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Schedule 2 — Deemed provisions for local planning schemes

[r. 10(4)]

Part 1 — Preliminary

1. Terms used

In this Scheme —

Act means the *Planning and Development Act 2005*;

advertisement means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, that is used wholly or partly for the purposes of advertising, announcing or directing, and includes —

(a) any hoarding or similar structure used, or adapted for use, for the display of advertisements; and

(b) any airborne device anchored to any land or building used for the display of advertising; and

(c) any vehicle or trailer or other similar object placed or located so as to serve the purpose of displaying advertising;

amenity means all those factors which combine to form the character of an area and include the present and likely future amenity;

Building Code means the Building Code of Australia which is volumes 1 and 2, as amended from time to time, of the National Construction Code series published by, or on behalf of, the Australian Building Codes Board;

built heritage conservation means conservation as defined in the *Heritage of Western Australia Act 1990* section 3(1);

cultural heritage significance has meaning given in the *Heritage of Western Australia Act 1990* section 3(1);

development contribution plan means a development contribution plan, prepared in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Part 7, that applies to land in the Scheme area;

local government means the local government responsible for this Scheme;

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local government CEO means the chief executive officer of the local government;

local planning strategy means the local planning strategy for this Scheme prepared under the *Planning and Development (Local Planning Schemes) Regulations 2015* Part 3, as amended from time to time;

owner, in relation to land, means —

(a) if the land is freehold land —

(i) a person whose name is registered as a proprietor of the land; and

(ii) the State, if registered as a proprietor of the land; and

(iii) a person who holds an interest as purchaser under a contract to purchase an estate in fee simple in the land; and

(iv) a person who is the holder of a freehold interest in land vested in an executor or administrator under the *Administration Act 1903* section 8;

and

(b) if the land is Crown land —

(i) the State; and

(ii) a person who holds an interest as purchaser under a contract to purchase an estate in fee simple in the land;

premises means land, buildings or part of land or a building;

R-Codes means the Residential Design Codes prepared by the Western Australian Planning Commission under section 26 of the Act, as amended from time to time;

region planning scheme means a region planning scheme that applies in respect of part or all of the Scheme area;

reserve means land reserved under this Scheme for a public purpose;

Scheme area means the area to which this Scheme applies;

special control area means an area identified under this Scheme as an area subject to special controls set out in this Scheme;

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substantially commenced means that some substantial part of work in respect of a development approved under a planning scheme or under an interim development order has been performed;

works, in relation to land, means —

(a) any demolition, erection, construction, alteration of or addition to any building or structure on the land; and

(b) the carrying out on the land of any excavation or other works; and

(c) in the case of a place to which a Conservation Order made under the *Heritage of Western Australia Act 1990* section 59 applies, any act or thing that —

(i) is likely to damage the character of that place or the external appearance of any building; or

(ii) would constitute an irreversible alteration to the fabric of any building;

zone means a portion of the Scheme area identified on the Scheme Map as a zone for the purpose of indicating the controls imposed by this Scheme on the use of, or the carrying out of works on, land, but does not include a reserve or special control area.

Part 2 — Local planning framework

Division 1 — Local planning strategy

2. Local planning strategy

Where a local planning strategy for the Scheme area has been prepared by the local government in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Part 3 the local planning strategy sets out the long-term planning directions for the Scheme area.

Division 2 — Local planning policies

3. Local planning policies

(1) The local government may prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.

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(2) A local planning policy —

(a) may apply generally or in respect of a particular class or classes of matters specified in the policy; and

(b) may apply to the whole of the Scheme area or to part or parts of the Scheme area specified in the policy.

(3) A local planning policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.

(4) The local government may amend or repeal a local planning policy.

(5) In making a determination under this Scheme the local government must have regard to each relevant local planning policy to the extent that the policy is consistent with this Scheme.

4. Procedure for making local planning policy

(1) If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows —

(a) publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of —

(i) the subject and nature of the proposed policy; and

(ii) the objectives of the proposed policy; and

(iii) where the proposed policy may be inspected; and

(iv) to whom, in what form and during what period submissions in relation to the proposed policy may be made;

(b) if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;

(c) give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.

(2) The period for making submissions in relation to a local planning policy must not be less than a period of 21 days commencing on the

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day on which the notice of the policy is published under subclause (1)(a).

(3) After the expiry of the period within which submissions may be made, the local government must —

(a) review the proposed policy in the light of any submissions made; and

(b) resolve to —

(i) proceed with the policy without modification; or

(ii) proceed with the policy with modification; or

(iii) not to proceed with the policy.

(4) If the local government resolves to proceed with the policy, the local government must publish notice of the policy in a newspaper circulating in the Scheme area.

(5) A policy has effect on publication of a notice under subclause (4).

(6) The local government —

(a) must ensure that an up-to-date copy of each local planning policy made under this Scheme is kept and made available for public inspection during business hours at the offices of the local government; and

(b) may publish a copy of each of those local planning policies on the website of the local government.

5. Procedure for amending local planning policy

(1) Clause 4, with any necessary changes, applies to the amendment to a local planning policy.

(2) Despite subclause (1), the local government may make an amendment to a local planning policy without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.

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6. Revocation of local planning policy

A local planning policy may be revoked —

(a) by a subsequent local planning policy that —

(i) is prepared in accordance with this Part; and

(ii) expressly revokes the local planning policy;

or

(b) by a notice of revocation —

(i) prepared by the local government; and

(ii) published in a newspaper circulating in the Scheme area.

Part 3 — Heritage protection

7. Terms used

In this Part —

heritage area means an area designated as a heritage area under clause 9;

heritage list means a heritage list established under clause 8(1);

place has the meaning given in the *Heritage of Western Australia Act 1990* section 3(1).

Note: The purpose of this Part is to provide for the identification of places and areas of heritage value so that development in the Scheme can, as far as possible, be consistent with the conservation of heritage values.

8. Heritage list

(1) The local government must establish and maintain a heritage list to identify places within the Scheme area that are of cultural heritage significance and worthy of built heritage conservation.

(2) The heritage list —

(a) must set out a description of each place and the reason for its entry in the heritage list; and

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(b) must be available, with the Scheme documents, for public inspection during business hours at the offices of the local government; and

(c) may be published on the website of the local government.

(3) The local government must not enter a place in, or remove a place from, the heritage list or modify the entry of a place in the heritage list unless the local government —

(a) notifies in writing each owner and occupier of the place and provides each of them with a description of the place and the reasons for the proposed entry; and

(b) invites each owner and occupier to make submissions on the proposal within 21 days of the day on which the notice is served or within a longer period specified in the notice; and

(c) carries out any other consultation the local government considers appropriate; and

(d) following any consultation and consideration of the submissions made on the proposal, resolves that the place be entered in the heritage list with or without modification, or that the place be removed from the heritage list.

(4) If the local government enters a place in the heritage list or modifies an entry of a place in the heritage list the local government must give notice of the entry or modification to —

(a) the Heritage Council of Western Australia; and

(b) each owner and occupier of the place.

9. Designation of heritage areas

(1) If, in the opinion of the local government, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area to which this Scheme applies, the local government may, by resolution, designate that area as a heritage area.

(2) If the local government designates an area as a heritage area the local government must adopt for the area a local planning policy that sets out the following —

(a) a map showing the boundaries of the heritage area;

(b) a statement about the heritage significance of the area;

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(c) a record of places of heritage significance in the heritage area.

(3) The local government must not designate an area as a heritage area unless the local government —

(a) notifies in writing each owner of land affected by the proposed designation and provides the owner with a copy of the proposed local planning policy for the heritage area; and

(b) advertises the proposed designation by —

(i) publishing a notice of the proposed designation in a newspaper circulating in the Scheme area; and

(ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and

(iii) publishing a copy of the notice of the proposed designation on the website of the local government;

and

(c) carry out any other consultation the local government considers appropriate.

(4) Notice of a proposed designation under subclause (3)(b) must specify —

(a) the area that is the subject of the proposed designation; and

(b) where the proposed local planning policy for the proposed heritage area may be inspected; and

(c) to whom, in what form and in what period submissions may be made.

