



Western Australia

APPENDIX 2

ATTACHMENT 1

Planning and Development Act 2005

## **Planning and Development (Local Planning Schemes) Regulations 2015**

---

As at 25 Aug 2015

Version 00-a0-01

Extract from [www.slp.wa.gov.au](http://www.slp.wa.gov.au), see that website for further information



Western Australia

# Planning and Development (Local Planning Schemes) Regulations 2015

## Contents

### Part 1 — Preliminary

- |    |              |   |
|----|--------------|---|
| 1. | Citation     | 1 |
| 2. | Commencement | 1 |

### Notes

- |  |  |   |
|--|--|---|
|  | Compilation table                            | 2 |
|  | Provisions that have not come into operation | 2 |



Western Australia

Planning and Development Act 2005

## **Planning and Development (Local Planning Schemes) Regulations 2015**

### **Part 1 — Preliminary**

#### **1. Citation**

These regulations are the *Planning and Development (Local Planning Schemes) Regulations 2015*.

#### **2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 19 October 2015.

*[3-7. Have not come into operation<sup>2</sup>.]*

*[Parts 2-9 Have not come into operation<sup>2</sup>.]*

*[Schedules 1-3 Have not come into operation<sup>2</sup>.]*

## Notes

- <sup>1</sup> This is a compilation of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The following table contains information about those regulations <sup>1a</sup>.

### Compilation table

Citation	Gazettal	Commencement
<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> r. 1 and 2	25 Aug 2015 p. 3401-595	25 Aug 2015 (see r. 2(a))

- <sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

### Provisions that have not come into operation

Citation	Gazettal	Commencement
<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> r. 3-7, Pt. 2-9 and Sch. 1-3 <sup>2</sup>	25 Aug 2015 p. 3401-595	19 Oct 2015 (see r. 2(b))

- <sup>2</sup> On the date as at which this compilation was prepared, the *Planning and Development (Local Planning Schemes) Regulations 2015* r. 3-7, Pt. 2-9 and Sch. 1-3 had not come into operation. They read as follows:

#### 3. Terms used

In these regulations —

**authorised person** means a person or body designated under regulation 4 as an authorised person for the purposes of the regulation in which the expression is used;

**Department** means the department of the Public Service principally assisting the Minister in the administration of the Act;

**development contribution plan** means a plan prepared under regulation 71;

**local planning scheme documents** means the documents referred to in regulation 8 that comprise a local planning scheme;

**scheme area** means an area described in a local planning scheme as the area to which the scheme applies;

**scheme map** means the map or set of maps referred to in regulation 9(1) that are designated as the scheme map for a local planning scheme.

Note: Note the *Electronic Transactions Act 2011* section 9 in relation to information that is to be given in writing.

**4. Authorised persons**

- (1) Subject to subregulation (2), the Minister may, by notice in writing, designate any of the following persons or bodies to be an authorised person for the purposes of one or more of these regulations —
  - (a) an officer employed in the office of the Minister;
  - (b) the chief executive officer;
  - (c) an officer of the Department nominated in writing for the purposes of this regulation by the chief executive officer;
  - (d) the Commission;
  - (e) a person who is a member of the board;
  - (f) the Secretary to the Commission appointed under section 21 of the Act;
  - (g) a committee established under Schedule 2 of the Act.
- (2) The designation is subject to any conditions, qualifications, limitations or exceptions specified in the notice.
- (3) The Minister may, by notice in writing, amend or revoke a designation made under this regulation.

**5. Provision of documents to the Commission**

If documents must be provided to the Commission under these regulations the documents must be provided in a manner and form approved by the Commission.

**6. Scheme in respect of Crown land**

- (1) The Commission must, as soon as is practicable after resolving to prepare a scheme in respect of Crown land under section 97 of the Act, provide written notice of the resolution to each local government affected by the resolution.
- (2) These regulations, so far as consistent and applicable, apply to the preparation of a scheme in respect of Crown land under section 97 of the Act as if —
  - (a) the Commission were a local government; and
  - (b) the scheme were a local planning scheme.

**7. Scheme by order of Minister**

These regulations, so far as consistent and applicable, apply to the preparation of a local planning scheme or an amendment to a local planning scheme ordered by the Minister under section 76 or 77A of the Act in the same way as they apply to the preparation of any other local planning scheme or amendment.

**Part 2 — Elements of local planning schemes**

**8. Contents of local planning scheme**

- (1) The documents that comprise a local planning scheme are the following —
  - (a) the scheme map for the local planning scheme;
  - (b) the local planning scheme text;
  - (c) if any of the provisions set out in Schedule 2 have not been incorporated into the local planning scheme text — those provisions;
  - (d) any supporting plans, maps, diagrams, illustrations and other material.
- (2) The Commission may specify any supporting plans, maps, diagrams, illustrations and other material that are to be included in a local planning scheme.

**9. Defining area of local planning scheme**

- (1) The area to which a local planning scheme applies is to be set out in a map or set of maps designated as the scheme map.
- (2) Each map that comprises the scheme map must be prepared —
  - (a) in a manner and form approved by the Commission; and
  - (b) using legends —
    - (i) set out in Schedule 3; or
    - (ii) approved by the Minister.

**10. Local planning scheme text**

- (1) The provisions in Schedules 1 and 2 are prescribed for the purposes of section 256 of the Act.
- (2) The provisions in Schedule 1 are model provisions, being provisions to which section 257A of the Act applies.

Note: Under section 257A of the Act model provisions prescribed by regulations that are in force at the time a local planning scheme is prepared or adopted, and that apply to the scheme, are to be included in the scheme unless the Minister otherwise approves.
- (3) In Schedule 1 —



*clause*, followed by a number, means the clause of that number in Schedule 1 as it is included in the local planning scheme;

*deemed provisions* means the provisions set out in Schedule 2;

*Part*, followed by a number, means the Part of that number in Schedule 1 as it is included in the local planning scheme;

*this Scheme*, when used in a provision, is to be taken to be a reference to the local planning scheme in which the provision is included.

- (4) The provisions in Schedule 2 are deemed provisions, being provisions to which section 257B of the Act applies, and are applicable to all local planning schemes, whether or not they are incorporated into the local planning scheme text.

Note: Under section 257B of the Act deemed provisions, as amended from time to time, have effect and may be enforced as part of each local planning scheme to which they apply, whether they are prescribed before or after the scheme comes into force.

If a deemed provision is inconsistent with another provision of a local planning scheme to which the deemed provision applies, the deemed provision prevails and the other provision, to the extent of the inconsistency, is of no effect.

- (5) In Schedule 2 —

*clause*, followed by a number, means the clause of that number in Schedule 2 as it applies to the local planning scheme;

*Part*, followed by a number, means the Part of that number in Schedule 2 as it applies to the local planning scheme;

*this Scheme*, when used in a provision, is to be taken to be a reference to the local planning scheme in respect of which the provision has effect and may be enforced as part of.

- (6) The provisions of a local planning scheme that supplement the provisions set out in Schedules 1 and 2, or vary a provision set out in Schedule 1, are to be set out in the manner and form required by the Minister or an authorised person.

Note: Section 73(2A) of the Act provides for a local planning scheme to supplement provisions set out in Schedules 1 and 2 and deal with special circumstances or contingencies for which adequate provision has not been made in those Schedules.

### **Part 3 — Local planning strategies**

#### **11. Requirement for local planning strategy for local planning scheme**

- (1) A local government must prepare a local planning strategy in accordance with this Part for each local planning scheme that is approved for land within the district of the local government.
- (2) A local planning strategy must —
- (a) set out the long-term planning directions for the local government; and

- (b) apply any State or regional planning policy that is relevant to the strategy; and
  - (c) provide the rationale for any zoning or classification of land under the local planning scheme.
- (3) A local planning strategy may be prepared concurrently with the local planning scheme to which it relates.

**12. Certification of draft local planning strategy**

- (1) Before advertising a draft local planning strategy under regulation 13 the local government must provide a copy of the strategy to the Commission.
- (2) On receipt of a copy of a draft local planning strategy the Commission must, as soon as reasonably practicable, assess the strategy for compliance with regulation 11(2).
- (3) If the Commission is not satisfied that a draft local planning strategy complies with regulation 11(2) the Commission may, by notice in writing, require the local government to —
  - (a) modify the draft strategy; and
  - (b) provide a copy of the draft strategy as modified to the Commission for assessment under subregulation (2).
- (4) If the Commission is satisfied that a draft local planning strategy complies with regulation 11(2) it must certify the strategy accordingly and provide a copy of the certification to the local government for the purpose of proceeding to advertise the strategy.

**13. Advertising and notifying local planning strategy**

- (1) A local government must, as soon as reasonably practicable after being provided with certification that a local planning strategy complies with regulation 11(2), advertise the strategy as follows —
  - (a) publish a notice of the local planning strategy in a newspaper circulating in the area to which the strategy relates, giving details of —
    - (i) where the strategy may be inspected; and
    - (ii) to whom, in what form and during what period submissions may be made;
  - (b) display a copy of the notice in the offices of the local government for the period for making submissions set out in the notice;

- (c) give a copy of the notice to each public authority that the local government considers is likely to be affected by the strategy;
  - (d) publish a copy of the notice and the strategy on the website of the local government;
  - (e) advertise the strategy as directed by the Commission and in any other way the local government considers appropriate.
- (2) The local government must ensure that arrangements are in place for the local planning strategy to be made available for inspection by the public during office hours —
  - (a) at the office of the local government; and
  - (b) at the office of the Commission.
- (3) The period for making submissions in relation to a local planning strategy must not be less than a period of 21 days commencing on the day on which the notice of the strategy is published under subregulation (1)(a).
- (4) Notice of a local planning strategy as required under subregulation (1) may be given in conjunction with the notice to be given under regulation 20(1) for the scheme to which it relates.

**14. Consideration of submissions**

- (1) After the expiry of the period within which submissions may be made in relation to a local planning strategy, the local government must review the strategy having regard to any submissions made.
- (2) The local government may —
  - (a) support the local planning strategy without modification; or
  - (b) support the local planning strategy with proposed modifications to address issues raised in the submissions.
- (3) After the completion of the review of the local planning strategy the local government must submit to the Commission —
  - (a) a copy of the advertised local planning strategy; and
  - (b) a schedule of the submissions received; and
  - (c) particulars of any modifications to the advertised local planning strategy proposed by the local government.

**15. Endorsement by Commission**

- (1) Within 60 days of the receipt of the documents referred to in regulation 14(3) the Commission may —
  - (a) endorse the strategy without modification; or

- (b) endorse the strategy with some or all of the modifications proposed by the local government; or
  - (c) require the local government to modify the strategy in the manner specified by the Commission before the strategy is resubmitted to the Commission for endorsement; or
  - (d) refuse to endorse the strategy.
- (2) The Minister or an authorised person may extend the time referred to in subregulation (1).

**16. Publication of endorsed local planning strategy**

- (1) If the Commission endorses a local planning strategy the Commission must publish the strategy in any manner the Commission considers appropriate.
- (2) The local government —
- (a) must ensure that an up-to-date copy of the local planning strategy is kept and made available for public inspection during business hours at the offices of the local government; and
  - (b) may publish an up-to-date copy of the local planning strategy on the website of the local government.

**17. Amendment to local planning strategy**

- (1) A local planning strategy may be amended by an amendment to the strategy prepared by the relevant local government and endorsed by the Commission.
- (2) This Part, with any necessary changes, applies to the preparation and endorsement of an amendment to a local planning strategy in the same way as it applies to the preparation and endorsement of a local planning strategy.

**18. Revocation of local planning strategy**

A local planning strategy may be revoked —

- (a) by a subsequent local planning strategy that —
  - (i) is prepared in accordance with this Part; and
  - (ii) expressly revokes the local planning strategy;or
- (b) with the approval of the Commission, by a notice of revocation —
  - (i) prepared by the local government; and
  - (ii) published in a newspaper circulating in the area to which the strategy relates.

## Part 4 — Preparation or adoption of local planning scheme

### Division 1 — Proposal to prepare or adopt local planning scheme

#### 19. Resolution to prepare or adopt scheme

- (1) A resolution of a local government to prepare or adopt a local planning scheme must be in a form approved by the Commission.  
Note: Section 72(1) of the Act provides for a local government to prepare a local planning scheme or to adopt a local planning scheme proposed by the owners of land in respect of which the local government might have prepared a scheme.
- (2) The local government may resolve not to adopt a local planning scheme proposed by a landowner if the local government is not satisfied that there is in place an agreement for the local government to use any copyrighted material provided in support of the proposed scheme —
  - (a) for the purpose of preparing and implementing the scheme; and
  - (b) for zero remuneration.

#### 20. Notification of resolution

- (1) A local government must, as soon as is reasonably practicable after passing a resolution to prepare or adopt a local planning scheme, advertise the resolution as follows —
  - (a) publish a notice in a form approved by the Commission in a newspaper circulating in the district of the local government;
  - (b) provide a copy of the published notice to the following persons or bodies for recommendations —
    - (i) the local government of each district that adjoins the local government district;
    - (ii) each licensee under the *Water Services Act 2012* likely to be affected by the scheme;
    - (iii) the chief executive officer of the department of the Public Service principally assisting in the administration of the *Conservation and Land Management Act 1984*;
    - (iv) each other public authority likely to be affected by the scheme.

Note: Under section 81 of the Act written notice of the resolution and written information about the local planning scheme must be given to the EPA.

- (2) A local government must, on the provision of the published notice to a person or body referred to in subregulation (1)(b), request the person or body to provide to the local government within 21 days

or such longer period as the local government allows, a memorandum in writing setting out any recommendations in respect of the resolution.

- (3) If a person or body does not provide a memorandum within the time allowed under subregulation (2), the local government may determine that the person or body is to be taken to have no recommendations to make in respect of the resolution.

**Division 2 — Advertising local planning scheme**

**21. Resolution to proceed to advertise draft local planning scheme**

- (1) On completion of the preparation of local planning scheme documents or the consideration of local planning scheme documents proposed by an owner of land in the scheme area, a local government must resolve —
  - (a) to proceed to advertise the draft local planning scheme without modification; or
  - (b) to proceed to advertise the draft local planning scheme with modifications; or
  - (c) not to proceed to advertise the draft local planning scheme.
- (2) If the local government resolves to proceed to advertise a draft local planning scheme the local government must, before advertising the scheme, submit 2 copies of the draft local planning scheme documents to the Commission.
- (3) The documents referred to in subregulation (2) must be submitted within 21 days of the local government resolution or such longer period as the Commission allows.
- (4) The Commission must, within 90 days or such longer period as the Minister or an authorised person allows, of receiving the documents submitted under subregulation (2), examine the documents and advise the local government if the Commission considers that any modification to the documents is required before the draft local planning scheme is advertised.
- (5) If the local government resolves not to proceed to advertise a draft local planning scheme the local government must, within 21 days or such longer period as the Commission allows, provide a copy of the resolution to the Commission.

**22. Advertisement of local planning scheme**

- (1) Subject to sections 81 and 82 of the Act, if the Commission advises a local government that it is satisfied that a draft local planning scheme submitted by the local government is suitable to

be advertised, the local government must, as soon as is reasonably practicable, prepare a notice in a form approved by the Commission giving details of —

- (a) the purpose of the draft scheme; and
  - (b) where the draft scheme may be inspected; and
  - (c) to whom and during what period submissions in respect of the draft scheme may be made.
- (2) On completion of the preparation of the notice, the local government must advertise the draft local planning scheme for public inspection as follows —
- (a) publish the notice in a newspaper circulating in the scheme area;
  - (b) display a copy of the notice in the offices of the local government for the period for making submissions set out in the notice;
  - (c) give a copy of the notice to each public authority that the local government considers is likely to be affected by the scheme;
  - (d) publish a copy of the notice and the draft scheme on the website of the local government;
  - (e) advertise the draft scheme as directed by the Commission and in any other way the local government considers appropriate.
- (3) The local government must ensure that arrangements are in place for the local planning scheme documents to be made available for inspection by the public during office hours —
- (a) at the office of the local government; and
  - (b) at the office of the Commission.
- (4) The period for making submissions set out in the notice referred to in subregulation (1) must be not less than —
- (a) a period of 90 days commencing on the day on which the notice is published under subregulation (2)(a); or
  - (b) if the draft local planning scheme does not involve the zoning or classification of land — a shorter period approved by the Commission.

**23. Land owner may be required to pay costs of publication**

The local government may require a person to pay the cost of the publication of a notice under regulation 22(2) if —

- (a) the notice relates to a draft local planning scheme in respect of land owned by the person; and
- (b) the person proposed the draft scheme.

**24. Submissions on local planning scheme**

- (1) A submission on a draft local planning scheme must —
  - (a) be made to the local government in a form approved by the Commission; and
  - (b) state the name and address of the person making the submission; and
  - (c) include a statement about the capacity in which the person makes the submission.
- (2) A local government must acknowledge in writing the receipt of each submission received by it.

**25. Consideration of submissions**

- (1) In this regulation —

**consideration period**, in relation to a draft local planning scheme, means the period ending on the latest of the following days —

  - (a) the day that is 120 days after the end of the submission period for the draft scheme;
  - (b) the day that is 21 days after the receipt of a statement in respect of the draft scheme delivered under section 48F(2)(a) of the EP Act;
  - (c) the day that is 21 days after the receipt of a statement in respect of the draft scheme delivered under section 48G(3) of the EP Act if that statement is in response to a request by the local government made under section 48G(1) of the EP Act before the later of the days set out in paragraphs (a) and (b);
  - (d) a day approved by the Commission;

**submission period**, in relation to a draft local planning scheme, means the period for making submissions specified in the notice in respect of the draft scheme referred to in regulation 22(1).
- (2) The local government —
  - (a) must consider all submissions on a draft local planning scheme lodged with the local government within the submission period; and
  - (b) may, at the discretion of the local government, consider submissions on a draft scheme lodged after the end of the submission period but before the end of the consideration period.
- (3) Before the end of the consideration period for a draft local planning scheme, or a later date approved by the Commission, the local government must pass a resolution —
  - (a) to support the draft scheme without modification; or



- (b) to support the draft scheme with proposed modifications to address issues raised in the submissions; or
  - (c) not to support the draft scheme.
- (4) If no submissions have been received within the submission period, the resolution referred to in subregulation (3) must be passed as soon as is reasonably practicable after the end of the submission period.

**26. Local government may advertise proposed modifications to draft local planning scheme**

- (1) The local government may decide to advertise a proposed modification to the draft local planning scheme if —
  - (a) the local government proposes the modification to address issues raised in submissions made on the draft scheme; and
  - (b) the local government is of the opinion that the proposed modifications are significant.
- (2) If a local government makes a decision under subregulation (1) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the draft local planning scheme.
- (3) A proposed modification to a draft local planning scheme may not be advertised on more than one occasion without the approval of the Commission.
- (4) Any advertisement of a proposed modification to the draft local planning scheme must include a notice specifying —
  - (a) the proposed modifications to be made to the advertised local planning scheme; and
  - (b) where the advertised scheme and the proposed modifications may be inspected; and
  - (c) to whom and during what period submissions may be made; and
  - (d) the manner and form in which submissions may be made.
- (5) The period for making submissions specified in the notice referred to in subregulation (4) must be a period of not less than 60 days commencing on the day on which the notice is first given or a longer period approved by the Commission.
- (6) A person may make a submission on a proposed modification to a draft local planning scheme that has been advertised in accordance with subregulation (2) —
  - (a) in the manner and form specified in the notice; and

- (b) within the period specified in the notice.
- (7) If a proposed modification to a draft local planning scheme is advertised in accordance with this regulation, a local government —
  - (a) must consider all submissions on the proposed modification made to the local government within the period specified in the notice; and
  - (b) may, at the discretion of the local government, consider submissions on the proposed modification made to the local government after the end of the period specified in the notice; and
  - (c) must make a recommendation in respect of each submission considered.

**27. Incorporation of environmental conditions**

If a local government receives a statement in respect of a draft local planning scheme delivered under section 48F(2) of the EP Act after passing a resolution to support the draft scheme but before complying with regulation 28, the local government must amend the local planning scheme documents —

- (a) to incorporate the conditions set out in the statement; or
- (b) if as the result of a request by the local government under section 48G(1) of the EP Act a statement is delivered to the local government under section 48G(3) of the EP Act, to incorporate the conditions set out in that later statement.

**28. Information on draft local planning scheme to be provided to the Commission**

- (1) After passing a resolution under regulation 25(3) the local government must provide the advertised local planning scheme documents to the Commission together with the following —
  - (a) a schedule of submissions made on the draft scheme;
  - (b) the response of the local government to each submission;
  - (c) particulars of each modification to the draft scheme proposed by the local government in response to the submissions;
  - (d) if any proposed modification to the scheme was advertised —
    - (i) an explanation of the reasons for advertising the modification; and
    - (ii) particulars of how the modification was advertised; and

- (iii) a schedule of submissions made on the proposed modifications; and
    - (iv) the recommendation of the local government in accordance with regulation 26(7)(c) in respect of each submission;
  - (e) a copy of the resolution passed under regulation 25(3);
  - (f) if that resolution was a resolution under regulation 25(3)(c) — a summary of the reasons why the local government does not support the draft scheme;
  - (g) details of any provision in the draft scheme that varies or excludes a provision set out in Schedule 1;
  - (h) details of any provision in the draft scheme that supplements a provision set out in Schedule 2;
  - (i) any relevant maps, plans, specifications and particulars required by the Commission.
- (2) A schedule of submissions referred to in subregulation (1)(a) and (d)(iii) must include —
- (a) the name and address of the person making the submission; and
  - (b) where it is relevant, a description of the property that is the subject of the submission; and
  - (c) the submission or a summary of the submission.
- (3) The documents referred to in subregulation (1) must be provided to the Commission —
- (a) in the case of a resolution to support a draft local planning scheme without modification or not to support a draft local planning scheme — within 21 days of passing the resolution; or
  - (b) in the case of a resolution to support a draft local planning scheme with proposed modifications —
    - (i) if the local government decides not to advertise the proposed modification — within 21 days of passing the resolution; or
    - (ii) otherwise — within 21 days of complying with regulation 26(7);
- or
- (c) if the Commission in any case approves a longer period — within that longer period.

**29. Commission to submit draft local planning scheme and recommendations to Minister**

The Commission must, within 120 days of receiving the documents provided to it under regulation 28(1), or within such longer period as the Minister or an authorised person allows —

- (a) consider the documents; and
- (b) make any recommendations to the Minister in respect of the draft local planning scheme that the Commission considers appropriate; and
- (c) submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.

**30. Minister or authorised person may direct modifications to draft local planning scheme be advertised**

- (1) Before a decision is made under section 87 of the Act, the Minister or an authorised person may direct the local government to advertise modifications to a draft local planning scheme if —
  - (a) the local government proposes, or the Commission recommends, that the scheme that was advertised under regulation 22 be modified; and
  - (b) the Minister or authorised person is of the opinion that the modification is significant.
- (2) The direction must include details of the process to be followed in respect of the advertisement including timeframes for —
  - (a) the making and consideration of submissions on the modifications; and
  - (b) providing recommendations to the Minister or authorised person following the advertisement.
- (3) If a local government is given a direction under subregulation (1), the local government must advertise the modification to a local planning scheme as directed by the Minister or authorised person.

**Division 3 — Giving effect to decision on local planning scheme**

**31. Giving effect to Minister's decision**

- (1) If a local government is notified that the Minister has, under section 87(2)(c) of the Act, refused to approve a local planning scheme, the local government must, as soon as is reasonably practicable, notify each person who made a submission in relation to the local planning scheme of that refusal.
- (2) Within 42 days of being notified that, under section 87(2)(b) of the Act, the Minister requires the local government to modify the draft

local planning scheme, or a longer period approved by the Minister or authorised person, the local government must —

- (a) modify the draft scheme as required; and
  - (b) execute the modified local planning scheme documents; and
  - (c) submit to the Minister a copy of the executed documents.
- (3) If the local government is notified that the Minister has, under section 87(2)(a) of the Act, approved the local planning scheme, the local government must provide to the Commission for endorsement such copies of the local planning scheme as the Commission requires, including not less than 2 copies of the local planning scheme documents that have been executed by the local government.
- (4) The documents referred to in subregulation (3) must be provided within 14 days of the local government being notified of the Minister's approval, or a longer period approved by the Commission.

**32. Endorsement of local planning scheme**

- (1) The Commission must endorse each of the copies of the local planning scheme that has been executed by the local government and submit one of those copies to the Minister.
- (2) The Minister must endorse the copy of the local planning scheme with the Minister's approval and return it to the Commission.
- (3) A person authorised in writing by the Commission may certify that a copy of a local planning scheme is a true copy of a local planning scheme as approved by the Minister.

**33. Advertisement of approved local planning scheme**

- (1) The Commission must provide to the relevant local government a copy of the notice of a local planning scheme published in the *Gazette* under section 87(3) of the Act.
- (2) The local government must —
  - (a) publish a copy of the notice in a newspaper circulating in the scheme area; and
  - (b) notify each person who made a submission in relation to the local planning scheme —
    - (i) that the local planning scheme has been approved; and
    - (ii) where a copy of the approved local planning scheme can be obtained.

## Part 5 — Amending local planning scheme

### Division 1 — Preliminary

#### 34. Terms used

In this Part —

**basic amendment** means any of the following amendments to a local planning scheme —

- (a) an amendment to correct an administrative error;
- (b) an amendment to the scheme so that it is consistent with the model provisions in Schedule 1 or with another provision of the local planning scheme;
- (c) an amendment to the scheme text to delete provisions that have been superseded by the deemed provisions in Schedule 2;
- (d) an amendment to the scheme so that it is consistent with any other Act that applies to the scheme or the scheme area;
- (e) an amendment to the scheme so that it is consistent with a State planning policy;
- (f) an amendment to the scheme map to include a boundary to show the land covered by an improvement scheme or a planning control area;
- (g) an amendment to the scheme map that is consistent with a structure plan, activity centre plan or local development plan that has been approved under the scheme for the land to which the amendment relates if the scheme currently includes zones of all the types that are outlined in the plan;
- (h) an amendment that results from a consolidation of the scheme in accordance with section 92(1) of the Act;
- (i) an amendment to the scheme so that it is consistent with a region planning scheme that applies to the scheme area if the amendment will have minimal effect on the scheme or landowners in the scheme area;

**complex amendment** means any of the following amendments to a local planning scheme —

- (a) an amendment that is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
- (b) an amendment that is not addressed by any local planning strategy;

- (c) an amendment relating to development that is of a scale, or will have an impact, that is significant relative to development in the locality;
- (d) an amendment made to comply with an order made by the Minister under section 76 or 77A of the Act;
- (e) an amendment to identify or amend a development contribution area or to prepare or amend a development contribution plan;

**standard amendment** means any of the following amendments to a local planning scheme —

- (a) an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;
- (b) an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
- (c) an amendment to the scheme so that it is consistent with a region planning scheme that applies to the scheme area, other than an amendment that is a basic amendment;
- (d) an amendment to the scheme map that is consistent with a structure plan, activity centre plan or local development plan that has been approved under the scheme for the land to which the amendment relates if the scheme does not currently include zones of all the types that are outlined in the plan;
- (e) an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;
- (f) an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;
- (g) any other amendment that is not a complex or basic amendment.

Note: Under section 257B of the Act and regulation 10(4) the provisions in Schedule 2 are deemed provisions and have effect and may be enforced as part of each local planning scheme. Incorporation of the provisions set out in Schedule 2 into the text of a local planning scheme is not an amendment of the local planning scheme.

**35. Resolution to prepare or adopt amendment to local planning scheme**

- (1) A resolution of a local government to prepare or adopt an amendment to a local planning scheme must be in a form approved by the Commission.

Note: Section 75 of the Act provides for a local government to amend a local planning scheme or adopt an amendment to a local planning scheme proposed by all or any of the owners of land in the scheme area.

- (2) A resolution must —
  - (a) specify whether, in the opinion of the local government, the amendment is a complex amendment, a standard amendment or a basic amendment; and
  - (b) include an explanation of the reason for the local government forming that opinion.
- (3) An amendment to a local planning scheme must be accompanied by all documents necessary to convey the intent and reasons for the amendment.
- (4) The local government may refuse to adopt an amendment to a local planning scheme proposed by a landowner if the local government is not satisfied that there is in place an agreement for the local government to use any copyrighted material provided in support of the proposed amendment —
  - (a) for the purpose of preparing and implementing the amendment; and
  - (b) for zero remuneration.

**36. Landowner may request Commission's advice on type of amendment**

- (1) A landowner may request the Commission to advise whether, in the opinion of the Commission, the amendment is a complex amendment, a standard amendment or a basic amendment if —
  - (a) the landowner has requested the amendment; and
  - (b) the landowner considers that the resolution made by the local government in respect of the amendment does not appropriately specify the amendment as being of a particular type.
- (2) If the Commission advises the local government that, in its opinion, the amendment is of a different type to that specified by the local government in the resolution, the local government must amend the resolution accordingly.

**Division 2 — Process for complex amendments to local planning scheme**

**37. Resolution to proceed to advertise complex amendment**

- (1) On completion of the preparation of a complex amendment to a local planning scheme or the consideration of a complex amendment to a local planning scheme proposed by an owner of land in the scheme area, the local government must resolve —



- (a) to proceed to advertise the amendment to the local planning scheme without modification; or
  - (b) to proceed to advertise the amendment to the local planning scheme with modifications; or
  - (c) not to proceed to advertise the amendment to the local planning scheme.
- (2) If the local government resolves to proceed to advertise a complex amendment to a local planning scheme the local government must, before advertising the amendment, submit 2 copies of the proposed amendment to the Commission.
- (3) The documents referred to in subregulation (2) must be submitted within 21 days of the local government resolution or such longer period as the Commission allows.
- (4) The Commission must, within 60 days or such longer period as the Minister or an authorised person allows, of receiving the documents submitted under subregulation (2), examine the documents and advise the local government if the Commission considers that any modification to the documents is required before the amendment to the local planning scheme is advertised.
- (5) If the local government resolves not to proceed to advertise a complex amendment to a local planning scheme the local government must within 21 days, or such longer period as the Commission allows, provide a copy of the resolution to the Commission.

**38. Advertisement of complex amendment**

- (1) Subject to sections 81 and 82 of the Act, if the Commission advises a local government that it is satisfied that a complex amendment to a local planning scheme submitted by the local government is suitable to be advertised, the local government must, as soon as is reasonably practicable, prepare a notice in a form approved by the Commission giving details of —
  - (a) the purpose of the amendment; and
  - (b) where the amendment may be inspected; and
  - (c) to whom and during what period submissions in respect of the amendment may be made.
- (2) On completion of the preparation of the notice, the local government must advertise the complex amendment to a local planning scheme as follows —
  - (a) publish the notice in a newspaper circulating in the scheme area;

- (b) display a copy of the notice in the offices of the local government for the period for making submissions set out in the notice;
  - (c) give a copy of the notice to each public authority that the local government considers is likely to be affected by the amendment;
  - (d) publish a copy of the notice and the amendment on the website of the local government;
  - (e) advertise the amendment as directed by the Commission and in any other way the local government considers appropriate.
- (3) The local government must ensure that arrangements are in place for the documents relating to the complex amendment to the local planning scheme to be made available for inspection by the public during office hours —
- (a) at the office of the local government;
  - (b) at the office of the Commission.
- (4) The period for submissions set out in a notice must be not less than a period of 60 days commencing on the day on which the notice is published in a newspaper circulating in the scheme area.

**39. Land owner may be required to pay costs of publication**

The local government may require a person to pay the cost of the publication of a notice under regulation 38(2) if —

- (a) the notice relates to an amendment to a local planning scheme in respect of land owned by the person; and
- (b) the person proposed the amendment to the local planning scheme.

**40. Submissions on complex amendment**

- (1) A submission on a complex amendment to a local planning scheme must —
- (a) be made in writing to the relevant local government in a form approved by the Commission; and
  - (b) state the name and address of the person making the submission; and
  - (c) include a statement about the capacity in which the person makes the submission.
- (2) A local government must acknowledge in writing the receipt of each submission received by it.

**41. Consideration of submissions on complex amendments**

- (1) In this regulation —

**consideration period**, in relation to a complex amendment to a local planning scheme, means the period ending on the latest of the following days —

- (a) the day that is 90 days after the end of the submission period for the amendment;
- (b) the day that is 21 days after the receipt of a statement in respect of the amendment delivered under section 48F(2)(a) of the EP Act;
- (c) the day that is 21 days after the receipt of a statement in respect of the amendment delivered under section 48G(3) of the EP Act if that statement is in response to a request by the local government made under section 48G(1) of the EP Act before the later of the days set out in paragraphs (a) and (b);
- (d) a day approved by the Commission;

**submission period**, in relation to a complex amendment to a local planning scheme, means the period for making submissions specified in the notice in respect of the amendment referred to in regulation 38(1).

- (2) The local government —
  - (a) must consider all submissions in relation to a complex amendment to a local planning scheme lodged with the local government within the submission period; and
  - (b) may, at the discretion of the local government, consider submissions in relation to the amendment lodged after the end of the submission period but before the end of the consideration period.
- (3) Before the end of the consideration period for a complex amendment to a local planning scheme, or a later date approved by the Commission, the local government must pass a resolution —
  - (a) to support the amendment to the local planning scheme without modification; or
  - (b) to support the amendment to the local planning scheme with proposed modifications to address issues raised in the submissions; or
  - (c) not to support the amendment to the local planning scheme.
- (4) If no submissions have been received within the submission period, the resolution referred to in subregulation (3) must be passed as soon as is reasonably practicable after the end of the submission period.

**42. Local government may advertise proposed modifications to complex amendment**

- (1) The local government may decide to advertise a modification to a complex amendment to a local planning scheme if —
  - (a) the local government proposes the modifications to address issues raised in submissions made on the amendment; and
  - (b) the local government is of the opinion that the proposed modification is significant.
- (2) If a local government makes a decision under subregulation (1), the local government must take any steps the local government considers appropriate to advertise the proposed modification to the amendment to the local planning scheme.
- (3) A proposed modification to an amendment to a local planning scheme may not be advertised on more than one occasion without the approval of the Commission.
- (4) Any advertisement of a proposed modification to the local planning scheme must include a notice specifying —
  - (a) the proposed modifications to be made to the advertised amendment to the local planning scheme; and
  - (b) where the amendment to the local planning scheme and the proposed modifications may be inspected; and
  - (c) to whom and during what period submissions may be made; and
  - (d) the manner and form in which submissions may be made.
- (5) The period for making submissions set out in the notice referred to in subregulation (4) must be a period of not less than 42 days commencing on the day on which the notice is first given or a longer period approved by the Commission.
- (6) A person may make a submission on a proposed modification to a complex amendment to a local planning scheme that has been advertised in accordance with subregulation (2) —
  - (a) in the manner and form specified in the notice included in the advertisement; and
  - (b) within the period specified in the notice.
- (7) If a proposed modification to an amendment to a local planning scheme is advertised in accordance with this regulation, a local government —
  - (a) must consider all submissions on the proposed modifications made to the local government within the period specified in the notice; and

- (b) may, at the discretion of the local government, consider submissions on the proposed modification made to the local government after the period specified in the notice; and
- (c) must make a recommendation in respect of each submission considered.

**43. Incorporation of environmental conditions**

If a local government receives a statement in respect of a complex amendment to a local planning scheme delivered under section 48F(2) of the EP Act after passing a resolution to support the amendment but before complying with regulation 44, the local government must amend the amendment documents —

- (a) to incorporate the conditions set out in the statement; or
- (b) if as the result of a request by the local government under section 48G(1) of the EP Act a statement is delivered to the local government under section 48G(3) of the EP Act, to incorporate the conditions set out in that later statement.

**44. Information on complex amendment to be provided to the Commission**

- (1) After passing a resolution under regulation 41(3) the local government must provide the advertised amendment to the local planning scheme to the Commission together with the following —
  - (a) a schedule of submissions made on the amendment;
  - (b) the response of the local government in respect of the submissions;
  - (c) particulars of each modification to the amendment proposed by the local government in response to the submissions;
  - (d) if any proposed modification to the amendment was advertised —
    - (i) an explanation of the reasons for advertising the modification; and
    - (ii) particulars of how the modification was advertised; and
    - (iii) a schedule of submissions made on the proposed modifications; and
    - (iv) the recommendation of the local government in accordance with regulation 42(7)(c) in respect of each submission;

- (e) a copy of the resolution passed under regulation 41(3);
  - (f) if that resolution was a resolution under regulation 41(3)(c) — a summary of the reasons why the local government does not support the amendment to the local planning scheme;
  - (g) details of any provision in the local planning scheme as it will be amended that varies or excludes a provision set out in Schedule 1;
  - (h) details of any provision in the local planning scheme as it will be amended that supplements a provision set out in Schedule 2;
  - (i) any relevant maps, plans, specifications and particulars required by the Commission.
- (2) A schedule of submissions referred to in subregulation (1)(a) and (d)(iii) must include the following —
- (a) the name and address of the person making the submission;
  - (b) where it is relevant, a description of the property that is the subject of the submission;
  - (c) the submission or a summary of the submission.
- (3) The documents referred to in subregulation (1) must be provided to the Commission —
- (a) in the case of a resolution to support an amendment to a local planning scheme without modification or not to support an amendment to a local planning scheme — within 21 days of passing the resolution; or
  - (b) in the case of a resolution to support an amendment to a local planning scheme with proposed modifications —
    - (i) if the local government decides not to advertise the proposed modification — within 21 days of passing the resolution; or
    - (ii) otherwise — within 21 days of complying with regulation 42(7);
- or
- (c) if the Commission in any case approves a longer period — within that longer period.

**45. Commission to submit complex amendment and recommendations to Minister**

The Commission must, within 90 days of receiving the documents provided to it under regulation 44(1), or within such longer period as the Minister or an authorised person allows —

- (a) consider the documents; and
- (b) make any recommendations to the Minister in respect of the amendment that the Commission considers appropriate; and
- (c) submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.

**46. Minister or authorised person may direct modifications to complex amendment be advertised**

- (1) Before a decision is made under section 87 of the Act, the Minister or an authorised person may direct the local government to advertise modifications to a complex amendment to a local planning scheme if —
  - (a) the local government proposes, or the Commission recommends, that the amendment that was advertised under regulation 38(2) be modified; and
  - (b) the Minister or authorised person is of the opinion that the modification is significant.
- (2) The direction must include details of the process to be followed in respect of the advertisement including timeframes for —
  - (a) the making and consideration of submissions on the modifications; and
  - (b) providing recommendations to the Minister or authorised person following the advertisement.
- (3) If a local government is given a direction under subregulation (1) the local government must advertise the modification to the amendment to the local planning scheme as directed by the Minister or authorised person.

**Division 3 — Process for standard amendments to local planning scheme**

**47. Advertisement of standard amendment**

- (1) Subject to sections 81 and 82 of the Act, if a local government resolves under regulation 35(1) to prepare a standard amendment to a local planning scheme or to adopt a standard amendment to a local planning scheme proposed by the owner of land in the scheme area, the local government must, as soon as is reasonably practicable, prepare a notice in a form approved by the Commission giving details of —
  - (a) the purpose of the amendment; and
  - (b) where the amendment may be inspected; and

- (c) to whom and during what period submissions in respect of the amendment may be made.
- (2) On completion of the preparation of the notice, the local government must advertise the standard amendment to a local planning scheme as follows —
  - (a) publish the notice in a newspaper circulating in the scheme area;
  - (b) display a copy of the notice in the offices of the local government for the period for making submissions set out in the notice;
  - (c) give a copy of the notice to each public authority that the local government considers is likely to be affected by the amendment;
  - (d) publish a copy of the notice and the amendment on the website of the local government;
  - (e) advertise the scheme as directed by the Commission and in any other way the local government considers appropriate.
- (3) The local government must ensure that the standard amendment to the local planning scheme is made available for inspection by the public during office hours at the office of the local government.
- (4) The period for submissions set out in a notice must be not less than a period of 42 days commencing on the day on which the notice is published in a newspaper circulating in the scheme area.

**48. Land owner may be required to pay costs of publication**

The local government may require a person to pay the cost of the publication of a notice under regulation 47(2) if —

- (a) the notice relates to an amendment to a local planning scheme in respect of land owned by the person; and
- (b) the person proposed the amendment to the local planning scheme.

**49. Submissions on standard amendment**

- (1) A submission on a standard amendment to a local planning scheme must —
  - (a) be made in writing to the relevant local government in a form approved by the Commission; and
  - (b) state the name and address of the person making the submission; and
  - (c) include a statement about the capacity in which the person makes the submission.



- (2) A local government must acknowledge in writing the receipt of each submission received by it.

**50. Consideration of submissions on standard amendments**

- (1) In this regulation —
- consideration period**, in relation to a standard amendment to a local planning scheme, means the period ending on the latest of the following days —
- (a) the day that is 60 days after the end of the submission period for the amendment;
  - (b) the day that is 21 days after the receipt of a statement in respect of the amendment delivered under section 48F(2)(a) of the EP Act;
  - (c) the day that is 21 days after the receipt of a statement in respect of the amendment delivered under section 48G(3) of the EP Act if that statement is in response to a request by the local government made under section 48G(1) of the EP Act before the later of the days set out in paragraphs (a) and (b);
  - (d) a day approved by the Commission;
- submission period**, in relation to a standard amendment to a local planning scheme, means the period for making submissions specified in the notice in respect of the amendment referred to in regulation 47(1).
- (2) The local government —
- (a) must consider all submissions in relation to a standard amendment to a local planning scheme lodged with the local government within the submission period; and
  - (b) may, at the discretion of the local government, consider submissions in relation to the amendment lodged after the end of the submission period but before the end of the consideration period.
- (3) Before the end of the consideration period for a standard amendment to a local planning scheme, or a later date approved by the Commission, the local government must pass a resolution —
- (a) to support the amendment without modification; or
  - (b) to support the amendment with proposed modifications to address issues raised in the submissions; or
  - (c) not to support the amendment.
- (4) If no submissions have been received within the submission period, the resolution referred to in subregulation (3) must be

passed as soon as is reasonably practicable after the end of the submission period.

**51. Local government may advertise proposed modifications to standard amendment**

- (1) The local government may decide to advertise a modification to a standard amendment to a local planning scheme if —
  - (a) the local government proposes the modification to address issues raised in submissions made on the amendment; and
  - (b) the local government is of the opinion that the proposed modification to the amendment is significant.
- (2) If a local government makes a decision under subregulation (1) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the amendment.
- (3) A proposed modification to an amendment to a local planning scheme may not be advertised on more than one occasion without the approval of the Commission.
- (4) Any advertisement of a proposed modification to the amendment to the local planning scheme must include a notice specifying —
  - (a) the proposed modifications to be made to the advertised amendment; and
  - (b) where the amendment and the proposed modifications may be inspected; and
  - (c) to whom and during what period submissions may be made; and
  - (d) the manner and form in which submissions may be made.
- (5) The period for making submissions set out in the notice referred to in subregulation (4) must be a period of 21 days commencing on the day on which the notice is first given or a longer period approved by the Commission.
- (6) A person may make a submission on a proposed modification to a standard amendment to a local planning scheme that has been advertised in accordance with subregulation (2) —
  - (a) in the manner and form specified in the notice; and
  - (b) within the period specified in the notice.
- (7) If a proposed modification to an amendment to a local planning scheme is advertised in accordance with this regulation, a local government —

- (a) must consider all submissions on the proposed modification made to the local government within the period specified in the notice; and
- (b) may, at the discretion of the local government, consider submissions on the proposed modification made to the local government after the period specified in the notice; and
- (c) must make a recommendation in respect of each submission considered.

**52. Incorporation of environmental conditions**

If a local government receives a statement in respect of a standard amendment to a local planning scheme delivered under section 48F(2) of the EP Act after passing a resolution to prepare or adopt the amendment but before complying with regulation 53, the local government must amend the amendment documents —

- (a) to incorporate the conditions set out in the statement; or
- (b) if as the result of a request by the local government under section 48G(1) of the EP Act a statement is delivered to the local government under section 48G(3) of the EP Act, to incorporate the conditions set out in that later statement.

**53. Information on standard amendment to be provided to the Commission**

- (1) After passing a resolution under regulation 50(3) the local government must provide the advertised amendment to the local planning scheme to the Commission together with the following —
  - (a) a schedule of submissions made on the amendment;
  - (b) the response of the local government in respect of the submissions;
  - (c) particulars of each modification to the amendment proposed by the local government in response to the submissions;
  - (d) if any proposed modification to the amendment was advertised —
    - (i) an explanation of the reasons for advertising the modification; and
    - (ii) particulars of how the modification was advertised; and
    - (iii) a schedule of submissions made on the proposed modifications; and

- (iv) the recommendation of the local government in accordance with regulation 51(7)(c) in respect of each submission;
  - (e) a copy of the resolution passed under regulation 50(3);
  - (f) if that resolution was a resolution under regulation 50(3)(c) — a summary of the reasons why the local government does not support the amendment;
  - (g) details of any provision in the local planning scheme that varies or excludes a provision set out in Schedule 1;
  - (h) details of any provision in the local planning scheme as it will be amended that supplements a provision set out in Schedule 2;
  - (i) any relevant maps, plans, specifications and particulars required by the Commission.
- (2) The schedule of submissions referred to in subregulation (1)(a) and (d)(iii) must include the following —
  - (a) the name and address of the person making the submission;
  - (b) where it is relevant, a description of the property that is the subject of the submission;
  - (c) the submission or a summary of the submission.
- (3) The documents referred to in subregulation (1) must be provided to the Commission —
  - (a) in the case of a resolution to support an amendment to a local planning scheme without modification or not to support an amendment to a local planning scheme — within 21 days of passing the resolution; or
  - (b) in the case of a resolution to support an amendment to a local planning scheme with proposed modifications —
    - (i) if the local government decides not to advertise the proposed modification — within 21 days of passing the resolution; or
    - (ii) otherwise — within 21 days of complying with regulation 51(7);or
  - (c) if the Commission in any case approves a longer period — within that longer period.

**54. Commission may direct amendment be treated as complex amendment**

If, on receipt of documents provided to it under regulation 53(1), the Commission considers that the amendment to the local

planning scheme is a complex amendment, the Commission may direct the local government —

- (a) to readvertise the amendment as a complex amendment; or
- (b) to take any other steps the Commission considers appropriate to advertise the amendment.

**55. Commission to submit standard amendment and recommendations to Minister**

Unless the Commission makes a direction under regulation 54, the Commission must, within 60 days of receiving the documents provided to it under regulation 53(1), or within such longer period as the Minister or an authorised person allows —

- (a) consider the documents; and
- (b) make any recommendations to the Minister in respect of the amendment that the Commission considers appropriate; and
- (c) submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.

**56. Minister or authorised person may direct modifications to standard amendment be advertised**

- (1) Before a decision is made under section 87 of the Act, the Minister or an authorised person may direct the local government to advertise modifications to a standard amendment to a local planning scheme if —
  - (a) the local government proposes, or the Commission recommends, that the amendment that was advertised under regulation 47(2) be modified; and
  - (b) the Minister or authorised person is of the opinion that the modification is significant.
- (2) The direction must include details of the process to be followed in respect of the advertisement including timeframes for —
  - (a) the making and consideration of submissions on the modifications; and
  - (b) providing recommendations to the Minister or authorised person following the advertisement.
- (3) If a local government is given a direction under subregulation (1) the local government must advertise the modification to the amendment to the local planning scheme as directed by the Minister or authorised person.

**Division 4 — Process for basic amendments**

**57. Incorporation of environmental conditions**

If a local government receives a statement in respect of a basic amendment to a local planning scheme delivered under section 48F(2) of the EP Act after passing a resolution to prepare or adopt the amendment but before complying with regulation 58, the local government must amend the amendment documents —

- (a) to incorporate the conditions set out in the statement; or
- (b) if as the result of a request by the local government under section 48G(1) of the EP Act a statement is delivered to the local government under section 48G(3) of the EP Act, to incorporate the conditions set out in that later statement.

**58. Basic amendment to be provided to the Commission**

Within 21 days of passing a resolution to prepare or adopt a basic amendment to a local planning scheme under regulation 35(1), or such longer period as the Commission approves, the local government must provide the amendment to the Commission together with any relevant maps, plans, specifications and particulars required by the Commission.

**59. Commission may direct amendment be treated as complex or standard amendment**

If, on receipt of documents provided to it under regulation 58, the Commission considers that the amendment to the local planning scheme is a complex amendment or a standard amendment, the Commission may direct the local government —

- (a) to advertise the amendment as a complex amendment or a standard amendment as the case requires; or
- (b) to take any other steps the Commission considers appropriate to advertise the amendment.

