

Payment in Lieu of Parking Plan - Explanatory Guidelines

Purpose of this document

The Explanatory Guidelines provide practical guidance on the implementation of the Payment in Lieu of Parking Plan Manner and Form document which applies to the Perth Metropolitan Region and Peel Region Scheme areas in Western Australia and operate under Schedule 2, Part 9A of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations). These guidelines should be read in conjunction with Part 9A - Provisions about Car Parking. It should also be noted that Part 9A does not apply to development to which State Planning Policy 7.3 Residential Design Codes (Volumes 1 and 2) apply, as specified in clause 77B(2).

All Payment in Lieu of Parking Plans (the Plan), prepared under clause 77J, shall follow the Manner and Form as approved by the Western Australian Planning Commission (WAPC). Please ensure the Plan is completed consistent with this template. Adherence to the prescribed Manner and Form template and the processes for advertising, approval and operation will ensure a valid Plan is in place.

It should be noted that a Plan prepared in the manner and form approved by the WAPC does not require referral to, or approval by, the WAPC, with the local government responsible for approval of, or amendments to, a Plan.

Important transitional arrangements

Clause 77G(3) and (4) provides transitional arrangements through *interim parking provisions* to provide a two year period for a local government to put in place Plan(s) where *interim parking provisions* were in place immediately before the day the Schedule 2, Part 9A of the Regulations came into operation.

However, it is important to note that during the transition period a local government is still required to apply the method(s) used to calculate the Reasonable Estimate of Costs for Payment in Lieu of Parking approved by the WAPC and published in the Gazette, as provided in clause 77H(4).

Local governments are strongly encouraged to commence the development of Plans in the Manner and Form prescribed in the Regulations at the earliest opportunity during the two-year transition period. A local government will be unable to lawfully impose payment in-lieu of parking conditions on a development approval under its local planning scheme after the *interim parking provisions* expire on 1 July 2023 if there is no adopted Plan in place.

Explanatory Guidelines for each section

1 Introduction

The introduction section provides key information on important elements of the Plan as detailed below.

1.1 Regulatory compliance

This section identifies that the Plan has been created under Part 9A of the Regulations and in the Manner and Form approved by the WAPC. This section must be included in the Plan and the manner and form template must be followed.

1.2 Purpose

This section identifies the purpose of the Plan and must be included.

1.3 Operational dates

The operational dates are prescribed in clause 77N. The operational dates for the plan are to be inserted into the current published version of the plan, noting that clause 77N provides that the operational dates commence the day after the notice of approval has been published by the local government.

1.4 Amendments to the Plan

Amendments to the Plan are to be made in accordance with the process set out in clause 77M. A record of amendments shall be maintained in the version control table in this section. The current version of the Plan is required to be published in accordance with clause 77L.

See section 4.2 for further information.

1.5 Objectives of the Plan

This section must outline the specific objectives of the Plan. The objectives of the Plan should align with strategic planning objectives set out in supporting documents (see Section 1.6 below). If there are major elements of Parking or Other Transport infrastructure this Plan is intended to deliver, then they should also be identified in this section (with the detail provided in Section 3 and Section 5 of the Plan).

1.6 Linkages to relevant documents

A Plan should have a sound strategic basis. This section must identify and discuss the supporting documents used to develop and underpin the Plan. This can include a local planning strategy, local planning scheme, precinct structure plan, standard structure plan, local development plan and/or local planning policy. If a parking and/or transport strategy has been developed for a local government area or for a specific sub-area

(e.g. an Activity Centre) this document should also be identified. Web-links should be provided for public access to these documents.

It is critical that a Plan has a sound financial basis, particularly where the Plan contains items which have a significant cost. A local government needs to include the items proposed in its Integrated Planning and Reporting (IPR) framework. The Plan should also relate back to the relevant IPR documents (such as the 10-year Financial Plan, Corporate Business Plan, Asset Management Plan and in-particular, an adopted project business case).

