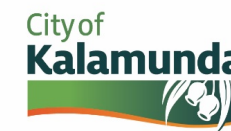




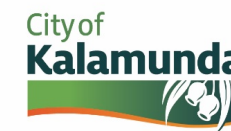
Submission on the Proposed Amendments to the Planning & Development (Local Planning Schemes) Regulations 2015

September 2020

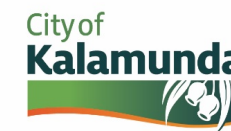
PROPOSED MODIFICATION	SUMMARY	CITY OF KALAMUNDA COMMENT
	SUPPORTED	
	MODIFICATIONS	
	NOT SUPPORTED	
<p>Addition of the term '<i>excluded holiday period day</i>'</p> <p><i>Excluded holiday period day means a day that is in –</i></p> <p><i>(a) A period beginning on 25 December in a year and ending on the next 1 January; or</i></p> <p><i>(b) A period of 7 days beginning on Good Friday in a year.</i></p> <p>Subsequent updates throughout the Regulations to ensure the calculation of consideration periods considers the excluded holiday period.</p>		Consistent approach to the City of Kalamunda Local Planning Policy 11 (Public Notification of Planning Proposals). A discrepancy with dates is noted, however the City accepts the proposed dates & would amend its LPP should this definition be gazetted as currently proposed.
Regulation 11 (2) (aa)		SUPPORTED



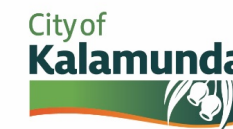
PROPOSED MODIFICATION	SUMMARY	CITY OF KALAMUNDA COMMENT
Contemporary advertising & publication mediums Prescribed advertising & publication requirements amended acknowledging the preference for online and digital engagement, with more traditional methods to be used at the discretion of the local government.		SUPPORTED
Revocation of the term 'Activity centre plan'		The City of Kalamunda submitted the draft Kalamunda Activity Centre Plan (KACP) to the WAPC on 14 April 2020. The WAPC is yet to make a decision on the KACP. It is requested that transitional provisions are included in these amendments to ensure that ACPs which have progressed to the WAPC can be finalised under the current regulations.
Normalising structure plan(s) into LPS Amendments <u>35A. Amendment to local planning scheme affecting area to which structure plan relates</u> <u>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 —</u> <u>(a) that the approval of the structure plan ceases to have effect when the amendment takes effect; or</u> <u>(b) that when the amendment takes effect —</u> <u>(i) the approval of any part or parts of the structure plan ceases to have effect; and</u> <u>(ii) the approval of the remainder of the structure plan is not affected;</u> <u>or</u> <u>(c) that when the amendment takes effect the approval of the structure plan is not affected.</u> (Regulation 35A)		The City's Draft Local Housing Strategy 2020 (advertised April – May 2020) includes an action to normalise eight existing structure plans. The inclusion of this provision is supported subject to the Department of Planning, Lands and Heritage providing standard phrasing to be included in the amendment document.



PROPOSED MODIFICATION	SUMMARY	CITY OF KALAMUNDA COMMENT
<p>Amendments to the definitions: from Model to Deemed:</p> <ul style="list-style-type: none"> • <i>Frontage</i> • <i>NLA</i> 		SUPPORTED
<p>Addition of the following definition to the Deemed Provisions</p> <p><i>Ancillary dwelling has the meaning given in the R-Codes</i></p>		SUPPORTED
<p>Addition of the following definition to the Deemed Provisions</p> <p><i>Class A use, in relation to a zone, means a use identified in the zoning table for this Scheme as a use that is not permitted in the zone unless the local government has exercised its discretion by granting development approval after advertising in accordance with clause 64.</i></p>		SUPPORTED
<p>Addition of the following definition to the Deemed Provisions</p> <p><i>Class D use, in relation to a zone, means a use identified in the zoning table for this Scheme as a use that is not permitted in the zone unless the local government has exercised its discretion by granting development approval, but does not include a class A use.</i></p>		SUPPORTED
<p>Addition of the following definition to the Deemed Provisions</p> <p><i>Class P use, in relation to a zone, means a use identified in the zoning table for this Scheme as a use that is permitted in the zone if it complies with any relevant development standards and requirements of this Scheme.</i></p>		SUPPORTED
<p>Addition of the following definition to the Deemed Provisions</p> <p>Commercial, centre or mixed use zone means –</p> <p>(a) <i>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</i></p> <p>(b) <i>Otherwise – a zone (however named) the objectives of which as set out in this Scheme indicate that an area suitable for –</i></p> <p>i. <i>A range of shops, offices, restaurants and other commercial outlets (whether or not in a town centre or activity centre) or;</i></p>		SUPPORTED subject to modification to phrasing. For example the addition of c which states “part b can only be applied where those zones mentioned in part b are listed in the relevant Scheme”.