**60. Commission to submit basic amendment to Minister**

Unless the Commission makes a direction under regulation 59, the Commission must, within 42 days of receiving the documents provided to it under regulation 58, or within such longer period as the Minister or an authorised person allows —

- (a) consider the documents; and
- (b) make any recommendations to the Minister in respect of the amendment that the Commission considers appropriate; and

- (c) submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.

**61. Minister or authorised person may direct basic amendment be advertised**

- (1) Before a decision is made under section 87 of the Act, the Minister or an authorised person may direct the local government to advertise a basic amendment to a local planning scheme if the Minister or authorised person is of the opinion that the amendment is significant.
- (2) The direction must include details of the process to be followed in respect of the advertisement including timeframes for —
  - (a) the making and consideration of submissions on the amendment; and
  - (b) providing recommendations to the Minister or authorised person following the advertisement.
- (3) If a local government is given a direction under subregulation (1) the local government must advertise the amendment to a local planning scheme as directed by the Minister or authorised person.

**Division 5 — Giving effect to decision on amendment to local planning scheme**

**62. Giving effect to Minister's decision**

- (1) If a local government is notified that the Minister has, under section 87(2)(c) of the Act, refused to approve an amendment to a local planning scheme, the local government must, as soon as is reasonably practicable, notify each person who made a submission in relation to the amendment of that refusal.
- (2) Within 42 days, or such longer period as allowed by the Commission, of being notified that, under section 87(2)(b) of the Act, the Minister requires the local government to modify the amendment to the local planning scheme, the local government must —
  - (a) modify the amendment as required; and
  - (b) execute the modified amendment; and
  - (c) submit to the Minister a copy of the executed documents.
- (3) If a local government is notified that the Minister has, under section 87(2)(a) of the Act, approved the amendment to the local planning scheme, the local government must provide to the Commission for endorsement copies of the amendment as required by the Commission, including not less than 2 copies of the

amendment documents that have been executed by the local government.

- (4) The documents referred to in subregulation (3) must be provided within 14 days of the local government being notified of the Minister's approval, or a longer period approved by the Commission.

**63. Endorsement of amendment to local planning scheme**

- (1) The Commission must endorse each of the copies of the amendment to the local planning scheme that has been executed by the local government and submit one of those copies to the Minister.
- (2) The Minister must endorse the copy of the amendment to the local planning scheme with the Minister's approval and return it to the Commission.
- (3) A person authorised in writing by the Commission may certify that a copy of a local planning scheme is a true copy of a local planning scheme as approved by the Minister.

**64. Advertisement of approved amendment to local planning scheme**

- (1) The Commission must provide to the relevant local government a copy of the notice of an amendment to a local planning scheme published in the *Gazette* under section 87(3) of the Act.
- (2) The local government must —
  - (a) publish a copy of the notice in a newspaper circulating in the district where the land the subject of the local planning scheme is situated; and
  - (b) notify each person who made a submission in relation to the amendment to the local planning scheme —
    - (i) that the amendment has been approved; and
    - (ii) where a copy of the approved amendment can be obtained.

**Part 6 — Review and consolidation of local planning schemes**

**Division 1 — Review of local planning scheme**

**65. Review of local planning scheme**

- (1) A local government must carry out a review of each local planning scheme prepared by the local government —



- (a) in the 5<sup>th</sup> year after the scheme is published in the *Gazette* under section 87(3) of the Act; and
  - (b) in the 5<sup>th</sup> year after the completion of each review carried out under this Division.
- (2) Subregulation (1) applies to a local planning scheme that was published in the *Gazette* more than 5 years before the commencement of this regulation as if it were published in the *Gazette* on the day that is 3 years before the day on which this regulation comes into operation.
- (3) The review must consider whether the local planning scheme is up-to-date and complies with these regulations.
- (4) The review may be undertaken in conjunction with the preparation of a consolidation of a scheme under Part 5 Division 5 of the Act.

**66. Report of review**

- (1) The local government must, no later than 6 months after the requirement to carry out the review of a local planning scheme arises under regulation 65, or such longer period as the Commission allows —
- (a) prepare a report of the review; and
  - (b) approve the report by resolution; and
  - (c) provide the approved report to the Commission.
- (2) The report must be prepared in the manner and form approved by the Commission and must include the following information —
- (a) the date on which the local planning scheme was published in the *Gazette* in accordance with section 87(3) of the Act;
  - (b) the date on which each amendment made to the scheme was published in the *Gazette* in accordance with section 87(3) of the Act;
  - (c) the date on which the scheme was last consolidated under Part 5 Division 5 of the Act;
  - (d) an overview of the subdivision and development activity, lot take-up and population changes in the scheme area since the later of —
    - (i) the date on which the scheme was published in the *Gazette* in accordance with section 87(3) of the Act; and
    - (ii) the date on which the scheme was last reviewed;
  - (e) an overview of the extent to which the scheme has been amended to comply with the requirements of any relevant

legislation, region planning scheme or State planning policy.

- (3) The report must make recommendations as to —
- (a) whether the scheme —
    - (i) is satisfactory in its existing form; or
    - (ii) should be amended; or
    - (iii) should be repealed and a new scheme prepared in its place;
  - and
  - (b) whether the local planning strategy for the scheme —
    - (i) is satisfactory in its existing form; or
    - (ii) should be reviewed; or
    - (iii) should be repealed and a new strategy prepared in its place.

**67. Decision of Commission**

- (1) Within 90 days of receiving a report of a review of a local planning scheme, or such longer period as the Minister or an authorised person allows, the Commission must consider the report and —
- (a) decide whether the Commission agrees or disagrees with the recommendations in the report; and
  - (b) notify the local government which prepared the report of the Commission's decision.
- (2) After receiving notification of the Commission's decision on a report of a review of a local planning scheme the local government must —
- (a) publish the report and notice of the Commission's decision on the website of the local government or in any other manner approved by the Commission; and
  - (b) make the report and notice of the Commission's decision available for inspection at the office of the local government.

**Division 2 — Consolidation of local planning schemes**

**68. Consolidation of local planning schemes**

- (1) Part 4, to the extent applicable, applies in respect of the preparation of a consolidation of a local planning scheme under Part 5 Division 5 of the Act.

- (2) A local government may not, under regulation 21(1)(c) or regulation 25(3)(c), make a resolution not to proceed with the consolidation of a local planning scheme.

**69. Amendment of local planning scheme arising from consolidation**

- (1) If, under section 92 of the Act, the Minister advises the local government that the Minister concurs with a recommendation of the local government that the local planning scheme be amended, or recommends an amendment to the local planning scheme, the local government is to prepare the amendment as a basic amendment under Part 5.
- (2) A local government must not make a resolution not to proceed with an amendment referred to in subregulation (1).

**Part 7 — Development contribution plans**

**70. Development contribution area**

- (1) A local government may determine that an area of land within a scheme area is a development contribution area if development or subdivision of the land would require the provision of infrastructure or facilities in the area to support the development or subdivision.
- (2) A development contribution area must be shown as a special control area on the scheme map for the local planning scheme.

**71. Development contribution plan**

- (1) A local government must prepare a development contribution plan for each area identified in a local planning scheme as a development contribution area.
- (2) A development contribution plan may be prepared concurrently with the identification of the development contribution area to which it relates.
- (3) A development contribution plan is prepared for the purpose of setting out who is to contribute to the cost of providing infrastructure or facilities in a development contribution area and how those contributions are to be determined.
- (4) A development contribution plan must set out the following —
- (a) the development contribution area to which it applies;
  - (b) the infrastructure and administrative items to be funded through the plan;
  - (c) the method of determining the contribution of each owner of land in the development contribution area;

- (d) the priority and timing for the provision of the infrastructure;
- (e) whether costs of providing infrastructure and administrative items are to be reviewed annually and if so, the method proposed for the annual review of the costs;
- (f) the term for which the plan is to have effect.

**72. Development contribution area and plans are complex amendments**

The identification of a development contribution area and the preparation of a development contribution plan, or the amendment of an area or plan, are to be prepared as part of the preparation or adoption of a local planning scheme or as a complex amendment to a local planning scheme.

**73. Effect of development contribution plan**

- (1) A local government must not levy a contribution for the provision of infrastructure or facilities for an area unless there is a development contribution plan in place for the area.
- (2) The Commission must not grant subdivision approval subject to a condition that a person may be required to make a contribution to the provision of infrastructure or facilities for the area covered by the subdivision if a development contribution plan is not in place for the area.
- (3) A local government must not refuse to grant development approval on the grounds that a development contribution plan is being prepared for the area in which the development is located unless that plan has already been advertised.
- (4) The Commission must not refuse to grant subdivision approval on the grounds that a development contribution plan is being prepared for the area covered by the subdivision unless that plan has already been advertised.

**Part 8 — Miscellaneous**

**74. Expenses of environmental review**

- (1) In this regulation —  
*affected land*, in relation to a local planning scheme or an amendment to a local planning scheme, means land to which the local planning scheme or amendment relates;  
*method of calculation* means a method of calculation for the purposes of this regulation set out in subregulation (4);

**review expenses** means expenses incurred by a local government in undertaking an environmental review of a local planning scheme or amendment in accordance with instructions issued under section 48C(1)(a) of the EP Act;

**value**, in relation to land, means the rateable value of the land recorded in the rate records of the local government at the time the resolution to prepare or adopt the local planning scheme or amendment was passed.

- (2) A local government may, under section 82(6) of the Act, recover in a court of competent jurisdiction, as a debt due to the local government, any amount due and owing under this regulation in respect of review expenses incurred by the local government.
- (3) The owner of affected land is liable to pay an amount in respect of review expenses if —
  - (a) the review is to be undertaken by the local government; and
  - (b) the local planning scheme or amendment documents —
    - (i) provide that the owner is liable for review expenses; and
    - (ii) set out a method of calculation for the amount that is to be payable by each owner.
- (4) The methods of calculation for the purposes of subregulation (3)(b)(ii) are as follows —
  - (a) proportional land area, being the amount calculated using the formula —

$$\text{Amount due by person} = \frac{A}{T} \times \text{review expenses}$$

where —

A is the area of the affected land owned by the person;

T is the total area of affected land;

- (b) proportional land value, being the amount calculated using the formula —

$$\text{Amount due by person} = \frac{V}{T} \times \text{review expenses}$$

where —

V is the value of the affected land owned by the person;

T is the total value of affected land;

- (c) another method of calculation approved by the Minister or an authorised person.
- (5) Unless the local government and the owner of affected land have agreed in writing that the review expenses may be recovered at an earlier time, review expenses must not be recovered from the owner until the local planning scheme or amendment has come into force and —
  - (a) the affected land owned by the person is sold or subdivided; or
  - (b) in the case of an amendment that changed the zoning of affected land, the local government grants approval for the development of affected land owned by the person that could not have been granted under the local planning scheme prior to the amendment coming into force.
- (6) A local government must not seek to recover review expenses from a land owner unless the local government has kept separate records setting out details of —
  - (a) the review expenses incurred and recovered; and
  - (b) the affected land; and
  - (c) any agreements of the type referred to in subregulation (5).

**75. Compensation**

An application for compensation under Part 11 of the Act arising from the making or amendment to a local planning scheme must be made to the local government in a form approved by the Commission.

**76. Transitional arrangements for replacement local planning schemes**

A local planning scheme that replaces one or more local planning schemes may provide that an application, instrument or policy that was made under, or applied in respect of, a local planning scheme that is being replaced is to be taken to be an application, instrument or policy for the purposes of the new scheme.

**Part 9 — Repeal and transitional provisions**

**77. Terms used**

In this Part —

*commencement day* means the day on which regulation 78 comes into operation;

*planning instrument* means any of the following instruments —

- (a) a consolidation of a local planning scheme;

- (b) an activity centre plan;
- (c) a development contribution plan;
- (d) a local development plan;
- (e) a local planning policy;
- (f) a local planning scheme;
- (g) a local planning strategy;
- (h) a structure plan;
- (i) an amendment to an instrument referred to in paragraph (b) to (h);

*repealed regulations* means the *Town Planning Regulations 1967*.

**78. Town Planning Regulations 1967 repealed**

The *Town Planning Regulations 1967* are repealed.

**79. Planning instruments continued**

- (1) A planning instrument made under the Act before commencement day and in accordance with the repealed regulations or a State planning policy continues in force as if it were a planning instrument of the same type made under the Act in accordance with these regulations.
- (2) For the purposes of subregulation (1), an instrument of a type referred to in column 2 of the Table is to be taken to be a planning instrument of the type referred to in column 3 of the Table.

**Table**

<b>Item</b>	<b>Type of instrument</b>	<b>Type of planning instrument</b>
1.	Outline development plan Development plan Subdivision guide plan	Structure plan
2.	Activity centre structure plan	Activity centre plan
3.	Detailed area plan	Local development plan

**80. Planning instruments in course of preparation**

Any step taken under the Act and in accordance with the repealed regulations or a State planning policy before commencement day in the preparation of a planning instrument is to be taken to be a step taken in the preparation of a planning instrument of that type under these regulations.

**81. Development applications**

A development application made but not determined under a local planning scheme before commencement day is to be taken to be a development application made under the local planning scheme as that scheme is continued under regulation 79 and is to be determined in accordance with the local planning scheme as so continued.

**Schedule 1 — Model provisions for local planning schemes**

[r. 10(2)]

**Part 1 — Preliminary**

**1. Citation**

This local planning scheme is the City/Town/Shire of .....  
Scheme No ..... .

**2. Commencement**

Under section 87(4) of the Act, this local planning scheme comes into operation on the day on which it is published in the *Gazette*.

**3. Scheme revoked**

The following local planning scheme(s) is (are) revoked —

Name      Gazettal date

*(Insert (where applicable) existing local planning schemes revoked by the Scheme.)*

**4. Notes do not form part of Scheme**

Notes, and instructions printed in italics, do not form part of this Scheme.

Note: The *Interpretation Act 1984* section 32 makes provision in relation to whether headings form part of the written law.

**5. Responsibility for Scheme**

The City/Town/Shire of ..... is the local government responsible for the enforcement and implementation of this



Scheme and the execution of any works required to be executed under this Scheme.

*(Where necessary, provision may be made for more than one responsible authority.)*

**6. Scheme area**

This Scheme applies to the area shown on the Scheme Map.

Note: The Scheme area (or part) is also subject to the ..... Region planning scheme (see clause 12) and other local planning schemes (see clause 11).

*(Insert the appropriate description. Reference may be made to the whole of a district, part of a district, land within a townsite boundary or land within an area outlined on the Scheme Map. The note only applies where a region planning scheme or another local planning scheme is in force in the Scheme area.)*

**7. Contents of Scheme**

- (1) In addition to the provisions set out in this document (the ***scheme text***), this Scheme includes the following —
- (a) the deemed provisions (set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2);
  - (b) the Scheme Map;
  - (c) the following plans, maps, diagrams, illustrations or materials —

*(Insert after paragraph (c) a description of any supporting plans, maps, diagrams, illustrations or materials which form part of the Scheme.)*

- (2) This Scheme is to be read in conjunction with any local planning strategy for the Scheme area.

**8. Purposes of Scheme**

The purposes of this Scheme are to —

- (a) set out the local government's planning aims and intentions for the Scheme area; and
- (b) set aside land as local reserves for public purposes; and
- (c) zone land within the Scheme area for the purposes defined in this Scheme; and
- (d) control and guide development including processes for the preparation of structure plans, activity centre plans and local development plans; and
- (e) set out procedures for the assessment and determination of development applications; and

- (f) set out procedures for contributions to be made for the costs of providing infrastructure in connection with development through development contribution plans; and
- (g) make provision for the administration and enforcement of this Scheme; and
- (h) address other matters referred to in Schedule 7 of the Act.

**9. Aims of Scheme**

The aims of this Scheme are —

*(Insert a statement setting out the general aims of the Scheme.)*

**10. Relationship with local laws**

Where a provision of this Scheme is inconsistent with a local law, the provision of this Scheme prevails to the extent of the inconsistency.

**11. Relationship with other local planning schemes**

The following local planning schemes of the City/Town/Shire of ..... also apply in the Scheme area —

Scheme No ..... Gazettal date .....

*(If applicable, list any other Schemes which are complementary to the Scheme. If no other Schemes apply to the Scheme area, insert the words “There are no other local planning schemes of the City/Town/Shire of ..... which apply to the Scheme area.”.)*

**12. Relationship with region planning scheme**

The ..... Region Scheme made (or continued) under Part 4 of the Act applies in respect of part or all of the Scheme area.

Note: The authority responsible for implementing the ..... Region Scheme is the Western Australian Planning Commission.

*(This clause and note only apply where a region planning scheme applies to some or all of the Scheme area. If no region planning scheme applies to the Scheme area, insert the words “There are no region planning schemes which apply to the Scheme area.”.)*

**Part 2 — Reserves**

**13. Regional Reserves**

- (1) Regional reserves are marked on the Scheme Map according to the legend on the Scheme Map.
- (2) The lands marked as regional reserves are lands reserved for a public purpose under the ..... Region Scheme.

*(This clause only applies where a region planning scheme is in force. If there is no region planning scheme in force, insert the words "There are no regional reserves in the Scheme area.")*

Note: The process of reserving land under a regional planning scheme is separate from the process of reserving land under the *Land Administration Act 1997* section 41.

**14. Local reserves**

(1) In this clause —

**Department of Main Roads** means the department principally assisting in the administration of the *Main Roads Act 1930*;

**Western Australian Road Hierarchy** means the document of that name available on the website maintained by the Department of Main Roads.

(2) Local reserves are shown on the Scheme Map according to the legend on the Scheme Map.

(3) The objectives of each local reserve are as follows —

*(Select the reserves and the objectives for those reserves that are contained in the Scheme from the Table.)*

**Table — Reserve objectives**

Reserve name	Objectives
Public Open Space	<ul style="list-style-type: none"> <li>• To set aside areas for public open space, particularly those established under the <i>Planning and Development Act 2005</i> s. 152.</li> <li>• To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage.</li> </ul>
Environmental conservation	<ul style="list-style-type: none"> <li>• To identify areas with biodiversity and conservation value, and to protect those areas from development and subdivision.</li> <li>• To identify and protect areas of biodiversity conservation significance within National Parks and State and other conservation reserves.</li> </ul>
State Forest	<ul style="list-style-type: none"> <li>• To identify areas of State Forest.</li> </ul>

<b>Reserve name</b>	<b>Objectives</b>
Civic and Community	<ul style="list-style-type: none"> <li>• To provide for a range of community facilities which are compatible with surrounding development.</li> <li>• To provide for public facilities such as halls, theatres, art galleries, educational, health and social care facilities, accommodation for the aged, and other services by organisations involved in activities for community benefit.</li> </ul>
Social Care Facilities	<ul style="list-style-type: none"> <li>• Civic and Community which specifically provide for a range of essential social care facilities.</li> </ul>
Cultural Facilities	<ul style="list-style-type: none"> <li>• Civic and Community which specifically provide for a range of essential cultural facilities.</li> </ul>
Public Purposes	<ul style="list-style-type: none"> <li>• To provide for a range of essential physical and community infrastructure.</li> </ul>
Medical Services	<ul style="list-style-type: none"> <li>• Public Purposes which specifically provide for a range of essential medical services.</li> </ul>
Infrastructure Services	<ul style="list-style-type: none"> <li>• Public Purposes which specifically provide for a range of essential infrastructure services.</li> </ul>
Education	<ul style="list-style-type: none"> <li>• Public Purposes which specifically provide for a range of essential education facilities.</li> </ul>
Emergency Services	<ul style="list-style-type: none"> <li>• Public Purposes which specifically provide for a range of essential emergency services.</li> </ul>
Heritage	<ul style="list-style-type: none"> <li>• Public Purposes which specifically provide for a range of heritage purposes.</li> </ul>
Government Services	<ul style="list-style-type: none"> <li>• Public Purposes which specifically provide for a range of government services.</li> </ul>
Recreational	<ul style="list-style-type: none"> <li>• Public Purposes which specifically provide for a range of public recreational facilities.</li> </ul>
Cemetery	<ul style="list-style-type: none"> <li>• To set aside land required for a cemetery.</li> </ul>
Car Park	<ul style="list-style-type: none"> <li>• To set aside land required for a car park.</li> </ul>
Drainage / Waterway	<ul style="list-style-type: none"> <li>• To set aside land required for significant waterways and drainage.</li> </ul>

<b>Reserve name</b>	<b>Objectives</b>
Railways	<ul style="list-style-type: none"> <li>To set aside land required for passenger rail and rail freight services.</li> </ul>
Primary Distributor Road	<ul style="list-style-type: none"> <li>To set aside land required for a primary distributor road being a road classified as a Regional Distributor or Primary Distributor under the Western Australian Road Hierarchy.</li> </ul>
District Distributor Road	<ul style="list-style-type: none"> <li>To set aside land required for a district distributor road being a road classified as a Distributor A or Distributor B under the Western Australian Road Hierarchy.</li> </ul>
Local Distributor Road	<ul style="list-style-type: none"> <li>To set aside land required for a local distributor road being a road classified as a Local Distributor under the Western Australian Road Hierarchy.</li> </ul>
Local Road	<ul style="list-style-type: none"> <li>To set aside land required for a local road being a road classified as an Access Road under the Western Australian Road Hierarchy.</li> </ul>
Strategic infrastructure	<ul style="list-style-type: none"> <li>To set aside land required for port or airport facilities.</li> </ul>
Special Purpose Reserve	<ul style="list-style-type: none"> <li>To set aside land for a special purpose.</li> <li>Purposes that do not comfortably fit in any other reserve classification.</li> </ul>

**15. Additional uses for local reserves**

- (1) The Table sets out —
- (a) classes of use for specified land located in local reserves that are additional to classes of use determined in accordance with the objectives of the reserve; and
  - (b) the conditions that apply to that additional use.

**Table**

**Specified additional uses for land in local reserves in Scheme area**

<b>No.</b>	<b>Description of land</b>	<b>Additional use</b>	<b>Conditions</b>

--	--	--	--

- (2) Despite anything contained in clause 14, land that is specified in the Table to subclause (1) may be used for the additional class of use set out in respect of that land subject to the conditions that apply to that use.

*(The Table of additional uses for land in local reserves may be set out as a Schedule to the Scheme.*

If the Scheme does not include additional uses for land in local reserves, insert the words “There are no additional uses for land in local reserves that apply to this Scheme.”)

### **Part 3 — Zones and use of land**

#### **16. Zones**

- (1) Zones are shown on the Scheme Map according to the legend on the Scheme Map.
- (2) The objectives of each zone are as follows —

*(Select the zones and the objectives for those zones that are contained in the Scheme from the Table.)*

**Table — Zone objectives**

<b>Zone name</b>	<b>Objectives</b>
------------------	-------------------

<b>Zone name</b>	<b>Objectives</b>
Residential	<ul style="list-style-type: none"> <li>• To provide for a range of housing and a choice of residential densities to meet the needs of the community.</li> <li>• To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.</li> <li>• To provide for a range of non-residential uses, which are compatible with and complementary to residential development.</li> </ul>
Urban Development	<ul style="list-style-type: none"> <li>• To provide an intention of future land use and a basis for more detailed structure planning in accordance with the provisions of this Scheme.</li> <li>• To provide for a range of residential densities to encourage a variety of residential accommodation.</li> <li>• To provide for the progressive and planned development of future urban areas for residential purposes and for commercial and other uses normally associated with residential development.</li> <li>• To provide an intermediate transitional zone following the lifting of an urban deferred zoning within the Metropolitan Region Scheme.</li> </ul>
Settlement	<ul style="list-style-type: none"> <li>• To identify existing and proposed Aboriginal settlements and to collaboratively plan for the orderly and proper development of those places by —               <ul style="list-style-type: none"> <li>(a) requiring preparation and endorsement of a layout plan in accordance with State Planning Policy 3.2; and</li> <li>(b) ensuring that development accords with a layout plan.</li> </ul> </li> </ul>
Special Residential	<ul style="list-style-type: none"> <li>• To provide for lot sizes in the range of 2 000 m<sup>2</sup> and 1 ha.</li> <li>• To ensure development is sited and designed to achieve an integrated and harmonious character.</li> <li>• To set aside areas where the retention of vegetation and landform or other features which distinguish the land, warrant a larger residential lot size than that expected in a standard residential zone.</li> </ul>

Zone name	Objectives
Rural	<ul style="list-style-type: none"> <li>• To provide for the maintenance or enhancement of specific local rural character.</li> <li>• To protect broad acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use.</li> <li>• To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage.</li> <li>• To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone.</li> <li>• To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.</li> </ul>
Rural Residential	<ul style="list-style-type: none"> <li>• To provide for lot sizes in the range of 1 ha to 4 ha.</li> <li>• To provide opportunities for a range of limited rural and related ancillary pursuits on rural-residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.</li> <li>• To set aside areas for the retention of vegetation and landform or other features which distinguish the land.</li> </ul>
Rural Smallholdings	<ul style="list-style-type: none"> <li>• To provide for lot sizes in the range of 4 ha to 40 ha.</li> <li>• To provide for a limited range of rural land uses where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.</li> <li>• To set aside areas for the retention of vegetation and landform or other features which distinguish the land.</li> </ul>
Rural Townsite Zone	<ul style="list-style-type: none"> <li>• To provide for a range of land uses that would typically be found in a small country town.</li> </ul>



<b>Zone name</b>	<b>Objectives</b>
Environmental conservation	<ul style="list-style-type: none"><li>• To identify land set aside for environmental conservation purposes.</li><li>• To provide for the preservation, maintenance, restoration or sustainable use of the natural environment.</li></ul>
Light Industry	<ul style="list-style-type: none"><li>• To provide for a range of industrial uses and service industries generally compatible with urban areas, that cannot be located in commercial zones.</li><li>• To ensure that where any development adjoins zoned or developed residential properties, the development is suitably set back, screened or otherwise treated so as not to detract from the residential amenity.</li></ul>
General Industry	<ul style="list-style-type: none"><li>• To provide for a broad range of industrial, service and storage activities which, by the nature of their operations, should be isolated from residential and other sensitive land uses.</li><li>• To accommodate industry that would not otherwise comply with the performance standards of light industry.</li><li>• Seek to manage impacts such as noise, dust and odour within the zone.</li></ul>
Industrial Development	<ul style="list-style-type: none"><li>• To designate land for future industrial development.</li><li>• To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme.</li></ul>
Strategic Industry	<ul style="list-style-type: none"><li>• To designate industrial sites of State or regional significance.</li></ul>

<b>Zone name</b>	<b>Objectives</b>
Commercial	<ul style="list-style-type: none"> <li>• To provide for a range of shops, offices, restaurants and other commercial outlets in defined townsites or activity centres.</li> <li>• To maintain the compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades.</li> <li>• To ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality.</li> </ul>
Mixed Use	<ul style="list-style-type: none"> <li>• To provide for a wide variety of active uses on street level which are compatible with residential and other non-active uses on upper levels.</li> <li>• To allow for the development of a mix of varied but compatible land uses such as housing, offices, showrooms, amusement centres, eating establishments and appropriate industrial activities which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents.</li> </ul>
Service Commercial	<ul style="list-style-type: none"> <li>• To accommodate commercial activities which, because of the nature of the business, require good vehicular access and/or large sites.</li> <li>• To provide for a range of wholesale sales, showrooms, trade and services which, by reason of their scale, character, operational or land requirements, are not generally appropriate in, or cannot conveniently or economically be accommodated in, the central area, shops and offices or industrial zones.</li> </ul>
Centre	<ul style="list-style-type: none"> <li>• To designate land for future development as a town centre or activity centre.</li> <li>• To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme or the Activity Centres State Planning Policy.</li> </ul>

Zone name	Objectives
Tourism	<ul style="list-style-type: none"> <li>• To promote and provide for tourism opportunities.</li> <li>• To provide for a variety of holiday accommodation styles and associated uses, including retail and service facilities where those facilities are provided in support of the tourist accommodation and are of an appropriate scale where they will not impact detrimentally on the surrounding or wider area.</li> <li>• To allow limited residential uses where appropriate.</li> <li>• To encourage the location of tourist facilities so that they may benefit from existing road services, physical service infrastructure, other tourist attractions, natural features and urban facilities.</li> </ul>
Private clubs, institutions and places of worship	<ul style="list-style-type: none"> <li>• To provide sites for privately owned and operated recreation, institutions and places of worship.</li> <li>• To integrate private recreation areas with public recreation areas wherever possible.</li> <li>• To separate potentially noisy engine sports from incompatible uses.</li> <li>• To provide for a range of privately owned community facilities, and uses that are incidental and ancillary to the provision of those facilities, which are compatible with surrounding development.</li> <li>• To ensure that the standard of development is in keeping with surrounding development and protects the amenity of the area.</li> </ul>
Special Use Zone	<ul style="list-style-type: none"> <li>• To facilitate special categories of land uses which do not sit comfortably within any other zone.</li> <li>• To enable the Council to impose specific conditions associated with the special use.</li> </ul>

**17. Zoning table**

The zoning table for this Scheme is as follows —

*(Insert zoning table.)*

**18. Interpreting zoning table**

- (1) The permissibility of uses of land in the various zones in the Scheme area is determined by cross-reference between the list of

use classes on the left hand side of the zoning table and the list of zones at the top of the zoning table.

- (2) The symbols used in the zoning table have the following meanings —

- P means that the use is permitted if it complies with any relevant development standards and requirements of this Scheme;
- I means that the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with any relevant development standards and requirements of this Scheme;
- D means that the use is not permitted unless the local government has exercised its discretion by granting development approval;
- A means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions;
- X means that the use is not permitted by this Scheme.

*(A symbol must appear in the cross-reference of a use class against all the zones in the zoning table.)*

- Note:
1. The development approval of the local government may be required to carry out works on land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the carrying out of works on, and the use of, land. For development on land that does not require development approval see clause 61 of the deemed provisions.
  2. In considering an application for development approval, the local government will have regard to clause 67 of the deemed provisions.

- (3) A specific use class referred to in the zoning table is excluded from any other use class described in more general terms.
- (4) The local government may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table —
- (a) determine that the use is consistent with the objectives of a particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the local government; or
  - (b) determine that the use may be consistent with the objectives of a particular zone and give notice under clause 64 of the deemed provisions before considering an

- application for development approval for the use of the land; or
- (c) determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted in the zone.
- (5) If a use of land is identified in a zone as being a class P or class I use, the local government may not refuse an application for development approval for that use in that zone but may require works that are to be undertaken in connection with that use to have development approval.
  - (6) If a use of land is identified in a zone as being a class X use, the local government must refuse an application for development approval for that use in that zone unless —
    - (a) the development approval application relates to land that is being used for a non-conforming use; and
    - (b) the local government considers that the proposed use of the land would be less detrimental than the non-conforming use.
  - (7) If the zoning table does not identify any permissible uses for land in a zone the local government may, in considering an application for development approval for land within the zone, have due regard to any of the following plans that apply to the land —
    - (a) a structure plan;
    - (b) an activity centre plan;
    - (c) a local development plan.

**19. Additional uses**

- (1) The Table sets out —
  - (a) classes of use for specified land that are additional to the classes of use that are permissible in the zone in which the land is located; and
  - (b) the conditions that apply to that additional use.

**Table**

**Specified additional uses for zoned land in Scheme area**

No.	Description of land	Additional use	Conditions

--	--	--	--

- (2) Despite anything contained in the zoning table, land that is specified in the Table to subclause (1) may be used for the additional class of use set out in respect of that land subject to the conditions that apply to that use.

*(The Table of additional uses for zoned land may be set out as a Schedule to the Scheme.*

If the Scheme does not include additional uses for zoned land, insert the words “There are no additional uses for zoned land that apply to this Scheme.”.)

**20. Restricted uses**

- (1) The Table sets out —
- (a) restricted classes of use for specified land that apply instead of the classes of use that are permissible in the zone in which the land is located; and
  - (b) the conditions that apply to that restricted use.

**Table**

**Restricted uses for land in Scheme area**

No.	Description of land	Restricted use	Conditions

- (2) Despite anything contained in the zoning table, land that is specified in the Table to subclause (1) may be used only for the restricted class of use set out in respect of that land subject to the conditions that apply to that use.

*(The Table of restricted uses for land may be set out as a Schedule to the Scheme.*

If the Scheme does not include restricted uses, insert the words “There are no restricted uses which apply to this Scheme.”.)

**21. Special use zones**

- (1) The Table sets out —
- (a) special use zones for specified land that are in addition to the zones in the zoning table; and

- (b) the classes of special use that are permissible in that zone; and
- (c) the conditions that apply in respect of the special uses.

**Table**

**Special use zones in Scheme area**

No.	Description of land	Special use	Conditions

- (2) A person must not use any land, or any structure or buildings on land, in a special use zone except for a class of use that is permissible in that zone and subject to the conditions that apply to that use.

Note: Special use zones apply to special categories of land use which do not comfortably sit within any other zone in the Scheme.

*(The Table of special use zones may be set out as a Schedule to the Scheme.*

If the Scheme does not include special use zones, insert the words “There are no special use zones which apply to this Scheme.”.)

**22. Non-conforming uses**

- (1) Unless specifically provided, this Scheme does not prevent —
  - (a) the continued use of any land, or any structure or building on land, for the purpose for which it was being lawfully used immediately before the commencement of this Scheme; or
  - (b) the carrying out of development on land if —
    - (i) before the commencement of this Scheme, the development was lawfully approved; and
    - (ii) the approval has not expired or been cancelled.
- (2) Subclause (1) does not apply if —
  - (a) the non-conforming use of the land is discontinued; and
  - (b) a period of 6 months, or a longer period approved by the local government, has elapsed since the discontinuance of the non-conforming use.
- (3) Subclause (1) does not apply in respect of a non-conforming use of land if, under Part 11 of the Act, the local government —

- (a) purchases the land; or
- (b) pays compensation to the owner of the land in relation to the non-conforming use.

**23. Changes to non-conforming use**

- (1) A person must not, without development approval —
  - (a) alter or extend a non-conforming use of land; or
  - (b) erect, alter or extend a building used for, or in conjunction with, a non-conforming use; or
  - (c) repair, rebuild, alter or extend a building used for a non-conforming use that is destroyed to the extent of 75% or more of its value; or
  - (d) change the use of land from a non-conforming use to another use that is not permitted by the Scheme.
- (2) An application for development approval for the purposes of this clause must be advertised in accordance with clause 64 of the deemed provisions.
- (3) A local government may only grant development approval for a change of use of land referred to in subclause (1)(d) if, in the opinion of the local government, the proposed use —
  - (a) is less detrimental to the amenity of the locality than the existing non-conforming use; and
  - (b) is closer to the intended purpose of the zone in which the land is situated.

**24. Register of non-conforming uses**

- (1) The local government may prepare a register of land within the Scheme area that is being used for a non-conforming use.
- (2) A register prepared by the local government must set out the following —
  - (a) a description of each area of land that is being used for a non-conforming use;
  - (b) a description of any building on the land;
  - (c) a description of the non-conforming use;
  - (d) the date on which any discontinuance of the non-conforming use is noted.
- (3) If the local government prepares a register under subclause (1) the local government —
  - (a) must ensure that the register is kept up-to-date; and



- (b) must make a copy of the register available for public inspection during business hours at the offices of the local government; and
  - (c) may publish a copy of the register on the website of the local government.
- (4) An entry in the register in relation to land that is being used for a non-conforming use is evidence of the matters set out in the entry, unless the contrary is proved.

#### **Part 4 — General development requirements**

*(This Part sets out the general requirements which apply to land use and development within the Scheme area and the specific requirements which apply to particular uses and forms of development, such as site requirements, access, parking, building design, setbacks and landscaping, for residential, industrial, rural and other uses.*

*Development requirements applying to particular zones may alternatively be incorporated with the zoning provisions in Part 3. Development requirements applying to special control areas should be included in Part 5.)*

#### **25. R-Codes**

- (1) The R-Codes, modified as set out in clause 26, are to be read as part of this Scheme.
- (2) The local government —
  - (a) must make a copy of the R-Codes available for public inspection during business hours at the offices of the local government; and
  - (b) may publish a copy of the R-Codes on the website of the local government.
- (3) The coding of land for the purposes of the R-Codes is shown by the coding number superimposed on a particular area contained within the boundaries of the area shown on the Scheme Map.
- (4) The R-Codes apply to an area if the area has a coding number superimposed on it in accordance with subclause (3).

#### **26. Modification of R-Codes**

*(To be inserted if exclusions and variations to the R-Codes are to apply. If no exclusions or variations are to apply, insert the words “There are no modifications to the R-Codes.”.)*

**27. State Planning Policy 3.6 to be read as part of Scheme**

- (1) State Planning Policy 3.6 — Development Contributions for Infrastructure, modified as set out in clause 28, is to be read as part of this Scheme.
- (2) The local government —
  - (a) must make a copy of State Planning Policy 3.6 available for public inspection during business hours at the offices of the local government; and
  - (b) may publish a copy of State Planning Policy 3.6 on the website of the local government.

**28. Modification of State Planning Policy 3.6**

*(To be inserted if exclusions and variations to State Planning Policy 3.6 are to apply. If no exclusions or variations are to apply, insert the words “There are no modifications to State Planning Policy 3.6.”.)*

**29. Other State planning policies to be read as part of Scheme**

- (1) The State planning policies set out in the Table, modified as set out in clause 30, are to be read as part of this Scheme.

**Table**

<b>State planning policies to be read as part of Scheme</b>
<i>(Insert details of any other State planning policies that are to be read into the scheme</i>

- (2) The local government —
  - (a) must make a copy of each State planning policy referred to in subclause (1) available for public inspection during business hours at the offices of the local government; and
  - (b) may publish a copy of each of those State planning policies on the website of the local government.

*(If no other State planning policies are to be read as part of the Scheme, insert the words “There are no other State planning policies that are to be read as part of the Scheme.”.)*

**30. Modification of State planning policies**

*(To be inserted if exclusions and variations to any other State planning policy that is to be read as part of the Scheme are to apply. If no exclusions or variations are to apply, insert the words “There are no modifications to a State planning policy that, under clause 29 is to be read as part of the Scheme.”.)*

**31. Environmental conditions**

- (1) The conditions set out in the Table are environmental conditions that apply to this Scheme as a result of an assessment carried out under the *Environmental Protection Act 1986* Part IV Division 3.

**Table**

**Environmental conditions that apply to land in Scheme area**

Scheme or amendment No.	Gazettal date	Environmental conditions

- (2) The environmental conditions are indicated on the Scheme Map by the symbol EC to indicate that environmental conditions apply to the land.
- (3) The local government —
- (a) must make available for public inspection during business hours at the offices of the local government all statements relating to this Scheme published under the *Environmental Protection Act 1986* Part IV Division 3; and
  - (b) may publish those statements on the website of the local government.

*(The Table of environmental conditions may be set out as a Schedule to the Scheme.*

*If no environmental conditions apply, insert the words “There are no environmental conditions imposed under the Environmental Protection Act 1986 that apply to this Scheme.”)*

**32. Additional site and development requirements**

- (1) The Table sets out requirements relating to development that are additional to those set out in the R-Codes, activity centre plans, local development plans or State or local planning policies.

**Table**

**Additional requirements that apply to land in Scheme area**

No.	Description of land	Requirement

*(The Table of additional requirements that apply to land may be set out as a Schedule to the Scheme.*

*If no additional requirements are to apply, insert the words “There are no additional site and development requirements that apply to this Scheme.”.)*

- (2) To the extent that a requirement referred to in subclause (1) is inconsistent with a requirement in the R-Codes, an activity centre plan, a local development plan or a State or local planning policy the requirement referred to in subclause (1) prevails.

**33. Additional site and development requirements for areas covered by structure plan, activity centre plan or local development plan**

The Table sets out requirements relating to development that are included in structure plans, activity centre plans and local development plans that apply in the Scheme area.

**Table**

**Additional requirements that apply to land covered by structure plan, activity centre plan or local development plan**

No.	Description of land	Requirement

*(The Table of additional requirements that apply to land as a result of a structure plan, activity centre plan or local development plan may be set out as a Schedule to the Scheme.*

*If no additional requirements are to apply as a result of a structure plan, activity centre plan or local development plan that applies in the Scheme area, insert the words “There are no additional requirements that apply to this Scheme.”.)*

**34. Variations to site and development requirements**

- (1) In this clause —  
***additional site and development requirements*** means requirements set out in clauses 32 and 33.
- (2) The local government may approve an application for a development approval that does not comply with an additional site and development requirements.
- (3) An approval under subclause (2) may be unconditional or subject to any conditions the local government considers appropriate.
- (4) If the local government is of the opinion that the non-compliance with an additional site and development requirement will mean that the development is likely to adversely affect any owners or occupiers in the general locality or in an area adjoining the site of the development the local government must —
  - (a) consult the affected owners or occupiers by following one or more of the provisions for advertising applications for development approval under clause 64 of the deemed provisions; and
  - (b) have regard to any expressed views prior to making its determination to grant development approval under this clause.
- (5) The local government may only approve an application for development approval under this clause if the local government is satisfied that —
  - (a) approval of the proposed development would be appropriate having regard to the matters that the local government is to have regard to in considering an application for development approval as set out in clause 67 of the deemed provisions; and
  - (b) the non-compliance with the additional site and development requirement will not have a significant adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

**35. Restrictive covenants**

- (1) A restrictive covenant affecting land in the Scheme area that would have the effect of limiting the number of residential

dwellings which may be constructed on the land is extinguished or varied to the extent that the number of residential dwellings that may be constructed is less than the number that could be constructed on the land under this Scheme.

- (2) If subclause (1) operates to extinguish or vary a restrictive covenant —
- (a) development approval is required to construct a residential dwelling that would result in the number of residential dwellings on the land exceeding the number that would have been allowed under the restrictive covenant; and
  - (b) the local government must not grant development approval for the construction of the residential dwelling unless it gives notice of the application for development approval in accordance with clause 64 of the deemed provisions.

**Part 5 — Special control areas**

*(This Part is included in the Scheme to identify areas which are significant for a particular reason and where special provisions in the Scheme may need to apply. These provisions would typically target a single issue or related set of issues often overlapping zone and reserve boundaries. The special control areas should be shown on the Scheme Map as additional to the zones and reserves. If a special control area is shown on the Scheme Map, special provisions related to the particular issue would apply in addition to the provisions of the zones and reserves. These provisions would set out the purpose and objectives of the special control area, any specific development requirements, the process for referring applications to relevant agencies and matters to be taken into account in determining development proposals.)*

**36. Special control areas**

- (1) Special control areas are marked on the Scheme Map according to the legend on the Scheme Map.
- (2) The purpose, objectives and additional provisions that apply to each special control area is set out in the Table.

**Table**  
**Special control areas in Scheme area**

Name of area	Purpose	Objectives	Additional provisions
--------------	---------	------------	-----------------------

--	--	--	--

*(The Table relating to special control areas may be set out as a Schedule to the Scheme.*

*If the Scheme does not include a special control area, insert the words "There are no special control areas which apply to this Scheme.".)*

## **Part 6 — Terms referred to in Scheme**

### **Division 1 — General definitions used in Scheme**

#### **37. Terms used**

- (1) If a word or expression used in this Scheme is listed in this clause, its meaning is as follows —

***building envelope*** means the area of land within which all buildings and effluent disposal facilities on a lot must be contained;

***building height***, 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 purposes other than residential purposes, means the maximum vertical distance between the natural ground level and the finished roof height directly above, excluding minor projections as that term is defined in the R-Codes;

***cabin*** means a dwelling forming part of a tourist development or caravan park that is —

- (a) an individual unit other than a chalet; and
- (b) designed to provide short-term accommodation for guests;

***chalet*** means a dwelling forming part of a tourist development or caravan park that is —

- (a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and
- (b) designed to provide short-term accommodation for guests;

***commencement day*** means the day this Scheme comes into effect under section 87(4) of the Act;

**commercial vehicle** means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including —

- (a) a utility, van, truck, tractor, bus or earthmoving equipment; and
- (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a);

**floor area** has meaning given in the Building Code;

**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 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 to which the building or proposed building faces;

**incidental use** means a use of premises which is consequent on, or naturally attaching, appertaining or relating to, the predominant use;

**minerals** has the meaning given in the *Mining Act 1978* section 8(1);

**net lettable area** or **nla** means the area of all floors within the internal finished surfaces of permanent walls but does not include the following areas —

- (a) stairs, toilets, cleaner's cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
- (b) lobbies between lifts facing other lifts serving the same floor;
- (c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
- (d) areas set aside for the provision of facilities or services to the floor or building where those facilities are not for the exclusive use of occupiers of the floor or building;

**non-conforming use** has the meaning given in the *Planning and Development Act 2005* section 172;

**plot ratio** means the ratio of the floor area of a building to an area of land within the boundaries of the lot or lots on which the building is located;

**precinct** means a definable area where particular planning policies, guidelines or standards apply;

**predominant use** means the primary use of premises to which all other uses carried out on the premises are incidental;



**retail** means the sale or hire of goods or services to the public;  
**short-term accommodation** means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12 month period;

**wall height**, in relation to a wall of 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 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;

**wholesale** means the sale of goods or materials to be sold by others.

- (2) A word or expression that is not defined in this Scheme —
  - (a) has the meaning it has in the *Planning and Development Act 2005*; or
  - (b) if it is not defined in that Act — has the same meaning as it has in the R-Codes.

