

1. INTRODUCTION

The Council considers that the delegation of certain decision-making powers will expedite the processing of development applications, subdivision applications and associated administrative functions, to the benefit of ratepayers, the general public and the land development industry.

In this regard, section 5.42(a) of the Local Government Act 1995 (LG Act) states that a local government may delegate to the Chief Executive Officer (CEO) the exercise of any of its powers or the discharge of any of its duties under the LG Act, other than those referred to in section 5.43.

Furthermore, 5.44(1) of the LG Act, states that a CEO may delegate to any employee of the local government the exercise of any of the CEO's duties under the LG Act, other than the power of delegation.

Regulations: Clause 82 of the Planning and Development (Local Planning Schemes) Regulations 2015 provides for the Council to delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under Town Planning Scheme No.2 (TPS2).

Furthermore, Clause 83 of the Planning and Development (Local Planning Schemes) Regulations 2015 states that the 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 the Scheme other than this power of delegation.

2. STATEMENT OF INTENT

The purpose of this Planning Procedure is to outline the decision-making powers which the CEO has delegated to nominated Officers under Section 5.44(1) of the Local Government Act 1995 and Clause 83 of the Planning and Development (Local Planning Schemes) Regulations 2015.

The decision-making powers which have been delegated are those relating to the decisions under TPS2 and the Planning and Development (Local Planning Schemes) Regulations 2015 which are set out in Appendix 1 of this document and the administrative functions which are set out in Appendix 2.

The delegations listed in Appendix 1 and Appendix 2 apply to the following Officers:

- Director, Planning and Development Services;
- Manager, Strategic Planning and Environment;
- Manager, Statutory Planning;
- Manager, Major Planning Projects;
- Coordinator, Strategic Planning;
- Coordinator, Statutory Planning;
- Special Projects Officer; and
- Senior Planning Officer

3. PLANNING PROCEDURE

3.1 Implementation

The delegations in Appendix 1 and Appendix 2 are subject to the following:

- The nominated Officers are empowered to approve or conditionally approve or refuse applications within pre-determined guidelines contained within TPS2, adopted local government Policies and the Standards and the Standards and Policies of the Western Australian Planning Commission (WAPC) which have been adopted by the local government.
- Standard conditions, as set out in Planning Procedure No.1.11 - Standard Conditions and Footnotes for Development Applications and Planning Procedure No.1.13 - Model Subdivision Conditions Schedule for Subdivision Applications, subject to any modification that is required after considering the nature of the particular application.

- Non-standard conditions may be imposed after considering the nature of the particular application, providing that the condition relates to the following criteria:
 - (a) the built form of development;
 - (b) amenity sites;
 - (c) site planning issues;
 - (d) subdivision design matters;
 - (e) land use matters; and
 - (f) landscaping matters.
- With regard to the delegation referred to in Appendix 1, Section 4(1)(d), the Director, Planning and Development Services is the only Officer authorised to adopt a Structure Plan under Clause 29(3) of the Deemed Provisions.
- With regard to the delegation referred to in Appendix 1, Section 4(1)(d) and 4(1)(e), the Director, Planning and Development Services is the only Officer authorised to determine that advertising is not required and prepare a report to the Commission on amendments to structure plans that are minor in nature.
- With regard to the delegation referred to in Appendix 1, Section 4(2)(d) and 4(2)(e), the Director, Planning and Development Services is the only Officer authorised to determine that advertising is not required and submit a report and recommendation to the Commission on amendments to activity centre plans that are minor in nature.
- With regard to the delegation referred to in Appendix 1, Section 4(4)(b), the Director, Planning and Development Services is the only Officer authorised to negotiate a cash contribution in-lieu of car parking.

Note: Refer to Planning Policy No.3.3.17 - Variations to Building Envelopes for further information regarding the assessment of applications to vary the location of building envelopes within the Warnbro Dunes, Golden Bay and Singleton Special Residential Zones.

- All matters that have been dealt with under the delegated authority referred to in this Planning Procedure are to be reported to the Council on a monthly basis as an Information Bulletin item to the Planning Services Committee.
- Where, in the opinion of a nominated Officer, in consultation with the Director, Planning and Development Services, an application should be referred to the Council for determination, that application will be excluded from the requirements of this Planning Procedure.

3.2 Decisions Under Town Planning Scheme No.2

Under clause 83 of the Planning and Development (Local Planning Schemes) Regulations 2015, the CEO has delegated to the nominated Officers the exercise of various functions (refer to Appendix 1 for a copy of the Delegation of Authority).

3.3 Decisions under the Local Government Act

Under section 5.44(1) of the LG Act, the CEO has delegated to the nominated Officers the exercise of various functions (refer to Appendix 2 for a copy of the Delegated Authority).

