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Planning and Development Act 2005

Planning Regulations Amendment Regulations 2020

SL 2020/252

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Planning Regulations Amendment Regulations 2020*.

2. Commencement

These regulations come into operation as follows —

(a) Part 1 — on the day on which these regulations are published in the *Gazette*;

(b) Part 2 Division 3 — on 1 July 2021;

(c) the rest of the regulations — on 15 February 2021.

Part 2 — *Planning and Development (Local Planning Schemes) Regulations 2015* amended

Division 1 — Regulations amended

3. Regulations amended

This Part amends the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Division 2 — Amendments commencing on 15 February 2021

4. Regulation 3 amended

In regulation 3 insert in alphabetical order:

excluded holiday period day means a day that is in —

(a) a period commencing on 25 December in a year and ending on the next 1 January; or

(b) a period of 7 days commencing on Good Friday in a year;

5. Regulation 3A inserted

After regulation 3 insert:

3A. Excluded holiday period days not counted in time periods

For the purposes of these regulations (other than Schedules 1 and 2), an excluded holiday period day is not to be counted in calculating a period of time that is expressed as a number of days.

6. Regulation 11 amended

Before regulation 11(2)(a) insert:

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

7. Regulation 13 amended

(1) In regulation 13(1):

(a) delete paragraphs (a) and (b) and insert:

(a) publish in accordance with regulation 76A the strategy and a notice giving details of —

(i) how the strategy is made available to the public in accordance with regulation 76A; and

(ii) the manner and form in which submissions may be made; and

(iii) the period under subregulation (2) for making submissions and the last day of that period;

(b) delete paragraph (d).

(2) Delete regulation 13(2) and (3) and insert:

(2) The period for making submissions on a local planning strategy is —

(a) the period of 21 days after the day on which the notice of the strategy is first published under subregulation (1)(a); or

(b) a longer period approved by the Commission.

8. Regulation 16 replaced

Delete regulation 16 and insert:

16. Publication of endorsed local planning strategy

(1) The Commission must ensure that an up-to-date copy of each endorsed local planning strategy that is in effect is published in a manner the Commission considers appropriate.

(2) A local government must ensure that an up-to-date copy of each endorsed local planning strategy of the local government that is in effect is published in accordance with regulation 76A.

(3) Subregulation (2) is an ongoing publication requirement for the purposes of regulation 76A(5)(a).

9. Regulation 18 amended

Delete regulation 18(b)(ii) and insert:

(ii) published by the local government in accordance with regulation 76A.

10. Regulation 20 amended

Delete regulation 20(1)(a) and insert:

(a) publish a notice in a form approved by the Commission in accordance with regulation 76A;

11. Regulation 22 amended

(1) Delete regulation 22(1)(b) and (c) and insert:

(b) how the draft scheme is to be made available to the public in accordance with regulation 76A; and

(c) the manner and form in which submissions may be made; and

(d) the period under subregulation (3) for making submissions and the last day of that period.

(2) Delete regulation 22(2)(a) to (e) and insert:

(a) publish in accordance with regulation 76A —

(i) the notice; and

(ii) the draft local planning scheme;

(b) give a copy of the notice to each public authority that the local government considers is likely to be affected by the draft local planning scheme;

(c) advertise the draft local planning scheme as directed by the Commission and in any other way the local government considers appropriate.

(3) Delete regulation 22(3) and (4) and insert:

(3) The period for making submissions on a draft local planning scheme is —

(a) the period of 90 days after the day on which the notice is first published under subregulation (2)(a)(i); or

(b) a longer period approved by the Commission.

12. Regulation 25 amended

In regulation 25(1) in the definition of ***submission period*** delete "specified in the notice in respect of the draft scheme referred to in regulation 22(1)." and insert:

that applies under regulation 22(3).

13. Regulation 26 amended

(1) In regulation 26(1)(b) delete "modifications are" and insert:

modification is

(2) Delete regulation 26(4)(a) to (d) and insert:

(a) the proposed modification to be made to the advertised local planning scheme; and

(b) details of how the proposed modification is made available to the public; and

(c) the manner and form in which submissions may be made; and

(d) the period under subregulation (5) for making submissions and the last day of that period.

(3) Delete regulation 26(5) and insert:

(5) The period for making submissions on the proposed modification is —

(a) the period of 60 days after the day on which the notice under subregulation (4) is first advertised; or

(b) a longer period approved by the Commission.

14. Regulation 33 amended

Delete regulation 33(2) and insert:

(2) For the purposes of section 87(4B)(a) of the Act, the local government must advertise the local planning scheme as follows —

(a) publish a copy of the notice referred to in subregulation (1) in accordance with regulation 76A;

(b) publish the local planning scheme in accordance with regulation 76A;

(c) notify each person who made a submission in relation to the local planning scheme —

(i) that the local planning scheme has been approved; and

(ii) of the details of how the local planning scheme is made available to the public in accordance with regulation 76A.

(3) Subregulation (2)(b) is an ongoing publication requirement for the purposes of regulation 76A(5)(a).

15. Regulation 34 amended

(1) In regulation 34 in the definition of ***basic amendment*** paragraph (g) delete "plan, activity centre plan or" and insert:

plan or

(2) In regulation 34 in the definition of ***standard amendment*** paragraph (d) delete "plan, activity centre plan or" and insert:

plan or

16. Regulation 35A inserted

After regulation 35 insert:

35A. Amendment to local planning scheme affecting area to which structure plan relates

If an amendment to a local planning scheme affects the area to which a structure plan approved under the scheme relates, the amendment must include a statement that, when the amendment takes effect —

(a) the approval of the structure plan is to be revoked; or

(b) the structure plan is to be amended in accordance with the statement; or

(c) the approval of the structure plan is not affected.

Note for this regulation:

Under the deemed provision of local planning schemes set out in Schedule 2 clause 29A —

(a) a structure plan that is the subject of a statement under paragraph (a) must be revoked as soon as is

reasonably practicable after the amendment to the local planning scheme takes effect; and

(b) a structure plan that is the subject of a statement under paragraph (b) must be amended in accordance with the statement as soon as is reasonably practicable after the amendment to the local planning scheme takes effect.

17. Regulation 38 amended

(1) Delete regulation 38(1)(b) and (c) and insert:

(b) how the amendment is to be made available to the public in accordance with regulation 76A; and

(c) the manner and form in which submissions may be made; and

(d) the period under subregulation (3) for making submissions and the last day of that period.

(2) In regulation 38(2):

(a) delete paragraphs (a) and (b) and insert:

(a) publish in accordance with regulation 76A —

(i) the notice; and

(ii) the amendment;

(b) delete paragraph (d).

(3) Delete regulation 38(3) and (4) and insert:

(3) The period for making submissions on a complex amendment to a local planning scheme is —

(a) the period of 60 days after the day on which the notice is first published under subregulation (2)(a)(i); or

(b) a longer period approved by the Commission.

18. Regulation 41 amended

In regulation 41(1) in the definition of ***submission period*** delete "specified in the notice in respect of the amendment referred to in regulation 38(1)." and insert:

that applies under regulation 38(3).

19. Regulation 42 amended

(1) In regulation 42(1)(a) delete "modifications" and insert:

modification

(2) In regulation 42(2) before "amendment" insert:

complex

(3) In regulation 42(3) delete "an amendment" and insert:

a complex amendment

(4) Delete regulation 42(4) and (5) and insert:

(4) Any advertisement of a proposed modification to a complex amendment to a local planning scheme must include a notice specifying —

(a) the proposed modification to be made to the advertised amendment to the local planning scheme; and

(b) details of how the proposed modification is made available to the public; and

(c) the manner and form in which submissions may be made; and

(d) the period under subregulation (5) for making submissions and the last day of that period.

(5) The period for making submissions on the proposed modification is —

(a) the period of 42 days after the day on which the notice under subregulation (4) is first advertised; or

(b) a longer period approved by the Commission.

(5) In regulation 42(7)(a) delete "modifications" and insert:

modification

20. Regulation 47 amended

(1) Delete regulation 47(1)(b) and (c) and insert:

(b) how the amendment is to be made available to the public in accordance with regulation 76A; and

(c) the manner and form in which submissions may be made; and

(d) the period under subregulation (3) for making submissions and the last day of that period.

(2) In regulation 47(2):

(a) delete paragraphs (a) and (b) and insert:

(a) publish in accordance with regulation 76A —

(i) the notice; and

(ii) the amendment;

(b) delete paragraph (d);

(c) in paragraph (e) delete "scheme" and insert:

amendment

(3) Delete regulation 47(3) and (4) and insert:

(3) The period for making submissions on a standard amendment to a local planning scheme is —

(a) the period of 42 days after the day on which the notice is first published under subregulation (2)(a)(i); or

(b) a longer period approved by the Commission.

21. Regulation 50 amended

In regulation 50(1) in the definition of ***submission period*** delete "specified in the notice in respect of the amendment referred to in regulation 47(1)." and insert:

that applies under regulation 47(3).

22. Regulation 51 amended

(1) In regulation 51(2) delete "amendment." and insert:

standard amendment.

(2) In regulation 51(3) delete "an amendment" and insert:

a standard amendment

(3) Delete regulation 51(4) and (5) and insert:

(4) Any advertisement of a proposed modification to a standard amendment to a local planning scheme must include a notice specifying —

(a) the proposed modification to be made to the advertised amendment to the local planning scheme; and

(b) details of how the proposed modification is made available to the public; and

(c) the manner and form in which submissions may be made; and

(d) the period under subregulation (5) for making submissions and the last day of that period.

(5) The period for making submissions on the proposed modification is —

(a) the period of 21 days after the day on which the notice under subregulation (4) is first advertised; or

(b) a longer period approved by the Commission.

23. Regulation 64 amended

Delete regulation 64(2) and insert:

(2) For the purposes of section 87(4B)(a) of the Act, the local government must advertise the approved amendment as follows —

(a) publish a copy of the notice referred to in subregulation (1) in accordance with regulation 76A;

(b) publish the amendment in accordance with regulation 76A;

(c) notify each person who made a submission in relation to the amendment —

(i) that the amendment has been approved; and

(ii) of the details of how the amendment is made available to the public in accordance with regulation 76A.

24. Regulation 66 amended

Delete regulation 66(3)(b) and insert:

(b) whether the local planning strategy for the scheme —

(i) is satisfactory in its existing form; or

(ii) should be amended; or

(iii) should be revoked and a new strategy prepared in its place;

and

(c) whether any structure plan or local development plan approved under the scheme —

(i) is satisfactory in its existing form; or

(ii) should be amended; or

(iii) should have its approval revoked.

25. Regulation 67 amended

In regulation 67(2) delete the passage that begins with "must —" and ends with "office of the local government." and insert:

must publish in accordance with regulation 76A —

(a) the report; and

(b) notice of the Commission's decision.

26. Regulations 76A and 76B inserted

At the end of Part 8 insert:

76A. Requirements for making documents available to public

(1) This regulation applies if under a provision of these regulations (other than Schedule 1 or 2) a local government is required to publish in accordance with this regulation a notice, scheme, amendment or other document (the ***document***).

(2) The local government must make the document available in accordance with the applicable requirements of subregulations (3) to (5).

Note for this subregulation:

Under regulation 76B, the Commission may approve varied requirements that apply if it is not practicable for a local government to publish documents in accordance with subregulations (3) to (5).

(3) For all documents, the local government must —

(a) publish on the website of the local government —

(i) the document; or

(ii) a hyperlink to a webpage on which the document is published;

and

(b) if it is reasonably practicable to do so — make a copy of the document available for public inspection at a place in the district of the local government during normal business hours.

(4) If the document is a notice and the local government considers that it is appropriate in the circumstances for the notice to be published in a newspaper, the local government must also ensure that the notice is published in a newspaper circulating in the relevant locality in the local government's district.