#### **Division 2 — Land use terms used in Scheme**

#### **38. Land use terms used**

If this Scheme refers to a category of land use that is listed in this provision, the meaning of that land use is as follows —

**abattoir** means premises used commercially for the slaughtering of animals for the purposes of consumption as food products;

**agriculture — extensive** means premises used for the raising of stock or crops including outbuildings and earthworks, but does not include agriculture — intensive or animal husbandry — intensive;

**agriculture — intensive** means premises used for commercial production purposes, including outbuildings and earthworks, associated with any of the following —

- (a) the production of grapes, vegetables, flowers, exotic or native plants, or fruit or nuts;
- (b) the establishment and operation of plant or fruit nurseries;
- (c) the development of land for irrigated fodder production or irrigated pasture (including turf farms);
- (d) aquaculture;

**amusement parlour** means premises —

- (a) that are open to the public; and
- (b) that are used predominantly for amusement by means of amusement machines including computers; and
- (c) where there are 2 or more amusement machines;

**animal establishment** means premises used for the breeding, boarding, training or caring of animals for commercial purposes but does not include animal husbandry — intensive or veterinary centre;

**animal husbandry — intensive** means premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) or other livestock in feedlots, sheds or rotational pens;

**art gallery** means premises —

- (a) that are open to the public; and
- (b) where artworks are displayed for viewing or sale;

**bed and breakfast** means a dwelling —

- (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and
- (b) containing not more than 2 guest bedrooms;

**betting agency** means an office or totalisator agency established under the *Racing and Wagering Western Australia Act 2003*;

**brewery** means premises the subject of a producer's licence authorising the production of beer, cider or spirits granted under the *Liquor Control Act 1988*;

**bulky goods showroom** means premises —

- (a) used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes —
  - (i) automotive parts and accessories;
  - (ii) camping, outdoor and recreation goods;
  - (iii) electric light fittings;
  - (iv) animal supplies including equestrian and pet goods;
  - (v) floor and window coverings;
  - (vi) furniture, bedding, furnishings, fabrics, manchester and homewares;
  - (vii) household appliances, electrical goods and home entertainment goods;
  - (viii) party supplies;
  - (ix) office equipment and supplies;

- (x) babies' and childrens' goods, including play equipment and accessories;
- (xi) sporting, cycling, leisure, fitness goods and accessories;
- (xii) swimming pools;

or

- (b) used to sell by retail goods and accessories by retail if —
  - (i) a large area is required for the handling, display or storage of the goods; or
  - (ii) vehicular access is required to the premises for the purpose of collection of purchased goods;

**caravan park** means premises that are a caravan park as defined in the *Caravan Parks and Camping Grounds Act 1995* section 5(1);

**caretaker's dwelling** means a dwelling on the same site as a building, operation or plant used for industry, and occupied by a supervisor of that building, operation or plant;

**car park** means premises used primarily for parking vehicles whether open to the public or not but does not include —

- (a) any part of a public road used for parking or for a taxi rank; or
- (b) any premises in which cars are displayed for sale;

**child care premises** means premises where —

- (a) an education and care service as defined in the *Education and Care Services National Law (Western Australia)* section 5(1), other than a family day care service as defined in that section, is provided; or
- (b) a child care service as defined in the *Child Care Services Act 2007* section 4 is provided;

**cinema/theatre** means premises where the public may view a motion picture or theatrical production;

**civic use** means premises used by a government department, an instrumentality of the State or the local government for administrative, recreational or other purposes;

**club premises** means premises used by a legally constituted club or association or other body of persons united by a common interest;

**commercial vehicle parking** means premises used for parking of one or 2 commercial vehicles but does not include —

- (a) any part of a public road used for parking or for a taxi rank; or

- (b) parking of commercial vehicles incidental to the predominant use of the land;

**community purpose** means premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit;

**consulting rooms** means premises used by no more than 2 health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care;

**convenience store** means premises —

- (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents; and  
(b) operated during hours which include, but may extend beyond, normal trading hours; and  
(c) the floor area of which does not exceed 300 m<sup>2</sup> net lettable area;

**corrective institution** means premises used to hold and reform persons committed to it by a court, such as a prison or other type of detention facility;

**educational establishment** means premises used for the purposes of providing education including premises used for a school, higher education institution, business college, academy or other educational institution;

**exhibition centre** means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature including a museum;

**family day care** means premises where a family day care service as defined in the *Education and Care Services National Law (Western Australia)* is provided;

**fast food outlet/lunch bar** means premises, including premises with a facility for drive-through service, used for the preparation, sale and serving of food to customers in a form ready to be eaten —

- (a) without further preparation; and  
(b) primarily off the premises;

**freeway service centre** means premises that has direct access to a freeway and which provides all the following services or facilities and may provide other associated facilities or services but does not provide bulk fuel services —

- (a) service station facilities;  
(b) emergency breakdown repair for vehicles;  
(c) charging points for electric vehicles;

- (d) facilities for cyclists;
- (e) restaurant, cafe or fast food services;
- (f) take-away food retailing;
- (g) public ablution facilities, including provision for disabled access and infant changing rooms;
- (h) parking for passenger and freight vehicles;
- (i) outdoor rest stop facilities such as picnic tables and shade areas;

**fuel depot** means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel but does not include premises used —

- (a) as a service station; or
- (b) for the sale of fuel by retail into a vehicle for use by the vehicle;

**funeral parlour** means premises used —

- (a) to prepare and store bodies for burial or cremation;
- (b) to conduct funeral services;

**garden centre** means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens;

**holiday accommodation** means 2 or more dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot;

**holiday house** means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast;

**home business** means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession —

- (a) does not involve employing more than 2 people who are not members of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 50 m<sup>2</sup>; and
- (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and

- (f) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
- (g) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;

**home occupation** means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation that —

- (a) does not involve employing a person who is not a member of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 20 m<sup>2</sup>; and
- (d) does not involve the display on the premises of a sign with an area exceeding 0.2 m<sup>2</sup>; and
- (e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (f) does not —
  - (i) require a greater number of parking spaces than normally required for a single dwelling; or
  - (ii) result in an increase in traffic volume in the neighbourhood;

and

- (g) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
- (h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and
- (i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;

**home office** means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation —

- (a) is solely within the dwelling; and
- (b) does not entail clients or customers travelling to and from the dwelling; and
- (c) does not involve the display of a sign on the premises; and
- (d) does not require any change to the external appearance of the dwelling;

**home store** means a shop attached to a dwelling that —

- (a) has a net lettable area not exceeding 100 m<sup>2</sup>; and
- (b) is operated by a person residing in the dwelling;

**hospital** means premises used as a hospital as defined in the *Hospitals and Health Services Act 1927* section 2(1);

**hotel** means premises the subject of a hotel licence other than a small bar or tavern licence granted under the *Liquor Control Act 1988* including any betting agency on the premises;

**industry** means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes —

- (a) the storage of goods;
- (b) the work of administration or accounting;
- (c) the selling of goods by wholesale or retail;
- (d) the provision of amenities for employees;
- (e) incidental purposes;

**industry — extractive** means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any of the following purposes —

- (a) the processing of raw materials including crushing, screening, washing, blending or grading;
- (b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration;

**industry — light** means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed;

**industry — primary production** means premises used —

- (a) to carry out a primary production business as that term is defined in the *Income Tax Assessment Act 1997* (Commonwealth) section 995-1; or
- (b) for a workshop servicing plant or equipment used in primary production businesses;

**liquor store — large** means premises the subject of a liquor store licence granted under the *Liquor Control Act 1988* with a net lettable area of more than 300 m<sup>2</sup>;

**liquor store — small** means premises the subject of a liquor store licence granted under the *Liquor Control Act 1988* with a net lettable area of not more than 300 m<sup>2</sup>;

**marina** means —

- (a) premises used for providing mooring, fuelling, servicing, repairing, storage and other facilities for boats, including the associated sale of any boating gear or equipment; and
- (b) all jetties, piers, embankments, quays, moorings, offices and storerooms used in connection with the provision of those services;

**marine filling station** means premises used for the storage and supply of liquid fuels and lubricants for marine craft;

**market** means premises used for the display and sale of goods from stalls by independent vendors;

**medical centre** means premises other than a hospital used by 3 or more health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care;

**mining operations** means premises where mining operations, as that term is defined in the *Mining Act 1978* section 8(1) is carried out;

**motel** means premises, which may be licensed under the *Liquor Control Act 1988* —

- (a) used to accommodate guests in a manner similar to a hotel; and
- (b) with specific provision for the accommodation of guests with motor vehicles;

**motor vehicle, boat or caravan sales** means premises used to sell or hire motor vehicles, boats or caravans;

**motor vehicle repair** means premises used for or in connection with —

- (a) electrical and mechanical repairs, or overhauls, to vehicles other than panel beating, spray painting or chassis reshaping of vehicles; or
- (b) repairs to tyres other than recapping or re-treading of tyres;

**motor vehicle wash** means premises primarily used to wash motor vehicles;

**nightclub** means premises the subject of a nightclub licence granted under the *Liquor Control Act 1988*;

**office** means premises used for administration, clerical, technical, professional or similar business activities;



**park home park** means premises used as a park home park as defined in the *Caravan Parks and Camping Grounds Regulations 1997* Schedule 8;

**place of worship** means premises used for religious activities such as a chapel, church, mosque, synagogue or temple;

**reception centre** means premises used for hosted functions on formal or ceremonial occasions;

**recreation — private** means premises that are —

- (a) used for indoor or outdoor leisure, recreation or sport; and
- (b) not usually open to the public without charge;

**resource recovery centre** means premises other than a waste disposal facility used for the recovery of resources from waste;

**restaurant/cafe** means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the *Liquor Control Act 1988*;

**restricted premises** means premises used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of —

- (a) publications that are classified as restricted under the *Classification (Publications, Films and Computer Games) Act 1995* (Commonwealth); or
- (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity; or
- (c) smoking-related implements;

**road house** means premises that has direct access to a State road other than a freeway and which provides the services or facilities provided by a freeway service centre and may provide any of the following facilities or services —

- (a) a full range of automotive repair services;
- (b) wrecking, panel beating and spray painting services;
- (c) transport depot facilities;
- (d) short-term accommodation for guests;
- (e) facilities for being a muster point in response to accidents, natural disasters and other emergencies;

**rural home business** means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or occupation if the carrying out of the business, service or occupation —

- (a) does not involve employing more than 2 people who are not members of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 200 m<sup>2</sup>; and
- (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
- (f) does not involve the presence, use or calling of more than 3 vehicles at any one time or of a vehicle of more than 30 tonnes gross weight;

**rural pursuit/hobby farm** means any premises, other than premises used for agriculture — extensive or agriculture — intensive, that are used by an occupier of the premises to carry out any of the following activities if carrying out of the activity does not involve permanently employing a person who is not a member of the occupier's household —

- (a) the rearing, agistment, stabling or training of animals;
- (b) the keeping of bees;
- (c) the sale of produce grown solely on the premises;

**serviced apartment** means a group of units or apartments providing —

- (a) self-contained short stay accommodation for guests; and
- (b) any associated reception or recreational facilities;

**service station** means premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for —

- (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; or
- (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles;

**shop** means premises other than a bulky goods showroom, a liquor store — large or a liquor store — small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services;

**small bar** means premises the subject of a small bar licence granted under the *Liquor Control Act 1988*;

**tavern** means premises the subject of a tavern licence granted under the *Liquor Control Act 1988*;

**telecommunications infrastructure** means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network;

**tourist development** means a building, or a group of buildings forming a complex, other than a bed and breakfast, a caravan park or holiday accommodation, used to provide —

- (a) short-term accommodation for guests; and
- (b) onsite facilities for the use of guests; and
- (c) facilities for the management of the development;

**trade display** means premises used for the display of trade goods and equipment for the purpose of advertisement;

**trade supplies** means premises used to sell by wholesale or retail, or to hire, assemble or manufacture any materials, tools, equipment, machinery or other goods used for the following purposes including goods which may be assembled or manufactured off the premises —

- (a) automotive repairs and servicing;
- (b) building including repair and maintenance;
- (c) industry;
- (d) landscape gardening;
- (e) provision of medical services;
- (f) primary production;
- (g) use by government departments or agencies, including local government;

**transport depot** means premises used primarily for the parking or garaging of 3 or more commercial vehicles including —

- (a) any ancillary maintenance or refuelling of those vehicles; and
- (b) any ancillary storage of goods brought to the premises by those vehicles; and
- (c) the transfer of goods or persons from one vehicle to another;

**tree farm** means land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the *Carbon Rights Act 2003* section 5;

**veterinary centre** means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders;

**warehouse/storage** means premises including indoor or outdoor facilities used for —

- (a) the storage of goods, equipment, plant or materials; or
- (b) the display or sale by wholesale of goods;

**waste disposal facility** means premises used —

- (a) for the disposal of waste by landfill; or
- (b) the incineration of hazardous, clinical or biomedical waste;

**waste storage facility** means premises used to collect, consolidate, temporarily store or sort waste before transfer to a waste disposal facility or a resource recovery facility on a commercial scale;

**wind farm** means premises used to generate electricity by wind force and any associated turbine, building or other structure but does not include anemometers or turbines used primarily to supply electricity for a domestic property or for private rural use;

**winery** means premises used for the production of viticultural produce and associated sale of the produce;

**workforce accommodation** means premises, which may include modular or relocatable buildings, used —

- (a) primarily for the accommodation of workers engaged in construction, resource, agricultural or other industries on a temporary basis; and
- (b) for any associated catering, sporting and recreation facilities for the occupants and authorised visitors.

## **Schedule 2 — Deemed provisions for local planning schemes**

[r. 10(4)]

### **Part 1 — Preliminary**

#### **1. Terms used**

In this Scheme —

**Act** means the *Planning and Development Act 2005*;

**advertisement** means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, that is used wholly or partly for the purposes of advertising, announcing or directing, and includes —

- (a) any hoarding or similar structure used, or adapted for use, for the display of advertisements; and
- (b) any airborne device anchored to any land or building used for the display of advertising; and
- (c) any vehicle or trailer or other similar object placed or located so as to serve the purpose of displaying advertising;

**amenity** means all those factors which combine to form the character of an area and include the present and likely future amenity;

**Building Code** means the Building Code of Australia which is volumes 1 and 2, as amended from time to time, of the National Construction Code series published by, or on behalf of, the Australian Building Codes Board;

**built heritage conservation** means conservation as defined in the *Heritage of Western Australia Act 1990* section 3(1);

**cultural heritage significance** has meaning given in the *Heritage of Western Australia Act 1990* section 3(1);

**development contribution plan** means a development contribution plan, prepared in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Part 7, that applies to land in the Scheme area;

**local government** means the local government responsible for this Scheme;

**local government CEO** means the chief executive officer of the local government;

**local planning strategy** means the local planning strategy for this Scheme prepared under the *Planning and Development (Local Planning Schemes) Regulations 2015* Part 3, as amended from time to time;

**owner**, in relation to land, means —

- (a) if the land is freehold land —
  - (i) a person whose name is registered as a proprietor of the land; and
  - (ii) the State, if registered as a proprietor of the land; and
  - (iii) a person who holds an interest as purchaser under a contract to purchase an estate in fee simple in the land; and
  - (iv) a person who is the holder of a freehold interest in land vested in an executor or administrator under the *Administration Act 1903* section 8;

and

- (b) if the land is Crown land —
  - (i) the State; and
  - (ii) a person who holds an interest as purchaser under a contract to purchase an estate in fee simple in the land;

**premises** means land, buildings or part of land or a building;

**R-Codes** means the Residential Design Codes prepared by the Western Australian Planning Commission under section 26 of the Act, as amended from time to time;

**region planning scheme** means a region planning scheme that applies in respect of part or all of the Scheme area;

**reserve** means land reserved under this Scheme for a public purpose;

**Scheme area** means the area to which this Scheme applies;

**special control area** means an area identified under this Scheme as an area subject to special controls set out in this Scheme;

**substantially commenced** means that some substantial part of work in respect of a development approved under a planning scheme or under an interim development order has been performed;

**works**, in relation to land, means —

- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land; and
- (b) the carrying out on the land of any excavation or other works; and
- (c) in the case of a place to which a Conservation Order made under the *Heritage of Western Australia Act 1990* section 59 applies, any act or thing that —
  - (i) is likely to damage the character of that place or the external appearance of any building; or
  - (ii) would constitute an irreversible alteration to the fabric of any building;

**zone** means a portion of the Scheme area identified on the Scheme Map as a zone for the purpose of indicating the controls imposed by this Scheme on the use of, or the carrying out of works on, land, but does not include a reserve or special control area.

## **Part 2 — Local planning framework**

### **Division 1 — Local planning strategy**

#### **2. Local planning strategy**

Where a local planning strategy for the Scheme area has been prepared by the local government in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Part 3 the local planning strategy sets out the long-term planning directions for the Scheme area.

### **Division 2 — Local planning policies**

#### **3. Local planning policies**

- (1) The local government may prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.
- (2) A local planning policy —
  - (a) may apply generally or in respect of a particular class or classes of matters specified in the policy; and
  - (b) may apply to the whole of the Scheme area or to part or parts of the Scheme area specified in the policy.
- (3) A local planning policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.
- (4) The local government may amend or repeal a local planning policy.
- (5) In making a determination under this Scheme the local government must have regard to each relevant local planning policy to the extent that the policy is consistent with this Scheme.

#### **4. Procedure for making local planning policy**

- (1) If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows —
  - (a) publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of —
    - (i) the subject and nature of the proposed policy; and
    - (ii) the objectives of the proposed policy; and
    - (iii) where the proposed policy may be inspected; and

- (iv) to whom, in what form and during what period submissions in relation to the proposed policy may be made;
  - (b) if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;
  - (c) give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.
- (2) The period for making submissions in relation to a local planning policy must not be less than a period of 21 days commencing on the day on which the notice of the policy is published under subclause (1)(a).
- (3) After the expiry of the period within which submissions may be made, the local government must —
  - (a) review the proposed policy in the light of any submissions made; and
  - (b) resolve to —
    - (i) proceed with the policy without modification; or
    - (ii) proceed with the policy with modification; or
    - (iii) not to proceed with the policy.
- (4) If the local government resolves to proceed with the policy, the local government must publish notice of the policy in a newspaper circulating in the Scheme area.
- (5) A policy has effect on publication of a notice under subclause (4).
- (6) The local government —
  - (a) must ensure that an up-to-date copy of each local planning policy made under this Scheme is kept and made available for public inspection during business hours at the offices of the local government; and
  - (b) may publish a copy of each of those local planning policies on the website of the local government.

**5. Procedure for amending local planning policy**

- (1) Clause 4, with any necessary changes, applies to the amendment to a local planning policy.
- (2) Despite subclause (1), the local government may make an amendment to a local planning policy without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.



**6. Revocation of local planning policy**

A local planning policy may be revoked —

- (a) by a subsequent local planning policy that —
  - (i) is prepared in accordance with this Part; and
  - (ii) expressly revokes the local planning policy;
- or
- (b) by a notice of revocation —
  - (i) prepared by the local government; and
  - (ii) published in a newspaper circulating in the Scheme area.

**Part 3 — Heritage protection**

**7. Terms used**

In this Part —

**heritage area** means an area designated as a heritage area under clause 9;

**heritage list** means a heritage list established under clause 8(1);

**place** has the meaning given in the *Heritage of Western Australia Act 1990* section 3(1).

Note: The purpose of this Part is to provide for the identification of places and areas of heritage value so that development in the Scheme can, as far as possible, be consistent with the conservation of heritage values.

**8. Heritage list**

- (1) The local government must establish and maintain a heritage list to identify places within the Scheme area that are of cultural heritage significance and worthy of built heritage conservation.
- (2) The heritage list —
  - (a) must set out a description of each place and the reason for its entry in the heritage list; and
  - (b) must be available, with the Scheme documents, for public inspection during business hours at the offices of the local government; and
  - (c) may be published on the website of the local government.
- (3) The local government must not enter a place in, or remove a place from, the heritage list or modify the entry of a place in the heritage list unless the local government —
  - (a) notifies in writing each owner and occupier of the place and provides each of them with a description of the place and the reasons for the proposed entry; and

- (b) invites each owner and occupier to make submissions on the proposal within 21 days of the day on which the notice is served or within a longer period specified in the notice; and
  - (c) carries out any other consultation the local government considers appropriate; and
  - (d) following any consultation and consideration of the submissions made on the proposal, resolves that the place be entered in the heritage list with or without modification, or that the place be removed from the heritage list.
- (4) If the local government enters a place in the heritage list or modifies an entry of a place in the heritage list the local government must give notice of the entry or modification to —
- (a) the Heritage Council of Western Australia; and
  - (b) each owner and occupier of the place.

**9. Designation of heritage areas**

- (1) If, in the opinion of the local government, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area to which this Scheme applies, the local government may, by resolution, designate that area as a heritage area.
- (2) If the local government designates an area as a heritage area the local government must adopt for the area a local planning policy that sets out the following —
- (a) a map showing the boundaries of the heritage area;
  - (b) a statement about the heritage significance of the area;
  - (c) a record of places of heritage significance in the heritage area.
- (3) The local government must not designate an area as a heritage area unless the local government —
- (a) notifies in writing each owner of land affected by the proposed designation and provides the owner with a copy of the proposed local planning policy for the heritage area; and
  - (b) advertises the proposed designation by —
    - (i) publishing a notice of the proposed designation in a newspaper circulating in the Scheme area; and

- (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
    - (iii) publishing a copy of the notice of the proposed designation on the website of the local government;
  - and
  - (c) carry out any other consultation the local government considers appropriate.
- (4) Notice of a proposed designation under subclause (3)(b) must specify —
- (a) the area that is the subject of the proposed designation; and
  - (b) where the proposed local planning policy for the proposed heritage area may be inspected; and
  - (c) to whom, in what form and in what period submissions may be made.
- (5) The period for making submissions in relation to the designation of an area as a heritage area must not be less than a period of 21 days commencing on the day on which the notice of the proposed designation is published under subclause (3)(b)(i).
- (6) After the expiry of the period within which submissions may be made, the local government must —
- (a) review the proposed designation in the light of any submissions made; and
  - (b) resolve —
    - (i) to adopt the designation without modification; or
    - (ii) to adopt the designation with modification; or
    - (iii) not to proceed with the designation.
- (7) If the local government designates an area as a heritage area the local government must give notice of the designation to —
- (a) the Heritage Council of Western Australia; and
  - (b) each owner of land affected by the designation.
- (8) The local government may modify or revoke a designation of a heritage area.
- (9) Subclauses (3) to (7) apply, with any necessary changes, to the amendment to a designation of a heritage area or the revocation of a designation of a heritage area.

**10. Heritage agreements**

- (1) The local government may, in accordance with the *Heritage of Western Australia Act 1990* section 29, enter into a heritage agreement with an owner or occupier of land or a building for the purpose of binding the land or affecting the use of the land or building insofar as the interest of that owner or occupier permits.
- (2) The local government may not enter into an agreement with the owner or occupier of land or a building that relates to heritage matters other than in accordance with subclause (1).

**11. Heritage assessment**

- (1) Despite any existing assessment on record, the local government may require a heritage assessment to be carried out prior to the approval of any development proposed in a heritage area or in respect of a place entered in the heritage list.
- (2) A heritage assessment must be in a form approved by the Heritage Council of Western Australia.

**12. Variations to local planning scheme provisions for heritage purposes**

- (1) The local government may vary any site or development requirement specified in this Scheme to —
  - (a) facilitate the built heritage conservation of a place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the heritage list; or
  - (b) enhance or preserve heritage values in a heritage area.
- (2) A variation under subclause (1) may be unconditional or subject to any conditions the local government considers appropriate.
- (3) If the local government is of the opinion that the variation of site or development requirements is likely to affect any owners or occupiers in the general locality of the place or the heritage area the local government must —
  - (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 64; and
  - (b) have regard to any views expressed prior to making its determination to vary the site or development requirements under this clause.

**13. Heritage conservation notice**

- (1) In this clause —

**heritage conservation notice** means a notice given under subclause (2);

**heritage place** means a place that is on the heritage list or located in a heritage area;

**properly maintained**, in relation to a heritage place, means maintained in a way that ensures that there is no actual or imminent loss or deterioration of —

- (a) the structural integrity of the heritage place; or
  - (b) an element of the heritage place that is integral to —
    - (i) the reason set out in the heritage list for the entry of the place in the heritage list; or
    - (ii) the heritage significance of the area in which it is located, as set out in a statement in the local planning policy for the area adopted in accordance with clause 9(2).
- (2) If the local government forms the view that a heritage place is not being properly maintained the local government may give to a person who is the owner or occupier of the heritage place a written notice requiring the person to carry out specified repairs to the heritage place by a specified time, being a time that is not less than 60 days after the day on which the notice is given.
- (3) If a person fails to comply with a heritage conservation notice, the local government may enter the heritage place and carry out the repairs specified in the notice.
- (4) The expenses incurred by the local government in carrying out repairs under subclause (3) may be recovered as a debt due from the person to whom the notice was given in a court of competent jurisdiction.
- (5) The local government may —
- (a) vary a heritage conservation notice to extend the time for carrying out the specified repairs; or
  - (b) revoke a heritage conservation notice.
- (6) A person who is given a heritage conservation notice may apply to the State Administrative Tribunal for a review, in accordance with Part 14 of the Act, of a decision —
- (a) to give the notice; or
  - (b) to require repairs specified in the notice to be carried out; or
  - (c) to require repairs specified in the notice to be carried out by the time specified in the notice.

**Part 4 — Structure plans**

**14. Term used: structure plan**

In this Part —

**structure plan** means a plan for the coordination of future subdivision and zoning of an area of land.

**15. When structure plan may be prepared**

A structure plan in respect of an area of land in the Scheme area may be prepared if —

- (a) the area is —
  - (i) all or part of a zone identified in this Scheme as an area suitable for urban or industrial development; and
  - (ii) identified in this Scheme as an area requiring a structure plan to be prepared before any future subdivision or development is undertaken;

or

- (b) a State planning policy requires a structure plan to be prepared for the area; or
- (c) the Commission considers that a structure plan for the area is required for the purposes of orderly and proper planning.

**16. Preparation of structure plan**

- (1) A structure plan must —
  - (a) be prepared in a manner and form approved by the Commission; and
  - (b) include any maps, information or other material required by the Commission; and
  - (c) unless the Commission otherwise agrees, set out the following information —
    - (i) the key attributes and constraints of the area covered by the plan including the natural environment, landform and the topography of the area;
    - (ii) the planning context for the area covered by the plan and the neighbourhood and region within which the area is located;
    - (iii) any major land uses, zoning or reserves proposed by the plan;

- (iv) estimates of the future number of lots in the area covered by the plan and the extent to which the plan provides for dwellings, retail floor space or other land uses;
  - (v) the population impacts that are expected to result from the implementation of the plan;
  - (vi) the extent to which the plan provides for the coordination of key transport and other infrastructure;
  - (vii) the proposed staging of the subdivision or development covered by the plan.
- (2) The local government may prepare a structure plan in the circumstances set out in clause 15.
- (3) A person may make an application to the local government for a structure plan prepared by the person in the circumstances set out in clause 15 to be assessed and advertised if the person is —
- (a) a person who is the owner of any or all of the land in the area to which the plan relates; or
  - (b) an agent of a person referred to in paragraph (a).

**17. Action by local government on receipt of application**

- (1) On receipt of an application for a structure plan to be assessed and advertised, the local government —
- (a) must consider the material provided by the applicant and advise the applicant in writing —
    - (i) if the structure plan complies with clause 16(1); or
    - (ii) if further information from the applicant is required before the structure plan can be accepted for assessment and advertising;
- and
- (b) must give the applicant an estimate of the fee for dealing with the application in accordance with the *Planning and Development Regulations 2009* regulation 48.
- (2) The structure plan is to be taken to have been accepted for assessment and advertising if the local government has not given written notice to the applicant of its decision by the latest of the following days —
- (a) 28 days after receipt of an application;
  - (b) 14 days after receipt of the further information requested under subclause (1)(a)(ii);

- (c) if the local government has given the applicant an estimate of the fee for dealing with the application — the day the applicant pays the fee.

**18. Advertising structure plan**

- (1) The local government must, within 28 days of preparing a structure plan or accepting an application for a structure plan to be assessed and advertised —
  - (a) advertise the proposed structure plan in accordance with subclause (2); and
  - (b) seek comments in relation to the proposed structure plan from any public authority or utility service provider that the local government considers appropriate; and
  - (c) provide to the Commission —
    - (i) a copy of the proposed structure plan and all accompanying material; and
    - (ii) details of the advertising and consultation arrangements for the plan.
- (2) The local government must advertise the structure plan in one or more of the following ways —
  - (a) by giving notice of the proposed structure plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the structure plan, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is given to the person;
  - (b) by publishing a notice of the proposed structure plan in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;
  - (c) by publishing a notice of the proposed structure plan on the local government website including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;



- (d) by erecting a sign or signs in a conspicuous place on the land the subject of the proposed structure plan giving notice of the proposed plan for a period of not less than 14 days and not more than 28 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the sign is erected.
- (3) The local government —
  - (a) must make a structure plan advertised under subclause (2) and the material accompanying it available for public inspection during business hours at the offices of the local government; and
  - (b) may publish the structure plan and the material accompanying it on the website of the local government.
- (4) If a local government fails to advertise a structure plan in accordance with this clause, the Commission may take reasonable steps to ensure that the plan is advertised.
- (5) All costs incurred by the Commission in the exercise of the power conferred by subclause (4) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

**19. Consideration of submissions**

- (1) The local government —
  - (a) must consider all submissions made to the local government within the period specified in a notice advertising the structure plan; and
  - (b) may consider submissions made to the local government after that time; and
  - (c) may request further information from a person who prepared the structure plan; and
  - (d) may advertise any modifications proposed to the structure plan to address issues raised in submissions.
- (2) If a local government makes a decision under subclause (1)(d) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the structure plan.
- (3) Modifications to a structure plan may not be advertised on more than one occasion without the approval of the Commission.

**20. Local government report to Commission**

- (1) The local government must prepare a report on the proposed structure plan and provide it to the Commission no later than 60 days after the day that is the latest of —
  - (a) the last day for making submissions specified in a notice given or published under clause 18(2); or
  - (b) the last day for making submissions after a proposed modification of the structure plan is advertised under clause 19(2); or
  - (c) a day agreed by the Commission.
- (2) The report on the proposed structure plan must include the following —
  - (a) a list of the submissions considered by the local government, including, if relevant, any submissions received on a proposed modification to the structure plan advertised under clause 19(2);
  - (b) any comments by the local government in respect of those submissions;
  - (c) a schedule of any proposed modifications to address issues raised in the submissions;
  - (d) the local government's assessment of the proposal based on appropriate planning principles;
  - (e) a recommendation by the local government on whether the proposed structure plan should be approved by the Commission, including a recommendation on any proposed modifications.

**21. Cost and expenses incurred by local government**

The costs and expenses incurred by the local government in giving a report under clause 20(1), are, to the extent that they are not payable by a person who prepared a structure plan under the *Planning and Development Regulations 2009* regulation 49, to be borne by the local government.

**22. Decision of Commission**

- (1) On receipt of a report on a proposed structure plan, the Commission must consider the plan and the report and may —
  - (a) approve the structure plan; or
  - (b) require the local government or the person who prepared the structure plan to —
    - (i) modify the plan in the manner specified by the Commission; and

- (ii) resubmit the modified plan to the Commission for approval;
  - or
  - (c) refuse to approve the structure plan.
- (2) Before making a decision under subclause (1), the Commission may, if the Commission considers that major modifications have been made to the structure plan since it was advertised, direct the local government to readvertise the structure plan in the manner specified by the Commission.
- (3) The Commission may not direct the local government to readvertise the structure plan on more than one occasion.
- (4) If the Commission is not given a report on a proposed structure plan in accordance with clause 20(1), the Commission may make a decision on the proposed structure plan under subclause (1) in the absence of the report.
- (5) The Commission is to be taken to have refused to approve a structure plan if the Commission has not made a decision under subclause (1) within —
  - (a) 120 days of the day on which the local government provides the report to the Commission, excluding any period between the Commission requiring modifications to the structure plan and the resubmission of the modified plan; or
  - (b) a longer period agreed in writing between the Commission and the person who prepared the proposed structure plan.
- (6) Despite subclause (5), the Commission may decide whether or not to approve a structure plan after the period applicable under subclause (5) has expired, and the validity of the decision is not affected by the expiry.
- (7) The Commission must give the local government and any person who prepared the proposed structure plan written notice of its decision to approve or to refuse to approve a structure plan.

**23. Further services or information from local government**

- (1) The Commission may direct the local government to give to the Commission technical advice and assistance or further information in writing in connection with the application if —
  - (a) the local government does not provide a report on a structure plan within the timeframe referred to in clause 20(1); or

- (b) the local government provides a report on a structure plan that does not contain sufficient information for the Commission to make its decision on whether or not to approve the structure plan.
- (2) The direction must be in writing and must specify —
  - (a) the services or information required; and
  - (b) the time within which the local government must comply with the direction.
- (3) If a local government fails to comply with a direction given to it under subclause (1), the Commission may take reasonable steps to obtain the services or information referred to in the direction on its own behalf.
- (4) All costs incurred by the Commission in the exercise of the power conferred by subclause (3) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

**24. Structure plan may provide for later approval of details of subdivision**

- (1) The Commission may approve a structure plan that provides for further details of a proposed subdivision included in the plan to be submitted to, and approved by, the Commission before the subdivision is approved under Part 10 of the Act.
- (2) The Commission may only approve a structure plan referred to in subclause (1) if the Commission is satisfied that the further matters that are to be approved would not result in a substantial departure from the plan.

**25. Review**

A person who prepared a structure plan may apply to the State Administrative Tribunal for a review, in accordance with the *Planning and Development Act 2005* Part 14, of a decision by the Commission not to approve the structure plan.

**26. Publication of structure plan approved by Commission**

- (1) If the Commission approves a structure plan the Commission must publish the structure plan in any manner the Commission considers appropriate.
- (2) The local government may publish a structure plan approved by the Commission on the website of the local government.

**27. Effect of structure plan**

- (1) A decision-maker for an application for development approval or subdivision approval in an area that is covered by a structure plan that has been approved by the Commission is to have due regard to, but is not bound by, the structure plan when deciding the application.
- (2) A decision-maker for an application for development approval or subdivision approval in an area referred to in clause 15 as being an area for which a structure plan may be prepared, but for which no structure plan has been approved by the Commission, may approve the application if the decision-maker is satisfied that —
  - (a) the proposed development or subdivision does not conflict with the principles of orderly and proper planning; and
  - (b) the proposed development or subdivision would not prejudice the overall development potential of the area.

**28. Duration of approval**

- (1) The approval of a structure plan has effect for a period of 10 years commencing on the day on which the Commission approves the plan, or another period determined by the Commission, unless —
  - (a) the Commission earlier revokes its approval; or
  - (b) an amendment to the Scheme that covers the area to which the structure plan relates takes effect in accordance with section 87 of the Act.
- (2) For the purposes of subclause (1), a structure plan that was approved before the day referred to in the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 2(b) (**commencement day**) is to be taken to have been approved on commencement day.
- (3) The Commission may extend the period of approval of a structure plan if there are no changes to the terms of the plan or the conditions attached to the approval.
- (4) The Commission may revoke its approval of a structure plan if the Commission considers that the structure plan cannot be effectively implemented because of a legislative change or a change in a State planning policy.

**29. Amendment of structure plan**

- (1) A structure plan may be amended by the Commission at the request of the local government or a person who owns land in the area covered by the plan.

- (2) The procedures for making a structure plan set out in this Part, with any necessary changes, are to be followed in relation to an amendment to a structure plan.
- (3) Despite subclause (2), the local government may decide not to advertise an amendment to a structure plan if, in the opinion of the local government and the Commission, the amendment is of a minor nature.
- (4) An amendment to a structure plan does not extend the period of approval of the plan unless, at the time the amendment is approved, the Commission agrees to extend the period.

### **Part 5 — Activity centre plans**

#### **30. Terms used**

In this Part —

*activity centre* means —

- (a) an area of land identified in accordance with a State planning policy as an activity centre; or
- (b) an area of land identified by the Commission as an activity centre;

*activity centre plan* or *activity centre structure plan* means a plan for the coordination of the future subdivision, zoning and development of an activity centre.

#### **31. When activity centre plan may be prepared**

An activity centre plan in respect of an area of land in the Scheme area may be prepared if —

- (a) a State planning policy requires an activity centre structure plan to be prepared for the area; or
- (b) the Commission considers that an activity centre plan for the area is required for the purposes of orderly and proper planning.

#### **32. Preparation of activity centre plan**

- (1) An activity centre plan must —
  - (a) be prepared in a manner and form approved by the Commission; and
  - (b) include any maps, information or other material required by the Commission; and
  - (c) unless the Commission otherwise agrees, set out the following information —
    - (i) the key attributes and constraints of the area covered by the plan including the natural

- environment, landform and the topography of the area;
  - (ii) the planning context for the area covered by the plan and the neighbourhood and region within which the area is located;
  - (iii) any major land uses, zoning or reserves proposed by the plan;
  - (iv) estimates of the future number of lots in the area covered by the plan and the extent to which the plan provides for dwellings, retail floor space or other land uses;
  - (v) the population impacts that are expected to result from the implementation of the plan;
  - (vi) the extent to which the plan provides for the coordination of key transport and other infrastructure;
  - (vii) the proposed staging of the subdivision or development covered by the plan;
  - (viii) the standards to be applied for the buildings, other structures and works that form part of the development or subdivision to which it applies;
  - (ix) arrangements for the management of services for the development or subdivision;
  - (x) the arrangements to be made for vehicles to access the area covered by the plan.
- (2) The local government may prepare an activity centre plan in the circumstances set out in clause 31.
  - (3) A person may make an application to the local government for an activity centre plan prepared by the person in the circumstances set out in clause 31 to be assessed and advertised if the person is —
    - (a) a person who is the owner of any or all of the land in the area to which the plan relates; or
    - (b) an agent of a person referred to in paragraph (a).

**33. Action by local government on receipt of application**

- (1) On receipt of an application for an activity centre plan to be assessed and advertised, the local government —
  - (a) must consider the material provided by the applicant and advise the applicant in writing —
    - (i) if the activity plan complies with clause 32(1);
    - or

- (ii) if further information from the applicant is required before the activity centre plan can be accepted for assessment and advertising;
  - and
  - (b) must give the applicant an estimate of the fee for dealing with the application in accordance with the *Planning and Development Regulations 2009* regulation 48.
- (2) The activity centre plan is to be taken to have been accepted for assessment and advertising if the local government has not given written notice of its decision to the applicant by the latest of the following days —
- (a) 28 days after receipt of an application;
  - (b) 14 days after receipt of the further information requested under subclause (1)(a)(ii);
  - (c) if the local government has given the applicant an estimate of the fee for dealing with the application — the day on which the applicant pays the fee.

**34. Advertising activity centre plan**

- (1) The local government must, within 28 days of preparing an activity centre plan or accepting an application for an activity centre plan to be assessed and advertised —
  - (a) advertise the proposed activity centre plan in accordance with subclause (2); and
  - (b) seek comments in relation to the proposed activity centre plan from any public authority or utility service provider that the local government considers appropriate; and
  - (c) provide to the Commission —
    - (i) a copy of the proposed activity centre plan and all accompanying material;
    - (ii) details of the advertising and consultation arrangements for the plan.
- (2) The local government must advertise the activity centre plan in one or more of the following ways —
  - (a) by giving notice of the proposed activity centre plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the activity centre plan, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the



- Commission, from the day on which the notice is given to the person;
- (b) by publishing a notice of the proposed activity centre plan in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;
  - (c) by publishing a notice of the proposed activity centre plan by electronic means in a form approved by the local government CEO including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;
  - (d) by erecting a sign or signs in a conspicuous place on the land the subject of the proposed activity centre plan giving notice of the proposed plan for a period of not less than 14 days and not more than 28 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the sign is erected.
- (3) The local government —
- (a) must make an activity centre plan advertised under subclause (2) and the material accompanying it available for public inspection during business hours at the offices of the local government; and
  - (b) may publish the activity centre plan and the material accompanying it on the website of the local government.
- (4) If a local government fails to advertise an activity centre plan in accordance with this clause, the Commission may take reasonable steps to ensure that the plan is advertised.
- (5) All costs incurred by the Commission in the exercise of the power conferred by subclause (4) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

**35. Consideration of submissions**

- (1) The local government —

- (a) must consider all submissions made to the local government within the period specified in a notice advertising a proposed activity centre plan; and
  - (b) may consider submissions made to the local government after that time; and
  - (c) may request further information from a person who prepared the activity centre plan; and
  - (d) may advertise any modifications proposed to the activity centre plan to address issues raised in submissions.
- (2) If a local government makes a decision under subclause (1)(d) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the activity centre plan.
- (3) Modifications to an activity centre plan may not be advertised on more than one occasion without the approval of the Commission.

**36. Local government report to Commission**

- (1) The local government must prepare a report on the proposed activity centre plan and provide it to the Commission no later than 60 days after the day that is the latest of —
- (a) the last day for making submissions specified in a notice given or published under clause 34(2); or
  - (b) the last day for making submissions after a proposed amendment to the activity centre plan is advertised under clause 35(2); or
  - (c) a day agreed by the Commission.
- (2) The report on the proposed activity centre plan must be in a form approved by the Commission and must include the following —
- (a) a list of the submissions considered by the local government, including if relevant, any submissions received on a proposed modification to the activity centre plan advertised under clause 35(2);
  - (b) any comments by the local government in respect of those submissions;
  - (c) a schedule of any proposed modifications to address issues raised in the submissions;
  - (d) the local government's assessment of the proposal based on appropriate planning principles;
  - (e) a recommendation by the local government on whether the proposed activity centre plan should be approved by the Commission, including a recommendation on any proposed modifications.

**37. Cost and expenses incurred by local government**

The costs and expenses incurred by the local government in giving a report under clause 36(1), are, to the extent that they are not payable by a person who prepared an activity centre plan under the *Planning and Development Regulations 2009* regulation 49, to be borne by the local government.

**38. Decision of Commission**

- (1) On receipt of a report on a proposed activity centre plan, the Commission must consider the plan and the report and may —
  - (a) approve the activity centre plan; or
  - (b) require the local government or the person who prepared the activity centre plan to —
    - (i) modify the plan in the manner specified by the Commission; and
    - (ii) resubmit the modified plan to the Commission for approval;or
  - (c) refuse to approve the activity centre plan.
- (2) Before making a decision under subclause (1), the Commission may, if the Commission considers that major modifications have been made to the activity centre plan since it was advertised, direct the local government to readvertise the activity centre plan as specified by the Commission.
- (3) The Commission must not direct the local government to readvertise the activity centre plan on more than one occasion.
- (4) If the Commission is not given a report on a proposed activity centre plan in accordance with clause 36(1), the Commission may make a decision on the proposed plan under subclause (1) in the absence of the report.
- (5) The Commission is to be taken to have refused to approve an activity centre plan if the Commission has not made a decision under subclause (1) within —
  - (a) 120 days of the day on which the local government provides the report to the Commission, excluding any period between the Commission requiring modifications to the activity centre plan and the resubmission of the modified plan; or
  - (b) a longer period agreed in writing between the Commission and the person who prepared the proposed activity centre plan.

- (6) Despite subclause (5), the Commission may decide whether or not to approve an activity centre plan after the period applicable under subclause (5) has expired, and the validity of the decision is not affected by the expiry.
- (7) The Commission must give the local government and any person who prepared the proposed activity centre plan written notice of its decision to approve or to refuse to approve an activity centre plan.

**39. Further services or information from local government**

- (1) The Commission may direct the local government to give to the Commission technical advice and assistance or further information in writing in connection with the application if —
  - (a) the local government does not provide a report on an activity centre plan within the timeframe referred to in clause 36(1); or
  - (b) the local government provides a report on an activity centre plan that does not contain sufficient information for the Commission to make its decision on whether or not to approve the activity centre plan.
- (2) The direction must be in writing and must specify —
  - (a) the services or information required; and
  - (b) the time within which the local government must comply with the direction.
- (3) If a local government fails to comply with a direction given to it under subclause (1), the Commission may take reasonable steps to obtain the services or information referred to in the direction on its own behalf.
- (4) All costs incurred by the Commission in the exercise of the power conferred by subclause (3) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

**40. Activity centre plan may provide for later approval of details of subdivision or development**

- (1) The Commission may approve an activity centre plan that provides for —
  - (a) further details of a subdivision included in the plan to be submitted to, and approved by, the Commission before the subdivision is approved under Part 10 of the Act; or
  - (b) further details of development included in the plan to be submitted to, and approved by, the local government before the development commences.

- (2) The Commission may only approve an activity centre plan referred to in subclause (1) if the Commission is satisfied that the further matters that are to be approved would not result in a substantial departure from the plan.

**41. Review**

A person who prepared an activity centre plan may apply to the State Administrative Tribunal for a review, in accordance with the *Planning and Development Act 2005* Part 14, of a decision by the Commission not to approve the activity centre plan.

**42. Publication of activity centre plan approved by Commission**

- (1) If the Commission approves an activity centre plan the Commission must publish the activity centre plan in any manner the Commission considers appropriate.
- (2) The local government may publish an activity centre plan approved by the Commission on the website of the local government.

**43. Effect of activity centre plan**

- (1) A decision-maker for an application for development approval or subdivision approval in an area that is covered by an activity centre plan that has been approved by the Commission is to have due regard to, but is not bound by, the activity centre plan when deciding the application.
- (2) A decision-maker for an application for development approval or subdivision approval in an area referred to in clause 31 as being an area for which an activity centre plan may be prepared, but for which no activity centre plan has been approved by the Commission, may approve the application if the decision-maker is satisfied that —
- (a) the proposed development or subdivision does not conflict with the principles of orderly and proper planning; and
  - (b) the proposed development or subdivision would not prejudice the overall development potential of the area.

**44. Duration of approval**

- (1) The approval of an activity centre plan has effect for a period of 10 years commencing on the day on which the Commission approves the plan, or another period determined by the Commission, unless —
- (a) the Commission earlier revokes its approval; or

- (b) an amendment to the Scheme that covers the area to which the activity centre plan relates takes effect in accordance with section 87 of the Act.
- (2) For the purposes of subclause (1), an activity centre plan that was approved before the day referred to in the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 2(b) (**commencement day**) has effect as if it were approved on commencement day.
- (3) The Commission may extend the period of approval of an activity centre plan if there are no changes to the terms of the plan or the conditions attached to the approval.
- (4) The Commission may revoke its approval of an activity centre plan if the Commission considers that the activity centre plan cannot be effectively implemented because of a legislative change or a change in a State planning policy.

**45. Amendment of activity centre plan**

- (1) An activity centre plan may be amended by the Commission at the request of the local government or a person who owns land in the area covered by the plan.
- (2) The procedures for making an activity centre plan set out in this Part, with any necessary changes, are to be followed in relation to an amendment to an activity centre plan.
- (3) Despite subclause (2), the local government may decide not to advertise an amendment to an activity centre plan if, in the opinion of the local government and the Commission, the amendment is of a minor nature.
- (4) An amendment to an activity centre plan does not extend the period of approval of the plan unless, at the time the amendment is approved, the Commission agrees to extend the period.

**Part 6 — Local development plans**

**46. Term used: local development plan**

In this Part —

**local development plan** means a plan setting out specific and detailed guidance for a future development including one or more of the following —

- (a) site and development standards that are to apply to the development;
- (b) specifying exemptions from the requirement to obtain development approval for development in the area to which the plan relates.

**47. When local development plan may be prepared**

A local development plan in respect of an area of land in the Scheme area may be prepared if—

- (a) the Commission has identified the preparation of a local development plan as a condition of approval of a plan of subdivision of the area; or
- (b) a structure plan requires a local development plan to be prepared for the area; or
- (c) an activity centre plan requires a local development plan to be prepared for the area; or
- (d) the Commission and the local government considers that a local development plan is required for the purposes of orderly and proper planning.

**48. Preparation of local development plan**

- (1) A local development plan must —
  - (a) be prepared in a manner and form approved by the Commission; and
  - (b) include any maps or other material considered by the local government to be necessary; and
  - (c) set out the following information —
    - (i) the standards to be applied for the buildings, other structures and works that form part of the development to which it applies;
    - (ii) details of the arrangements to be made for vehicles to access the area covered by the plan.
- (2) The local government may prepare a local development plan in the circumstances set out in clause 47.
- (3) A person may make an application to the local government for a local development plan prepared by the person in the circumstances set out in clause 47 to be assessed and advertised if the person is —
  - (a) a person who is the owner of any or all of the land in the area to which the plan relates; or
  - (b) an agent of a person referred to in paragraph (a).

**49. Action by local government on receipt of application**

- (1) On receipt of an application for a local development plan to be assessed and advertised, the local government —
  - (a) must consider the material provided by the applicant and advise the applicant in writing —

- (i) if the local development plan complies with clause 48(1); or
    - (ii) if further information from the applicant is required before the local development plan can be accepted for assessment and advertising;
  - and
  - (b) must give the applicant an estimate of the fee for dealing with the application in accordance with the *Planning and Development Regulations 2009* regulation 48.
- (2) The local development plan is to be taken to have been accepted for assessment and advertising if the local government has not given written notice of its decision to the applicant by the latest of the following days —
- (a) 14 days after receipt of an application;
  - (b) 7 days after receipt of the further information requested under subclause (1)(a)(ii);
  - (c) if the local government has given the applicant an estimate of the fee for dealing with the application — the day on which the applicant pays the fee.

**50. Advertising of local development plan**

- (1) The local government must, within 28 days of preparing a local development plan or accepting an application for a local development plan to be assessed and advertised —
  - (a) advertise the proposed local development plan in accordance with subclause (2); and
  - (b) seek comments in relation to the proposed local development plan from any public authority or utility service that the local government considers appropriate.
- (2) The local government must advertise the local development plan in one or more of the following ways —
  - (a) by giving notice of the proposed plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the plan, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is given to the person;
  - (b) by publishing a notice of the proposed plan in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local



- government by a specified day being a day not less than 14 days from the day on which the notice is published;
- (c) by publishing a notice of the proposed plan by electronic means in a form approved by the local government CEO including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is published;
  - (d) by erection of a sign or signs in a conspicuous place on the land the subject of the proposed plan giving notice of the proposed plan for a period of not less than 14 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the sign is erected.
- (3) Despite subclause (1) the local government may decide not to advertise a local development plan if the local government is satisfied that the plan is not likely to adversely affect any owners or occupiers within the area covered by the plan or an adjoining area.
- (4) The local government —
- (a) must make a local development plan advertised under subclause (1) and the material accompanying it available for public inspection during business hours at the offices of the local government; and
  - (b) may publish the local development plan and the material accompanying it on the website of the local government.

**51. Consideration of submissions**

The local government —

- (a) must consider all submissions in relation to a local development plan made to the local government within the period specified in a notice advertising a proposed local development plan; and
- (b) may consider submissions in relation to a local development plan made to the local government after that time; and
- (c) is to have due regard to the matters set out in clause 67 to the extent that, in the opinion of the local government those matters are relevant to the development to which the plan relates.