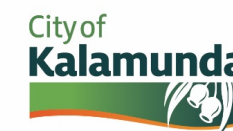
PROPOSED MODIFICATION	SUMMARY	CITY OF KALAMUNDA COMMENT
<p>ii. <i>A wide variety of active uses on street level that are compatible with residential and other non-active uses on upper levels.</i></p>		
<p>Addition of the following definition to the Deemed Provisions <i>Deemed-to-comply requirement, of the R-Codes, means a requirement described in the R-Codes as a deemed-to-comply requirement or a deemed-to-comply provision.</i></p>		SUPPORTED
<p>Addition of the following definition to the Deemed Provisions <i>Excluded holiday period day means a day that is in – (a) A period beginning on 25 December in a year and ending on the next 1 January; or (b) A period of 7 days beginning on Good Friday in a year.</i></p>		SUPPORTED
<p>Addition of the following definition to the Deemed Provisions <i>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 the 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 which the building or proposed building faces.</i></p>		<p>Suggested phrasing below</p> <p>(c) <i>If the building is used for the 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 which the building or proposed building faces the principal public road that provides access to the major entry to the building. Where there is no built form the primary access to the site.</i></p>
<p>Addition of the following definition to the Deemed Provisions <i>Grouped dwelling, has the meaning given in the R-Codes</i></p>		SUPPORTED



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<p>Addition of the following definition to the Deemed Provisions</p> <p><i>Heritage-protected place</i>, means a place that is –</p> <ul style="list-style-type: none"> (a) Entered in the State Register of Heritage Places under the Heritage Act 2018 section 42; (b) The subject of an order under the Heritage Act 2018 Part 4; or (c) The subject of a heritage agreement that has been certified under the Heritage Act 2018 section 90; or (d) Included on a heritage list as defined in clause 7; or (e) Within a heritage area as defined in clause 7. 		SUPPORTED
<p>Addition of the following definition to the Deemed Provisions</p> <p><i>Light industry</i>, means –</p> <ul style="list-style-type: none"> (a) If the 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 set out in this Scheme indicate that it is an area suitable for a range of industrial uses and service industries generally compatible with urban areas that cannot be located in commercial zones. 		SUPPORTED subject to modification to phrasing. For example the addition of iii. Which states “part b can only be applied where those zones mentioned in part b are listed in the relevant Scheme”.
<p>Addition of the following definition to the Deemed Provisions</p> <p><i>Maintenance and repair works</i>, means works that –</p> <ul style="list-style-type: none"> (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 use in or on, or the design or specifications of, the building, structure or land. 		SUPPORTED subject to the following modification to the phrasing: Addition of part c, to read as follows: “the works were previously exempt or received the relevant approvals ”
<p>Addition of the following definition to the Deemed Provisions</p> <p><i>Multiple dwelling</i>, has the meaning given in the R-Codes \</p>		SUPPORTED
<p>Addition of the following definition to the Deemed Provisions</p> <p><i>Natural ground level</i>, has the meaning given in the R-Codes</p>		Is it appropriate to give reference to a definition in a document which may not apply



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		<p>to the development upon which the condition is required to inform?</p> <p>Rephrase the below definition accordingly: Natural ground level – <i>(a) if the building is used for residential purposes – has the meaning given in the R-Codes; or</i> <i>(b) if the building is used for purposes other than residential purposes means the levels on a site which precede the proposed development, excluding any site works unless approved by the decision-maker or established as part of subdivision of the land preceding development.</i></p>
<p>Addition of the following definition to the Deemed Provisions</p> <p>Net lettable area or <i>nla</i>, means the area of all floors within the internal finished surfaces or permanent walls but does not include the following areas -</p> <ul style="list-style-type: none"> <i>(a) stairs, toilets, cleaner's cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;</i> <i>(b) lobbies between lifts facing other lifts serving the same floor;</i> <i>(c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;</i> <i>(d) areas set aside for the provision of facilities or services to the floor or building where those facilities are not the exclusive use of occupiers of the floor or building;</i> 		SUPPORTED
<p>Addition of the following definition to the Deemed Provisions</p> <p>Outdoor living area, has the meaning given in the R-Codes.</p>		SUPPORTED



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Addition of the following definition to the Deemed Provisions <i>Peel region means the region referred to in Schedule 4 item 6 of the Act</i>		SUPPORTED
Addition of the following definition to the Deemed Provisions <i>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.</i>		SUPPORTED subject to modification to phrasing. For example the addition of iii. Which states “part b can only be applied where those zones mentioned in part b are listed in the relevant Scheme”.
Addition of the following definition to the Deemed Provisions <i>Single house, has the meaning given in the R-Codes</i>		SUPPORTED
Addition of the following definition to the Deemed Provisions <i>Site works, means works that affect the ground level, whether by excavation or filling.</i>		SUPPORTED
Addition of the following definition to the Deemed Provisions <i>Street setback area, has the meaning given in the R-Codes.</i>		Is it appropriate to give reference to a definition in a document which may not apply to the development upon which the condition is required to inform? Rephrase the below definition accordingly: <i>Street setback area, in relation to a wall of a building –</i>