4. INTERPRETATIONS

For the purposes of this Planning Procedure, the following terms shall have the same meaning as in Town Planning Scheme No.2:

'A' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 6.3.

'D' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval.

'A' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval;

'IP' means a use that is not permitted unless the use is incidental to the predominate use of the land as determined by the Council.

'Residential Design Codes' means the Residential Design Codes in the Western Australian Planning Commission Statement of Planning Policy No.3.1, as amended from time to time.

5. IMPLEMENTATION

This Planning Procedure was approved by the Director, Planning and Development Services and came into effect on 4 January 2015, and was amended on 22 October 2018, 31 January 2020, 4 August 2020, 22 February 2021 and 28 June 2022.

Appendices


City of Rockingham Delegated Authority, Chief Executive Officer to Other Employees, 7.1 Planning and Development Act 2005 - Town Planning Scheme.

City of Rockingham Delegated Authority, Chief Executive Officer to Other Employees, 7.2 Planning and Development Act 2005 - Other Delegations.

7. Planning Services

7.1 Town Planning Scheme	
Function Delegated:	All of the functions under Town Planning Scheme (TPS2) and Planning and Development (Local Planning Schemes) Regulations 2015 as per attachment.
Statutory Power being Delegated:	City of Rockingham TPS No. 2 – (TPS2) <i>Local Government Act 1995</i> Section 5.42(b) Planning and Development Act section 214(2), (3) or (5) <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>
Power is originally assigned to:	Local Government
Statutory Power of Delegation	<i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to the CEO <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Clause 82 of the Deemed Provisions Delegations by local government
Power Delegated to:	Chief Executive Officer
Council's Conditions on Delegation:	Nil
Statutory Power to Sub-Delegate:	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Clause 83 of the Deemed Provisions Local Government CEO may delegate powers
CEO's delegation to:	Director Planning and Development Services (Note 1) Manager Strategic Planning and Environment Manager Statutory Planning Manager Major Planning Projects Manager Land and Development Infrastructure Manager Health and Building Services (Note 3) and section 2 (Residential Design Codes (R-Codes)) Coordinator Building Services (Note 3) and section 2 (R-Codes) Coordinator Residential Design (Note 3) and section 2 (R-Codes) Coordinator Statutory Planning Coordinator Strategic Planning Coordinator Sustainability and Environment Coordinator Building and Development Compliance (Note 4) Senior Projects Officer Senior Building Surveyor (Note 3) and section 2 R-Codes Building Surveyor (Note 3) and section 2 (R-Codes) Residential Design Officer (Note 3) and section 2 (R-Codes) Senior Planning Officer (Note 5)

7.1 Town Planning Scheme	
CEO's Conditions on delegation:	<p>Note 1. While all delegations listed in this delegated authority notice apply to the Director Planning and Development Services, only section 1(m) and (n) of the Attachment under Grant of Development Approval and under Other Matters section 4.1(d) and 4.1(e) and section 4.2(d) and 4.2(e) of the Attachment is the only authorised officer under this delegation.</p> <p>Note 2. "Deemed Provisions" in this delegation refers to the <i>Deemed Provisions for local planning schemes</i> under Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>.</p> <p>Note 3. In section 1(o) of the Attachment under Grant of Development Approval, the Manager Health and Building Services, Coordinator Building Services, Coordinator Residential Design, Senior Building Surveyor, Building Surveyor and Residential Design Officer are the only ones with this delegation.</p> <p>Note 4. Only Sections 10 to 13 of this delegation apply to Coordinator Building and Development Compliance.</p> <p>Note 5. Only Sections 1¹, 2, 4, 5 of this delegation apply to Senior Planning Officer, excluding in Section 1 the determination of "A" land uses, excluding in Section 3 the refusal of a development application, and excluding in Section 4 (1) (2) (3) (11) (12) (13) (16) (17) (18) 19)</p> <p>¹In Section 1 of this delegation, all applications for "D" land uses shall be discussed with either the Manager Statutory Planning or Coordinator Statutory Planning for consideration of the complexity of the proposal and comments raised in public submissions.</p>
Record Keeping s5.46(3)	Evidence of determinations to be recorded in appropriate file or register.
Compliance Links	<ul style="list-style-type: none"> • <i>Local Government Act 1995</i> • <i>City of Rockingham TPS No. 2</i> • <i>Planning and Development Act 2005</i> • <i>Planning and Development Local Planning Schemes) Regulations 2015</i>
Date Adopted	
28 June 2011	Item ES-020/11
Date Reviewed	
24 July 2012	Item GCS-009/12
27 August 2013	Item GCS-007/13
12 March 2014	Amend Position from Special Projects Officer to Projects Officer
15 April 2014	Item PDS-025/14
2 May 2014	Item PDS-030/40
22 July 2014	Item GMS-011/14
26 August 2014	Item PDS-067/14
28 July 2015	Item PDS-050/15
24 November 2015	Item GMS-026/15
27 September 2016	Item GMS-018/16
25 July 2017	Item GMS-013/17