**52. Decision of local government**

- (1) Following consideration of a proposed local development plan, including any amendments made to the plan to address matters raised in submissions, the local government must —
  - (a) approve the local development plan; or
  - (b) require the person who prepared the local development plan to —
    - (i) modify the plan in the manner specified by the local government; and
    - (ii) resubmit the modified plan to the local government for approval;

or

  - (c) refuse to approve the plan.
- (2) The local government is to be taken to have refused to approve a local development plan if the local government has not made a decision under subclause (1) —
  - (a) if the plan was advertised — within the period of 60 days after the last day for making submissions specified in a notice given or published under clause 50(2) or a longer period agreed between the local government and a person other than the local government who prepared the plan; or
  - (b) if the plan was not advertised — within the period of 60 days after the resolution not to advertise the plan was made by the local government or a longer period agreed between the local government and a person other than the local government who prepared the plan.
- (3) For the purposes of calculating the periods referred to in subclause (2)(a) and (b), the period between the local government requiring modifications to the local development plan and the resubmission of the modified plan is to be excluded.
- (4) Despite subclause (2), the local government may decide whether or not to approve a local development plan after the period applicable under subclause (2) has expired, and the validity of the decision is not affected by the expiry.
- (5) The local government must give any person who prepared the local development plan written notice of its decision to approve or to refuse to approve a local development plan.

**53. Local development plan may provide for later approval of details of development**

- (1) The local government may approve a local development plan that provides for further details of any development included in the plan to be submitted to, and approved by, the local government before the development commences.
- (2) The local government may only approve a local development plan referred to in subclause (1) if the local government is satisfied that the further matters that are to be approved would not result in a substantial departure from the plan.

**54. Review**

A person who prepared a local development plan may apply to the State Administrative Tribunal for a review, in accordance with the *Planning and Development Act 2005* Part 14, of a decision by the local government not to approve the local development plan.

**55. Publication of local development plan approved by local government**

If the local government approves a local development plan the local government must publish the local development plan on the website of the local government.

**56. Effect of local development plan**

- (1) A decision-maker for an application for development approval in an area that is covered by a local development plan that has been approved by the local government must have due regard to, but is not bound by, the local development plan when deciding the application.
- (2) A decision-maker for an application for development approval in an area referred to in clause 47 as being an area for which a local development plan may be prepared, but for which no local development plan has been approved by the local government, may approve the application if the decision-maker is satisfied that —
  - (a) the proposed development does not conflict with the principles of orderly and proper planning; and
  - (b) the proposed development would not prejudice the overall development potential of the area.

**57. Duration of approval**

- (1) The approval of a local development plan has effect for a period of 10 years commencing on the day on which the local government approves the plan, or another period determined by the local

government, unless the local government earlier revokes its approval.

- (2) For the purposes of subclause (1), a local development plan that was approved before the day referred to in the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 2(b) (**commencement day**) is to be taken to have been approved on commencement day.
- (3) A local government may extend the period of approval of a local development plan if there are no changes to the terms of the plan or the conditions attached to the approval.

**58. Revocation of local development plan**

The local government must not revoke approval of a local development plan unless this Scheme is amended so that the development to which the plan relates is a non-conforming use.

**59. Amendment of local development plan**

- (1) A local development plan may be amended by the local government.
- (2) A person who owns land in the area covered by a local development plan may request the local government to amend the plan.
- (3) The procedures for making a local development plan set out in this Part, with any necessary changes, are to be followed in relation to an amendment to a local development plan.
- (4) Despite subclause (3), the local government may decide not to advertise an amendment to a local development plan if, in the opinion of the local government, the amendment is of a minor nature.
- (5) An amendment to a local development plan does not extend the period of approval of the plan unless, at the time the amendment is approved, the local government agrees to extend the period.

**Part 7 — Requirement for development approval**

**60. Requirement for development approval**

A person must not commence or carry out any works on, or use, land in the Scheme area unless —

- (a) the person has obtained the development approval of the local government under Part 8; or
- (b) the development is of a type referred to in clause 61.

Notes:

1. Development includes the erection, placement and display of advertisements.

2. Approval to commence development may also be required from the Commission if the land is subject to a region planning scheme.

**61. Development for which development approval not required**

- (1) Development approval of the local government is not required for the following works —

- (a) the carrying out of works that are wholly located on an area identified as a regional reserve under a region planning scheme;

Note: Approval may be required from the Commission for development on a regional reserve under a region planning scheme.

- (b) the carrying out of internal building work which does not materially affect the external appearance of the building unless the work is on a building identified as having an interior with cultural heritage significance —

- (i) in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or  
(ii) on a heritage list prepared in accordance with this Scheme;

- (c) the erection or extension of a single house on a lot if the R-Codes apply to the development and the development satisfies the deemed-to-comply requirements of the R-Codes unless the development is located in a place that is —

- (i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or  
(ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or  
(iii) included on a heritage list prepared in accordance with this Scheme; or  
(iv) within an area designated under the Scheme as a heritage area; or  
(v) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29;

- (d) the erection or extension of an ancillary dwelling, outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool on the same lot as a single house or a grouped dwelling if the R-Codes apply to the development and the development satisfies the deemed-to-comply requirements of the R-Codes unless the development is located in a place that is —

- (i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
  - (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
  - (iii) included on a heritage list prepared in accordance with this Scheme; or
  - (iv) within an area designated under the Scheme as a heritage area; or
  - (v) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29;
- (e) the demolition of a single house, ancillary dwelling, outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool except where the single house or other structure is —
- (i) located in a place that is entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
  - (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
  - (iii) included on a heritage list prepared in accordance with this Scheme; or
  - (iv) located within an area designated under this Scheme as a heritage area; or
  - (v) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29;
- (f) temporary works which are in existence for less than 48 hours, or a longer period agreed by the local government, in any 12 month period;
- (g) the temporary erection or installation of an advertisement if —
- (i) the advertisement is erected or installed in connection with an election, referendum or other poll conducted under the *Commonwealth Electoral Act 1918* (Commonwealth), the *Electoral Act 1907* or the *Local Government Act 1995*; and
  - (ii) the primary purpose of the advertisement is for political communication in relation to the election, referendum or poll; and

- (iii) the advertisement is not erected or installed until the election, referendum or other poll is called and is removed no later than 48 hours after the election, referendum or other poll is conducted;
- (h) the erection or installation of a sign of a class specified in a local planning policy or local development plan that applies in respect of the sign unless the sign is to be erected or installed —
  - (i) on a place included on a heritage list prepared in accordance with this Scheme; or
  - (ii) on land located within an area designated under this Scheme as a heritage area;
- (i) the carrying out of any other works specified in a local planning policy or local development plan that applies to the development as works that do not require development approval;
- (j) the carrying out of works of a type identified elsewhere in this Scheme as works that do not require development approval.

Notes:

The *Planning and Development Act 2005* section 157 applies in respect of the carrying out of works necessary to enable the subdivision of land if the Commission has approved a plan of the subdivision.

The *Planning and Development Act 2005* section 6 applies in respect of the carrying out of public works by the Crown, the Governor, the Government of the State or a local government.

- (2) Development approval of the local government is not required for the following uses —
  - (a) a use that is wholly located on an area identified as a regional reserve under a region planning scheme;  
Note: Approval may be required from the Commission for development on a regional reserve under a region planning scheme.
  - (b) development that is a use identified in this Scheme as a use that is permitted in the zone in which the development is located and —
    - (i) the development has no works component; or
    - (ii) development approval is not required for the works component of the development;
  - (c) the use of premises as a home office;
  - (d) temporary use which is in existence for less than 48 hours, or a longer period agreed by the local government, in any 12 month period;

- (e) any other use specified in a local planning policy or local development plan that applies to the development as a use that does not require development approval;
  - (f) use of a type identified elsewhere in this Scheme as use that does not require development approval.
- (3) Despite subclause (1) development approval may be required for certain works carried out in a special control area.
- (4) For the purposes of subclause (1)(c) or (d), development is to be taken to satisfy a deemed-to-comply requirement of the R-Codes if it complies with —
  - (a) a requirement in a local development plan or activity centre plan made under the R-Codes that amends or replaces the deemed-to-comply requirement; or
  - (b) a requirement —
    - (i) in a structure plan that was approved before the day referred to in the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 2(b); and
    - (ii) that amends or replaces the deemed-to-comply requirement;or
  - (c) a requirement in a local planning policy that amends or replaces the deemed-to-comply requirement.
- (5) If under subclause (1)(c) or (d) development approval is not required for the carrying out of works on land, the owner of the land may provide to the local government confirmation of the matters set out in subclause (1)(c) or (d), as relevant, in a manner and form approved by the Commission.

## **Part 8 — Applications for development approval**

### **62. Form of application**

- (1) An application for development approval must be —
  - (a) made in the form of the “Application for development approval” set out in clause 86(1); and
  - (b) signed by the owner of the land on which the proposed development is to be located; and
  - (c) accompanied by any fee for an application of that type set out in the *Planning and Development Regulations 2009* or prescribed under the *Local Government Act 1995*; and
  - (d) accompanied by the plans and information specified in clause 63.



- (2) For the purposes of subclause (1)(b), a person or body may sign an application for development approval as the owner of freehold land if the person or body is one of the following —
- (a) a person who is referred to in the definition of *owner* in respect of freehold land in clause 1;
  - (b) a strata company that is authorised by a management statement registered under the *Strata Titles Act 1985* section 5C to make an application for development approval in respect of the land;
  - (c) a person who is authorised under another written law to make an application for development approval in respect of the land;
  - (d) an agent of a person referred to in paragraph (a).

Note: The *Planning and Development Act 2005* section 267A makes provision for the signing of documents by the owner of Crown land.

- (3) An application for development approval for the erection, placement or display of an advertisement must be accompanied by sufficient information to determine the application in the form of the “Additional information for development approval for advertisements” set out in clause 86(2).

Note: The *Interpretation Act 1984* section 74 provides for circumstances in which deviations from a prescribed form do not invalidate the form used.

### **63. Accompanying material**

- (1) An application for development approval must be accompanied by —
- (a) a plan or plans in a form approved by the local government showing the following —
    - (i) the location of the site including street names, lot numbers, north point and the dimensions of the site;
    - (ii) the existing and proposed ground levels over the whole of the land the subject of the application;
    - (iii) the location, height and type of all existing structures and environmental features, including watercourses, wetlands and native vegetation on the site;
    - (iv) the structures and environmental features that are proposed to be removed;
    - (v) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;

- (vi) the existing and proposed means of access for pedestrians and vehicles to and from the site;
  - (vii) the location, number, dimensions and layout of all car parking spaces intended to be provided;
  - (viii) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
  - (ix) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the open storage or trade display area;
  - (x) the nature and extent of any open space and landscaping proposed for the site;
- and
- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building that is intended to be retained; and
  - (c) a report on any specialist studies in respect of the development that the local government requires the applicant to undertake such as site surveys or traffic, heritage, environmental, engineering or urban design studies; and
  - (d) any other plan or information that the local government reasonably requires.
- (2) The local government may waive or vary a requirement set out in subclause (1).
- (3) Where an application relates to a place entered on a heritage list prepared in accordance with this Scheme or within an area designated under this Scheme as a heritage area, the local government may require the application to be accompanied by one or more of the following —
- (a) street elevations drawn as one continuous elevation to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application;
  - (b) a detailed schedule of all finishes, including materials and colours of the proposed development;

- (c) a description of the finishes of the existing developments on the subject lot and on each lot immediately adjoining the subject lot.

**64. Advertising applications**

- (1) An application for development approval must be advertised under this clause if the proposed development —
  - (a) relates to the extension of a non-conforming use; or
  - (b) relates to a use if —
    - (i) 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; and
    - (ii) the local government determines that the use may be consistent with the objective of that zone and that notice of the application should be given;or
  - (c) does not comply with a requirement of this Scheme; or
  - (d) is a development for which the local government requires a heritage assessment to be carried out under clause 11(1); or
  - (e) is of a type that this Scheme requires to be advertised.
- (2) The local government may waive a requirement for an application to be advertised in the circumstances set out in subclause (1)(c) if the local government is satisfied that the departure from the requirements of this Scheme is of a minor nature.
- (3) The local government may advertise, or require the applicant to advertise, an application for development approval in one or more of the following ways —
  - (a) by giving notice of the proposed use or 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, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is given to the person;
  - (b) by publishing a notice of the proposed use or development in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day

not less than 14 days from the day on which the notice is published;

- (c) by publishing a notice of the proposed use or development by electronic means in a form approved by the local government CEO including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is published;
  - (d) by erecting a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed use or development for a period of not less than 14 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the sign is erected.
- (4) Notice referred to in subclause (3) must be in the form of the “Notice of public advertisement of planning proposal” set out in clause 86(3) unless the local government specifies otherwise.
  - (5) If an application for development approval is advertised under this clause, the local government —
    - (a) must make the application and the material accompanying it available for public inspection during business hours at the offices of the local government; and
    - (b) may publish the application and the material accompanying it on the website of the local government.

**65. Subsequent approval of development**

The procedures relating to applications for development approval set out in Part 7, Part 9 and this Part apply, with any modifications necessary, to an application for development approval for development already commenced or carried out.

Note: The *Planning and Development Act 2005* section 164 sets out the effect of approval for development already commenced or carried out.

**Part 9 — Procedure for dealing with applications for development approval**

**66. Consultation with other authorities**

- (1) When, in the opinion of the local government, an application for development approval may affect any other statutory, public or planning authority, the local government is to provide a copy of the application to the authority for objections and recommendations.

- (2) If an application for development approval relates to proposed development on land that is reserved under this Scheme for a public purpose and vested in a public authority, the local government must provide a copy of the application to that authority for objections and recommendations before making a decision on the application.
- (3) A statutory, public or planning authority receiving a copy of an application may, within 42 days of receiving the application or within such longer period as the local government allows, provide to the local government a memorandum in writing containing any objections to, or recommendations in respect of the whole or part of the proposed development.
- (4) If a statutory, public or planning authority does not provide a memorandum within the time allowed under subclause (3), the local government may determine that the authority is to be taken to have no objections or recommendations to make.

**67. Matters to be considered by local government**

In considering an application for development approval 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 —

- (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
- (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the *Planning and Development (Local Planning Schemes) Regulations 2015* or any other proposed planning instrument that the local government is seriously considering adopting or approving;
- (c) any approved State planning policy;
- (d) any environmental protection policy approved under the *Environmental Protection Act 1986* section 31(d);
- (e) any policy of the Commission;
- (f) any policy of the State;
- (g) any local planning policy for the Scheme area;
- (h) any structure plan, activity centre plan or local development plan that relates to the development;
- (i) any report of the review of the local planning scheme that has been published under the *Planning and Development (Local Planning Schemes) Regulations 2015*;

- (j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;
- (k) the built heritage conservation of any place that is of cultural significance;
- (l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
- (m) the compatibility of the development with its setting including 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;
- (n) the amenity of the locality including the following —
  - (i) environmental impacts of the development;
  - (ii) the character of the locality;
  - (iii) social impacts of the development;
- (o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;
- (p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;
- (r) the suitability of the land for the development taking into account the possible risk to human health or safety;
- (s) the adequacy of —
  - (i) the proposed means of access to and egress from the site; and
  - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;

- (u) the availability and adequacy for the development of the following —
  - (i) public transport services;
  - (ii) public utility services;
  - (iii) storage, management and collection of waste;
  - (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
  - (v) access by older people and people with disability;
- (v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;
- (w) the history of the site where the development is to be located;
- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- (y) any submissions received on the application;
- (za) the comments or submissions received from any authority consulted under clause 66;
- (zb) any other planning consideration the local government considers appropriate.

**68. Determination of applications**

- (1) The local government must not determine an application for development approval until the later of —
  - (a) if the application is advertised under clause 64 — the end of each period for making submissions to the local government specified in a notice referred to in clause 64(3); and
  - (b) if a copy of the application has been provided to a statutory, public or planning authority under clause 66 — the end of each period for providing a memorandum to the local government referred to in clause 66(3).
- (2) The local government may determine an application for development approval by —
  - (a) granting development approval without conditions; or
  - (b) granting development approval with conditions; or
  - (c) refusing to grant development approval.

**69. Application not to be refused if development contribution plan not in place**

- (1) The local government must not refuse an application for development approval only because there is not a development contribution plan in place in relation to the development.
- (2) The local government must not grant development approval subject to a condition that future contributions to the provision of infrastructure related to the development may be required under a development contribution plan that is not in place at the time the application is determined.

**70. Form and date of determination**

- (1) As soon as practicable after determining an application for development approval, the local government must give the applicant written notice of the determination in the form of the “Notice of determination on application for development approval” set out in clause 86(4).
- (2) The determination has effect on the day on which the notice of determination is given to the applicant.

**71. Commencement of development under development approval**

If development approval is granted under clause 68 —

- (a) the development must be substantially commenced —
  - (i) if no period is specified in the approval — within the period of 2 years commencing on the date on which the determination is made; or
  - (ii) if a period is specified in the approval — within that period; or
  - (iii) in either case — within a longer period approved by the local government on an application made under clause 77(1)(a);

and

- (b) the approval lapses if the development has not substantially commenced within the period determined under paragraph (a).

**72. Temporary development approval**

The local government may impose conditions limiting the period of time for which development approval is granted.

**Note:** A temporary development approval is where the local government grants approval for a limited period. It does not have any effect on the period within which the development must commence.



**73. Scope of development approval**

Development approval may be granted —

- (a) for the development for which the approval is sought; or
- (b) for the development for which the approval is sought, except for a part or aspect of that development specified in the approval; or
- (c) for a part or aspect of the development for which approval is sought that is specified in the approval.

**74. Approval subject to later approval of details**

- (1) The local government may grant development approval subject to a condition that further details of any works or use specified in the condition must be submitted to, and approved by, the local government before the developer commences the development.
- (2) The local government may only impose a condition referred to in subclause (1) if the local government is satisfied that the further matters that are to be approved would not substantially change the development approved.

**75. Time for deciding application for development approval**

- (1) The local government must determine an application for development approval —
  - (a) if the application is advertised under clause 64 or a copy of the application is provided to a statutory, public or planning authority under clause 66 — within 90 days of receipt of the application; or
  - (b) otherwise — within 60 days of the receipt of the application and the material that is required to accompany the application referred to in clause 63; or
  - (c) in either case — within a longer time agreed in writing between the applicant and the local government.
- (2) If the local government has not made a determination in the time referred to in subclause (1) the local government is to be taken to have refused to grant the development approval.
- (3) Despite subclause (2), the local government may determine whether or not to grant the development approval after the period applicable under subclause (1) has expired and the validity of the determination is not affected by the expiry.
- (4) The local government must give the applicant written notice of its decision to grant or refuse to grant development approval.

**76. Review of decisions**

(1) In this clause —

**affected person**, in relation to a reviewable determination, means —

- (a) the applicant for development approval; or
- (b) the owner of land in respect of which an application for development approval is made;

**reviewable determination** means a determination by the local government to —

- (a) refuse an application for development approval; or
- (b) to grant development approval subject to conditions; or
- (c) to refuse to amend or cancel a development approval on an application made under clause 77.

(2) An affected person may apply to the State Administrative Tribunal for a review of a reviewable determination in accordance with the *Planning and Development Act 2005* Part 14.

**77. Amending or cancelling development approval**

(1) An owner of land in respect of which development approval has been granted by the local government may make an application to the local government requesting the local government to do any or all of the following —

- (a) to amend the approval so as to extend the period within which any development approved must be substantially commenced;
- (b) to amend or delete any condition to which the approval is subject;
- (c) to amend an aspect of the development approved which, if amended, would not substantially change the development approved;
- (d) to cancel the approval.

(2) An application under subclause (1) —

- (a) is to be made in accordance with the requirements in Part 8 and dealt with under this Part as if it were an application for development approval; and
- (b) may be made during or after the period within which the development approved must be substantially commenced.

(3) Despite subclause (2), the local government may waive or vary a requirement in Part 8 or this Part in respect of an application if the

local government is satisfied that the application relates to a minor amendment to the development approval.

- (4) The local government may determine an application made under subclause (1) by —
  - (a) approving the application without conditions; or
  - (b) approving the application with conditions; or
  - (c) refusing the application.

## **Part 10 — Enforcement and administration**

### **Division 1 — Powers of local government**

#### **78. Powers of local government**

- (1) For the purposes of implementing this Scheme the local government may —
  - (a) enter into an agreement in respect of a matter relating to this Scheme with any owner, occupier or other person having an interest in land affected by this Scheme; and
  - (b) deal with or dispose of any land in the Scheme area which it has acquired in accordance with the *Planning and Development Act 2005* Part 11 Division 4.
- (2) The local government may only deal with or dispose of land acquired by the local government for the purpose of a local reserve for a use of the land that is compatible with the purpose for which it is reserved.

#### **79. Entry and inspection powers**

- (1) The local government CEO may, by instrument in writing, designate an officer of the local government as an authorised officer for the purposes of this clause.
- (2) An authorised officer may, for the purpose of monitoring whether the local planning scheme is being complied with, at any reasonable time and with any assistance reasonably required —
  - (a) enter any building or land in the Scheme area; and
  - (b) inspect the building or land and any thing in or on the building or land.

#### **80. Repair of existing advertisements**

- (1) The local government may require the owner of an advertisement located in the Scheme area to repair the advertisement if, in the opinion of the local government, the advertisement has deteriorated to a point where it is in conflict with the aims of this Scheme.

- (2) A requirement referred to in subclause (1) must —
  - (a) be in the form of a written notice given to the person; and
  - (b) specify the advertisement the subject of the requirement; and
  - (c) set out clear reasons for the requirement; and
  - (d) set out full details of the action or alternative courses of action to be taken by the person; and
  - (e) specify the period, not being a period of less than 60 days from the day on which the notice is given to the person, within which the requirement must be complied with.
- (3) If the local government does not know who the owner of an advertisement is, the local government may give a notice referred to in subclause (1) to the owner of the land on which the advertisement is located and direct the owner of the land to give the notice to the owner of the advertisement within a period specified by the local government.
- (4) If an owner of land on which an advertisement is located does not give to the owner of the advertisement a notice as directed under subclause (3), the owner of the land is to be taken to be the owner of the advertisement.
- (5) A person to whom a notice under this clause is given may apply for a review of the requirement to the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14.

#### **Division 2 — Delegations**

##### **81. Terms used**

In this Division —

***absolute majority*** has the meaning given in the *Local Government Act 1995* section 1.4;

***committee*** means a committee established under the *Local Government Act 1995* section 5.8.

##### **82. Delegations by local government**

- (1) The local government may, by resolution, delegate to a committee or to the local government CEO the exercise of any of the local government's powers or the discharge of any of the local government's duties under this Scheme other than this power of delegation.
- (2) A resolution referred to in subclause (1) must be by absolute majority of the council of the local government.

- (3) The delegation must be in writing and may be general or as otherwise provided in the instrument of delegation.

**83. Local government CEO may delegate powers**

- (1) The local government CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's functions under this Scheme other than this power of delegation.
- (2) A delegation under this clause must be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) Subject to any conditions imposed by the local government on its delegation to the local government CEO under clause 82, this clause extends to a power or duty the exercise or discharge of which has been delegated by the local government to the CEO under that clause.

**84. Other matters relevant to delegations under this Division**

The *Local Government Act 1995* sections 5.45 and 5.46 apply to a delegation made under this Division as if the delegation were a delegation under Part 5 Division 4 of that Act.

**Division 3 — Miscellaneous**

**85. Agreement to use of material provided for Scheme purposes**

The local government may refuse to accept an application made under this Scheme if the local government is not satisfied that there is in place an agreement for the local government to use any copyrighted material provided in support of the application —

- (a) for the purposes of advertising the application or implementing a decision on the application; and
- (b) for zero remuneration.

**Part 11 — Forms referred to in this Scheme**

**86. Forms referred to in this Scheme**

- (1) The form of an application for development approval referred to in clause 62(1)(a) is as follows —

**Application for development approval**

<b>Owner details</b>
Name:
ABN (if applicable):

Address: .....		
.....		Postcode: .....
Phone:	Fax:	Email:
Work: .....	.....	.....
Home: .....		
Mobile: .....		
Contact person for correspondence:		
Signature:		Date:
Signature:		Date:
<i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature. For the purposes of signing this application an owner includes the persons referred to in the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 clause 62(2).</i>		

<b>Applicant details (if different from owner)</b>		
Name:		
Address: .....		
.....		Postcode: .....
Phone:	Fax:	Email:
Work: .....	.....	.....
Home: .....		
Mobile: .....		
Contact person for correspondence:		
The information and plans provided with this application may be made available by the local government for public viewing in connection with the application. <input type="checkbox"/> Yes <input type="checkbox"/> No		
Signature:		Date:

<b>Property details</b>		
Lot No:	House/Street No:	Location No:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Title encumbrances (e.g. easements, restrictive covenants): .....		
Street name:		Suburb:
Nearest street intersection:		

<b>Proposed development</b>	
Nature of development:	<input type="checkbox"/> Works <input type="checkbox"/> Use <input type="checkbox"/> Works and use
Is an exemption from development claimed for part of the development?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, is the exemption for:	<input type="checkbox"/> Works <input type="checkbox"/> Use
Description of proposed works and/or land use: .....	
Description of exemption claimed (if relevant):	
Nature of any existing buildings and/or land use:	
Approximate cost of proposed development:	
Estimated time of completion:	

<i>OFFICE USE ONLY</i>	
Acceptance Officer's initials:	Date received:
Local government reference No:	

*(The content of the form of application must conform with this form but minor variations may be permitted to the format.)*

- (2) The form for providing additional information for development approval for advertisements referred to in clause 62(3) is as follows —

**Additional information for development approval for advertisements**

*Note: To be completed in addition to the Application for development approval form.*

1.	Description of property on which advertisement is to be displayed including full details of its proposed position within that property: ..... .....
2.	Details of proposed sign: (a) Type of structure on which advertisement is to be erected (i.e. freestanding, wall mounted, other): ..... (b) Height: ..... Width: ..... Depth: ..... (c) Colours to be used: ..... (d) Height above ground level — to top of advertisement: ..... to underside: ..... (e) Materials to be used: ..... ..... Illuminated: Yes / No If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source: ..... .....
3.	Period of time for which advertisement is required: .....





*Planning and Development Act 2005*

City/Town/Shire of .....

**Notice of determination on application for development approval**

Location:	
Lot:	Plan/Diagram:
Vol. No:	Folio No:
Application date:	Received on:
Description of proposed development: .....	
.....	
The application for development approval is:	
<input type="checkbox"/> Approved subject to the following conditions	
<input type="checkbox"/> Refused for the following reason(s)	
Conditions/reasons for refusal:	
.....	
.....	
.....	
Date of determination: .....	
Note 1:	If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect.
Note 2:	Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.
Note 3:	If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the <i>Planning and Development Act 2005</i> Part 14. An application must be made within 28 days of the determination.
Signed:	Dated:
.....	.....
for and on behalf of the City/Town/Shire of: .....	

*(The content of the determination notice must conform to this form but minor variations may be permitted to the format.)*




**Schedule 3 — Legends used in Scheme**




[r. 9(2)(b)]




**1. Reserve legends used in local planning scheme maps**




Land reserved under a local planning scheme is to be identified on the scheme map using the legend set out in the Table.




**Table — Reserve legends used in Scheme**



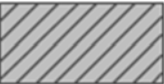
Reserve name	Appearance
Public Open Space	 <p><b>Mid green hatched</b>  <b>RGB Colours</b>                      FILL:                      Red: 0                      Green: 176                      Blue: 80                      Style: Hatch                      Angle +45.00°                      Separation 1.27mm                      Width 0.035mm</p>
Environmental Conservation	 <p><b>Yellow green hatched</b>  <b>RGB Colours</b>                      FILL:                      Red: 155                      Green: 187                      Blue: 89                      Style: Hatch                      Angle +45.00°                      Separation 1.27mm                      Width 0.035mm</p>
State Forest	 <p><b>Mustard yellow hatched</b>  <b>RGB Colours</b>                      FILL:                      Red: 255                      Green: 204                      Blue: 01                      Style: Hatch                      Angle +45.00°                      Separation 1.27mm                      Width 0.035mm</p>

Reserve name	Appearance
Civic and Community	 <p><b>Orange hatched</b>  <b>RGB Colours</b>            FILL:            Red: 255            Green: 153            Blue: 0            Style: Hatch            Angle +45.00°            Separation 1.27mm            Width 0.035mm</p>
Social Care Facilities	 <p><b>Orange hatched with black label text “SC”</b>  <b>RGB Colours</b>            FILL:            Red: 255            Green: 153            Blue: 0            Style: Hatch            Angle +45.00°            Separation 1.27mm            Width 0.035mm            BLACK LABEL (Text “SC”)</p>
Cultural Facilities	 <p><b>Orange hatched with black label text “C”</b>  <b>RGB Colours</b>            FILL:            Red: 255            Green: 153            Blue: 0            Style: Hatch            Angle +45.00°            Separation 1.27mm            Width 0.035mm            BLACK LABEL (Text “C”)</p>

Reserve name	Appearance
Public Purposes	 <p><b>Yellow hatched</b>  <b>RGB Colours</b>            FILL:            Red: 255            Green: 255            Blue: 0            Style: Hatch            Angle +45.00°            Separation 1.27mm            Width 0.035mm</p>
Medical Services	 <p><b>Yellow hatched with black label text "M"</b>  <b>RGB Colours</b>            FILL:            Red: 255            Green: 255            Blue: 0            Style: Hatch            Angle +45.00°            Separation 1.27mm            Width 0.035mm            BLACK LABEL (Text "M")</p>
Infrastructure Services	 <p><b>Yellow hatched with black label text "IS"</b>  <b>RGB Colours</b>            FILL:            Red: 255            Green: 255            Blue: 0            Style: Hatch            Angle +45.00°            Separation 1.27mm            Width 0.035mm            BLACK LABEL (Text "IS")</p>



Reserve name	Appearance	
Education		<p><b>Yellow hatched with black label text “E”</b></p> <p><b>RGB Colours</b></p> <p>FILL:                      Red: 255                      Green: 255                      Blue: 0</p> <p>Style: Hatch                      Angle +45.00°                      Separation 1.27mm                      Width 0.035mm</p> <p>BLACK LABEL (Text “E”)</p>
Emergency Services		<p><b>Yellow hatched with black label text “ES”</b></p> <p><b>RGB Colours</b></p> <p>FILL:                      Red: 255                      Green: 255                      Blue: 0</p> <p>Style: Hatch                      Angle +45.00°                      Separation 1.27mm                      Width 0.035mm</p> <p>BLACK LABEL (Text “ES”)</p>
Heritage		<p><b>Yellow hatched with black label text “H”</b></p> <p><b>RGB Colours</b></p> <p>FILL:                      Red: 255                      Green: 255                      Blue: 0</p> <p>Style: Hatch                      Angle +45.00°                      Separation 1.27mm                      Width 0.035mm</p> <p>BLACK LABEL (Text “H”)</p>

Reserve name	Appearance	
Government Services		<p><b>Yellow hatched with black label text “GS”</b></p> <p><b>RGB Colours</b></p> <p>FILL:                      Red: 255                      Green: 255                      Blue: 0</p> <p>Style: Hatch                      Angle +45.00°                      Separation 1.27mm                      Width 0.035mm</p> <p>BLACK LABEL (Text “GS”)</p>
Recreational		<p><b>Yellow hatched with black label text “R”</b></p> <p><b>RGB Colours</b></p> <p>FILL:                      Red: 255                      Green: 255                      Blue: 0</p> <p>Style: Hatch                      Angle +45.00°                      Separation 1.27mm                      Width 0.035mm</p> <p>BLACK LABEL (Text “R”)</p>
Cemetery		<p><b>Yellow hatched with black label text “CE”</b></p> <p><b>RGB Colours</b></p> <p>FILL:                      Red: 255                      Green: 255                      Blue: 0</p> <p>Style: Hatch                      Angle +45.00°                      Separation 1.27mm                      Width 0.035mm</p> <p>BLACK LABEL (Text “CE”)</p>

Reserve name	Appearance
Car Park	 <p><b>Yellow hatched with black label text “CP”</b>  <b>RGB Colours</b>            FILL:            Red: 255            Green: 255            Blue: 0            Style: Hatch            Angle +45.00°            Separation 1.27mm            Width 0.035mm            BLACK LABEL (Text “CP”)</p>
Drainage / Waterway	 <p><b>Pale blue hatched</b>  <b>RGB Colours</b>            FILL:            Red: 218            Green: 238            Blue: 243            Style: Hatch            Angle +45.00°            Separation 1.27mm            Width 0.035mm</p>
Railways	 <p><b>Grey hatched</b>  <b>RGB Colours</b>            FILL:            Red: 191            Green: 191            Blue: 191            Style: Hatch            Angle +45.00°            Separation 1.27mm            Width 0.035mm</p>




Reserve name	Appearance
Primary Distributor Road	 <p><b>Red hatched</b>  <b>RGB Colours</b>            FILL:            Red: 255            Green: 0            Blue: 0            Style: Hatch            Angle +45.00°            Separation 1.27mm            Width 0.035mm</p>
District Distributor Road	 <p><b>Blue hatched</b>  <b>RGB Colours</b>            FILL:            Red: 0            Green: 93            Blue: 173            Style: Hatch            Angle +45.00°            Separation 1.27mm            Width 0.035mm</p>
Local Distributor Road	 <p><b>Light red hatched</b>  <b>RGB Colours</b>            FILL:            Red: 247            Green: 164            Blue: 155            Style: Hatch            Angle +45.00°            Separation 1.27mm            Width 0.035mm</p>
Local Road	 <p><b>White</b>  <b>RGB Colours</b>            FILL:            Red: 255            Green: 255            Blue: 255</p>



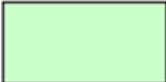


Reserve name	Appearance
Strategic Infrastructure	 <p><b>Dark grey hatched</b>  <b>RGB Colours</b>            FILL:            Red: 122            Green: 139            Blue: 139            Style: Hatch            Angle +45.00°            Separation 1.27mm            Width. 0.035mm</p>
Special Purpose Reserve	 <p><b>Blue and white checked</b>  <b>RGB Colours</b>            FILL:            Red: 38            Green: 101            Blue: 137            Style: Crosshatching            Angle 1 +45.00°            Angle 2 -45.00°            Separation 1.27mm            Width 0.035mm</p>



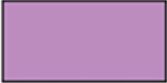
**2. Zone legends used in local planning scheme maps**






Land zoned under a local planning scheme is to be identified on the scheme map using the legend set out in the Table.





**Table — Zone legends used in Scheme**

Zone name	Appearance
Residential	 <p><b>Light red brown</b>  <b>RGB Colours</b>            FILL:            Red: 255            Green: 222            Blue: 178</p>

<b>Zone name</b>	<b>Appearance</b>
Urban Development	 <p><b>Light cream with red brown border</b>  <b>RGB Colours</b>            FILL:            Red: 253            Green: 253            Blue: 217            Border:            Red: 247            Green: 150            Blue: 70            Width: 1.5mm            Offset: -0.75</p>
Settlement	 <p><b>Light orange</b>  <b>RGB Colours</b>            FILL:            Red: 255            Green: 170            Blue: 0</p>
Rural	 <p><b>Light green</b>  <b>RGB Colours</b>            FILL:            Red: 201            Green: 255            Blue: 201</p>
Rural Residential	 <p><b>Medium brown</b>  <b>RGB Colours</b>            FILL:            Red: 138            Green: 101            Blue: 69</p>
Rural Smallholdings	 <p><b>Jade green</b>  <b>RGB Colours</b>            FILL:            Red: 0            Green: 168            Blue: 132</p>

Zone name	Appearance
Rural Townsite Zone	 <p><b>Light green with light blue border</b>  <b>RGB Colours</b>            FILL:            Red: 201            Green: 255            Blue: 201            Border:            Red: 0            Green: 176            Blue: 240            Width: 1.5mm            Offset: -0.75</p>
Environmental Conservation	 <p><b>Olive green</b>  <b>RGB Colours</b>            FILL:            Red: 62            Green: 85            Blue: 9</p>
Light Industry	 <p><b>Light purple</b>  <b>RGB Colours</b>            FILL:            Red: 212            Green: 185            Blue: 218</p>
General Industry	 <p><b>Deep purple</b>  <b>RGB Colours</b>            FILL:            Red: 188            Green: 140            Blue: 191</p>




<b>Zone name</b>	<b>Appearance</b>
Industrial Development	 <p><b>Light cream with magenta border</b>  <b>RGB Colours</b>            FILL:            Red: 253            Green: 253            Blue: 217            Border:            Red: 158            Green: 36            Blue: 134            Width: 1.5mm            Offset: -0.75</p>
Strategic Industry	 <p><b>Magenta</b>  <b>RGB Colours</b>            FILL:            Red: 158            Green: 36            Blue: 134</p>
Commercial	 <p><b>Mid blue</b>  <b>RGB Colours</b>            FILL:            Red: 0            Green: 176            Blue: 240</p>
Mixed Use	 <p><b>Pink</b>  <b>RGB Colours</b>            FILL:            Red: 228            Green: 128            Blue: 171</p>
Service Commercial	 <p><b>Light blue</b>  <b>RGB Colours</b>            FILL:            Red: 198            Green: 219            Blue: 239</p>




<b>Zone name</b>	<b>Appearance</b>
Centre	 <p><b>Light cream with light blue border</b>  <b>RGB Colours</b>            FILL:            Red: 253            Green: 253            Blue: 217            Border:            Red: 77            Green: 172            Blue: 226            Width: 1.5mm            Offset: -0.75</p>
Tourism	 <p><b>Orange</b>  <b>RGB Colours</b>            FILL:            Red: 255            Green: 110            Blue: 0</p>
Private clubs, institutions and place of worship	 <p><b>Yellow green</b>  <b>RGB Colours</b>            FILL:            Red: 146            Green: 208            Blue: 80</p>
Special Use Zone	 <p><b>White with red border</b>  <b>RGB Colours</b>            FILL:            Red: 255            Green: 255            Blue: 255            Border:            Red: 255            Green: 0            Blue: 0            Width: 1.5mm            Offset: -0.75            BLACK TEXT LABEL FOR            SPECIFIC PURPOSE</p>

**3. Additional information used in local planning scheme maps**



Additional information about land or waters in the scheme area is to be identified on the scheme map using the legend set out in the Table.



**Table - Additional information used in local planning scheme maps**


Additional information	Appearance
Oceans/Waterways	 <p><b>Pale blue</b>  <b>RGB Colours</b>                      FILL:                      Red: 219                      Green: 255                      Blue: 255</p>
No Zone	 <p><b>White</b>  <b>RGB Colours</b>                      FILL:                      Red: 0                      Green: 0                      Blue: 0</p>
Additional Use	 <p><b>Transparent with red dashed border with text “A”</b>  <b>RGB Colours</b>                      FILL: NA                      Border Dash:                      Red: 255                      Green: 0                      Blue: 0                      Text:                      Red: 255                      Green: 0                      Blue: 0</p>

Additional information	Appearance
Restricted Use	 <p><b>Transparent with red dashed border with text “R”</b></p> <p><b>RGB Colours</b>            FILL: NA            Border Dash:            Red: 255            Green: 0            Blue: 0</p> <p>Text:            Red: 255            Green: 0            Blue: 0</p>
Special Control Area – General	 <p><b>Inwards triangled border with boxed SCA labelled</b>            (Label related to Scheme Text)</p> <p><b>RGB Colours</b>            FILL: NA            Border Triangle:            Red: 255            Green: 0            Blue: 0</p> <p>Text:            Red: 0            Green: 0            Blue: 0            (Boxed with white background)</p>
Special Control Area - Infrastructure	 <p><b>Inwards triangled border with boxed SCA labelled</b>            (Label related to Scheme Text)</p> <p><b>RGB Colours</b>            FILL: NA            Border Triangle:            Red: 0            Green: 0            Blue: 0</p> <p>Text:            Red: 0            Green: 0            Blue: 0            (Boxed with white background)</p>



<b>Additional information</b>	<b>Appearance</b>
Special Control Area – Basic Raw Material	 <p><b>Inwards triangled border with boxed SCA labelled</b> (Label related to Scheme Text)</p> <p><b>RGB Colours</b> FILL: NA Border Triangle: Red: 115 Green: 76 Blue: 0 Text: Red: 0 Green: 0 Blue: 0 (Boxed with white background)</p>
Special Control Area – Heritage	 <p><b>Inwards triangled border with boxed SCA labelled</b> (Label related to Scheme Text)</p> <p><b>RGB Colours</b> FILL: NA Border Triangle: Red: 0 Green: 132 Blue: 168 Text: Red: 0 Green: 0 Blue: 0 (Boxed with white background)</p>

<b>Additional information</b>	<b>Appearance</b>
Special Control Area – Development Control Area/Plan	 <p><b>Inwards triangled border with boxed SCA labelled</b> (Label related to Scheme Text)</p> <p><b>RGB Colours</b> FILL: NA Border Triangle: Red: 115 Green: 0 Blue: 176 Text: Red: 0 Green: 0 Blue: 0 (Boxed with white background)</p>
Special Control Area – Environment	 <p><b>Inwards triangled border with boxed SCA labelled</b> (Label related to Scheme Text)</p> <p><b>RGB Colours</b> FILL: NA Border Triangle: Red: 0 Green: 168 Blue: 132 Text: Red: 0 Green: 0 Blue: 0 (Boxed with white background)</p>

Additional information	Appearance
Residential Design Code	 <p><b>Inwards striped border with boxed R-Code labelled</b> (Label related to Scheme Text)</p> <p><b>RGB Colours</b>            FILL: NA            Border:            Red: 0            Green: 0            Blue: 0            Striped:            Width: 2.5            Offset: -1            Text:            Red: 0            Green: 0            Blue: 0            (Boxed with white background)</p>



**DISTRICT PLANNING SCHEME NO. 2 – DELEGATIONS - GENERAL**

- 1 MATTERS DELEGATED TO SENIOR URBAN PLANNER (00115, 00609, 00778, 00122, 00125), COORDINATOR PLANNING APPROVALS (00112), AND COORDINATOR URBAN DESIGN AND POLICY (00111).

Pursuant to Clause 8.6 of the Scheme, the Council delegates to the employees of the City who occupy the position of Senior Urban Planner, Coordinator Planning Approvals, and Coordinator Urban Design and Policy the following powers conferred or imposed on Council under the Scheme:

- (a) the approval of an application for Planning Approval and/or the exercise of discretion under the Residential Design Codes for the purpose of a 'single house', an 'ancillary dwelling' or up to 10 'grouped dwellings', 'multiple dwellings' or 'aged or dependent persons' dwellings', or any associated, ancillary or incidental development where:
- (i) the Deemed-to-Comply Requirements of the Residential Design Codes have been satisfied (where applicable), and the development satisfies any applicable standards and requirements of the Scheme, any Agreed Structure Plan and all applicable Local Planning Policies; or
- (ii) the application requires assessment against the Design Principles of the Residential Design Codes, and there have not been any objections to the application received, provided:
- (a) the plot ratio of the proposed development does not exceed the maximum requirement of Table 1 or Table 4 (as applicable) of the Residential Design Codes by more than 10% of that requirement;
- (b) the building setbacks of the proposed development are not less than those specified under the Deemed-to-Comply Requirements of the Residential Design Codes by more than 1.5 metres;
- (c) a porch, balcony, verandah, chimney or equivalent does not project more than 50% into the primary street setback area stipulated in Table 1 of the Residential Design Codes;
- (d) any outbuilding is not in the primary or secondary setback area stipulated in Table 1 or Table 4 of the Residential Design Codes;
- (e) the height and/or length of boundary wall(s) does not exceed the amounts set out in the Deemed-to-Comply Requirements of the Residential Design Codes by more than 10% of those requirements, and where there are boundary walls to no more than two (2) separate boundaries; and
- (f) the height of the proposed fill, retaining wall or non-visually permeable fencing within the primary street setback area does not exceed 1.2 metres above natural ground level.
- (b) the approval of an application for Planning Approval for the purposes of a class of use listed in Table 1 (Zoning Table) of the Scheme other than a 'single house', 'ancillary dwelling', 'grouped dwelling', 'multiple dwelling', 'aged or dependent persons' dwelling' or any associated, ancillary or incidental development where:

- (i) the development satisfies any applicable standards and requirements of the Scheme, any Agreed Structure Plan and all applicable Local Planning Policies; or
- (ii) an application proposes a variation to the applicable setback requirements of up to 100% for patio(s), verandah(s), shade sail(s), portico(s), retaining wall(s) less than 1.2 metres above natural ground level in height or outbuilding(s) or
- (iii) the application is for the renewal of a Home Business - Category 2 or Home Business - Category 3, where no complaints or objections have been received since the previous approval was issued; and
- (iv) the application is not required to be considered by the Joondalup Design Reference Panel; and
- (v) there have not been any objections to the application received.

2 MATTERS DELEGATED TO MANAGER PLANNING SERVICES (00108) AND DIRECTOR PLANNING AND COMMUNITY DEVELOPMENT (00105)

Pursuant to Clause 8.6 of the Scheme, the Council delegates to the employees of the City who occupy the position of Manager Planning Services and Director Planning and Community Development, in addition to the powers set out in part 1 above, the following powers conferred or imposed on the Council under the Scheme and the *Planning and Development Act 2005*:

- (a) the determination of an application for Planning Approval for 'display homes' on proposed Lots 316, 317, and 320-325 Grand Ocean Entrance, proposed Lots 1185-1188, and 1208-1210, Larvotto Turn, and proposed Lots 120-1227 Umina Way in Burns Beach;
- (b) the determination of an application for Planning Approval and/or the exercise of discretion under the Scheme, a Local Planning Policy, an Agreed Structure Plan or the Residential Design Codes for the purpose of one or more 'single houses' or 'ancillary dwellings' and/or up to 10 'grouped dwellings', 'multiple dwellings', or 'aged or dependent persons' dwellings';
- (c) the determination of an application for Planning Approval for the purpose of a class of use listed in Table 1 (Zoning Table) of the Scheme (other than a 'single house', 'ancillary dwelling', 'grouped dwelling', 'multiple dwelling' or 'aged or dependent persons' dwelling') provided:
  - (i) building setbacks for buildings other than for those set out in 1(b)(ii) of these delegations, as set out in the Scheme or any applicable Agreed Structure Plan, are not less than the required amount by more than 1.5 metres;
  - (ii) the amount of car parking provided is not less than:
    - (a) the standards and requirements set out in the Scheme or any applicable Agreed Structure Plan by more than 10%; or

- (b) a car parking shortfall for that site previously approved by Council;  
or
  - (c) the standards and requirements set out in Amendment No. 65 to the Scheme, as adopted by Council;
  - (iii) the landscaping strip provided achieves an average width of not less than 1.5 metres;
  - (iv) the overall amount of landscaping provided for the site does not vary the standards and requirements set out in the Scheme or any applicable Agreed Structure Plan by more than 10% of that requirement;
  - (v) the development complies with Policy - Height of Buildings Within The Coastal Area (Non-Residential Zones);
  - (vi) the satisfies the objective(s) of all applicable Local Planning Policies, with the exception of development that does not satisfy the standards and requirements of the *Height of Buildings Within The Coastal Area (Non-Residential Zones) Policy*; and
  - (vii) the development is not for 'short stay accommodation' abutting the 'Residential' zone.
- (d) the direction under Clause 6.6.2 of the Scheme that Clause 6.7 (Public Notice) is to apply to an application for planning approval involving a "D" use;
  - (e) a recommendation to the Western Australian Planning Commission under Clause 6.3 of the Scheme, except where the proposed development is for Telecommunications Facilities;
  - (f) the determination under Clause 6.1.2 of the Scheme whether to require plans and other information to be submitted with an application;
  - (g) the determination under clause 6.1.3(i) of the Scheme whether works are temporary for the purposes of the Scheme and the length of time that such 'development' is permitted to remain in the requested location.
  - (h) the decision whether to consult with other authorities under Clause 6.4.

### 3 PERIOD OF DELEGATION

The delegations made in paragraphs 1 and 2 above are to have effect for a period of 2 years from and including the date of this decision.

### 4 REPORTING TO COUNCIL

The Chief Executive Officer is to cause a report of the exercise of powers and functions referred to in paragraph 1 and 2 above, to be prepared and presented to each ordinary meeting of the Council.