It is important for the purposes of a Plan that the need for parking and/or other infrastructure is demonstrated through the abovementioned documents. Should the above documents not be available or relevant to the Plan Area, it is critical that a need and nexus is established through a needs analysis for the infrastructure identified under section 5. For example, if delivering parking, the expected demand for parking should be demonstrated for the life of the Plan by:

- land use forecast estimates;
- interpolation of historical rates of growth for the Plan Area;
- interpolation of the use of existing public parking supply; and
- any other factors considered relevant.

2. Terms used

The terms used in the Plan are to be consistent with those of clause 77A of the Regulations. To ensure consistency, no additional defined terms are to be included in the Plan unless approved by the WAPC.

3. Parking plan application and area

3.1 Maps

A Plan can cover:

- an entire local planning scheme area,
- one specific area (e.g. one activity centre) or
- multiple individual areas (e.g. multiple activity centres).

The maps need to clearly identify the area or areas to which the Plan applies. Where the Plan applies to multiple areas an overall context map showing the individual areas should be provided. A map of each individual area should also be provided clearly identifying all the properties which are in the Plan area. The individual area maps should include annotations or a numbered legend identifying the location and items of parking and other transport infrastructure covered in the Plan which are detailed in Section 5 of the Plan.

Refer Attachment 1 for example maps that can be used to develop maps required.

It is recognised that there is the potential for more than one Plan to be relevant to a location that straddles local government boundaries, such as an Activity Centre. In this instance, each Plan can only relate to the Scheme Area applicable, however should each local government intend on operating payment in lieu, it is recommended that Plans by each local government be developed in tandem. This would ensure dialogue occurs between the local governments and that common infrastructure can be developed cooperatively.

4. Reasonable estimate of costs for payment in lieu

4.1 Calculation of reasonable estimate of costs

A Plan must include a reasonable estimate of costs of the local government providing parking or other infrastructure in-lieu of providing parking on the development site. Clause 77H(4) and (5) requires the WAPC to publish the approved method(s) of calculation that are to be used in Plan(s). The Plan(s) must outline the **application** of the WAPC approved method(s) used for the calculation of the Reasonable Estimate of Costs expressed in dollars applicable in each location identified in the Plan.

However, the WAPC approved method(s) should not be included in the Plan to remove the need to amend the Plan when the approved method(s) is periodically reviewed by the WAPC. Instead, the approved method(s) should be accessible via web link to the Department of Planning, Lands and Heritage (Department) website to ensure the most up-to-date method(s) is utilised.

4.2 Revisions to reasonable estimate of costs

A Local Government can revise the Reasonable Estimate of Costs during the life of the Plan. Revisions are usually made when cost factors such as land valuation or construction costs change. Revisions to the Reasonable Estimate of Costs must apply the method(s) of calculation approved by the WAPC. It is recommended local government reviews the reasonable estimate of costs every two years and the Plan may be amended as provided in clause 77M.

Further, the reasonable estimate of costs will need to be indexed on an annual basis, however the process contained in clause 77M does not need to be followed for this purpose. It is however recommended that the updated estimate of costs be published by the local government.

4.3 Attribution of costs

A Plan can recognise that the costs for different types of items do not have to be applied equally across a Plan area. Costs can be attributed depending on variables such as locational factors and the mix of items proposed in the Plan.

5. Purposes for which payment in lieu will be applied

The purposes for which the payment in lieu will be applied must be set out in this section of the Plan. Payment in lieu of parking can be applied for either:

- public parking infrastructure,
- other transport infrastructure, or
- ancillary or incidental purposes.

Clause 77J(1)(b)(ii) allows Plans to cover items that are considered ancillary or incidental to public parking infrastructure or other transport infrastructure. Where ancillary or incidental items have been identified they are to be listed in this section.

This section should itemise/list each of the elements to which the payment in lieu of parking will be applied. The items should be identified to the specific locations on the Plan Maps included in Section 3. For lower cost items (such as bicycle parking) or where the specific location of the item has not been finally determined (e.g. bus stop shelter), it is sufficient to list these items in this Section and identify a general location.