7.1	Town Planning Scheme
26 October 2017	Change of position titles now Manager Health and Building Services and Coordinator Health and Building Services
28 August 2018	Item GM-026/18 made some amendments to Manager Health and Building Services and Senior Building Surveyor and added Coordinator Building and Development Compliance
5 October 2018	Minor typographical amendment to clause 4(4)
10 October 2018	Add new position Senior Building and Planning Liaison and amended Senior Projects Officer title
27 August 2019	Item GM-018/19
28 January 2020	Item PD-002/20
28 July 2020	Item GM-017/20
23 September 2020	Amend position title Coordinator Health and Building Services to Coordinator Building Services
22 February 2021	Add in Senior Planning Officer position title for 22 February to 1 April 2021.
28 June 2021	Added new position Residential Design Officer
24 August 2021	Item GM-025/21
14 September 2021	Note Senior Building and Planning Liaison removed and replaced with Building Surveyor.
18 February 2022	Senior Planning Officer position removed as was only for 22 February to 1 April 2021.
25 February 2022	Added new position Coordinator Residential Design.
28 June 2022	Item GM-011/22
28 July 2022	
	Signature of Chief Executive Officer

Attachment to Delegation 7.1 – Town Planning Scheme

1. Grant of Development Approval

Functions delegated

- a) The granting of Development Approval with or without conditions under TPS2 to development for the purpose of a use of land mentioned in the Zoning Table of TPS2 and designated “P”, “D” or “IP”.
- b) The granting of Development Approval with or without conditions under TPS2 to development for the purpose of a use of land mentioned in the Zoning Table of TPS2 and designated “A”, unless in the opinion of the Director Planning and Development Services an application generates significant concern or could impact on the amenity of the locality, the application will be referred to the Council for determination.
- c) The granting of Development Approval with or without conditions under TPS2 to development on a Local Reserve under TPS2 for the purpose for which the land is reserved under TPS2.
- d) The granting of Development Approval with or without conditions under TPS2 to development on land specified in Schedule No.2 (Additional Uses) of TPS2 for the purpose specified with respect to that land in Schedule No.2.
- e) The granting of Development Approval with or without conditions under TPS2 to development on land specified in Schedule No.3 (Special Use Zone) of TPS2 for the purpose specified with respect to that land in Schedule No.3.
- f) The granting of Development Approval with or without conditions under TPS2 to development for the purpose of a use of land mentioned in Schedule No.4 (Special Rural Zones) of TPS2 and designated “P”, “D” or “IP”.
- g) The granting of Development Approval with or without conditions under TPS2 to development for the purpose of a use of land mentioned in Schedule No.5 (Special Residential Zones) of TPS2 and designated “P”, “D” or “IP”.
- h) The granting of Development Approval with or without conditions under TPS2 to the erection, placement and display of advertisements and the use of land or buildings for that purpose under clause 5.3.1 of TPS2, unless the advertisement is an exempted advertisement listed in Schedule 6 of TPS.
- i) The granting of Development Approval for development or land use which has already commenced or carried out requiring Development Approval pursuant to Clause 65 of the Deemed Provisions.
- j) The granting of a renewal, cancel or amendment to a Development Approval pursuant to Clause 77 of the Deemed Provisions.
- k) The granting of Development Approval for a Use Not Listed in the Zoning Table subject to compliance with Clause 3.2.4 of TPS2.
- l) The granting of Development Approval with or without conditions under TPS2 for Bulk Earthworks (Development) on land zoned ‘Urban’ or ‘Urban Deferred’ under the Metropolitan Region Scheme.
- m) The granting of Development Approval for the operation of Home Businesses, when a submission in objection does not include valid planning considerations and applications comply in all respects with the objectives and provisions of the Home Occupations and Home Businesses Planning Policy 3.3.10 pursuant to Clause 82 and 83 of the Deemed Provisions.
- n) If an application for the operation of a Home Business generates significant concern or could impact on the amenity of the locality, the application will be referred to the Council for determination.