**Adoption / Revision reference:** CJ229-12/11, CJ003-02/12, CJ075-05/12; CJ094-06/13;  
CJ123-07/13; CJ180-10/14



***DISTRICT PLANNING SCHEME NO. 2 – DETERMINE FUTURE APPLICATIONS  
FOR RENEWAL OF HOME BUSINESS***

<b>Function delegated:</b>	Authority to determine future applications for renewal of the Home Business Category 2 (Music/Drum School) at 6 (Lot 397) Melrose Crest, Kinross.
<b>Delegated by:</b>	Council.
<b>Delegation to:</b>	Manager Planning Services (00108).
<b>Conditions:</b>	Authority subject to no changes to the operation of the business being made.
<b>Manager Planning Services delegates to:</b>	Not applicable.
<b>Additional sub-delegation conditions:</b>	Not applicable.
<b>Legislation:</b>	Clause 8.6 of <i>District Planning Scheme No.2</i> .
<b>Policy:</b>	<i>Home Business Policy</i> .
<b>Adoption / Revision reference:</b>	CJ198-09/09, CJ107-06/11; CJ091-06/14; CJ180-10/14

**DISTRICT PLANNING SCHEME NO. 2 – DELEGATIONS - GENERAL**

- (1) **Function delegated:** The following powers conferred or imposed on Council or the local government under the Scheme:
- (a) the approval of an application for Planning Approval and/or the exercise of discretion under the Residential Design Codes for the purpose of a 'single house', an 'ancillary dwelling' or up to 10 'grouped dwellings', 'multiple dwellings' or 'aged or dependent persons' dwellings', or any associated, ancillary or incidental development where:
    - (i) the Deemed-to-Comply Requirements of the Residential Design Codes have been satisfied (where applicable), and the development satisfies any applicable standards and requirements of the Scheme, any ~~agreed~~ approved structure plan, activity centre plan or local development plan and all applicable Local Planning Policies; or
    - (ii) the application requires assessment against the Design Principles of the Residential Design Codes, and there have not been any objections to the application received, provided:
      - (a) the plot ratio of the proposed development does not exceed the maximum requirement of Table 1 or Table 4 (as applicable) of the Residential Design Codes by more than 10% of that requirement;
      - (b) the building setbacks of the proposed development are not less than those specified under the Deemed-to-Comply Requirements of the Residential Design Codes by more than 1.5 metres;
      - (c) a porch, balcony, verandah, chimney or equivalent does not project more than 50% into the primary street setback area stipulated in Table 1 of the Residential Design Codes;
      - (d) any outbuilding is not in the primary or secondary setback area stipulated in Table 1 or Table 4 of the Residential Design Codes;
      - (e) the height and/or length of boundary wall(s) does not exceed the amounts set out in the Deemed-to-Comply Requirements of the Residential Design Codes by more than

10% of those requirements, and where there are boundary walls to no more than two (2) separate boundaries; and

- (f) the height of the proposed fill, retaining wall or non-visually permeable fencing within the primary street setback area does not exceed 1.2 metres above natural ground level.
- (b) the approval of an application for Planning Approval for the purposes of a class of use listed in Table 1 (Zoning Table) of the Scheme other than a 'single house', 'ancillary dwelling', 'grouped dwelling', 'multiple dwelling', 'aged or dependent persons' dwelling' or any associated, ancillary or incidental development where:
- (i) the development satisfies any applicable standards and requirements of the Scheme, any ~~agreed~~ approved structure plan, activity centre plan or local development plan and all applicable Local Planning Policies; or
  - (ii) an application proposes a variation to the applicable setback requirements of up to 100% for patio(s), verandah(s), shade sail(s), portico(s), retaining wall(s) less than 1.2 metres above natural ground level in height or outbuilding(s); or
  - (iii) the application is for the renewal of a Home Business - Category 2 or Home Business - Category 3, where no complaints or objections have been received since the previous approval was issued; and
  - (iv) the application is not required to be considered by the Joondalup Design Reference Panel; and
  - (v) there have not been any objections to the application received.

**Delegated by:** Council.

**Delegation to:** ~~Director Planning and Community Development (00105).~~  
~~Manager Planning Services (00108).~~  
~~Coordinator Planning Approvals (00112).~~  
~~Coordinator Urban Design and Policy (00111).~~  
~~Senior Urban Planner (00115, 00609, 00778, 00122, 00125).~~  
Chief Executive Officer (00001).

**Conditions:** 1 The delegations are to have effect for a period of two years from and including 19 October 2015.

- 2 The Chief Executive Officer is to cause a report of the exercise of powers and functions to be prepared and presented to each ordinary meeting of Council.

**Chief Executive Officer delegates to:**

**Additional sub-delegation conditions:**

**Legislation:**

~~Clause 8.6 of *District Planning Scheme No. 2*.~~

[Clause 82 of Schedule 2 of the \*Planning and Development \(Local Planning Schemes\) Regulations 2015\*](#)

[Section 5.42 of the \*Local Government Act 1995\*](#).

**Policy:**

Not applicable.

**Adoption / Revision Reference:**

CJ229-12/11, CJ003-02/12, CJ075-05/12; CJ094-06/13; CJ123-07/13; CJ180-10/14

**(2) Function delegated:** The following powers conferred or imposed on the Council or the local government under the Scheme and the *Planning and Development Act 2005*:

- (a) the determination of an application for Planning Approval for 'display homes' on proposed Lots 316, 317, and 320-325 Grand Ocean Entrance, proposed Lots 1185-1188, and 1208-1210, Larvotto Turn, and proposed Lots 120-1227 Umina Way in Burns Beach;
- (b) the determination of an application for Planning Approval and/or the exercise of discretion under the Scheme, a Local Planning Policy, an ~~agreed~~ approved structure plan, activity centre plan or local development plan, or the Residential Design Codes for the purpose of one or more 'single houses' or 'ancillary dwellings' and/or up to 10 'grouped dwellings', 'multiple dwellings', or 'aged or dependent persons' dwellings';
- (c) the determination of an application for Planning Approval for the purpose of a class of use listed in Table 1 (Zoning Table) of the Scheme (other than a 'single house', 'ancillary dwelling', 'grouped dwelling', 'multiple dwelling' or 'aged or dependent persons' dwelling') provided:
  - (i) building setbacks for buildings other than for those set out in 1(b)(ii) of these delegations, as set out in the Scheme or any applicable ~~agreed~~ approved structure plan, activity centre plan or

- local development plan, are not less than the required amount by more than 1.5 metres;
- (ii) the amount of car parking provided is not less than:
    - (a) the standards and requirements set out in the Scheme or any applicable agreed approved structure plan, activity centre plan or local development plan by more than 10%; or
    - (b) a car parking shortfall for that site previously approved by Council; or
    - (c) the standards and requirements set out in Amendment No. 65 to the Scheme, as adopted by Council;
  - (iii) the landscaping strip provided achieves an average width of not less than 1.5 metres;
  - (iv) the overall amount of landscaping provided for the site does not vary the standards and requirements set out in the Scheme or any applicable approved structure plan, activity centre plan or local development plan by more than 10% of that requirement;
  - (v) the development complies with Policy - *Height of Buildings Within The Coastal Area (Non-Residential Zones)*;
  - (vi) the development satisfies the objective(s) of all applicable Local Planning Policies, with the exception of development that does not satisfy the standards and requirements of the *Height of Buildings Within The Coastal Area (Non-Residential Zones) Policy*; and
  - (vii) the development is not for 'short stay accommodation' abutting the 'Residential' zone.
- (d) ~~the direction under clause 6.6.2 of the Scheme that Clause 6.7 (Public Notice) is to apply to an application for planning approval involving a "D" use~~ the direction under clause 64(3) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015 to advertise an application for development approval.*
- (e) ~~a recommendation to the Western Australian Planning Commission under Clause 6.3 of the Scheme, except where the proposed development is for a Telecommunications Facilities~~ the determination under

clause 64(2) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 whether a departure from the requirements of the Scheme is of a minor nature and whether to waive the requirement for the advertising of the application, providing it is not an application that would otherwise require advertising under the Scheme.

- (f) ~~the determination under Clause 6.1.2 of the Scheme whether to require plans and other information to be submitted with an application~~ the determination under clause 63(2) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 whether to waive or vary the requirement for plans and other information to be submitted with an application.
- (g) ~~the determination under clause 6.1.3(i) of the scheme whether works are temporary for the purposes of the Scheme and the length of time that such 'development' is permitted to remain in the requested location~~ the determination under clause 61(1)(f) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 whether works are temporary for the purposes of the Scheme and the length of time that such 'development' is permitted to remain in the requested location.
- (h) ~~the decision whether to consult with other authorities under clause 6.4~~ the decision whether an application for development approval may affect any other statutory, public or planning authority, and shall therefore require them to be provided a copy of the application for objections and recommendations under clause 66(1) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.

**Delegated by:** Council.

**Delegation to:** Director Planning and Community Development (00105).  
Manager Planning Services (00108).  
Chief Executive Officer (00001).

**Conditions:**

- 1 The delegations are to have effect for a period of 2 years from and including 19 October 2015.
- 2 The Chief Executive Officer is to cause a report of the exercise of powers and functions to be prepared and presented to each ordinary meeting of Council.

**Chief Executive Officer delegates to:**

**Additional sub-delegation conditions:**

**Legislation:**

~~Clause 8.6 of District Planning Scheme No. 2.~~

Clause 82 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015.*  
Section 5.42 of the *Local Government Act 1995.*

**Policy:**

Not applicable.

**Adoption / Revision Reference:**

CJ229-12/11, CJ003-02/12, CJ075-05/12; CJ094-06/13;  
CJ123-07/13; CJ180-10/14

**DISTRICT PLANNING SCHEME NO. 2 – DETERMINE FUTURE APPLICATIONS  
FOR RENEWAL OF HOME BUSINESS**

<b>Function delegated:</b>	Authority to determine future applications for renewal of the Home Business Category 2 (Music/Drum School) at 6 (Lot 397) Melrose Crest, Kinross.
<b>Delegated by:</b>	Council.
<b>Delegation to:</b>	<del>Manager Planning Services (00108)</del> <u>Chief Executive Officer (00001).</u>
<b>Conditions:</b>	Authority subject to no changes to the operation of the business being made.
<b>Chief Executive Officer delegates to:</b>	
<b>Additional sub-delegation conditions:</b>	
<b>Legislation:</b>	<del>Clause 8.6 of District Planning Scheme No. 2.</del> <u>Clause 82 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.</u>
<b>Policy:</b>	Home Business Policy.
<b>Adoption / Revision reference:</b>	CJ198-09/09, CJ107-06/11; CJ091-06/14; CJ180-10/14



**DISTRICT PLANNING SCHEME NO. 2 – DELEGATIONS - GENERAL**

- (1) **Function delegated:** The following powers conferred or imposed on Council or the local government under the Scheme:
- (a) the approval of an application for Planning Approval and/or the exercise of discretion under the Residential Design Codes for the purpose of a 'single house', an 'ancillary dwelling' or up to 10 'grouped dwellings', 'multiple dwellings' or 'aged or dependent persons' dwellings', or any associated, ancillary or incidental development where:
    - (i) the Deemed-to-Comply Requirements of the Residential Design Codes have been satisfied (where applicable), and the development satisfies any applicable standards and requirements of the Scheme, any approved structure plan, activity centre plan or local development plan and all applicable Local Planning Policies; or
    - (ii) the application requires assessment against the Design Principles of the Residential Design Codes, and there have not been any objections to the application received, provided:
      - (a) the plot ratio of the proposed development does not exceed the maximum requirement of Table 1 or Table 4 (as applicable) of the Residential Design Codes by more than 10% of that requirement;
      - (b) the building setbacks of the proposed development are not less than those specified under the Deemed-to-Comply Requirements of the Residential Design Codes by more than 1.5 metres;
      - (c) a porch, balcony, verandah, chimney or equivalent does not project more than 50% into the primary street setback area stipulated in Table 1 of the Residential Design Codes;
      - (d) any outbuilding is not in the primary or secondary setback area stipulated in Table 1 or Table 4 of the Residential Design Codes;
      - (e) the height and/or length of boundary wall(s) does not exceed the amounts set out in the Deemed-to-Comply Requirements of the Residential Design Codes by more than 10% of those requirements, and where

there are boundary walls to no more than two (2) separate boundaries; and

- (f) the height of the proposed fill, retaining wall or non-visually permeable fencing within the primary street setback area does not exceed 1.2 metres above natural ground level.
- (b) the approval of an application for Planning Approval for the purposes of a class of use listed in Table 1 (Zoning Table) of the Scheme other than a 'single house', 'ancillary dwelling', 'grouped dwelling', 'multiple dwelling', 'aged or dependent persons' dwelling' or any associated, ancillary or incidental development where:
- (i) the development satisfies any applicable standards and requirements of the Scheme, any approved structure plan, activity centre plan or local development plan and all applicable Local Planning Policies; or
  - (ii) an application proposes a variation to the applicable setback requirements of up to 100% for patio(s), verandah(s), shade sail(s), portico(s), retaining wall(s) less than 1.2 metres above natural ground level in height or outbuilding(s); or
  - (iii) the application is for the renewal of a Home Business - Category 2 or Home Business - Category 3, where no complaints or objections have been received since the previous approval was issued; and
  - (iv) the application is not required to be considered by the Joondalup Design Reference Panel; and
  - (v) there have not been any objections to the application received.

**Delegated by:** Council.

**Delegation to:** Chief Executive Officer (00001).

- Conditions:**
- 1 The delegations are to have effect for a period of two years from and including 19 October 2015.
  - 2 The Chief Executive Officer is to cause a report of the exercise of powers and functions to be prepared and presented to each ordinary meeting of Council.

**Chief Executive Officer delegates to:**

**Additional sub-delegation conditions:**

**Legislation:** Clause 82 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*  
Section 5.42 of the *Local Government Act 1995*.

**Policy:** Not applicable.

**Adoption / Revision Reference:** CJ229-12/11, CJ003-02/12, CJ075-05/12; CJ094-06/13; CJ123-07/13; CJ180-10/14

**(2) Function delegated:** The following powers conferred or imposed on the Council or the local government under the Scheme and the *Planning and Development Act 2005*:

- (a) the determination of an application for Planning Approval for 'display homes' on proposed Lots 316, 317, and 320-325 Grand Ocean Entrance, proposed Lots 1185-1188, and 1208-1210, Larvotto Turn, and proposed Lots 120-1227 Umina Way in Burns Beach;
- (b) the determination of an application for Planning Approval and/or the exercise of discretion under the Scheme, a Local Planning Policy, an approved structure plan, activity centre plan or local development plan, or the Residential Design Codes for the purpose of one or more 'single houses' or 'ancillary dwellings' and/or up to 10 'grouped dwellings', 'multiple dwellings', or 'aged or dependent persons' dwellings';
- (c) the determination of an application for Planning Approval for the purpose of a class of use listed in Table 1 (Zoning Table) of the Scheme (other than a 'single house', 'ancillary dwelling', 'grouped dwelling', 'multiple dwelling' or 'aged or dependent persons' dwelling') provided:
  - (i) building setbacks for buildings other than for those set out in 1(b)(ii) of these delegations, as set out in the Scheme or any applicable approved structure plan, activity centre plan or local development plan, are not less than the required amount by more than 1.5 metres;
  - (ii) the amount of car parking provided is not less than:
    - (a) the standards and requirements set out in the Scheme or any applicable approved structure plan, activity centre plan or local

- development plan by more than 10%; or
- (b) a car parking shortfall for that site previously approved by Council; or
  - (c) the standards and requirements set out in Amendment No. 65 to the Scheme, as adopted by Council;
- (iii) the landscaping strip provided achieves an average width of not less than 1.5 metres;
  - (iv) the overall amount of landscaping provided for the site does not vary the standards and requirements set out in the Scheme or any applicable approved structure plan, activity centre plan or local development plan by more than 10% of that requirement;
  - (v) the development complies with Policy - *Height of Buildings Within The Coastal Area (Non-Residential Zones)*;
  - (vi) the development satisfies the objective(s) of all applicable Local Planning Policies, with the exception of development that does not satisfy the standards and requirements of the *Height of Buildings Within The Coastal Area (Non-Residential Zones) Policy*; and
  - (vii) the development is not for 'short stay accommodation' abutting the 'Residential' zone.
- (d) the direction under clause 64(3) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* to advertise an application for development approval.
  - (e) the determination under clause 64(2) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* whether a departure from the requirements of the Scheme is of a minor nature and whether to waive the requirement for the advertising of the application, providing it is not an application that would otherwise require advertising under the Scheme.
  - (f) the determination under clause 63(2) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* whether to waive or vary the requirement for plans and other information to be submitted with an application.
  - (g) the determination under clause 61(1)(f) of Schedule 2 of the *Planning and Development (Local Planning*

*Schemes) Regulations 2015* whether works are temporary for the purposes of the Scheme and the length of time that such 'development' is permitted to remain in the requested location.

- (h) the decision whether an application for development approval may affect any other statutory, public or planning authority, and shall therefore require them to be provided a copy of the application for objections and recommendations under clause 66(1) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

**Delegated by:** Council.

**Delegation to:** Chief Executive Officer (00001).

- Conditions:**
- 1 The delegations are to have effect for a period of 2 years from and including 19 October 2015.
  - 2 The Chief Executive Officer is to cause a report of the exercise of powers and functions to be prepared and presented to each ordinary meeting of Council.

**Chief Executive Officer delegates to:**

**Additional sub-delegation conditions:**

**Legislation:** Clause 82 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.  
Section 5.42 of the *Local Government Act 1995*.

**Policy:** Not applicable.

**Adoption / Revision Reference:** CJ229-12/11, CJ003-02/12, CJ075-05/12; CJ094-06/13; CJ123-07/13; CJ180-10/14

**DISTRICT PLANNING SCHEME NO. 2 – DETERMINE FUTURE APPLICATIONS  
FOR RENEWAL OF HOME BUSINESS**

<b>Function delegated:</b>	Authority to determine future applications for renewal of the Home Business Category 2 (Music/Drum School) at 6 (Lot 397) Melrose Crest, Kinross.
<b>Delegated by:</b>	Council.
<b>Delegation to:</b>	Chief Executive Officer (00001).
<b>Conditions:</b>	Authority subject to no changes to the operation of the business being made.
<b>Chief Executive Officer delegates to:</b>	
<b>Additional sub-delegation conditions:</b>	
<b>Legislation:</b>	Clause 82 of Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .
<b>Policy:</b>	<i>Home Business Policy</i> .
<b>Adoption / Revision reference:</b>	CJ198-09/09, CJ107-06/11; CJ091-06/14; CJ180-10/14

CITY OF JOONDALUP

**DISTRICT PLANNING SCHEME NO. 2**

**AMENDMENT NO. 85**

RESOLVED that the Council, in pursuance of Section 75 of the *Planning and Development Act 2005*, amend the above local planning scheme by:

- 1 Deleting the following parts and clauses from the Scheme Text, as they have been superseded by the deemed provisions set out in the *Planning and Development (Local Planning Scheme) Regulations 2015* Schedule 2:

4.2.5; 5.1.2; 5.1.4; 5.1.5; 5.1.6; 5.1.7; 5.1.8; 5.1.9; 5.2; 5.1.10; 6.1.1; 6.1.2; 6.1.3 (b)(c)(e)(i); 6.1.46.3; 6.4; 6.5; 6.7; 6.8; 6.9.1; 6.9.2; 6.9.3; 6.10.2; 6.11; 6.12; 8.1; 8.4; 8.5; 8.6; 8.7; 8.8; 8.11; Part 9; Schedule 7 and Schedule 8;

- 2 Removing the following clauses from the Scheme Text and inserting them into Schedule A – Supplemental Provisions:

6.1.3 (a)(d)(f)(g)(h)(j)(k)(l)(m);

- 3 Deleting the following definitions from Schedule 1, as they have been superseded by the definitions in the deemed provisions set out in the *Planning and Development (Local Planning Scheme) Regulations 2015* Schedule 2:

Act; activity centre; activity centre structure plan; advertisement; advertising device; Agreed Structure Plan; amenity; Codes; cultural heritage significance; heritage list; owner; premises; reserve; Scheme Area; structure plan; substantial development; zone

- 4 Modifying the following clauses by removing the cross reference to the part or clause deleted by the amendment and where appropriate replacing them with cross reference to deemed provisions set out in the *Planning and Development (Local Planning Scheme) Regulations 2015* Schedule 2

1.5; 2.3.4.1; 3.2.2; 3.5.2; 3.6.3; 3.7.1; 3.7.2; 3.11.2; 3.11.3; 3.11.4; 3.12.2; 3.12.3; 4.3.1; 4.3.2; 4.5.2; 4.5.3; 4.17.2; 5.3.2.2; 6.6.2; 6.6.3; 7.1; and 7.2.2

- 5 Deleting reference to the following terms and replacing them with the corresponding term throughout the scheme:

‘Council’ replace with ‘local government’; ‘Codes’ ,‘Residential Design Codes’ and ‘Residential Planning Codes’ replace with ‘R-Codes’; and ‘Agreed Structure Plan’ replace with ‘Structure Plan’

- 6 Deleting the following definition from subclause 3.2.2:

“P” = A Use Class that is permitted but which may be subject to any conditions that the Council may wish to impose in granting its approval;’

and replacing with the following definition

“P” = means that the use is permitted if it complies with any relevant development standards and requirements of this Scheme;’

**CITY OF JOONDALUP  
DISTRICT PLANNING SCHEME NO. 2**

Adopted by resolution of the Council of the City of Wanneroo at the Ordinary meeting of the Council held on the 27<sup>th</sup> day of March 1991.

Modified by resolution of the Council of the City of Wanneroo at the Special meeting of the Council held on the 22<sup>nd</sup> day of August 1996.

Modified by resolution of the Council of the City of Wanneroo at the Special meeting of the Council held on the 10<sup>th</sup> day of September 1997.

On July 1, 1998, the City of Wanneroo ceased to exist. In its place, the City of Joondalup and the Shire of Wanneroo were created, with both municipalities coming into existence on the same date, July 1, 1998.

Adopted for final approval by resolution of the City of Joondalup at the Ordinary meeting of the Council held on the 22<sup>nd</sup> day of September 1998.

Modified and adopted for final approval by resolution of the City of Joondalup at the Special meeting of the Council held on the 4<sup>th</sup> day of May 1999.

Adopted for final approval by the Council of the City of Joondalup at the Ordinary meeting held on the 26<sup>th</sup> day of September 2000 and the Common Seal of the City of Joondalup was hereunto affixed by the authority of a resolution of the Council in the presence of:

**(Signed) John Bombak**  
MAYOR

**(Signed) Lindsay Delahaunty**  
CHIEF EXECUTIVE OFFICER

Recommended/Submitted for final approval

.....  
CHAIRPERSON, WESTERN AUSTRALIAN  
PLANNING COMMISSION

DATE .....

Final Approval Granted

.....  
MINISTER FOR PLANNING

DATE .....



**THE CITY OF JOONDALUP DISTRICT PLANNING SCHEME NO. 2**

The City of Joondalup Council, under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act, 1928 (as amended), hereunder referred to as The Act, hereby makes the following Town Planning Scheme for the purposes laid down in the Act.

## **PART 1 – PRELIMINARY**

### **1.1 CITATION**

- 1.1.1 The City of Joondalup District Planning Scheme No. 2 (“the Scheme”) comes into operation on its Gazettal date.
- 1.1.2 City of Joondalup Town Planning Scheme No. 1 (Gazettal date 13 September, 1972) is revoked.

### **1.2 RESPONSIBLE AUTHORITY**

The authority responsible for carrying out the Scheme is the ~~Council~~[local government](#) of the City of Joondalup hereinafter referred to as the “~~Council~~[local government](#)” except that where land is shown in the Scheme Map as “Regional Reserve” the responsible authority shall be deemed to be the Western Australian Planning Commission, and the Provisions of the Metropolitan Region Scheme shall apply to such reservations.

### **1.3 THE SCHEME AREA**

The Scheme shall apply to the whole of the District of the City of Joondalup as shown by the inner edge of the broken black line on the Scheme Map.

### **1.4 CONTENTS OF SCHEME**

The Scheme comprises:

- (a) this Scheme Text
- (b) the Scheme Map
- (c) Residential Density Code Maps
- (d) ~~agreed~~-Structure Plans
- (e) Plans referred to in Schedule 5

### **1.5 ARRANGEMENT OF THE SCHEME TEXT**

PART 1	PRELIMINARY
PART 2	RESERVES
PART 3	ZONES
PART 4	GENERAL DEVELOPMENT REQUIREMENTS
PART 5	SPECIAL CONTROLS
PART 6	DEVELOPMENT AND USE OF LAND
PART 7	NON-CONFORMING USES
PART 8	FINANCE AND ADMINISTRATION
<del>PART 9</del>	<del>STRUCTURE PLANS</del>

### **1.6 SCHEME AIMS AND OBJECTIVES**

The aims and objectives of Scheme 2 are:

- |  |   |
|--|---|
| <b>Regional planning framework:</b>                  | (a) To facilitate the <u>Council</u> <u>local government</u> 's commitment to facilitating urban development in accordance with the statutory provisions of the Metropolitan Region Scheme and the planning principles embodied in state and regional policies relevant to the City;  |
| <b>Local planning framework:</b>                     | (b) To encourage and facilitate development of the City generally in accordance with the City of Joondalup Strategic Plan;  |
|  | (c) To provide an accountable planning framework appropriate to the needs of a regional City and its diverse lifestyle opportunities;   |
|  | (d) To facilitate the co-ordination and provision of social and community facilities and other physical infrastructure;   |
| <b>Land Use &amp; Development</b>                    | (e) To encourage development which will: <ul style="list-style-type: none"> <li>◆ provide high standards of amenity, safety and welfare,</li> <li>◆ strive to ensure that new housing is energy-efficient,</li> <li>◆ ensure permanent and easy access by the public to the ocean shore and other recreation reserves,</li> <li>◆ promote the development of business which increases employment opportunities close to living places, and</li> <li>◆ support a safe, efficient and effective transportation system.</li> </ul> |
|  | (f) To encourage urban design which is compatible with and appropriate to the natural, built and social environment of the City;  |
| <b>Development Assessment &amp; Approval Process</b> | (g) To provide guidance on the procedures to be followed in the lodgment, assessment and determination of applications for the development and use of land within the City;   |
|  | (h) To ensure that proper regard is given to the needs of the community in the determination of land use and development proposals;   |
| <b>Heritage Conservation</b>                         | (i) To encourage the conservation and continued use of identified places and objects of cultural heritage significance;   |

- |                                 |   |
|---------------------------------|---|
| <b>Environmental Protection</b> | <p>(j) To provide the <a href="#">Council local government</a> and residents with appropriate mechanisms to protect identified places of landscape or environmental value within the City;</p> <p>(k) To ensure that adequate regard is given to the protection of the natural environment in the determination of land use and development proposals in accordance with sustainable development principles;</p>  |
| <b>Urban Development</b>        | <p>(l) To promote planning, management and strategic control of development in a rational and systematic manner, taking into account the needs and aspirations of residents, and the environmental capacity of the area and;</p> <p>(m) In order to promote public transport usage, <a href="#">Council local government</a> shall encourage appropriate transit related development to take place around existing railway stations. This relates to both private property and government owned land and air rights above that land where achievable.</p> |
- New Development Around Existing Railway Stations

## 1.7 RELATIONSHIP WITH THE METROPOLITAN REGION SCHEME

The Scheme is complementary to, and is not a substitute for, the Metropolitan Region Scheme, and the provisions of the Metropolitan Region Scheme, as amended, continue to have effect. The authority responsible for implementing the Metropolitan Region Scheme is the Western Australian Planning Commission (hereinafter called “the Commission”).

## 1.8 RELATIONSHIP OF SCHEME TO LOCAL LAWS

Where a provision of this Scheme is inconsistent with any local law or by-law, the provisions of this Scheme shall prevail.

## 1.9 INTERPRETATION

1.9.1 Words and expressions used in the Scheme shall have the respective meanings given to them in Schedule 1 or elsewhere in the Scheme and the [Residential Design Codes R-Codes](#).

1.9.2 Where a word or term is defined in the [Residential Design Codes R-Codes](#) then notwithstanding anything else in the Scheme that word or term when used in respect of residential development has the meaning given to it in the [Residential Design Codes R-Codes](#).

1.9.3 Words and expressions used in the Scheme but not defined in Schedule 1, elsewhere in the Scheme or in the ~~Residential Design Codes~~[R-Codes](#) shall have their normal and common meanings.

## **PART 2 – RESERVES**

### **2.1 RESERVES**

Certain lands within the Scheme Area are shown on the Scheme Map and classified into either:

- (a) Metropolitan Region Scheme Reserves; or
- (b) Local Reserves.

### **2.2 METROPOLITAN REGION SCHEME RESERVES**

2.2.1 The land shown as “Metropolitan Region Scheme Reserves” on the Scheme Map are lands reserved under the Metropolitan Region Scheme and are shown on the Scheme Map in order to comply with the Act. Those lands are not reserved by this Scheme. The provisions of the Metropolitan Region Scheme continue to apply to such reserves.

#### 2.2.2 Amendment of Metropolitan Region Scheme

Where, after the gazettal date, the Metropolitan Region Scheme is amended to zone a Regional Reserve, the [Council/local government](#) shall treat an application for Planning Approval on such land as though the development involves a “D” use, and such of the provisions of Part 3 and Part 6 as are relevant to “D” uses shall apply until the Scheme has been amended to include the land in a zone or Local Reserve (see subclause 3.2.2).

### **2.3 LOCAL RESERVES**

#### 2.3.1 Local Reserves

“Local Reserves” are delineated and depicted on the Scheme Map according to the legend thereon.

#### 2.3.2 Use of Local Reserves

Any Local Reserve not owned by or vested in the [Council/local government](#) may be used:

- (a) for the purpose for which the land is reserved under the Scheme;
- (b) where such land is vested in a public authority, for any purpose for which such land may be lawfully used by that authority;
- (c) for the purpose for which it was used at the Gazettal Date unless the land in the meantime has become vested in a public authority, or unless such use has been changed with the approval of the [Council/local government](#); or

- (d) for any purpose approved by the [Councillocal government](#) but in accordance with any conditions imposed by the [Councillocal government](#);

but shall not be used otherwise or for any other purpose.

### 2.3.3 Development of Local Reserves

Unless the proposed development is a public work exempted by the Act, or the written approval of the [Councillocal government](#) is first obtained, no person shall:

- (a) demolish or damage any building or works;
- (b) remove or damage any tree;
- (c) excavate spoil or waste the land so as to destroy affect or impair its usefulness for the purpose for which it is reserved;
- (d) construct, extend, or alter any building or structure other than a boundary fence;
- (e) carry out or commence to carry out any other development on any Local Reserve.

### 2.3.4 Applications for Planning Approval on Local Reserves

2.3.4.1 The [Councillocal government](#) may consider applications for Planning Approval for land within a Local Reserve but shall have due regard to the ultimate purpose intended for the Local Reserve and the matters set out in Clause ~~6.867~~ [6.867 of the deemed provisions](#) (“Matters to be Considered by [Councillocal government](#)”).

2.3.4.2 Provisions in the Scheme relating to applications for Planning Approval and the exercise of any discretion thereon shall, insofar as they are not inconsistent with this clause, apply to Local Reserves.

2.3.4.3 To the extent that it is reasonable to do so, the [Councillocal government](#) shall apply or impose development standards and requirements which would be imposed for development of the kind in question on zoned land, and the [Councillocal government](#) shall for that purpose stipulate the zone most relevant for comparison.

2.3.4.4 Where any land is partly zoned under the Scheme and partly included in a Local Reserve, then the general provisions of the Scheme shall apply to the part which is zoned, and where

the circumstances permit, the [Councillocal government](#) may give one decision in respect of the part of the land which is zoned and a different decision in respect of the part of the land included in the Local Reserve.

2.3.4.5 The [Councillocal government](#) shall, in the case of land reserved for the purposes of a public authority, consult with that authority before giving its approval.

### 2.3.5 Right of Disposal

The [Councillocal government](#) may deal with or dispose of land it has acquired for a Local Reserve upon such terms and conditions as it thinks fit provided that the land is used or preserved for the use for which the land is reserved.



**PART 3 – ZONES**

**3.1 CLASSIFICATION**

3.1.1 There are hereby created the several zones set out hereunder.

- Residential
- Mixed Use
- Business
- Commercial
- Civic & Cultural
- Private Clubs/Recreation
- Service Industrial
- Centre
- Urban Development
- Special Residential
- Rural
- Special Use

3.1.2 The zones are delineated and depicted on the Scheme Map and Structure Plan Maps according to the legend thereon.

**3.2 ZONING TABLE**

3.2.1 The Zoning Table (hereinafter called Table 1) indicates subject to the provisions of the Scheme, the permissibility of use classes within the various zones. The permissibility of any use class is indicated by a symbol determined by cross reference between the list of “Use Classes” listed down the left hand side of Table 1 and the “Zones” listed along the top of Table 1.

3.2.2 The symbols used in Table 1 have the following meanings:

~~“P” = A Use Class that is permitted but which may be subject to any conditions that the Council may wish to impose in granting its approval;~~

~~“P” = means that the use is permitted if it complies with any relevant development standards and requirements of this Scheme;~~

“D” = A Use Class that is not permitted, but to which the [Council/local government](#) may grant its approval after following the procedures laid down by subclause 6.6.2;

“A” = A Use Class that is not permitted unless the [Council/local government](#) has exercised its discretion and has granted planning approval after giving special notice in accordance with Clause [6.764 of the deemed provisions](#);

“X” = A Use Class that is not permitted except under the provisions of clause 3.15.

The Special Use Zone, Urban Development Zone, Rural Zone and Centre Zone are not listed in Table 1 and the permissibility of uses in those zones is to be determined by the provisions specifically applying to them in the Scheme or in any ~~Agreed~~ Structure Plan approved under ~~Part 9~~[Part 4 and Part 5 of the deemed provisions](#).

3.2.3 Where in the Zoning Table a particular use is mentioned it is deemed to be excluded from any other use class which by its more general terms might otherwise include such particular use.

3.2.4 Where a building or land is used, or a proposed building is designed, for more than one use, it shall be regarded for the purposes of the Scheme as being used or designed partially for each of those uses.

### 3.3 UNLISTED USES

If the use of the land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the interpretation of one of the use categories the ~~Council~~[local government](#) may:

- (a) determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or
- (b) determine that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the procedures set down for an 'A' use in Clause 6.6.3 in considering an application for planning approval; or
- (c) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted.

### 3.4 THE RESIDENTIAL ZONE

The Residential Zone is intended primarily for residential development in an environment where high standards of amenity and safety predominate to ensure the health and welfare of the population.

Residential development is provided for at a range of densities with a variety of housing to meet the needs of different household types. This is done through application of the ~~Residential Design Codes (R-Codes)~~, and the allocation of a residential density code to an area of land.

Cultural and recreational development may be located where the ~~Council~~[local government](#) considers the same to be appropriate in residential neighbourhoods within the Residential Zone.

The objectives of the Residential Zone are to:

- (a) maintain the predominantly single residential character and amenity of established residential areas;
- (b) provide the opportunity for grouped and multiple dwellings in selected locations so that there is a choice in the type of housing available within the City; and
- (c) provide the opportunity for aged persons housing in most residential areas in recognition of an increasing percentage of aged residents within the City.

### 3.5 THE MIXED USE ZONE

3.5.1 The Mixed Use Zone is intended to accommodate a mixture of residential development with small businesses in a primarily residential scale environment. The predominant non-residential uses will be office, consulting, dining and limited retail uses occupying the street frontage of lots.

The zoning will provide an intermediate stage between Residential and Commercial or Business Zone areas. A high level of pedestrian amenity should be provided.

The objectives of the Mixed Use Zone are to:

- (a) provide a diversity of land use and housing types compatible with the maintenance of residential amenity;
- (b) allow appropriate businesses to locate and develop in close proximity to residential areas;
- (c) allow for services to be provided locally.

3.5.2 A shop may be permitted in the Mixed Use Zone, subject to [Council local government](#)'s discretion after giving notice in accordance with [Clause 64 of the deemed provisions 6-7](#), and provided the following conditions have been met:

- (a) Shopping floor space does not exceed 200m<sup>2</sup> NLA;
- (b) The parcel of land is on a separate green title lot of not less than 1000m<sup>2</sup>;
- (c) The aggregate shopping NLA on any group of adjoining or adjacent lots in the Business and Mixed Use Zones must not exceed 1000m<sup>2</sup>; and
- (d) The direct street frontage of any lot containing a shop must be at least 20 metres in width.

- 3.5.3 The conditions specified in clause 3.5.2 are not standards or requirements for the purposes of clause 4.5.1.

### **3.6 THE BUSINESS ZONE**

3.6.1 The Business Zone is intended to accommodate wholesaling, retail warehouses, showrooms and trade and professional services and small scale complementary and incidental retailing uses, as well as providing for retail and commercial businesses which require large areas such as bulky goods and category/theme based retail outlets that provide for the needs of the community but which due to their nature are generally not appropriate to or cannot be accommodated in a commercial area.

The objectives of the Business Zone are to:

- (a) provide for retail and commercial businesses which require large areas such as bulky goods and category/theme based retail outlets as well as complementary business services;
- (b) ensure that development within this zone creates an attractive façade to the street for the visual amenity of surrounding areas.

3.6.2 Development in the Business Zone shall conform, among other things, with the general provisions set out below.

- (a) Buildings shall be set back a minimum of 6m from the street boundary. A lesser setback may be encouraged where location and design issues would make this appropriate.
- (b) Setbacks to side and rear boundaries shall comply with the Building Code of Australia.
- (c) With the exception of lots around which authorised screen walls have been erected, landscaping to the satisfaction of [Council/local government](#) shall be planted and maintained by the owners on all portions of the property not covered by approved buildings, storage areas, accessways or parking areas (notwithstanding that shade trees shall be planted and maintained by the owners in car parking areas to the [Council/local government](#)'s satisfaction). Owners shall establish and maintain landscaping to [Council/local government](#)'s satisfaction on adjacent street verges.
- (d) Screen walls 1.8 metres high to a specification approved by and to the satisfaction of the [Council/local government](#) shall be provided to screen the rear areas of all lots where necessary to protect the amenity of any adjoining residential lots.

- 
- (e) Provisions relating to Building Construction:
- (i) every building shall have a façade of brick, plate glass or other approved material to all street frontages;
  - (ii) where under the Building Code of Australia metal clad walls are permitted, they must have a factory applied painted finish to the satisfaction of the City Building Surveyor.

3.6.3 A shop may be permitted in the Business Zone, subject to ~~Council~~[local government](#)'s discretion after giving notice in accordance with Clause ~~6.764~~[of the deemed provisions](#), and provided the following conditions have been met:

- (a) Shopping floor space does not exceed 200m<sup>2</sup> NLA;
- (b) The parcel of land is on a separate green title lot of not less than 1000m<sup>2</sup>;
- (c) The aggregate shopping NLA on any group of adjoining or adjacent lots in the Business and Mixed Use Zones must not exceed 1000m<sup>2</sup>; and
- (d) The direct street frontage of any lot containing a shop must be at least 20 metres in width.

3.6.4 The conditions specified in clause 3.6.3 are not standards or requirements for the purpose of clause 4.5.1.

### 3.7 THE COMMERCIAL ZONE

3.7.1 The Commercial Zone is intended to accommodate existing or proposed shopping and business centres where it is impractical to provide an ~~Agreed~~ Structure Plan in accordance with Part ~~59~~ of the ~~Scheme~~[deemed provisions](#).

The objectives of the Commercial Zone are to:

- (a) make provision for existing or proposed retail and commercial areas that are not covered by an ~~Agreed~~ Structure Plan;
- (b) provide for a wide range of uses within existing commercial areas, including retailing, entertainment, professional offices, business services and residential.

3.7.2 Notwithstanding clause 3.7.1, subject to clause ~~9.1143~~[of the deemed provisions](#), any major development on land in the Commercial Zone which is wholly or partly within one of the following activity centres shall not be approved unless an activity centre ~~structure~~-plan has been prepared and adopted in accordance with the requirements of State Planning Policy 4.2 –

Activity Centres for Perth and Peel and Part ~~59 of this Scheme~~ [the deemed provisions](#):

- (a) Warwick
- (b) Whitford
- (c) Currambine
- (d) Greenwood
- (e) Woodvale

### **3.8 THE CIVIC AND CULTURAL ZONE**

The objective of the Civic and Cultural Zone is to make specific provision for public facilities such as government offices, halls, theatres and art galleries.

Although many of the uses permitted in the Civic and Cultural Zone may be equally appropriate in the Centre Zone, it is provided as a separate zone to stand in its own right should the need arise.

### **3.9 THE PRIVATE CLUBS/RECREATION ZONE**

The objective of the Private Clubs/Recreation Zone is to accommodate uses such as private golf clubs, private educational, institutional and recreational activities.

### **3.10 THE SERVICE INDUSTRIAL ZONE**

3.10.1 The Service Industrial Zone is intended to provide for a wide range of business, industrial and recreational developments which the ~~Council~~ [local government](#) may consider would be inappropriate in Commercial and Business Zones and which are capable of being conducted in a manner which will prevent them being obtrusive, or detrimental to the local amenity.

The objectives of the Service Industrial Zone are to:

- (a) accommodate a range of light industries, showrooms and warehouses, entertainment and recreational activities, and complementary business services which, by their nature, would not detrimentally affect the amenity of surrounding areas;
- (b) ensure that development within this zone creates an attractive façade to the street for the visual amenity of surrounding areas.

3.10.2 Development in the Service Industrial Zone shall conform, among other things, with the general provisions set out below.

- (a) Buildings shall be set back a minimum of 6 metres from the street boundary. Setbacks to side and rear boundaries shall comply with the Building Code of Australia.

- (b) Where a lot has a boundary with more than one street, the [Council/local government](#) shall designate one such boundary as the frontage and may approve buildings up to a minimum distance of 3 metres from the other street boundaries.
- (c) That portion of a lot within 3 metres of its boundary with a road reserve shall only be used for:
- (i) an approved means of access;
  - (ii) landscaping;
  - (iii) an approved Trade Display

and that portion of a lot between 3 metres of its boundary with a road reserve and the building line setback shall only be used for the parking, loading or unloading of vehicles, and for landscaping.

- (d) With the exception of lots around which authorised screen walls have been erected, landscaping to the satisfaction of [Council/local government](#) shall be planted and maintained by the owners on all portions of the property not covered by approved buildings, storage areas, accessways or parking areas (notwithstanding that shade trees shall be planted and maintained by the owners in car parking areas to the [Council/local government](#)'s satisfaction). Owners shall plant and maintain landscaping to [Council/local government](#)'s satisfaction on adjacent street verges.
- (e) Screen walls 1.8 metres high to a specification approved by and to the satisfaction of the [Council/local government](#) shall be provided to screen the rear areas of all lots where necessary to protect the amenity of any adjoining residential lots.
- (f) Provisions relating to Building Construction:
- (i) every building shall have a façade of brick, plate glass or other approved material to all street frontages;
  - (ii) where under the Building Code of Australia, metal clad walls are permitted, they must have a factory applied painted finish to the satisfaction of the City Building Surveyor.

### 3.11 THE CENTRE ZONE

3.11.1 The Centre Zone is intended to accommodate existing and proposed business centres varying in size from local centres to strategic metropolitan centres and provides for the co-ordinated planning and development of these centres or other planning precincts where the [council/local government](#) considers that an [Agreed](#) Structure Plan is necessary.



The objectives of the Centre Zone are to:

- (a) provide for a hierarchy of centres from local centres to strategic metropolitan centres, catering for the diverse needs of the community for goods and services;
- (b) ensure that the city's commercial centres are integrated and complement one another in the range of retail, commercial, entertainment and community services and activities they provide for residents, workers and visitors;
- (c) encourage development within centres to create an attractive urban environment;
- (d) provide the opportunity for the coordinated and comprehensive planning and development of centres through an ~~Agreed~~ Structure Plan process.

3.11.2 No subdivision or other development should be commenced or carried out in a Centre Zone until a Structure Plan has been prepared and adopted under the provisions of ~~Part 9 of the Scheme~~[Part 5 of the deemed provisions](#). No subdivision should be commenced or carried out and no other development shall be commenced or carried out otherwise than in conformity with an ~~Agreed~~ Structure Plan.

3.11.3 The permissibility of uses in the Centre Zone ~~subject to subclauses 9.8.2 and 9.8.3~~ shall be determined in accordance with the provisions of the relevant ~~Agreed~~ Structure Plan.

3.11.4 Subject to Clause ~~9.1143~~ [of the deemed provisions](#), any major development on land in the Centre Zone which is wholly or partly within an activity centre shall not be approved unless an activity centre structure plan has been prepared and adopted in accordance with the requirements of State Planning Policy 4.2: Activity Centres for Perth and Peel and Part [59](#) of ~~this Scheme~~[the deemed provisions](#).

### 3.12 THE URBAN DEVELOPMENT ZONE

3.12.1 The purpose of the Urban Development Zone is to provide for the orderly planning and redevelopment of larger areas of land or districts in an integrated manner within a regional context whilst retaining flexibility to review planning with changing circumstances. In considering applications for development and changes to residential density codings in areas near existing and proposed future railway stations the ~~Council~~[local government](#) will have due regard to the desirability of higher residential densities, transit related development and good pedestrian and vehicular access to stations in order to promote public transport usage.

The objectives of the Urban Development Zone are to:

- (a) designate land for future urban development;
- (b) provide for the orderly planning of large areas of land for residential and associated purposes through a comprehensive structure planning process.
- (c) enable planning to be flexible and responsive to changing circumstances throughout the developmental stages of the area.

3.12.2 Subject to Clause ~~9.11 of this Scheme~~27 of the deemed provisions, no subdivision or other development should be commenced or carried out in an Urban Development Zone until a structure plan has been prepared and adopted under the provisions of Part ~~9 of the Scheme~~4 of the deemed provisions. No subdivision should be commenced or carried out, and no other development shall be commenced or carried out otherwise than in conformity with an ~~Agreed~~ Structure Plan.

3.12.3 The permissibility of uses in the Urban Development Zone ~~subject to subclause 9.8.2 and 9.8.3~~ shall be determined in accordance with the provisions of the relevant ~~Agreed~~ Structure Plan.

3.12.4 Specific Matters to be included in Structure Plans within the Urban Development Zone

3.12.4.1 Structure Plan No. 9 – Lot 61 (No. 14) Leach Street, Marmion

- (a) The preparation of a Vegetation Management Plan by the landowner over the Public Open Space and approved by the ~~Council~~local government, prior to the approval of a Structure Plan for the entire site is required. The public open space is intended to be located within the treed Northeast section of the lot.
- (b) The Vegetation Management Plan shall be prepared in accordance with the City of Joondalup’s Council Policy 1-2 ‘Public Participation’ and shall aim to protect and enhance the area for bush conservation purposes for the long term enjoyment by the local community.
- (c) The rehabilitation of the Public Open Space area shall be undertaken by the landowner following the approval by the Western Australian Planning Commission of the Structure Plan and prior to approval of any subdivision application over the land.
- (d) An agreement being entered into between the City of Joondalup and the landowner. The agreement shall detail

the landowner's commitment to \$10,000 for the preparation of the Vegetation Management Plan, and a further \$100,000 for the protection and further enhancement of the bushland on the proposed Public Open Space area.

- (e) The landowner is advised that sub clause (d) above is additional to the standard statutory requirements that may be placed on the landowner at the time of subdivision and/or development.

### **3.13 THE SPECIAL RESIDENTIAL ZONE**

3.13.1 The Special Residential Zone is intended to accommodate the development of single houses on lots of not less than 2,000m<sup>2</sup> with an average lot size of not less than 3,000m<sup>2</sup>. The objectives of the Special Residential Zone are to:

- (a) accommodate a spacious style of living in a low density setting;
- (b) maintain important environmental and landscape values through site-sensitive design and development.

### **3.14 THE RURAL ZONE**

The Rural Zone is intended to accommodate land that is included in the Rural Zone under the MRS.

If [Council/local government](#) is required to consider an application in respect of a development, or use for land in the Rural Zone, then the [Council/local government](#) shall, in addition to any other matters required by this Scheme to be considered, have regard to the following considerations:

- (a) as an overriding consideration, the intent of the application;
- (b) any comments the Commission may make in response to notice of the applications.
- (c) The interests of orderly and proper planning, and concern for the amenity of the relevant locality in the short, intermediate and long term.

### **3.15 ADDITIONAL USES (SCHEDULE 2 – SECTION 1)**

Notwithstanding anything contained in the Zoning Table, the land specified in Section 1 of Schedule 2 may be used for the specific use or uses that are listed in addition to any uses permissible in the zone in which the land is situated subject to the conditions set out in Schedule 2 with respect to that land.

**3.16 RESTRICTED USES (SCHEDULE 2 – SECTION 2)**

Notwithstanding anything contained in the Zoning Table, the land specified in Section 2 of Schedule 2 may only be used for the specific use or uses that are listed and subject to the conditions set out in Schedule 2 with respect to that land.