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		<p><i>(a) if the building is used for residential purposes – has the meaning given in the R-Codes; or</i></p> <p><i>(b) if the building is used for purposes other than residential purposes means the area between the street alignment and the street setback line.</i></p>
<p>Addition of the following definition to the Deemed Provisions</p> <p>Wall height, in relation to a wall of a building –</p> <p><i>(c) if the building is used for residential purposes – has the meaning given in the R-Codes; or</i></p> <p><i>(d) 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.</i></p>		SUPPORTED



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<p><u>1A. Development taken to comply with deemed-to-comply requirement of R-Codes</u></p> <p><u>For the purposes of this Scheme, development is taken to comply with a deemed-to-comply requirement of the R-Codes if the development complies with —</u></p> <p><u>(a) a requirement in a local development plan, precinct structure plan, or local planning policy, that —</u></p> <p><u>(i) amends or replaces the deemed-to-comply requirement; and</u></p> <p><u>(ii) if required to be approved by the Commission under the R-Codes — is approved by the Commission;</u></p> <p><u>or</u></p> <p><u>(b) a requirement that is —</u></p> <p><u>(i) in a structure plan that was approved before the day referred to in the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> regulation 2(b); and</u></p> <p><u>(ii) amends or replaces the deemed-to-comply requirement.</u></p>		SUPPORTED
<p>Consistency with R-Codes</p> <p><u>(3A) The local government must not resolve under subclause (3) to proceed with the policy if —</u></p> <p><u>(a) the proposed policy amends or replaces a deemed-to-comply requirement of the R-Codes; and</u></p> <p><u>(b) under the R-Codes, the Commission’s approval is required for the policy; and</u></p> <p><u>(c) the Commission has not approved the policy.</u></p>		SUPPORTED



PROPOSED MODIFICATION	SUMMARY	CITY OF KALAMUNDA COMMENT
<p>14. Terms used: structure plan</p> <p>In this Part —</p> <p><u><i>precinct structure plan</i> means a plan for the coordination of future subdivision, zoning and development of an area of land;</u></p> <p><u><i>standard structure plan</i> means a plan for the coordination of future subdivision and zoning of an area of land;</u></p> <p><u><i>structure plan</i> means a <u>standard structure plan</u> or a <u>precinct structure plan</u>.</u></p> <p>for the coordination of future subdivision and zoning of an area of land.</p> <p><u>(b) a precinct structure plan must also include the following information —</u></p> <p><u>(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;</u></p> <p><u>(ii) arrangements for the management of services for the subdivision and development covered by the plan;</u></p> <p><u>(iii) the arrangements to be made for vehicles to access the area covered by the plan;</u></p> <p><u>(iv) the proposed staging of the development covered by the plan.</u></p>		SUPPORTED
Advertising of structure plans – from 14 – 28 days to 42 days.		SUPPORTED



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<p>28. Duration of approval</p> <p>(1) Subject to this clause, the approval of a structure plan has effect for —</p> <p>(a) a period of 10 years commencing on the day on which the Commission approves the plan; or</p> <p>(b) another period determined by the Commission when approving the plan.</p> <p>(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.</p> <p>(3) The Commission may revoke its approval of a structure plan if —</p> <p>(a) a new structure plan is approved in relation to the area to which the structure plan to be revoked relates; or</p> <p>(b) the Commission considers that the plan has been implemented or is otherwise no longer required; or</p> <p>(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</p> <p>(d) for a structure plan that was the subject of an application under clause 16(3) — the applicant and the local government agree to the revocation.</p> <p>(4) If an amendment to the Scheme that affects the area to which the structure plan relates includes a statement under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> regulation 35A(a), the approval of the structure plan ceases to have effect when the amendment takes effect.</p> <p>(5) If an amendment to the Scheme that affects the area to which the structure plan relates includes a statement under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> regulation 35A(b)(i), the approval of the part or parts of the structure plan referred to in the statement cease to have effect when the amendment takes effect.</p> <p>(6) For the purposes of subclause (1), a structure plan that was approved before the day referred to in the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> regulation 2(b) (<i>commencement day</i>) is to be taken to have been approved on commencement day.</p>		SUPPORTED