(5) The local government must ensure that the document remains published under subregulation (3)(a) and (if applicable) available for public inspection under subregulation (3)(b) —

(a) if the document is published in compliance with a requirement that is expressed to be an ongoing publication requirement — at all times that the document is in effect; or

(b) if the document is published in compliance with a requirement to advertise for submissions or recommendations under these regulations — during the whole of the period within which submissions or recommendations may be made; or

(c) if paragraphs (a) and (b) do not apply — during a period that the local government considers is reasonable.

76B. Commission may approve varied requirements for publication of documents

(1) In this regulation —

document has the meaning given in regulation 76A(1);

publication requirements means the requirements of regulation 76A(3) to (5) in relation to making documents available to the public.

(2) If the Commission considers that it is not practicable for a local government to comply with any of the publication requirements in relation to documents that it is or may become required to publish, the Commission may give the local government a written notice approving varied requirements that apply in relation to the local government making documents available to the public.

(3) If a notice under subregulation (2) is in effect in relation to a local government, the local government is taken to comply with the applicable publication requirements in relation to a document if the local government complies with those requirements as varied by the notice.

(4) A notice under subregulation (2) —

(a) must state whether it has effect indefinitely or for a period specified in the notice; and

(b) takes effect when it is given to the local government; and

(c) ceases to be in effect —

(i) if the Commission gives the local government a further written notice revoking it; or

(ii) at the end of the period (if any) specified under paragraph (a).

27. Part 9 Division 1 heading inserted

At the beginning of Part 9 insert:

Division 1 — Transitional provisions for *Planning and Development (Local Planning Schemes) Regulations 2015*

28. Regulation 77 amended

In regulation 77 delete "Part — " and insert:

Division —

29. Regulation 79 amended

After regulation 79(2) insert:

(3) On and after the day on which the *Planning Regulations Amendment Regulations 2020* Part 2

Division 2 comes into operation, this regulation applies subject to Schedule 2 clause 92 (as that clause applies as part of local planning schemes).

30. Part 9 Division 2 inserted

At the end of Part 9 insert:

Division 2 — Transitional provisions for *Planning Regulations Amendment Regulations 2020*

82. Advertising processes in progress on commencement day

(1) In this regulation —

amended regulations means these regulations as amended by the *Planning Regulations Amendment Regulations 2020* Part 2 Division 2;

commencement day means the day on which the *Planning Regulations Amendment Regulations 2020* Part 2 Division 2 comes into operation;

former regulations means these regulations as in force immediately before commencement day;

relevant advertising process —

(a) means any of the following processes —

(i) the advertising of a local planning strategy, or amendment to a local planning strategy, under regulation 13;

(ii) the advertising of a resolution to prepare or adopt a local planning scheme under regulation 20;

(iii) the advertising of a draft local planning scheme under regulation 22;

(iv) the advertising of a proposed modification to a local planning scheme under regulation 26;

(v) the advertising of an approved local planning scheme under regulation 33;

(vi) the advertising of an amendment to a local planning scheme under regulation 38 or 47;

(vii) the advertising of a proposed modification to an amendment to a local planning scheme under regulation 42 or 51;

(viii) the advertising of an approved amendment to a local planning scheme under regulation 64;

and

(b) includes the giving of notices to persons or public authorities as part of a process referred to in paragraph (a).

(2) A relevant advertising process that commenced, but was not completed, before commencement day may be completed in accordance with the requirements of the former regulations rather than the amended regulations.

(3) If the relevant advertising process for a strategy, resolution, scheme, amendment or modification (the ***relevant planning instrument***) is completed in accordance with subregulation (2) —

(a) the relevant planning instrument is taken to have been advertised in compliance with the relevant requirements of the amended regulations; and

(b) these regulations apply with any necessary changes to the relevant planning instrument.

(4) If the process of advertising an amendment to a local planning scheme commenced before commencement day, regulation 35A does not apply to the amendment.

31. Schedule 1 clause 8 amended

In Schedule 1 clause 8(d) delete "plans, activity centre plans and" and insert:

plans and

32. Schedule 1 clause 18 amended

(1) In Schedule 1 clause 18(2):

(a) delete "giving notice" and insert:

advertising the application

(b) delete the notes and insert:

Notes for this clause:

1. The development approval of the local government may be required to carry out works on land in addition to any approval granted for the use of land. In normal circumstances 1 application is made for both the carrying out of works on, and the use of, land.
2. Under clause 61 of the deemed provisions, certain works and uses are exempt from the requirement for development approval.
3. Clause 67 of the deemed provisions deals with the consideration of applications for development approval by the local government. Under that clause, development approval cannot be granted for development that is a class X use in relation to the zone in which the development is located, except in certain circumstances where land is being used for a non-conforming use.

(2) In Schedule 1 clause 18(4)(b) delete "give notice" and insert:

advertise

(3) Delete Schedule 1 clause 18(6).

(4) Delete Schedule 1 clause 18(7)(b).

33. Schedule 1 clause 24 amended

(1) Delete Schedule 1 clause 24(3)(b) and (c) and insert:

(b) must ensure that an up-to-date copy of the register is published in accordance with clause 87 of the deemed provisions.

(2) After Schedule 1 clause 24(3) insert:

(3A) Subclause (3)(b) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.

34. Schedule 1 clause 25 amended

(1) Delete Schedule 1 clause 25(2) and insert:

(2) The local government must ensure that the R-Codes are published in accordance with clause 87 of the deemed provisions.

(2A) Subclause (2) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.

(2) Delete Schedule 1 clause 25(4) and insert:

(4) The R-Codes apply to an area if —

(a) the area has a coding number superimposed on it in accordance with subclause (3); or

(b) a provision of this Scheme provides that the R-Codes apply to the area.

35. Schedule 1 clause 27 amended

Delete Schedule 1 clause 27(2) and insert:

(2) The local government must ensure that State Planning Policy 3.6 is published in accordance with clause 87 of the deemed provisions.

(3) Subclause (2) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.

36. Schedule 1 clause 29 amended

Delete Schedule 1 clause 29(2) and insert:

(2) The local government must ensure that each State planning policy referred to in subclause (1) is published in accordance with clause 87 of the deemed provisions.

(3) Subclause (2) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.

37. Schedule 1 clause 31 amended

Delete Schedule 1 clause 31(3) and insert:

(3) The local government must ensure that all statements relating to this Scheme published under the *Environmental Protection Act 1986* Part IV Division 3 are published in accordance with clause 87 of the deemed provisions.

(4) Subclause (3) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.

38. Schedule 1 clause 32 amended

(1) In Schedule 1 clause 32(1) delete "activity centre plans," and insert:

precinct structure plans,

(2) In Schedule 1 clause 32(2) delete "an activity centre plan," and insert:

a precinct structure plan,

39. Schedule 1 clause 33 replaced

Delete Schedule 1 clause 33 and insert:

33. Additional site and development requirements for areas covered by structure plan or local development plan

The Table sets out requirements relating to development that are included in precinct structure plans, structure plans approved before 19 October 2015 and local development plans that apply in the Scheme area.

Table

Additional requirements that apply to land covered by structure plan or local development plan

No.	Description of land	Requirement

(The Table of additional requirements that apply to land as a result of a precinct structure plan, a structure plan approved before 19 October 2015 or a local development plan may be set out as a Schedule to the Scheme.

If no additional requirements are to apply as a result of a structure plan of that kind or a local development plan that applies in the Scheme area, insert the words "There are no additional requirements that apply to this Scheme.".)

40. Schedule 1 clause 34 amended

(1) In Schedule 1 clause 34(4)(a) delete "clause 64" and insert:

clause 64(4)

(2) In Schedule 1 clause 34(5)(a) delete "clause 67" and insert:

clause 67(2)

41. Schedule 1 clause 35 amended

In Schedule 1 clause 35(2)(b) delete "gives notice of " and insert:

advertises

42. Schedule 1 clause 37 amended

(1) In Schedule 1 clause 37(1) delete the definitions of:

building height

commencement day

frontage

incidental use

net lettable area or ***nla***

non-conforming use

wall height

(2) In Schedule 1 clause 37(1) insert in alphabetical order:

> ***Scheme commencement day*** means the day on which this Scheme comes into effect under section 87(4) of the Act;

43. Schedule 1 clause 38 amended

(1) In Schedule 1 clause 38 in the definition of ***bulky goods showroom*** paragraph (a)(x) delete "childrens'" and insert:

children's

(2) In Schedule 1 clause 38 in the definition of ***hospital*** delete "*Hospitals and Health Services Act 1927* section 2(1);" and insert:

Health Services Act 2016 section 8(4);

44. Schedule 2 clause 1 amended

(1) In Schedule 2 clause 1 delete "In this Scheme —" and insert:

If a word or expression used in this Scheme is listed in this clause, its meaning is as follows —

(2) In Schedule 2 clause 1 insert in alphabetical order:

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;

ancillary dwelling has the meaning given in the R-Codes;

building height, in relation to a building —

(a) if the building is used for residential purposes — has the meaning given in the R-Codes; or

(b) if the building is used for purposes other than residential purposes — means the maximum vertical distance between the natural ground level and the finished roof height directly above, excluding minor projections as that term is defined in the R-Codes;

class A use, in relation to a zone, means a use identified in the zoning table for this Scheme (regardless of the symbol used) as a use that is not permitted in the zone unless the local government has exercised its discretion by granting

development approval after advertising the application in accordance with clause 64;

class D use, in relation to a zone —

(a) means a use identified in the zoning table for this Scheme (regardless of the symbol used) as a use that is not permitted in the zone unless the local government has exercised its discretion by granting development approval; but

(b) does not include a class A use;

class P use, in relation to a zone, means a use identified in the zoning table for this Scheme (regardless of the symbol used) as a use that is permitted in the zone if it complies with any relevant development standards and requirements of this Scheme;

class X use, in relation to a zone, means a use identified in the zoning table for this Scheme (regardless of the symbol used) as a use that is not permitted in the zone;

commercial, centre or mixed use zone means —

(a) if this Scheme includes the model provision set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1 clause 16 — a Commercial zone, Centre zone or Mixed Use zone; or

(b) otherwise — a zone (however named) the objectives of which as set out in this Scheme indicate that it is an area suitable for —

(i) a range of shops, offices, restaurants and other commercial outlets (whether or not in a town centre or activity centre); or

(ii) a wide variety of active uses on street level that are compatible with residential and other non-active uses on upper levels;

complex application means —

(a) an application for approval of development that is a use of land if 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; or

(b) an application of a kind identified elsewhere in this Scheme, or in a local planning policy, as a complex application for development approval;

container has the meaning given in the WARR Act section 47C(1);

container collection cage means a cage or other structure in which members of the public may place empty containers for the purposes of the container deposit scheme, without receiving payment of the refund amount in exchange;

container deposit recycling centre means a refund point that has or can accommodate facilities for the consolidation or sorting of empty containers pending collection for the purposes of the container deposit scheme;

container deposit scheme means the scheme established by the WARR Act Part 5A;

deemed-to-comply provision, of the R-Codes, means a provision of the R-Codes described in the R-Codes as a deemed-to-comply provision or a deemed-to-comply requirement;

drop-off refund point means a refund point that —

(a) is located in a building; and

(b) is not a container deposit recycling centre;

excluded holiday period day means a day that is in —

(a) a period commencing on 25 December in a year and ending on the next 1 January; or

(b) a period of 7 days commencing on Good Friday in a year;

frontage, in relation to a building —

(a) if the building is used for residential purposes — has the meaning given in the R-Codes; or

(b) if the building is used for purposes other than residential purposes — means the line where a road reserve and the front of a lot meet and, if a lot abuts