**3.17 THE SPECIAL USE ZONE (SCHEDULE 2 – SECTION 3)**

Special Use Zone is set out in Section 3 of Schedule 2 and is in addition to the zones in the Zoning Table. No person shall use any land or any structure or buildings on land, in a Special Use Zone except for the purpose set out against that land in Schedule 2 and subject to compliance with any conditions set out in Schedule 2 with respect to that land.

**3.18 Deleted (Amendment 31 – 14/8/2007)**

---

**PART 4 – GENERAL DEVELOPMENT REQUIREMENTS**

---

**4.1 EXCLUSIONS**

The development requirements or standards specified in clauses 4.5 and 4.7 to 4.12 inclusive shall apply to all development other than development controlled by the ~~Residential Design Codes~~R-Codes. In the Mixed Use Zone, the Business Zone, the Service Industrial Zone, the Special Residential Zone and the Rural Zone, the provisions of Clauses 3.5, 3.6, 3.10, 3.13 and 3.14 as the case may be, shall prevail if there is any conflict or inconsistency with this Part.

**4.2 RESIDENTIAL DESIGN CODES**

4.2.1 For the purposes of this Scheme “~~Residential Design Codes~~R-Codes” means the ~~Residential Design Codes~~R-Codes set out in Appendix 2 to the Commission’s Statement of Planning Policy No. 1, together with any amendments thereto.

4.2.2 A copy of the ~~Residential Design Codes~~R-Codes, as amended, shall be kept and made available for public inspection at the offices of the ~~Council~~local government.

4.2.3 Unless otherwise provided for in the Scheme the development of land for any of the residential purposes dealt with by the ~~Residential Design Codes~~R-Codes shall conform to the provisions of those R-Codes.

4.2.4 Subject to clause 4.2.5, the ~~Residential Design Code~~R-Code density applicable to land within the Scheme Area shall be determined by reference to the legend shown on the Residential Density Codes maps which form part of this Scheme.

Unless otherwise specified on the map the R20 density code applies unless the ~~Council~~local government determines that a higher code should apply.

~~4.2.5 Notwithstanding the provisions of clause 4.2.4, where land within the Scheme is subject to an Agreed Structure Plan, the Residential Density Codes for the area shall be determined according to the Agreed Structure Plan.~~

**4.3 SPECIAL APPLICATION OF ~~RESIDENTIAL DESIGN CODES~~R-CODES**

4.3.1 Where residential development is proposed to be mixed with non-residential development, ~~Council~~local government may vary any provision of the R-Codes with the exception of the minimum area of lot per dwelling prescribed in Column 3, Table 1 of the ~~Codes~~R-Codes.

Before exercising its powers of discretion ~~Council~~local government may require that a proposal be advertised and plans made available for public

inspection in accordance with the procedures laid down in clause [6.764 of the deemed provisions](#).

- 4.3.2 In areas that are covered by an ~~Agreed~~-Structure Plan the provisions of the ~~Residential Design Codes~~~~R-Codes~~ may be varied by the provisions of the ~~Agreed~~-Structure Plan set out under clause ~~9.8.3(b).61(4) of the deemed provisions~~.

#### 4.4 HOME BUSINESS

##### 4.4.1 Home Business – Category 1

4.4.1.1 Subject to Clause 4.4.4, a person may conduct a Home Business – Category 1 within a dwelling without the need to submit an application for approval to commence development.

4.4.1.2 Deleted (Amendment 31 – 14/8/2007).

##### 4.4.2 Home Business – Category 2

4.4.2.1 A person wishing to conduct a Home Business - Category 2 on residential premises is required to apply to ~~Council~~[local government](#) for an approval to commence development, and such use or occupation may be approved by ~~Council~~[local government](#) at its discretion.

##### 4.4.3 Home Business – Category 3

4.4.3.1 A person wishing to conduct a Home Business – Category 3 on residential premises is required to apply to ~~Council~~[local government](#) for an approval to commence development, and such use or occupation may be approved by ~~Council~~[local government](#) at its discretion.

4.4.3.2 The provisions of the ~~Residential Design Codes~~~~R-Codes~~ and all other clauses in the Scheme relating to developments in a Residential Zone shall apply to a Home Business – Category 3. ~~Council~~[Local government](#) may exercise its discretion and vary a provision of the ~~Codes~~~~R-Codes~~, except the minimum area of lot per dwelling prescribed in Column 3, Table 1 of the ~~Codes~~~~R-Codes~~.

##### 4.4.4 Review

4.4.4.1 At any time ~~Council~~[local government](#) may undertake a review of the status of an occupation being carried out in a dwelling as a Home Business – Category 1, by requiring the resident to submit a statement setting out the nature and extent of the occupation being carried out on the premises or, on reasonable notice, permitting inspection of the dwelling by ~~Council~~[local government](#).

4.4.4.2 Following completion of a review, [Councillocal government](#) may designate the occupation either as a Home Business – Category 1, Category 2 or 3 and require the resident to comply with the requirements of the Scheme in a manner applicable to that designation and if the designation has changed, then notwithstanding that the occupation may have been lawful up to the time of the review, such occupation shall be carried out only in conformity with [Councillocal government](#) provisions of either a Home Business Category 2 or a Home Business – Category 3, whichever is applicable, once issued.

#### **4.5 VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS**

4.5.1 Except for development in respect of which the [Residential Design CodesR-Codes](#) apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the [Councillocal government](#) may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the [Councillocal government](#) thinks fit.

4.5.2 In considering an application for planning approval under this clause, where, in the opinion of [Councillocal government](#), the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is subject of consideration for the variation, the [Councillocal government](#) shall:

- (a) consult the affected parties by following one or more of the provisions for advertising uses pursuant to clause [6.7.164 of the deemed provisions](#) and
- (b) have regard to any expressed views prior to making its decision to grant the variation.

4.5.3 The power conferred by this clause may only be exercised if the [Councillocal government](#) is satisfied that:

- (a) approval of the proposed development would be appropriate having regard to the criteria set out in Clause [6.867 of the deemed provisions](#); and
- (b) the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality.

#### **4.6 ENVIRONMENTAL CONDITIONS**

4.6.1 In accordance with section 50 of the Act, environmental conditions imposed by the Minister for the Environment on the Scheme or amendments to the Scheme and contained in Statements under Section 48F Environmental

Protection Act 1986, are incorporated into the Scheme by Schedule 9 of the Scheme.

- 4.6.2 Where appropriate, the environmental conditions are indicated on the Scheme Map by the symbol “EC” to indicate that environmental conditions apply to the land.
- 4.6.3 The [Councillocal government](#) shall maintain a register of all the Statements published under Section 48F referred to in sub-clause 4.6.1 which shall be made available for public inspection at the offices of the [Councillocal government](#).

#### **4.7 BUILDING SETBACKS FOR NON RESIDENTIAL BUILDINGS**

- 4.7.1 Unless otherwise provided for in Part 3 of the Scheme, buildings shall be set back from property boundaries as follows:

Setback from street boundary 9.0 metres  
Setback from side boundary 3.0 metres  
Setback from rear boundary 6.0 metres

- 4.7.2 Where a lot has a boundary with more than one street the [Councillocal government](#) shall designate one such street as the frontage and the other street boundaries as side boundaries, if it is satisfied that there will be no adverse effect on traffic safety, and no adverse effect on the amenity of any adjoining properties or the locality generally.

#### **4.8 CAR PARKING STANDARDS**

- 4.8.1 The design of off-street parking areas including parking for disabled shall be in accordance with Australian Standards AS 2890.1 or AS 2890.2 as amended from time to time. Car parking areas shall be constructed and maintained to the satisfaction of the [Councillocal government](#).

- 4.8.2 The number of on-site car parking bays to be provided for specified development shall be in accordance with Table 2. Where development is not specified in Table 2 the [Councillocal government](#) shall determine the parking standard. The [Councillocal government](#) may also determine that a general car parking standard shall apply irrespective of the development proposed in cases where it considers this to be appropriate.

#### **4.9 PEDESTRIAN AND VEHICLE RECIPROCAL ACCESS REQUIREMENTS**

If the [Councillocal government](#) approves car parking and pedestrian access on neighbouring premises in a manner which relies on the reciprocal movement of vehicles and pedestrians between or across the premises, the owners concerned shall allow the necessary reciprocal access and parking at all times to the [Councillocal government](#)'s satisfaction.



#### **4.10 TRAFFIC ENTRANCES**

The [Councillocal government](#) may where it considers it desirable and in the interests of traffic safety direct the owner of any lot to limit access and egress or provide such additional access and egress as it requires to any premises.

#### **4.11 CAR PARKING – CASH IN LIEU OR STAGING**

4.11.1 The [Councillocal government](#) may permit car parking to be provided in stages subject to the developer setting aside for future development for parking the total required area of land and entering into an agreement to satisfactorily complete all the remaining stages when requested to do so by the [Councillocal government](#).

4.11.2 [CouncilLocal government](#) may accept a cash payment in lieu of the provision of any required land for parking subject to being satisfied that there is adequate provision for car parking or a reasonable expectation in the immediate future that there will be adequate provision for public car parking in the proximity of the proposed development.

4.11.3 The cash payment shall be calculated having regard to the estimated cost of construction of the parking area or areas suitable for the proposed development and includes the value, as estimated by the [Councillocal government](#), of that area of land which would have had to be provided to meet the car parking requirements specified by the Scheme. The cash payment may be discounted and may be payable in such manner as the [Councillocal government](#) shall from time to time determine.

4.11.4 Any cash payment received by the [Councillocal government](#) pursuant to this clause shall be paid into appropriate funds to be used to provide public car parks in the locality as deemed appropriate by [Councillocal government](#).

#### **4.12 LANDSCAPING REQUIREMENTS FOR NON RESIDENTIAL BUILDINGS**

4.12.1 A minimum of 8% of the area of a development site shall be designed, developed and maintained as landscaping to a standard satisfactory to the [Councillocal government](#). In addition the road verge adjacent to the lot shall be landscaped and maintained in a clean and tidy condition to the satisfaction of the [Councillocal government](#).

4.12.2 When a proposed development includes a car parking area abutting a street, an area no less than 3 metres wide within the lot along all street boundaries shall be designed, developed and maintained as landscaping to a standard satisfactory to the [Councillocal government](#). This landscaped area shall be included in the minimum 8% of the area of the total development site referred to in the previous subclause.

4.12.3 Landscaping shall be carried out on all those areas of a development site which are not approved for buildings, accessways, storage purposes or car parking with the exception that shade trees shall be planted and maintained by the owners in car parking areas at the rate of one tree for every four (4) car parking bays, to the [Council/local government](#)'s satisfaction.

#### **4.13 MINIMUM LOT DIMENSIONS**

Minimum lot sizes and frontages are not specifically set for the purposes of this Part. The extent of any development on any lot shall be dependent upon other development requirements. Notwithstanding the foregoing, the [Council/local government](#) may establish policies outlining specific minimum lot dimensions for specific types of development where it considers that it is prudent to do so.

#### **4.14 STORAGE AND RUBBISH ACCUMULATION**

4.14.1 All storage, including the storage of accumulated rubbish, shall be confined to within a building, or a suitably enclosed area screened from its immediate surrounds and any adjacent public street or road by normal viewing by a wall not less than 1.8 metres in height constructed of brick, masonry or other approved material. All storage of accumulated rubbish shall be located in a position accessible to rubbish collection vehicles and where vehicular access and car parking will not be adversely affected.

4.14.2 Development requirements for enclosed storage areas and garbage storage areas relating to residential developments for grouped and multiple dwellings are contained within the '[Residential Design Codes R-Codes](#)'.

#### **4.15 COMMERCIAL VEHICLE PARKING**

Parking of commercial vehicles in the Residential, Mixed Use, Business, Urban Development, Centre, Commercial and Special Residential Zones shall not be permitted except in accordance with the provisions set out in the following paragraphs of this clause;

- (a) a person shall not park, or permit to be parked, more than one commercial vehicle on any lot in the zones referred to in this clause;
- (b) a person may only park a commercial vehicle on any lot in the zones referred to in this clause if:
  - (i) the lot on which the vehicle is parked contains only a single house (including any associated outbuildings) provided that [Council/local government](#) may permit the parking of such vehicle on a lot which contains grouped dwellings if it is of the opinion that this will not adversely affect the amenity of the grouped dwelling development or the surrounding area;

- (ii) the vehicle is parked entirely on the subject lot and is located on a hard standing area which is located behind the front of the dwelling, or alternatively the vehicle is parked within a garage;
- (iii) the vehicle is used as an essential part of the lawful occupation of an occupant of the dwelling. The foregoing requirement of this item shall not be satisfied in any case unless the owner of the vehicle or an occupier of the dwelling within seven days of the [Council/local government](#) making a request, supplies to the [Council/local government](#) full information as to the name and occupation of the person said to be using the vehicle. The request for that information is made for the purpose of this item by posting the request to the address of the owner of the vehicle shown on the vehicle registration, or by posting the request to or leaving it at the dwelling addressed in general way to the occupier. The parking of the vehicle on the lot does not authorise the conduct on that lot of the occupation of the vehicle user;
- (iv) the vehicle does not exceed 3 metres in height (including the load), 2.5 metres in width, or 8 metres in length;
- (v) the vehicle is not started or manoeuvred on site between the hours of 10.00 pm and 6.00 am the next following day;
- (vi) while on the lot, the vehicle's motor is not left running while the vehicle is unattended or in any event for any period in excess of five minutes;
- (vii) where a noise complaint is substantiated in accordance with the relevant Regulations made pursuant to the Environmental Protection Act 1986, the hours of operation shall be restricted to 7.00 am – 9.00 pm Monday to Saturday and 9.30 am – 9.00 pm Sundays and Public Holidays.

Any restrictions imposed on the hours of operation shall not limit further application of the relevant Regulations made pursuant to the Environmental Protection Act 1986;

- (viii) only minor servicing, including minor mechanical repairs and adjustments, and/or cleaning that generates easily contained liquid waste is carried out on the lot. Liquid waste shall be as defined in the Health (Liquid Waste) Regulations 1993 and shall be disposed of in accordance with the same.

All cleaning and servicing shall be conducted behind the front of the dwelling;

- (ix) storage of liquid fuels on the lot complies with the Explosive and Dangerous Goods Act, 1961;

- (x) the vehicle is not used or designed for use for the transportation of livestock or the transportation or disposal of liquid or solid wastes or other use so as to cause nuisance or pollution as defined in the Health Act 1911 and/or the Environmental Protection Act 1986;
  - (xi) the vehicle is not carrying a refrigeration unit which is operating on a continuous or intermittent basis;
  - (xii) while on the lot, there is no transfer of goods or passengers from one vehicle to another vehicle, unloading or loading of the vehicle, or storage of goods associated with the use of the vehicle;
  - (xiii) the vehicle is not used or operated as a tow truck or other emergency vehicle, between the hours of 10.00 pm to 6.00 am in a manner that adversely affects the residential amenity of the area;
- (c) the [Council/local government](#) may in writing approve a variation to any of the requirements of items (ii) and (iv) in paragraph (b) provided the [Council/local government](#) is satisfied in the circumstances that the variation will not adversely affect the amenity of the area surrounding the subject land. Surrounding landowners and occupants may be invited to comment on the proposed variation;
- (d) an approval of the [Council/local government](#) granted under paragraph (c) is personal to the person to whom it is granted, is not capable of being transferred or assigned to any other person, and does not run with the land in respect of which it is granted;
- (e) a vehicle shall be considered to be parked on a lot for the purpose of this clause if it remains on that lot for more than one hour in aggregate over any period of 24 hours unless the vehicle is being used bona fide in connection with ongoing construction work legally being carried out on the lot, the burden of proving which shall lie upon the person asserting it.

#### 4.16 RECREATIONAL VEHICLE PARKING

4.16.1 Parking of one (1) recreational vehicle in the Residential zone shall be permitted as of right and without the need for [Council/local government](#) approval provided that the vehicle does not exceed 3 metres in height, 2.5 metres in width and 8 metres in length.

4.16.2 The [Council/local government](#) may in writing approve a variation to Clause 4.16.1 provided the [Council/local government](#) is satisfied in the circumstances that the variation will not adversely affect the amenity of the area surrounding the subject land. Surrounding landowners and occupants may be invited to comment on the proposed variation in accordance with the “D” use provisions contained within Clause 6.6.2.

4.16.3 In supporting a variation to Clause 4.16.1, [Council/local government](#) shall impose the following in addition to any other requirements:

(i) The vehicle(s) shall be parked entirely on the subject lot and shall be located on a hard standing area behind the facade of the dwelling, or alternatively the vehicle being parked within a garage.

(ii) The vehicle(s) shall not be started or manoeuvred on site between the hours of 10.00 pm and 6.00 am.

4.16.4 Any approval of the [Council/local government](#) granted under Clauses 4.16.2 and 4.16.3 is personal to the person to whom it is granted, is not capable of being transferred or assigned to any other person, and does not run with the land in respect of which it is granted.

#### **4.17 RESTRICTIVE COVENANTS**

4.17.1 Subject to clause 4.17.2, a restrictive covenant affecting any land in the Scheme area by which, or the effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the [Residential Design Codes R-Codes](#) which apply under the Scheme.

4.17.2 Where clause 4.17.1 operates to extinguish or vary a restrictive covenant [Council/local government](#) will not grant planning approval to the development of the land which would, but for the operation of clause 4.17.1, have been prohibited unless the application has been dealt with as an 'A' use and has complied with all of the advertising requirements of clause [6.764 of the deemed provisions](#).

**PART 5 – SPECIAL CONTROLS**

**5.1 CONTROL OF ADVERTISEMENTS**

5.1.1 Objectives

The objectives of the provisions for control of advertisements are:

- (a) to ensure that the visual quality and character of particular localities and transport corridors are not eroded;
- (b) to achieve advertising signs that are not misleading or dangerous to vehicular or pedestrian traffic;
- (c) to minimize the total area and impact of outdoor advertising commensurate with the realistic needs of commerce for such advertising;
- (d) to prohibit outdoor advertising which is considered to be superfluous or unnecessary by virtue of their colours, height, prominence, visual impact, size, relevance to the premises on which they are located, number and content;
- (e) to reduce and minimise clutter; and
- (f) to promote a high standard of design and presentation in outdoor advertising.

~~5.1.2 Power to Control Advertisements~~

~~5.1.2.1 For the purpose of this Scheme and subject to subclause 5.1.5, the erection, placement and display of advertisements, and the use of land or buildings for that purpose is development within the definition of the Act requiring, except as otherwise provided, the prior approval of the Council. Planning Approval is required in addition to any licence pursuant to the Council's Signs Local Law.~~

~~5.1.2.2 Applications for Council's planning Approval pursuant to this Part shall be submitted in accordance with the provisions of Clause 6.1 of the Scheme and shall be accompanied by a completed Additional Information Sheet in the form specified by the Council from time to time giving details of the advertisement(s) to be erected, placed or displayed on the land.~~

### 5.1.3 Existing Advertisements

Advertisements which:

- (a) were lawfully erected, placed or displayed prior to the Gazetted Date of the Scheme; or
- (b) may be erected, placed or displayed pursuant to a licence or other approval granted by the Council/local government prior to the approval of this Scheme:

~~hereinafter in this Clause referred to as “existing advertisements”,~~ may, except as otherwise provided, continue to be displayed or be erected and displayed in accordance with the licence or approval as appropriate.

### ~~5.1.4 Consideration of Applications~~

~~Without limiting the generality of the matters which may be taken into account when making a decision upon an application for Planning Approval to erect, place or display an advertisement, Council shall examine each such application in the light of the objectives of the Scheme and the provisions of any Local Planning Policy relating to signs or advertisements, and with particular reference to the character and amenity of the locality within which it is to be displayed, including its historic or landscape significance and traffic safety, and the amenity of adjacent areas which may be affected.~~

### ~~5.1.5 Exemptions from the Requirement to Obtain Approval~~

~~Subject to the provisions of the Main Roads WA (Control of Signs) Regulations 1983 and notwithstanding the provisions of subclause 5.1.2, the Council’s prior Planning Approval is not required in respect of those advertisements listed in Schedule 4 which for the purpose of this clause are referred to as “exempted advertisements”. The exemptions listed in Schedule 4 do not apply to land, buildings, objects, structures and places declared pursuant to Clauses 5.2 and 5.3 of the Scheme.~~

### ~~5.1.6 Discontinuance~~

~~Notwithstanding the Scheme objectives and subclause 5.1.5, where the Council can demonstrate exceptional circumstances which cause an exempted or existing advertisement to seriously conflict with the objectives of this Clause, it may by notice in writing (giving clear reasons) require the advertiser to remove, relocate, adapt or otherwise modify the advertisement within a period of time specified in the notice.~~

### ~~5.1.7 Derelict or Poorly Maintained Advertisements~~

~~Where, in the opinion of the Council, an advertisement has been permitted to deteriorate to a point where it conflicts with the objectives of this clause or it~~

~~ceases to be effective for the purpose for which it was erected or displayed, the Council may by notice in writing, require the advertiser to:~~

- ~~(a) repair, repaint or otherwise restore the advertisement to a standard specified by the Council in the notice; or~~
- ~~(b) remove the advertisement.~~

#### ~~5.1.8 Notices~~

~~5.1.8.1 The “advertiser” shall be interpreted as any one person or any group comprised of the landowner, occupier, licensee or other person having an interest in or drawing benefit from the display of the advertisement concerned.~~

~~5.1.8.2 Any notice served in exceptional circumstances pursuant to subclause 5.1.6 or 5.1.7 shall be served upon the advertiser and shall specify:~~

- ~~(a) the advertisement(s) the subject of the notice;~~
- ~~(b) full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice; and~~
- ~~(c) the period, not being less than 60 days, within which the action specified shall be completed by the advertiser.~~

~~5.1.8.3 Any person upon whom a notice is served pursuant to this subclause may within a period of 60 days from the date of the notice appeal to the State Administrative Tribunal, and where any such appeal is lodged the effect of the notice shall be suspended until the decision to uphold, quash or vary the notice is known and shall thereafter have effect according to that decision.~~

#### ~~5.1.9 Scheme to Prevail~~

~~Where the provisions of this Clause are found to be at variance with the provisions of the Council’s Signs Local Laws, the provisions of the Scheme shall prevail.~~

#### ~~5.1.10 Enforcements and Penalties~~

~~The offences and penalties specified in Clause 8.10 of the Scheme shall apply to the advertiser in this Clause.~~



**5.2 HERITAGE PROTECTION**

**5.2.1 Purpose and Intent**

The purpose and intent of the heritage provisions are:

- (a) to facilitate the conservation of places of heritage value;
- (b) to ensure as far as possible that development occurs with due regard to heritage values.

**5.2.2 Heritage List of Places, Buildings or Objects Worthy of Conservation or Preservation**

5.2.2.1 The Council shall establish and maintain a Heritage List which shall identify those places within the Scheme Area to be of cultural heritage significance and worthy of conservation under the provisions of this Scheme, together with a description of each place and the reasons for its entry.

5.2.2.2 In the preparation of the Heritage List the Council shall have regard to the Municipal Inventory prepared by the Council pursuant to Section 45 of the Heritage of Western Australia Act 1990 and will include on the List such of those entries on the Inventory it considers to be appropriate.

5.2.2.3 In considering a proposal to include a place on the Heritage List, the Council shall:

- (a) notify in writing the owner and occupier of the place and provide them with a copy of the description referred to in sub-clause 5.2.2.1 and the reasons for the proposed entry;
- (b) invite submissions on the proposal from the owner and occupier of the place within 21 days of the date specified in the notice;
- (c) carry out such other consultations as it thinks fit; and
- (d) consider any submissions made and resolve to enter the place on the Heritage List with or without modification or reject the proposal after consideration of the submissions.

5.2.2.4 Where a place is included on the Heritage List, the Council shall give notice of the inclusion to the Commission, the Heritage Council of Western Australia and to the owner and occupier of the place.

~~5.2.2.5 The Council shall keep copies of the Heritage List with the Scheme documents for public inspection.~~

~~5.2.2.6 The Council may remove or modify the entry of a place on the Heritage List by following the procedures set out in sub clause 5.2.2.3.~~

### ~~5.2.3 Application for Planning Approval~~

~~5.2.3.1 In dealing with any matters which may affect a place included on the Heritage List, including any application for planning approval, Council shall have regard to any heritage policy of the Council.~~

~~5.2.3.2 The Council, shall in considering any application that may affect a place included on the Heritage List, solicit the views of the Heritage Council of WA and any other relevant bodies, and take those views into account when determining the application.~~

~~5.2.3.3 Notwithstanding any existing assessment on record, Council may require a heritage assessment to be carried out prior to the approval for any development proposed on land or to structures the subject of a place included on the Heritage List.~~

~~5.2.3.4 For the purposes of Clause 6.1 of the Scheme, the term 'development' shall have the meaning as set out in the Act but shall also include, in relation to any place listed in the Heritage List any act or thing that is likely to significantly change the external character of the building, object, structure or place.~~

### ~~5.2.4 Formalities of Application~~

~~5.2.4.1 In addition to the application formalities prescribed in sub clause 5.2.3 and any formalities or requirements associated with applications for planning approval contained in any of the provisions of the Scheme, the Council may require an application for planning approval, where the proposed development may affect a place of cultural heritage significance, to provide one or more of the following to assist the Council in its determination of the application:~~

~~(a) street elevations drawn to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application, and drawn as one continuous elevation;~~

~~(b) in addition to a site plan, a plan of the proposed development site showing existing and proposed ground levels over the whole of the land the subject of the application, and the location, type and height of all existing~~

~~structures and of all existing vegetation exceeding 2 metres in height, and marking any existing structures and vegetation proposed to be removed; such plan shall be drawn to the same scale as the site plan;~~

~~(c) a detailed schedule of all finishes, including materials and colours of the proposed development and, unless the Council exempts the applicant from the requirement or any part of it, the finishes of the existing developments on the subject lot and on each lot immediately adjoining the subject lot; and~~

~~(d) any other information which the Council indicates that it considers relevant.~~

#### ~~5.2.5 Variations to Scheme Provisions~~

~~5.2.5.1 Where desirable to facilitate the conservation of a heritage place or to enhance heritage values, the Council may vary any provision of the Scheme provided that, where in the Council's opinion the variation of a provision is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for variation, the Council shall:~~

~~(a) consult the affected parties by following one or more of the provisions dealing with advertising uses pursuant to Clause 6.7; and~~

~~(b) take into consideration any expressed views prior to making its decision to grant the variation.~~

~~5.2.5.2 In granting variations under subclause 5.2.5.1 the Council may enter into a heritage agreement under Part 4 of the Heritage of Western Australia Act 1990 with an owner who would benefit from the variation. The agreement may specify the owner's obligations and contain memorials noted on relevant Certificates of Title.~~

### **5.3 LANDSCAPE/ENVIRONMENT PROTECTION**

#### **5.3.1 Schedule 5**

5.3.1.1 Schedule 5 contains details of those places and objects within the City which the [Council/local government](#) has classified as having significance for the purpose of protection of the landscape or environment.

5.3.1.2 If the [Council/local government](#) at any time considers that a place or object has significance from the point of view of protection of the environment or landscape, the [Council/local government](#) may classify

the place or object accordingly and shall add details thereof to Schedule 5 by amendment to the Scheme.

5.3.1.3 If the [Councillocal government](#) at any time considers that any Schedule 5 place or object should no longer be subject to the provisions of this clause the [Councillocal government](#) may initiate an amendment to the Scheme for the deletion of the place or object from Schedule 5.

5.3.2 Written Consent of the [Councillocal government](#)

5.3.2.1 Notwithstanding any other provisions of the Scheme to the contrary the approval of the [Councillocal government](#) is required for the following development on or in relation to any place of landscape or environmental value listed in Schedule 5:

- (a) the clearing, excavation or filling of any land;
- (b) the felling, removal, killing or causing of irreparable damage to any tree;
- (c) the erection of any fence;
- (d) the commencement or carrying out of any renovation, modification, refitting, decoration or demolition of any building; or
- (e) the alteration or removal of any building or object or part thereof.

5.3.2.2 Without affecting the generality of the preceding paragraph and notwithstanding the provisions of ~~subclause 6.1.3~~[clause 61 of the deemed provisions](#) no development shall be commenced or carried out on land listed in Schedule 5 without Planning Approval.

5.3.2.3 For the avoidance of doubt, the requirement for approval under clause 5.3.2.1 is in addition to any other requirement for approval under the Scheme.

5.3.3 Agreements

The [Councillocal government](#) may:

5.3.3.1 enter into agreements with the owners or occupiers of land on which any Schedule 5 place or object is situated for the purpose of ensuring its preservation or conservation;

5.3.3.2 enter into agreements with any State or Commonwealth government authority or other body in Western Australia, for the preservation or conservation of any place or object listed in Schedule 5.

#### **5.4 PURCHASE OR RESUMPTION**

The [Councillocal government](#) may purchase, or, subject to the Act, compulsorily acquire all or part of on which any Schedule 5 place or object is situated, as in the opinion of the [Councillocal government](#) is necessary for its preservation, or which the [Councillocal government](#) considers necessary for the conservation of the natural beauties of an area, for the preservation of any particular tree or trees and without limiting the generality of the foregoing for the preservation of any place or object of cultural heritage significance or other scientific interest.

**PART 6 – DEVELOPMENT AND USE OF LAND**

**~~6.1 – APPLICATION FOR PLANNING APPROVAL~~**

~~6.1.1 The Council’s Planning Approval is required for any development on or partly on any land zoned or reserved under the Scheme other than development referred to in subclause 6.1.3, and with those exceptions no person shall commence or carry out any development unless the Council’s approval has first been obtained.~~

~~6.1.2 Any application for Planning Approval shall be made by way of the form prescribed under the Metropolitan Region Scheme for such purpose or by way of Form 1 of the Scheme or other form as determined by Council from time to time. The application shall be submitted to the Council in duplicate together with such plans and other information as the Council reasonably requires.~~

~~6.1.3 The Council’s prior Planning Approval on land zoned by the Scheme is not required if the development consists of:~~

~~(a) the erection of a boundary fence;~~

~~(b) the erection on a lot of a single house which will be the only building on that lot and where a dwelling is a permitted (“P”) use in the zone in which that lot is situated. For the purposes of this subparagraph the term “single house” does not include the erection of a mast or antenna where either its vertical or horizontal dimension exceeds two metres, the erection of which requires prior Planning Approval;~~

~~— Notwithstanding that a single house does not require the prior approval of the Council pursuant to the Scheme, any person who wishes to carry out development of a single house involving the exercise of discretion by the Council or who wishes to construct a single house in an area or manner where the provisions of a Structure Plan prepared and adopted under Part 9 of the Scheme or a Policy prepared and adopted under Clause 8.11 of the Scheme require, shall at the time of lodging an application for a Building Licence or earlier, apply in writing to Council, seeking Council’s approval.~~

~~— The Council may approve the application with or without conditions or may refuse to approve the application. The Council shall, before granting its approval involving the exercise of its discretion under the R Codes, satisfy itself that:~~

~~(i) the variation requested is one which the Council has the power to approve; and~~

---

~~(ii) approval of that variation would not compromise the objectives of the R Codes.~~

---

~~Where the application for Council's approval consists solely of an application relating to a single house for the Council to exercise its discretion under the R Codes or where required by the provisions of a Structure Plan prepared and adopted under Part 9 of the Scheme or a policy prepared and adopted under Clause 8.11 of the Scheme, the application may be in the form of that required for a Building Licence application.~~

~~(e) the use of any buildings or land within the curtilage of a dwelling for any purpose incidental to the enjoyment by the occupants of the dwelling as such;~~

~~(d) the carrying out of any works on, in, or under a street or road by a public authority acting pursuant to the provisions of any statute.~~

~~(e) the carrying out of any building or works that affect only the interior of a building (excluding an increase in floorspace) and which do not materially affect the external appearance of the building except where the building is:~~

~~(i) located in a place that has been registered in the Register of Places under the Heritage of Western Australia Act 1990;~~

~~(ii) the subject of an Order under Part 6 of the Heritage of Western Australia Act 1990;~~

~~(iii) included on the Heritage List under clause 5.2.2.~~

~~(f) the carrying out of works urgently necessary in the public safety or for the safety or security of plant or equipment or for the maintenance of essential services;~~

~~(g) the conducting of a Home Business Category 1.~~

~~(h) the demolition of any building or structure except where the building or structure is:~~

~~(i) located in a place that has been entered into the Register of Places under the Heritage of Western Australia Act 1990;~~

~~(ii) the subject of an Order under Part 6 of the Heritage of Western Australia Act 1990;~~

~~(iii) included on the Heritage List under clause 5.2.2;~~

~~(iv) located in an area that will in the opinion of Council affect a place included on the Heritage List pursuant to clause 5.2.2.~~

~~(i) any works that are temporary and in existence for less than 48 hours or such longer time as the local government agrees;~~

- ~~(j) any of the exempted classes of advertisements listed in Schedule 4 of the Scheme, except in respect of a place included on the Heritage List or which in the opinion of Council will affect such a place; and~~
- ~~(k) the parking of one commercial vehicle, in accordance with clause 4.15~~
- ~~(l) the parking of one recreational vehicle, in accordance with clause 4.16~~
- ~~(m) A satellite dish, aerial or radio equipment, in accordance with the City's Local Planning Policy and as defined and listed in both Table 1 as 'Communications Antenna - Domestic' and Schedule 1 as 'Communications Antenna' within the Scheme.~~

~~6.1.4 Notwithstanding that any development by reason of the preceding subclause does not require the approval of the Council, an application must nevertheless be submitted to the Council for referral to the Commission for determination in accordance with the Metropolitan Region Scheme or the Act if the land the subject of the application is wholly or partly:~~

- ~~(a) affected by a gazetted notice of a resolution by the Commission under clause 32 of the Metropolitan Region Scheme; or~~
- ~~(b) within an area duly declared by the Commission to be a Planning Control Area.~~

## 6.2 APPLICATION FOR APPROVAL OF USE

6.2.1 For the purpose of the Scheme the commencement, carrying out or change of a use on land shall be a development notwithstanding that it does not involve the carrying out of any building or other works.

6.2.2 If an application for Planning Approval involves the carrying out of building or other work on land, the approval by the ~~Council~~[local government](#) of the application, shall unless the ~~Council~~[local government](#) stipulates otherwise in its approval, be an approval also of the commencement and carrying out of any use of the land:

- (a) which is specifically proposed and referred to in the application; or
- (b) which is normally associated with and follows as the most usual consequence of the carrying out or completion of the building or other work.



### ~~6.3 PROCEDURES FOR DEALING WITH APPLICATIONS RECEIVED~~

~~6.3.1 An application for Planning Approval in respect of land which is wholly within a regional reserve shall be referred by the Council to the Commission for determination in accordance with the Metropolitan Region Scheme. No separate determination of the application shall be made by the Council.~~

~~6.3.2 An application for Planning Approval in respect of land which is:~~

- ~~(a) wholly zoned or reserved by the Scheme; or~~
- ~~(b) partly within a regional reserve and partly zoned or reserved by the Scheme; or~~
- ~~(c) affected by a gazetted notice of resolution made by the Commission under clause 32 of the Metropolitan Region Scheme, or~~
- ~~(d) within or partly within a Planning Control Area duly declared by the Commission~~

~~shall be dealt with by the Council in accordance with the requirements of the Notice of Delegation published in the Government Gazette from time to time by the Commission acting pursuant to the provisions of the Act. Where that Notice of Delegation requires the application to be determined by the Commission, the procedure is as follows:~~

- ~~(i) one copy of the application and supporting papers submitted by the applicant shall, within seven days of receipt of the application, be forwarded by the Council to the Commission for determination by the Commission pursuant to the provisions of the Scheme and the Metropolitan Region Scheme or the Act; and~~
- ~~(ii) the Council shall retain the other copy of the application and supporting papers and determine the application in accordance with the provisions of the Scheme.~~
- ~~(iii) the Council may, within 42 days of receipt of that application (or such further period as the Commission may allow) forward to the Commission its recommendation as to the manner in which the application should be determined.~~

~~6.3.3 If the Council receives an application for Planning Approval on land which is partly within a regional reserve and partly zoned or reserved by the Scheme then:~~

- ~~(a) — the Council shall retain one copy of the application and refer the other copy to the Commission for determination of the application pursuant to the Metropolitan Region Scheme;~~
- ~~(b) — if it is reasonable in the circumstances for the Council to make determination as to the part of the proposed development which is on the land zoned or reserved by the Scheme, the Council shall deal with that part of the application in accordance with subclauses 6.3.2 and 6.3.3 but where appropriate the council may express any approval it gives to be subject to the approval of the Commission;~~
- ~~(c) — if it is not reasonable in the circumstances for the Council to make a determination as to the part of the development which is on the land zoned or reserved by the Scheme the Council may delay its determination of the application as to that part until the determination of the Commission is made known to it.~~

~~6.3.4 — Subject to the provisions of the Metropolitan Region Scheme, if in respect of any proposal for development the Council is required to deal with an application under the Scheme and also an application under the Metropolitan Region Scheme by virtue of an authority delegated to it under the provisions of the Act, unless it stipulates a contrary intention, the decision conveyed to the applicant or proponent shall be its decision both under the Metropolitan Region Scheme and under the Scheme.~~

#### ~~6.4 — REFERRAL TO OTHER AUTHORITIES —~~

~~The Council may if it so desires, before determining any application consult with any other statutory, public or planning commission and with any other party it deems fit.~~

#### ~~6.5 — DEEMED REFUSAL —~~

~~6.5.1 — Notwithstanding the provisions of clause 6.9.1 (d):~~

- ~~(a) — Subject to clause 6.5.1 (b), an application for planning approval is deemed to have been refused if a determination in respect of that application is not conveyed to the applicant by the local government within 60 days of receipt of the application by the local government, or within such further time as is agreed in writing between the applicant and the local government.~~
- ~~(c) — An application for planning approval which is the subject of a notice under clause 6.7 or referred to other authorities under clause 6.4 is deemed to be refused where a determination in respect of that application is not conveyed to the applicant by the local government within 90 days of the receipt of the application by the local government, or within such further time as is agreed in writing between the applicant and the local government.~~

~~6.5.2 Notwithstanding that the application for planning approval may be deemed to have been refused, the Council may issue a decision in respect of the application at any time after the expiry of the periods specified in those clauses 6.5.1 (a) and 6.5.1 (b) respectively, and that decision shall be valid and effective as from the date of determination.~~

## 6.6 DEALING WITH “P”, “D”, “A” AND “X” USES

6.6.1 “P” Uses – If an application under the Scheme for Planning Approval involves a “P” use, the [Council/local government](#) shall not refuse the application by reason of the unsuitability of that use, but notwithstanding that, the [Council/local government](#) may in its discretion impose conditions upon the Planning Approval and if the application proposes or necessarily involves any building or other work, the [Council/local government](#) upon considering that building or other work may exercise its discretion as to the approval or refusal and the conditions to be attached to the proposed development.

6.6.2 “D” Uses – The [Council/local government](#) in exercising its discretion as to the approval or refusal of an application for Planning Approval, shall have regard to the provisions of clause [6.867 of the deemed provisions](#).

If in any particular case [Council/local government](#) considers that it would be appropriate to consult with the public generally or with the owners or occupiers of properties adjoining or in the vicinity of a site the subject of an application for Planning Approval involving a “D” use, the [Council/local government](#) may direct that the provisions of clause [6.764 of the deemed provisions](#) shall apply to that application.

6.6.3 “A” Uses – The use is not permitted unless the [Council/local government](#) has exercised its discretion and has granted planning approval after having regard to the provisions of clause [6.867 of the deemed provisions](#) giving special notice in accordance with clause [6.764 of the deemed provisions](#).

6.6.4 “X” Uses – The [Council/local government](#) shall refuse to approve any application for planning approval which involves an “X” Use unless the use complies with clause 3.15.

## ~~6.7 PUBLIC NOTICE~~

### ~~6.7.1 Notification of “A” Uses~~

~~Before considering an application for planning approval involving an “A” use, the Council shall:~~

- ~~(a) cause to be advertised one or more times in a newspaper circulating in the district notice of the Council’s intention to consider the application for the proposed use. Any such advertisement shall state that the application and associated~~

~~documents are available for inspection at the office of the Council and that written comments on the application may be lodged with the Council before a specified date, being not less than three weeks after the first publication of the notice; and/or~~

~~(b) give notice to ratepayers and/or occupiers likely to be affected by the granting of the approval; such notice shall be in writing supplying at least the information referred to in item (a) of this subclause, and allowing a like time after receipt of the notice for objections to be lodged with the Council; and may~~

~~(c) use any other methods or media considered appropriate to ensure widespread notice of the proposal;~~

#### ~~6.7.2 Notification of “D” Uses~~

~~Before considering an application for planning approval involving a “D” use, the Council may give notice in accordance with subclause 6.7.1 (a), or (b), or (c), or a combination of these methods.~~

#### ~~6.7.3 Consideration of Submissions on “D” and “A” Uses~~

~~If Council has advertised an application for planning approval pursuant to subclause 6.7.1 or 6.7.2, Council shall not make a decision to approve the application until after the latest date for submissions stated in any notice given or published pursuant to subclause 6.7.1 or 6.7.2 and until after Council has considered submissions lodged in accordance with the notice.~~

### ~~6.8 MATTERS TO BE CONSIDERED BY COUNCIL~~

~~6.8.1 The Council when considering an application for Planning Approval shall have due regard to the following:~~

~~(a) interests of orderly and proper planning and the preservation of the amenity of the relevant locality;~~

~~(b) any relevant submissions by the applicant;~~

~~(c) any Agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;~~

~~(d) any planning policy of the Council adopted under the provisions of clause 8.11;~~

~~(e) any other matter which under the provisions of the Scheme the Council is required to have due regard;~~

- ~~(f) any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;~~
- ~~(g) any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar as they can be regarded as seriously entertained planning proposals;~~
- ~~(h) the comments or wishes of any public or municipal authority received as part of the submission process;~~
- ~~(i) the comments or wishes of any objectors to or supporters of the application;~~
- ~~(j) any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and~~
- ~~(k) any other matter which in the opinion of the Council is relevant.~~

~~6.8.2 In addition to the matters referred to in the preceding subclause of this clause, the Council when considering whether or not to approve a “D” or “A” use application shall have due regard to the following (whether or not by implication or otherwise they might have required consideration under the preceding subclauses of this clause):~~

- ~~(a) the nature of the proposed use and its relationship to the use of other land within the locality;~~
- ~~(b) the size, shape and character of the parcel of land to which the application relates and the nature and siting of any proposed building;~~
- ~~(c) the nature of the roads giving access to the subject land;~~
- ~~(d) the parking facilities available or proposed and the likely requirements for parking, arising from the proposed development;~~
- ~~(e) any relevant submissions or objections received by the Council; and~~
- ~~(f) such other matters as the Council considers relevant, whether of the same nature as the foregoing or otherwise.~~

~~6.9 POWER TO DETERMINE APPLICATIONS FOR PLANNING APPROVAL~~

~~6.9.1 The Council having regard to the appropriateness of any proposed application for planning approval may:~~

- ~~(a) refuse to grant its approval;~~
- ~~(b) grant approval without conditions;~~
- ~~(c) grant approval subject to such conditions and requirements as it deems fit; or~~
- ~~(d) defer consideration or determination of the application to a later meeting if in the Council's view additional information for, or more detailed investigation of the proposal is required.~~

~~6.9.2 Without limiting the generality of the foregoing, the Council may, where it deems appropriate, grant a Planning Approval which:~~

- ~~(a) if not commenced, substantially commenced, or completed as the case may be within the period of time specified in the Approval shall cease to be valid; or~~
- ~~(b) permits the use and/or other development of land to occur for a limited period of time specified in the approval, after the expiration of which period the use and/or other development shall cease and unless otherwise stipulated by the Council the site shall be restored to the condition existing at the time when the Approval was given, unless a further Approval has been sought and obtained.~~

~~6.9.3 The Council shall convey its decision to an applicant by way of the form prescribed under the Metropolitan Region Scheme for such purpose, or in any format that may be determined by the Council from time to time.~~

6.9.4 If the [Council/local government](#) in exercising any discretion is required by the Scheme or by any other written law to have due regard to any matter or thing, it shall be deemed to have had due regard to such matter or thing unless the contrary is expressly stated in the Minutes of the relevant Council Meeting or the document communicating the determination for decision to the applicant, or is otherwise proved. In any event, due regard to the matter or thing by the responsible Committee or officer of the [Council/local government](#) under delegated authority shall be sufficient compliance.

## 6.10 COMPLIANCE WITH CONDITIONS

6.10.1 If the [Council/local government](#), or the State Administrative Tribunal on appeal from a decision of the [Council/local government](#), or any other decision making authority grants its approval of any development subject to

conditions, no person shall use any land or building affected by the conditions or suffer or permit them to be used, or otherwise commence or carry out or suffer or permit the commencement or carrying out of any development on land otherwise than in accordance with the conditions.

~~6.10.2 The Council may, on application in writing from the owner of land in respect of which planning approval has been granted, revoke or amend the planning approval, prior to the commencement of the use or development subject of the planning approval.~~

~~6.11 APPROVALS ON APPEAL~~

~~In any case where a Planning Approval is given by the State Administrative Tribunal on appeal from the Council, or where a condition is imposed by the State Administrative Tribunal, then that approval and/or any such conditions shall be deemed for the purpose of enforcement to have been imposed by the Council under the Scheme and may be enforced by the Council as such.~~

~~6.12 APPROVAL OF EXISTING DEVELOPMENTS~~

~~6.12.1 The Council may give planning approval to a development already commenced or carried out regardless of when it was commenced or carried out. Such approval shall have the same effect for all purposes as if it had been given prior to the commencement or carrying out of the development, but provided that the development complies with the provisions of the Scheme as to all matters other than the provisions requiring Council's approval prior to the commencement of development.~~

~~6.12.2 An application to the Council for planning approval under subclause 6.12.1 shall be made on such form as the Council provides from time to time.~~

~~6.12.3 A development which was not permissible under the Scheme at the time it was commenced or carried out may be approved if at the time of approval under this subclause it is permissible.~~

~~6.12.4 The approval by the Council of an existing development shall not affect the power of the Council to take appropriate action for a breach of the Scheme or the Act in respect of the commencement of the development without approval.~~



## **PART 7 – NON-CONFORMING USES**

### **7.1 NON-CONFORMING USES**

Except as otherwise provided in this Scheme, no provision of the Scheme shall be deemed to prevent:

- (a) the continued use of any land or building for the purpose for which it was being lawfully used at the Gazettal date of the Scheme; or
- (b) the carrying out of any development thereon for which, immediately prior to that time, an approval or approvals, lawfully required to authorise the development to be carried out, were duly obtained and are current; or
- (c) ~~subject to clause 5.1.6, t~~The continued display of advertisements which were lawfully erected, placed or displayed prior to the approval of this Scheme.

### **7.2 EXTENSIONS AND CHANGES TO A NON-CONFORMING USE**

7.2.1 A person shall not alter or extend a non-conforming use or erect, alter or extend a building used in conjunction with a non-conforming use or change the use of land from a non-conforming use to another non-conforming use without first having applied for and obtained planning approval under the Scheme.

7.2.2 An application for planning approval under this clause shall be advertised in accordance with clause ~~6.7.164~~ [of the deemed provisions](#).

7.2.3 Where an application is for a change of use from an existing non-conforming use to another non-conforming use, the [Council/local government](#) shall not grant its planning approval unless the proposed use is:

- (a) substantially less detrimental to the amenity of the locality than the existing non-conforming use; and
- (b) in the opinion of the [Council/local government](#) is closer to the intended purpose of the zone.

### **7.3 DISCONTINUANCE OF NON-CONFORMING USE**

When a non-conforming use of any land or buildings has been discontinued for a period of six months such land or buildings shall not thereafter be used otherwise than in conformity with the provisions of the Scheme.

### **7.4 TERMINATION OF A NON-CONFORMING USE**

The [Council/local government](#) may effect the discontinuance of a non-conforming use by the purchase of the land and buildings, or by the payment of compensation to

the owner or the occupier or to both the owner and the occupier of that land, and may enter into an agreement with the owner for that purpose.