In this regard, items could include, but may not be limited to, the following:

- at-grade car parking;
- decked parking;
- improvements to existing car parking facilities, such as upgrades to existing car parking spaces and on-street bays, technology to increase efficiency and turnover of bays, parking meters or payment machines or way-finding to underutilised parking;
- rationalisation of existing parking spaces on or off street, for example to add bays close to areas most in need;
- electric charging facilities;
- traffic calming measures;
- footpath infrastructure, including new connections and upgrades;
- street furniture;
- street trees;
- street lighting;
- CCTV;
- provision of, or upgrades to, bicycle networks;
- end-of-trip facilities;
- improvements to wayfinding;
- taxi or ride share pick-up bays;
- funding support for public transport and/or subsidies for other modes of transport than private vehicles; and
- education campaigns to encourage public transport and active transport use.

6. Operation

It is important the Plan operates in accordance with the Regulations.

6.1 Triggers for payments to be made

Where a condition is imposed on a development approval for payment in lieu of parking, the condition should specify the trigger or timing for the payment to be made. Suggested wording of a standard condition is provided below. This requires payment to be made prior to the commencement of development. A staged approach may be considered.

Prior to granting development approval and imposing a condition for payment in lieu of parking, the local government must give the applicant a notice of apportionment in accordance with clause 77F(1)(b), which confirms the specified shortfall of car parking spaces in the proposed development that is to be dealt with by the condition. In this way, the notice of apportionment confirms the local government's consideration of a development application and how it will proceed to approval. It is recommended that this occur at a point just prior to determination, following completion of the assessment of an application, to provide awareness to the applicant of the recommended condition(s).

Refer Attachment 2 for the Notice of Apportionment form.

6.2 Payment-in-lieu of parking condition

Prior to the commencement of development, payment of \$*insert total amount* shall be made to the *insert name of local government* for Payment in Lieu of *insert number of car parking bays* car parking bays which have not been provided on site or in a shared parking arrangement. This condition has been imposed under the requirements of *insert title Payment in Lieu of Parking Plan* and Schedule 2, clause 77H of the Planning and Development (Local Planning Schemes) Regulations 2015.

Additional information, by way of an advice note, may be provided by the local government to confirm its expectations for when payment should be made, which could relate to building permit stage, where applicable.

6.3 Decision making on development applications using this plan

Plans are to be given *due regard* by a decision maker when considering a development application and the application of a payment in lieu of parking condition (as provided in clause 77H).

Where a local planning scheme contains a provision mandating payment in lieu of parking, a condition shall be recommended by the planning authority and applied by a decision maker in accordance with the local planning scheme requirements.

7. Financial administration (clause 77I)

7.1 Reserve account to be established and maintained

Clause 77I(1) requires a local government to establish and maintain a Reserve Account for money collected under the Plan. The account is to be established under the provisions of the *Local Government Act 1995*, Section 6.11 and operated in accordance with the *Local Government (Financial Management) Regulations 1996*.

7.2 Interest earned

Clause 77I(3) requires interest earned on monies held in the Reserve Account must be applied for the purposes set out in the Plan.

7.3 Records to be kept

A Local Government shall keep records of income and expenditure for the operation of the Plan. This should include income contributions from payments received and expenditure of monies on items that are identified in the Plan.

7.4 Invoice for payment of money

It is important that a local government has a robust system to ensure that payment in lieu of parking monies are collected at the appropriate time. Once a condition has been applied on an approval requiring payment in lieu of parking, the condition does not become 'active' until the development commences. There may be significant time between the approval being granted and the commencement of development.

It is therefore important the local government establishes processes to ensure payment in lieu of parking conditions are not overlooked. It is recommended that a register be established, or the local government's core systems used to ensure alerts or notices can record the requirement for payment in lieu of parking to be made.

Once the payment in lieu of parking condition becomes active (i.e. in accordance with the recommended condition, that works are about to commence on-site or the development is at building permit stage), the Plan requires a local government to issue an invoice for the payment in lieu of parking. The invoice shall specify the timing for payment. A local government can enter into agreements for payment plans to enable payments to be made over an agreed specified period of time.

