

10.2.1 Urban Planning Functions

Delegator:	Local Government
Express Power to Delegate:	<i>Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2, Clauses 82 and 83.</i>
Express Power or Duty Delegated:	All powers and duties under Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> and the Town of Victoria Park Local Planning Scheme No. 2
Delegate:	Chief Executive Officer
Function:	<p>Authority to exercise all powers and duties under Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> and the Town of Victoria Park Local Planning Scheme No. 2 with the exception of the following -</p> <ul style="list-style-type: none"> • r. 3(5) and r. 4(3) – local planning policies; • r. 8(d) – heritage list; • r. 9(1), r. 9(6)(b) and r. 9(8) – heritage area; • r. 20 – structure plan. • r.52 – local development plan. • r. 68(2) – the determination of the following applications for development approval only <ul style="list-style-type: none"> a. Applications for a non-residential development that are not supported by Council Officers. b. Applications for modification to a development approval previously considered by Council where the modifications increase the extent of non-compliance approved by Council. c. Applications for development approval which propose demolition of an existing building that is located in a 'heritage protected place'. d. Applications 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"), <p>Note –</p> <p>For clarity, all applications for development approval are delegated to the CEO (and sub-delegated to relevant Officers) to determine except those listed in (a) to (d) above, but (a) does not apply to -</p> <p>(i) Applications for minor additions/alterations;</p>

	<p>(ii) Applications for signs</p> <p>(iii) The refusal of 'X' (prohibited) uses where non-conforming use rights do not apply</p> <ul style="list-style-type: none"> • r. 77K(3) – payment in lieu of parking plan; • r. 78 – powers of local government;
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Council Conditions on this Delegation:	<ol style="list-style-type: none"> 1. As per section 257C of the <i>Planning and Development Act 2005</i> and Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>, applications for 'prescribed single house development' <u>must</u> be determined by the CEO or employees authorised by the CEO and cannot be determined by the Council. 2. In relation to applications for development approval that are 'called-in' by Council : <ol style="list-style-type: none"> (a) in considering whether to request the referral of an application to a Council Meeting, Elected Members should consider matters including – the level of public interest in the application; the extent of discretion that the application seeks; the scale and complexity of the application; and the impact on statutory timeframes for determining applications. (b) the Elected Member is to email the CEO through the Town's Governance team, requesting the application to be referred to a Council Meeting for consideration and providing reasons for the request; 3. In any instance, the CEO, on the advice of the Chief Community Planner or Manager Development Services may decide to not exercise this delegation and that the matter should be considered by Council.

Express Power to Sub-Delegate:		<i>Planning and Development (Local Planning Schemes) Regulations 2015: Schedule 2, Clause 83 Local government CEO may delegate powers</i>			
Sub-Delegate/s:		1002.1	Chief Community Planner		
		1107.01	Manager Development Services		
		1109.01	Coordinator Urban Planning		
		1110.01-03	Senior Planning Officer		
		1111.01-05	Planning Officer		
CEO Conditions on this Sub-Delegation:		The sub-delegation to Planning Officers only relates to: (a) the approval of development applications for patios, front fences and outbuildings to residential dwellings (where no objections have been received to any required community consultation); or (b) to determine whether development approval is required. but in either instance does not authorise Officers to approve their own work ie. needs to be checked and approved by another Officer.			
Compliance Links:		<i>Planning and Development Act 2005; Planning and Development (Local Planning Schemes) Regulations 2015.</i>			
Record Keeping:		Exercise of authority to be recorded in CM9.			
Version	Approved, Amended, Rescinded	Date	Authority	Resolution Number	Key Changes/Notes
1	Approved	21/5/2019	Council	87/2019	Adopted.
2	Amended	28/6/2019	CEO	-	Sub-delegates and CEO conditions added.
3	Amended	16/7/2019	Council	134/2019	Item 11.2
4	Amended	19/5/2020	Council	393/2020	Item 11.1 Annual Review
5	Amended	28/07/2021	CEO	D21/62996	New sub-delegate added
6	Amended	13/9/2021	CEO	D21/72514	New sub-delegate added
7	Amended	18/06/2024	Council	129/2024	Annual review
8	Amended	16/01/2025	CEO	-	Administrative changes Replacing Town Planning Scheme No. 1 with Local Planning Scheme No. 2, removal of clause 2(a).

10.2.1 Determination of Applications for Development Approval

Delegator:	Local Government
Express Power to Delegate:	<i>Planning and Development (Local Planning Schemes) Regulations 2015:</i> Schedule 2, Clause 82 Delegations by local government
Express Power or Duty Delegated:	<p><i>Planning and Development (Local Planning Schemes) Regulations 2015:</i> Schedule 2:</p> <ul style="list-style-type: none"> r61. Development for which development approval is not required r62. Form of application r63. Accompanying material r64. Advertising applications r65. Subsequent approval of development r66. Consultation with other authorities r67. Matters to be considered by local government r68. Determination of applications r69. Application not to be refused if development contribution plan not in place r70. Form and date of determination r71. Commencement of development under development approval r72. Temporary development approval r73. Scope of development approval r74. Approval subject to later approval of details r75. Time for deciding application for development approval r76. Review of decisions r77. Amending or cancelling development approval <p><i>Local Planning Scheme No. 2</i></p>
Delegate:	Chief Executive Officer
Function:	<p>1. Authority to determine all applications for 'prescribed single house development' not in a 'heritage protected place'</p> <p>Note 1 – The effect of section 257C of the <i>Planning and Development Act 2005</i> and Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>, is that applications for 'prescribed single house development' must be determined by the CEO or employees authorised by the CEO, and cannot be determined by the Council.</p> <p>Note 2 – 'Prescribed single house development' is defined under Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> as development that consists of :</p>

- (a) the erection of, or alterations or additions to, a single house; or
- (b) the erection or installation of, or alterations or additions to, any of the following that is ancillary or incidental to a single house —
 - (i) an ancillary dwelling;
 - (ii) an outbuilding;
 - (iii) an external fixture;
 - (iv) a boundary wall or fence;
 - (v) a patio;
 - (vi) a pergola;
 - (vii) a verandah;
 - (viii) a deck;
 - (ix) a garage;
 - (x) a carport.

