

## 6. TOWN PLANNING SCHEME NO.1

<b>6.1 DETERMINATION OF APPLICATIONS – FOR DEVELOPMENT APPROVAL</b>	
Date Adopted	30 August 2011
Date Reviewed	11 October 2016
Authority	Local Government Act 1995 – s.5.42
Reference	Town Planning Scheme No.1
Delegation	<p>Determine applications for development approval pursuant to deemed clause 68(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 with the exception of the following:</p> <ul style="list-style-type: none"> <li>(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;</li> <li>(b) Applications requiring the exercise of a discretion under Clause 38 by “Absolute Majority”;</li> <li>(c) Applications for a non-residential development that are not supported by Council Officers;</li> <li>(d) Applications for modification to a planning approval previously considered by Council where the modifications increase the extent of non-compliance determined by Council, or result in a non-compliance issue that cannot be dealt with under delegated authority;</li> <li>(e) Applications involving an Unlisted Use;</li> <li>(f) Applications involving a non-conforming use;</li> <li>(g) Applications which propose demolition of an existing dwelling that is: <ul style="list-style-type: none"> <li>• listed in the State Register of Heritage Places; or</li> <li>• listed in the Town’s Municipal Heritage Inventory;</li> </ul> </li> <li>(h) Applications which result in a parking shortfall (in the case of a new development) or a net increase in an existing parking shortfall;</li> </ul>
Conditions	<ol style="list-style-type: none"> <li>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 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”).</li> <li>2. Delegation 6.1 may be exercised in relation to: <ul style="list-style-type: none"> <li>(a) The refusal of an application for new residential</li> </ul> </li> </ol>

	<p>dwellings, or works associated with or incidental to residential dwellings; or</p> <p>(b) Applications where one or more objections are received and the delegated Officer has determined that the objections :</p> <p>(i) are not valid; or (ii) are not planning considerations: or (iii) do not relate to the matters that were the subject of consultation; or (iv) have or can be addressed through amended plans or conditions;</p> <p>or</p> <p>(v) The refusal of applications for signs, 'X' (prohibited) uses or minor additions/alterations, notwithstanding Clauses (c), (e) and (f) above.</p>
Sub-delegation	Yes

## **6.2 APPLICATIONS FOR SUBDIVISION AND/OR AMALGAMATION**

Date Adopted	30 August 2011
Date Reviewed	12 September 2017
Authority	Local Government Act 1995 – s.5.42
Reference	Town Planning Scheme No. 1; Residential Design Codes, Planning and Development Act 2005
Delegation	Make recommendations to the WAPC in relation to applications for subdivision and/or amalgamation (no more than 10 lots) and process applications for subdivision clearance.
Conditions	No
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	12 September 2017
Authority	Local Government Act 1995 – s.5.42
Reference	Town Planning Scheme No.1 and Metropolitan Region Scheme Text
Delegation	Refer and/or make recommendations to the WAPC, DoP, Swan River Trust, 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 to be major or requiring Council consideration.
Conditions	No
Sub-delegation	Yes

**6.4 APPLICATIONS FOR REVIEW TO THE STATE ADMINISTRATIVE TRIBUNAL**

Date Adopted	30 August 2011
Date Reviewed	12 September 2017
Authority	Local Government Act 1995 – s.5.42
Reference	Town Planning Scheme No. 1; Planning and Development Act 2005.
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	No
Sub-delegation	Yes

**6.5 ACKNOWLEDGE EXISTING USE – APPLICATION FOR DEVELOPMENT APPROVAL**

Date Adopted	30 August 2011
Date Reviewed	12 September 2017
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
Sub-delegation	Yes

**6.6 DIRECTION NOTICES AND INFRINGEMENT NOTICES FOR NON-COMPLIANCE**

Date Adopted	30 August 2011
Date Reviewed	12 September 2017
Authority	Local Government Act 1995 – s.5.42
Reference	Town Planning Scheme No. 1; Planning and Development Act 2005.
Delegation	Issue, withdraw or amend Direction Notices and Infringement Notices for non-compliance with the Town Planning Scheme pursuant to the Planning and Development Act 2005
Conditions	No
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	12 September 2017
Authority	Local Government Act 1995 – s.5.42
Reference	Town Planning Scheme No.1 and Planning and Development Act 2005
Delegation	Commence prosecution for breach of Town Planning Scheme No. 1 or Planning and Development Act 2005.
Conditions	No
Sub-delegation	No

**6.8 DECISIONS RELATING TO BUILT STRATA SUBDIVISIONS**

Date Adopted	11 September 2012
Date Reviewed	12 September 2017
Authority	Local Government Act 1995 – s.5.42
Reference	Town Planning Scheme No. 1; Strata Titles Act 1985;
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
Sub-delegation	Yes

**6.9 SECTION 40 LIQUOR LICENCE APPLICATIONS**

Date Adopted	11 September 2012
Date Reviewed	12 September 2017
Authority	Local Government Act 1995 – s.5.42
Reference	Liquor Control Act 1988.
Delegation	Approve or refuse requests for Section 40 'Certificate of Local Planning Authority'
Conditions	No
Sub-delegation	Yes

**6.10 DEVELOPMENT ASSESSMENT PANEL APPLICATIONS**

Date Adopted	11 June 2013
Date Reviewed	12 September 2017
Authority	Local Government Act 1995 – s.5.42
Reference	Planning and Development Act 2005, Town Planning Scheme No.1.
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 Committee.
Conditions	No
Sub-delegation	Yes