7.5 Money held in the reserve account at the expiry of the plan

Clause 77I(5),(6) and (7) outline specific requirements for the treatment of money held in the Reserve Account when the Plan expires.

Clause 77I(5) requires that any unexpended money and interest on that money must be repaid to the *relevant payer*. The *relevant payer* is the original person or body corporate who paid the money.

Where the relevant payer cannot be found after taking reasonable steps to find the relevant payer or if the body corporate has been dissolved, clause 77I(6) allows the local government to retain the money. Reasonable steps to find the relevant payer, for the purpose of this clause, are recommended to include:

- at least two attempts to contact the payer in writing, with at least 14 days passing between each notice being sent;
- a detailed search of local government records and a web based search for payer details for other properties; and
- a request for payer details from service agencies (e.g. Water Corporation) as these organisations have more regular payment systems that may have involved the payer.

Clause 77I(7) requires that money retained may be applied for any purpose that:

- (a) relates to the provision or maintenance of public parking infrastructure or other transport infrastructure (for example cycling or pedestrian paths) in the Scheme area; or
- (b) is ancillary or incidental to purposes referred to in paragraph (a).

8. Miscellaneous Guidance

8.1 Advertising

Schedule 2, clause 77K requires a local government to advertise a Plan prior to approval unless the WAPC otherwise agrees. In this regard, it is recommended that early engagement occur with the Department if a local government does not consider advertising should be required. It should be noted that in most cases advertising will need to be undertaken, however there may be extenuating or unusual circumstances that mean advertising is unnecessary.

For example, it is recognised that Plans may be approved through the process for preparation and approval of Precinct Structure Plans, given the synergies and efficiencies of preparing both documents at the same time. This may mean a separate subsequent round of advertising for a Plan is unnecessary when there is already advertising being undertaken as part of the structure planning process.

8.2 Extending 10 Year Approval Period


Schedule 2, clause 77N states that a Plan has effect for the period of 10 years commencing on the day after the day in which the local government first publishes notice of the approval of the plan in accordance with clause 77K or a longer period as approved by the WAPC. This clause states that approval can be obtained either before or after the Plan is approved by the local government.

It is recommended that should a local government be contemplating applying for a period that is longer than 10 years that it engage early with the Department in preparation of a Plan. It is also recommended that in resolving to approve a Plan, that the resolution also involve referring it to the WAPC for approval of the additional period.

Local government would need to provide detailed justification as to why additional time is required for the life of a Plan, such as providing details of an associated business case that confirms the intended delivery timeframe for targeted infrastructure.