(5) The period for making submissions in relation to the designation of an area as a heritage area must not be less than a period of 21 days commencing on the day on which the notice of the proposed designation is published under subclause (3)(b)(i).

(6) After the expiry of the period within which submissions may be made, the local government must —

(a) review the proposed designation in the light of any submissions made; and

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(b) resolve —

(i) to adopt the designation without modification; or

(ii) to adopt the designation with modification; or

(iii) not to proceed with the designation.

(7) If the local government designates an area as a heritage area the local government must give notice of the designation to —

(a) the Heritage Council of Western Australia; and

(b) each owner of land affected by the designation.

(8) The local government may modify or revoke a designation of a heritage area.

(9) Subclauses (3) to (7) apply, with any necessary changes, to the amendment to a designation of a heritage area or the revocation of a designation of a heritage area.

10. Heritage agreements

(1) The local government may, in accordance with the *Heritage of Western Australia Act 1990* section 29, enter into a heritage agreement with an owner or occupier of land or a building for the purpose of binding the land or affecting the use of the land or building insofar as the interest of that owner or occupier permits.

(2) The local government may not enter into an agreement with the owner or occupier of land or a building that relates to heritage matters other than in accordance with subclause (1).

11. Heritage assessment

(1) Despite any existing assessment on record, the local government may require a heritage assessment to be carried out prior to the approval of any development proposed in a heritage area or in respect of a place entered in the heritage list.

(2) A heritage assessment must be in a form approved by the Heritage Council of Western Australia.

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12. Variations to local planning scheme provisions for heritage purposes

(1) The local government may vary any site or development requirement specified in this Scheme to —

(a) facilitate the built heritage conservation of a place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the heritage list; or

(b) enhance or preserve heritage values in a heritage area.

(2) A variation under subclause (1) may be unconditional or subject to any conditions the local government considers appropriate.

(3) If the local government is of the opinion that the variation of site or development requirements is likely to affect any owners or occupiers in the general locality of the place or the heritage area the local government must —

(a) consult the affected parties by following one or more of the provisions for advertising uses under clause 64; and

(b) have regard to any views expressed prior to making its determination to vary the site or development requirements under this clause.

13. Heritage conservation notice

(1) In this clause —

heritage conservation notice means a notice given under subclause (2);

heritage place means a place that is on the heritage list or located in a heritage area;

properly maintained, in relation to a heritage place, means maintained in a way that ensures that there is no actual or imminent loss or deterioration of —

(a) the structural integrity of the heritage place; or

(b) an element of the heritage place that is integral to —

(i) the reason set out in the heritage list for the entry of the place in the heritage list; or

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(ii) the heritage significance of the area in which it is located, as set out in a statement in the local planning policy for the area adopted in accordance with clause 9(2).

(2) If the local government forms the view that a heritage place is not being properly maintained the local government may give to a person who is the owner or occupier of the heritage place a written notice requiring the person to carry out specified repairs to the heritage place by a specified time, being a time that is not less than 60 days after the day on which the notice is given.

(3) If a person fails to comply with a heritage conservation notice, the local government may enter the heritage place and carry out the repairs specified in the notice.

(4) The expenses incurred by the local government in carrying out repairs under subclause (3) may be recovered as a debt due from the person to whom the notice was given in a court of competent jurisdiction.

(5) The local government may —

(a) vary a heritage conservation notice to extend the time for carrying out the specified repairs; or

(b) revoke a heritage conservation notice.

(6) A person who is given a heritage conservation notice may apply to the State Administrative Tribunal for a review, in accordance with Part 14 of the Act, of a decision —

(a) to give the notice; or

(b) to require repairs specified in the notice to be carried out; or

(c) to require repairs specified in the notice to be carried out by the time specified in the notice.

Part 4 — Structure plans

14. Term used: structure plan

In this Part —

structure plan means a plan for the coordination of future subdivision and zoning of an area of land.

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15. When structure plan may be prepared

A structure plan in respect of an area of land in the Scheme area may be prepared if —

(a) the area is —

(i) all or part of a zone identified in this Scheme as an area suitable for urban or industrial development; and

(ii) identified in this Scheme as an area requiring a structure plan to be prepared before any future subdivision or development is undertaken;

or

(b) a State planning policy requires a structure plan to be prepared for the area; or

(c) the Commission considers that a structure plan for the area is required for the purposes of orderly and proper planning.

16. Preparation of structure plan

(1) A structure plan must —

(a) be prepared in a manner and form approved by the Commission; and

(b) include any maps, information or other material required by the Commission; and

(c) unless the Commission otherwise agrees, set out the following information —

(i) the key attributes and constraints of the area covered by the plan including the natural environment, landform and the topography of the area;

(ii) the planning context for the area covered by the plan and the neighbourhood and region within which the area is located;

(iii) any major land uses, zoning or reserves proposed by the plan;

(iv) estimates of the future number of lots in the area covered by the plan and the extent to which the plan provides for dwellings, retail floor space or other land uses;

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(v) the population impacts that are expected to result from the implementation of the plan;

(vi) the extent to which the plan provides for the coordination of key transport and other infrastructure;

(vii) the proposed staging of the subdivision or development covered by the plan.

(2) The local government may prepare a structure plan in the circumstances set out in clause 15.

(3) A person may make an application to the local government for a structure plan prepared by the person in the circumstances set out in clause 15 to be assessed and advertised if the person is —

(a) a person who is the owner of any or all of the land in the area to which the plan relates; or

(b) an agent of a person referred to in paragraph (a).

17. Action by local government on receipt of application

(1) On receipt of an application for a structure plan to be assessed and advertised, the local government —

(a) must consider the material provided by the applicant and advise the applicant in writing —

(i) if the structure plan complies with clause 16(1); or

(ii) if further information from the applicant is required before the structure plan can be accepted for assessment and advertising;

and

(b) must give the applicant an estimate of the fee for dealing with the application in accordance with the *Planning and Development Regulations 2009* regulation 48.

(2) The structure plan is to be taken to have been accepted for assessment and advertising if the local government has not given written notice to the applicant of its decision by the latest of the following days —

(a) 28 days after receipt of an application;

(b) 14 days after receipt of the further information requested under subclause (1)(a)(ii);

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(c) if the local government has given the applicant an estimate of the fee for dealing with the application — the day the applicant pays the fee.

18. Advertising structure plan

(1) The local government must, within 28 days of preparing a structure plan or accepting an application for a structure plan to be assessed and advertised —

(a) advertise the proposed structure plan in accordance with subclause (2); and

(b) seek comments in relation to the proposed structure plan from any public authority or utility service provider that the local government considers appropriate; and

(c) provide to the Commission —

(i) a copy of the proposed structure plan and all accompanying material; and

(ii) details of the advertising and consultation arrangements for the plan.

(2) The local government must advertise the structure plan in one or more of the following ways —

(a) by giving notice of the proposed structure plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the structure plan, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is given to the person;

(b) by publishing a notice of the proposed structure plan in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;

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(c) by publishing a notice of the proposed structure plan on the local government website including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;

(d) by erecting a sign or signs in a conspicuous place on the land the subject of the proposed structure plan giving notice of the proposed plan for a period of not less than 14 days and not more than 28 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the sign is erected.

(3) The local government —

(a) must make a structure plan advertised under subclause (2) and the material accompanying it available for public inspection during business hours at the offices of the local government; and

(b) may publish the structure plan and the material accompanying it on the website of the local government.

(4) If a local government fails to advertise a structure plan in accordance with this clause, the Commission may take reasonable steps to ensure that the plan is advertised.

(5) All costs incurred by the Commission in the exercise of the power conferred by subclause (4) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

19. Consideration of submissions

(1) The local government —

(a) must consider all submissions made to the local government within the period specified in a notice advertising the structure plan; and

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(b) may consider submissions made to the local government after that time; and

(c) may request further information from a person who prepared the structure plan; and

(d) may advertise any modifications proposed to the structure plan to address issues raised in submissions.

(2) If a local government makes a decision under subclause (1)(d) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the structure plan.

(3) Modifications to a structure plan may not be advertised on more than one occasion without the approval of the Commission.

