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MELBOURNE AND METROPOLITAN BOARD OF WORKS

MELBOURNE METROPOLITAN INTERIM DEVELOPMENT ORDER REVOCATION AREAS

11427/72.—Price 15 cents

Town and Country Planning Act 1961.

MELBOURNE AND METROPOLITAN BOARD OF WORKS.

MELBOURNE METROPOLITAN INTERIM DEVELOPMENT ORDER.

Revocation Areas.

Whereas by the *Town and Country Planning Act* 1961 (as amended) (the said Act as amended by any subsequent Act being hereinafter referred to as "the Act") provision is made *inter alia* for the making of an Interim Development Order as therein appears: and whereas the Melbourne and Metropolitan Board of Works (hereinafter referred to as "the Board") is a responsible authority under the provisions of the Act: and whereas by Order in Council made on the 5th day of December, 1972, the Melbourne Metropolitan Planning Scheme (hereinafter referred to as "the Principal Planning Scheme" which expression shall mean the Melbourne Metropolitan Planning Scheme as amended by any planning scheme or amendment made by the Governor in Council notice of approval of which or notice of which (as the case may be) has been published in the *Government Gazette*) was revoked insofar as the Principal Planning Scheme affected land referred to in the said Order in Council: and whereas notice of such revocation was published in the *Government Gazette* on the 6th day of December, 1972: and whereas in manner prescribed the date of publication of the notice of revocation as to part of the Principal Planning Scheme was determined and notified by the Board as being the date for the commencement of an amending planning scheme for the purpose of amending the Principal Planning Scheme by extending the area thereof to the land in respect of which the Principal Planning Scheme was revoked as hereinbefore recited: and whereas the Board has prepared such amending planning scheme as aforesaid which is to be cited as Melbourne Metropolitan Planning Scheme Amendment No. 36 copies whereof together with copies of the Ordinance comprised in the said Principal Planning Scheme have been deposited at the office of the Board and at the office of the Town and Country Planning Board and as to so much of the Amending Planning Scheme as relates to land in the municipal district of any municipality at the office of such municipality: now the board by virtue of the powers conferred by the Act and of every other power enabling it in that behalf and with the approval of the Governor in Council as provided in the Act hereby makes the following Interim Development Order:—

1. This Order is made with respect to the land coloured and delineated on the maps which constitute the Planning Scheme Map comprised in an amending planning scheme (Melbourne Metropolitan Planning Scheme Amendment No. 36) which has been deposited for inspection in accordance with the provisions of the *Town and Country Planning Act* 1961 such maps being marked "Melbourne Metropolitan Planning Scheme Amendment No. 36" and bear respectively serial numbers 5, 7 to 9 (both inclusive), 14, 16 and 17, 22, 24 and 25, 28, 36, 42 and 43, 51 and 52, 58, 63 to 65 (both inclusive), 70 to 74 (both inclusive), 76 to 79 (both inclusive), 83, 85 to 87 (both inclusive), 89 and 90, 92 to 96 (both inclusive), each with the suffix AM 36.

2. This Order may be cited as "Melbourne Metropolitan Interim Development Order—Revocation Areas".

3. In this Order unless inconsistent with the context or subject-matter:—

(*a*) "The Act" means the *Town and Country Planning Act* 1961 as amended by any subsequent Act.

"Principal Planning Scheme" means the Melbourne Metropolitan Planning Scheme amended or varied by an amending Planning Scheme or any amendment made by the Governor in Council notice of approval of which or notice of which (as the case may be) has been published in the *Government Gazette*.

"Commencement Date" means the date upon which this order comes into operation.

"Amending Planning Scheme" means the Melbourne Metropolitan Planning Scheme Amendment No. 36 copies of which have been deposited for inspection in accordance with the Act.

"Planning Scheme Map" means the maps comprised in the Planning Scheme Map contained in the Amending Planning Scheme as deposited for inspection pursuant to the Act.

"Responsible Authority" means the Melbourne and Metropolitan Board of Works or the Council of a municipality if and to the extent that the said Board may pursuant to the Act delegate to such Council any powers authorities and responsibilities in respect to this Interim Development Order.

"Permission" means the permission of the responsible authority as evidenced by a permit.

"Zone" means an area coloured and delineated in any manner set forth in column 1 on the Table to clause 6 hereof.