2 or more road reserves, the one to which the building or proposed building faces;

grouped dwelling has the meaning given in the R-Codes;

heritage-protected place has the meaning given in clause 1A;

incidental use means a use of premises which is consequent on, or naturally attaching, appertaining or relating to, the predominant use;

light industry zone means —

(a) if this Scheme includes the model provision set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1 clause 16 — a Light Industry zone; or

(b) otherwise — a zone (however named) the objectives of which as set out in this Scheme indicate that it is an area suitable for a range of light industrial uses and service industries generally compatible with urban areas that cannot be located in commercial zones;

maintenance and repair works means works that —

(a) are carried out to maintain or repair any building, structure or land or otherwise to prevent any building, structure or land from deteriorating or falling into a state of disrepair; and

(b) do not result in any material alteration to the building, structure or land, including any material alteration to the materials used in or on, or the design or specifications of, the building, structure or land;

Minister for Heritage means the Minister who administers the *Heritage Act 2018*;

multiple dwelling has the meaning given in the R-Codes;

natural ground level, in relation to land subject to development, means —

(a) the ground level specified in either of the following that applies to the land (or, if both of the following

apply to the land, the more recent of the following) —

(i) a condition on an approval of a plan of subdivision that specifies a ground level;

(ii) a previous development approval for site works on the land that specifies a ground level;

or

(b) if paragraph (a) does not apply — the level of the land before any disturbance to the land relating to the development;

net lettable area or ***nla*** means the area of all floors within the internal finished surfaces of permanent walls but does not include the following areas —

(a) stairs, toilets, cleaner's cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;

(b) lobbies between lifts facing other lifts serving the same floor;

(c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;

(d) areas set aside for the provision of facilities or services to the floor or building where those facilities are not for the exclusive use of occupiers of the floor or building;

non-conforming use has the meaning given in section 172 of the Act;

Peel Region Scheme area means the area to which the Peel Region Scheme applies;

refund amount has the meaning given in the WARR Act section 47C(1);

refund point has the meaning given in the WARR Act section 47C(1);

residential zone —

(a) if this Scheme includes the model provision set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1 clause 16 — means a Residential zone, Special Residential zone or Rural Residential zone; or

(b) otherwise —

(i) means a zone (however named) the objectives of which as set out in this Scheme indicate that it is an area suitable for residential use (regardless of residential lot sizes in the zone and whether or not a limited range of rural and related ancillary pursuits are permitted); but

(ii) does not include a zone (however named) the objectives of which as set out in this Scheme indicate that it is an area suitable for a wide variety of active uses on street level that are compatible with residential and other non-active uses on upper levels;

reverse vending machine means a permanently-located unattended device that accepts empty containers from members of the public in exchange for the payment of the refund amount;

single house has the meaning given in the R-Codes;

site works means works that affect the ground level, whether by excavation or filling;

street setback area, of a building, means the area between the building and the boundary of a road reserve that abuts the lot, and if the lot abuts 2 or more road reserves, means the area between the building and boundary of the road reserve to which the building faces;

wall height, in relation to a wall of a building —

(a) if the building is used for residential purposes — has the meaning given in the R-Codes; or

(b) if the building is used for purposes other than residential purposes — means the vertical distance

from the natural ground level of the boundary of the property that is closest to the wall to the point where the wall meets the roof or parapet;

WARR Act means the *Waste Avoidance and Resource Recovery Act 2007*;

(3) In Schedule 2 clause 1 in the definition of ***built heritage conservation*** delete "*Heritage of Western Australia Act 1990* section 3(1);" and insert:

Heritage Act 2018 section 4;

(4) In Schedule 2 clause 1 in the definition of ***cultural heritage significance*** delete "meaning given in the *Heritage of Western Australia Act 1990* section 3(1);" and insert:

the meaning given in the *Heritage Act 2018* section 5(1);

(5) In Schedule 2 clause 1 in the definition of ***works*** paragraph (c) delete "a Conservation Order made under the *Heritage of Western Australia Act 1990* section 59" and insert:

a protection order made under the *Heritage Act 2018* Part 4 Division 1

45. Schedule 2 clauses 1A to 1C inserted

At the end of Schedule 2 Part 1 insert:

1A. Heritage-protected places

(1) A ***heritage-protected place*** is a place —

(a) that is entered in the State Register of Heritage Places under the *Heritage Act 2018* section 42; or

(b) that is under consideration for entry into the State Register of Heritage Places as described in subclause (2); or

(c) that is the subject of an order under the *Heritage Act 2018* Part 4; or

(d) that is the subject of a heritage agreement that has been certified under the *Heritage Act 2018* section 90; or

(e) that is included on a heritage list as defined in clause 7; or

(f) that is within a heritage area as defined in clause 7.

(2) For the purposes of subclause (1)(b), a place is under consideration for entry into the State Register of Heritage Places if —

(a) the Heritage Council has made a preliminary determination under the *Heritage Act 2018* section 39(2) that the place warrants review under section 40(1) but the review has not commenced; or

(b) the Heritage Council has commenced but has not completed a review of the place under the *Heritage Act 2018* section 40(1); or

(c) the Heritage Council has made a recommendation under the *Heritage Act 2018* section 40(2) that the place be entered in the State Register of Heritage Places but the Minister for Heritage has not yet given a direction under section 41(1) of that Act in relation to that recommendation.

1B. Development taken to comply with deemed-to-comply provision of R-Codes

For the purposes of this Scheme, development is taken to comply with a deemed-to-comply provision of the R-Codes if the development complies with —

(a) a provision of a local development plan, precinct structure plan or local planning policy if —

(i) the provision amends or replaces the deemed-to-comply provision; and

(ii) for a provision of a local development plan or local planning policy where the plan or policy is required to be approved by the Commission under the R-Codes — the plan or policy is approved by the Commission;

or

(b) a provision that —

(i) is in a structure plan that was approved before 19 October 2015; and

(ii) amends or replaces the deemed-to-comply provision.

1C. Excluded holiday period days not counted in time periods

For the purposes of this Scheme, an excluded holiday period day is not to be counted in calculating a period of time that is expressed as a number of days, business days or working days.

46. Schedule 2 clause 4 amended

(1) Delete Schedule 2 clause 4(1)(a) and insert:

(a) publish in accordance with clause 87 the proposed policy and a notice giving details of —

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

(ii) the objectives of the proposed policy; and

(iii) how the proposed policy is made available to the public in accordance with clause 87; and

(iv) the manner and form in which submissions may be made; and

(v) the period for making submissions and the last day of that period;

(2) Delete Schedule 2 clause 4(2) and insert:

(2) The period for making submissions specified in a notice under subclause (1)(a)(v) must not be less than the period of 21 days after the day on which the notice is first published under subclause (1)(a).

(3) After Schedule 2 clause 4(3) insert:

(3A) The local government must not resolve under subclause (3) to proceed with the policy if —

(a) the proposed policy amends or replaces a deemed-to-comply provision of the R-Codes; and

(b) under the R-Codes, the Commission's approval is required for the policy; and

(c) the Commission has not approved the policy.

(4) In Schedule 2 clause 4(4) delete "in a newspaper circulating in the Scheme area." and insert:

in accordance with clause 87.

(5) Delete Schedule 2 clause 4(6) and insert:

(6) The local government must ensure that an up-to-date copy of each local planning policy made under this Scheme that is in effect is published in accordance with clause 87.

(7) Subclause (6) is an ongoing publication requirement for the purposes of clause 87(5)(a).

47. Schedule 2 clause 6 amended

Delete Schedule 2 clause 6(b)(ii) and insert:

(ii) published by the local government in accordance with clause 87.

48. Schedule 2 clause 7 amended

In Schedule 2 clause 7 in the definition of ***place*** delete "*Heritage of Western Australia Act 1990* section 3(1)." and insert:

Heritage Act 2018 section 7(1).

49. Schedule 2 clause 8 amended

(1) Delete Schedule 2 clause 8(2) and insert:

(2) A heritage list established under subclause (1) must set out a description of each place and the reason for its entry on the heritage list.

(2A) The local government must ensure that an up-to-date copy of the heritage list is published in accordance with clause 87.

(2B) Subclause (2A) is an ongoing publication requirement for the purposes of clause 87(5)(a).

(2) In Schedule 2 clause 8(3)(b) delete "21 days of the day on which the notice is served or within a longer period specified in the notice; and" and insert:

a period specified in the notice; and

(3) After Schedule 2 clause 8(3) insert:

(3A) The period for making submissions specified in a notice under subclause (3)(b) must not be less than the period of 21 days after the day on which the notice is given under subclause (3)(a).

50. Schedule 2 clause 9 amended

Delete Schedule 2 clause 9(3) to (5) and insert:

(3) Before designating an area as a heritage area the local government must —

(a) give each owner of land affected by the proposed designation —

(i) notice of the proposed designation; and

(ii) a copy of the proposed local planning policy for the heritage area or details of how the proposed local planning policy is made available to the public under clause 4(1)(a);

and

(b) advertise the proposed designation by —

(i) publishing in accordance with clause 87 a notice of the proposed designation; 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

(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) details of how the proposed local planning policy for the heritage area is made available to the public under clause 4(1)(a); and

(c) the manner and form in which submissions may be made; and

(d) the period for making submissions and the last day of that period.

(5) The period for making submissions specified in the notice under subclause (4)(d) must not be less than the period of 21 days after the day on which the notice is first published under subclause (3)(b)(i).

51. Schedule 2 clause 10 amended

In Schedule 2 clause 10(1) delete "*Heritage of Western Australia Act 1990* section 29," and insert:

Heritage Act 2018 Part 7,

52. Schedule 2 clause 12 amended

(1) In Schedule 2 clause 12(1)(a) delete "entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the heritage list; or" and insert:

entered in the State Register of Heritage Places under the *Heritage Act 2018* section 42 or included on the heritage list; or

(2) In Schedule 2 clause 12(3)(a) delete "uses under clause 64; and" and insert:

under clause 64(4); and

53. Schedule 2 clause 13A inserted

At the end of Schedule 2 Part 3 insert:

13A. Heritage list and heritage areas under former Scheme

(1) This clause applies if —

(a) this Scheme comes into operation on or after the day on which the *Planning Regulations Amendment Regulations 2020* Part 2 Division 2 comes into operation; and

(b) immediately before this Scheme came into operation, another local planning scheme (the ***former Scheme***) applied to the Scheme area.

(2) On and after the day on which this Scheme comes into operation —

(a) the heritage list established under the former Scheme continues under this Scheme and is taken to be the heritage list established under clause 8; and

(b) any heritage area that was designated under the former Scheme immediately before this Scheme comes into operation continues under this Scheme and is taken to be a heritage area designated under clause 9; and

(c) any local planning policy of a kind referred to in clause 9(2) in effect under the former Scheme immediately before this Scheme comes into operation continues under this Scheme and is taken to be a local planning policy in effect under Part 2 Division 2.

(3) This clause does not prevent the amendment, modification or revocation under this Scheme of the heritage list or any designation of a heritage area or local planning policy.

54. Schedule 2 clause 14 replaced

Delete Schedule 2 clause 14 and insert:

14. Terms used

In this Part —

precinct structure plan means a plan for the coordination of future subdivision, zoning and development of an area of land;

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

structure plan means a standard structure plan or a precinct structure plan.

55. Schedule 2 clause 16 amended

(1) Delete Schedule 2 clause 16(1)(c) and insert:

(c) unless the Commission otherwise agrees, set out the information required under subclause (1A).

(2) After Schedule 2 clause 16(1) insert:

(1A) For the purposes of subclause (1)(c) —

(a) a standard structure plan or precinct structure plan must include 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 covered by the plan;

and

(b) a precinct structure plan must also include the following information —

(i) the standards to be applied for the buildings, other structures and works that form part of the subdivision and development covered by the plan;

(ii) arrangements for the management of services for the subdivision and development covered by the plan;

(iii) arrangements to be made for vehicles to access the area covered by the plan;

(iv) the proposed staging of the development covered by the plan.