Attachment to Delegation 7.1 – Town Planning Scheme

- o) The granting of R-Codes Approval for a Single House, Two Grouped Dwellings and incidental development, subject to compliance with the objectives and provisions of the Residential Design Codes (Codes).
- p) The granting of Development Approval for a Single House, Grouped Dwelling or Multiple Dwelling, when a submission in objection does not include valid planning considerations and applications comply in all respects with the objectives and provisions of the Codes and Planning Policy 3.3.20 – Residential Design Codes, pursuant to Clause 82 and 83 of the Deemed Provisions.
- q) The granting of Development Approval for Commercial Vehicle Parking, when a submission in objection does not include valid planning considerations and applications comply in all respects with Planning Policy 3.3.13 – Parking of Commercial Vehicles in Residential Zones, pursuant to Clause 82 and 83 of the Deemed Provisions.

2. Discretion to Modify Development Standards

Functions delegated

- a) The authority to modify development standards under clause 4.20 of TPS2
- b) The authority to determine if a development application complies with the design principles provided in Clause 2.4 and 2.5 of State Planning Policy 7.3 Residential Design Codes Volume 1.
- c) The authority to determine if a development application complies with the performance based design principles and objectives of State Planning Policy 7.3 – Residential Design Codes Volumes 2.

3. Refusal of Development Approval

Functions delegated

The refusal of an application for Development Approval under TPS2 as follows:

- a) The refusal of a development for the purpose of a use mentioned in the Zoning Table of TPS2 and designated “X”;
- b) The refusal of a development for the purpose of a use of land mentioned in the Zoning Table of TPS2 and designated “D” or “A”, which fails to comply with the provisions of TPS2 and City Policy.
- c) The refusal of an application under TPS2 to development for the purpose of a use of land mentioned in the Zoning Table of TPS2 and designated “P”, which fails to comply with the provisions of TPS2, but not on the grounds of the permissibility of the use.
- d) The refusal of a development for the purpose of a Single House, Grouped Dwelling or Multiple Dwelling that fails to comply with the objectives and provisions of the Codes and TPS2.
- e) The refusal of a development for an advertising device and advertisement that fails to comply with TPS2 and City Policy.
- f) The refusal of an application to vary an approved Building Envelope that fails to comply with TPS2 and City Policy. This delegation is subject to Section 5(i) and (j).
- g) The refusal of an application for Commercial Vehicle parking, which fails to comply with TPS2 and City Policy.

Attachment to Delegation 7.1 – Town Planning Scheme

4. Other Matters

Functions Delegated

(1) Structure Plans

- a) The determination under Clause 17(1) of the Deemed Provisions as to whether a structure plan complies with the requirements of Clause 16(1), or if further information is required before the structure plan can be accepted for assessment and advertising.
- b) The advertising of a structure plan under Clause 18(2) of the Deemed Provisions.
- c) The provision of advice and assistance to the Commission under Clause 23 of the Deemed Provisions.
- d) The approval of further details of a precinct structure plan under clause 24(1A) of the Deemed Provisions.
- e) The determination that advertising of an amendment to a structure plan is not required, where it is minor in nature, under Clause 29(3) of the Deemed Provisions.
- f) The preparation of a report and recommendation on an amendment to a structure plan, under Clause 20 of the Deemed Provisions, where it is determined that the amendment is minor in nature and advertising is not required.

(2) Local Development Plans

- a) The determination not to advertise a Local Development Plan under Clause 50(3) of the Deemed Provisions.
- b) The approval of a Local Development Plan with or without conditions under Clause 52(1)(a) of the Deemed Provisions.
- c) The determination to require modifications to a Local Development Plan under Clause 52(1)(b) of the Deemed Provisions.
- d) The determination to amend an approved Local Development Plan under Clause 59(1) of the Deemed Provisions.
- e) The refusal of a Local Development Plan under Clause 52(1)(c) of the Deemed Provisions.
- f) The determination to require further details of any development included in the Local Development Plan under Clause 53(1) and Clause 53(2)
- g) The determination to extend the period of approval of a local development plan, if there are no changes to the terms/content of the plan or the conditions attached to the approval.

(3) Car Parking

- a) The determination under clause 4.15.1 of TPS2 as to the number of car parking bays to be provided on land where for a particular use a car parking requirement is not specified in Table 2, Table 3 or Table 4 of TPS2.
- b) Where the Council has agreed to accept cash-in-lieu of carparking under clause 4.15.6 of TPS2, the authority to negotiate the cash-in-lieu contribution in accordance with the criteria set out in clause 4.15.6 of TPS2 and Planning Policy No.3.3.4 – Cash-in-lieu of Carparking as applicable.