(*b*) Words importing the singular shall be deemed to include the plural and the plural the singular.

(*c*) Save as herein otherwise expressly provided words or expressions used herein shall have the same meaning as the same words or expressions when used in the Principal Planning Scheme.

(*d*) Words or expressions used herein shall have the same meaning as the same words or expressions when used in the Act.

(*e*) Subject to the provisions of paragraphs (*b*), (*c*) and (*d*) hereof, the *Acts Interpretation Act* 1958 as amended by any subsequent Act or Acts shall be deemed to apply to this Order as though this Order was an Act of Parliament.

4. The use or development of any land or the erection construction or carrying out of any buildings or works on any land to which this Order applies otherwise than in conformity with this Order is prohibited provided that:—

(i) Notwithstanding the foregoing prohibition, the responsible authority may permit subject to such conditions as are specified in the permit, such use or development as the responsible authority thinks proper of any land or the erection construction or carrying out of such buildings or works which apart from the permit would be in conflict or not in conformity with this Order.

(ii) Nothing in this Order shall prevent the continuance of the use of any land for the purposes for which it was being lawfully used immediately before the coming into operation of the Order or the use of any building or work for any purpose for which it was being lawfully erected or carried out immediately before that time; and for the purposes of the foregoing land which was unused immediately prior to the coming into operation of this Order shall be deemed to have been used immediately before the commencement date for the purpose for which it was lawfully used within fifteen months prior to that date; and where a contract for the erection or carrying out of any building or work which could lawfully have been constructed had been entered into and all necessary consents and permits had been obtained and were operative immediately before the commencement date such building or work shall be deemed at that date as being erected or carried out.

(iii) Nothing in this Order shall prevent any dealing or the registration of any dealing with any land in any subdivision of which a plan has been sealed by a Council or confirmed by the arbitrator pursuant to the provisions of the *Local Government Act* 1958 or the *Strata Titles Act* 1967 before the commencement date.

5. (1) Land to which this Order applies may only be developed and buildings or works may only be erected constructed or carried out thereon if the use of such land for the purpose of such development or for the purpose for which such buildings or works are to be erected constructed or carried out is permitted by or pursuant to this Order.

(2) In determining whether or not any permit required under or pursuant to this Order should be granted or whether any and what conditions should be specified in any permit proposed to be granted the responsible authority shall take into consideration:—

(*a*) The primary purpose for which the land is zoned;

(*b*) the sufficiency or otherwise of the area of the land proposed or intended to be used for the purpose for which the permit is sought;

(*c*) the orderly and proper planning of the land to which this Order applies or to any portion thereof;

(*d*) the preservation of the amenity of the neighbourhood; and

(*e*) such provisions of the Principal Planning Scheme as would be applicable if the land to which the permit if granted would relate was as zoned herein comprised in the said Planning Scheme.

6. Each zone which is coloured and delineated on the Planning Scheme Map in the manner set forth in column 1 of the Table to this clause is in this Order referred to by the description set forth in column 2 of the said Table.

TABLE TO CLAUSE 6.

Column 1.	Column 2.
Alternate pink and white diagonal stripes	Residential " D "
Pink with black diagonal cross hatching	Reserved Living
Alternate blue green and white diagonal stripes	Stream and Floodway

7. Subject to the provisions of Clause 4 hereof, land within the zone described in a section of the Table to this clause:—

(a) May be used for any of the purposes specified in column 2 of such section;

(b) may be used for any of the purposes specified in column 3 of such section provided that the condition or conditions set forth opposite such purpose are complied with and shall not be used for any of such purposes unless the said condition or conditions are complied with;

(c) may subject to the permission of the responsible authority be used for any of the purposes specified or included in column 4 of such section;

(d) may without the permission of the responsible authority but subject to the proviso hereto continue to be used for any purposes specified or included in column 4 of such section if the land had in fact been lawfully used (not including any use which was merely proposed or intended) for such purposes immediately before the commencement date and has continued so to be used or if pursuant to Clause 4 of this Order the land is deemed to have been lawfully used for such purpose immediately before the commencement date, provided that—

(i) any condition or restriction to which the use of the land for such purposes was subject at such date continues to be observed; and

(ii) the floor area of the buildings on the land at such date, or where the land is deemed to have been used for any purpose pursuant to Clause 4 hereof the floor area of the buildings which may be lawfully erected on the land for the purpose, is not without the prior permission of the responsible authority increased by an area exceeding one-fourth thereof or an area of 1,000 square feet whichever be the lesser;

(e) shall not be used for any of the purposes specified or included in column 5 of such section.