56. Schedule 2 clause 18 amended

Delete Schedule 2 clause 18(2) and (3) and insert:

(2) The local government —

(a) must advertise the proposed structure plan by publishing in accordance with clause 87 —

(i) the proposed structure plan; and

(ii) a notice of the proposed structure plan; and

(iii) any accompanying material in relation to the proposed structure plan that the local government considers should be published;

and

(b) may also advertise the proposed structure plan by doing either or both of the following —

(i) 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 proposed structure plan;

(ii) erecting a sign or signs in a conspicuous place on the land the subject of the proposed structure plan giving notice of the proposed structure plan.

(3) A notice published or given, or on a sign erected, under subclause (2) in relation to a proposed structure plan must specify —

(a) the manner and form in which submissions may be made; and

(b) the period under subclause (3A) for making submissions and the last day of that period.

(3A) The period for making submissions on a proposed structure plan is —

(a) the period of 42 days after the day on which the notice is first published under subclause (2)(a)(ii); or

(b) a longer period approved by the Commission.

57. Schedule 2 clause 20 amended

Delete Schedule 2 clause 20(1)(a) and insert:

(a) the last day of the period for making submissions on the proposed structure plan that applies under clause 18(3A); or

58. Schedule 2 clause 24 amended

(1) After Schedule 2 clause 24(1) insert:

(1A) The Commission may approve a precinct structure plan that provides for further details of development included in the plan to be submitted to, and approved by, the local government for the purposes of the plan before development

approval is granted (or, if development approval is not required, before development commences).

(2) In Schedule 2 clause 24(2) after "(1)" insert:

or (1A)

Note: The heading to amended Schedule 2 clause 24 is to read:

Structure plan may provide for later approval of details of subdivision or development

59. Schedule 2 clause 28 replaced

Delete Schedule 2 clause 28 and insert:

28. Duration of approval

(1) Subject to this clause and clause 29A, the approval of a structure plan has effect for —

(a) the period of 10 years commencing on the day on which the Commission approves the plan; or

(b) another period determined by the Commission when approving the plan.

(2) The Commission may extend the period for which the approval of a structure plan has effect under subclause (1) if there are no changes to the terms of the plan.

(3) The Commission may revoke its approval of a structure plan if —

(a) a new structure plan is approved in relation to the area to which the structure plan to be revoked relates; or

(b) the Commission considers that the plan has been implemented or is otherwise no longer required; or

(c) the Commission considers that the structure plan cannot be effectively implemented because of a

legislative change or a change in a State planning policy; or

(d) for a structure plan that was the subject of an application under clause 16(3), the revocation is agreed to by —

(i) the owner of the land to which the structure plan relates (or, if the land is owned by 2 or more owners, each of them); and

(ii) the local government.

(4) For the purposes of subclause (1), a structure plan that was approved before 19 October 2015 is taken to have been approved on that day.

60. Schedule 2 clause 29 amended

(1) In Schedule 2 clause 29(2) delete "structure plan." and insert:

structure plan under this clause.

(2) In Schedule 2 clause 29(4) after "structure plan" insert:

under this clause or clause 29A(2)

61. Schedule 2 clause 29A inserted

At the end of Schedule 2 Part 4 insert:

29A. Revocation or amendment of structure plan resulting from scheme amendment

(1) The Commission must, as soon as is reasonably practicable, revoke the approval of a structure plan if —

(a) an amendment to this Scheme that affects the area to which the structure plan relates takes effect; and

(b) the amendment includes a statement in relation to the structure plan under the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 35A(a).

(2) If an amendment to this Scheme that affects the area to which a structure plan relates takes effect, and that amendment includes a statement in relation to the structure plan under the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 35A(b), the Commission must as soon as is reasonably practicable amend the structure plan in accordance with the statement.

(3) The procedures referred to in clause 29(2) do not apply in relation to the amendment of a structure plan under subclause (2).

62. Schedule 2 Part 5 deleted

Delete Schedule 2 Part 5.

63. Schedule 2 clause 47 amended

In Schedule 2 clause 47:

(a) in paragraph (b) delete "a structure plan" and insert:

a local planning policy or structure plan

(b) delete paragraph (c) and insert:

(c) another provision of this Scheme requires a local development plan to be prepared for the area; or

64. Schedule 2 clause 50 amended

(1) Delete Schedule 2 clause 50(2) and insert:

(2) The local government —

(a) must advertise the proposed local development plan by publishing in accordance with clause 87 —

(i) the proposed local development plan; and

(ii) a notice of the proposed local development plan; and

(iii) any accompanying material in relation to the proposed local development plan that the local government considers should be published;

and

(b) may also advertise the proposed local development plan by doing either or both of the following —

(i) giving notice of the proposed local development plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the plan;

(ii) erecting a sign or signs in a conspicuous place on the land the subject of the proposed local development plan giving notice of the proposed local development plan.

(2) Delete Schedule 2 clause 50(4) and insert:

(4) A notice published or given, or on a sign erected, under subclause (2) in relation to a proposed local development plan must specify —

(a) the manner and form in which submissions may be made; and

(b) the period for making submissions and the last day of that period.

(5) The period for making submissions specified in a notice under subclause (4)(b) must not be less than the period of 14 days after the day on which the notice of the proposed local development plan is first published under subclause (2)(a)(ii).

65. Schedule 2 clause 51 amended

In Schedule 2 clause 51(c) delete "clause 67" and insert:

clause 67(2)

66. Schedule 2 clause 52 amended

(1) After Schedule 2 clause 52(1) insert:

(1A) The local government must not approve a local development plan under subclause (1) if —

(a) the local development plan amends or replaces a deemed-to-comply provision of the R-Codes; and

(b) under the R-Codes, the Commission's approval is required for the local development plan; and

(c) the Commission has not approved the local development plan.

(2) In Schedule 2 clause 52(2)(a) delete "specified in a notice given or published under clause 50(2)" and insert:

specified in accordance with clause 50(5)

67. Schedule 2 clause 55 replaced

Delete Schedule 2 clause 55 and insert:

55. Publication of local development plan approved by local government

(1) If the local government approves a local development plan the local government must publish the local development plan in accordance with clause 87.

(2) Subclause (1) is an ongoing publication requirement for the purposes of clause 87(5)(a).

68. Schedule 2 clause 57 amended

In Schedule 2 clause 57(2) delete "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." and insert:

19 October 2015 is taken to have been approved on that day.

69. Schedule 2 clause 60 amended

In Schedule 2 clause 60(b) delete "the development is of a type referred to in" and insert:

development approval is not required for the development under

70. Schedule 2 clause 61 replaced

Delete Schedule 2 clause 61 and insert:

61. Development for which development approval not required

(1) Development approval is not required for works if —

(a) the works are of a class specified in Column 1 of an item in the Table; and

(b) if conditions are set out in Column 2 of the Table opposite that item — all of those conditions are satisfied in relation to the works.

Table

	Column 1 **Works**	**Column 2** **Conditions**
1.	The demolition or removal of any of the following — (a) a single house; (b) an ancillary dwelling; (c) an outbuilding; (d) an external fixture; (e) a boundary wall or fence; (f) a patio; (g) a pergola; (h) a verandah; (i) a deck; (j) a garage; (k) a carport;	The works are not located in a heritage-protected place.

	Column 1 **Works**	**Column 2** **Conditions**
	(l) a swimming pool; (m) shade sails.	
2.	The demolition of a building that is not a single house, ancillary dwelling, multiple dwelling or grouped dwelling.	(a) The building does not share a common wall with another building. (b) The works are not located in a heritage-protected place.
3.	The demolition or removal of a cubbyhouse.	The works are not located in a heritage-protected place.
4.	The demolition or removal of a flagpole.	The works are not located in a heritage-protected place of a kind referred to in clause 1A(1)(a) to (e).
5.	Internal building work that does not materially affect the external appearance of the building.	Either — (a) neither the building nor any part of it is located in a heritage-protected place of a kind referred to in clause 1A(1)(a) to (e); or (b) the building, or a part of it, is located in a heritage-protected place of a kind referred to in clause 1A(1)(a), (c), (d) or (e), but the interior of the building is specified as not being of cultural heritage significance in the relevant register, order, agreement or list referred to in that clause.

	Column 1 **Works**	**Column 2** **Conditions**
6.	The erection of, or alterations or additions to, a single house on a lot.	(a) The R-Codes apply to the works. (b) The works comply with the deemed-to-comply provisions of the R-Codes. (c) The works are not located in a heritage-protected place.
7.	The erection or installation of, or alterations or additions to, any of the following on the same lot as a single house or a grouped dwelling — (a) an ancillary dwelling; (b) an outbuilding; (c) an external fixture; (d) a boundary wall or fence; (e) a patio; (f) a pergola; (g) a verandah; (h) a deck; (i) a garage; (j) a carport.	(a) The R-Codes apply to the works. (b) The works comply with the deemed-to-comply provisions of the R-Codes. (c) The works are not located in a heritage-protected place.

	Column 1 **Works**	**Column 2** **Conditions**
8.	The installation of, or alterations or additions to, any of the following on the same lot as a single house or a grouped dwelling — (a) a swimming pool; (b) shade sails.	The works are not located in a heritage-protected place.
9.	The temporary erection or installation of an advertisement.	(a) The advertisement is erected or installed in connection with an election, referendum or other poll conducted under the *Commonwealth Electoral Act 1918* (Commonwealth), the *Referendum (Machinery Provisions) Act 1984* (Commonwealth), the *Electoral Act 1907*, the *Local Government Act 1995* or the *Referendums Act 1983*. (b) The primary purpose of the advertisement is for political communication in relation to the election, referendum or poll. (c) The advertisement is not erected or installed until the writ or writs have been issued or, for an election, referendum or poll under the *Local Government Act 1995*, until the 36th day before the day on which the election, referendum or poll is to be held.

	Column 1 **Works**	**Column 2** **Conditions**
		(d) The advertisement is removed no later than 48 hours after the election, referendum or poll is conducted. (e) The advertisement is not erected or installed within 1.5 m of any part of a crossover or street truncation.
10.	The erection or installation of a sign of a class specified in a local planning policy or local development plan that applies to the works as not requiring development approval.	(a) The sign complies with any requirements specified in the local planning policy or local development plan in relation to the exemption from the requirement for development approval. (b) The sign is not erected or installed within 1.5 m of any part of a crossover or street truncation. (c) The works are not located in a heritage-protected place.
11.	Works to change an existing sign that has been erected or installed on land.	(a) The erection or installation of the existing sign was the subject of development approval or was exempt from the requirement for development approval. (b) The changes do not alter the size or location of the existing sign or result in the sign containing any

	Column 1 **Works**	**Column 2** **Conditions**
		illumination, animation, movement or reflective, retro-reflective or fluorescent materials. (c) The sign is not used for advertising (other than the advertising of a business operated on the land). (d) The works are not located in a heritage-protected place.
12.	The installation of a water tank.	(a) The water tank is not installed in the street setback area of a building. (b) The volume of the water tank is no more than 5 000 L. (c) The height of the water tank is no more than — (i) for a tank fixed to a building — the height of the eaves of the building; or (ii) for a tank that is not fixed to a building and is more than 1 m from each boundary of the lot — 2.4 m; or (iii) for a tank that is not fixed to a building and is 1 m or less from a boundary of the lot — 1.8 m. (d) The works are not located in a heritage-protected place.

