TOWN OF CAMBRIDGE

TOWN PLANNING SCHEME NO. 1

AMENDMENT NO. 37
<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Local Authority:</strong></td>
<td>Town of Cambridge</td>
</tr>
<tr>
<td><strong>2. Description of Town Planning Scheme</strong></td>
<td>Town Planning Scheme No. 1</td>
</tr>
<tr>
<td><strong>3. Type of Scheme:</strong></td>
<td>District Zoning Scheme</td>
</tr>
<tr>
<td><strong>4. Serial No of Amendment</strong></td>
<td>37</td>
</tr>
<tr>
<td><strong>5. Proposal</strong></td>
<td>Standard Amendment of the Town Planning Scheme No. 1 text (Clause 21, Clause 33 and Schedule 1) to facilitate exemptions from the requirement to obtain Development Approval and modifications to existing dwelling density bonus for heritage related places.</td>
</tr>
</tbody>
</table>
Resolved that the local government pursuant to section 72 of the Planning and Development Act 2005, amend the above Town Planning Scheme by:

Amending Clause 21 - Dwelling Densities as follows:
- Amend sub clause 21(2)(ii) by deleting "nominated on the Municipal Heritage Inventory" and replace with "located on a Heritage List or Heritage Area prepared in accordance with this Scheme"

- Amend sub clause 21(2)(b)(iii) by deleting "included on the State Register of Heritage Places, the Register of the National Estate or listed by the National Trust" and replace with "entered in the Register of Heritage Places under the Heritage of Western Australia Act 1990"

- After sub clause 21(3), insert new sub clause 21(4): "Notwithstanding the provisions of the Zoning Table and sub clause (3) above, Multiple Dwelling use is not permitted on land where the residential density code is R30 or less."

Amending Clause 33 - Exemption from Planning Approval as follows:
- Delete sub clause 33(1)(g): "the carrying out of works for the maintenance, improvement or other alterations of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building, unless the building or structure is:-
  (i) located in a place that has been entered in the Register of Heritage Places under the Heritage of Western Australia Act 1990;
  (ii) the subject of an Order under Part 6 of the Heritage of Western Australia Act 1990;
  (iii) declared to be a conservation place under clause 25 of the Scheme; or
  (iv) declared to be a conservation area under clause 24 of the Scheme and Planning Approval for internal works is required by a Planning Policy."

And insert new sub clause 33(1)(g): "Maintenance and Repair of any building or structure unless the building or structure is located in a place that is:-
  (i) entered in the Register of Heritage Places under the Heritage of Western Australia Act 1990;
  (ii) the subject of an order under the Heritage of Western Australia Act 1990 Part 6; or
  (iii) the subject of a heritage agreement entered into under the Heritage of Western Australia Act 1990 section 29."

- Renumber sub clause 33(1)(h) as sub clause 33(1)(j).

- Insert new sub clause 33(1)(h): "Alterations to any building or structure that do not materially affect the external appearance of the building, unless the building or structure is located in a place that is:-"
(i) entered in the Register of Heritage Places under the Heritage of Western Australia Act 1990;
(ii) included on a Heritage List or Heritage Area prepared in accordance with this Scheme;
(iii) declared to be a conservation area under clause 24 of the Scheme and development approval is required for the works by a Planning Policy;
(iv) the subject of an order under the Heritage of Western Australia Act 1990 Part 6; or
(v) the subject of a heritage agreement entered into under the Heritage of Western Australia Act 1990 section 29.

- Insert new sub clause 33(1)(i): "erection and demolition of minor structures, letter boxes and meter boxes that satisfy the deemed-to-comply requirements of a local planning policy that relates to minor structures prepared in accordance with this Scheme, unless that place is:
  (i) entered in the Register of Heritage Places under the Heritage of Western Australia Act 1990;
  (ii) the subject of an order under the Heritage of Western Australia Act 1990 Part 6; or
  (iii) the subject of a heritage agreement entered into under the Heritage of Western Australia Act 1990 section 29."