---

**PART 8 – FINANCE AND ADMINISTRATION**

---

**8.1 — ADDITIONAL POWERS OF THE SCHEME —**

~~8.1.1 The Council in implementing the Scheme has, in addition to all other powers vested in it, the following powers:~~

~~(a) The Council may enter into an agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matters pertaining to the Scheme.~~

~~(b) The Council may acquire any land or buildings within the Scheme Area pursuant to the provisions of the Scheme or the Act. The Council may deal with or dispose of any land which it has acquired pursuant to the provisions of the Scheme or the Act in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.~~

~~8.1.2 The procedure for carrying out any compulsory acquisition under this procedure in the Act and the Land Administration Act 1997.~~

~~8.1.3 Without affecting the generality of the preceding subclause, to facilitate coordinated structure planning and development the Council may, with the prior consent of the Minister, acquire premises by purchase or resumption on behalf of a landowner who is endeavouring to develop land to comply with an Agreed Structure Plan, provided that the landowner:~~

~~(a) proves to the Council's satisfaction that during a period of not less than six months, bone fide negotiations to acquire the premises have not been successful; and~~

~~(b) enters into an agreement with the Council to meet all the costs of purchase or resumption including the Council's legal costs, and to develop the premises for the purposes specified within the specified time limit.~~

~~8.1.4 Disposal of Land~~

~~— The Council may deal with or dispose of any land which it has acquired pursuant to the preceding subclauses, in accordance with the Act and in conformity with the provisions of the Scheme, upon such terms and conditions as it thinks fit, and for such purpose may make such agreements with other owners and parties as it thinks fit.~~

## 8.2 AMENITY

- 8.2.1 No building shall be so constructed, finished or left unfinished that its external appearance would significantly detract from the amenity of the locality or tend to depreciate the value of adjoining property. All land and buildings shall be so used and maintained as to preserve the local amenity.
- 8.2.2 No land, building or appliance shall be used in such a manner as to permit the escape therefrom of smoke, dust, fumes, odour, noise, glare, vibration or waste products in such quantity or extent or in such a manner as will create or be a nuisance to any inhabitant, or to traffic or persons using any land or roads in the vicinity.
- 8.2.3 If the [Councillocal government](#) forms the opinion that there has been a breach of the requirements of the preceding subclauses it may, by notice in writing, require the owner to make good the breach in the manner and within the time stated in the notice. The notice may be served on the owner personally or by posting it to the last address of the owner known to the [Councillocal government](#), and if served by post, shall be deemed to have been served three (3) clear days after the date of posting.
- 8.2.4 Any person upon whom a notice is served pursuant to this clause may, within 28 days of the date of service of the notice on that person, appeal pursuant to the Act against the requirements of the notice and, where any such appeal is lodged the effect of the notice shall be suspended until a decision to uphold, quash or vary the notice has been made on the appeal or the appeal has been withdrawn, whereupon the time stated in the notice shall again begin to run.
- 8.2.5 Failure to comply with a notice under this clause shall be a breach of the provisions of the Scheme.

## 8.3 UNKEMPT LAND

- 8.3.1 On any land within the Scheme Area any undergrowth, refuse, rubbish or disused material which in the opinion of the [Councillocal government](#) is likely to affect adversely the value of adjoining property or the health, comfort or convenience of the inhabitants thereof, the [Councillocal government](#) may cause a notice to be served on the owner or occupier of such land requiring that the land is cleared of trees, scrub, undergrowth, refuse or rubbish, or such refuse, rubbish or disused material is removed from such land within a specified period.
- 8.3.2 Every owner or occupier of land upon whom a notice is served shall comply with such notice within the time period therein specified.
- 8.3.3 Where the owner or occupier does not clear the land or remove the refuse, rubbish or disused material as required by the notice given by the [Councillocal government](#), the [Councillocal government](#) may without payment

or any compensation in respect thereof, clear or remove it and dispose of it at the expense of and recover in a court of competent jurisdiction the amount of the expense from the owner or occupier to whom the notice is given.

8.3.4 Failure to comply with a notice under this clause shall be a breach of the provisions of the Scheme.

#### **~~8.4 — APPEALS~~**

~~Should an applicant, a proponent or an owner of land the subject of an application be aggrieved by a decision given or deemed to have been given by the Council in the exercise of a discretionary power under the Scheme or by a determination of the Commission under Part 9 the applicant, proponent or owner may appeal pursuant to the Act.~~

#### **~~8.5 — COMPENSATION~~**

~~8.5.1 A claim for compensation for injurious affection can be made pursuant to the Act when the Scheme:~~

- ~~(a) permits development on land for no purpose other than a public purpose;~~
- ~~(b) prohibits wholly or partially the continuance of any non-conforming use according to the terms of the Act.~~

~~8.5.2 The time limit for the making of claims for compensation for injurious affection pursuant to the Act resultant from the making of, or the making of an amendment to, the Scheme, is six (6) months from the date of publication of the Scheme or Scheme Amendment in the Government Gazette.~~

~~8.5.3 In addition to the compensation provisions of the Act and sub-clause 8.5.1 of this Scheme, where, in respect of any application for planning approval to commence or carry out development on land reserved under this Scheme, the Council, or any appellate body thereafter, refuses or grants approval subject to conditions such that the effect of the decision is to permit the land to be used or developed for no purpose other than a public purpose, the owner of the land may claim compensation from the Council for injurious affection.~~

~~8.5.4 The time limit for the making of claims for compensation pursuant to sub-clause 8.5.3 is not later than 6 months after the date of the decision of the Council or appellate body.~~

#### **~~8.6 — DELEGATION OF DEVELOPMENT CONTROL POWERS AND POWERS AND DUTIES IN RELATION TO OTHER PLANNING FUNCTIONS~~**

~~8.6.1 The Council may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or an employee of the City, the exercise of any of its powers or the discharge of any of its duties under the Scheme, under this power of delegation.~~

~~8.6.2 Sections 5.45 and 5.46 of the Local Government Act 1995 and the Regulations referred to in section 5.46 apply to the delegation made under this clause as if the delegation were a delegation under Division 4 of Part 5 of that Act.~~

### ~~8.7 ENTRY TO PREMISES~~

~~Any officer of the Council may enter at all reasonable times any premises within the Scheme Area for the purposes of ascertaining whether the provisions of the Scheme are being complied with, and at the time of entry may do all things reasonably necessary to record evidence of any non-compliance.~~

### ~~8.8 GENERAL OBLIGATIONS~~

~~Subject to the provisions of the Act and all regulations made thereunder and to Part 7 of the Scheme, no person shall depart from or permit or suffer any departure from the requirements and provisions of the Scheme, nor shall any person commence or carry out or permit the commencement or carrying out of any development which:~~

- ~~(a) does not conform with the Scheme; or~~
- ~~(b) being or involving a use or other development which requires the approval of the Council or the Commission or both, does not have such approval or approvals is not permitted; or~~
- ~~(c) does not comply with the terms of any approval or any condition attached thereto.~~

### ~~8.9 Deleted (Amendment 31 – 14/8/2007)~~

### 8.10 OFFENCES

8.10.1 No person shall depart from or permit or suffer any departure from the requirements and provisions of the Scheme, nor shall any person use or suffer or permit the use of any land or building or undertake or suffer or permit the undertaking of any development within the Scheme Area:

- (a) otherwise than in accordance with the provisions of the Scheme;
- (b) unless all approvals required by the Scheme have been granted and issued;
- (c) unless all conditions imposed upon the grant and issue of any approval required by the Scheme have been and continue to be complied with;
- (d) unless all standards laid down and all requirements prescribed by the Scheme or determined by the [Council/local government](#)

pursuant to the Scheme with respect to that building or that use of that part have been and continue to be complied with.

8.10.2 Any person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to such penalties as are prescribed by the Act.

## ~~8.11 LOCAL PLANNING POLICIES~~

~~8.11.1 The Council may prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme Area so as to apply:~~

- ~~(a) generally or for a particular class or classes of matters; and~~
- ~~(b) throughout the Scheme Area or in one or more parts of the Scheme Area;~~

~~and may amend or add to or rescind a Policy so prepared.~~

### ~~8.11.2 Relationship of Local Planning Policies to Scheme~~

~~8.11.2.1 Any Local Planning Policy prepared under this Part shall be consistent with the Scheme and if any inconsistency arises the Scheme shall prevail.~~

~~8.11.2.2 A Local Planning Policy is not part of the Scheme and shall not bind the Council in respect of any application for planning approval but the Council shall have due regard to the provisions of any Policy and the objectives which the Policy is designed to achieve before making its decision.~~

### ~~8.11.3 Procedures for Making and Amending a Local Planning Policy~~

~~8.11.3.1 Local Planning Policy shall become operative only after the following procedures have been completed:~~

- ~~(a) The Council having prepared and adopted a draft Policy shall advertise the draft Policy by way of a notice published once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area and by such other methods as the Council may consider appropriate to ensure notice of the draft Policy, giving details of where the draft Policy may be inspected, the subject and nature of the draft Policy, and in what form and during what period (being not less than 21 days from the date specified in the notice) submissions may be made;~~
- ~~(b) the Council shall carry out such other consultations as it thinks fit;~~

~~(c) the Council shall review the draft Policy in the light of any submissions made and shall then resolve either to finally adopt the draft Policy with or without modification, or not to proceed with the draft Policy;~~

~~(d) following final adoption of a Policy, notification of the final adoption shall be published once in a newspaper circulating within the Scheme Area; and~~

~~(e) where, in the opinion of the Council, the provisions of any Policy affect the interests of the Commission, a copy of the Policy shall be forwarded to the Commission.~~

~~8.11.3.2 Copies of any Policy shall be kept and made available for public inspection at the offices of the Council.~~

~~8.11.3.3 Any amendment or addition to a Policy shall follow the procedures set out in (a)–(e) above.~~

#### ~~8.11.4 Rescission of a Local Planning Policy~~

~~A local Planning Policy may be rescinded by:~~

~~(a) the preparation or final adoption of a new Policy pursuant to clause 8.11.3 specifically worded to supersede an existing Policy; or~~

~~(b) publication of a formal notice of rescission by the Council once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area.~~

~~8.11.5 Any Planning Policy adopted and approved under the City's Town Planning Scheme No 1 immediately before the revocation of Scheme No 1 shall have the status of a Local Planning Policy as if it was prepared and adopted under the provisions of this Scheme.~~

~~8.11.6 When a draft Planning Policy was prepared under the provisions of Town Planning Scheme No 1 but had not completed the procedures required to give it the status of an adopted and approved Planning Policy under that Scheme by the time the Scheme was revoked, then the procedures may be completed under this Scheme. In that case all procedures required for the preparation and adoption of the Planning Policy shall be deemed to have been carried out under this Scheme and when the procedures are completed the Planning Policy shall have effect for all purposes as a Local Planning Policy under this Scheme.~~



**PART 9 — STRUCTURE PLANS****9.1 — COUNCIL MAY REQUIRE STRUCTURE PLAN**

~~9.1.1 The Council may require the preparation and presentation to it of a Structure Plan as a prerequisite to:~~

- ~~(a) the Council's support for a proposal to rezone or reclassify land in the District;~~
- ~~(b) the Council's support for an application to subdivide or amalgamate lots; or~~
- ~~(c) the Council's consideration of an application for Planning Approval.~~

~~9.1.2 To facilitate the efficient preparation of Structure Plans the Council may deal simultaneously with a number of Structure Plans in relation to the same area.~~

~~9.1.3 Where this Scheme requires an activity centre structure plan to be adopted before approval is granted for major development:~~

- ~~(a) a proponent may prepare and submit an activity centre structure plan to Council; and~~
- ~~(b) the activity centre structure plan shall be in accordance with the provisions of: —~~
  - ~~(i) State Planning Policy 4.2 — Activity Centres for Perth and Peel; and —~~
  - ~~(ii) Part 9 of the Scheme and shall be regarded as a Structure Plan for the purpose of the provisions of Part 9.~~

**9.2 — DETERMINATION OF STRUCTURE PLAN AREA**

~~The Council shall determine the area to be covered by a Structure Plan required under the provisions of clause 9.1.1 upon the application of any of the following criteria it considers appropriate:~~

- ~~———— (a) the pattern of roads, bus routes and dual use paths both existing and proposed, in the surrounding area;~~
- ~~———— (b) the pattern and type of existing subdivision in the surrounding area;~~
- ~~———— (c) existing and proposed land uses on the subject land and in the surrounding area;~~
- ~~———— (d) the land form, topography, vegetation, groundwater, wetlands and other natural features of the subject land and the surrounding area;~~

~~(e) the availability of necessary services;~~

~~(f) relevant expressed desires and attitudes of landowners and inhabitants of the surrounding area;~~

~~(g) any other matter the Council considers relevant in the circumstances of the case.~~

### ~~9.3 MATTERS TO BE INCLUDED~~

~~A Structure Plan (including an activity centre structure plan) shall have regard to or include those matters listed in Schedule 7 that are appropriate. Without limiting the generality of Schedule 7 the Council may require any other matter to be included in a Structure Plan.~~

### ~~9.4 SUBMISSION OF STRUCTURE PLAN TO COUNCIL~~

~~9.4.1 A Structure Plan shall be prepared by the proponent and, to the extent that it is practicable, should be prepared after discussion and consultation with the Council, the Commission, other relevant government agencies and the community. A Structure Plan shall be submitted to the Council in quadruplicate or such other quantity specified by the Council. The Council in the exercise of its discretion may do any of the following:~~

~~(a) determine that the Structure Plan is satisfactory, send a copy to the Commission, and advertise it under the provisions of clause 9.5. Advertising of Structure Plans subject to minor modifications may be waived at the discretion of the Council.~~

~~(b) determine that the Structure Plan should not be advertised until specified matters have been included in it or have otherwise been attended to by the proponent; or~~

~~(c) determine that the Structure Plan should not be agreed to for stated reasons.~~

~~9.4.2 If within ninety (90) days of receiving a Structure Plan for agreement which accords with Clause 9.3 the council has not made one of the determinations referred to in the preceding paragraphs (clause 9.4.1), the proponent may deem that the Council has determined that the Structure plan should not be agreed to.~~

### ~~9.5 PUBLIC NOTICE~~

~~9.5.1 Before a Structure Plan is considered under the provisions of clause 9.6, the Council shall ensure that adequate publicity is given. Such publicity shall be undertaken by the proponent in accordance with the provisions of clause 6.7 as may be directed by the Council.~~

~~9.5.2 Any notice given under this clause shall be in such terms as will explain the scope and purpose of the Structure Plan and where and when it may be inspected, and shall invite submissions from all affected landowners, relevant government agencies and the community.~~

## ~~9.6 CONSIDERATION OF STRUCTURE PLAN~~

~~9.6.1 The Council shall consider all submissions received and within sixty (60) days of the date or the latest date specified in the notice given under clause 9.5 shall do one or other of the following:~~

~~(a) refuse to adopt the Structure Plan;~~

~~(b) resolve that the Structure Plan is satisfactory with or without modifications which the Council may require the proponent to make and submit three copies to the Commission for adoption and certification in the form illustrated in Schedule 8;~~

~~9.6.2 Where the Council in its opinion is not able to make a decision within the terms of either paragraph (a) or paragraph (b) of the preceding subclause within the sixty (60) day period by reason of the need to obtain more facts or information, the sixty (60) day period referred to in the preceding subclause may, with the consent of the proponent, be extended for a maximum of a further sixty (60) days, and the sixty (60) day period for a deemed refusal under subclause 9.6.4 shall not begin to run until the second sixty (60) day period has expired or the Council has declared itself to be satisfied that it has sufficient information to make a determination, whichever occurs first.~~

~~— This extension of time is only available with the written consent of the proponent.~~

~~9.6.3 Consideration of the Structure Plan by the Western Australian Planning Commission~~

~~(a) The Commission may adopt the Structure Plan with or without requiring any modifications or it may refuse to adopt the Structure Plan and should convey its decision to the Council within sixty (60) days of the date on which it receives the Structure Plan for adoption under paragraph 9.6.1(b).~~

~~(b) If the Commission adopts the Structure Plan it should certify three (3) copies of the Structure Plan in the manner illustrated in Schedule 8 and return them to the Council within fourteen (14) days of the date of the Commission's resolution.~~

~~(c) If the Commission requires modifications to the Structure Plan the proponent shall make the modifications in consultation with~~

~~the Council and resubmit the Structure Plan for consideration under clause 9.4.~~

~~(d) If the Commission refuses to adopt the Structure Plan and an appeal by the proponent is upheld, the proponent shall make any modifications that may be necessary for the Structure Plan to comply with the appeal determination and the Commission shall adopt and certify the Structure Plan pursuant to paragraphs (a) and (b) of this subclause.~~

~~(e) If either the time limits in (a) and (b) is inadequate to allow the Commission to perform its functions in the case of any Structure Plan referred to it, the times shall be extended by such period as the Commission reasonably requires in order to perform its function under this subclause.~~

~~9.6.4 If within the sixty (60) day period referred to in subclause 9.6.1 or the extended period referred to in subclause 9.6.2, the Council has not made a decision within the terms of either paragraph (a) or paragraph (b) of subclause 9.6.1, then at the option of the proponent approval of the Structure Plan may be deemed refused for the purpose of giving a right of appeal.~~

~~9.6.5 As soon as practicable after receiving the Structure Plan documents referred to in paragraph 9.6.3(b) the Council shall adopt, sign and seal the Structure Plan in the form illustrated in Schedule 8.~~

~~9.6.6 The Council shall provide a copy of the Agreed Structure Plan to the proponent, the Commission, and to any other appropriate person or statutory authority which the Council considers should receive a copy.~~

~~9.6.7 The Scheme Map shall be appropriately flagged, marked or annotated on the Council's copy to draw attention to the existence of the Agreed Structure Plan.~~

## ~~9.7 AMENDMENT OR REVOCATION OF AGREED STRUCTURE PLAN~~

~~Any Agreed Structure Plan may, subject to the approval of the Commission, be amended or revoked by the Council. Public Notice of the amendment or revocation shall be given in accordance with clause 9.5 but, in the case of an amendment the public notification may be waived when the amendment is considered by the Council to be of a minor nature such as not to materially alter the intent of the Agreed Structure Plan or cause any significant detriment to land within or abutting the Structure Plan area. Such of the provisions of clause 9.6 as the Council considers appropriate in the circumstances of any case may be applied to the amendment of an Agreed Structure Plan.~~

### ~~9.7A COMMISSION APPROVAL NOT REQUIRED FOR CERTAIN STRUCTURE PLANS~~

~~Notwithstanding the provisions of clauses 9.4.1, 9.6.1, 9.6.3, 9.6.6, 9.7 and 9.8.1, the Commission's consideration or adoption of a Structure Plan is not required in the case of an activity centre structure plan for a District Centre if the floorspace is 20,000m<sup>2</sup> or less shop retail net lettable area.~~

### ~~9.8 OPERATION OF AGREED STRUCTURE PLAN~~

~~9.8.1 An Agreed Structure Plan shall come into operation on the date it is adopted by the Commission pursuant to subclause 9.6.3.~~

~~9.8.2 Where an Agreed Structure Plan imposes a classification on the land included in it by reference to reserves, zones (including Special Use Zones) or Residential Density Codes, until it is replaced by an amendment to the Scheme imposing such classifications:~~

- ~~(a) the provisions of the Agreed Structure Plan shall apply to the land within it as if its provisions were incorporated in this Scheme and it shall be binding and enforceable in the same way as corresponding provisions incorporated in the Scheme; and~~
- ~~(b) provisions in the Scheme applicable to land in those classifications under the Scheme shall apply with the necessary changes or alterations to the Agreed Structure Plan area.~~

~~9.8.3 Without limiting the generality of the preceding subclause, under an Agreed Structure Plan:~~

- ~~(a) in the areas designated as zones, the permissibility of uses shall be the same as set out in the Zoning Table as if those areas were zones under the Scheme, having the same designation;~~
- ~~(b) the standards and requirements applicable to zones and R Codings under the Scheme shall apply with the necessary changes or alterations to the areas having corresponding designations under the Agreed Structure Plan. However, notwithstanding the provisions of paragraph (f), an Agreed Structure Plan may by a clear statement of intent to do so, make provision for any standard or requirement applicable to zones or R Codings to be varied, and the standard or requirement varied in that way shall apply within the area of the Agreed Structure Plan, or any stipulated part of that area, as if it was a variation incorporated in this Scheme; and~~
- ~~(c) the development control procedures including (without limitation) the procedures for approval of uses and developments under the Scheme shall apply as if the land was correspondingly zoned or reserved under the Scheme;~~

- ~~(d) provisions duplicating or substantially to the same effect as any provisions of the Scheme shall have the same force and effect in regard to the land in the Structure Plan as if they were provisions of the Scheme;~~
- ~~(e) where land is classified as a Local Authority Reservation, the rights, provisions and procedures, and the obligation of the Council in regard to compensation shall apply as if the land was correspondingly reserved under the Scheme;~~
- ~~(f) any other provision, standard or requirement in the Structure Plan shall be given the same force and effect as if it was a provision standard or requirement of this Scheme, but subject to the provision of subclause 9.8.3(b) allowing for a specific variation to a Scheme standard or requirement by a Structure Plan, if there is any other inconsistency or conflict not addressed as an intended variation by the Agreed Structure Plan, the provision requirement or standard of the Scheme shall prevail;~~
- ~~(g) an Agreed Structure Plan may distinguish between provisions, requirements or standards which are intended to have effect as if included in the Scheme, and provisions, requirements or standards not so intended, and it is only the provisions so intended which have that effect. Any other provisions are for guidance or information only, or such other purpose as stipulated in the Agreed Structure Plan documents.~~

## ~~9.9 COMPLIANCE WITH AGREED STRUCTURE PLAN~~

~~Where land is subject to any obligation or liability under an Agreed Structure Plan, the land shall not be subdivided or in any other way developed unless arrangements satisfactory to the Council have first been made for the discharge of that obligation or liability.~~

## ~~9.10 COPYRIGHT AND OWNERSHIP~~

~~A proponent shall transfer to the Council in writing at no cost to the Council, all copyright ownership of Structure Plans together with all supporting documentation submitted to the Council, and Agreed Structure Plans adopted by the Council, (whether in graphic, textual or digital form).~~

## ~~9.11 DEVELOPMENT PRIOR TO ADOPTION OF STRUCTURE PLAN~~

~~If Council is required to consider an application in respect of a development, use or subdivision proposal before a Structure Plan has been prepared and adopted, then the Council shall, in addition to any other matters required by this Scheme to be considered, have regard to the following considerations:~~

- ~~(a) as an overriding consideration, the intent of the application;~~
- ~~(b) the desirability from a planning point of view of having an Agreed Structure Plan in place before development or subdivision occurs; and~~
- ~~(c) the interests of orderly and proper planning, and concern for the amenity of the relevant locality in the short, intermediate and long term.~~
- ~~(d) in the case of major development in an activity centre requiring an activity centre structure plan under clauses 3.7.2 and 3.11.4, the provisions of State Planning Policy 4.2 – Activity Centres for Perth and Peel.~~

## **9.12 LOCAL DEVELOPMENT PLAN**

9.12.1 ~~Where it is considered desirable to enhance, elaborate or expand the details or provisions contained in a structure plan for a particular lot or lots, a local development plan may be prepared by:~~

- ~~(a) the local government; or~~
- ~~(b) an owner.~~

9.12.2 ~~A local development plan may include details as to:~~

- ~~(a) building envelopes;~~
- ~~(b) distribution of land uses within a lot;~~
- ~~(c) private open space;~~
- ~~(d) services;~~
- ~~(e) vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;~~
- ~~(f) the location, orientation and design of buildings and the space between buildings;~~
- ~~(g) advertising signs, lighting and fencing;~~
- ~~(h) landscaping, finished site levels and drainage;~~
- ~~(i) protection of sites of heritage, conservation or environmental significance;~~
- ~~(j) special development controls and guidelines; and~~
- ~~(k) such other information considered relevant by the local government.~~

9.12.3 ~~When a proposed local development plan is prepared under clause 9.12.1, the local government is to:~~

- ~~(a) advertise, or require the owner who submitted the proposed local development plan to advertise, the proposed local development plan for public inspection by one or more of the following ways:~~
  - ~~(i) notice of the proposed local development plan published in a newspaper circulating in the Scheme area;~~

~~(ii) a sign or signs displaying notice of the proposed local development plan to be erected in a conspicuous place or places in the Development Area, or part of the Development Area, to which the proposed local development plan applies; and~~

~~(b) give notice or require the owner who submitted the proposed local development plan to give notice, in writing to:~~

~~(i) all owners whose land is included in the proposed local development plan;~~

~~(ii) all owners and occupiers who, in the opinion of the local government, are likely to be affected by the adoption of the proposed local development plan;~~

~~(iii) such public authorities and other persons as the local government nominates.~~

~~9.12.4 The advertisement and notice are to:~~

~~(a) explain the scope and purpose of the proposed local development plan;~~

~~(b) specify when and where the proposed detailed plan may be inspected; and~~

~~(c) invite submissions to the local government by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.~~

~~9.12.5 The local government is to consider all submissions received and:~~

~~(a) approve the local development plan with or without conditions; or~~

~~(b) refuse to approve the local development plan and, where the proposed local development plan was submitted by an owner, give reasons for this to the owner.~~

~~9.12.6 If within 60 days of receiving a local development plan prepared under clause 9.12.1(b), or such longer period as may be agreed in writing between the owner and the local government, the local government has not made one of the determinations referred to in clause 9.12.5, the local government is deemed to have refused to approve the local development plan.~~

~~9.12.7 Once approved by the local government, the local development plan constitutes a variation of the structure plan.~~

~~9.12.8 The local government may vary a local development plan in accordance with the procedures set out in clause 9.12 onwards provided such variations do not prejudice the intention of any related structure plan.<sup>2</sup>~~

## ~~9.13 RECONSIDERATION AND APPEAL~~

~~9.13.1 If a proponent is dissatisfied by a requirement, or any decision or determination of the Council or Commission under this Part, the proponent~~



~~may within 14 days of the imposition of the requirement or the making of the decision or determination request a reconsideration. Such request shall be in writing, delivered to the appropriate body within the fourteen (14) day period.~~

~~9.13.2 The Council having been requested to reconsider under the preceding subclause shall endeavour to deal with the matter at the earliest possible opportunity after the request. A decision or determination made, or a requirement imposed, after reconsideration, shall be the decision, determination or requirement of the Council for all intents and purposes, if it is made or imposed within 60 days of the request, but otherwise the original decision, determination or requirement of the Council shall be the operative one for all purposes.~~

~~9.13.3 If the Council or the Commission makes a determination or decision or imposes a requirement in respect of a Structure Plan or local development plan in the exercise of a power contained in this Part and the proponent of the Structure Plan or local development plan is dissatisfied with such determination or decision, the proponent may appeal to the State Administrative Tribunal against the decision, determination or requirement in accordance with the Act.~~

~~9.13.4 The rights of appeal conferred by the preceding subclause are additional to the rights arising under the Act.~~

~~9.13.5 Where a request for reconsideration is made in accordance with subclause 9.13.1, the time for appealing shall run from the date of the later decision, determination or requirement if made or imposed within 35 days of the request for reconsideration, or from the expiration of the 35 day period if a decision, determination or requirement is not made or imposed within that time.~~

~~9.13.6 If, after an appeal has been determined, any requirement of the Council or the appeal body arising from the appeal remains to be complied with, that requirement shall be complied with before the process of preparation and adoption of the Structure Plan is continued.~~

~~**9.14** If under this Scheme an activity centre structure plan is required to be adopted before approval is granted for major development in an activity centre:~~

~~(a) the activity centre structure plan shall not be required as a precursor to major development where an Agreed Structure Plan already applies to the site of the proposed major development under:~~

~~(i) a previous town planning scheme; or~~

~~(ii) this Scheme.~~

~~**9.15** STRUCTURE PLANS UNDER TOWN PLANNING SCHEME NO. 1~~

~~9.15.1 Subject to clause 9.14, when a Structure Plan was adopted and approved under a previous town planning scheme and had the status of an Agreed Structure Plan under the City's Town Planning Scheme No.1 immediately before the revocation of Scheme No.1, it shall have the status of an Agreed Structure Plan under this Scheme as if it was prepared and adopted under the provisions of this Scheme.~~

~~9.15.2 Subject to clause 9.14, where a draft Structure Plan was prepared under the provisions of Town Planning Scheme No.1 but had not completed the procedures required to give it the status of an Agreed Structure Plan under that Scheme by the time the Scheme was revoked, then the procedures may be completed under this Scheme. In that case all procedures required for the preparation and adoption of the Structure Plan shall be deemed to have been carried out under this Scheme and when the procedures are completed the Structure Plan shall have effect for all purposes as an Agreed Structure Plan under this Scheme.~~

~~9.15.3 Where a Structure Plan has effect under this Scheme by force of the provisions of subclause 9.15.1, or where the procedures for making an Agreed Structure Plan are to be completed under this Scheme in accordance with subclause 9.15.2, any change in title of the Structure Plan or in other matters whatsoever shall be made to the extent only that it is necessary to provide it with the form of an Agreed Structure Plan under this Scheme, and to make its terms consistent in all ways with the provisions of this Scheme, including (but without limiting the generality of the foregoing) any standards or requirements.~~

**TABLE 1 (CLAUSE 3.2) – THE ZONING TABLE**

ZONES  USE CLASSES	RESIDENTIAL	MIXED USE	BUSINESS	COMMERCIAL	CIVIC & CULTURAL	PRIVATE CLUBS/RECREATION	SERVICE INDUSTRIAL	SPECIAL RESIDENTIAL	RURAL
Abattoir	X	X	X	X	X	X	X	X	X
Aged or Dependent Persons' Dwelling	D	D	D	D	X	X	X	X	X
Amusement Parlour	X	D	D	D	D	D	D	X	X
Ancillary Dwelling	D	X	X	X	X	X	X	X	X
Aquaculture	X	X	X	X	X	X	X	X	D
Art Gallery	X	D	P	P	P	P	X	X	A
Auction Room	X	D	D	D	X	X	P	X	X
Bakery	X	D	D	D	X	X	D	X	X
Bank	X	P	P	P	X	X	X	X	X
Beauty Parlour	X	P	P	P	X	D	X	X	X
Bed & Breakfast	D	P	D	P	X	D	X	D	D
Car Park	X	D	P	P	P	P	P	X	X
Car Wash	X	X	D	D	X	X	P	X	X
Caravan Park	A	X	X	X	X	P	X	X	X
Caretaker's Dwelling	D	D	D	D	D	D	D	X	X
Cattery	X	X	X	X	X	X	X	D	D
Child Care Centre	D	D	D	D	D	D	X	D	X
Cinema	X	X	D	D	D	D	X	X	X
Cinema Complex	X	X	X	D	X	X	X	X	X
Civic Building	D	D	D	D	P	D	X	X	X
Club (Non-Residential)	X	X	D	P	D	D	D	X	X
Communication Antenna - Domestic	P	P	D	D	X	X	X	P	D
Communication Antenna	D	D	D	D	X	X	D	X	D
Concrete Batching Plant	X	X	X	X	X	X	X	X	X
Consulting Rooms	D	P	P	P	D	X	X	D	X
Convenience Store	X	D	P	P	X	D	D	X	X
Corner Store	X	P	P	P	X	X	X	X	X
Costume Hire	X	D	P	P	X	X	D	X	X
Department Store	X	X	X	D	X	X	X	X	X
Display Home	P	P	P	P	D	D	P	D	D
Drive In Theatre	X	X	X	X	D	D	X	X	X
Drive Through Food Outlet	X	X	D	D	X	X	X	X	X
Dry Cleaning Premises	X	X	D	P	X	X	P	X	X
Educational Establishment	X	D	D	D	D	D	D	X	X
Equestrian Activity	X	X	X	X	X	D	X	X	X
Equipment Hire	X	X	D	D	X	X	D	X	X

ZONES  USE CLASSES	RESIDENTIAL	MIXED USE	BUSINESS	COMMERCIAL	CIVIC & CULTURAL	PRIVATE CLUBS/RECREATION	SERVICE INDUSTRIAL	SPECIAL RESIDENTIAL	RURAL
Fuel Depot	X	X	X	X	X	X	D	X	X
Funeral Parlour	X	X	D	D	X	X	D	X	X
Garden Centre	X	X	P	P	X	X	P	X	X
Golf Course	X	X	X	X	X	D	X	X	X
Grouped Dwelling	D	D	D	D	X	X	X	X	X
Hairdresser	X	P	P	P	X	D	X	X	X
Hall	X	D	D	D	P	D	X	X	X
Hardware Store	X	X	D	P	X	X	D	X	X
Holiday Village	X	X	X	X	X	D	X	X	X
Home Business – Category 1	P	P	P	P	X	X	X	P	X
Home Business – Category 2	D	P	P	P	X	X	X	P	X
Home Business – Category 3	A	P	P	P	X	X	X	D	X
Hospital	X	X	D	D	D	X	X	X	X
Hotel	X	X	D	D	X	D	X	X	X
Industry – Extractive	X	X	X	X	X	X	X	X	X
Industry – General	X	X	X	X	X	X	X	X	X
Industry – Hazardous	X	X	X	X	X	X	X	X	X
Industry – Light	X	X	X	X	X	X	P	X	X
Industry – Rural	X	X	X	X	X	X	D	X	X
Kindergarten	D	D	D	D	D	D	X	X	X
Land Sales Office (Temporary)	P	P	P	P	D	D	P	D	D
Landscape Supplies	X	X	X	X	X	X	D	X	X
Launderette	X	X	P	P	X	X	P	X	X
Laundry	X	X	D	D	X	X	P	X	X
Liquor Store	X	X	D	P	X	X	X	X	X
Lunch Bar	X	P	P	P	X	X	D	X	X
Markets (Retail)	X	X	D	D	X	X	X	X	X
Market Garden	X	X	X	X	X	X	X	X	X
Medical Centre	X	P	P	P	D	X	X	X	X
Milk Depot	X	X	X	X	X	X	D	X	X
Motel	X	X	D	D	X	D	X	X	X
Multiple Dwelling	D	D	D	D	X	D	X	X	X
Night Club	X	X	D	D	X	D	D	X	X
Nursing Home	D	D	D	D	D	X	X	X	X
Office	X	P	P	P	X	X	X	X	X
Open Air Display	X	X	X	X	X	X	D	X	X
Park	D	D	D	D	D	D	D	D	D
Park Home Park	D	X	X	X	X	D	X	X	X

ZONES  USE CLASSES	RESIDENTIAL	MIXED USE	BUSINESS	COMMERCIAL	CIVIC & CULTURAL	PRIVATE CLUBS/RECREATION	SERVICE INDUSTRIAL	SPECIAL RESIDENTIAL	RURAL
Place of Assembly	X	D	D	D	P	D	D	X	X
Place of Worship	X	D	D	D	P	D	D	X	X
Private Recreation	X	D	D	D	D	P	X	X	X
Public Exhibition Facility	X	D	D	D	P	P	X	X	X
Public Utility	P	P	P	P	P	P	P	P	P
Reception Centre	X	D	D	P	D	D	X	X	X
Recreation Centre	X	D	D	D	D	D	D	X	X
Residential Building	D	D	D	D	X	D	X	X	X
Resort	X	X	X	X	X	D	X	X	X
Restaurant	X	D	P	P	D	D	X	X	A
Restricted Premises	X	X	X	D	X	X	X	X	X
Retirement Village	D	D	D	D	X	D	X	X	X
Rural Use	X	X	X	X	X	X	X	X	P
Salvage Yard	X	X	X	X	X	X	D	X	X
Service Station	X	X	D	D	X	X	D	X	X
Shop	X	X*	X*	P	X	X	X	X	X
Short Stay Accommodation	X	D	D	D	X	D	X	X	X
Showroom	X	X	P	P	X	X	P	X	X
Single House	P	P	D	D	X	X	X	P	P
Special Place of Assembly	X	X	X	X	D	D	X	X	X
Sports Ground	X	X	X	X	D	D	X	X	X
Stables	X	X	X	X	X	D	X	X	P
Storage Yard	X	X	X	X	X	X	D	X	X
Take Away Food Outlet	X	X	P	P	D	D	X	X	X
Tavern	X	X	D	D	X	D	X	X	X
Theatre	X	X	P	P	D	D	X	X	X
Trade Display	X	X	X	X	X	X	D	X	X
Transport Depot	X	X	X	X	X	X	P	X	X
Vehicle Panel Beating/Spray Painting	X	X	X	X	X	X	D	X	X
Vehicle Repairs	X	X	D	X	X	X	P	X	X
Vehicle Sales/Hire Premises	X	X	D	D	X	X	P	X	X
Vehicle Wrecking	X	X	X	X	X	X	X	X	X
Veterinary Consulting Rooms	X	X	P	P	X	X	P	X	A
Veterinary Hospital	X	X	D	D	X	X	P	X	A
Warehouse	X	X	D	X	X	X	P	X	X
Winery	X	X	X	X	X	X	X	X	D

\* - refer to Clause 3.5.2 and/or Clause 3.6.3 for further information

For Zones which have not been listed in this table refer to :

- 3.11 The Centre Zone
- 3.12 The Urban Development Zone
- 3.17 The Special Use Zone

**TABLE 2 (CLAUSE 4.8) - CAR PARKING STANDARDS**

USE CLASS	NUMBER OF ON-SITE PARKING BAYS (NLA = NET LETTABLE AREA)
Aged or dependent persons dwelling	As per the <a href="#">Residential Design Codes R-Codes</a>
Car sales premises	1 per 200m <sup>2</sup> of display area plus 1 per employee
Caravan Park	1 per 10 sites
Child Care Centre	Not less than 5 and 1 per staff member and in accordance with Local Planning Policy 3-1 Child Care Centres
Consulting Rooms	5 bays per practitioner
Corner Store	4 per 100m <sup>2</sup> NLA
Display Home	5 per Display Home
Drive Through Food Outlet	1 per 4 guests in seated areas plus 7 per 100m <sup>2</sup> for non seating areas
Funeral Parlour	1 per 4 persons accommodated
Garden Centre	1 per 500m <sup>2</sup> of site area used for display plus 1 per 10m <sup>2</sup> NLA internal display area
Grouped Dwelling	As per the <a href="#">Residential Design Codes R-Codes</a>
Health Centre	1 per 30m <sup>2</sup> NLA
High School	2 per classroom and a minimum of 10 bays
Hospital	1 per 3 patients accommodated plus 1 space for each staff member on duty
Hotel	1 per bedroom plus 1 per 3m <sup>2</sup> drinking area plus 1 per 5m <sup>2</sup> for seating area
Industrial	1 per 50m <sup>2</sup> NLA
Land Sales Office	5 per Land Sales Office
Medical Centre	5 per practitioner
Motel	1 per unit plus 1 per 5m <sup>2</sup> of dining room
Multiple Dwelling	As per the <a href="#">Residential Design Codes R-Codes</a>
Office	1 per 30m <sup>2</sup> NLA
Open Air Display	1 per 200m <sup>2</sup> Display Area
Place of Assembly	1 per 4 seats



USE CLASS	NUMBER OF ON-SITE PARKING BAYS (NLA = NET LETTABLE AREA)
Primary School	2 per classroom but not less than 10
Public Worship	1 per 4 seats
Recreation Centre	1 per 2.5 persons based on facility capacity
Residential Building	1 per 2 persons
Restaurant	Greater of 1 per 5m <sup>2</sup> of dining room or 1 per 4 guests
Secondary School	2 per classroom but not less than 10
Service Station	5 per service bay plus 7 per 100 m <sup>2</sup> NLA of sales/display area
Shopping Centres under 10,000m <sup>2</sup>	7 per 100m <sup>2</sup> NLA
Shopping Centres from 10,000 to 30,000m <sup>2</sup>	700 bays for the first 10,000m <sup>2</sup> NLA plus 6.25 per 100m <sup>2</sup> NLA thereafter
Shopping Centres from 30,000 to 50,000m <sup>2</sup>	1950 bays for the first 30,000m <sup>2</sup> NLA plus 5.25 per 100m <sup>2</sup> NLA thereafter
Shopping Centres greater than 50,000m <sup>2</sup>	3000 bays for the first 50,000m <sup>2</sup> NLA plus 4.8 per 100m <sup>2</sup> NLA thereafter
Short Stay Accommodation	2 bays per unit
Showrooms	1 per 30m <sup>2</sup> NLA
Single House	As per the <a href="#">Residential Design Codes R-Codes</a>
Special Place of Assembly & Sports Grounds	1 per 2.5 persons based on facility capacity
Take Away Food Outlet	1 per 4 guests in seated areas plus 7 per 100m <sup>2</sup> NLA for non seating serving areas
Tavern/Club	1 per 3m <sup>2</sup> NLA of standing area plus 1 per 5m <sup>2</sup> for seating area
Tertiary College	1 per 3 students accommodated
Vehicle Sales/Hire Premises	1 per 200m <sup>2</sup> display area and 1 bay per employee
Veterinary Consulting Rooms or Hospital	5 per practitioner

**SCHEDULE 1 (CLAUSE 1.9) – INTERPRETATIONS**

**abattoir** : means any land or buildings used for the slaughter of animals for human consumption and the treatment of carcasses, offal and by-products.

**absolute majority** : shall have the same meaning as given to the term in and for the purposes of the Local Government Act 1995.

~~**Act** : means the Planning and Development Act 2005.~~

~~**activity centre** : means an activity centre identified in the activity centres hierarchy of State Planning Policy 4.2: Activity Centres for Perth and Peel and which is located (wholly or partly) within the Scheme area.~~

~~**activity centre structure plan** : means a structure plan for an activity centre prepared in accordance with State Planning Policy 4.2— Activity Centres for Perth and Peel and Part 9 of this Scheme and which provides a framework for such future subdivision and development.~~

~~**advertisement** : includes any sign or advertising device, and the term “advertising sign” has a corresponding meaning.~~

**advertising** : means the publication, display or presentation of any advertisement.

~~**advertising device** : means any object or structure on which any word, number, figure, image, drawing, representation or message whatsoever is written, placed, affixed, attached, painted, projected or otherwise displayed, or on which provision is made for the same, for the purpose of advertising any business, function, operation, development, event, undertaking, person or any product or thing whatsoever, and includes any airborne device anchored to any land or building or any vehicle or trailer or other similar object placed or located so as to serve the purpose of advertising any business, function, operation, development, event, undertaking, person or any product or thing whatsoever.~~

**aged or dependent person** : has the same meaning as is given to that term in the [Residential Planning R-Codes Codes](#).

~~**Agreed Structure Plan** : means a structure plan adopted under the provisions of Part 9 of the Scheme and includes an activity centre structure plan prepared in accordance with State Planning Policy 4.2: Activity Centres for Perth and Peel and adopted under Part 9 of the Scheme.~~

~~**amenity** : means all those factors which combine to form the character of the area to residents and passers by and shall include the present and likely future amenity.~~

**amusement machine** : means any machine, game, device or games table, whether mechanical, electronic or computer powered, or a combination of these, operated by one or more players for amusement and recreation.

**amusement parlour** : means premises, in which 2 or more amusement machines or computers are available for use by the public for amusement.

**ancillary dwelling** : has the same meaning as is given to it in the [Residential Design Codes R-Codes](#).

**applicant** : means a person who is applying or has applied to the [Council Local government](#) for Planning Approval.

**aquaculture** : shall have the same meaning as given to the term in and for the purposes of the Fish Resources Management Act 1994.

**art gallery** : means any land or buildings used to display art works which may be offered for sale.

**auction room** : means a room or rooms within a building in which goods are exposed or offered for sale by auction.

**bakery** : means any land or buildings used to make and/or display and sell bread and pastry products, but excludes “hot bread” shops.

**bank** : means any land or building used for banking purposes.

**battle-axe lot** : means a lot having access to a public road by means of an access strip included in the Certificate of Title of that lot.

**bay** : see “car parking bay”.

**beauty parlour** : means any land or buildings used for beauty therapy purposes.

**bed & breakfast** : means any dwelling in which the resident of the dwelling provides accommodation on an overnight or short-term basis, usually to the travelling public, and may include the provision of breakfast.

**boat launching facility** : means any land or building used to launch or retrieve boats into and from the water and may include a boat ramp or slip way.

**building** : means any structure or appurtenance thereto whether fixed or moveable, temporary or permanent, and without limiting the generality of the foregoing includes a shed, stall, fence, wall, barrier, hoarding, outbuilding, tent, caravan or swimming pool.

**building envelope** : means an area of land within a lot marked on a plan approved by the responsible authority within which all buildings not including boundary fences and effluent disposal facilities on the lot must be contained.

**camping ground** : shall have the same meaning as given to the term under the Caravan Parks and Camping Grounds Act 1995.

**caravan park** : shall have the same meaning as given to the term under the Caravan Parks and Camping Grounds Act 1995.

**caretaker's dwelling** : means a building used as a dwelling by a person having the care of the building, plant, equipment or grounds associated with an industry, business, office or recreation area carried on or existing on the same site.

**car park** : means premises used primarily for the parking of private vehicles or taxis whether open to the public or not but does not include any part of a public road which is used for the through movement of traffic or premises on or in which vehicles are displayed for sale or premises set aside to meet a specific parking requirement under the Scheme. The term includes the land required on site for access and manoeuvring to enable vehicles to gain access to car parking bays.

**car parking bay** : means that area of a lot which is required for the parking of a stationary motor vehicle to the minimum dimensions specified by the Scheme, constructed and paved to the specifications set down by the [Council/local government](#) and includes where the context permits an area considered appropriate by the [Council/local government](#) for access and manoeuvring on the site to allow a vehicle to gain access to a parking bay but does not include crossovers, service areas and landscaping. The terms bay and parking bay have the same meaning.

**car wash** : means any land or buildings used for mechanical vehicle washing. Such uses may or may not be associated with a service station and may include such other uses considered by [Council/local government](#) to be ancillary to the predominant use of the land.

**carry on** : means in connection with the use or other development of land the same as “carry out”.

**carry out** : means in connection with the use or other development of land the same as “carry on”.

**cattery** : means the use of an approved outbuilding constructed in accordance with the Health Act Model By-Laws Series ‘A’ Part One – General Sanitary Provisions (1927) for the purpose of keeping more than three (3) cats over the age of three (3) months.

**child care centre** : means premises used for the daily or occasional care of children in accordance with the Community Services (Child Care) Regulations 1988.

**cinema** : means any land or building containing a single cinema screen where the public may view a motion picture.

**cinema complex** : means any land or building where the public may view a motion picture, and may include more than one cinema screen, and may include other minor and subsidiary amusements.

**City** : means the City of Joondalup.

**civic building** : means premises designed used or intended to be used by any Federal, State or municipal government department, authority or body for the purpose of an office, hall or library, or a centre for cultural, recreational or social purposes, or for any other community service.

**club (non-residential)** : means premises used for the purpose of club premises by an incorporated club or incorporated association or other body of persons united by a common interest (whether those premises be licensed under the provisions of the Liquor Act 1970 as amended or re-enacted or not) and which premises are not otherwise classified under the provisions of the Scheme.

~~Codes : means the Residential Planning Codes, in Appendix 2 to the Western Australian Planning Commission Statement of Planning Policy No. 1. The terms R Codes and Residential Codes have the same meaning.~~

**commercial vehicle** : means a vehicle whether licensed or not which is used or designed for use for business, trade or commercial purposes or in conjunction with a business, trade or profession and without limiting the generality of the foregoing includes any utility, van, truck, trailer, tractor and any wheeled attachment to any of them or any wheeled article designed to be an attachment to any of them, and any bus or omnibus or any earthmoving machine whether self-propelled or not. The term shall not include a vehicle designed for use as a passenger car or any trailer or other thing most commonly used as an attachment to a passenger car, or a van, utility or light truck which is rated by the manufacturer as being suitable to carry loads of not more than 1.5 tonnes. If a truck, prime mover or other vehicle is attached to a trailer, semi-trailer or any other attachment, each trailer, semi-trailer or other attachment is to be regarded as a separate commercial vehicle. A loaded combination, such as a bobcat, forklift or other vehicle or attachment loaded on a truck, trailer or other attachment is to be regarded as one commercial vehicle.

**Commission** : means the Western Australian Planning Commission constituted under the Western Australian Planning Commission Act 1985 (as amended).

**communications antenna**: means any mast, antenna, aerial, satellite dish and other associated equipment used for the reception or transmission of television or radio signals or for other electronic communication where its vertical or horizontal dimensions exceed two metres but does not include telecommunications infrastructure.

**community purpose** : means the use of premises designed or adapted primarily for the provision of education, social, cultural and recreational facilities and services by organisations involved in activities for community benefit.

**conservation** : means, in relation to any place on the Heritage List (Clause 5.2.2), the management of that place in a manner that will:

- (a) enable the cultural heritage significance of that place to be retained; and
- (b) yield the greatest sustainable benefit for the present community without diminishing the cultural heritage significance of that place, and may include the preservation, stabilisation, protection, restoration, reconstruction, adaptation and maintenance of that place in accordance with relevant professional standards, and the provision of an appropriate visual setting.