	Column 1 **Works**	**Column 2** **Conditions**
13.	The erection or installation of a cubbyhouse.	(a) The cubbyhouse is not erected or installed in the street setback area of a building. (b) The floor of the cubbyhouse is no more than 1 m above the natural ground level. (c) The wall height of the cubbyhouse is no more than 2.4 m above the natural ground level. (d) The building height of the cubbyhouse is no more than 3 m above the natural ground level. (e) The area of the floor of the cubbyhouse is no more than 10 m^2. (f) The cubbyhouse is not erected or installed within 1 m of more than 1 boundary of the lot.
14.	The erection or installation of a flagpole.	(a) The height of the flagpole is no more than 6 m above the natural ground level. (b) The flagpole is no more than 200 mm in diameter. (c) The flagpole is not used for advertising. (d) There is no more than 1 flagpole on the lot.

	Column 1 **Works**	**Column 2** **Conditions**
		(e) The works are not located in a heritage-protected place.
15.	The installation of solar panels on the roof of a building.	(a) The solar panels are parallel to the angle of the roof. (b) The works are not located in a heritage-protected place.
16.	Maintenance and repair works.	Either — (a) the works are not located in a heritage-protected place; or (b) the maintenance and repair works are of a kind referred to in the *Heritage Regulations 2019* regulation 41(1)(b) to (i).
17.	Temporary works.	The works are in existence for less than 48 hours, or a longer period agreed by the local government, in any 12-month period.
18.	Works that are urgently necessary for any of the following — (a) public safety; (b) the safety or security of plant or equipment; (c) the maintenance of essential services; (d) the protection of the environment.	The works are not located in a heritage-protected place of a kind referred to in clause 1A(1)(a), (b) or (d).

	Column 1 **Works**	**Column 2** **Conditions**
19.	Works that are wholly located on an area identified as a regional reserve under a region planning scheme.	
20.	Works specified in a local planning policy or local development plan that applies to the works as works that do not require development approval (other than works referred to in item 10).	The works comply with any requirements specified in the local planning policy or local development plan in relation to the exemption from the requirement for development approval.
21.	Works of a type identified elsewhere in this Scheme as works that do not require development approval.	The works comply with any requirements specified in this Scheme in relation to the exemption from the requirement for development approval.

Notes for this subclause:

1. Approval may be required from the Commission for development on a regional reserve under a region planning scheme.
2. Section 157 of the Act 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.
3. Section 6 of the Act applies in respect of the carrying out of public works.
4. Clause 1B sets out circumstances in which development is taken to comply with a deemed-to-comply provision of the R-Codes.

(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 for this paragraph:

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

(b) development that is a class P use in relation to the zone in which the development is located, if —

(i) the development has no works component; or

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

(c) development that is an exempt class D use under subclause (3) in relation to the zone in which the development is located, if —

(i) the development has no works component; or

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

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

(e) the use of premises as a drop-off refund point if —

(i) the premises are otherwise used as a shop (as defined in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1 clause 38); or

(ii) the premises are not in a residential zone and the use of the premises as a drop-off refund point is an incidental use of the premises;

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

(g) 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;

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

(3) For the purposes of subclause (2)(c), a use of land is an exempt class D use in relation to the zone in which the land is located if —

(a) the use is a class D use in relation to the zone; and

(b) the use is of a class set out in Column 1 of an item in the Table; and

(c) the zone is of a class set out in Column 2 of the Table opposite that item; and

(d) if conditions are set out in Column 3 of the Table opposite that item — all of those conditions are satisfied in relation to the use.

Table

	Column 1 **Use**	**Column 2** **Zones**	**Column 3** **Conditions**
1.	Shop	Commercial, centre or mixed use zone	Net lettable area is no more than 300 m^2.
2.	Restaurant/cafe	Commercial, centre or mixed use zone	Net lettable area is no more than 300 m^2.
3.	Convenience store	Commercial, centre or mixed use zone	Store is not used for the sale of petroleum products.
4.	Consulting rooms	Commercial, centre or mixed use zone	No more than 60% of the glass surface of any window on the ground floor of the consulting rooms is obscured glass.
5.	Office	Commercial, centre or mixed use zone	Office is not located on the ground floor of a building.

	Column 1 **Use**	**Column 2** **Zones**	**Column 3** **Conditions**
6.	Liquor store — small	Commercial, centre or mixed use zone	Store is in the metropolitan region or Peel Region Scheme area.
7.	Small bar	Commercial, centre or mixed use zone	(a) Small bar is in the metropolitan region or Peel Region Scheme area. (b) The lot on which the small bar is located does not directly adjoin a residential zone.
8.	Recreation — private	Commercial, centre or mixed use zone Light industry zone	(a) Premises are in the metropolitan region. (b) Net lettable area of any indoor area of the premises is no more than 300 m^2. (c) No more than 60% of the glass surface of any window on the ground floor of a building on the premises is obscured glass.
9.	Home occupation	All zones	

(4) A reference in Column 1 of the Table to subclause (3) to a class of land use is a reference to that use as defined in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1 clause 38, whether or not —

(a) the relevant definition is included in this Scheme; or

(b) this Scheme includes a different definition for that use; or

(c) this Scheme refers to that class of land use by a different name.

(5) Subclause (2) has effect despite the zoning table for this Scheme.

(6) Despite subclauses (1) and (2), an exemption under those subclauses does not apply to development if —

(a) the development is undertaken in a special control area and the special provisions that apply to that area under this Scheme provide that development approval is required for the development; or

(b) the development is undertaken on land designated by an order made under the *Fire and Emergency Services Act 1998* section 18P as a bush fire prone area and development approval is required under clause 78D(3) for the development.

(7) An exemption from the requirement for development approval that applies under this clause (other than an exemption under item 10 or 20 in the Table to subclause (1)) is not affected by any provision of a local planning policy or local development plan.

(8) If development consists of both works and use of land —

(a) subject to subclause (2)(b)(ii) and (c)(ii), any exemption under subclause (1) that applies to the works does not affect whether development approval is required for the use; and

(b) any exemption under subclause (2) that applies to the use does not affect whether development approval is required for the works.

61A. Advice by local government that development approval not required for erection of, or alterations or additions to, single house

(1) This clause applies only if —

(a) the Scheme area is wholly or partly in the metropolitan region or the Peel Region Scheme area; or

(b) the local government has made an election under subclause (5)(a) and has not revoked that election under subclause (5)(b).

(2) An owner of a lot in the Scheme area who proposes to carry out works consisting of the erection of, or alterations or additions to, a single house on the lot may apply to the local government for written advice that the local government is satisfied that development approval of the local government is not required for the works because of an exemption under item 6 in the Table to clause 61(1).

(3) An application under subclause (2) must be —

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

(b) accompanied by any documents or other information required by the approved form; and

(c) accompanied by any fee for determining the application imposed by the local government under the *Planning and Development Regulations 2009*.

(4) Within 14 days after an application under subclause (2) is made, the local government must —

(a) provide advice to the applicant, in the manner and form approved by the Commission, that the local government is satisfied that development approval of the local government is not required for the works because of an exemption under item 6 in the Table to clause 61(1); or

(b) notify the applicant, in the manner and form approved by the Commission, that the local

government is not satisfied as referred to in paragraph (a).

(5) The local government may, by written notice given to the Commission and published in accordance with clause 87 —

(a) elect to provide advice under this clause; or

(b) revoke an election under paragraph (a).

71. Schedule 2 clause 64 replaced

Delete Schedule 2 clause 64 and insert:

63A. Action by local government on receipt of application

(1) On receipt of an application for development approval, the local government must —

(a) consider whether the application and accompanying material comply with clauses 62 and 63; and

(b) within 7 days after the day on which the application is received, advise the applicant by written notice —

(i) if the local government is satisfied that the application and accompanying material comply with clauses 62 and 63 — that the application has been accepted for assessment; or

(ii) otherwise — that the applicant must amend the application, or provide further accompanying material, before the application can be accepted for assessment.

(2) If the local government does not give advice under subclause (1)(b) within the 7-day period referred to in that subclause, the application is taken to be accepted for assessment on the day after the end of that period.

(3) If the local government gives advice under subclause (1)(b)(ii) and the applicant amends the application

or provides further accompanying material as required, this clause applies again in respect of the application as amended or as accompanied by the further material as if references to the receipt of the application were to the receipt of the amendment or the further material.

64. Advertising applications

(1) The local government —

(a) must advertise a complex application for development approval in accordance with subclause (3); and

(b) must advertise an application for development approval in accordance with subclause (4) if the application is not a complex application and —

(i) relates to development that is a class A use in relation to the zone in which the development is located; or

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

(iii) relates to development that does not comply with the requirements of this Scheme; or

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

(v) is of a kind identified elsewhere in this Scheme as an application that is required to be advertised;

and

(c) may advertise any other application for development approval in accordance with subclause (4).

(2) Subclause (1)(b)(iii) does not apply if the local government is satisfied that the non-compliance with the requirements of this Scheme is of a minor nature.

(3) For the purposes of subclause (1)(a), a complex application is advertised by doing all of the following —

(a) publishing in accordance with clause 87 —

(i) a notice of the proposed development in the form set out in clause 86(3); and

(ii) the application for development approval; and

(iii) any accompanying material in relation to the application that the local government considers should be published;

(b) giving notice of the proposed development —

(i) to the owners and occupiers of every property that is within 200 m of the proposed development; and

(ii) to any other owners and occupiers of properties in the vicinity of the proposed development who, in the opinion of the local government, are likely to be affected by the granting of development approval;

(c) erecting, in the manner and form approved by the Commission, a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed development in the form set out in clause 86(3).

Note for this subclause:

Under clause 88, the Commission may approve varied requirements that apply if it is not practicable for the local government to comply with subclause (3)(b) or (c).

(4) For the purposes of subclause (1)(b) or (c), an application that is not a complex application is advertised by doing any or all of the following, as determined by the local government —

(a) publishing in accordance with clause 87 —

(i) a notice of the proposed development in the form set out in clause 86(3); and

(ii) the application for development approval; and

(iii) any accompanying material in relation to the application that the local government considers should be published;

(b) giving notice of the proposed 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;

(c) erecting, in the manner and form approved by the Commission, a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed development in the form set out in clause 86(3).

(5) A notice published or given, or on a sign erected, in accordance with subclause (3) or (4) in relation to an application for development approval must specify —

(a) the manner and form in which submissions may be made; and

(b) the applicable period under subclause (6) or (7) for making submissions and the last day of that period.

(6) The period to be specified in a notice published or given, or on a sign erected, in accordance with subclause (3) in relation to a complex application is —

(a) the period of 28 days after the day on which the notice of the application is first published under subclause (3)(a); or

(b) a longer period agreed in writing between the applicant and the local government.

(7) The period to be specified in a notice published or given, or on a sign erected, in accordance with subclause (4) in relation to an application that is not a complex application is —

(a) the period of 14 days after the day on which the notice of the application is first published or given, or the sign is first erected, as the case requires; or

(b) a longer period agreed in writing between the applicant and the local government.

64A. Applicant for development approval may be required to pay costs of advertising or erect signs

(1) The local government may require an applicant for development approval to pay the costs of the local government advertising the application for development approval under clause 64.

(2) The local government may, instead of erecting signs under clause 64(3)(c) or (4)(c), require the applicant for development approval to erect those signs.

72. Schedule 2 clauses 65A and 65B inserted

At the beginning of Schedule 2 Part 9 insert:

65A. Local government may request additional information or material

(1) If an application for development approval has been accepted for assessment, the local government may, by written notice given to the applicant, request the applicant to provide any further information or material that the local government reasonably requires to determine the application.

(2) A request under subclause (1) may be made whether or not the local government gave the applicant advice under clause 63A(1)(b)(ii) in relation to the application before it was accepted for assessment.

(3) A request under subclause (1) must state the period within which the further information or material must be provided, which must be a period of at least 21 days after the day on which the request is made.