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Clause 61 (1)		<p><u>Exemption 9</u></p> <p>As currently phrased, exemption 9 contemplates exemptions for political signage once an election is called. However, elections are no longer “called” and now have fixed dates and the City is of the view, based on advice, that the “calling” of an election is now when a writ has been issued.</p> <p>The City is of the understanding that a writ is not issued until late Feb with the election being mid-Mar. This doesn't provide much time for the exemption in the Regulations to be in place (the City's understanding is it may be a 4 – 6 week period).</p> <p>The City doesn't have a view on the appropriate timeframe for the exemption to be in place but it seems impractical for the exemption to only apply when a writ has been issued which is in the immediate lead-up to the election. It doesn't appear to be the intent of the Regulations when they were drafted, as elections were called when they were drafted.</p> <p><u>Exemption 15</u></p>



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		<p>Add part c "the solar panels are not located within the ANEF contour".</p> <p><u>Exemption 16</u> SUPPORTED subject to the following modification to the phrasing: Addition of part c, to read as follows: "the works were previously exempt or received the relevant approvals "</p>
Clause 61 (2A) - Table 2 Exemptions		<p>Whilst the City has no objection to the intent of the further exemptions for change of use proposals, re-phrasing of the terms 'Commercial, centre or mixed use zone, 'Light industry zone' and 'residential' are recommended. The recommended modification is the addition of part c which should state' "part b can only be applied where those zones mentioned in part a aren't listed in the relevant scheme.</p>



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<p><u>(2B) A reference in column 1 of the table to subclause (2A) to a class of land use is a reference to that use as defined in the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Schedule 1 clause 38, whether or not —</u></p> <p><u>(a) the relevant definition is included in this Scheme; or</u></p> <p><u>(b) this Scheme includes a different definition for that use; or</u></p> <p><u>(c) this Scheme refers to that class of land use by a different name.</u></p> <p><u>(2C) Subclause (2)(ba) has effect despite the zoning table for this Scheme.</u></p>		SUPPORTED
<p>Deemed-to-Comply check</p> <p><u>61A. Advice by local government that development approval not required for erection of, or alterations or additions to, single house</u></p> <p><u>(1) This clause applies only if —</u></p> <p><u>(a) the Scheme area is wholly or partly in the metropolitan region or the Peel region; or</u></p> <p><u>(b) the local government has made an election under subclause (5)(a) and has not revoked that election under subclause (5)(b).</u></p> <p><u>(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 7 of the Table to clause 61(1).</u></p>		Supported subject to subsequent modifications to the applicable fees and charges set out in the Planning & Development Regulations 2009, enabling the City to charge the stipulated fee for the service. There should also be a provision that stipulates a baseline of information that must be provided to the local authority to undertake this “check” (i.e. site plan to scale indicating all setbacks to all boundaries, a floor plan and elevations all showing the FFL relative to NGL).



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<p>(3) <u>An application under subclause (2) must be —</u></p> <p>_____ (a) <u>made in a manner and form approved by the Commission;</u> <u>and</u></p> <p>_____ (b) <u>accompanied by any documents or other information required</u> <u>by the approved form; and</u></p> <p>_____ (c) <u>accompanied by the relevant fee set out in the <i>Planning and</i></u> <u><i>Development Regulations 2009.</i></u></p> <p>(4) <u>Within 14 days after an application under subclause (2) is made, the</u> <u>local government must —</u></p> <p>_____ (a) <u>provide advice, in the manner and form approved by the</u> <u>Commission, that the local government is satisfied that</u> <u>development approval of the local government is not required</u> <u>for the works because of an exemption under item 7 of the</u> <u>Table to clause 61(1); or</u></p> <p>_____ (b) <u>notify the applicant, in the manner and form approved by the</u> <u>Commission, that the local government is not satisfied as</u> <u>referred to in paragraph (a).</u></p> <p>(5) <u>The local government may, by written notice given to the</u> <u>Commission and published in accordance with clause 87 —</u></p> <p>_____ (a) <u>elect to provide advice under this clause; or</u></p> <p>_____ (b) <u>revoke an election under paragraph (a).</u></p> <p>63A. <u>Action by local government on receipt of application</u></p> <p>_____ (1) <u>On receipt of an application for development approval, the local</u> <u>government must —</u></p> <p>_____ (a) <u>consider whether the application and accompanying material</u> <u>comply with clauses 62 and 63; and</u></p> <p>_____ (b) <u>within 7 days after the day on which the application is</u> <u>received, advise the applicant by written notice —</u></p> <p>_____ (i) <u>if the local government is satisfied that the</u> <u>application and accompanying material comply with</u> <u>clauses 62 and 63 — that the application has been</u> <u>accepted for assessment; or</u></p>		
		Does this mean the statutory “clock” doesn’t commence until 63A is achieved? Should have an additional clause that refers to the commencement of the statutory time period for clarity and consistency amongst local governments.