TABLE TO CLAUSE 7.

Column 1.	Column 2.	Column 3.		Column 4.	Column 5.
		Purpose.	Conditions.		
Section 1.					
Residential " D " Zone	Agriculture Home Occupation Passive Recreation Railway Road	Detached House	Subject to Clause 10 hereof the site shall not be less in area than one acre, shall have a frontage of not less than 100 feet, and shall be capable of containing a rectangle the area of which is not less then three fifths of an acre and the least side of which is not less than 135 feet	Animal Husbandry Cafe Caretaker's House Consulting Rooms Dog Breeding Educational Establishment Flat General Hospital Health Centre Hotel Institutional Home Major Transmission Line Minor Sports Ground Minor Utility Installation Motel Place of Assembly Place of Worship Plant Nursery—Retail Racing Stables Restaurant Residential Building Tourist Establishment Veterinary Surgery Any purpose not specified or included in any other Column of this Section of this Table	Bank Car Sales Cemetery Crematorium Dangerous Industry Dog Coursing Track Extractive Industry Freezing and Cool Storage Works Fuel Depot Funeral Parlour General Industry Generating Works Hospital for Infectious Diseases Industrial Sales Junk Yard Light Industry Liquid Fuel Depot Major Sports Ground Market Mental Institution Milk Depot Mining Motor Repair Station Motor Vehicle Racing Track Offensive Industry Office Open Air Cinema Pig Raising Poultry Farming Reformative Institution Row House Semi-detached House Service Industry Shop Stock Saleyard Store Timber Yard—Retail Timber Yard—Wholesale Totalizator Agency Transport Depot Warehouse Any purpose specified in Column 3 of the Section of this Table if the condition or conditions set forth opposite are not complied with.

TABLE TO CLAUSE 7—*continued.*

Column 1.	Column 2.	Column 3.		Column 4.	Column 5.
		Purpose.	Conditions.		
Section 2.					
Reserved Living Zone	Agriculture Home Occupation Passive Recreation Railway Road Tramway	..	..	Animal Husbandry Bank Cafe Caretaker's House Consulting Rooms Detached House Display Home Dog Breeding Educational Establishment Flat Health Centre Hotel Major Sports Ground Major Transmission Line Minor Sports Ground Minor Utility Installation Petrol Filling Station Place of Assembly Place of Worship Plant Nursery—Retail Public Administration Research Centre Residential Building Restaurant Semi-detached House Service Industry Service Premises Veterinary Surgery Any purpose not specified or included in any other Column of this Section of this Table	Aerodrome Animal Hospital Bee Keeping Boarding Kennels Car Sales Cemetery Crematorium Dangerous Industry Dog Coursing Track Extractive Industry Freezing and Cool Storage Works General Industry Generating Works Hospital for Infectious Diseases Industrial Sales Junk Yard Light Industry Liquid Fuel Depot Major Utility Installation Market Mental Institution Mining Motor Vehicle Racing Track Offensive Industry Open Air Cinema Pig Raising Poultry Farming Racing Stables Reformative Institution Stock Saleyard Store Timber Yard—Retail Timber Yard—Wholesale Tourist Establishment Transport Depot Warehouse
Section 3.					
Stream and Floodway Zone	Animal Husbandry Bee Keeping Forestry Passive Recreation Railway	..	..	Agriculture Caretaker's House Detached House Home Occupation Minor Sports Ground Poultry Farming Road Any purpose not specified or included in any other Column of this Section of this Table	Apartment House Car Sales Cemetery Crematorium Dog Coursing Track Dangerous Industry Extractive Industry General Industry Hotel Junk Yard Light Industry Major Utility Installation Mining Motel Motor Repair Station Motor Vehicle Racing Track Offensive Industry Office Petrol Filling Station Racecourse Residential Building Row House Saw Mill Semi-detached House Service Industry Shop Store Timber Yard—Retail Timber Yard—Wholesale Totalizator Agency Tourist Establishment Transport Depot Warehouse

8. (1) Subject to the provisions of Clause 4 hereof land to which this order applies shall not be subdivided into allotments unless the responsible authority shall have granted permission for the subdivision of such land in accordance with a plan of subdivision submitted to and approved by the responsible authority.