20. Local government report to Commission

(1) The local government must prepare a report on the proposed structure plan and provide it to the Commission no later than 60 days after the day that is the latest of —

(a) the last day for making submissions specified in a notice given or published under clause 18(2); or

(b) the last day for making submissions after a proposed modification of the structure plan is advertised under clause 19(2); or

(c) a day agreed by the Commission.

(2) The report on the proposed structure plan must include the following —

(a) a list of the submissions considered by the local government, including, if relevant, any submissions received on a proposed modification to the structure plan advertised under clause 19(2);

(b) any comments by the local government in respect of those submissions;

(c) a schedule of any proposed modifications to address issues raised in the submissions;

(d) the local government's assessment of the proposal based on appropriate planning principles;

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(e) a recommendation by the local government on whether the proposed structure plan should be approved by the Commission, including a recommendation on any proposed modifications.

21. Cost and expenses incurred by local government

The costs and expenses incurred by the local government in giving a report under clause 20(1), are, to the extent that they are not payable by a person who prepared a structure plan under the *Planning and Development Regulations 2009* regulation 49, to be borne by the local government.

22. Decision of Commission

(1) On receipt of a report on a proposed structure plan, the Commission must consider the plan and the report and may —

(a) approve the structure plan; or

(b) require the local government or the person who prepared the structure plan to —

(i) modify the plan in the manner specified by the Commission; and

(ii) resubmit the modified plan to the Commission for approval;

or

(c) refuse to approve the structure plan.

(2) Before making a decision under subclause (1), the Commission may, if the Commission considers that major modifications have been made to the structure plan since it was advertised, direct the local government to readvertise the structure plan in the manner specified by the Commission.

(3) The Commission may not direct the local government to readvertise the structure plan on more than one occasion.

(4) If the Commission is not given a report on a proposed structure plan in accordance with clause 20(1), the Commission may make a decision on the proposed structure plan under subclause (1) in the absence of the report.

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(5) The Commission is to be taken to have refused to approve a structure plan if the Commission has not made a decision under subclause (1) within —

(a) 120 days of the day on which the local government provides the report to the Commission, excluding any period between the Commission requiring modifications to the structure plan and the resubmission of the modified plan; or

(b) a longer period agreed in writing between the Commission and the person who prepared the proposed structure plan.

(6) Despite subclause (5), the Commission may decide whether or not to approve a structure plan after the period applicable under subclause (5) has expired, and the validity of the decision is not affected by the expiry.

(7) The Commission must give the local government and any person who prepared the proposed structure plan written notice of its decision to approve or to refuse to approve a structure plan.

23. Further services or information from local government

(1) The Commission may direct the local government to give to the Commission technical advice and assistance or further information in writing in connection with the application if —

(a) the local government does not provide a report on a structure plan within the timeframe referred to in clause 20(1); or

(b) the local government provides a report on a structure plan that does not contain sufficient information for the Commission to make its decision on whether or not to approve the structure plan.

(2) The direction must be in writing and must specify —

(a) the services or information required; and

(b) the time within which the local government must comply with the direction.

(3) If a local government fails to comply with a direction given to it under subclause (1), the Commission may take reasonable steps to obtain the services or information referred to in the direction on its own behalf.

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(4) All costs incurred by the Commission in the exercise of the power conferred by subclause (3) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

24. Structure plan may provide for later approval of details of subdivision

(1) The Commission may approve a structure plan that provides for further details of a proposed subdivision included in the plan to be submitted to, and approved by, the Commission before the subdivision is approved under Part 10 of the Act.

(2) The Commission may only approve a structure plan referred to in subclause (1) if the Commission is satisfied that the further matters that are to be approved would not result in a substantial departure from the plan.

25. Review

A person who prepared a structure plan may apply to the State Administrative Tribunal for a review, in accordance with the *Planning and Development Act 2005* Part 14, of a decision by the Commission not to approve the structure plan.

26. Publication of structure plan approved by Commission

(1) If the Commission approves a structure plan the Commission must publish the structure plan in any manner the Commission considers appropriate.

(2) The local government may publish a structure plan approved by the Commission on the website of the local government.

27. Effect of structure plan

(1) A decision-maker for an application for development approval or subdivision approval in an area that is covered by a structure plan that has been approved by the Commission is to have due regard to, but is not bound by, the structure plan when deciding the application.

(2) A decision-maker for an application for development approval or subdivision approval in an area referred to in clause 15 as being an

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area for which a structure plan may be prepared, but for which no structure plan has been approved by the Commission, may approve the application if the decision-maker is satisfied that —

(a) the proposed development or subdivision does not conflict with the principles of orderly and proper planning; and

(b) the proposed development or subdivision would not prejudice the overall development potential of the area.

28. Duration of approval

(1) The approval of a structure plan has effect for a period of 10 years commencing on the day on which the Commission approves the plan, or another period determined by the Commission, unless —

(a) the Commission earlier revokes its approval; or

(b) an amendment to the Scheme that covers the area to which the structure plan relates takes effect in accordance with section 87 of the Act.

(2) For the purposes of subclause (1), a structure plan that was approved before the day referred to in the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 2(b) (***commencement day***) is to be taken to have been approved on commencement day.

(3) The Commission may extend the period of approval of a structure plan if there are no changes to the terms of the plan or the conditions attached to the approval.

(4) The Commission may revoke its approval of a structure plan if the Commission considers that the structure plan cannot be effectively implemented because of a legislative change or a change in a State planning policy.

29. Amendment of structure plan

(1) A structure plan may be amended by the Commission at the request of the local government or a person who owns land in the area covered by the plan.

(2) The procedures for making a structure plan set out in this Part, with any necessary changes, are to be followed in relation to an amendment to a structure plan.

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(3) Despite subclause (2), the local government may decide not to advertise an amendment to a structure plan if, in the opinion of the local government and the Commission, the amendment is of a minor nature.

(4) An amendment to a structure plan does not extend the period of approval of the plan unless, at the time the amendment is approved, the Commission agrees to extend the period.

Part 5 — Activity centre plans

30. Terms used

In this Part —

activity centre means —

(a) an area of land identified in accordance with a State planning policy as an activity centre; or

(b) an area of land identified by the Commission as an activity centre;

activity centre plan or ***activity centre structure plan*** means a plan for the coordination of the future subdivision, zoning and development of an activity centre.

31. When activity centre plan may be prepared

An activity centre plan in respect of an area of land in the Scheme area may be prepared if —

(a) a State planning policy requires an activity centre structure plan to be prepared for the area; or

(b) the Commission considers that an activity centre plan for the area is required for the purposes of orderly and proper planning.

32. Preparation of activity centre plan

(1) An activity centre plan must —

(a) be prepared in a manner and form approved by the Commission; and

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(b) include any maps, information or other material required by the Commission; and

(c) unless the Commission otherwise agrees, set out the following information —

(i) the key attributes and constraints of the area covered by the plan including the natural environment, landform and the topography of the area;

(ii) the planning context for the area covered by the plan and the neighbourhood and region within which the area is located;

(iii) any major land uses, zoning or reserves proposed by the plan;

(iv) estimates of the future number of lots in the area covered by the plan and the extent to which the plan provides for dwellings, retail floor space or other land uses;

(v) the population impacts that are expected to result from the implementation of the plan;

(vi) the extent to which the plan provides for the coordination of key transport and other infrastructure;

(vii) the proposed staging of the subdivision or development covered by the plan;

(viii) the standards to be applied for the buildings, other structures and works that form part of the development or subdivision to which it applies;

(ix) arrangements for the management of services for the development or subdivision;

(x) the arrangements to be made for vehicles to access the area covered by the plan.

(2) The local government may prepare an activity centre plan in the circumstances set out in clause 31.

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(3) A person may make an application to the local government for an activity centre plan prepared by the person in the circumstances set out in clause 31 to be assessed and advertised if the person is —

(a) a person who is the owner of any or all of the land in the area to which the plan relates; or

(b) an agent of a person referred to in paragraph (a).