Note 3 – “Heritage protected place’ is defined under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as a place :

- (a) that is entered in the State Register of Heritage Places under the *Heritage Act 2018* section 42; or
- (b) that is under consideration for entry into the State Register of Heritage Places as described in subclause (2); or
- (c) that is the subject of an order under the *Heritage Act 2018* Part 4; or
- (d) that is the subject of a heritage agreement that has been certified under the *Heritage Act 2018* section 90; or
- (e) that is included on a heritage list as defined in clause 7; or
- (f) that is within a heritage area as defined in clause 7.

2. Authority to determine applications for development approval of a kind not addressed in item 1 above, including the exercise of discretion under Local Planning Scheme No. 2, the Residential Design Codes, Local Planning Policies and other planning instruments, with the exception of the following:
 - a. Applications for a non-residential development that are not supported by Council Officers, but excluding minor additions/alterations;
 - b. Applications for modification to a development approval previously considered by Council where the modifications increase the extent of non-compliance approved by Council,

	<p>or result in a non-compliance issue that cannot be dealt with under delegated authority;</p> <ul style="list-style-type: none"> d. Applications for a change of use to an Unlisted Use or building works to an Unlisted Use; e. Applications 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; f. Applications for development approval (where required) which propose demolition of an existing building that is located in a 'heritage protected place'; <p style="padding-left: 40px;">Note 4 – see Note 3 above for the definition of 'heritage protected place'.</p> <ul style="list-style-type: none"> g. Applications which propose either a parking shortfall (in the case of a new development) or a net increase in an existing parking shortfall where in either case the shortfall is not supported by Council Officers. h. Applications where the Town is not the determining authority. <ul style="list-style-type: none"> i. Applications 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 j. Applications which in the opinion of the Chief Community Planner or Manager Development Services should be considered by Council. <p>3. Make recommendations to the Western Australian Planning Commission in relation to applications for subdivision and/or amalgamation and process applications for subdivision clearance.</p> <p>4. Authority to refer and/or make recommendations to the Western Australian Planning Commission, Department of Planning, Lands and Heritage (DPLH), 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 delegate or sub-delegate as requiring Council consideration.</p> <p>5. 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.</p> <p>6. Acknowledge existing use for purpose of application for development approval where current approval documentation is not available.</p>
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	<ol style="list-style-type: none"> 7. Approve or refuse Form 15A and Form 15C applications for built strata subdivisions, acting on behalf of the Western Australian Planning Commission. 8. Make recommendations to the Metropolitan Inner Joint Development Assessment Panel in relation to DAP applications, following community consultation (where required under Council Policy) and consideration (if required) by the Design Review Panel. 9. Authority to approve a temporary work or temporary use in accordance with schedule 2, Part 7Clauses 61(1)item 7 and 61(2)(f) respectively of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>. 10. Authority to determine whether works comprising the erection of, or alterations or additions to a single house, require development approval in accordance with Schedule 2, Part 7, Clause 61A of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>.
<p>Council Conditions on this Delegation:</p>	<ol style="list-style-type: none"> 1. This delegation may be exercised in relation to: <ol style="list-style-type: none"> a. The approval or refusal of an application for new residential dwellings, or works associated with or incidental to residential dwellings; or b. Applications where one or more objections are received and the delegated Officer has determined that the objections: <ol style="list-style-type: none"> i. cannot be upheld as the development or the specific variations that were the subject of consultation satisfy relevant objectives or design principles; 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; c. The approval or refusal of applications for signs, or the refusal of 'X' (prohibited) uses where non-conforming use rights do not apply; or d. The approval or refusal of applications for minor additions/alterations to the development types listed in Function 2b and e; or e. 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 f. Amendments to DAP applications where the applicant has requested the application to be determined by the Town provided that the exceptions listed in Function 2 above do not apply; or

	g. Parking shortfalls, the subject of function 2. g. In exercising this discretion, Council Officers are to have regard to Schedule 2, Part 9A of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> and any other matter that is considered relevant in determining the acceptability of the parking shortfall.				
Express Power to Sub-Delegate:	<i>Planning and Development (Local Planning Schemes) Regulations 2015:</i> Schedule 2, Clause 83 Local government CEO may delegate powers				
Sub-Delegate/s:	1107.01	Manager Development Services			
	1109.01	Coordinator Urban Planning			
	1110.01-03	Senior Planning Officer			
	1111.01-05	Planning Officer			
CEO Conditions on this Sub-Delegation:	That the sub-delegation to Planning Officers: a. only relates to the approval of development applications for patios, front fences and outbuildings to residential dwellings (where no objections have been received to any required community consultation); and b. does not authorise Officers to approve applications that they have assessed.				
Compliance Links:		<i>Planning and Development Act 2005; Planning and Development (Local Planning Schemes) Regulations 2015.</i>			
Record Keeping:		Exercise of authority to be recorded in CM9.			
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7	Amended	18/06/2024	Council	129/2024	Annual review
8	Amended	04/02/2025	CEO	-	Administrative changes Replacing Town Planning Scheme No. 1 with Local Planning Scheme No. 2, removal of clause 2(a).