Attachment 1

Payment in Lieu of Parking Plan - Index Map




0 200 400 600 800
Metres

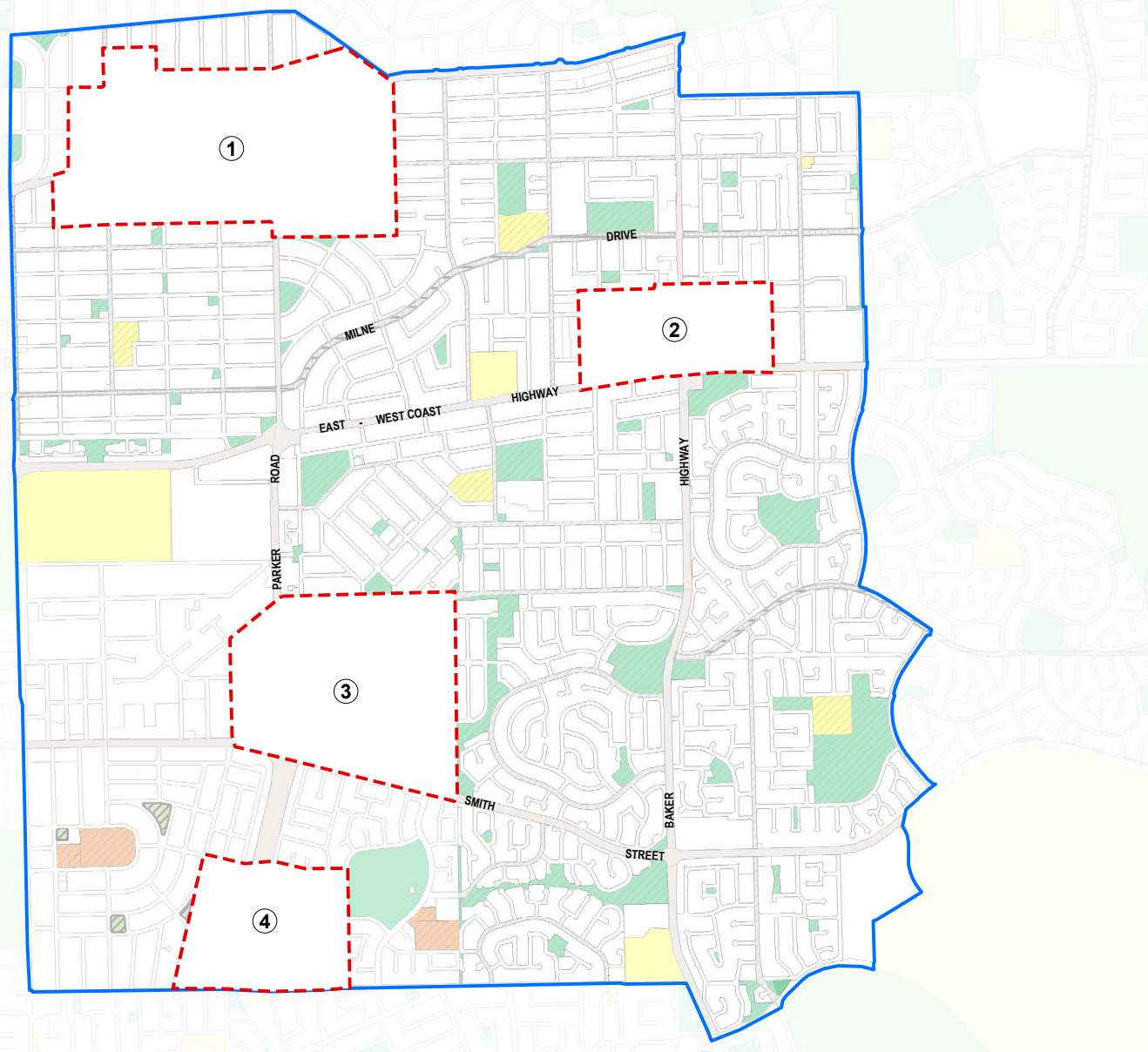
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Disclaimer/Note:
This map is a conceptual
example only and is not indicative
of development in any location

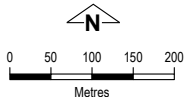
Legend

-  Scheme Area
-  Parking Plan - Area Map (No)