33. Action by local government on receipt of application

(1) On receipt of an application for an activity centre plan to be assessed and advertised, the local government —

(a) must consider the material provided by the applicant and advise the applicant in writing —

(i) if the activity plan complies with clause 32(1); or

(ii) if further information from the applicant is required before the activity centre plan can be accepted for assessment and advertising;

and

(b) must give the applicant an estimate of the fee for dealing with the application in accordance with the *Planning and Development Regulations 2009* regulation 48.

(2) The activity centre plan is to be taken to have been accepted for assessment and advertising if the local government has not given written notice of its decision to the applicant by the latest of the following days —

(a) 28 days after receipt of an application;

(b) 14 days after receipt of the further information requested under subclause (1)(a)(ii);

(c) if the local government has given the applicant an estimate of the fee for dealing with the application — the day on which the applicant pays the fee.

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34. Advertising activity centre plan

(1) The local government must, within 28 days of preparing an activity centre plan or accepting an application for an activity centre plan to be assessed and advertised —

(a) advertise the proposed activity centre plan in accordance with subclause (2); and

(b) seek comments in relation to the proposed activity centre plan from any public authority or utility service provider that the local government considers appropriate; and

(c) provide to the Commission —

(i) a copy of the proposed activity centre plan and all accompanying material;

(ii) details of the advertising and consultation arrangements for the plan.

(2) The local government must advertise the activity centre plan in one or more of the following ways —

(a) by giving notice of the proposed activity centre plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the activity centre plan, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is given to the person;

(b) by publishing a notice of the proposed activity centre plan in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;

(c) by publishing a notice of the proposed activity centre plan by electronic means in a form approved by the local government CEO including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day

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approved by the Commission, from the day on which the notice is published;

(d) by erecting a sign or signs in a conspicuous place on the land the subject of the proposed activity centre plan giving notice of the proposed plan for a period of not less than 14 days and not more than 28 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the sign is erected.

(3) The local government —

(a) must make an activity centre plan advertised under subclause (2) and the material accompanying it available for public inspection during business hours at the offices of the local government; and

(b) may publish the activity centre plan and the material accompanying it on the website of the local government.

(4) If a local government fails to advertise an activity centre plan in accordance with this clause, the Commission may take reasonable steps to ensure that the plan is advertised.

(5) All costs incurred by the Commission in the exercise of the power conferred by subclause (4) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

35. Consideration of submissions

(1) The local government —

(a) must consider all submissions made to the local government within the period specified in a notice advertising a proposed activity centre plan; and

(b) may consider submissions made to the local government after that time; and

(c) may request further information from a person who prepared the activity centre plan; and

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(d) may advertise any modifications proposed to the activity centre plan to address issues raised in submissions.

(2) If a local government makes a decision under subclause (1)(d) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the activity centre plan.

(3) Modifications to an activity centre plan may not be advertised on more than one occasion without the approval of the Commission.

36. Local government report to Commission

(1) The local government must prepare a report on the proposed activity centre plan and provide it to the Commission no later than 60 days after the day that is the latest of —

(a) the last day for making submissions specified in a notice given or published under clause 34(2); or

(b) the last day for making submissions after a proposed amendment to the activity centre plan is advertised under clause 35(2); or

(c) a day agreed by the Commission.

(2) The report on the proposed activity centre plan must be in a form approved by the Commission and must include the following —

(a) a list of the submissions considered by the local government, including if relevant, any submissions received on a proposed modification to the activity centre plan advertised under clause 35(2);

(b) any comments by the local government in respect of those submissions;

(c) a schedule of any proposed modifications to address issues raised in the submissions;

(d) the local government's assessment of the proposal based on appropriate planning principles;

(e) a recommendation by the local government on whether the proposed activity centre plan should be approved by the Commission, including a recommendation on any proposed modifications.

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37. Cost and expenses incurred by local government

The costs and expenses incurred by the local government in giving a report under clause 36(1), are, to the extent that they are not payable by a person who prepared an activity centre plan under the *Planning and Development Regulations 2009* regulation 49, to be borne by the local government.

38. Decision of Commission

(1) On receipt of a report on a proposed activity centre plan, the Commission must consider the plan and the report and may —

(a) approve the activity centre plan; or

(b) require the local government or the person who prepared the activity centre plan to —

(i) modify the plan in the manner specified by the Commission; and

(ii) resubmit the modified plan to the Commission for approval;

or

(c) refuse to approve the activity centre plan.

(2) Before making a decision under subclause (1), the Commission may, if the Commission considers that major modifications have been made to the activity centre plan since it was advertised, direct the local government to readvertise the activity centre plan as specified by the Commission.

(3) The Commission must not direct the local government to readvertise the activity centre plan on more than one occasion.

(4) If the Commission is not given a report on a proposed activity centre plan in accordance with clause 36(1), the Commission may make a decision on the proposed plan under subclause (1) in the absence of the report.

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(5) The Commission is to be taken to have refused to approve an activity centre plan if the Commission has not made a decision under subclause (1) within —

(a) 120 days of the day on which the local government provides the report to the Commission, excluding any period between the Commission requiring modifications to the activity centre plan and the resubmission of the modified plan; or

(b) a longer period agreed in writing between the Commission and the person who prepared the proposed activity centre plan.

(6) Despite subclause (5), the Commission may decide whether or not to approve an activity centre plan after the period applicable under subclause (5) has expired, and the validity of the decision is not affected by the expiry.

(7) The Commission must give the local government and any person who prepared the proposed activity centre plan written notice of its decision to approve or to refuse to approve an activity centre plan.

39. Further services or information from local government

(1) The Commission may direct the local government to give to the Commission technical advice and assistance or further information in writing in connection with the application if —

(a) the local government does not provide a report on an activity centre plan within the timeframe referred to in clause 36(1); or

(b) the local government provides a report on an activity centre plan that does not contain sufficient information for the Commission to make its decision on whether or not to approve the activity centre plan.

(2) The direction must be in writing and must specify —

(a) the services or information required; and

(b) the time within which the local government must comply with the direction.

(3) If a local government fails to comply with a direction given to it under subclause (1), the Commission may take reasonable steps to obtain

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the services or information referred to in the direction on its own behalf.

(4) All costs incurred by the Commission in the exercise of the power conferred by subclause (3) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

40. Activity centre plan may provide for later approval of details of subdivision or development

(1) The Commission may approve an activity centre plan that provides for —

(a) further details of a subdivision included in the plan to be submitted to, and approved by, the Commission before the subdivision is approved under Part 10 of the Act; or

(b) further details of development included in the plan to be submitted to, and approved by, the local government before the development commences.

(2) The Commission may only approve an activity centre plan referred to in subclause (1) if the Commission is satisfied that the further matters that are to be approved would not result in a substantial departure from the plan.

41. Review

A person who prepared an activity centre plan may apply to the State Administrative Tribunal for a review, in accordance with the *Planning and Development Act 2005* Part 14, of a decision by the Commission not to approve the activity centre plan.

42. Publication of activity centre plan approved by Commission

(1) If the Commission approves an activity centre plan the Commission must publish the activity centre plan in any manner the Commission considers appropriate.

(2) The local government may publish an activity centre plan approved by the Commission on the website of the local government.

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43. Effect of activity centre plan

(1) A decision-maker for an application for development approval or subdivision approval in an area that is covered by an activity centre plan that has been approved by the Commission is to have due regard to, but is not bound by, the activity centre plan when deciding the application.

(2) A decision-maker for an application for development approval or subdivision approval in an area referred to in clause 31 as being an area for which an activity centre plan may be prepared, but for which no activity centre plan has been approved by the Commission, may approve the application if the decision-maker is satisfied that —

(a) the proposed development or subdivision does not conflict with the principles of orderly and proper planning; and

(b) the proposed development or subdivision would not prejudice the overall development potential of the area.

44. Duration of approval

(1) The approval of an activity centre plan has effect for a period of 10 years commencing on the day on which the Commission approves the plan, or another period determined by the Commission, unless —

(a) the Commission earlier revokes its approval; or

(b) an amendment to the Scheme that covers the area to which the activity centre plan relates takes effect in accordance with section 87 of the Act.

