



Council Policy Manual

CP14.12 Digital Rights Management Policy for 3D Models and Development Applications

POLICY OBJECTIVE

The objectives of this policy are to detail the use and management of:

- the 3D digital model of the City of Perth (**City**);
- the digital information supplied in a development application (as defined by the "City of Perth City Planning Scheme No. 2" as amended) for planning approval; and
- 3D digital models contributed by any third party to the City.

In particular, it sets out the conditions that apply to the viewing, editing, amending, changing, modification, updating, provision, copying, reproduction, publication, review, distribution and communication (**Use**) of these materials by the City, prospective developers (or their agents), and the public.

POLICY STATEMENT

1. THE CITY'S 3D DIGITAL MODEL

The City hosts a 3D digital model of the City of Perth (**City's Model**) for the purpose of:

- assisting in the evaluation of development applications;
- assisting in planning, urban design and enhancement projects; and
- presenting existing and proposed developments in a 3D digital environment.

1.1 Ownership

All intellectual property rights, including the copyright, in the City's Model remain the property of the City at all times (subject to any part of the City's Model in which the copyright is owned by any third party, and which the City **Uses** and licences with the permission of the copyright owner).

1.2 Access

The City at its discretion may make the City's Model available for **Use** by the public. For example the City may:

- display the whole or part of the City's Model on the City's website for public viewing;
- provide prospective developers (or their agents) access to **Use** the whole or part of the City's Model to assist them with their own developments; and



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provide other parties access to Use the whole or part of the City's Model to assist with various projects.

The City may integrate each applicant's or contributor's 3D digital model submitted as part of a development application or otherwise into the City's Model (refer to Section 2 regarding development applications and Section 3 regarding other contributed 3D digital models).

1.3 Conditions of Use

The City at its discretion may provide third parties (including prospective developers) without charge the opportunity to **Use** the City's Model (as defined by this policy) associated with the provision of 3D digital model data for development applications and other projects. This **Use** shall be subject to the third party agreeing to conditions of use as set down by the City.

Users of the City's 3D model will be asked to acknowledge a copyright notice similar to the following:-

- *"This 3D digital model of the City of Perth and all its components is copyright.*
- *The City of Perth at its discretion may permit you to Use (as defined by the City's Digital Rights Management Policy for 3D Models and Development Applications) or view (as appropriate) the 3D digital model of the City of Perth and all its components for the purpose of preparing and submitting a development application to the City of Perth, various projects or your personal (non-commercial) use. However, apart from fair dealing for the purposes of, for example, private study, research, or review as permitted under the Copyright Act 1968 (as amended), no part may be reproduced, copied, sold or otherwise disposed of, altered, transmitted in any form or by any means (electronic, mechanical or graphic) to any other persons or organisations except as expressly set out above without the prior written permission of the City of Perth.*
- *The City of Perth is not liable under any circumstances for the completeness, accuracy and suitability of content included in the City's Model, and each viewer/user is solely responsible for any and all claims, liabilities, damages and expenses arising from their Use of the City's Model.*
- *For full conditions of use refer to the City of Perth's Digital Rights Management Policy for 3D Models and Development Applications.*

1.4 Liability and Security

The City's Model is provided for public information purposes.



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The City takes no responsibility for the security, accuracy, completeness and integrity of the City's Model.

The City shall not be held liable to the extent lawfully permitted for any loss or damage of whatever kind (including consequential or incidental damage) however arising that may be suffered, directly or indirectly, in connection with **Use** of the City's Model.

The City's Model is provided 'as is'. The City endeavours to ensure that content provided in the City's Model is complete, accurate and up-to-date and does not contain errors and omissions, but the City does not warrant that this will be the case or that access to the City's Model will always be uninterrupted, timely or secure. The City's Model is provided on the basis that all persons viewing and/or using it undertake responsibility for assessing its relevance and accuracy. In the case of a viewer/user who is an applicant, the applicant must not rely upon any information in the City's Model and specific advice should be sought by the applicant from a qualified architect, planner or other professional as applicable. All users (including viewers) shall indemnify the City from any and all claims, liabilities, damages and expenses arising from their use of the City's Model.

In this section 1.4, "the City" includes the City and any affiliate, together with their staff members, representatives, agents, and contractors.

2. DEVELOPMENT APPLICATION

As detailed in the "City of Perth City Planning Scheme No. 2" – "Applications Policy No. 2.1", all development applications:

- must be submitted in a digital and hard copy format (including a copy of the Metropolitan Region Scheme Form 1, architectural drawings and supporting documentation) (**Applicant's Documents**); and
- for new buildings and major alterations and additions to the exterior of an existing building (and for relatively minor applications, where considered appropriate), must include a 3D digital model in a format stipulated by the City (Applicant's Model).

Once submitted to the City, the Applicant's Model and Documents will be used and managed by the City as detailed in this policy.

2.1 Ownership

All intellectual property rights, including copyright, in the Applicant's Model and Documents remains the property of the applicant (or their agents) unless otherwise assigned (Application Copyright Owner).



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2.2 Licence

Upon the submission of a development application, the Application Copyright Owner grants the City a perpetual, irrevocable, free licence which allows the City to:

- **Use** the Applicant's Model and Documents (or extracts of these) without charge as the City deems necessary, including without limitation Use for the purpose of considering the development application. This includes the Applicant's Model and Documents regardless of whether these were provided (a) upon the submission of a development application or (b) subsequently in relation to the development application;
- incorporate the Applicant's Model into the City's Model. This includes permitting the City to **Use** and license the Applicant's Model as part of the City's Model as detailed in this policy; and
- **Use** the Applicant's Model as the City requires ensuring that the Applicant's Model conforms to the City's Model in terms of technical requirements, and that the Applicant's Model that is included in the City's Model is as up-to-date and accurate as possible.