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<p>(ii) otherwise — that the applicant must amend the application, or provide further accompanying material, before the application can be accepted for assessment.</p> <p>(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.</p> <p>(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.</p>		
<p>64. Advertising applications</p> <p>(1) In this clause —</p> <p><u>complex application means —</u></p> <p>(a) an application for approval of development that is a class A use in relation to the zone in which the development is located; or</p> <p>(b) 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</p> <p>(b) must advertise, or require the applicant to advertise, an application for development approval in accordance with subclause (4) if the application is not a complex application and —</p> <p>(i) relates to the extension of a non-conforming use; or</p> <p>(ii) relates to development that does not comply with a requirement of this Scheme; or</p> <p>(iii) relates to development for which the local government requires a heritage assessment to be carried out under clause 11(1); or</p> <p>(iv) is of a kind identified elsewhere in this Scheme as an application that is required to be advertised;</p> <p>and</p> <p>(c) may advertise, or require the applicant to advertise, any other application for development approval in accordance with subclause (4).</p> <p>(3) For the purposes of subclause (2)(a), a complex application is advertised by doing all of the following —</p> <p>(a) publishing in accordance with clause 87 —</p> <p>(i) a notice of the proposed development in the form set out in clause 86(3); and</p> <p>(ii) the application for development approval; and</p> <p>(iii) any accompanying material in relation to the application that the local government considers should be published;</p> <p>(b) giving notice of the proposed development —</p> <p>(i) to the owners and occupiers of every property that is within 200 m of the proposed development; and</p>		<p>Clause 64(1) the inclusion of DAP applications being considered a “complex application” is not supported. For example a DAP application for a permitted land use, with proposed works that are in full compliance with the relevant statutory planning frameworks should not need to be advertised; the advertising would add not value to the assessment process, would increase the statutory time period of assessment and could unnecessarily complicate the process.</p> <p>Clause 64(2)(b) not supported as currently phrased. As currently phrased, local authorities will be required to advertise any development application that does not comply with the relevant local planning</p>



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		<p>scheme. This does not streamline development and only adds to the red tape. For instance, a development which doesn't meet the relevant schemes car parking provisions, but is supported by traffic analysis to justify the dispensation should not be advertised; it adds no value to the assessment process.</p> <p>Clause 64(3)(b) not supported as currently phrased. The 200m advertising radius is not supported and should be reflective of the zoning and context (i.e. urban should be a smaller radius than rural) and should be re-phrased to delete (i) (200m radius) and keep ii ("to 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").</p> <p>Clause 64(3)(c) not supported as currently phrased. Recommended the term "conspicuous" should be replaced with layman's term so the requirement can be easily relayed to landowners such as, "a prominent location visible from the street".</p>



PROPOSED MODIFICATION	SUMMARY	CITY OF KALAMUNDA COMMENT



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<p><u>(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.</u></p> <p><u>(4) For the purposes of subclause (2)(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 —</u></p> <p><u>(a) publishing in accordance with clause 87 —</u></p> <p><u>(i) a notice of the proposed development in the form set out in clause 86(3); and</u></p> <p><u>(ii) the application for development approval; and</u></p> <p><u>(iii) any accompanying material in relation to the application that the local government considers should be published;</u></p> <p><u>(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;</u></p> <p><u>(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.</u></p> <p><u>(5) A notice given or published, or a sign erected, in accordance with subclause (3) or (4) in relation to an application for development approval must specify —</u></p> <p><u>(a) the manner and form in which submissions may be made; and</u></p> <p><u>(b) the applicable period under subclause (6) or (7) for making submissions and the last day of that period.</u></p> <p><u>(6) The period to be specified in a notice given or published, or a sign erected, in accordance with subclause (3) in relation to a complex application is —</u></p> <p><u>(a) the period of 28 days commencing on the day after the day on which the notice of the application is first published under subclause (3)(a); or</u></p> <p><u>(b) a longer period agreed in writing between the applicant and the local government.</u></p> <p><u>(7) The period to be specified in a notice given or published, or a sign erected, in accordance with subclause (4) in relation to an application that is not a complex application is —</u></p> <p><u>(a) the period of 14 days commencing on the day after the day on which the notice of the application is first given or published, or the sign is first erected, as the case requires; or</u></p> <p><u>(b) a longer period agreed in writing between the applicant and the local government.</u></p> <p><u>(8) An excluded holiday period day is not to be counted in calculating a period referred to in subclause (6) or (7).</u></p>		



