 2020 Council resolved to adopt the amendment for the purpose of advertising. Following this meeting, amendments to clause 61 of the Deemed Provisions were gazetted on 1/07/2021. This resulted in various changes to provision (clause) numbers and contents of relevant Deemed Provisions. The Amendment Report was updated to reference the current clause numbers on the basis that the current Deemed Provision still has the same intent as the superseded Deemed Provision.</p>

	<p>or grouped dwelling, where visible from the street; or</p> <p>c) the demolition of a single house constructed prior to 1 January 1946.</p> <p>unless those works are specified as being exempt from development approval under a local planning policy referred to in deemed clause 61(1)(i).</p>	<p>house or grouped dwelling, where visible from the street:</p> <ul style="list-style-type: none"> • an ancillary dwelling; • an outbuilding; • an external fixture; • a boundary wall or fence; • a patio; • a pergola; • a verandah; • a deck; • a garage; • a carport. <p>c) the demolition of a single house constructed prior to 1 January 1946.</p> <p>unless those works are specified as being exempt from development approval under a local planning policy referred to in deemed subclause 61(1) Item 20.</p>	
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2. Local Planning Policy 32 – Exemptions from Development Approval

No.	Policy Provision as Adopted for Advertising by Council 15/09/2020	Modified Policy Provision as Advertised	Officer Justification for Modification
	Table 1 – Exempt Works	Table 1 – Exempt Works	
1.	<p>In relation to ‘Works: Demolition’</p> <p><u>Conditions:</u></p> <ul style="list-style-type: none"> Demolition of a dwelling – exempt if not located in the Character Retention Area, or if located in the Character Retention Area, exempt if constructed after 1 January 1946. Demolition of an ancillary dwelling, incidental structures, including an outbuilding, external fixture, boundary wall or fence, patio, pergola, retaining wall, verandah, garage, carport, swimming pool or spa – exempt. Demolition (in full or part) of a non-residential building – exempt unless the building is an original shopfront on Albany Highway or an ‘original shop’ in the Residential Character Study Area or a heritage listed property on the Town’s MHI or the State Register of Heritage Places. 	<p>In relation to ‘Works No. 1: Demolition¹ or removal of any of the following² –</p> <ul style="list-style-type: none"> (a) a grouped dwelling; (b) a single house; (c) an ancillary dwelling; (d) an outbuilding; (e) an external fixture; (f) a boundary wall or fence; (g) a patio; (h) a pergola; (i) a verandah; (j) a deck; (k) a garage; (l) a carport; (m) a swimming pool; (n) shade sails; (o) a vergola.’ <p>Inclusion of condition ‘(c)’ as follows:</p> <ul style="list-style-type: none"> (c) For land in the Character Retention Area – a grouped dwelling or single house is only exempt if constructed after 1 January 1946. <p>In relation to ‘Works No. 2: Demolition¹ of a building that is not a single house, ancillary dwelling, multiple dwelling or grouped dwelling. Such works include the demolition of buildings</p>	<p>At the Council meeting held on 15 September 2020 Council resolved to adopt the draft amended policy for the purpose of advertising. A copy of the draft amended policy is provided as an attachment to the Council report.</p> <p>Separately, at the Council meeting held on 16 March 2021 Council resolved to adopt an amended version of the policy. The amended policy included modification to the works and conditions specified in Table 1 – Exempt Works, to reflect amendments to clause 61 of the Deemed Provisions that were gazetted on 15 February 2021. A copy of the draft amended policy is provided as an attachment to the Council report.</p> <p>Following these meeting, amendments to clause 61 of the Deemed Provisions were gazetted on 1/07/2021. This resulted in various changes to provision (clause) numbers and contents of relevant Deemed Provisions. The policy was updated to reference the current clause numbers on the basis that the current</p>

		used for non-residential purposes (e.g. commercial buildings)', inclusion of new conditions '(c)' and '(d)' as follows: (c) The works do not relate to a property on the Town's Local Heritage Survey. (d) The works do not relate to an original shopfront on Albany Highway.	Deemed Provision still has the same intent as the superseded Deemed Provision. A copy of the draft amended policy is provided as an attachment to the Council report.
3.	In relation to 'Works: Single house (new dwelling or additions to)' <u>Conditions:</u> <ul style="list-style-type: none"> For land in the Character Retention Area – exempt if not visible from the street and satisfies Clause 61(1)(c) of the Regulations. For land elsewhere, refer to Clause 61(1)(c) of the Regulations. 	In relation to 'Works No. 6: The erection of, or alterations or additions to, a single house on a lot.' Inclusion of the condition '(d)' as follows: (d) For land in the Character Retention Area – exempt if not visible from the street.	As above
4.	In relation to 'Works: <ul style="list-style-type: none"> Ancillary dwelling (new or additions to); Carport or garage; Outbuildings; Patio Satellite dish Single house (new dwelling or additions to)' <u>Conditions:</u> <ul style="list-style-type: none"> For land in the Character Retention Area – exempt if not visible from the street and satisfies Clause 61(1)(d) of the Regulations. 	In relation to 'Works No. 7: The erection or installation of, or alterations or additions to, any of the following ¹ on the <u>same lot as a single house, grouped dwelling or multiple dwelling(s)</u> — (a) an ancillary dwelling ² ; (b) an outbuilding ³ ; (c) an external fixture ^{4, 5, 6, 7} ; (d) a boundary wall or fence ⁸ ; (e) a patio ⁹ ; (f) a pergola; (g) a verandah; (h) a deck; (i) a garage; (j) a carport;	As above.

	<ul style="list-style-type: none"> For land elsewhere, refer to Clause 61(1)(d) of the Regulations. 	<p>(k) car parking bays^{10, 11.}</p> <p>Inclusion of the condition '(d)' as follows:</p> <p>(d) For land in the Character Retention Area – exempt if not visible from the street.</p>	
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3. Local Planning Policy – Character Retention Guidelines

No.	Policy Provision as Adopted for Advertising by Council 15/09/2020	Modified Policy Provision as Advertised	Officer Justification for Modification
	Nil.		Not applicable