- Insert the following new definitions in Schedule 1 - Definitions:
  "Maintenance and Repair: means minor works that are undertaken to fix, or prevent, a building, structure or place from deteriorating or falling into a state of disrepair. The works are to be undertaken to the same details, materials and specifications of the building, structure or place prior to the deterioration or disrepair occurring."
  "Minor Structures: means free standing structures located behind the street setback areas including, without limiting the generality of the foregoing, clothes drying lines, seating, children's play structures, basketball and netball hoops, outdoor cooking and heating facilities but excluding flag poles."

The Amendment is standard under the provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 for the following reasons:-

- The amendment will have minimal impact on land in the Scheme area that is not the subject of the amendment;
- The amendment does not result in any significant environmental, social, economic or governance impacts on the land in the Scheme area;
- The amendment is not a basic or complex amendment.

Dated this day of 2018

JASON LYON
ACTING CHIEF EXECUTIVE OFFICER
INTRODUCTION

Applicant: Town of Cambridge
Metropolitan Region Scheme: Urban
Town Planning Scheme No. 1: The proposed amendments to the Scheme Text have application to zoned land. Changes to the Scheme Map are not required.

This report has been prepared to outline the proposed Amendment No. 37 to Town of Cambridge Town Planning Scheme No. 1 (‘TPS1’).

The Town has commenced a comprehensive review of its Municipal Heritage Inventory (now known as Local Government Inventory of Heritage Places) in accordance with section 45 of the Heritage of Western Australia 1990 (‘Heritage Act’). As part of this project, a Heritage List has been prepared and the following amendment to the TPS1 is proposed to support conservation and management of development of Heritage Listed places.

The primary scope of this Amendment is to enable Council to deal more effectively with developments associated with heritage places by amending:-

- Clause 21 so that Council may grant a dwelling density bonus to places in the Heritage List, a Heritage Area and the State Register of Heritage Places rather than places on the Local Government Inventory and other non-statutory lists; and
- Clause 33 and introduce new definitions to Schedule 1 to clarify the exemptions for maintenance and repairs, alterations and minor structures.

At its meeting held on 22 May 2018, Council adopted the draft Heritage List and this Scheme Amendment for the purposes of public advertising in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 (‘Regulations’). Copies of the Council Minutes relating to these matters are enclosed.

RELEVANT PLANNING CONSIDERATIONS

Planning and Development Act 2005 and Planning and Development (Local Planning Schemes) Regulations 2015
The Planning and Development Act 2005 (‘P&D Act’), and the Regulations set the procedure to amend an existing scheme. The Town is in the process of preparing a Local Planning Strategy to guide a comprehensive review of the scheme, and an amendment process will be undertaken in due course to address consistency with Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 (‘Deemed Provisions’). As such, the scope of this Amendment is to modify clause provisions within the existing format.

Heritage under the Planning and Development Act 2005 and Heritage of Western Australia Act 1990
The Town has a responsibility to have regard for heritage places and areas in formulating scheme amendments and planning strategies. The Amendment seeks to support the heritage conservation objectives of TPS1, the Deemed Provisions, and Heritage Act.
The Heritage Act requires a Local Government Inventory of Heritage Places to be compiled and maintained however, it does not have a statutory function within the planning system. Instead, for the Town to manage development, a place needs to be identified on a Heritage List or located in a Heritage Area prepared in accordance with the Deemed Provisions. Places can also be linked to the planning system if entered on the Register of Heritage Places or subject to an Order or Heritage Agreement under the Heritage Act.

The draft Inventory and Heritage List as endorsed by Council, were prepared using five management categories based on the State Heritage Office Criteria for Assessment of Local Heritage Places Guide (refer to table below). The Draft Heritage List includes categories 1 to 3 of which conservation and retention of the place is considered desirable. Accordingly, places which are only identified on the LGI are considered to hold little significance and record of the place in the LGI is sufficient.