(2) For the purposes of subclause (1), an activity centre plan that was approved before the day referred to in the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 2(b) (***commencement day***) has effect as if it were approved on commencement day.

(3) The Commission may extend the period of approval of an activity centre plan if there are no changes to the terms of the plan or the conditions attached to the approval.

(4) The Commission may revoke its approval of an activity centre plan if the Commission considers that the activity centre plan cannot be

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effectively implemented because of a legislative change or a change in a State planning policy.

45. Amendment of activity centre plan

(1) An activity centre plan may be amended by the Commission at the request of the local government or a person who owns land in the area covered by the plan.

(2) The procedures for making an activity centre plan set out in this Part, with any necessary changes, are to be followed in relation to an amendment to an activity centre plan.

(3) Despite subclause (2), the local government may decide not to advertise an amendment to an activity centre plan if, in the opinion of the local government and the Commission, the amendment is of a minor nature.

(4) An amendment to an activity centre plan does not extend the period of approval of the plan unless, at the time the amendment is approved, the Commission agrees to extend the period.

Part 6 — Local development plans

46. Term used: local development plan

In this Part —

local development plan means a plan setting out specific and detailed guidance for a future development including one or more of the following —

(a) site and development standards that are to apply to the development;

(b) specifying exemptions from the requirement to obtain development approval for development in the area to which the plan relates.

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47. When local development plan may be prepared

A local development plan in respect of an area of land in the Scheme area may be prepared if —

(a) the Commission has identified the preparation of a local development plan as a condition of approval of a plan of subdivision of the area; or

(b) a structure plan requires a local development plan to be prepared for the area; or

(c) an activity centre plan requires a local development plan to be prepared for the area; or

(d) the Commission and the local government considers that a local development plan is required for the purposes of orderly and proper planning.

48. Preparation of local development plan

(1) A local development plan must —

(a) be prepared in a manner and form approved by the Commission; and

(b) include any maps or other material considered by the local government to be necessary; and

(c) set out the following information —

(i) the standards to be applied for the buildings, other structures and works that form part of the development to which it applies;

(ii) details of the arrangements to be made for vehicles to access the area covered by the plan.

(2) The local government may prepare a local development plan in the circumstances set out in clause 47.

(3) A person may make an application to the local government for a local development plan prepared by the person in the circumstances set out in clause 47 to be assessed and advertised if the person is —

(a) a person who is the owner of any or all of the land in the area to which the plan relates; or

(b) an agent of a person referred to in paragraph (a).

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49. Action by local government on receipt of application

(1) On receipt of an application for a local development plan to be assessed and advertised, the local government —

(a) must consider the material provided by the applicant and advise the applicant in writing —

(i) if the local development plan complies with clause 48(1); or

(ii) if further information from the applicant is required before the local development plan can be accepted for assessment and advertising;

and

(b) must give the applicant an estimate of the fee for dealing with the application in accordance with the *Planning and Development Regulations 2009* regulation 48.

(2) The local development plan is to be taken to have been accepted for assessment and advertising if the local government has not given written notice of its decision to the applicant by the latest of the following days —

(a) 14 days after receipt of an application;

(b) 7 days after receipt of the further information requested under subclause (1)(a)(ii);

(c) if the local government has given the applicant an estimate of the fee for dealing with the application — the day on which the applicant pays the fee.

50. Advertising of local development plan

(1) The local government must, within 28 days of preparing a local development plan or accepting an application for a local development plan to be assessed and advertised —

(a) advertise the proposed local development plan in accordance with subclause (2); and

(b) seek comments in relation to the proposed local development plan from any public authority or utility service that the local government considers appropriate.

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(2) The local government must advertise the local development plan in one or more of the following ways —

(a) by giving notice of the proposed plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the plan, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is given to the person;

(b) by publishing a notice of the proposed plan in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is published;

(c) by publishing a notice of the proposed plan by electronic means in a form approved by the local government CEO including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is published;

(d) by erection of a sign or signs in a conspicuous place on the land the subject of the proposed plan giving notice of the proposed plan for a period of not less than 14 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the sign is erected.

(3) Despite subclause (1) the local government may decide not to advertise a local development plan if the local government is satisfied that the plan is not likely to adversely affect any owners or occupiers within the area covered by the plan or an adjoining area.

(4) The local government —

(a) must make a local development plan advertised under subclause (1) and the material accompanying it available for public inspection during business hours at the offices of the local government; and

(b) may publish the local development plan and the material accompanying it on the website of the local government.

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51. Consideration of submissions

The local government —

(a) must consider all submissions in relation to a local development plan made to the local government within the period specified in a notice advertising a proposed local development plan; and

(b) may consider submissions in relation to a local development plan made to the local government after that time; and

(c) is to have due regard to the matters set out in clause 67 to the extent that, in the opinion of the local government those matters are relevant to the development to which the plan relates.

52. Decision of local government

(1) Following consideration of a proposed local development plan, including any amendments made to the plan to address matters raised in submissions, the local government must —

(a) approve the local development plan; or

(b) require the person who prepared the local development plan to —

(i) modify the plan in the manner specified by the local government; and

(ii) resubmit the modified plan to the local government for approval;

or

(c) refuse to approve the plan.

(2) The local government is to be taken to have refused to approve a local development plan if the local government has not made a decision under subclause (1) —

(a) if the plan was advertised — within the period of 60 days after the last day for making submissions specified in a notice given or published under clause 50(2) or a longer period agreed between the local government and a person other than the local government who prepared the plan; or

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(b) if the plan was not advertised — within the period of 60 days after the resolution not to advertise the plan was made by the local government or a longer period agreed between the local government and a person other than the local government who prepared the plan.

(3) For the purposes of calculating the periods referred to in subclause (2)(a) and (b), the period between the local government requiring modifications to the local development plan and the resubmission of the modified plan is to be excluded.

(4) Despite subclause (2), the local government may decide whether or not to approve a local development plan after the period applicable under subclause (2) has expired, and the validity of the decision is not affected by the expiry.

(5) The local government must give any person who prepared the local development plan written notice of its decision to approve or to refuse to approve a local development plan.

53. Local development plan may provide for later approval of details of development

(1) The local government may approve a local development plan that provides for further details of any development included in the plan to be submitted to, and approved by, the local government before the development commences.

(2) The local government may only approve a local development plan referred to in subclause (1) if the local government is satisfied that the further matters that are to be approved would not result in a substantial departure from the plan.

54. Review

A person who prepared a local development plan may apply to the State Administrative Tribunal for a review, in accordance with the *Planning and Development Act 2005* Part 14, of a decision by the local government not to approve the local development plan.

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55. Publication of local development plan approved by local government

If the local government approves a local development plan the local government must publish the local development plan on the website of the local government.

56. Effect of local development plan

(1) A decision-maker for an application for development approval in an area that is covered by a local development plan that has been approved by the local government must have due regard to, but is not bound by, the local development plan when deciding the application.

(2) A decision-maker for an application for development approval in an area referred to in clause 47 as being an area for which a local development plan may be prepared, but for which no local development plan has been approved by the local government, may approve the application if the decision-maker is satisfied that —

(a) the proposed development does not conflict with the principles of orderly and proper planning; and

(b) the proposed development would not prejudice the overall development potential of the area.

57. Duration of approval

(1) The approval of a local development plan has effect for a period of 10 years commencing on the day on which the local government approves the plan, or another period determined by the local government, unless the local government earlier revokes its approval.

(2) For the purposes of subclause (1), a local development plan that was approved before the day referred to in the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 2(b) (***commencement day***) is to be taken to have been approved on commencement day.

(3) A local government may extend the period of approval of a local development plan if there are no changes to the terms of the plan or the conditions attached to the approval.

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58. Revocation of local development plan

The local government must not revoke approval of a local development plan unless this Scheme is amended so that the development to which the plan relates is a non-conforming use.

59. Amendment of local development plan

(1) A local development plan may be amended by the local government.

(2) A person who owns land in the area covered by a local development plan may request the local government to amend the plan.

(3) The procedures for making a local development plan set out in this Part, with any necessary changes, are to be followed in relation to an amendment to a local development plan.