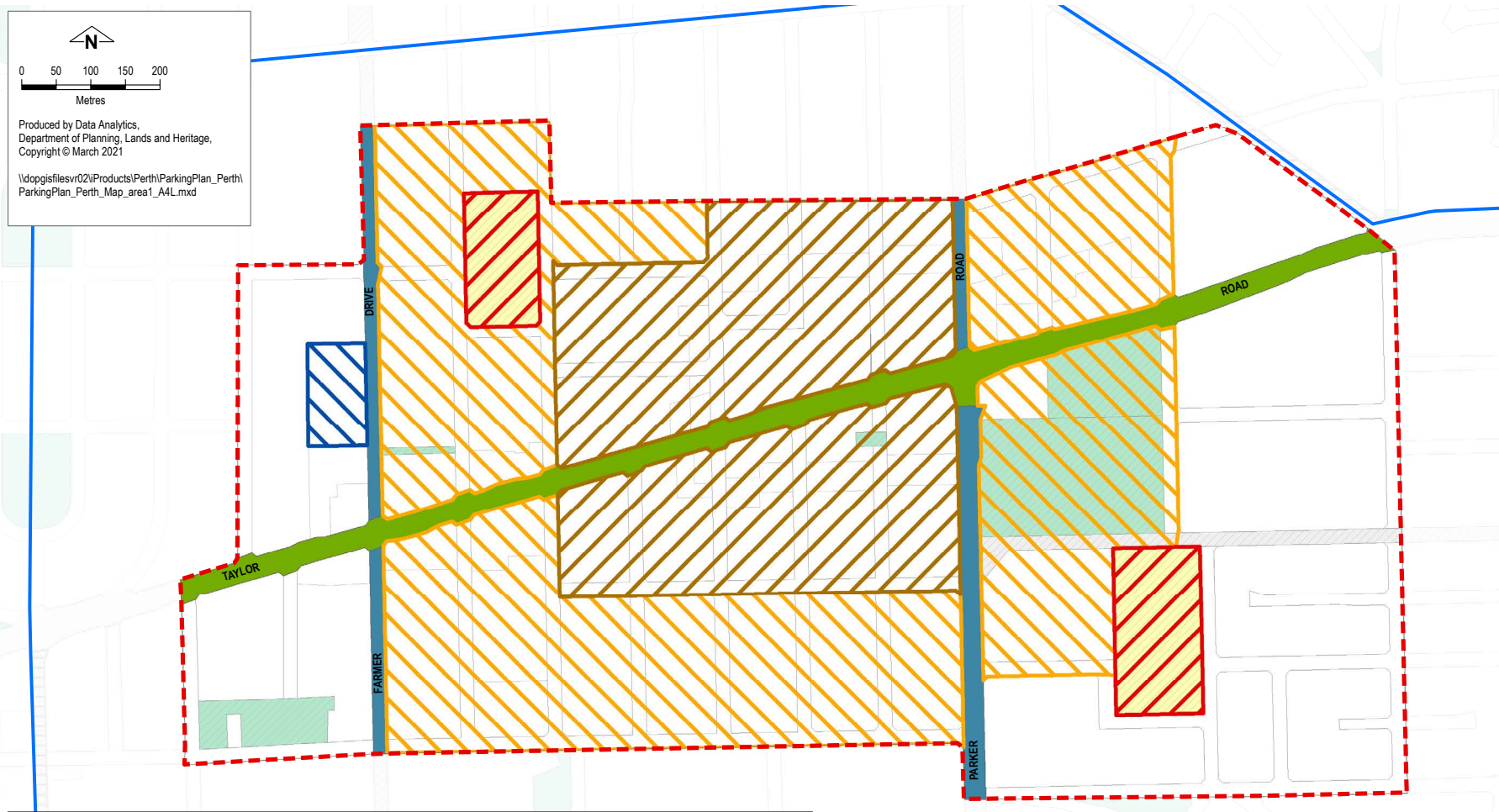


Attachment 1

Payment in Lieu of Parking Plan - Area 1 Map



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Legend		Disclaimer/Note: This map is a conceptual example only and is not indicative of development in any location
	Scheme Area	
	Parking Plan - Area 1	
	1 to 2 hours on street parking	
	3 to 4 hours on street parking	
	At Grade Parking Station	
	Bicycle path	
	Streetscape improvement (e.g. embayed carpark and trees)	



NOTICE OF APPORTIONMENT

Clause 77F(1)(b)(i) and (ii) of the *Planning and Development (Local Planning Schemes) Regulations 2015*

Version: 1.0 (June 2021)

Date of Notice: _____

Issuing Authority: _____

Notice is hereby given that the car parking space shortfall for the

_____ at _____

is _____.
insert total number of car parking spaces shortfall on site

Apportionment

Payment In Lieu of Parking

For the purposes of imposing a payment in lieu of parking condition in accordance with clause 77H, the number of car parking spaces for which payment in lieu is required is

insert number of car spaces subject to payment in lieu

Shared Parking Arrangement

For the purposes of imposing a shared parking arrangement condition in accordance with clause 77Q, the number of car parking spaces for which a shared parking arrangement condition is imposed is _____.

insert number of car spaces subject to a shared parking arrangement

Signed: _____

Name: _____

Position: _____

The Department of Planning, Lands and Heritage acknowledges the traditional owners and custodians of this land. We pay our respect to Elders past and present, their descendants who are with us today, and those who will follow in their footsteps.

Disclaimer

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