Attachment to Delegation 7.1 – Town Planning Scheme

(4) Licensed Premises Applications

- a) The determination under clause 4.22.1 of TPS2 whether to waive any requirement of an application referred to in that clause.
- b) The refusal of an application for a Section 40 Certificate that is inconsistent with TPS2 and Planning Policy 3.3.19 Licensed Premises and could have a significant potential impact upon the amenity if an area or affected neighbouring properties, following consultation.

(5) Application for Development Approval

The determination under Clause 63 of the Deemed Provisions whether to waive any particular requirement of an application referred to in that clause.

(6) Advertising Applications

- a) The determination to waive a requirement for an application for Development Approval to be advertised if the departure from the scheme requirements is of a minor nature under Clause 64(2) and 64(1)(c) of the Deemed Provisions.
- b) The determination under clause 64A to require an applicant for development approval to pay for the costs of the City advertising the application for development application.

(7) Request Applicant to provide Information

The determination under Clause 65A to request the applicant to provide further information or material that the City reasonably requires to determine the application.

(8) Referral of Applications to Government Departments

The determination to provide a copy of an application for Development Approval to any other statutory, public or planning authority for objections and recommendations under Clause 66 of the Deemed Provisions and extend the referral period.

(9) Agreement Powers

For the purposes of implementing TPS2, enter into an agreement in respect of a matter relating to TPS2 with any owner, occupier or other person having an interest in land affected by TPS2 under Clause 78(1)(a) of the Deemed Provisions.

(10) Repair of Existing Advertisements

- a) The determination as whether to require the owner of an advertisement or the owner of the land as necessary, to repair the advertisement under Clause 80 of the Deemed Provisions.
- b) The determination under Clause 80 of the Deemed Provisions as to whether to require the advertiser to take the action referred to in that Regulation.

(11) Enforcement

- a) The determination under clause 8.3(a) of TPS2 whether to give notice referred to in that clause for compliance with conditions of Development Approval.
- b) The determination under clause 8.3(b) of TPS2 whether to prosecute the owner or occupier of the land pursuant to Part 13 – Enforcement and Legal Proceedings of the Planning and Development Act 2005.

(12) Directions by Responsible Authority regarding Unauthorised Development

The determination under section 214(2), 214(3) and 214(5) of the Planning and Development Act 2005 whether to give written direction referred to in that section.

Attachment to Delegation 7.1 – Town Planning Scheme

(13) Responsible Authority May Remove or Alter Unauthorised Development

- (a) The determination under section 215(1) and 215(2) of the Planning and Development Act 2005 whether to remove or alter unauthorised development referred to in that section.
- (b) The determination under section 216 of the Planning and Development Act 2005 (the Act) to apply for an injunction to the Supreme Court with respect to a contravention of the Act.

(14) Rural Zone

- (a) The determination of an application for approval to remove native vegetation or significant trees under clause 4.11.2(b).

(15) Special Rural Zones – Schedule No.4

- (a) The power to determine and vary the location and size of any building envelopes under Schedule No. 4 of TPS2 subject to compliance with Planning Policy No.3.3.17 Variations to Building Envelopes.
- (b) The determination of an application for approval to remove native vegetation or significant trees under Schedule No. 4 of TPS2.

(16) Special Residential Zones – Schedule No. 5

- (a) The power to determine and vary the location and size of any building envelopes under Schedule No.5 of TPS2 subject to compliance with Planning Policy No.3.3.17 Variations to Building Envelopes.
- (b) The determination of an application for approval to remove native vegetation or significant trees under Schedule No.5 of TPS2.

(17) Development Contributions - Anstey Park

- a) The review of estimated costs under clause 5.4.5.4(a) of TPS2.
- b) The acceptance of a Cost Contribution, based upon estimated costs, as a final Cost Contribution under clause 5.4.5.5(b) of TPS2.
- c) The power to agree to an Owner's Cost Contribution being paid by cheque or cash, or by transferring to the Council land to the value of the Cost Contribution or some other method acceptable to the Local Government or a combination of these methods under clause 5.4.7.1(a) of TPS2.
- d) The power to agree to an Owner paying an Owner's Cost Contribution in a lump sum, by instalments or in another manner under clause 5.4.7.1(b) of TPS2.
- e) The lodgement of a caveat against an Owner's title under clause 5.4.7.1(a) of TPS2.
- f) The withdrawal of a caveat against an Owner's certificate of title to permit a dealing and then re-lodgement under clause 5.4.7.2(b) of TPS2.
- g) The withdrawal of a caveat against an Owner's certificate of title under clause 5.4.7.2(c) of TPS2.

(18) Development Contribution Areas

- a) The review of estimated costs under clause 5.5.12.2 of TPS2.
- b) The acceptance of a Cost Contribution, based upon estimated costs, as a final Cost Contribution under 5.5.12.4(b) of TPS2.