(4) Despite subclause (3), the local government may decide not to advertise an amendment to a local development plan if, in the opinion of the local government, the amendment is of a minor nature.

(5) An amendment to a local development plan does not extend the period of approval of the plan unless, at the time the amendment is approved, the local government agrees to extend the period.

Part 7 — Requirement for development approval

60. Requirement for development approval

A person must not commence or carry out any works on, or use, land in the Scheme area unless —

(a) the person has obtained the development approval of the local government under Part 8; or

(b) the development is of a type referred to in clause 61.

Notes:

1. Development includes the erection, placement and display of advertisements.

2. Approval to commence development may also be required from the Commission if the land is subject to a region planning scheme.

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61. Development for which development approval not required

(1) Development approval of the local government is not required for the following works —

(a) the carrying out of works that are wholly located on an area identified as a regional reserve under a region planning scheme;

Note: Approval may be required from the Commission for development on a regional reserve under a region planning scheme.

(b) the carrying out of internal building work which does not materially affect the external appearance of the building unless the work is on a building identified as having an interior with cultural heritage significance —

(i) in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or

(ii) on a heritage list prepared in accordance with this Scheme;

(c) the erection or extension of a single house on a lot if the R-Codes apply to the development and the development satisfies the deemed-to-comply requirements of the R-Codes unless the development is located in a place that is —

(i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or

(ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or

(iii) included on a heritage list prepared in accordance with this Scheme; or

(iv) within an area designated under the Scheme as a heritage area; or

(v) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29;

(d) the erection or extension of an ancillary dwelling, outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool on the same lot as a single house or a grouped dwelling if the R-Codes apply to the development and the development

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satisfies the deemed-to-comply requirements of the R-Codes unless the development is located in a place that is —

(i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or

(ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or

(iii) included on a heritage list prepared in accordance with this Scheme; or

(iv) within an area designated under the Scheme as a heritage area; or

(v) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29;

(e) the demolition of a single house, ancillary dwelling, outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool except where the single house or other structure is —

(i) located in a place that is entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or

(ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or

(iii) included on a heritage list prepared in accordance with this Scheme; or

(iv) located within an area designated under this Scheme as a heritage area; or

(v) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29;

(f) temporary works which are in existence for less than 48 hours, or a longer period agreed by the local government, in any 12 month period;

(g) the temporary erection or installation of an advertisement if —

(i) the advertisement is erected or installed in connection with an election, referendum or other poll conducted

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under the *Commonwealth Electoral Act 1918* (Commonwealth), the *Electoral Act 1907* or the *Local Government Act 1995*; and

(ii) the primary purpose of the advertisement is for political communication in relation to the election, referendum or poll; and

(iii) the advertisement is not erected or installed until the election, referendum or other poll is called and is removed no later than 48 hours after the election, referendum or other poll is conducted;

(h) the erection or installation of a sign of a class specified in a local planning policy or local development plan that applies in respect of the sign unless the sign is to be erected or installed —

(i) on a place included on a heritage list prepared in accordance with this Scheme; or

(ii) on land located within an area designated under this Scheme as a heritage area;

(i) the carrying out of any other works specified in a local planning policy or local development plan that applies to the development as works that do not require development approval;

(j) the carrying out of works of a type identified elsewhere in this Scheme as works that do not require development approval.

Notes:

1. The *Planning and Development Act 2005* section 157 applies in respect of the carrying out of works necessary to enable the subdivision of land if the Commission has approved a plan of the subdivision.

2. The *Planning and Development Act 2005* section 6 applies in respect of the carrying out of public works by the Crown, the Governor, the Government of the State or a local government.

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(2) Development approval of the local government is not required for the following uses —

(a) a use that is wholly located on an area identified as a regional reserve under a region planning scheme;

Note: Approval may be required from the Commission for development on a regional reserve under a region planning scheme.

(b) development that is a use identified in this Scheme as a use that is permitted in the zone in which the development is located and —

(i) the development has no works component; or

(ii) development approval is not required for the works component of the development;

(c) the use of premises as a home office;

(d) temporary use which is in existence for less than 48 hours, or a longer period agreed by the local government, in any 12 month period;

(e) any other use specified in a local planning policy or local development plan that applies to the development as a use that does not require development approval;

(f) use of a type identified elsewhere in this Scheme as use that does not require development approval.

(3) Despite subclause (1) development approval may be required for certain works carried out in a special control area.

(4) For the purposes of subclause (1)(c) or (d), development is to be taken to satisfy a deemed-to-comply requirement of the R-Codes if it complies with —

(a) a requirement in a local development plan or activity centre plan made under the R-Codes that amends or replaces the deemed-to-comply requirement; or

(b) a requirement —

(i) in a structure plan that was approved before the day referred to in the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 2(b); and

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(ii) that amends or replaces the deemed-to-comply requirement;

or

(c) a requirement in a local planning policy that amends or replaces the deemed-to-comply requirement.

(5) If under subclause (1)(c) or (d) development approval is not required for the carrying out of works on land, the owner of the land may provide to the local government confirmation of the matters set out in subclause (1)(c) or (d), as relevant, in a manner and form approved by the Commission.

Part 8 — Applications for development approval

62. Form of application

(1) An application for development approval must be —

(a) made in the form of the "Application for development approval" set out in clause 86(1); and

(b) signed by the owner of the land on which the proposed development is to be located; and

(c) accompanied by any fee for an application of that type set out in the *Planning and Development Regulations 2009* or prescribed under the *Local Government Act 1995*; and

(d) accompanied by the plans and information specified in clause 63.

(2) For the purposes of subclause (1)(b), a person or body may sign an application for development approval as the owner of freehold land if the person or body is one of the following —

(a) a person who is referred to in the definition of ***owner*** in respect of freehold land in clause 1;

(b) a strata company that is authorised by a management statement registered under the *Strata Titles Act 1985* section 5C to make an application for development approval in respect of the land;

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(c) a person who is authorised under another written law to make an application for development approval in respect of the land;

(d) an agent of a person referred to in paragraph (a).

Note: The *Planning and Development Act 2005* section 267A makes provision for the signing of documents by the owner of Crown land.

(3) An application for development approval for the erection, placement or display of an advertisement must be accompanied by sufficient information to determine the application in the form of the "Additional information for development approval for advertisements" set out in clause 86(2).

Note: The *Interpretation Act 1984* section 74 provides for circumstances in which deviations from a prescribed form do not invalidate the form used.

63. Accompanying material

(1) An application for development approval must be accompanied by —

(a) a plan or plans in a form approved by the local government showing the following —

(i) the location of the site including street names, lot numbers, north point and the dimensions of the site;

(ii) the existing and proposed ground levels over the whole of the land the subject of the application;

(iii) the location, height and type of all existing structures and environmental features, including watercourses, wetlands and native vegetation on the site;

(iv) the structures and environmental features that are proposed to be removed;

(v) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;

(vi) the existing and proposed means of access for pedestrians and vehicles to and from the site;

(vii) the location, number, dimensions and layout of all car parking spaces intended to be provided;

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(viii) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;

(ix) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the open storage or trade display area;

(x) the nature and extent of any open space and landscaping proposed for the site;

and

(b) plans, elevations and sections of any building proposed to be erected or altered and of any building that is intended to be retained; and

(c) a report on any specialist studies in respect of the development that the local government requires the applicant to undertake such as site surveys or traffic, heritage, environmental, engineering or urban design studies; and

(d) any other plan or information that the local government reasonably requires.

(2) The local government may waive or vary a requirement set out in subclause (1).

(3) Where an application relates to a place entered on a heritage list prepared in accordance with this Scheme or within an area designated under this Scheme as a heritage area, the local government may require the application to be accompanied by one or more of the following —

(a) street elevations drawn as one continuous elevation to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application;

(b) a detailed schedule of all finishes, including materials and colours of the proposed development;

(c) a description of the finishes of the existing developments on the subject lot and on each lot immediately adjoining the subject lot.