(4) Only 1 request under subclause (1) can be made in relation to an application for development approval unless —

(a) the application is a complex application; or

(b) the application is required to be advertised under clause 64(1)(b); or

(c) a copy of the application is required to be provided to a statutory, public or planning authority under clause 66; or

(d) after the application was accepted for assessment, the applicant, on their own initiative, submitted further information or material relevant to the application to the local government and the request relates to that further information or material.

65B. Applicant may agree to or refuse request for additional information or material

(1) If a request under clause 65A(1) is made to an applicant for development approval, the applicant may, by written notice given to the local government within 7 days after the day on which the request is made, agree to or refuse the request.

(2) If the applicant does not agree to or refuse the request within the 7-day period referred to in subclause (1), the applicant is taken to have refused the request.

(3) If an applicant agrees to a request under clause 65A(1), the period set out in subclause (4) is not to be counted for the purposes of determining when the application for development approval must be determined under clause 75(1).

(4) For the purposes of subclause (3), the period —

(a) begins on the day on which the applicant agrees to the request; and

(b) ends on the earlier of the following —

(i) the day on which the applicant gives the information or material specified in the request to the local government;

(ii) the last day of the period stated in the notice of request under clause 65A(3).

(5) If an applicant refuses a request under clause 65A(1) —

(a) the local government must not refuse to determine the application for development approval merely because the applicant has refused the request; and

(b) the making of the request does not affect when the application for development approval must be determined under clause 75(1).

73. Schedule 2 clause 66 amended

(1) In Schedule 2 clause 66(3) delete "allows," and insert:

allows in accordance with subclause (3A),

(2) After Schedule 2 clause 66(3) insert:

(3A) The local government may extend the 42-day period referred to in subclause (3) once only by a period of not more than 14 days.

74. Schedule 2 clause 67 amended

(1) At the beginning of Schedule 2 clause 67 insert:

(1) Development approval cannot be granted on an application for approval of —

(a) development that is a class X use in relation to the zone in which the development is located, unless —

(i) the development relates to land that is being used for a non-conforming use; and

(ii) the local government considers that the proposed use of the land would be less detrimental than the non-conforming use;

or

(b) development that otherwise does not comply with a requirement of this Scheme, unless —

(i) this Scheme gives the local government discretion to waive or vary the requirement or to grant development approval despite non-compliance with the requirement; or

(ii) the development is permitted under a provision of this Scheme in relation to non-conforming uses.

(2) In Schedule 2 clause 67:

(a) delete "In considering an application for development approval" and insert:

(2) In considering an application for development approval (other than an application on which approval cannot be granted under subclause (1)),

(b) after paragraph (f) insert:

(fa) any local planning strategy for this Scheme endorsed by the Commission;

(c) in paragraph (h) delete "plan, activity centre plan or" and insert:

plan or

(d) delete paragraph (m) and insert:

(m) the compatibility of the development with its setting, including —

(i) the compatibility of the development with the desired future character of its setting; and

(ii) 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;

(3) At the end of Schedule 2 clause 67 insert:

(3) Subclause (1) has effect despite the zoning table for this Scheme.

Note: The heading to amended Schedule 2 clause 67 is to read:
Consideration of application by local government

75. Schedule 2 clause 68 amended

Delete Schedule 2 clause 68(1) and insert:

(1) If an application for approval of development is advertised under clause 64, the local government must not determine the application until after the end of —

(a) for a complex application advertised in accordance with clause 64(3) — the period for making submissions that applies under clause 64(6); or

(b) for an application advertised in accordance with clause 64(4) — each period for making submissions specified in a notice published or given, or on a sign erected, in accordance with that clause.

(1A) If a copy of an application for approval of development has been provided to a statutory, public or planning authority under clause 66, the local government must not determine the application until after the end of each period for providing a memorandum to the local government that applies under clause 66(3).

76. Schedule 2 clause 71 amended

At the end of Schedule 2 clause 71 insert:

Note for this clause:

Under the *Planning and Development (Development Assessment Panels) Regulations 2011* regulation 16A(2), for an application determined by a Development Assessment Panel the period within which development must be substantially commenced is 4 years.

77. Schedule 2 clause 75 amended

Delete Schedule 2 clause 75(1)(a) and (b) and insert:

(a) if the application is advertised in compliance with a requirement under clause 64(1)(a) or (b) or a copy of the application is provided to a statutory, public or planning authority under clause 66 — within 90 days after the day on which the application is accepted for assessment; or

(b) otherwise — within 60 days after the day on which the application is accepted for assessment; or

78. Schedule 2 clause 86 amended

In Schedule 2 clause 86(3):

(a) delete "clause 64(4)" and insert:

clause 64(3)(a)(i) or (c) or (4)(a)(i) or (c)

(b) in the Form delete:

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 .....

and insert:

Details of the proposal are available to the public at ..... Submissions may be made on the proposal in the period ending on the ..... day of ..... Comments on the proposal may be submitted to the local government in writing on or before that day.

79. Schedule 2 Parts 12 and 13 inserted

After Schedule 2 clause 86 insert:

Part 12 — Miscellaneous

87. Requirements for making documents available to public

(1) This clause applies if under a provision of this Scheme the local government is required to publish in accordance with this clause a notice, plan, application or other document (the ***document***).

(2) The local government must make the document available in accordance with the applicable requirements of subclauses (3) to (5).

Note for this subclause:

Under clause 88, the Commission may approve varied requirements that apply if it is not practicable for the local government to publish documents in accordance with subclauses (3) to (5).

(3) For all documents, the local government must —

(a) publish on the website of the local government —

(i) the document; or

(ii) a hyperlink to a webpage on which the document is published;

and

(b) if it is reasonably practicable to do so — make a copy of the document available for public inspection at a place in the district of the local government during normal business hours.

(4) If the document is a notice and the local government considers that it is appropriate in the circumstances for the notice to be published in a newspaper, the local government must also ensure that the notice is published in a newspaper circulating in the relevant locality in the local government district.

(5) The local government must ensure that the document remains published under subclause (3)(a) and (if applicable) available for public inspection under subclause (3)(b) —

(a) if the document is published in compliance with a requirement that is expressed to be an ongoing publication requirement — at all times that the document is in effect; or

(b) if the document is published in compliance with a requirement to advertise for submissions under this Scheme — during the whole of the period within which submissions may be made; or

(c) if paragraphs (a) and (b) do not apply — during a period that the local government considers is reasonable.

88. Commission may approve varied requirements for publication of documents and advertising of complex applications

(1) In this clause —

complex application notice and signage requirements means the requirements of clause 64(3)(b) and (c) in relation to advertising complex applications;

document has the meaning given in clause 87(1);

publication requirements means the requirements of clause 87(3) to (5) in relation to making documents available to the public.

(2) If the Commission considers that it is not practicable for the local government to comply with any of the publication requirements in relation to documents that it is or may become required to publish, the Commission may give the local government a written notice approving varied requirements that apply in relation to the local government making documents available to the public.

(3) If a notice under subclause (2) is in effect, the local government is taken to comply with the applicable publication requirements in relation to a document if the

local government complies with those requirements as varied by the notice.

(4) If the Commission considers that it is not practicable for the local government to comply with any of the complex application notice and signage requirements in relation to complex applications it is or may become required to advertise, the Commission may give the local government a written notice approving varied requirements that apply in relation to the local government advertising complex applications.

(5) If a notice under subclause (4) is in effect, a complex application made to the local government is taken to be advertised in compliance with the complex application notice and signage requirements if it is advertised in compliance with those requirements as varied by the notice.

(6) A notice under subclause (2) or (4) —

(a) must state whether it has effect indefinitely or for a period specified in the notice; and

(b) takes effect when it is given to the local government; and

(c) ceases to be in effect —

(i) if the Commission gives the local government a further written notice revoking it; or

(ii) at the end of the period (if any) specified under paragraph (a).

Part 13 — Transitional provisions for *Planning Regulations Amendment Regulations 2020*

89. Terms used

In this Part —

amended deemed provisions means the deemed provisions of this Scheme set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 as

amended by the *Planning Regulations Amendment Regulations 2020* Part 2 Division 2;

commencement day means the day on which the *Planning Regulations Amendment Regulations 2020* Part 2 Division 2 comes into operation;

former deemed provisions means the deemed provisions of this Scheme set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 as in force immediately before commencement day.

90. Application of amendments made by *Planning Regulations Amendment Regulations 2020*

(1) The amendments to Part 7 made by the *Planning Regulations Amendment Regulations 2020* do not apply in relation to development —

(a) that commenced before commencement day; or

(b) for which development approval was granted before commencement day.

(2) The amendments to Parts 8 and 9 made by the *Planning Regulations Amendment Regulations 2020* do not apply in relation to an application for development approval made before commencement day.

91. Advertising processes in progress on commencement day

(1) In this clause —

relevant advertising process —

(a) means any of the following processes —

(i) the advertising of a proposed local planning policy, or amendment to a local planning policy, under clause 4;

(ii) the advertising of the proposed designation of a heritage area, or the proposed amendment or revocation of the designation of a heritage area, under clause 9;

(iii) the advertising of a proposed structure plan, or amendment to a structure plan, under clause 18;

(iv) the advertising of a proposed local development plan, or amendment to a local development plan, under clause 50;

and

(b) includes the giving of notices to persons or public authorities or the erection of signs as part of a process referred to in paragraph (a).

(2) A relevant advertising process that commenced, but was not completed, before commencement day may be completed in accordance with the relevant requirements of the former deemed provisions rather than the amended deemed provisions.

(3) If the relevant advertising process for a policy, designation, plan or amendment (the ***relevant planning instrument***) is completed in accordance with subclause (2) —

(a) the relevant planning instrument is taken to have been advertised in compliance with the relevant requirements of the amended deemed provisions; and

(b) this Scheme applies with any necessary changes to the relevant planning instrument.

92. Activity centre plans or structure plans in effect before commencement day

(1) In this clause —

current activity centre plan —

(a) means an activity centre plan under this Scheme for which the approval is in effect immediately before commencement day; and

(b) includes a plan taken to be an activity centre plan under the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 79

that is in effect under this Scheme immediately before commencement day;

current structure plan —

(a) means a structure plan under this Scheme for which the approval is in effect immediately before commencement day; and

(b) includes a plan taken to be a structure plan under the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 79 that is in effect under this Scheme immediately before commencement day.

(2) On and after commencement day, a current activity centre plan —

(a) continues in effect under this Scheme; and

(b) is taken to be a precinct structure plan approved under this Scheme for which the approval has effect; and

(c) may be amended or revoked accordingly.

(3) On and after commencement day, a current structure plan —

(a) continues in effect under this Scheme; and

(b) is taken to be a standard structure plan approved under this Scheme for which the approval has effect; and

(c) may be amended or revoked accordingly.

(4) Clause 28 of the amended deemed provisions applies to a structure plan, whether it is a plan referred to in subclause (2) or (3) or a plan approved under this Scheme on or after commencement day.

93. Activity centre plans or amendments in course of preparation on commencement day

(1) In this clause —

preparation and approval process, in relation to an activity centre plan or amendment to an activity centre plan, means

the process for preparing or accepting, advertising, reporting on, modifying and approving the plan or amendment set out in Part 5 of the former deemed provisions.

(2) This clause applies to an activity centre plan or amendment to an activity centre plan if —

(a) 1 or more steps in the preparation and approval process for the plan or amendment occurred before commencement day under Part 5 of the former deemed provisions; but

(b) the Commission did not approve or refuse to approve the proposed plan or amendment before commencement day.