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- c) The power to agree to the manner in which a Cost Contribution is determined under clause 5.5.12.7(a) of TPS2.
- d) The power to agree to an Owner's Cost Contribution being paid by cheque or cash under clause 5.5.15.1(a) of TPS2.
- e) The power to agree to an Owner paying an Owner's Cost Contribution in a lump sum, by instalments or in another manner under clause 5.5.15.2 of TPS2.
- f) The lodgement of a caveat against an Owner's certificate of title under clause 5.5.16.1 of TPS2.
- g) The withdrawal of a caveat against an Owner's certificate of title to permit a dealing and then re-lodgement under clause 5.5.16.2 of TPS2.
- h) The withdrawal of a caveat against an Owner's certificate of title under clause 5.5.16.3 of TPS2.

(19) Development Contribution Plan No.2

- a) The estimation of the number of dwellings to be applied as the "Catchment Area Yield" under Schedule No. 11 of TPS2.
- b) The estimation of the number of dwellings to be applied as the "Development Area Yield" under Schedule No. 11 of TPS2.
- c) The estimation of the number of dwellings to be applied as the "Total Catchment Area Dwellings" under Schedule No. 11 of TPS2.
- d) The determination of the desired timing and priority of the items of infrastructure, where such is consistent with the current endorsed Business Plan.

(20) Heritage Protection

- a) The power under clause 10 of the Deemed Provisions to enter into a Heritage Agreement with the owner or occupier of land or building to bind the land or affect the use of land or building.
- b) The determination under clause 11 of the Deemed Provisions to require a Heritage Assessment to be carried out prior to the approval of any development proposed in heritage area or a place on a heritage list.
- c) The determination under clause 12 (1-3) of the Deemed Provisions to vary site or development requirements, subject to undertaking public consultation to preserve the heritage values of a heritage area or a place on a heritage list or on the Register of Heritage Places.
- d) The determination under Clause 13 (1-6) of the Deemed Provisions to issue a heritage conservation notice for a place on a heritage list that is not being properly maintained and to give a person who is the owner or occupier of the heritage place a written notice requiring specified repairs to the heritage place, or extend or revoke a notice.

5. Implementation

The delegations are subject to the following conditions:

- (a) The nominated Officers are only empowered to approve or conditionally approve applications within predetermined guidelines contained within TPS2, adopted City Policies and the Standards and Policies of the Western Australian Planning Commission which have been adopted by the Council.

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- (b) Standard conditions (as set out in Planning Procedure 1.11 – Standard Conditions and Footnotes for Development Approvals and Planning Procedure 1.13 – Model Subdivision Conditions Schedule for Subdivision Applications) should generally be imposed, subject to any modification that is required after considering the nature of the particular application.
- (c) Non-standard conditions may be imposed after considering the nature of the particular application, providing that the condition relates to the following criteria:
- built form of development;
 - amenity issues;
 - site planning issues;
 - subdivision design matters;
 - land use matters; and
 - Landscaping matters.
- (d) With regard to the delegation referred to in Section 2 of this delegation, Clause 4.20 of TPS2 states that if a development (except for development in respect of which the Codes apply) is the subject of an application for Development Approval and does not comply with a standard or requirement prescribed under TPS2, the Council may, notwithstanding the non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.

In considering an application for Development Approval under this clause, where, in the opinion of the Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the Council is to:

- (i) Consult the affected parties by following one or more of the provisions for advertising uses under Clause 64(4) of the Deemed Provisions;
- (ii) Have regard to any expressed views prior to making its determination to grant the variation;
- (iii) The power conferred by clause 4.20 of TPS2 may only be exercised if Council is satisfied that:
- Approval of the proposed development would be appropriate having regard to the criteria set out in Clause 67 of the Deemed Provisions;
 - Approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenity of the locality;
 - The non-compliance will not have any adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality; and
 - The spirit and purpose of the requirements or standards will not be unreasonably departed from.
- (e) With regard to the delegation referred to in Section 4(1)(d), the Director Planning and Development is the only Officer authorised to adopt a Structure Plan under Clause 29(3) of the Deemed Provisions.