2.3 Access

All information contained in the Applicant's Model and Documents may be made publicly available unless the City is of the view that it is exempt for reasons of confidentiality, security or privilege. The applicant must provide the City with reasons supporting any claim of confidentiality, security or privilege. While the City may consider the applicant's reasons, the City is entitled to make a decision as to any exemption as the City sees fit.

Notwithstanding the above, the sections of the Applicant's Model and Documents that are required to be advertised under the provisions of "City of Perth City Planning Scheme No. 2" may be made publicly available and may be displayed on the web site.

2.4 Moral Rights

The City recognises that one or more of the Application Copyright Owners (or other persons) may be the author(s) of the Applicant's Model and Documents (Application Moral Rights Holders), and have moral rights that subsist over part or all of the Applicant's Model and Documents. The City does not wish to infringe the moral rights of any Application Moral Rights Holder in relation to the City's Use of the Applicant's Model and Documents.

Accordingly, the City will attribute the author on the Applicant's Model and Documents, where it is reasonable to do so. Notwithstanding this, in relation to the relevant portion of the Applicant's



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Model and Documents, each Application Moral Rights Holder consents to the following (which otherwise may be an infringement of the Application Moral Rights Holder's moral rights):

- the Application Moral Rights Holder may not be attributed as the author of the Applicant's Model and Documents (as applicable); and
- the City may at any time Use the Applicant's Model (as part of the City's Model) or remove the Applicant's Model from the City's Model as the City sees fit.

2.5 Warranty

The applicant must warrant that it is the Application Copyright Owner and Moral Rights Holder of the development application submitted and that the development application submitted does not infringe the intellectual property rights of any third person OR, if the applicant is not the Application Copyright Owner and Application Moral Rights Holder of the development application, the applicant must warrant that the Applicant's Documents and Model submitted does not infringe the intellectual property rights of any third person and that the applicant has:

- provided all Application Copyright Owner(s) and Application Moral Rights Holders(s) (**Application Relevant Parties**) of the development application with a copy of the Applications Policy No 2.1 and this policy;
- obtained a written acknowledgement from each Application Relevant Party that it has read, understood and agreed to the Applications Policy No 2.1 and this policy; and
- been authorised by each Application Relevant Party to make this declaration on that Application Relevant Party's behalf.

The applicant must also indemnify and hold harmless the City against all losses, expenses, damages and costs resulting from any breach of the warranty above.

3. CONTRIBUTED 3D DIGITAL MODELS

Any person (Contributor) may submit a 3D digital model to the City which does not form part of a development application (Contributor's Model).

Once submitted to the City, the Contributor's Model will be treated by the City as detailed in this policy.



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3.1 Ownership

All intellectual property rights, including copyright, in the Contributor's Model remains the property of the contributor (or their agents) unless otherwise assigned (Contribution Copyright Owner).

3.2 Licence

Upon the submission of a contributed 3D Digital Model, the Contribution Copyright Owner grants the City a perpetual, irrevocable, free licence which allows the City to:

- **Use** the Contributor's Model (or parts of it) without charge as the City deems necessary;
- incorporate the Contributor's Model into the City's Model. This includes permitting the City to **Use** and license the Contributor's Model as part of the City's Model as detailed in this policy; and
- **Use** the Contributor's Model as the City requires ensuring that the Contributor's Model conforms to the City's Model in terms of technical requirements, and that the Contributor's Model that is included in the City's Model is as up-to-date and accurate as possible.

3.3 Moral Rights

The City recognises that one or more of the Contribution Copyright Owners (or other persons) may be the author(s) of the Contributor's Model (**Contribution Moral Rights Holders**), and have moral rights that subsist over part or all of the Contributor's Model. The City does not wish to infringe the moral rights of any Contribution Moral Rights Holder in relation to the City's Use of the relevant portion of the Contributor's Model.

Accordingly the City will attribute the author on the Contributor's Model, where it is reasonable to do so. Notwithstanding this, in relation to the relevant portion of the Contributor's Model, each Contribution Moral Rights Holder consents to the following (which otherwise may be an infringement of the Contribution Moral Rights Holder's moral rights):

- the Contribution Moral Rights Holder may not be attributed as the author of the Contributor's Model (as applicable); and
- the City may at any time Use the Contributor's Model (as part of the City's Model) or remove the Contributor's Model from the City's Model as the City sees fit.



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3.4 Warranty

The Contributor must warrant that it is the Contribution Copyright Owner and Contribution Moral Rights Holder of the model submitted OR, if the Contributor is not the Contribution Copyright Owner and Contribution Moral Rights Holder of the model submitted, it must warrant that the submitted model does not infringe the intellectual property rights of any third person and that the Contributor has:

- provided all Contribution Copyright Owner(s) and Contribution Moral Rights Holders(s) (**Contribution Relevant Parties**) of the model with a copy of this policy;
- obtained a written acknowledgement from each Contribution Relevant Party that it has read, understood and agreed to this policy; and
- been authorised by each Contribution Relevant Party to make this declaration on that Contribution Relevant Party's behalf.

The Contributor must also indemnify and hold harmless the City against all losses, expenses, damages and costs resulting from any breach of the warranty above.

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