

## PART 6 TOWN PLANNING

No: 6.1 ~~Enforcement, Offences, Infringement~~ Directions Notices and Legal Action  
(Including Appeals and SAT Matters)

<u>Function to be performed</u>	<u>If development is undertaken in contravention of a planning scheme, the responsible authority may give a written direction requiring the development to stop, be removed and/or for the land to be restored as near as practicable to its condition immediately before the development started.</u>
<del>Delegation from Legislative power or duty delegated</del>	<del>Local Government, pursuant to Parts 13</del> <u>Giving of a written direction under section 214(2), (3) and 14(5)</u> of the <i>Planning and Development Act 2005</i> <del>and Schedule 2, Part 10, Clauses 82 and 77 of the Planning and Development (Local Planning Scheme) Regulations 2015.</del>
<u>Delegation from</u>	<u>Local Government, pursuant to section 5.42 of the Local Government Act 1995.</u>
<b>Delegation to</b>	Chief Executive Officer
<del>Duty delegated</del>	<del>Planning and Development Act 2005 – Part 13 – Enforcement and legal proceedings</del> <del>Planning and Development Act 2005 – Part 14 – Applications for review</del> <del>Planning and Development (Local Planning Scheme) Regulations 2015 – Schedule 2 Part 10 – Enforcement and administration;</del>
<b>Delegation</b>	The Chief Executive Officer is delegated the power to: <ul style="list-style-type: none"> <li><del>take action for departure from the requirements and provisions</del> <u>Give a written direction where there has been a breach</u> of the <del>applicable local planning scheme, the Planning and Development Act 2005, and Planning and Development (Local Planning Scheme) Regulations 2015;</del> and</li> <li><del>Respond to appeals lodged with the State Administrative Tribunal.</del></li> <li><u>that falls within the responsibility of the City;</u></li> </ul>
<b>Conditions and Reporting Requirements</b>	<del>Applications originally determined by Council will be returned to Council when considering amended conditions or plans during the SAT process.</del> <u>Any expenses incurred by the City in carrying out the works specified in a direction notice shall be recovered from the person to whom the direction was given.</u>

**No: 6.2 Determination of Various Applications for Development**

<p><u>Function to be performed</u></p>	<p><u>The determination of applications for development approval made under City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme.</u></p> <p><u>Reconsidering a decision when invited to do so by the State Administrative Tribunal under section 31 of the State Administrative Tribunal Act 2004.</u></p> <p><u>Determining the requirement for and extent of advertising of applications and proposals made under the City of Vincent Local Planning Scheme No. 2 and Metropolitan Region Scheme.</u></p> <p><u>Determining the type and extent of accompanying material required to be lodged with applications and proposals made under the City of Vincent Local Planning Scheme No. 2 and Metropolitan Region Scheme and whether an application should be accepted or not;</u></p> <p><u>The determination of applications to amend or cancel a development approval made under delegated authority or to extend the period within which the development approved must be substantially commenced.</u></p> <p><u>Waiving or varying a requirement in Part 8 or Part 9 of the Planning and Development (Local Planning Schemes) Regulations 2015 in respect of an application where that application is considered to relate to a minor amendment to the development approval.</u></p>
<p><b>Delegation from Legislative power or duty delegated</b></p>	<p><del>Local Government, pursuant to</del> <u>Determination of an application for development approval under <b>clause 68</b> of Schedule 2 of the Planning and Development (Local Planning Scheme) Regulations; <b>subclause 29(2)</b> of the Metropolitan Region Scheme; and <b>subsection 31(2)</b> of the State Administrative Tribunal Act 2004.</u></p> <p><u>Advertising of applications and proposals under <b>subclauses 18(4), 23(2) and 34(4)</b> of the City of Vincent Local Planning Scheme No. 2; <del>Clauses 82, 18, 34, 50 and 64</del> and <b>subclauses 66(1) and 77,</b> and <del>Parts 7, 8 and 9(3)</del> of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015; and <del>Part IV</del> <b>subclause 30(1)</b> of the Metropolitan Region Scheme.</u></p> <p><u>Determining accompanying material requirements for applications for development approval, including refusal to accept an application, under <b>Clauses 11, 63 and 85</b> of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.</u></p> <p><u>Amending or cancelling development approval, including waiving or varying a requirement in Part 8 or 9 of the Planning and Development (Local Planning Schemes) Regulations 2015 for minor amendments and temporary works or use, under <b>Clause 77</b> and <b>subclauses 61(1)(f) and 61(2)(d)</b> of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.</u></p>
<p><u>Delegation from</u></p>	<p><u>Local Government, pursuant to <b>clause 82</b> of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.</u></p>
<p><b>Delegation to</b></p>	<p>Chief Executive Officer</p>
<p><b>Duty delegated</b> <u>Delegation</u></p>	<p><del>Planning</del> <u>The Chief Executive Officer is delegated the power to:</u></p> <p><u>Exercise discretion, determine and <del>Development (Local Planning Scheme) Regulations 2015 – Schedule 2 Part 7 –</del></u></p>