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<p><u>65A. Local government may request additional information or material</u></p> <p>(1) <u>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.</u></p> <p>(2) <u>A request under subclause (1) must state the period within which the further information or material must be provided.</u></p> <p>(3) <u>Only 1 request under subclause (1) can be made in relation to an application for development approval unless —</u></p> <p>(a) <u>the application is a complex application as defined in clause 64(1); or</u></p> <p>(b) <u>the application is required to be advertised under clause 64(2)(b); or</u></p> <p>(c) <u>a copy of the application is required to be provided to a statutory, public or planning authority under clause 66.</u></p> <p><u>65B. Applicant may agree to or refuse request for additional information or material</u></p> <p>(1) <u>If a request under clause 65A(1) is made to an applicant for development approval, the applicant may, by written notice given to</u></p> <p><u>65B. Applicant may agree to or refuse request for additional information or material</u></p> <p>(1) <u>If a request under clause 65A(1) is made to an applicant for development approval, the applicant may, by written notice given to</u></p>		



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<p><u>the local government within 14 days after the day on which the request is made, agree to or refuse the request.</u></p> <p><u>(2) If the applicant does not agree to or refuse the request within the 14-day period referred to in subclause (1), the applicant is taken to have refused the request.</u></p> <p><u>(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).</u></p> <p><u>(4) For the purposes of subclause (3), the period —</u></p> <p><u>(a) begins on the day on which the applicant agrees to the request; and</u></p> <p><u>(b) ends on the earlier of the following —</u></p> <p><u>(i) the day on which the applicant gives the information or material specified in the request to the local government;</u></p> <p><u>(ii) the last day of the period stated in the notice of request under clause 65A(2).</u></p> <p><u>(5) If an applicant refuses a request under clause 65A(1) —</u></p> <p><u>(a) the local government must not refuse to determine the application for development approval merely because the applicant has refused the request; and</u></p> <p><u>(b) the making of the request does not affect when the application for development approval must be determined under clause 75(1).</u></p>		



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<p><u>the local government within 14 days after the day on which the request is made, agree to or refuse the request.</u></p> <p><u>(2) If the applicant does not agree to or refuse the request within the 14-day period referred to in subclause (1), the applicant is taken to have refused the request.</u></p> <p><u>(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).</u></p> <p><u>(4) For the purposes of subclause (3), the period —</u></p> <p><u>(a) begins on the day on which the applicant agrees to the request; and</u></p> <p><u>(b) ends on the earlier of the following —</u></p> <p><u>(i) the day on which the applicant gives the information or material specified in the request to the local government;</u></p> <p><u>(ii) the last day of the period stated in the notice of request under clause 65A(2).</u></p> <p><u>(5) If an applicant refuses a request under clause 65A(1) —</u></p> <p><u>(a) the local government must not refuse to determine the application for development approval merely because the applicant has refused the request; and</u></p> <p><u>(b) the making of the request does not affect when the application for development approval must be determined under clause 75(1).</u></p>		
<p>External agency referral period = 42 days + 14 days (can only be extended once)</p>		<p>Recommended rephrasing:</p> <p>(3A) The local government may extend the 42-day period referred to in subclause (3) once only by a period of no more than 14 days, unless otherwise agreed to by the applicant and relevant local authority.</p>



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<p>67. <u>Consideration of applications by local government</u> Matters to be considered by local government</p> <p>(1) <u>In this clause —</u></p> <p><u>prohibited development</u> means development that —</p> <p>(a) <u>is a class X use in relation to the zone in which the development is located; or</u></p> <p>(b) <u>otherwise does not comply with a requirement of this Scheme, unless this Scheme gives the local government discretion to waive or vary the requirement or to grant development approval despite non-compliance with the requirement.</u></p> <p>(2) <u>Development approval cannot be granted on an application for approval of prohibited development.</u></p> <p>(3) <u>In considering an application for development approval (other than an application for approval of prohibited development), the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —</u></p> <p>(a) <u>the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;</u></p>		
<p>Clause 68 (fa)</p> <p><u>(fa) any local planning strategy for this Scheme endorsed by the Commission;</u></p>		
<p>Clause 67 (m)</p>		<p>SUPPORTED with recommended rephrasing: "the compatibility of the development with the desired planned future character of its setting."</p>



PROPOSED MODIFICATION	SUMMARY	CITY OF KALAMUNDA COMMENT
<p>(m) the compatibility of the development with its setting, <u>including —</u></p> <p><u>(i) the compatibility of the development with the desired future character of its setting; and including</u></p> <p><u>(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;</u></p>		
<p>68. Determination of applications</p> <p><u>(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 —</u></p> <p><u>(a) for a complex application advertised in accordance with clause 64(3) — the period for making submissions that applies under clause 64(6); or</u></p> <p><u>(b) for an application advertised in accordance with clause 64(4) — each period for making submissions specified in a notice given or published, or a sign erected, in accordance with that clause.</u></p> <p><u>(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).</u></p>		