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64. Advertising applications

(1) An application for development approval must be advertised under this clause if the proposed development —

(a) relates to the extension of a non-conforming use; or

(b) relates to a use if —

(i) the use is not specifically referred to in the zoning table for this Scheme in respect of the zone in which the development is located; and

(ii) the local government determines that the use may be consistent with the objective of that zone and that notice of the application should be given;

or

(c) does not comply with a requirement of this Scheme; or

(d) is a development for which the local government requires a heritage assessment to be carried out under clause 11(1); or

(e) is of a type that this Scheme requires to be advertised.

(2) The local government may waive a requirement for an application to be advertised in the circumstances set out in subclause (1)(c) if the local government is satisfied that the departure from the requirements of this Scheme is of a minor nature.

(3) The local government may advertise, or require the applicant to advertise, an application for development approval in one or more of the following ways —

(a) by giving notice of the proposed use or development to owners and occupiers of properties in the vicinity of the development who, in the opinion of the local government, are likely to be affected by the granting of development approval, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is given to the person;

(b) by publishing a notice of the proposed use or development in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local

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government by a specified day being a day not less than 14 days from the day on which the notice is published;

(c) by publishing a notice of the proposed use or development by electronic means in a form approved by the local government CEO including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is published;

(d) by erecting a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed use or development for a period of not less than 14 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the sign is erected.

(4) Notice referred to in subclause (3) must be in the form of the "Notice of public advertisement of planning proposal" set out in clause 86(3) unless the local government specifies otherwise.

(5) If an application for development approval is advertised under this clause, the local government —

(a) must make the application and the material accompanying it available for public inspection during business hours at the offices of the local government; and

(b) may publish the application and the material accompanying it on the website of the local government.

65. Subsequent approval of development

The procedures relating to applications for development approval set out in Part 7, Part 9 and this Part apply, with any modifications necessary, to an application for development approval for development already commenced or carried out.

Note: The *Planning and Development Act 2005* section 164 sets out the effect of approval for development already commenced or carried out.

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Part 9 — Procedure for dealing with applications for development approval

66. Consultation with other authorities

(1) When, in the opinion of the local government, an application for development approval may affect any other statutory, public or planning authority, the local government is to provide a copy of the application to the authority for objections and recommendations.

(2) If an application for development approval relates to proposed development on land that is reserved under this Scheme for a public purpose and vested in a public authority, the local government must provide a copy of the application to that authority for objections and recommendations before making a decision on the application.

(3) A statutory, public or planning authority receiving a copy of an application may, within 42 days of receiving the application or within such longer period as the local government allows, provide to the local government a memorandum in writing containing any objections to, or recommendations in respect of the whole or part of the proposed development.

(4) If a statutory, public or planning authority does not provide a memorandum within the time allowed under subclause (3), the local government may determine that the authority is to be taken to have no objections or recommendations to make.

67. Matters to be considered by local government

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —

(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;

(b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the *Planning and Development (Local Planning Schemes) Regulations 2015* or

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any other proposed planning instrument that the local government is seriously considering adopting or approving;

(c) any approved State planning policy;

(d) any environmental protection policy approved under the *Environmental Protection Act 1986* section 31(d);

(e) any policy of the Commission;

(f) any policy of the State;

(g) any local planning policy for the Scheme area;

(h) any structure plan, activity centre plan or local development plan that relates to the development;

(i) any report of the review of the local planning scheme that has been published under the *Planning and Development (Local Planning Schemes) Regulations 2015*;

(j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;

(k) the built heritage conservation of any place that is of cultural significance;

(l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;

(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;

(n) the amenity of the locality including the following —

(i) environmental impacts of the development;

(ii) the character of the locality;

(iii) social impacts of the development;

(o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;

(p) whether adequate provision has been made for the landscaping of the land to which the application relates and

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whether any trees or other vegetation on the land should be preserved;

(q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;

(r) the suitability of the land for the development taking into account the possible risk to human health or safety;

(s) the adequacy of —

(i) the proposed means of access to and egress from the site; and

(ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;

(t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;

(u) the availability and adequacy for the development of the following —

(i) public transport services;

(ii) public utility services;

(iii) storage, management and collection of waste;

(iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);

(v) access by older people and people with disability;

(v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;

(w) the history of the site where the development is to be located;

(x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;

(y) any submissions received on the application;

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(za) the comments or submissions received from any authority consulted under clause 66;

(zb) any other planning consideration the local government considers appropriate.

68. Determination of applications

(1) The local government must not determine an application for development approval until the later of —

(a) if the application is advertised under clause 64 — the end of each period for making submissions to the local government specified in a notice referred to in clause 64(3); and

(b) if a copy of the application has been provided to a statutory, public or planning authority under clause 66 — the end of each period for providing a memorandum to the local government referred to in clause 66(3).

(2) The local government may determine an application for development approval by —

(a) granting development approval without conditions; or

(b) granting development approval with conditions; or

(c) refusing to grant development approval.

69. Application not to be refused if development contribution plan not in place

(1) The local government must not refuse an application for development approval only because there is not a development contribution plan in place in relation to the development.

(2) The local government must not grant development approval subject to a condition that future contributions to the provision of infrastructure related to the development may be required under a development contribution plan that is not in place at the time the application is determined.

70. Form and date of determination

(1) As soon as practicable after determining an application for development approval, the local government must give the applicant

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written notice of the determination in the form of the "Notice of determination on application for development approval" set out in clause 86(4).

(2) The determination has effect on the day on which the notice of determination is given to the applicant.

71. Commencement of development under development approval

If development approval is granted under clause 68 —

(a) the development must be substantially commenced —

(i) if no period is specified in the approval — within the period of 2 years commencing on the date on which the determination is made; or

(ii) if a period is specified in the approval — within that period; or

(iii) in either case — within a longer period approved by the local government on an application made under clause 77(1)(a);

and

(b) the approval lapses if the development has not substantially commenced within the period determined under paragraph (a).

72. Temporary development approval

The local government may impose conditions limiting the period of time for which development approval is granted.

Note: A temporary development approval is where the local government grants approval for a limited period. It does not have any effect on the period within which the development must commence.

73. Scope of development approval

Development approval may be granted —

(a) for the development for which the approval is sought; or

(b) for the development for which the approval is sought, except for a part or aspect of that development specified in the approval; or

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(c) for a part or aspect of the development for which approval is sought that is specified in the approval.

74. Approval subject to later approval of details

(1) The local government may grant development approval subject to a condition that further details of any works or use specified in the condition must be submitted to, and approved by, the local government before the developer commences the development.

(2) The local government may only impose a condition referred to in subclause (1) if the local government is satisfied that the further matters that are to be approved would not substantially change the development approved.

75. Time for deciding application for development approval

(1) The local government must determine an application for development approval —

(a) if the application is advertised under clause 64 or a copy of the application is provided to a statutory, public or planning authority under clause 66 — within 90 days of receipt of the application; or

(b) otherwise — within 60 days of the receipt of the application and the material that is required to accompany the application referred to in clause 63; or

(c) in either case — within a longer time agreed in writing between the applicant and the local government.

(2) If the local government has not made a determination in the time referred to in subclause (1) the local government is to be taken to have refused to grant the development approval.

(3) Despite subclause (2), the local government may determine whether or not to grant the development approval after the period applicable under subclause (1) has expired and the validity of the determination is not affected by the expiry.

(4) The local government must give the applicant written notice of its decision to grant or refuse to grant development approval.

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76. Review of decisions

(1) In this clause —

affected person, in relation to a reviewable determination, means —

(a) the applicant for development approval; or

(b) the owner of land in respect of which an application for development approval is made;

reviewable determination means a determination by the local government to —

(a) refuse an application for development approval; or

(b) to grant development approval subject to conditions; or

(c) to refuse to amend or cancel a development approval on an application made under clause 77.

(2) An affected person may apply to the State Administrative Tribunal for a review of a reviewable determination in accordance with the *Planning and Development Act 2005* Part 14.

77. Amending or cancelling development approval

(1) An owner of land in respect of which development approval has been granted by the local government may make an application to the local government requesting the local government to do any or all of the following —

(a) to amend the approval so as to extend the period within which any development approved must be substantially commenced;

(b) to amend or delete any condition to which the approval is subject;

(c) to amend an aspect of the development approved which, if amended, would not substantially change the development approved;

(d) to cancel the approval.