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- (f) With regard to the delegation referred to in Section 4(1)(d) & 4(1)(e), the Director Planning and Development is the only Officer authorised to determine that advertising is not required and prepare a report to the Commission on amendments to structure plans that are minor in nature.
- (g) With regard to the delegation referred to in Section 4(4)(b), the Director Planning and Development Services is the only Officer authorised to negotiate a cash contribution in-lieu of car parking.
- (h) Refer to Planning Policy No.3.3.17 – Variation to Building Envelopes for further information regarding the assessment to vary the location of building envelopes within the Warnbro Dunes, Golden Bay and Singleton Special Residential Zones.
 - All matters that have been dealt with under the delegated authority are to be reported to the Council on a monthly basis as a Bulletin item to the Planning and Engineering Services Committee.
 - Where, in the opinion of a nominated Officer, in consultation with the Director of Planning and Development Services, an application should be referred to the Council for determination that application will be excluded from the requirements of this Delegated Authority Register.


Appendices

Delegation of Authority issued pursuant to:

Clause 82 and 83 of the *Planning and Development (Local Planning Schemes) Regulations 2015*;
and

Sections 5.41 to 5.46 of the *Local Government Act 1995*.

7.2 Planning and Development Act 2005 – Other Delegations	
Function Delegated:	<p>Subdivision Recommendations Authority to Progress</p> <p>Subdivision Clearances Authority to Approve</p> <p>Public Works Planning Applications Authority to Progress</p> <p>Clause 32 Planning Applications Authority to Progress</p> <p>Licensed Premises Applications Authority to Approve</p> <p>Notices Authority to Issue</p> <p>Street Naming Authority to Approve</p> <p>Built Strata Subdivision Applications Authority to Approve</p> <p>Clause 9 Refund Planning Fee Authority to Refund or Reduce</p> <p>(Refer to the attachment for all of the above)</p> <p>Pedestrian Access Way Closure Authority to Progress</p> <p>Aboriginal Heritage Sites Authority to Progress</p>
Statutory Power being Delegated:	<p><i>Local Government Act 1995</i></p> <p><i>Planning and Development Act 2005</i></p> <p><i>Strata Titles Act 1985</i></p> <p><i>Land Administration Act 1997</i></p> <p><i>Aboriginal Heritage Act 1972</i></p>
Power is originally assigned to:	Local Government
Statutory Power of Delegation	<p><i>Local Government Act 1995</i></p> <p>s5.42 Delegation of Some Powers and Duties to the CEO</p>
Power Delegated to:	Chief Executive Officer
Council's Conditions on Delegation:	Nil
Statutory Power to Sub-Delegate:	<p><i>Local Government Act 1995</i></p> <p>s5.44 CEO may delegate some powers and duties to other employees</p>
CEO's delegation to:	<p>Director Planning and Development Services</p> <p>Manager Strategic Planning and Environment</p> <p>Manager Statutory Planning</p> <p>Manager Major Planning Projects</p> <p>Manager Land and Development Infrastructure</p> <p>Coordinator Statutory Planning</p> <p>Coordinator Strategic Planning</p> <p>Coordinator Building and Development Compliance (Note 2)</p> <p>Senior Projects Officer</p> <p>Senior Planning Officer (Note 1)</p> <p>Development Engineer</p> <p>Senior Landscape Architect</p>

7.2 Planning and Development Act 2005 – Other Delegations	
CEO's Conditions on delegation:	Note 1. Only Section 1 applies to Senior Planning Officer for an application to subdivide land into 2 lots, strata subdivide into two lots or amalgamate land in the district and Section 3 & 4. Note 2. Only section 6 applies to Coordinator Building and Development Compliance.
Record Keeping s5.46(3)	Details of determinations to be kept on appropriate file or register.
Compliance Links	<ul style="list-style-type: none"> • <i>Strata Titles Act 1985</i> • <i>Local Government Act 1995</i> • <i>Planning and Development Act 2005</i> • <i>Land Administration Act 1997</i>
Date Adopted	
28 June 2011	Item ES-020/11
Date Reviewed	
24 July 2012	Item GCS-009/12
27 August 2013	Item GCS-007/13
22 July 2014	Item GMS-011/14
24 November 2015	Item GMS-026/15
27 September 2016	Item GMS-018/16
17 January 2017	Amended to amend Special Projects Officer to Senior Projects Officer
25 July 2017	Item GMS-013/17
28 August 2018	Item GM-026/18 added Coordinator Building and Development Compliance
27 August 2019	Item GM-018/19 Add in Manager Land and Development Infrastructure, Development Engineer and Senior Landscape Architect.
28 July 2020	Item GM-017/20
22 February 2021	Add in Senior Planning Officer position title for 22 February to 1 April 2021.
24 August 2021	Item GM-025/21
28 June 2022	Item GM-011/22
28 July 2022	
	Signature of Chief Executive Officer

Attachment to Delegation 7.2 Planning and Development Act 2005 – Other Delegations

1. Subdivision Recommendations

Functions delegated

The authority to make the following recommendations to the Western Australian Planning Commission (WAPC) in respect to any application to subdivide, strata subdivide or amalgamate land in the district:

- (a) To support an application to subdivide, strata subdivide or amalgamate land with or without conditions where the proposal is generally in conformity with TPS2, Residential Design Codes, Rural Land Strategy, City Planning Policy, Comprehensive Development Plan, Structure Plan, Integrated Development Guide Plan, Local Development Plan, Subdivision Guide Plan or Rural Concept Plan which has been approved by the Council as the basis for the subdivision of a defined area or precinct, subject to the imposition of the following:
 - (i) appropriate requirements and specifications under TPS2 and any applicable City Planning Policy;
 - (ii) any applicable conditions as set out under the City's 'Planning Procedure No. 1.1.3 – Model Subdivision Conditions Schedule for Subdivision Applications.
 - (iii) any other relevant non-standard conditions, subject to the criteria having regard to the subdivision design matters, land use matters, landscape matters and site planning and amenity issues.
- (b) To refuse to support an application to subdivide, strata subdivide or amalgamate land where the proposal is contrary to TPS2, Residential Design Codes, Rural Land Strategy, City Planning Policy, Comprehensive Development Plan, Structure Plan, Integrated Development Guide Plan, Local Development Plan, Subdivision Guide Plan or Rural Concept Plan.

2. Subdivision Clearances

Functions delegated

The authority to issue a letter in support for subdivision clearance to the WAPC in respect to any application to subdivide or amalgamate land in the district, subject to the following conditions:

- (a) Subdivision condition(s) imposed must be relevant to the City.
- (b) The subdivision condition(s) must be fulfilled in accordance with all the Local Government conditions specified on the WAPC approval, to the satisfaction of the delegate, and the clearance advice is to be signed by the delegate.
- (c) In the event of a dispute between the delegate and the applicant on the measures required to satisfy a condition, the matter must be referred to the WAPC for clearance, together with the City's advice on the matter.

3. Public Works Planning Applications

Functions delegated

The authority to make recommendations as deemed appropriate to the WAPC in respect of applications for the development of land referred to the City by public authorities for public works under the Metropolitan Region Scheme.

Attachment to Delegation 7.2 Planning and Development Act 2005 – Other Delegations

4. Clause 32 Planning Applications

Functions delegated

The authority to make recommendations as deemed appropriate to the WAPC in respect of applications for the use or development of land, which is of a type or in a locality the subject of a WAPC Notice of Clause 32 Declaration pursuant to the Metropolitan Region Scheme.

5. Liquor Licence Applications

Functions delegated

The granting of a Section 40 Certificate under the Liquor Control Act 1988, with or without conditions for all liquor licence applications.

6. Notices

Functions delegated

(1) Notice Requiring Certain Things to be Done by Owner or Occupier of Land

The determination under section 3.25(1)(a) of the *Local Government Act 1995* whether to give a person a notice referred to in that section.

(2) Additional Powers when Notice Given

(a) The determination under section 3.26(2) of the *Local Government Act 1995* whether to do anything that it considers necessary as referred to in that section.

(b) The determination under section 3.26(3) of the *Local Government Act 1995* whether to recover costs as referred to in that section.

7. Street Naming

Functions delegated

The authority to approve street names that are consistent with an approved street naming theme.

8. Built Strata Subdivision Applications

Functions delegated

The authority to determine applications for approval to subdivide land subject to built strata plan submitted under section 15 and the functions under section 21 and 22 of the Strata Titles Act 1985. These applications relate to a strata plan for existing dwellings or buildings (or a building which is proposed to be constructed).

9. Clause 9 Refund Planning Fee

Functions delegated

The ability to refund or reduce a Development Application fee when it is withdrawn by an applicant. This delegation does not apply to a Development Assessment Panel application fee. Legislation - Planning and Development Act 2005 and Planning and Development Regulations 2009.

Attachment to Delegation 7.2 Planning and Development Act 2005 – Other Delegations

10. Pedestrian Access Way

Functions delegated

The ability to publically advertise a Pedestrian Access Way closure application and undertake Government Agency referrals, following the preparation of a City PAW Closure Report, which:

- a) evaluates and confirms the applicants justification for the closure request;
- b) considers the requirements of Planning Procedure No.1.5 Closure of Pedestrian Access Ways, such as the impact on the pedestrian and cycle network;
- c) considers the PAW classification in the City's Pedestrian Access Way Strategy 2010 (and 2020 addendum). Legislation – Land Administration Act 1997; and
- d) will not apply to a PAW classified as Essential ('E'), and instead the application will be referred to Council for its determination, without public advertising and Government Agency referrals being undertaken.