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<p><u>Part 9A — Provisions about car parking</u></p> <p><u>77A. Terms used</u></p> <p><u>In this Part —</u></p> <p><u>minimum on-site parking requirement means a provision of this Scheme that provides for the minimum number of car parking spaces that must be provided on premises used for a specified use;</u></p> <p><u>parking space shortfall, in relation to development that does not comply with a minimum on-site parking requirement, means the number of car parking spaces by which the number of spaces required under the minimum on-site parking requirement exceeds the number of car parking spaces to be provided as part of the development;</u></p> <p><u>payment in lieu of parking plan means a plan prepared by the local government in accordance with clause 77E;</u></p> <p><u>relevant payment in lieu of parking plan, in relation to a payment in lieu of parking condition imposed in accordance with clause 77D, means the payment in lieu of parking plan that applies to the area in which the development is located.</u></p>		



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<p><u>77B. Part does not apply to residential development</u></p> <p><u>This Part does not apply to development to which the R-Codes apply.</u></p> <p><u>77C. Exemption from minimum on-site parking requirements</u></p> <p><u>(1) Development is not required to comply with a minimum on-site parking requirement that would otherwise apply to the development under this Scheme if —</u></p> <p><u>(a) development approval is not required for the development under clause 61; or</u></p> <p><u>(b) the local government is satisfied that —</u></p> <p><u>(i) 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</u></p> <p><u>(ii) the number of car parking spaces to be provided will 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;</u></p> <p><u>or</u></p> <p><u>(c) development approval has been granted for the development subject to —</u></p> <p><u>(i) a payment in lieu of parking condition imposed in accordance with clause 77D; or</u></p> <p><u>(ii) a shared parking arrangement condition imposed in accordance with clause 77G.</u></p> <p><u>(2) The local government must not grant development approval for development that does not comply with an applicable minimum on-site parking requirement unless —</u></p> <p><u>(a) the development is exempt from the minimum on-site parking requirement under subclause (1)(b); or</u></p> <p><u>(b) the approval is granted subject to a condition referred to in subclause (1)(c).</u></p>		



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<p><u>77D. Condition requiring payment in lieu of satisfying minimum on-site parking requirement</u></p> <p>(1) This clause applies if —</p> <p>(a) the local government grants development approval for development that does not satisfy an applicable minimum on-site parking requirement; and</p> <p>(b) the development is not exempt from the minimum on-site parking requirement under clause 77C(1)(b); and</p> <p>(c) the local government has prepared a payment in lieu of parking plan in accordance with clause 77E that applies to the area in which the development is to be located.</p> <p>(2) The local government may under clause 68(2)(b) impose a condition <u>(a payment in lieu of parking condition)</u> 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 minimum on-site parking requirement.</p> <p>(3) The amount of the payment required under the payment in lieu of parking condition must be calculated as follows —</p> <p>(a) first, calculate the estimated cost of a car parking space (the <u>estimated parking space cost</u>) in accordance with subclause (4);</p> <p>(b) second, multiply the parking space shortfall for the development by the estimated parking space cost;</p> <p>(c) third, subtract from the amount calculated under paragraph (b) the lesser of the following amounts —</p> <p>(i) 50% of the amount calculated under paragraph (b);</p> <p>(ii) the estimated parking space cost multiplied by 10.</p> <p>(4) For the purposes of subclause (3), the estimated parking space cost is to be calculated as follows —</p> $E = (B \times V) + C$ <p>where —</p> <p>E is the estimated parking space cost;</p>		



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<p><u>B</u> is 27 (being an estimate of the number of m² required for a car parking space, including for access and manoeuvring);</p> <p><u>V</u> is the value per m² of land in the locality of the development, determined in accordance with the relevant payment in lieu of parking plan;</p> <p><u>C</u> is the construction cost for a car parking space, determined in accordance with the relevant payment in lieu of parking plan.</p> <p><u>77E. Payment in lieu of parking plan</u></p> <p><u>(1) For the purposes of clause 77D(1)(c), a payment in lieu of parking plan prepared by the local government must —</u></p> <p><u>(a) be prepared in the manner and form approved by the Commission; and</u></p> <p><u>(b) set out the matters required by subclause (2).</u></p> <p><u>(2) The plan must set out the following —</u></p> <p><u>(a) the area to which the plan applies;</u></p> <p><u>(b) the matters required for the purposes of determining under clause 77D(3) the amount of a payment required under any payment in lieu of parking condition imposed by the local government;</u></p> <p><u>(c) the purposes for which money paid in accordance with any payment in lieu of parking condition imposed by the local government will be applied, which must —</u></p> <p><u>(i) relate to the provision and 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</u></p> <p><u>(ii) be ancillary or incidental to purposes referred to in subparagraph (i);</u></p> <p><u>(d) any other information required by the Commission.</u></p>		