	<p><b>Requirement</b> <u>apply conditions to all applications</u> for development approval;</p> <ul style="list-style-type: none"> <li>• <u>made under the City of Vincent Local Planning Scheme No. 2 and <del>Development (Local Planning) or Metropolitan Region Scheme) Regulations 2015— Schedule 2 Part 8— Applications for development approval;</del></u></li> <li>• <u><del>Planning and Development</del> (Exercise discretion and affirm, vary or set aside a decision made on an application for development approval following a request by the State Administrative Tribunal for a reconsideration to be made under section 31 of the State Administrative Tribunal Act 2004;</u></li> <li>• <u>Determine the requirement for and extent of advertising of applications and proposals made under the City of Vincent Local Planning Scheme) <del>Regulations 2015— Schedule 2 Part 9— Procedure for dealing</del> No. 2 and Metropolitan Region Scheme;</u></li> <li>• <u>Determine the type and extent of accompanying material required to be lodged with applications <del>for development approval;</del> and proposals made under the City of Vincent Local Planning Scheme No. 2 and Metropolitan Region Scheme and whether an application should be accepted or rejected;</u></li> <li>• <u>Exercise discretion, determine and apply conditions to all applications to amend or cancel a development approval previously determined under delegated authority;</u></li> <li>• <u>Exercise discretion, determine and apply conditions to all applications made to extend the period within which a development approved must be substantially commenced; and</u></li> <li>• <u>Waive or vary a requirement in Part 8 or Part 9 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> in respect of an application where that application is considered to relate to a minor amendment to the development approval.</u></li> </ul>
<b>Delegation</b>	<p><del>The Chief Executive Officer is delegated the power to exercise discretion in accepting any application without condition.</del></p> <p><del>The Chief Executive Officer is delegated the power to exercise discretion, determine and apply conditions to all applications for development approval and subdivision under the applicable local planning scheme and/or regional planning scheme subject to the following conditions.</del></p>
<b>Conditions Reporting Requirements</b> and	<p><del>That the application for development approval is not a:</del></p> <p><u>1. This delegation does not extend to applications for development approval that propose to introduce one of the following land uses listed under Local Planning Scheme No. 2:</u></p> <ul style="list-style-type: none"> <li>a. Cinema/theatre;</li> <li>b. Club premises;</li> <li>c. Corrective institution;</li> <li>d. Educational establishment;</li> <li>e. Exhibition centre;</li> <li><u>f. Hospital;</u></li> <li><del>f.g.</del> <u>Hotel;</u></li> <li><del>g.h.</del> <u>Motel;</u></li> <li><del>h.i.</del> <u>Nightclub;</u></li> <li><del>i.j.</del> <u>Place of worship;</u></li> <li><u>k. Reception centre;</u></li> <li><u>l. Residential Building;</u></li> </ul>

	<p><del>j. Reception centre;</del>  <del>k.m. Serviced apartment;</del>  <del>l.n. Small bar;</del>  <del>m.o. Tavern;</del></p> <p><u>2. Development involving</u> This delegation does not extend to applications for development approval that propose a height of <del>1 or more</del> <u>three</u> storeys <del>greater than</del> <u>or more</u>;</p> <p><u>3. This delegation does not extend to applications for development approval that propose a new non-conforming use that is proposed to replace and effect the <del>deemed-to-comply standard in</del> discontinuance of an existing non-conforming use;</u></p> <p><u>4. This delegation does not extend to applications for telecommunications infrastructure that have received one or more objections;</u></p> <p><u>5. This delegation does not extend to applications for a billboard sign or directional sign;</u></p> <p><del>1. This delegation does not extend to applications for development approval that propose the Local Planning Scheme, any local planning policy or other applicable planning instrument;</del></p> <p><del>2.6. Demolition</del> <u>demolition</u> of buildings identified in the Heritage List, within a Heritage Area, or on the State Register of Heritage Places;</p> <p><del>3. Retrospective application (non-compliant/major);</del></p> <p><del>4. Development where:</del></p> <p><del>5.7. The application</del> <u>This delegation</u> does not <del>meet, by more</del> <u>extend</u> to applications for development approval that propose a <del>greater shortfall</del> <u>greater shortfall</u> than five <u>car parking</u> bays, <del>under</del> <u>under</u> the minimum <u>parking</u> requirements of Table 1 of Local Planning Policy 7.7.1 Non-Residential Development Parking Requirements; <del>or</del></p> <p><del>6.8. Cash-in-lieu of parking</del> <u>comprises or a reciprocal parking arrangement is required for</u> all <del>or part</del> of the shortfall in onsite parking <del>and the City proposes to waive all or part</del> <u>under the minimum parking requirements of the amount payable, or Table 1 of Local Planning Policy 7.7.1 Non-Residential Development Parking Requirements;</u></p> <p><del>a. Advertising has occurred and more than 5 objections have been received, or</del>  <del>b. More than 3 dwellings are proposed;</del></p> <p><del>7. Telecommunications facility that does not comply with the relevant local planning policy(s);</del></p> <p><u>9. Amendment to an application previously</u> <del>This delegation does not extend to applications for development approval that have received more than five (5) objections during the City's community consultation period;</del></p> <p><u>10. This delegation does not extend to applications for development approval that propose more than three (3) 'Dwellings (Grouped)' or 'Dwellings (Multiple)' or 'Aged or dependent persons dwellings';</u></p> <p><u>11. Any application for development approval within a design guideline area, character retention area or heritage area adopted by Council through a local planning policy is to be advertised to all owners and occupiers within that area by the City during the community consultation period, with the</u></p>
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	<p><u>exception of the William Street Design Guideline Area and Structures Above or Adjacent to the Graham Farmer Freeway Tunnel Northbridge Design Guideline Area, which shall be advertised in accordance with Policy 4.1.05 - Community Consultation;</u></p> <p><u>12. This delegation does not extend to applications to amend or cancel a development approval that was determined by Council, except if it is an application to extend the period within which the development must be substantially commenced;</u> <u>and</u></p> <p><del>8.</del><u>13. This delegation does not extend to requests from the State Administrative Tribunal for a reconsideration of a Council decision under section 31 of the State Administrative Tribunal Act 2004.</u></p>
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