

PART 6 TOWN PLANNING**No: 6.1 Directions Notices and Legal Action**

Function to be performed	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.
Legislative power or duty delegated	Giving of a written direction under section 214(2), (3) and (5) of the <i>Planning and Development Act 2005</i> .
Delegation from	Local Government, pursuant to section 5.42 of the <i>Local Government Act 1995</i> .
Delegation to	Chief Executive Officer
Delegation	The Chief Executive Officer is delegated the power to: <ul style="list-style-type: none"> • Give a written direction where there has been a breach of the <i>Planning and Development Act 2005</i> that falls within the responsibility of the City;
Conditions and Reporting Requirements	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.

No: 6.2 Determination of Various Applications for Development

<p>Function to be performed</p>	<p>The determination of applications for development approval made under City of Vincent Local Planning Scheme No. 2 and the <i>Metropolitan Region Scheme</i>.</p> <p>Reconsidering a decision when invited to do so by the State Administrative Tribunal under section 31 of the <i>State Administrative Tribunal Act 2004</i>.</p> <p>Determining the requirement for and extent of advertising of applications and proposals made under the City of Vincent Local Planning Scheme No. 2 and <i>Metropolitan Region Scheme</i>.</p> <p>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 <i>Metropolitan Region Scheme</i> and whether an application should be accepted or not;</p> <p>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.</p> <p>Waiving or varying 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.</p>
<p>Legislative power or duty delegated</p>	<p>Determination of an application for development approval under clause 68 of Schedule 2 of the <i>Planning and Development (Local Planning Scheme) Regulations</i>; subclause 29(2) of the <i>Metropolitan Region Scheme</i>; and subsection 31(2) of the <i>State Administrative Tribunal Act 2004</i>.</p> <p>Advertising of applications and proposals under subclauses 18(4), 23(2) and 34(4) of the City of Vincent Local Planning Scheme No. 2; Clauses 18, 34, 50 and 64 and subclauses 66(1) and 77(3) of Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>; and subclause 30(1) of the <i>Metropolitan Region Scheme</i>.</p> <p>Determining accompanying material requirements for applications for development approval, including refusal to accept an application, under Clauses 11, 63 and 85 of Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>.</p> <p>Amending or cancelling development approval, including waiving or varying a requirement in Part 8 or 9 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> for minor amendments and temporary works or use, under Clause 77 and subclauses 61(1)(f) and 61(2)(d) of Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>.</p>
<p>Delegation from</p>	<p>Local Government, pursuant to clause 82 of Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>.</p>
<p>Delegation to</p>	<p>Chief Executive Officer</p>
<p>Delegation</p>	<p>The Chief Executive Officer is delegated the power to:</p> <ul style="list-style-type: none"> • Exercise discretion, determine and apply conditions to all applications for development approval made under the City of Vincent Local Planning Scheme No. 2 and/or Metropolitan Region Scheme;

	<ul style="list-style-type: none"> • 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 <i>State Administrative Tribunal Act 2004</i>; • Determine the requirement for and extent of advertising of applications and proposals made under the City of Vincent Local Planning Scheme No. 2 and <i>Metropolitan Region Scheme</i>; • Determine 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 <i>Metropolitan Region Scheme</i> and whether an application should be accepted or rejected; • Exercise discretion, determine and apply conditions to all applications to amend or cancel a development approval previously determined under delegated authority; • Exercise discretion, determine and apply conditions to all applications made to extend the period within which a development approved must be substantially commenced; and • 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.
<p>Conditions and Reporting Requirements</p>	<ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> a. Cinema/theatre; b. Club premises; c. Corrective institution; d. Educational establishment; e. Exhibition centre; f. Hospital; g. Hotel; h. Motel; i. Nightclub; j. Place of worship; k. Reception centre; l. Residential Building; m. Serviced apartment; n. Small bar; o. Tavern; 2. This delegation does not extend to applications for development approval that propose a height of three storeys or more; 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 discontinuance of an existing non-conforming use; 4. This delegation does not extend to applications for telecommunications infrastructure that have received one or more objections; 5. This delegation does not extend to applications for a billboard sign or directional sign;

	<ol style="list-style-type: none"> 6. This delegation does not extend to applications for development approval that propose the demolition of buildings identified in the Heritage List, within a Heritage Area, or on the State Register of Heritage Places; 7. This delegation does not extend to applications for development approval that propose a greater shortfall than five car parking bays under the minimum parking requirements of Table 1 of Local Planning Policy 7.7.1 Non-Residential Development Parking Requirements; 8. Cash-in-lieu of parking or a reciprocal parking arrangement is required for all of the shortfall in onsite parking under the minimum parking requirements of Table 1 of Local Planning Policy 7.7.1 Non-Residential Development Parking Requirements; 9. 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; 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'; 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 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; 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; and 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 <i>State Administrative Tribunal Act 2004</i>.
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