(3) If the process of advertising the proposed activity centre plan or amendment under clause 34 of the former deemed provisions commenced but was not completed before commencement day —

(a) that advertising process may be completed in accordance with the requirements of that clause; and

(b) after the advertising process referred to in paragraph (a) is completed —

(i) the proposed plan or amendment is taken to be a proposed precinct structure plan or amendment to a precinct structure plan that has been advertised in compliance with the requirements of clause 18 of the amended deemed provisions; and

(ii) the other steps taken before commencement day in the preparation and approval process for the plan or amendment are taken to have been taken under and in accordance with the equivalent provision of Part 4 of the amended deemed provisions.

(4) If subclause (3) does not apply, on and after commencement day —

(a) the proposed activity centre plan or amendment is taken to be a proposed precinct structure plan or amendment to a precinct structure plan; and

(b) the steps taken before commencement day in the preparation and approval process for the plan or amendment are taken to have been taken under and in accordance with the equivalent provision of Part 4 of the amended deemed provisions.

Division 3 — Amendments commencing on 1 July 2021

80. Schedule 2 Part 9A inserted

After Schedule 2 clause 77 insert:

Part 9A — Provisions about car parking

Division 1 — General

77A. Terms used

In this Part —

applicable minimum on-site parking requirement, in relation to development —

(a) means a minimum on-site parking requirement that applies to the development (and, if the local government has varied a minimum on-site parking requirement in relation to the development under clause 77D(1)(a), means that requirement as so varied); but

(b) does not include a minimum on-site parking requirement that has been waived in relation to the development under clause 77D(1)(b);

minimum on-site parking requirement means a provision of this Scheme, or a local planning policy, that provides for

the minimum number of car parking spaces that must be provided as part of development of a specified kind;

parking space shortfall, in relation to development, has the meaning given in clause 77C;

payment in lieu of parking condition means a condition requiring a payment to be made in lieu of satisfying a minimum on-site parking requirement;

payment in lieu of parking plan has the meaning given in clause 77J(1);

relevant payment in lieu of parking plan, in relation to development, means the payment in lieu of parking plan in effect from time to time for the area in which the development is located;

shared parking arrangement condition means a condition requiring entry into an arrangement for shared parking in lieu of satisfying a minimum on-site parking requirement.

77B. Development to which this Part applies

(1) This Part applies to development in —

(a) the metropolitan region; or

(b) the Peel Region Scheme area.

(2) Despite subclause (1), this Part does not apply to development to which the R-Codes apply.

77C. Parking space shortfall for development

If development does not comply with an applicable minimum on-site parking requirement, the ***parking space shortfall*** for the development is the number of car parking spaces calculated as follows —

$$M - A$$

where —

M is the minimum number of car parking spaces required to be provided as part of the development under the applicable minimum on-site parking requirement;

A is the actual number of car parking spaces to be provided as part of the development.

77D. Variation of minimum on-site parking requirement in relation to development

(1) The local government may —

(a) vary a minimum on-site parking requirement that applies to development so that the minimum number of car parking spaces that must be provided as part of the development is a lower number; or

(b) waive a minimum on-site parking requirement that applies to development.

(2) The local government must not vary or waive a minimum on-site parking requirement under subclause (1) in relation to development unless the local government is satisfied —

(a) that reasonable efforts have been made to comply with the minimum on-site parking requirement without adversely affecting access arrangements, the safety of pedestrians or persons in vehicles, open space, street trees or service infrastructure; and

(b) that —

(i) in the case of a variation — the lower number of car parking spaces would be adequate for the demands of the development, having regard to the likely use of the car parking spaces, the availability of off-site parking facilities and the likely use of alternative means of transport; or

(ii) in the case of a waiver — it is not necessary for car parking spaces to be provided as part of the development, having regard to the availability of off-site parking facilities and the likely use of alternative means of transport.

77E. Development that does not comply with applicable minimum on-site parking requirement

(1) Development is not required to comply with an applicable minimum on-site parking requirement if —

(a) development approval is not required for the development under clause 61; or

(b) development approval has been granted for the development subject to either or both of the following —

(i) a payment in lieu of parking condition imposed in accordance with clause 77H;

(ii) a shared parking arrangement condition imposed in accordance with clause 77Q.

(2) The local government must not grant development approval for development that does not comply with an applicable minimum on-site parking requirement unless the approval is granted subject to a condition or conditions referred to in subclause (1)(b).

77F. Imposition of both payment in lieu of parking condition and shared parking arrangement condition

(1) The local government must not under clause 68(2)(b) impose on an approval of development both a payment in lieu of parking condition in accordance with clause 77H and a shared parking arrangement condition in accordance with clause 77Q, unless —

(a) the parking space shortfall for the development is at least 2; and

(b) the local government has given the applicant for development approval a notice of apportionment stating that —

(i) a specified number of the car parking spaces in the parking space shortfall are to be dealt with by the payment in lieu of parking condition; and

(ii) the remainder of the car parking spaces in the parking space shortfall are to be dealt with by the shared parking arrangement condition.

(2) If the local government gives a notice of apportionment under subclause (1)(b), then —

(a) for the purpose of imposing the payment in lieu of parking condition in accordance with clause 77H, the parking space shortfall for the development is taken to be the number of car parking spaces specified in the notice under subclause (1)(b)(i); and

(b) for the purpose of imposing the shared parking arrangement condition in accordance with clause 77Q, the parking space shortfall for the development is taken to be the number of car parking spaces specified in the notice under subclause (1)(b)(ii).

Division 2 — Payment in lieu of provision of car parking spaces

77G. When payment in lieu of parking condition may be imposed

(1) The local government must not impose a payment in lieu of parking condition on an approval of development under clause 68(2)(b) otherwise than in accordance with clause 77H.

(2) The local government must not impose a payment in lieu of parking condition on an approval of development under clause 68(2)(b) in accordance with clause 77H unless a payment in lieu of parking plan that applies to the area in which the development is to be located is in effect under this Division.

(3) Despite subclause (2), during the period of 2 years commencing on the day on which the *Planning Regulations Amendment Regulations 2020* Part 2 Division 3 comes into operation —

(a) the local government may under clause 68(2)(b) impose a payment in lieu of parking condition in accordance with clause 77H on an approval of development if there are interim parking provisions that apply to the area in which the development is to be located; and

(b) if the local government imposes a condition as referred to in paragraph (a) — the interim parking provisions are taken to be the relevant payment in lieu of parking plan for the development for the purposes of this Division.

(4) In subclause (3) —

interim parking provisions means provisions of this Scheme, or of a local planning policy or local development plan, if the provisions —

(a) are in effect immediately before the day on which the *Planning Regulations Amendment Regulations 2020* Part 2 Division 3 comes into operation; and

(b) deal with the imposition of payment in lieu of parking conditions; and

(c) set out —

(i) the area to which the provisions apply; and

(ii) the purposes for which money paid in accordance with a payment in lieu of parking condition imposed on an approval of development located in that area will be applied.

77H. Payment in lieu of parking condition

(1) Subject to clause 77G, if the local government grants approval for development that does not satisfy an applicable

minimum on-site parking requirement, the local government may under clause 68(2)(b) impose a condition requiring the owner of the land on which the development is to be located to make a payment to the local government in lieu of satisfying the applicable minimum on-site parking requirement.

(2) The maximum amount of the payment required under a condition referred to in subclause (1) is the amount calculated in accordance with the determination under subclause (4).

(3) Subclause (2) does not prevent the local government from imposing a condition that requires a payment that is lower than the maximum amount referred to in that subclause.

(4) The Commission must, by notice published in the *Gazette*, determine the method to be used to calculate a reasonable estimate of the costs to the local government of providing in the area to which the relevant payment in lieu of parking plan applies a number of car parking spaces equivalent to the parking space shortfall for the development.

(5) A determination under subclause (4) may provide for different calculation methods that apply in different circumstances.

(6) The Commission may revoke a determination under subclause (4) by a subsequent determination under that subclause.

(7) A determination under subclause (4) may be combined in a single instrument with 1 or more other determinations of that kind issued under 1 or more other local planning schemes or all other local planning schemes.

77I. Application of money paid under payment in lieu of parking condition

(1) All money received by the local government in accordance with a payment in lieu of parking condition imposed on an approval of development in accordance with clause 77H must be paid into a reserve account established under the

Local Government Act 1995 section 6.11 for the purposes set out in the relevant payment in lieu of parking plan for the development.

(2) The money must be applied for the purposes set out in the relevant payment in lieu of parking plan.

(3) If interest is earned from the investment of money held under subclause (1), that interest must be applied for the purposes set out in the relevant payment in lieu of parking plan.

(4) Subclause (5) applies if —

(a) a person (the ***relevant payer***) pays money to the local government in accordance with a payment in lieu of parking condition imposed in accordance with clause 77H; and

(b) at the end of the period of 10 years commencing on the day on which the local government receives the money, or a longer period approved by the Commission, either or both of the following applies —

(i) any of the money received has not been applied in accordance with subclause (2);

(ii) any interest earned from the investment of the money received has not been applied in accordance with subclause (3).

(5) The local government must repay the money and interest referred to in subclause (4)(b)(i) and (ii) to the relevant payer.

(6) The local government is not required to comply with subclause (5) if —

(a) after taking reasonable steps to find the relevant payer, the relevant payer cannot be found; or

(b) the relevant payer is a body corporate that has been dissolved.

(7) If subclause (6) applies, then despite subclauses (2) and (3), the money and interest referred to in subclause (4)(b)(i) and (ii) may be applied for any purpose that —

(a) relates to the provision or maintenance of public parking infrastructure or other transport infrastructure (for example, public transport infrastructure or cycling or pedestrian paths) in the Scheme area; or

(b) is ancillary or incidental to purposes referred to in paragraph (a).

77J. Payment in lieu of parking plan

(1) A ***payment in lieu of parking plan*** is a plan setting out the following —

(a) the area to which the plan applies;

(b) the purposes for which money paid in accordance with any payment in lieu of parking condition imposed by the local government on an approval of development located in the area will be applied, which must —

(i) relate to the provision or maintenance of public parking infrastructure or other transport infrastructure (for example, public transport infrastructure or cycling or pedestrian paths) in the area to which the plan applies; or

(ii) be ancillary or incidental to purposes referred to in subparagraph (i);

(c) any other information required by the Commission.

(2) The local government may —

(a) prepare a payment in lieu of parking plan for any part of the Scheme area; or

(b) adopt a payment in lieu of parking plan prepared by an owner of land in the part of the Scheme area to which the plan would apply.

(3) A payment in lieu of parking plan must be prepared in the form approved by the Commission.

77K. Advertising payment in lieu of parking plan

(1) If the local government resolves to prepare or adopt a payment in lieu of parking plan the local government must, unless the Commission otherwise agrees, advertise the proposed plan as follows —

(a) publish in accordance with clause 87 the proposed plan and a notice giving details of —

(i) how the proposed plan is made available to the public in accordance with clause 87; and

(ii) the manner and form in which submissions may be made; and

(iii) the period for making submissions and the last day of that period;

(b) give notice of the proposed plan in any other way, and carry out any other consultation, that the local government considers appropriate.

(2) The period for making submissions specified in a notice under subclause (1)(a)(iii) must not be less than the period of 21 days after the day on which the notice is first 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 payment in lieu of parking plan in the light of any submissions made; and

(b) resolve —

(i) to approve the plan without modification; or

(ii) to approve the plan with modifications; or

(iii) not to approve the plan.

(4) If the local government approves the payment in lieu of parking plan under subclause (3)(b)(i) or (ii), the local government must publish notice of the approval in accordance with clause 87.

77L. Publication of payment in lieu of parking plan

(1) The local government must ensure that an up-to-date copy of each payment in lieu of parking plan in effect under this Scheme is published in accordance with clause 87.

(2) Subclause (1) is an ongoing publication requirement for the purposes of clause 87(5)(a).