<table>
<thead>
<tr>
<th>Level of Significance</th>
<th>Desired Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Exceptional Significance</td>
<td>The Place should be retained and conserved unless there is no feasible and prudent alternative to doing otherwise. Alterations or extension should reinforce the significance of the place, and be in accordance with a Conservation Plan. Included in the Scheme Heritage List.</td>
</tr>
<tr>
<td>2 Considerable Significance</td>
<td>Conservation of the place is highly desirable. Any alternations or extensions should reinforce the significance of the place. Included in the Scheme Heritage List.</td>
</tr>
<tr>
<td>3 Some/Moderate Significance</td>
<td>Conservation of the place is highly desirable. Any alternations or extensions should reinforce the significance of the place, and original fabric should be retained wherever feasible. Included in the Scheme Heritage List.</td>
</tr>
<tr>
<td>4 Little Significance</td>
<td>Photographically record prior to major development or demolition. Recognise and interpret the site if possible. Do not include in Scheme Heritage List.</td>
</tr>
<tr>
<td>5 Historic Site</td>
<td>Recognise and interpret the site if possible. Do not include in Scheme Heritage List.</td>
</tr>
</tbody>
</table>

Town of Cambridge Town Planning Scheme No.1
Town of Cambridge Town Planning Scheme No.1 was gazetted on 31 March 1998. It is an objective of TPS1 to promote and safeguard cultural heritage through conservation of places with heritage significance and encouraging development that enhances the heritage value of an area.

TPS1 Part 3 - Development Requirements, Division 2 - Places of Cultural Heritage Significance prescribed procedures for heritage protection until the Deemed Provisions were introduced. While the Town does not have a ‘Conservation Place’ list adopted as per clause 25 of TPS1, a ‘Conservation Area’ in accordance with clause 24 was declared in 2002. Therefore, existing provisions pertaining to Conservation Areas are to remain in TPS1 until an upcoming scheme review is undertaken.
TPS 1 also contains heritage related provisions in Clause 21 - Dwelling Densities and Clause 33 - Exemptions from Planning Approval, which are the subject of this Amendment.

The amendments proposed to TPS1 are considered to be consistent with and/or supplementary to Deemed Provisions as follows:

- Relationship between Deemed Provisions Clause 12 and the TPS1 Clause 21: Clause 12 only enables a local government to vary a site or development requirement specified in the Scheme. It does not enable variation of a requirement (such as minimum lot size) specified in the Residential Design Codes as distinct from the Scheme. In contrast Clause 21 enables the application of different development requirements specified in the Residential Design Codes in addition to the Scheme. It is taken that Clause 21 goes beyond the scope of clause 12 and therefore could be applied in conjunction.

- Deemed Provisions Clause 61 exemptions relating to heritage places: the exemptions provided in the Deemed Provisions do not extend to the demolition erection or extension of single houses, ancillary dwelling and associated structures on heritage places. The P&D Act and Deemed Provisions define development/works as erection, construction, alteration, addition and demolition of a building or structure on land. Based on the common definitions of these terms, it is interpreted that it is open for the Scheme to exempt works that fall within the meaning of alterations such as repainting, maintenance, repairs, replacing fixtures and repainting like for like.

**PROPOSED AMENDMENTS TO TOWN PLANNING SCHEME NO. 1**

The following amendments to TPS1 are shown in red in Attachment 1.

**Clause 21 - Dwelling Densities**

Clause 21 currently allows for Council to grant an increase in the dwelling density by up to 50% if the development involves:

- Removal of a non-conforming use
- Removal of a crossover to a Primary or District Distributor
- Conservation or enhancement of existing buildings identified in a Conservation Area, Conservation Place, nominated on the Inventory, or entered in the State Register, the Register of National Estate or listed by the National Trust.

Effective heritage protection requires an integrated approach involving not only incentives but also planning controls. As such, it is proposed to modify Clause 21 to focus the application of development bonus to places identified as having heritage significance worthy of conservation via a statutory link to the planning system.