PROPOSED MODIFICATION	SUMMARY	CITY OF KALAMUNDA COMMENT
<p><u>77F. Application of money paid in lieu of satisfying minimum on-site parking requirement</u></p> <p>(1) All money received by the local government in accordance with a payment in lieu of parking condition imposed in accordance with clause 77D is to be paid into a reserve account established under the <i>Local Government Act 1995</i> section 6.11 for the purposes set out in the relevant payment in lieu of parking plan.</p> <p>(2) The money is to be applied for the purposes set out in the relevant payment in lieu of parking plan.</p> <p>(3) If interest is earned from the investment of money held under subclause (1), that interest is to be applied for the purposes set out in the relevant payment in lieu of parking plan.</p> <p>(4) Subclause (5) applies if —</p> <p>(a) the local government receives money paid in accordance with a payment in lieu of parking condition imposed in accordance with clause 77D; and</p> <p>(b) at the end of the period of 10 years commencing on the day on which the local government receives the money, either or both of the following applies —</p> <p>(i) any of the money received has not been applied for purposes set out in the relevant payment in lieu of parking plan;</p> <p>(ii) any interest earned from the investment of the money received has not been applied for purposes set out in the relevant payment in lieu of parking plan.</p> <p>(5) The local government must repay the money and interest referred to in subclause (4)(b)(i) and (ii) to the person by whom the money referred to in subclause (4)(a) was paid.</p> <p><u>77G. Condition requiring shared parking arrangement</u></p> <p>(1) This clause applies if —</p> <p>(a) the local government grants development approval for development that does not comply with a minimum on-site parking requirement; and</p>		



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<p><u>(b) the development is not exempt from the minimum on-site parking requirement under clause 77C(1)(b).</u></p> <p><u>(2) The local government may under clause 68(2)(b) impose a condition (a <i>shared parking arrangement condition</i>) requiring the following —</u></p> <p><u>(a) that the owner of the land on which the development is to be located must enter into an arrangement (a <i>shared parking arrangement</i>) —</u></p> <p><u>(i) that provides for a number of car parking spaces equivalent to the parking space shortfall for the development to be made available on other land (the <i>shared site</i>) for the purposes of the development; and</u></p> <p><u>(ii) that meets any other requirements specified by the local government;</u></p> <p><u>(b) that the owner must apply to the local government for approval of the shared parking arrangement under this clause;</u></p> <p><u>(c) that the development must not commence unless the local government has approved the shared parking arrangement under this clause;</u></p> <p><u>(d) that a shared parking arrangement approved by the local government must not be terminated or varied without the approval of the local government.</u></p> <p><u>(3) Without limiting subclause (2)(a)(ii), the requirements specified under that subclause may include requirements relating to the form and content of the arrangement and the parties to the arrangement.</u></p> <p><u>(4) An application for approval of a shared parking arrangement referred to in subclause (2)(c) must include the following —</u></p> <p><u>(a) a copy of the shared parking arrangement;</u></p> <p><u>(b) information about the matters referred to in subclause (6);</u></p> <p><u>(c) a draft plan for the management of parking in relation to the development;</u></p> <p><u>(d) any other information required by a relevant local planning policy.</u></p>		



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<p><u>(5) If an application is made in accordance with subclause (4), the local government may approve or refuse to approve the shared parking arrangement.</u></p> <p><u>(6) In determining whether to approve the shared parking arrangement under subclause (5), the local government —</u></p> <p><u>(a) may have regard to any relevant matters, including —</u></p> <p><u>(i) whether the peak operation hours of the development will overlap with those of the shared site; and</u></p> <p><u>(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</u></p> <p><u>(iii) any relevant local planning policy;</u></p> <p><u>and</u></p> <p><u>(b) must not approve the shared parking arrangement unless the local government is satisfied that —</u></p> <p><u>(i) adequate car parking is likely to be available at all times for both the proposed development and the shared site; and</u></p> <p><u>(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.</u></p> <p><u>77H. General provisions about conditions imposed under cl. 77D and 77G</u></p> <p><u>(1) The local government must not under clause 68(2)(b) impose on the same development both —</u></p> <p><u>(a) a payment in lieu of parking condition in accordance with clause 77D; and</u></p> <p><u>(b) a shared parking arrangement condition in accordance with clause 77G.</u></p> <p><u>(2) The local government must not impose a condition under clause 68(2)(b) requiring a payment in lieu of satisfying a minimum on-site parking requirement otherwise than in accordance with clause 77D.</u></p>		



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<p><u>(3) The local government must not impose a condition under clause 68(2)(b) requiring entry into an arrangement for shared parking otherwise than in accordance with clause 77G.</u></p> <p><u>(4) Except as provided in this clause, this Part does not limit clause 68(2)(b).</u></p>		