(2) An application under subclause (1) —

(a) is to be made in accordance with the requirements in Part 8 and dealt with under this Part as if it were an application for development approval; and

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(b) may be made during or after the period within which the development approved must be substantially commenced.

(3) Despite subclause (2), the local government may waive or vary a requirement in Part 8 or this Part in respect of an application if the local government is satisfied that the application relates to a minor amendment to the development approval.

(4) The local government may determine an application made under subclause (1) by —

(a) approving the application without conditions; or

(b) approving the application with conditions; or

(c) refusing the application.

Part 10 — Enforcement and administration

Division 1 — Powers of local government

78. Powers of local government

(1) For the purposes of implementing this Scheme the local government may —

(a) enter into an agreement in respect of a matter relating to this Scheme with any owner, occupier or other person having an interest in land affected by this Scheme; and

(b) deal with or dispose of any land in the Scheme area which it has acquired in accordance with the *Planning and Development Act 2005* Part 11 Division 4.

(2) The local government may only deal with or dispose of land acquired by the local government for the purpose of a local reserve for a use of the land that is compatible with the purpose for which it is reserved.

79. Entry and inspection powers

(1) The local government CEO may, by instrument in writing, designate an officer of the local government as an authorised officer for the purposes of this clause.

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(2) An authorised officer may, for the purpose of monitoring whether the local planning scheme is being complied with, at any reasonable time and with any assistance reasonably required —

(a) enter any building or land in the Scheme area; and

(b) inspect the building or land and any thing in or on the building or land.

80. Repair of existing advertisements

(1) The local government may require the owner of an advertisement located in the Scheme area to repair the advertisement if, in the opinion of the local government, the advertisement has deteriorated to a point where it is in conflict with the aims of this Scheme.

(2) A requirement referred to in subclause (1) must —

(a) be in the form of a written notice given to the person; and

(b) specify the advertisement the subject of the requirement; and

(c) set out clear reasons for the requirement; and

(d) set out full details of the action or alternative courses of action to be taken by the person; and

(e) specify the period, not being a period of less than 60 days from the day on which the notice is given to the person, within which the requirement must be complied with.

(3) If the local government does not know who the owner of an advertisement is, the local government may give a notice referred to in subclause (1) to the owner of the land on which the advertisement is located and direct the owner of the land to give the notice to the owner of the advertisement within a period specified by the local government.

(4) If an owner of land on which an advertisement is located does not give to the owner of the advertisement a notice as directed under subclause (3), the owner of the land is to be taken to be the owner of the advertisement.

(5) A person to whom a notice under this clause is given may apply for a review of the requirement to the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14.

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Division 2 — Delegations

81. Terms used

In this Division —

absolute majority has the meaning given in the *Local Government Act 1995* section 1.4;

committee means a committee established under the *Local Government Act 1995* section 5.8.

82. Delegations by local government

(1) The local government may, by resolution, delegate to a committee or to the local government CEO the exercise of any of the local government's powers or the discharge of any of the local government's duties under this Scheme other than this power of delegation.

(2) A resolution referred to in subclause (1) must be by absolute majority of the council of the local government.

(3) The delegation must be in writing and may be general or as otherwise provided in the instrument of delegation.

83. Local government CEO may delegate powers

(1) The local government CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's functions under this Scheme other than this power of delegation.

(2) A delegation under this clause must be in writing and may be general or as otherwise provided in the instrument of delegation.

(3) Subject to any conditions imposed by the local government on its delegation to the local government CEO under clause 82, this clause extends to a power or duty the exercise or discharge of which has been delegated by the local government to the CEO under that clause.

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84. Other matters relevant to delegations under this Division

The *Local Government Act 1995* sections 5.45 and 5.46 apply to a delegation made under this Division as if the delegation were a delegation under Part 5 Division 4 of that Act.

Division 3 — Miscellaneous

85. Agreement to use of material provided for Scheme purposes

The local government may refuse to accept an application made under this Scheme if the local government is not satisfied that there is in place an agreement for the local government to use any copyrighted material provided in support of the application —

(a) for the purposes of advertising the application or implementing a decision on the application; and

(b) for zero remuneration.

Part 11 — Forms referred to in this Scheme

86. Forms referred to in this Scheme

(1) The form of an application for development approval referred to in clause 62(1)(a) is as follows —

Application for development approval

Owner details		
Name:		
ABN (if applicable):		
Address: .... Postcode:		
Phone: Work: ..... Home: ..... Mobile:	Fax:	Email: .....

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Contact person for correspondence:	
Signature:	Date:
Signature:	Date:
The signature of the owner(s) is required on all applications. This application will not proceed without that signature. For the purposes of signing this application an owner includes the persons referred to in the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 clause 62(2).	

Applicant details (if different from owner)		
Name:		
Address: .... Postcode:		
Phone: Work: ..... Home: ..... Mobile:	Fax:	Email: .....
Contact person for correspondence:		
The information and plans provided with this application may be made available by the local government for public viewing in connection with the application. ❑ Yes ❑ No		
Signature:	Date:	

Property details		
Lot No:	House/Street No:	Location No:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Title encumbrances (e.g. easements, restrictive covenants):		

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Planning and Development (Local Planning Schemes) Regulations 2015
Schedule 2 Deemed provisions for local planning schemes
Part 11 Forms referred to in this Scheme
cl. 86

Street name:	Suburb:
Nearest street intersection:	

Proposed development	
Nature of development:	❑ Works ❑ Use ❑ Works and use
Is an exemption from development claimed for part of the development? ❑ Yes ❑ No If yes, is the exemption for:	❑ Works ❑ Use
Description of proposed works and/or land use:	
Description of exemption claimed (if relevant):	
Nature of any existing buildings and/or land use:	
Approximate cost of proposed development:	
Estimated time of completion:	

OFFICE USE ONLY	
Acceptance Officer's initials:	Date received:
Local government reference No:	

(The content of the form of application must conform with this form but minor variations may be permitted to the format.)

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(2) The form for providing additional information for development approval for advertisements referred to in clause 62(3) is as follows —

Additional information for development approval for advertisements

Note: To be completed in addition to the Application for development approval form.

1.	Description of property on which advertisement is to be displayed including full details of its proposed position within that property: ....
2.	Details of proposed sign: (a) Type of structure on which advertisement is to be erected (i.e. freestanding, wall mounted, other): ..... (b) Height: ..... Width: ..... Depth: ..... (c) Colours to be used: ..... (d) Height above ground level — to top of advertisement: ..... to underside: ..... (e) Materials to be used: .... Illuminated: Yes / No If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source: ....

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3. Period of time for which advertisement is required:
.....

4. Details of signs (if any) to be removed if this application is approved:

.....

.....

.....

Note: This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed as detailed in 4 above.

Signature of advertiser(s): .....

(if different from land owners) .....

Date: .....

(3) The form of a notice of public advertisement of a planning proposal referred to in clause 64(4) is as follows —

Planning and Development Act 2005

City/Town/Shire of .....

Notice of public advertisement of planning proposal

The local government has received an application to use and/or develop land for the following purpose and public comments are invited.

Lot No: Street: Suburb:

Proposal: .....

.....

.....

Details of the proposal are available for inspection at the local government office. Comments on the proposal may be submitted to the local government in writing on or before the ..... day of

.....

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Signed:	Dated:
.....	.....
for and on behalf of the City/Town/Shire of:	

(4) The form of a notice of determination on an application for development approval referred to in clause 70 is as follows —

Planning and Development Act 2005

City/Town/Shire of .....

Notice of determination on application for development approval

Location:	
Lot:	Plan/Diagram:
Vol. No:	Folio No:
Application date:	Received on:

Description of proposed development: .....

.....

The application for development approval is:

❒ Approved subject to the following conditions

❒ Refused for the following reason(s)

Conditions/reasons for refusal:

.....

.....

.....

Date of determination: .....

Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect.

Note 2: Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.

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Note 3: If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

Signed: Dated:

....

for and on behalf of the City/Town/Shire of: .....

(The content of the determination notice must conform to this form but minor variations may be permitted to the format.)