(2) In determining whether or not permission to subdivide such land shall be granted and if permission is to be granted what condition or conditions should be imposed the responsible authority shall have regard to—

(a) the existing use and possible future development of such land and of contiguous or adjacent lands;
(b) the orderly and proper planning of the area;
(c) the amenity of the neighbourhood;
(d) the effect of development of the land upon the use or development of other land (whether contiguous or adjacent or not) which has a common means of natural or artificial drainage;
(e) the area and dimensions of each allotment comprised in the subdivision;
(f) the provision of the following services, that is to say, water, sewerage, drainage, electricity and gas; and
(g) the prevention or the reduction of the concentration or diversion of floodwaters or stormwaters.

(3) For the purpose of paragraph (f) of sub-clause (2) hereof but without in any way restricting the power of the responsible authority to impose such conditions as it may think fit when granting any permit for the subdivision of land pursuant to sub-clause (1) hereof a service shall be deemed to be provided if the responsible authority is satisfied that such service will be available for extension to each allotment comprised in the subdivision at the date a permit for the subdivision is granted or within the period specified in a condition in the permit which provides for the lapse of the permit unless the use or development authorized thereby is commenced within such period.

(4) On any plan of subdivision being submitted to the responsible authority pursuant to sub-clause (1) hereof any land which in the opinion of such authority should for the proper development of the area be set aside for any specified public purpose shall be indicated as a separate allotment on the plan of subdivision.

9. Whereunder this Order the permission of the responsible authority is required for the subdivision of any land in the Reserved Living Zone into allotments the area of any of which is less than 2 acres then notwithstanding anything to the contrary herein contained or implied a permit shall not be granted unless the services of water sewerage drainage and electricity can immediately be extended to every allotment comprised in such subdivision or if any such service cannot be immediately so extended unless the appropriate statutory authority (including where applicable the responsible authority as such a statutory authority) has certified in writing that such service can be extended to every such allotment within such period (not in any case being more than six months) from the date of the certificate as is specified therein.

10. Notwithstanding the condition specified in column 3 of the Table to Clause 7 hereof, land situated within a Residential D Zone may be used for the purpose of a detached house if on the 1st day of January, 1966, such land consisted of one or more allotments on a plan of subdivision approved by the Registrar of Titles.

11. No building or works shall be constructed on any land situated within a Stream and Floodway Zone (whether or not permission to subdivide such land shall have been granted) without the permission of the responsible authority and such permission if granted may be subject to such condition or conditions as the responsible authority deems requisite in order to prevent or reduce the concentration or diversion of floodwaters or stormwaters.

12. Save with the permission of the responsible authority land which abuts on a main road reservation as prescribed in the Principal Planning Scheme shall not—

(a) be so subdivided as to provide direct access between any allotment and such main road reservation;
(b) have made or laid out thereon any street, road, lane or passage which will join with or intersect the said reservation;
(c) be so subdivided as to provide for the opening, construction, alteration, forming, or laying out thereon of any means of access between such land and the said reservation.

13. Save as hereinafter provided no advertising sign, advertising sky sign or advertising hoarding shall be constructed on any land to which this Order applies, provided however that the responsible authority may permit the construction of an advertising sign which contains no flashing or moving parts and which refers to goods lawfully sold or offered for sale or services provided upon the land on which such advertising sign is proposed to be contructed.

14. Any permit granted by the responsible authority pursuant to this Order may be granted absolutely or subject to such condition or conditions as to the responsible authority appears fit and where granted subject to a condition or conditions shall be of no force or effect whatsoever unless such condition or conditions are wholly observed or complied with.

Dated this 12th day of December, 1972.

The common seal of Melbourne and Metropolitan Board of Works was affixed herein in the presence of—

G. F. KNOWLES, Member.
(SEAL) A. H. CAPP, Member.
W. C. S. ELLIS, Secretary.

Approved by the Governor in Council, 19th December, 1972.—T. J. FORRISTAL, Clerk of the Executive Council.

By Authority: C. H. RIXON, Government Printer, Melbourne.

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