While the amendment modifies the application of the development bonus, all but 4 of the places entered in the Town's current Inventory which could have taken advantage of this Clause are proposed to be entered on the Heritage List. One of these places is the 'British Games Village Precinct' which contains approximately 160 residential properties zoned R12.5. However, based on a review of records available to the Town, this provision has not been utilised over the 20 years it has been available to these properties. It is considered important and appropriate that only places with statutorily recognised heritage protection are afforded 'bonus' development potential rather than the current wide range of heritage recognition through various lists that do not necessarily amount to any formal statutory protection (e.g. Inventory, National Trust).
Sub clause 21(3) also states that the standards and provisions of the higher density code can be applied. As such, the table below outlines the maximum density bonus applicable to each coding in the Town area:

<table>
<thead>
<tr>
<th>Density Code</th>
<th>Increase under amended cl.21</th>
</tr>
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<tbody>
<tr>
<td>12.5</td>
<td>17.5</td>
</tr>
<tr>
<td>15</td>
<td>20</td>
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<tr>
<td>20</td>
<td>30</td>
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<td>30</td>
<td>40</td>
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<tr>
<td>40</td>
<td>60</td>
</tr>
<tr>
<td>60</td>
<td>80</td>
</tr>
</tbody>
</table>

Opportunity was also taken to include a new sub clause 21(4) to reinforce that application of the bonus available under clause 21 would not allow for multiple dwelling development in areas zoned R12.5, R20, and R30 because multiple dwelling use is not permitted in areas below R40 in the Zoning Table. Therefore this change is unlikely to have an adverse impact on development potential of this clause.

Clause 33 - Exemption From Planning Approval and Schedule 1 - Definitions
Clause 33 of TPS1 includes additional exemptions as per Clause 61(1)(j) of the Deemed Provisions. Specifically, this Amendment relates to sub clause 33(1)(g) which exempts maintenance, improvement or other alterations which affect only the interior of the building or which do not materially affect the external appearance of the building, unless the building or structure is located on a State Register or subject to an order under the Heritage Act or declared to be "Conservation Area or Conservation Place under clause 24 and 25 of the TPS1.

It is not intended to introduce new exemptions from the requirement to obtain Development Approval to those currently available under cl.61 of the Deemed Provisions, the Scheme or through a Local Planning Policy. Instead, opportunity was taken to update and provide further clarity to the aspects of sub clause 33(1)(g) which are superseded by or supplementary to the Deemed Provisions. New definitions for Maintenance and Repair, and Minor Structures are proposed to be included in Schedule 1 - Definitions of TPS1 to support the application of these exemptions.

It is considered that the proposed modifications as detailed in the Justification section below meet the intent of heritage protection as the types of works to be exempt:
- would otherwise be exempt if no heritage listing applied;
- are of a minor nature and unlikely to impact on the amenity of the locality of neighbouring properties; and
- won't impact on the cultural heritage significance of the place.

**JUSTIFICATION**

<table>
<thead>
<tr>
<th>Modification</th>
<th>Justification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amend Clause 21 - Dwelling Densities</td>
<td>The purpose of the Heritage List and Heritage Areas is to allow Council to identify places of heritage significance that are worthy of conservation. If a dwelling density bonus is to be available for the purpose of conservation or enhancement of a building, the property should be entered in the Heritage List prior to this option being available.</td>
</tr>
</tbody>
</table>
Amend sub clause 21(2)(b)(iii) to remove reference to the Register of the National Estate and the National Trust and update terminology for the Register of Heritage Places under the Heritage of Western Australia Act 1990.

To update reference to the State Register to reflect terminology in the Deemed Provisions.

The Register of the National Estate is no longer a statutory list and of the 5 places on the archived register, one is zoned residential. This place is also on the State Register of Heritage Places. National Trust list maintained by the National Trust of Western Australia, a community-based organisation, does not have a statutory role and does not contain places located within the Town.

Renumber sub clause 21(2)(b) (removal of vehicle access) as 21(2)(c).