77M. Procedure for amending payment in lieu of parking plan

(1) The procedures for making a payment in lieu of parking plan set out in clauses 77J to 77L, with any necessary changes, are to be followed in relation to an amendment to a payment in lieu of parking plan.

(2) Despite subclause (1), the local government may approve an amendment to a payment in lieu of parking plan without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.

(3) The amendment of a payment in lieu of parking plan does not extend the period for which the plan has effect under clause 77N.

77N. Duration of payment in lieu of parking plan

(1) Unless sooner revoked, a payment in lieu of parking plan has effect for —

(a) the period of 10 years commencing on the day after the day on which the local government first publishes notice of the approval of the plan under clause 77K(4); or

(b) a longer period approved by the Commission.

(2) The Commission may approve a longer period under subclause (1)(b) in relation to a payment in lieu of parking plan either before or after the plan is approved by the local government.

(3) A payment in lieu of parking plan may be revoked —

(a) by a subsequent payment in lieu of parking plan that expressly revokes the payment in lieu of parking plan; or

(b) by a notice of revocation —

(i) prepared by the local government; and

(ii) published by the local government in accordance with clause 87.

77O. Payment in lieu of parking plan ceasing to be in effect when money has not been applied

(1) This clause applies if —

(a) a person (the ***relevant payer***) pays money to the local government in accordance with a payment in lieu of parking condition imposed on an approval of development in accordance with clause 77H; and

(b) any of the money, or any interest earned from the investment of the money, has not been applied or repaid under clause 77I; and

(c) the relevant payment in lieu of parking plan (the ***former plan***) that was in effect for the development ceases to have effect under clause 77N(1); and

(d) as a result of the cessation, there is no payment in lieu of parking plan in effect for the area in which the development is located.

(2) During the period that applies under subclause (3), clause 77I applies as if the former plan continued to be the relevant payment in lieu of parking plan for the development.

(3) The period that applies for the purposes of subclause (2) is the period that —

(a) commences on the day (***cessation day***) on which the former plan ceases to have effect; and

(b) ends —

(i) if a new payment in lieu of parking plan comes into effect for the area in which the development is located within the period of 2 years commencing on cessation day — when the new plan comes into effect; or

(ii) otherwise — at the end of the 2-year period commencing on cessation day.

(4) If at the end of the 2-year period commencing on cessation day there is still no payment in lieu of parking plan in effect for the area in which the development is located, the local government must repay to the relevant payer any of the following that has not been applied or repaid under clause 77I before the end of that period —

(a) money paid as referred to in subclause (1)(a);

(b) interest earned from the investment of that money.

(5) Clause 77I(6) and (7) apply with any necessary changes to a requirement to repay money under subclause (4) as if it were a requirement under clause 77I(5).

Division 3 — Shared parking arrangements

77P. When shared parking arrangement condition may be imposed

The local government must not impose a shared parking arrangement condition on an approval of development under clause 68(2)(b) otherwise than in accordance with clause 77Q.

77Q. Shared parking arrangement condition

(1) If the local government grants approval for development that does not comply with an applicable minimum on-site parking requirement, the local government may under clause 68(2)(b) impose a condition requiring the following —

(a) that the owner of the land on which the development is to be located must enter into an arrangement (the ***shared parking arrangement***) with an owner of other land (the ***shared site***) —

(i) that provides for a number of car parking spaces equivalent to the parking space shortfall for the development to be made available on the shared site for the purposes of the development; and

(ii) that meets any other requirements specified by the local government;

(b) that the owner must apply to the local government for approval of the shared parking arrangement under this clause;

(c) that the development must not commence unless the local government has approved the shared parking arrangement under this clause;

(d) that a shared parking arrangement approved by the local government must not be terminated or varied without the approval of the local government.

(2) The local government must not impose a condition under subclause (1) unless the local government is satisfied that the owner of the shared site is prepared to enter into a shared parking arrangement that meets the requirements of the condition.

(3) Without limiting subclause (1)(a)(ii), the requirements specified under that subclause may include requirements relating to the form and content of the arrangement.

(4) An application for approval of a shared parking arrangement referred to in subclause (1)(b) must include the following —

(a) a copy of the shared parking arrangement;

(b) information about the matters referred to in subclause (6);

(c) a draft plan for the management of parking in relation to the development;

(d) any other information required by a relevant local planning policy.

(5) If an application is made in accordance with subclause (4), the local government may approve or refuse to approve the shared parking arrangement.

(6) In determining whether to approve the shared parking arrangement under subclause (5), the local government —

(a) may have regard to any relevant matters, including —

(i) whether the peak operation hours of the development will overlap with those of the shared site; and

(ii) whether the use of the car parking spaces to be made available on the shared site will impede the use of delivery or service areas on the shared site; and

(iii) any relevant local planning policy;

and

(b) must not approve the shared parking arrangement unless the local government is satisfied that —

(i) adequate car parking is likely to be available at all times for both the proposed development and the shared site; and

(ii) the relationship between the proposed development and the shared site will be such that the shared car parking spaces are likely to be used by persons using the proposed development.

81. Schedule 2 clause 90 amended

After Schedule 2 clause 90(2) insert:

(3) Part 9A does not apply in relation to development approval granted on an application made before the day on which the *Planning Regulations Amendment Regulations 2020* Part 2 Division 3 comes into operation.

Part 3 — *Planning and Development Regulations 2009* amended

82. Regulations amended

This Part amends the *Planning and Development Regulations 2009*.

83. Regulation 46 amended

(1) In regulation 46 delete the definitions of:

activity centre plan

structure plan

(2) In regulation 46 insert in alphabetical order:

structure plan —

(a) has the meaning given in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 clause 14; and

(b) includes a plan taken to be a precinct structure plan or standard structure plan under the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 clause 92 (as that clause applies as part of local planning schemes).

84. Regulation 48 amended

In regulation 48(1)(b) and (c), (4), (8A) and (8)(a) and (b) delete "plan, activity centre plan or" (each occurrence) and insert:

plan or

Note: The heading to amended regulation 48 is to read:

Fees for scheme amendments, structure plans and local development plans

85. Regulation 51 amended

In regulation 51(1)(b) delete "plan, activity centre plan or" and insert:

plan or

86. Schedule 2 amended

After Schedule 2 item 5A insert:

5B.	Determining an application for advice made under the *Planning and Development (Local Planning Schemes) Regulations 2015* Sch. 2 cl. 61A (as that clause applies as part of the local planning scheme)	$295

87. Schedule 4 heading amended

In the heading to Schedule 4 delete "**plans, activity centre plans**" and insert:

plans

88. Schedule 4 amended

In Schedule 4 in the Form:

(a) in note 1 delete "plans, activity centre plans and" and insert:

plans and

(b) in note 2 delete "plan, activity centre plan or" and insert:

plan or

Part 4 — *Planning and Development (Development Assessment Panels) Regulations 2011* amended

89. Regulations amended

This Part amends the *Planning and Development (Development Assessment Panels) Regulations 2011*.

90. Regulation 3 amended

After regulation 3(2) insert:

(3) A reference in these regulations to an application being ***accepted for assessment*** is —

(a) in relation to a DAP application made under a local planning scheme — a reference to the application being accepted for assessment under the local planning scheme; or

(b) in relation to a DAP application made under a planning instrument other than a local planning scheme — a reference to the application being made in accordance with the requirements of the planning instrument; or

(c) in relation to an application under regulation 17(1) — a reference to the application being made in accordance with the requirements of these regulations.

91. Regulation 9 amended

After regulation 9(a) insert:

(aa) the provisions of a planning instrument as to acceptance of a development application for assessment and requesting further information

or material in relation to a development application; or

92. Regulation 11A deleted

Delete regulation 11A.

93. Regulation 11 amended

(1) In regulation 11(1):

(a) delete "it receives a DAP application, give the administrative officer of the DAP that will determine the application" and insert:

it accepts a DAP application for assessment, give the administrative officer (the ***relevant administrative officer***) of the DAP that will determine the application

(b) delete paragraph (d) and insert:

(d) a copy of any notice requiring the applicant to amend the application, or provide further information or material in relation to the application, given to the applicant before the application was accepted for assessment under the planning instrument (the ***relevant planning instrument***) under which the application was made;

(e) any further information or material given to the local government in response to a notice referred to in paragraph (d).

(2) Delete regulation 11(2) and insert:

(2) If, after a DAP application is accepted for assessment, a local government gives the applicant a notice under the relevant planning instrument requesting that the applicant give further information or material to the local government and the applicant accepts the request, the local government must —

(a) within 3 days after the date on which the request is accepted, give the relevant administrative officer —

(i) a copy of the notice of request; and

(ii) confirmation of the date on which the request was accepted;

and

(b) within 7 days after the date on which the information or material (if any) is given to the local government in response to the request, give the relevant administrative officer —

(i) the information or material; and

(ii) confirmation of the date on which the information or material was given to the local government.

(3) If, after a DAP application is accepted for assessment, the applicant gives the local government further information or material relevant to the application on the applicant's own initiative, the local government must give the further information or material to the relevant administrative officer within 7 days after the date on which it is given to the local government.

94. Regulation 12 amended

(1) In regulation 12(3):

(a) in paragraph (a) delete "was made; or" and insert:

was accepted for assessment; or

(b) in paragraph (b)(ii) delete "is made," and insert:

was accepted for assessment,

(c) in paragraph (c) delete "was made." and insert:

was accepted for assessment.

(2) Delete regulation 12(4A) and insert:

(4A) In calculating the period within which the report on a DAP application must be given under subregulation (3), an excluded day or period is not to be counted.

(4B) For the purposes of subregulation (4A), an ***excluded day or period*** is a day or period that, under the planning instrument under which the DAP application is made, is not to be counted in determining when the application must be determined.

95. Regulation 16 amended

(1) In regulation 16(1) delete "(2B)" and insert:

(2B)(b)

(2) In regulation 16(2B):

(a) delete "is made, the following periods are to be excluded in calculating the period between when the application is made" and insert:

is accepted for assessment, the following are to be excluded in calculating the period between when the application is accepted for assessment

(b) delete regulation 16(2B)(a) and insert:

(a) any excluded day or period as defined in regulation 12(4B);

(3) In regulation 16(2C) delete "calculating a period under subregulation (2B)(a) as to whether, or when, an applicant complied with a notice given under regulation 11A" and insert:

determining whether a day or period is an excluded day or period referred to in subregulation (2B)(a)

96. Regulation 16A inserted

After regulation 16 insert:

16A. Commencement of development under development approval by DAP

(1) In this regulation —

substantially commenced has the meaning given in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 clause 1.

(2) If development approval is granted by a DAP pursuant to a DAP application —

(a) the development must be substantially commenced within the period of 4 years beginning on the date on which the determination is made; and

(b) the approval lapses if the development has not substantially commenced within that period.

(3) Subregulation (2) applies despite any provision of the planning instrument under which the DAP application is made.

97. Regulation 17 amended

(1) In regulation 17(1)(a) delete "commenced;" and insert:

commenced under regulation 16A(2);

(2) In regulation 17(2)(a) delete "commenced; and" and insert:

commenced under regulation 16A(2); and

98. Regulation 56 inserted

At the end of Part 6 insert:

56. Application of amendments made by *Planning Regulations Amendment Regulations 2020*

The amendments to these regulations made by the *Planning Regulations Amendment Regulations 2020*

Part 4 do not apply to a DAP application made before the day on which that Part comes into operation.

99. Schedule 3 amended

(1) In Schedule 3 Form 1 Part B after the row relating to "Statutory timeframe: (regulation 12)" insert:

Date application accepted for assessment	

(2) In Schedule 3 Form 2 Part E after the row relating to "Planning scheme:" insert:

Date application accepted for assessment	

V. MOLAN, Clerk of the Executive Council.