Fix an administrative error.

Insert new sub clause 22(4):

"Notwithstanding the provisions of the Zoning Table and sub clause (3) above, Multiple Dwelling use is not permitted on land where the residential density code is R30 or less."

To provide greater clarification as to the application of the clause in zones where Multiples Dwelling Use is classified as not permitted in the Scheme Zoning Table.

**Amend Clause 33 - Exemption from Planning Approval**

Delete sub clause 33(1)(g) and replace with exemption for Maintenance and Repair of a building or structure unless the place is unless the place is on the State Register, or subject to an order or heritage agreement under the Heritage Act.

To remove reference to the exemption for internal works are removed to address inconsistencies with Cl.61(1)(b) of the Deemed Provisions. New sub clauses 33(1)(g) - (i) are included to effectively address matters that are considered to supplement the Deemed Provisions.

The new sub clause retains the intent of the exemption for maintenance and repair and is not considered to alter development potential provided under the previous sub clause.

Renumber sub clause 33(1)(h) as 33(1)(j).

For administrative purposes to enable new sub clauses to be read consecutively.

Insert new sub clause 33(1)(h) to exempt alterations that do not materially affect the external appearance of the building, unless the place is on the Heritage List, State Register, in a Heritage Area or Conservation Area, or subject to an order or heritage agreement under the Heritage Act.

To retain the intent of an exemption provided in original sub clause 33(1)(g) that was not superseded by cl.61 of the Deemed Provisions.

The new sub clause is not considered to alter development potential provided under the previous sub clause.

Insert new sub clause 33(1)(i) to exempt minor structures that are incidental to residential development unless the place is unless the place is on the State Register, or subject to an order or heritage agreement under the Heritage Act.

To clarify the extent of exemptions in relation to heritage places for minor structures which are incidental to residential development but are not exempt under the scope of cl. 61(1)(c), (d) or (e) of the Deemed Provisions.

This sub clause requires compliance with provisions in a Local Planning Policy (where relevant) given the R-Codes does not contain provisions for these structures.

**Schedule 1 - Definitions**

Insert new definitions:

"Maintenance and Repair: minor works that are undertaken to fix, or prevent, a building, structure or place from deteriorating or falling into a state of disrepair. The works are to be undertaken to the same details, materials and specifications of the building, structure or place prior to the deterioration or disrepair occurring."

Definitions correspond to and clarify application of new sub clause 33(1)(g) and (i) in the Scheme text in regard to the exemptions from the requirement to obtain development approval.

To define integral works necessary for the functional, comfortable and sustainable operation and use of a building or structure.
| "Minor Structures: free standing structures located behind the street setback areas including, without limiting the generality of the foregoing, clothes drying lines, seating, children's play structures, basketball and netball hoops, outdoor cooking and heating facilities but excluding flag poles." | To define structures that may be associated with residential properties but do not fall within the scope of works under cl.61(1)(c), (d) or (e) of the Deemed Provisions. |
ADOPTION

Adopted by resolution of the Council of the Town of Cambridge at the Ordinary Meeting of Council held on the ……………………… of……………………………………………………20

……………………………………
NAME
MAYOR

……………………………………
NAME
CHIEF EXECUTIVE OFFICER
FINAL APPROVAL

Adopted for final approval by resolution of the Town of Cambridge at the Ordinary Meeting of the Council held on the ............ day of ......................... 20 and the seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of:-

The common seal of the Town of Cambridge has been affixed pursuant to advice in a letter dated.................................
And Regulation 22(1) of the Town Planning regulations 1967 (as amended), and not for the purposes of certifying final approval.

.........................................................
NAME
MAYOR

.........................................................
NAME
CHIEF EXECUTIVE OFFICER

Recommended/Submitted for Final Approval

.........................................................
DELEGATED UNDER S.16
OF THE PLANNING AND DEVELOPMENT ACT 2005
Date: ..................................................

Final approval granted

.........................................................
MINISTER FOR PLANNING
Date: ..................................................