**consulting rooms** : means a building used by no more than one health consultant for the investigation or treatment of human injuries or ailments and for general patient care.

**convenience store** : means any land and or buildings used for the retail sale of convenience goods being those goods commonly sold in supermarkets, delicatessens and newsagents and may include the sale of petrol and operated during hours which may extend beyond normal trading hours. The buildings associated with a convenience store shall not exceed 200m<sup>2</sup> net leasable area.

**convenience goods** : means goods sold or offered for sale by retail, and being goods ordinarily consumed on a regular basis by people residing in or resorting to the locality and includes food and other articles of household use, pharmaceutical products, newspapers and magazines.

**corner store**: means any land and building comprising a dwelling house attached to which is a shop not exceeding 100 sq.m. gross floor area offering only convenience goods for sale (other than sale between the hours of 4.00 pm on one day and 8.00 am the following day of prepared food for immediate consumption which is prohibited), operated as an additional use by a permanent resident of the dwelling,

**costume hire** : means premises used for the purpose of the hire of fancy dress garments and accessories.

**Council** : means Council of the City of Joondalup.

~~**cultural heritage significance** : has the same meaning given to the term in the Heritage of Western Australia Act 1990.~~

**curtilage** : in relation to a dwelling means the yard of the dwelling; or an area in the immediate vicinity of the dwelling, situated on the same lot as, and used for purposes ancillary to, the dwelling. The curtilage shall not include the area located between the frontage and the dwelling. The term shall have a like meaning in relation to land around buildings other than dwellings.

**density code** : means the code based on the number of dwellings permitted per hectare as provided in the [CodesR-Codes](#). The density code applicable to any land is shown on the Residential Density Code Map.

**department store** : means a shop which consists of a substantial number of different departments carrying a significant range of goods in each department.

**development** : shall have the same meaning given to it in and for the purposes of the Act but shall also include in relation to any building, object, structure or place listed on the Heritage List any act or thing that:

- (a) is likely to change the character of the place or the external appearance of any building; or
- (b) would constitute an irreversible alteration to the fabric of any building.

**development site** : means land the subject of an application for a Planning Approval.

**district** : means the municipal district of the City of Joondalup.

**drive in theatre** : means any land or buildings used to make provision for an audience to view the entertainment while seated in motor vehicles.

**drive-through food outlet** : means a take away food outlet which includes the sale and serving of food direct to persons driving or seated in motor vehicles. The term may or may not include the preparation of food for sale and consumption within the building; or portion thereof.

**dry cleaning premises** : means any land or buildings used for the cleaning of garments and other fabrics by chemical processes.

**dwelling** : has the same meaning as that set out in the [Residential Planning R-Codes Codes](#).

**educational establishment** : means a school, college, university, technical institute, academy or other educational centre, training centre or a lecture hall, but does not include premises intended or used to accommodate or deal with offenders or persons undergoing punishment.

**equestrian activity** : means any land or buildings used for the showing, competition or training of horses and includes a riding school.

**equipment hire** : includes the use of land or buildings for the hire of lawnmowers and other items of a like kind and the term may include the display of some items of that equipment. But the term does not include the hire of vehicles

**extractive industry** see industry – extractive.

**façade** : means the exposed face of a building facing any road or open space or the frontal outward appearance of the building.

**factory unit building** : means a building or structure, or a group of buildings or structures on one lot, in which are carried on two or more separate industries or storage areas not owned or managed by the same person, or in which provision is made for the carrying on of two or more separate industries or storage areas not owned or managed by the same person.

**family day care centre** : has the same meaning as that in the Community Services (Child Care) Regulations 1988.

**floor area** : shall have the same meaning given to it in and for the purposes of the Building Code of Australia 1996.

**floor area of a building** : means –

- (a) for any building (or part of a building) that is subject to the [Residential Design Codes R-Codes](#), the gross total of the areas of all floors of the building being the areas specified in the definition of Plot Ratio contained in the [Residential Design Codes R-Codes](#).
- (b) for any other building (or part of a building), the gross total area of all floors of the building, including the area of any walls, however excluding the area of:

- lift shafts, stairs or stair landings common to two or more tenancies;
- machinery, air conditioning and equipment rooms;
- non habitable space that is wholly below natural ground level;
- areas used exclusively for the parking of wheeled vehicles at or below ground level;
- lobbies or amenities areas common to more than one tenancy;
- balconies or verandahs open on at least two sides.

**frontage** : when used in relation to a building that is used for:

- (a) residential purposes, has the same meaning given to the term in the [Residential Planning Codes R-Codes](#); or
- (b) purposes other than residential purposes, means the road alignment at the front of a lot and, if a lot abuts two or more roads, the one to which the building or proposed building faces.

**fuel depot** : means any land or building used for the storage and sale in bulk of solid or liquid or gaseous fuel, but does not include a service station and specifically excludes the sale by retail into the final user's vehicle of such fuel from the premises.

**funeral parlour** : means any land or buildings used to prepare and store bodies for burial or cremation and may include facilities to conduct memorial services.

**garden centre** : means any land or buildings used for the propagation, rearing and sale of plants and the storage and sale of products associated with horticultural and garden activities.

**gazettal date** : means the date on which the Scheme came into force, being the date on which notice of the Minister's approval of the Scheme is published in the Government Gazette.

**general industry** : refer industry – general.

**gross floor area (GFA)** : has the same meaning as “floor area” in the Building Codes of Australia.

**gross leasable area (GLA)** : means, in relation to a building, the area of all floors capable of being occupied by a tenant for his exclusive use, which area is measured from the centre lines of joint partitions or walls and from the outside faces of external walls or the building alignment, including shop fronts, basements, mezzanines and storage areas.

**grouped dwelling** : has the same meaning as that set out in the [Residential Planning Codes R-Codes](#).

**hardware store** : means a shop in which tools, building materials, paint, garden improvement products and plants are for sale.

**hazardous industry** : refer industry – hazardous.



**health centre** : shall have the same meaning as Medical Centre.

**health studio** : see recreation centre.

**height** : when used in relation to a building that is used for:

- (a) residential purposes, has the same meaning given to it in and for the purpose of the [Residential Planning Codes R-Codes](#); and
- (b) purposes other than residential purposes, means the measurement taken from the natural ground level immediately in front of the centre of the face of the building to a level of the top of the eaves, parapet or flat roof, whichever is the highest.

~~**heritage list** : means a list of those places which, in the opinion of the Council, are of such cultural heritage significance to the local government that conservation and protection under the provisions of this scheme is warranted.~~

**holiday village** : means composite holiday recreation development, incorporating a variety of holiday accommodation types, including caravan park, holiday cottages and motel units with directly associated facilities and services, and may include licensed premises under the Liquor Act 1970-1976 (as amended).

**home business – category 1** : means an occupation carried on within a dwelling by a resident of the dwelling which:

- (a) does not entail the retail sale, display or hire of goods of any nature;
- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (c) does not entail any substantial and/or inappropriate modification of the dwelling;
- (d) does not entail employment of any other person;
- (e) does not occupy an area greater than 20m<sup>2</sup> or where more than one resident is involved not cause the area used for home business within the dwelling to occupy an area greater than 30m<sup>2</sup>;
- (f) does not display any advertising signage;
- (g) does not attract customers or regular and frequent deliveries of goods or equipment to the site;
- (h) will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in any increase in the amount of vehicular traffic in the vicinity; and
- (i) does not entail the presence, parking and garaging of a vehicle of more than 1.5 tonnes tare weight;
- (j) does not involve the servicing or repair for gain of motor vehicles;
- (k) notwithstanding factors (a)–(j); a Home Business Category 1 may entail the operation of a Family Day Care Centre as defined by Clause 1.9 of this Scheme.

**home business – category 2** : means an occupation carried on in a dwelling or on land around a dwelling by a resident of the dwelling which:

- (a) does not entail the retail sale, outdoor display or hire of goods of any nature;
- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (c) does not detract from the residential appearance of the dwelling house or domestic outbuilding;
- (d) entails the employment of no more than 1 person not a member of the occupier's household;
- (e) does not occupy an area greater than 30m<sup>2</sup>. ~~Council~~[Local government](#) may permit an area greater than 30m<sup>2</sup> where it is considered that the scale of the business is limited by other factors and the increase in floorspace will not have a detrimental effect on the amenity of the surrounding areas;
- (f) does not have more than one advertisement sign and the sign displayed does not exceed 0.2 square metres in area;
- (g) will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in a substantial increase in the amount of vehicular traffic in the vicinity;
- (h) does not involve the servicing or repair for gain of motor vehicles; and
- (i) does not entail the presence, parking and garaging of a vehicle of more than 3.5 tonnes tare weight.

**home business – category 3** : means an occupation or professional practice undertaken for the purposes of commercial gain; and carried on in a dwelling or on land around a dwelling by a resident of the dwelling which:

- (a) does not entail the retail sale, outdoor display or hire of goods of any nature;
- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (c) does not detract from the residential appearance of the dwelling house or domestic outbuilding;
- (d) entails employment of a maximum of 2 persons not members of the occupier's household. ~~Council~~[Local government](#) may approve a greater number of employees, not exceeding 4 persons, subject to community consultation;
- (e) occupies an area not exceeding 50 square metres. ~~Council~~[Local government](#) may approve; subject to community consultation; an area of up to 100 square metres, or one third of the floor area of the dwelling whichever is the lesser;
- (f) displays a sign describing the nature of the approved home occupation. The sign must not exceed 0.2 square metres, and a maximum 2 metres high;
- (g) will not result in the requirement for a greater number of parking facilities than those provided on the site so as to cause an unacceptable inconvenience for adjoining residents and road users;
- (h) will not result in a substantial increase in the amount of vehicular traffic in the vicinity;
- (i) does not involve the servicing or repair for gain of motor vehicles; and
- (j) does not entail the presence, parking and garaging of a vehicle of more than 3.5 tonnes tare weight.

**hospital** : means any land or buildings where people are admitted and lodged for medical treatment or care.

**hotel** : means any land or buildings used for the overnight accommodation of patrons and may include facilities for consumption of beverages or a restaurant, or a betting agency operated in accordance with the Totalisator Agency Betting Board Act 1960, or facilities for entertainment, but does not include a bed and breakfast facility, and which may be the subject of a hotel licence granted under the provisions of the Liquor Licensing Act 1988.

**incidental use** : means a use of premises which is ancillary and subordinate to the predominant use.

**industry** : means the carrying out of any process for and incidental to:

- (a) making, altering, repairing, ornamenting, painting, finishing, cleaning, packing, canning, adapting, breaking up or demolishing of any article or part of any article;
- (b) winning, processing or treatment of minerals;
- (c) generation of electricity or the production of gas;
- (d) the manufacture of edible goods;

and includes, when carried out on land upon which the process is carried out and in connection with that process, the storage of goods, any work of administration or accounting, or the wholesaling of, or the incidental sale of goods resulting from the process, and the use of land for the amenity of persons engaged in the process; but does not include:

- (i) the carrying out of agriculture;
  - (ii) on-site work on buildings or land; and
  - (iii) in the case of edible goods the preparation of food for retail sale from the premises.
- (e) depots for bulk storage and distribution purposes.

**industry – extractive** : means the extraction of sand, gravel, clay, peat, soil, rock, stone, minerals or any similar substance from land, and includes the manufacture of products from those materials when the manufacture and storage is carried out on the land from which any of those materials is extracted or on land adjacent thereto.

**industry – general** : means an industry other than an extractive, hazardous, light or rural industry.

**industry – hazardous** : means an industry which, when in operation and when all measures proposed to minimise its impact on the locality have been employed (including measures to isolate the industry from existing or likely future development on other land in the locality), would pose a significant risk in relation to the locality, to human health, life or property, or

to the biophysical environment. Examples of such industry include oil refineries and chemical plants but would generally exclude light, rural or service industries.

**industry – light** : means an industry:

- (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises, will not cause any injury to, or will not adversely affect the amenity of the locality by reason of the emission of light, noise, electrical interference, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water or other waste products; and
- (b) the establishment of which will not, or the conduct of which does not, impose an undue load on any existing or proposed service for the supply or provision of water, gas, electricity, sewerage facilities, or any other like services.

**industry – rural** : means an industry handling, treating, processing or packing primary products grown, reared or produced in the locality, and a workshop servicing plant or equipment used for rural purposes in the locality.

**industry – service** : means -

- (a) an industry – light carried out from premises which may have a retail shop front and from which goods manufactured on the premises may be sold; or
- (b) premises having a retail shop front and used as a depot for receiving goods to be serviced;

**institutional building** : means a building used or designed for use wholly or principally for the purpose of:

- (a) a hospital or sanitarium for the treatment of infectious or contagious diseases;
- (b) a penal or reformatory institution;
- (c) a hospital for the treatment of the mentally handicapped;
- (d) any other similar use.

**kennels** : means any land or buildings used for the boarding and breeding of dogs for remuneration where such premises are registered or required to be registered by the [Council/local government](#), and may include the sale of dogs.

**kindergarten** : means premises used for the purpose of the care and education of pre-school children.

**land** : shall have the same meaning given to the term in and for the purposes of the Act.

**land sales office (temporary)** : means a temporary building used solely for the purpose of land and/or development transactions associated with the site/locality upon which the building is located.

**landscape supplies** : means any land or buildings used for the storage and sale of items such as woodchips, logs, rocks, sand, stone, paving slabs and other such materials.

**launderette** : means premises in which machines for the washing and drying of clothes and fabrics are available for use by the public for reward.

**laundry** : means premises, generally not open to the public, used for the purposes of washing, ironing or dry cleaning of clothes or fabrics.

**liquor store** : means any land or buildings the subject of a liquor store licence granted under the provisions of the Liquor Licensing Act 1988.

**lot** : shall have the same meaning as is given to it in and for the purposes of the Act and “allotment” has the same meaning, but shall not include a Strata or survey Strata lot.

**local reserve** : means land, other than a regional reserve, which is reserved for a specific purpose.

**lunch bar** : means premises used as a take away food outlet but within the hours of 9.00am to 3.00pm only.

**major development**: in relation to an activity centre has the same meaning as given to it by State Planning Policy 4.2: Activity Centres for Perth and Peel.

**markets (retail)** : means retail premises at which goods are sold from temporary stalls in individual bays leased to or otherwise occupied by independent stallholders.

**mast or antenna** : means any mast, aerial, satellite dish and other associated equipment used for the transmission or reception of radio or television signals or for other electronic communications. A television antenna on a dwelling roof being consistent with the predominant style and size of television antenna on other dwellings in the locality is not included, provided its vertical and horizontal dimensions do not exceed two metres. (See “communications antenna”.)

**medical centre** : means premises, other than a hospital, used by one or more health consultant(s) for the investigation or treatment of human injuries or ailments and for general outpatient care (including preventative care, diagnosis, medical and surgical treatment, and counselling).

**Metropolitan Region Scheme** : means the Metropolitan Region Scheme made pursuant to the Metropolitan Region Town Planning Scheme Act 1959 published in the Government Gazette of August 9, 1963, and as amended from time to time.

**Metropolitan Region Scheme Reserve** : means land reserved under the Metropolitan Region Scheme.

**Minister** : means the Minister for Planning or the Minister in the Western Australian Government responsible for town planning.

**motel** : means premises used to accommodate patrons in a manner similar to an hotel but at which special provision is made for the accommodation of patrons with motor vehicles and

which does not operate with an Hotel or Limited Hotel Licence, or a Cabaret Licence or a Tavern Licence or a Special Facility Licence.

**multiple dwelling** : has the same meaning as that set out in the [Residential Planning Codes R-Codes](#).

**net lettable area or NLA** : means the area of all floors confined within the finished surfaces of permanent walls but excludes the following areas:

- (a) all stairs, toilets, cleaners' cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
- (b) lobbies between lifts facing other lifts serving the same floor;
- (c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
- (d) areas set aside for the provision of facilities or services to the floor or building where such facilities are not for the exclusive use of occupiers of the floor or building

**night club** : means any land or buildings used to provide entertainment and dancing and may include the provision of food and drink for consumption on the premises, but does not include the sale of packaged liquor or gaming and to which a licence under the provisions of the Liquor Licensing Act 1988 may have been granted.

**non-conforming use** : means a use of land which although lawful immediately prior to the coming into operation of the Scheme is not in conformity with a provision of the Scheme dealing with the zoning or classification of land and the permissibility of uses on land so zoned or classified. The term shall apply in the same way to a use becoming unlawful as a result of an amendment of the Scheme. A use is not lawful for the purpose of this definition if any planning approval of the [Council local government](#) or other planning authority was not obtained.

**nursing home** : means premises in which persons who do not require constant medical attention are received as patients and lodged for the purposes of medical supervision and nursing care.

**office** : means any premises used for the administration of clerical, technical, professional or other like business activities but does not include administration facilities which are required in association with a predominant use on site, and does not include consulting rooms or medical centres.

**open air display** : means the use of a site external to a building for the display and / or sale of goods or equipment.

~~**owner** : in relation to any land, includes the Crown and every person who jointly or severally whether at law or in equality:~~

~~— (a) is entitled to the land for any estate in fee simple in possession; or~~

- ~~(b) is a person to whom the Crown has lawfully contracted to grant the fee simple of the land; or~~
- ~~(c) is a lessee or licensee from the Crown; or~~
- ~~(d) is entitled to receive or is in receipt of, or if the lands were let to a tenant, would be entitled to receive the rents and profits thereof whether as a beneficial owner, trustee, mortgagee in possession, or otherwise.~~

**parking bay** : see car parking bay.

**park home park** : has the same meaning as in the Caravan Parks and Camping Grounds Regulations 1997.

**Part** : means one of the Parts of the Scheme.

**place** : means an area of land sufficiently identified by survey, description or otherwise as to be readily ascertainable, and includes:

- (a) an area of land situated below low water mark on the seashore or on the bank of tidal waters, or in the bed of any watercourse, lake or estuary;
- (b) any works or buildings situated there, their contents relevant to the purpose of this Scheme, and such of their immediate surroundings as may be required for the purposes of the conservation of those works or buildings; and
- (c) as much of the land beneath the place as is required for the purposes of its conservation.

**place of assembly** : means premises where the public assemble or go for any cultural, religious, recreational, sporting or other activity save that where the scale of development proposed is greater than can be reasonably accommodated in any area, the use shall be dealt with as a “Special Place of Assembly”.

**place of worship** : means premises used for religious activities such as a church, chapel, mosque, synagogue or temple.

**plot ratio** : means the ratio of the floor area of a building to the area of land within the boundaries of the lots on which that building is located.

~~**premises** : means any land, building or part thereof.~~

**private recreation** : means land used for parks, gardens, playgrounds, sports arenas, or other grounds for recreation which are not usually open to the public without charge.

**proponent** : means a person or body who is applying or has applied to the [Council/local government](#) for Planning Approval or an amendment to the Scheme, or who is applying or has applied to the Commission for approval to subdivide or amalgamate land. The term includes the [Council/local government](#) proposing development or otherwise opting to initiate

the preparation of Structure Plan or a person or body who is submitting or has submitted a Structure Plan under Part [4](#) and Part [59](#) of the [Scheme deemed provisions](#).

**public amusement** : means premises used for the purpose of the amusement or entertainment of the public with or without charge.

**public authority** : shall have the same meaning given to it in and for the purposes of the Act.

**public exhibition facility** : means any premises used for the public display of materials, of an artistic, cultural or historical nature, or for educational purposes and includes a museum or art gallery and may include sales of such materials.

**public purposes** : includes Government and Local Authority Purposes.

**public utility** : means any work or undertaking constructed or maintained by a public authority or municipality as may be required to provide water, sewerage, electricity, gas, drainage, communications, passenger transport or other similar services.

**reception centre** : means premises which may include catering facilities used for functions on formal or ceremonial occasions but not for unhosted use for general entertainment purposes.

**recreation centre** : means any premises used for physical exercise or sports including swimming, ice skating, ten pin bowling, cricket, tennis, squash, soccer, billiards and similar activities.

**recreational vehicle** : means a vehicle whether licensed or not which is used, designed or modified for recreational use, mobile accommodation or similar purposes and without limiting the generality of the foregoing; includes any mobile home, caravan, campervan and any wheeled attachment to any of them which is rated by the manufacturer as being suitable to carry loads of not more than 1.5 tonnes. The term shall not include a vehicle designed for use as a passenger car, or a van, 4WD, utility or light truck that is rated by the manufacturer as being suitable to carry loads of not more than 1.5 tonnes. The term shall not include a boat, yacht or any other similar watercraft.

**relevant date** : means the Gazettal Date or the date any relevant amendment to the Scheme is published in the Government Gazette.

~~**reserve** : means any land reserved for a public purpose.~~

**residential building** : has the same meaning given to it in the [Residential Planning Codes R-Codes](#).

**resort** : means any land or buildings used for the overnight or holiday accommodation of patrons in self-contained units or apartments and may include incidental on-site recreational facilities such as golf, swimming, bike riding, tennis, bowls, fishing, and may also include restaurants, shops and entertainment facilities, with all or most facilities usually being limited for the convenience of residents.



**restaurant** : means any premises where the predominant use is the preparation of food for sale and consumption within the building or portion thereof. The expression may include the sale of food for consumption off the premises, where [Council local government](#) is of the opinion that it is incidental to the business. The term may include an outdoor eating area which shall be treated as being within the building of the Restaurant. The expression excludes Drive Through Food Outlets.

**restricted premises** : means any premises used or designed to be used primarily for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of:

- (a) publications that are classified as restricted publications pursuant to the Indecent Publications and Articles Act 1902 (as amended); or
- (b) materials, compounds, preparations or articles which are used or intended to be used primarily on or in connection with any form of sexual behaviour or activities.

**retirement village** : means any land or buildings used to accommodate aged persons and retirees together with ancillary facilities.

**road verge** : see street verge.

**rural use** : means agriculture, horticulture and may include aquaculture, and includes the raising of livestock and the retail sale of the produce of the property where satisfactory access and parking can be provided, and provided that any processing of the produce prior to sale can take place on site.

**salvage yard** : means any land or buildings used for the storage and sale of materials salvaged from the erection, demolition, dismantling or renovating of, or fire or flood damage to structures including (but without limiting the generality of the foregoing) buildings, machinery, vehicles and boats.

**Schedule** : means a schedule to the Scheme.

**Scheme** : means the City of Joondalup District Planning Scheme No. 2.

~~**Scheme Area** : means the whole of the District of the City of Joondalup as shown by the inner edge of the broken black line on the Scheme Map.~~

**service station** : means premises used for the retail sale of petroleum products and motor vehicle accessories and goods of an incidental/convenience retail nature, and for carrying out greasing, tyre repairs or minor mechanical repairs to motor vehicles, but does not include a transport depot, panel beating, spray painting, major repairs or wrecking.

**setback** : means the horizontal distance between a wall at any point and an adjacent lot boundary measured at right angles (90°) to the wall.

**shop** : means premises where goods are kept exposed or offered for sale by retail or hire, but the term does not include a Showroom, Drive Through Food Outlet or a Restricted Premises.

**short stay accommodation** : means the use of a single house, grouped dwelling or multiple dwelling for the purposes of providing temporary accommodation to any person or persons; for the purpose of the definition of “short stay accommodation”, temporary accommodation excludes any period of accommodation which exceeds a continuous period of three months.

**showroom** : means premises providing large floor space used for the displaying of goods and which may involve the sale by wholesale or retail, or hire of such goods, being goods generally of a bulky nature and without limiting the generality of the forgoing including automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies and second hand goods. The term does not include the sale of foodstuff, liquor or beverages, items of personal adornment, magazines, books, newspapers, paper products and medicinal or pharmaceutical products.

**single house** : has the same meaning given to the term in the [Residential Planning Codes R-Codes](#).

**special place of assembly** : means premises used for a sports stadium, racecourse, showground, fun fair, multi-purpose sporting recreational complex, or other amusements. These uses require special siting to provide for large numbers of spectators, car parking, landscaping and protection of amenity.

**stables** : means any land, building or structure used for the housing, keeping and feeding of horses, asses and mules and associated incidental activities.

**State Planning Policy 4.2: Activity Centres for Perth and Peel** : means the policy by that name published in the Government Gazette on 31 August 2010 and includes any amendments to the policy.

**storage yard** : means any land or buildings used for the storage of goods, equipment, plant or materials related to a particular trade.

**street alignment** : means the boundary between the land comprising a road reserve and the land that abuts thereon.

**street verge** : means the land between the street alignment of any lot and the road pavement.

~~**structure plan** : means a document consisting of maps and text making provision for the subdivision and/or development of a specific area, and when certified under Part 9 of the Scheme provides a framework for such future subdivision and development.~~

~~**substantial development** : means in relation to a building the completion of the floor slab as defined in the Building Code of Australia 1988 (as amended).~~

**take away food outlet** : means premises used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises, but excludes Drive Through Food Outlet.

**tavern** : means any land or buildings wherein the primary use is the consumption of beverages and may include a restaurant or facilities for entertainment and to which a licence may have been granted under the provisions of the Liquor Licensing Act 1988.

**theatre** : means any land or building where the public may view a theatrical production.

**trade display** : means the use of any land or building for the moderate and controlled display of trade goods and equipment for advertisement as approved by the [Council local government](#).

**transport depot** : means any land or building designed and used, or which is adapted for use for one or more of the following purposes:

- (a) for the parking or garaging of more than four commercial vehicles;
- (b) for the transfer of goods or passengers from one vehicle to another vehicle;

and may include the maintenance, mechanical repair or refuelling of the vehicles referred to in (a) or (b) above but does not include any of the functions defined under Vehicle Repairs.

**vehicle** : includes motorcycles, boats, caravans and trailers.

**vehicle panel beating/spray painting** : means land and buildings used for, or in conjunction with, vehicle body repairs including panel beating, spray painting, chassis reshaping, application and sanding down of vehicle body filler.

**vehicle repairs** : means the use of land and buildings for the purposes of conducting mechanical and electrical repairs and overhauls to vehicles and machinery including tyre recapping and retreading.

**vehicle sales and hire premises** : means any land or buildings used for the display, sale or hire of new or second-hand vehicles, and may include the servicing of such goods sold from the site.

**vehicle washing** : see car wash.

**vehicle wrecking** : means any land or buildings used for the storage, breaking up or dismantling of motor vehicles and includes the sale of second-hand motor vehicle accessories and spare parts.

**veterinary consulting rooms** : means a building in which a veterinary surgeon or veterinarian treats the minor ailments of domestic animals and household pets as patients. No animal undergoing treatment may remain on the premises overnight.

**veterinary hospital** : means the use of any land or buildings for the treatment of minor or major ailments of animals, and includes the accommodation of animals undergoing treatment.

**warehouse** : means premises used for storage of goods and the carrying out of commercial transactions involving the sale of such goods by wholesale.

**wholesale** : means the sale of any goods to any person or persons other than the ultimate consumer of those goods.

**winery** : means any land or buildings used for the production and/or sale to the public of viticulture produce.

~~**zone** : means a portion of the Scheme Area shown on the map by distinctive colouring, hatching, or edging for the purpose of indicating the restrictions imposed by the Scheme on the erection and use of buildings or the use of land, but does not include reserved land.~~

**SCHEDULE 2 - SECTION 1 (CLAUSE 3.15) - ADDITIONAL USES**

NO	STREET/ LOCALITY	PARTICULARS OF LAND	ADDITIONAL USE
1-1	30 Hocking Road Kingsley	Lot 500	Deleted by Amendment 12
1-2	2 Somersby Gardens Currambine	Lot 158	Corner Store excluding the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation primarily off the premises
1-3	58 New Cross Road Kingsley	Lot 284	Place of Worship
1-4	123 Kingsley Drive Kingsley	Lot 1	Medical Centre
1-5	28 Seacrest Drive Sorrento	Lot 51	Medical Centre
1-6	291 Warwick Road Greenwood	Lot 22	Medical Centre
1-7	295 Warwick Road Greenwood	Lot 692	Medical Centre
1-8	315 Warwick Road Greenwood	Lot 1	Medical Centre
1-9	31 Linear Avenue Mullaloo	Lot 1	Medical Centre
1-10	6 Marina Boulevard Ocean Reef	Lot 100	Service Station
1-11	94 Caridean Street Heathridge	Lot 550	Veterinary Consulting Rooms
1-12	75 Gibson Avenue Padbury	Lot 30	Veterinary Consulting Rooms
1-13	3 Castlegate Way Woodvale	Lot 74	Veterinary Consulting Rooms
1-14	2 Warburton Avenue Padbury	Lot 1	Service Station
1-15	20 Banks Avenue Hillarys	Lot 243	Medical Centre
1-16	22 Banks Avenue Hillarys	Lot 242	Medical Centre

NO	STREET/ LOCALITY	PARTICULARS OF LAND	ADDITIONAL USE
1-17	29 Green Road Hillarys	Lot 245	Medical Centre
1-18	31 Green Road Hillarys	Lot 244	Medical Centre
1-19	4 Hocking Road Kingsley	Lot 99	Consulting Rooms; Medical Centre; Office; Veterinary Consulting Rooms; Funeral Parlour; Vehicle Sales/Hire Premises and Warehouse
1-20	10 Oceanside Promenade Mullaloo	Lot 100	While the building comprised in Strata Plan 47048 remains on this site, Strata Lots 4 and 10 of Strata 47048 may be used as multiple dwellings (permanent residential accommodation), notwithstanding that the R20 density code applies to the land.
1-21	20 Burragah Way Duncraig	Lot 535	Medical Centre with a maximum of 2 health consultants, being general practitioners, specialist practitioners, dentist, radiologist, physiotherapist and any other medical staff generating their own independent patient load.
1-22	93 Wanneroo Road Greenwood	All lots contained on Strata Plan 27557	Showroom Warehouse
1-23	67 Woodvale Drive Woodvale	Lot 28	Place of Worship Place of Assembly Caretaker's Dwelling
1-24	1244 Marmion Avenue Currambine	Portion of Lot 929	Vehicle Repairs ("D")

**SCHEDULE 2 - SECTION 2 (CLAUSE 3.16) - RESTRICTED USES**

NO	STREET/ LOCALITY	PARTICULARS OF LAND	RESTRICTED USE
2-1	6 Davallia Road Duncraig	Lot 10	Consulting Rooms, Educational Establishment, Health Centre, Health Studio, Launderette, Medical Clinic, Office, Private Recreation, Public Amusement, Restaurant, Service Industry, Showroom, Veterinary Consulting Rooms, Video Library, Warehouse
2-2	203 Warwick Road Duncraig	Lot 8	Drive-Through Food Outlet
2-3	103 Caridean Street Heathridge	Lot 745	Aged Persons' Dwelling
2-5	77 Gibson Avenue Padbury	Lot 23	Aged Persons' Dwelling
2-6	98 Ellersdale Avenue Warwick	Lot 921	Aged Persons Dwelling, Retirement Village, Nursing Home
2-7	15 Burlos Court Joondalup	Portion of Lot 701 zoned 'Residential'	Aged and Dependent Persons' Dwelling

**SCHEDULE 2 - SECTION 3 (CLAUSE 3.17) - SPECIAL USE ZONES**

---

NO	STREET/ LOCALITY	PARTICULARS OF LAND	SPECIAL USE
3-1	265 Eddystone Avenue Beldon	Lot 656	Deleted by Amendment 4

---



**SCHEDULE 3 (SUBCLAUSES 3.7.2 & 3.11.4) –COMMERCIAL & CENTRE ZONES**

Deleted (Amendment 66 – 3/5/2013)

**SCHEDULE 4 (SUBCLAUSE 5.1.5) – EXEMPTED ADVERTISEMENTS**

- (a) a sign erected or maintained in accordance with an Act;
- (b) a property disposal sign not exceeding 1.2m<sup>2</sup> erected on private property or immediately adjacent to the front boundary, where it is not possible to erect it on private property;
- (c) a plate not exceeding 0.2m<sup>2</sup> in area erected or affixed on the street alignment or between that alignment and the building line to indicate the name and occupation or profession of the occupier of the premises;
- (d) a direction sign;
- (e) a sign used solely for the direction and control of people, animals or vehicles or to indicate the name or street number of a premises, if the area of the sign does not exceed 0.2m<sup>2</sup>;
- (f) a window sign which complies with the applicable standards of a relevant local planning policy;
- (g) a sign displaying solely the name and occupation of any occupier of business premises painted on a window or wall of those premises providing that the sign does not exceed 1.2m<sup>2</sup> in area and a height of 600mm;
- (h) a sign within a building unless:
  - (i) it is clearly visible from a public place outside the building;
  - (ii) it is exempted under any other paragraph of this sub clause; or
  - (iii) it is considered objectionable by the local government;
- (i) a sign not larger than 0.6m x 0.9m on an advertising pillar or panel approved by or with the consent of the local government for the purpose of displaying public notices for information;
- (j) a building name sign on any building, where it is of a single line of letters not exceeding 300mm in height, fixed to the facade of the building;
- (k) newspaper or magazine posters, provided they are displayed against the outside wall of the business premises from which the newspapers or magazines are sold;
- (l) a rural producer's sign which is the only sign on the lot on which it is erected;
- (m) a sign erected by the local government, or with the approval of the local government, on land under the care, control and management of the local government;

- (n) a sign erected and maintained on street furniture, bus shelters or seats in accordance with the terms and conditions of a contract between the local government and the company responsible for those signs;
- (o) a maximum of 4 garage sale signs, each not greater than 0.25m<sup>2</sup>, advertising the sale of second hand domestic goods in domestic quantities, not being part of a business, trade or profession and only being displayed on the day of the sale and on no more than 2 occasions for the same lot in each 6 month period;
- (p) a sign or signs erected in accordance with a special event permit issued under the City of Joondalup Signs Local Law;
- (q) a sign painted on a kerb, adjacent to a property depicting the house number and in accordance with specifications approved by the local government.
- (r) a sign erected by the local government for the purpose of:
  - (i) encouraging participation in voting (but not in favour of any candidate, political party, group or thing) at a local government election, provided that the signs are erected no more than 5 weeks prior to the election; or
  - (ii) indicating the name and location of a polling place for an election.

The advertising devices exempted above exclude signs which contain any illumination or radio; animation or movement in its design or structure; reflective; retro-reflective or fluorescent materials in its design or structure.

**SCHEDULE 5 (CLAUSE 5.3.1) – PLACES AND OBJECTS HAVING SIGNIFICANCE FOR THE PURPOSE OF PROTECTION OF THE LANDSCAPE OR ENVIRONMENT**

Locality	Address	Description
Joondalup	Reserve 28544 (200) Boas Avenue	Neil Hawkins Park
Joondalup	Loc 412 (218L) Lakeside Drive	Yellagonga Regional Park Landscape Precinct
Kingsley	Reserve 26052 (59) Shepherds Bush Drive	Shepherds Bush Reserve
Padbury	Reserve 42987 (319) Hepburn Avenue	Hepburn Conservation Area
Padbury	Reserve 25746 (750) Whitfords Avenue	Pinnaroo Valley Memorial Park
Beldon	Portion of Lots 11005, 11043 & 11879 (12) Sandalford Drive shown delineated with a yellow border on Plan No. 5.1	Sandalford Park
	4.4235 hectares in area comprising Cottesloe Central & South vegetation complex. Contains significant flora species.	
Connolly	Portion of Lot 11598 (21) Bonnie Doon Gardens shown delineated with a yellow border on Plan No. 5.2	Bonnie Doon Park
	2.9612 hectares in area comprising Cottesloe Central & South vegetation complex. Contains significant flora species and significant habitat for specially protected fauna.	
Connolly	That portion of Lot 11224 (383) Fairway Circle shown delineated with a yellow border on Plan No. 5.3	Fairway Park
	1.0411 hectares in area comprising Cottesloe Central & South vegetation complex. Contains priority flora species and provides significant habitat for specially protected fauna and possible threatened ecological community (26a).	
Connolly	Lot 12640 (4) Medinah Mews	Medinah Park
	2.1742 hectares in area comprising Cottesloe Central & South vegetation complex. Contains priority flora species and significant habitat for specially protected fauna.	
Locality	Address	Description

Locality	Address	Description
Connolly	Lot 11874 (3) Pine Valley Pass	Pine Valley Park 2.1971 hectares in area comprising Cottesloe Central & South vegetation complex . Contains significant flora species and significant habitat for specially protected fauna.
Connolly	Lot 10884 (8) St Michaels Avenue	St Michaels Park 1.5849 hectares in area comprising Cottesloe Central & South vegetation complex. Contains significant flora species and significant habitat for specially protected fauna.
Craigie	Lot 9383 (15) Cawarra Crescent	Cawarra Park 3.0114 hectares in area comprising Cottesloe Central & South vegetation complex with overlying Quindalup dune ridge. Contains significant flora species.
Currambine	That portion of Lots 11916, 11795 and 11840 (32) Caledonia Avenue shown delineated with a yellow border on Plan No. 5.4	Caledonia Park 5.6161 hectares in area comprising Cottesloe Central & South vegetation complexes. Contains significant and priority flora species.
Currambine	That portion of Lot 12291 (145) Caledonia Avenue shown delineated with a yellow Border on Plan No. 5.5	Clermont Park 1.9713 hectares in area comprising Cottesloe Central & South vegetation complex. Contains priority flora species and significant habitat for specially protected fauna.
Duncraig	Lot 10286 (15) Alfreton Way	Alfreton Park 2.7415 hectares in area comprising Cottesloe Central & South/Karrakatta Central & South vegetation complex, with significant transition areas between each complex. Contains significant fauna and habitat for that fauna.
Duncraig	Lot 10951 (60) Glenbar Road	Glenbar Park 5.2528 hectares in area comprising Cottesloe Central & South vegetation complex. Contains priority flora species and significant habitat for specially protected fauna.
Duncraig	Lot 9853 (214) Lilburne Road	Lilburne Park 5.5763 hectares in area comprising Cottesloe Central & South vegetation complex. Contains significant flora species and represents a stepping stone to a regionally significant linkage.

Locality	Address	Description
Duncraig	Lot 10942 (36) Truslove Way	Trigonometric Park 5975m <sup>2</sup> in area comprising Cottesloe Central & South vegetation complex. Contains significant flora species and significant habitat for specially protected fauna.
Edgewater	Portion of Lot 10707 (21) Lake Valley Drive shown delineated with a yellow border on Plan No. 5.6	Lake Valley Park 1.7305 hectares in area comprising Cottesloe Central & South vegetation complex. Contains significant flora species.
Edgewater	Lot 10265 (35) Quarry Ramble	Quarry Ramble Park 3.1223 hectares in area comprising Cottesloe Central & South vegetation complex. Contains significant flora species.
Heathridge	Portion of Lots 10875, 12258 & 9838 (55) Littorina Avenue shown delineated with a yellow border on Plan No. 5.8	Littorina Park 6.041 hectares in area comprising Cottesloe Central & South vegetation complex. Contains significant flora species.
Iluka	Portion of Lot 14466 (6) Silver Sands Drive shown delineated with a yellow border on Plan No. 5.9	Sir James McCusker Park 7.5834 hectares in area comprising Cottesloe Central & South vegetation complex. Contains significant flora species and significant habitat for specially protected fauna.
Iluka	Portion of Lots 12413 & 12284 (53) Naturaliste Boulevard shown delineated with a yellow border on Plan No. 5.10	Naturaliste Park 3.3121 hectares in area comprising Cottesloe Central & South vegetation complex. Contains significant & priority flora species and significant habitat for specially protected fauna.
Joondalup	Lot 11755 (101) Candlewood Boulevard	Candlewood Park 7218m <sup>2</sup> in area comprising Cottesloe Central & South vegetation complex. Contains significant & priority flora species and significant habitat for specially protected fauna.

Locality	Address	Description
Joondalup	Lot 11990 (31) Moondarra Way	Water Tower Park 3.0835 hectares in area comprising Cottesloe Central & South vegetation complex. Contains significant & priority flora species and significant habitat for specially protected fauna.
Joondalup	Portion of Lots 11575 (96) & 11576 (102) Blue Mountain Drive shown delineated with a yellow border on Plan No. 5.11	Blue Lake Park 6.5472 hectares in area comprising Cottesloe Central & South vegetation complex. Contains significant flora species.
Joondalup	Portion of Lot 15512 (1) Waterbird Turn shown delineated with a yellow border on Plan No. 5.12	Lakeside Park 3.1357 hectares in area comprising Cottesloe Central & South vegetation complex. Contains significant flora species and is contiguous with Yellagonga Regional Park.
Joondalup	Portion of Lot 14406 (187) Grand Boulevard and Lot 1101 (163) Lakeside Drive shown delineated with a yellow border on Plan No. 5.13	Central Park 7.1697 hectares in area comprising Cottesloe Central & South vegetation complexes. Contains significant & priority flora species.
Joondalup	Portion of Lot 12193 (14) Nanika Crescent shown delineated with a yellow border on Plan No. 5.14	Nanika Park 2.1735 hectares in area comprising Cottesloe Central & South vegetation complex. Contains significant & priority flora species.
Kallaroo	That portion of Lot 8707 (199) Bridgewater Drive shown delineated with a yellow border on Plan No. 5.15	Bridgewater Park 2.7790 hectares in area comprising Cottesloe Central & South vegetation complex with overlying Quindalup dune ridge. Contains significant flora species.

Locality	Address	Description
Kallaroo	Lot 9460 (43) Maritana Road	Maritana Park 2.7721 hectares in area comprising Cottesloe Central & South vegetation complex with overlying Quindalup dune ridge. Contains significant flora species.
Kingsley	Lot 10983 (56) Cadogan Street	Cadogan Park 4.9166 hectares in area comprising Karrakatta Central & South vegetation complex. Contains priority flora species.
Kinross	Lot 91 (29) Cranston Loop	Cranston Park 2.8067 hectares in area comprising Quindalup vegetation complex. High, vegetated sand dune that buffers residential subdivision from Tamala Park tip site and is part of a regionally significant linkage between Burns Beach bushland and Neerabup National Park.
Mullaloo	Lots 11783 & 9779 (28) Periwinkle Road	Periwinkle Park 3.7325 hectares in area comprising Quindalup vegetation complex. Contains significant & priority flora species and significant habitat for specially protected fauna.
Ocean Reef	Portion of Lot 11866 (40) Beaumaris Boulevard shown delineated with a yellow border on Plan No. 5.16	Beaumaris Park 6.1643 hectares in area comprising Cottesloe Central & South and Quindalup vegetation complex. Contains priority flora species and significant habitat for specially protected fauna.
Sorrento	Lot 8488 (24) Porteous Road	Porteous Park 2.1014 hectares in area comprising Cottesloe Central & South vegetation complex. Contains significant & priority flora species and significant habitat for specially protected fauna and represents a stepping stone in a regionally significant linkage.
Woodvale	Portion of Lots 10996, 12264 & 12282 (80) Timberlane Drive and Lot 12598 (152) Woodvale Drive shown delineated with a yellow border on Plan No. 5.17	Timberlane Park 7.9845 hectares in area comprising Karrakatta Central & South vegetation complex which is under represented both regionally and locally.



**SCHEDULE 6**

Deleted (Amendment 31 – 14/8/2007)

**SCHEDULE 7 (CLAUSE 9.3) - STRUCTURE PLANS : MATTERS TO BE INCLUDED**

~~Structure plans include plans and written texts and shall be accompanied by any other documents which the Council may require.—~~

**PART A - PLANS AND WRITTEN TEXTS**

~~Plans shall be drawn to a scale clearly illustrating the intent of the structure plan. Structure plans shall include any of the following matters that the Council considers appropriate in relation to the nature of the structure plan:~~

- ~~(a) — the area covered by the structure plan in relation to surrounding landholdings;~~
- ~~(b) — contours and main physical/natural features including the identification of areas of high conservation value;~~
- ~~(c) — land reserved by the Metropolitan Region Scheme;~~
- ~~(d) — environmental considerations;~~
- ~~(e) — a comprehensive summary of the opportunities for and constraints to development;~~
- ~~(f) — proposed major land uses in particular residential areas, public open space, school sites, community purpose sites and commercial uses (including the location and hierarchy of centres and the net lettable area for shops);~~
- ~~(g) — residential densities including estimates of future population and dwellings;~~
- ~~(h) — location of industrial and business areas including estimates of future employment opportunities;~~
- ~~(i) — retail strategy and hierarchy of commercial centres together with estimates of retail floor space;~~
- ~~(j) — provision for major infrastructure including main drainage, sewerage, water supply and other key infrastructure services;~~
- ~~(k) — indicative lot patterns and general location of major buildings;~~
- ~~(l) — provision for emergency services including police, ambulance and fire services;~~
- ~~(m) — road network down to the level of local distributor roads, including any road widenings and proposed bus routes and the relationship to the surrounding area and surrounding roads;~~
- ~~(n) — public transport routes and corridors, and existing and proposed transit stations;~~
- ~~(o) — main cycle and pedestrian networks;~~

- ~~(p) — estimates for the staging of development;~~
- ~~(q) — structure plans and policies of the Commission;~~
- ~~(r) — the objectives for the development and future use of the area covered by the plan;~~
- ~~(s) — justification for and an explanation of the proposal;~~
- ~~(t) — the obligations of the parties involved including private/public funding responsibilities;~~
- ~~(u) — developer/proponent contributions towards the provision of infrastructure (including roads, drainage reserves, public open space and community purpose sites);~~
- ~~(v) — the time frame and an explanation of how the development will progress if it is staged;~~
- ~~(w) — special development control provisions~~
- ~~(x) — the maximum gross leasable area to be developed;~~
- ~~(y) — provision for vehicular access and parking;~~
- ~~(z) — provision for the size, location, orientation, and design of buildings and open spaces;~~
- ~~(aa) — provision for the design and location of signage, landscaping and street furniture;~~
- ~~(ab) — types of industrial and related uses within industrial areas and the location of such uses within those areas;~~
- ~~(ac) — advice from relevant Government agencies regarding the compatibility of the proposal with adopted Government policies and strategies.~~

## **~~PART B — OTHER DOCUMENTS~~**

~~Other documents which the Council may require to be submitted with structure plans include:~~

- ~~(a) — letters received from consultation with servicing authorities;~~
- ~~(b) — letters from the owners of all land within the structure plan area indicating their agreement to the structure plan;~~
- ~~(c) — public submissions;~~
- ~~(d) — relevant extracts of minutes.~~

**SCHEDULE 8 (CLAUSE 9.6) – CERTIFICATION OF AGREED STRUCTURE PLANS**

~~CERTIFIED THAT AGREED STRUCTURE PLAN ...../20.....~~

~~WAS ADOPTED BY~~

~~RESOLUTION OF THE WESTERN AUSTRALIAN PLANNING~~

~~COMMISSION ON .....~~

.....  
Chairperson, Western Australian  
Planning Commission

~~AND BY~~

~~RESOLUTION OF THE COUNCIL OF THE CITY OF~~

~~JOONDALUP ON .....~~

~~AND THE SEAL OF THE MUNICIPALITY WAS PURSUANT  
TO THE COUNCIL'S RESOLUTION HEREUNTO AFFIXED IN THE~~

~~PRESENCE OF:~~

.....  
Mayor, City of Joondalup

.....  
Chief Executive Officer, City of Joondalup

**SCHEDULE 9 (CLAUSE 4.6) – ENVIRONMENTAL CONDITIONS**

SCHEME OR AMENDMENT NO.	GAZETTAL DATE	ENVIRONMENTAL CONDITIONS

No environmental conditions are applicable to the Scheme area.

|

**SCHEDULE A – SUPPLEMENTAL PROVISIONS TO THE DEEMED PROVISIONS**

These provisions are to be read in conjunction with the deemed provisions (Schedule 2) contained in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Clause 61(1)

- (h) the erection of a boundary fence;
- (i) the carrying out of any works on, in, or under a street or road by a public authority acting pursuant to the provisions of any statute;
- (j) the carrying out of works urgently necessary in the public safety or for the safety or security of plant or equipment or for the maintenance of essential services;
- (k) the demolition of any building or structure except where the building or structure is:
  - (i) located in a place that has been entered into the Register of Places under the *Heritage of Western Australia Act 1990*; or
  - (ii) the subject of an Order under the *Heritage of Western Australia Act 1990*; or
  - (iii) included on a heritage list prepared in accordance with this Scheme; or
  - (iv) located in an area designated under the Scheme as a heritage area;
  - (v) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29;
- (l) any of the exempted classes of advertisements listed in Schedule 4 of the Scheme, except in respect of a place included on a heritage list or which in the opinion of local government will affect such a place.

Clause 61(2)

- (g) the conducting of a Home Business – Category 1;
- (h) the parking of one commercial vehicle, in accordance with clause 4.15;
- (i) the parking of one recreational vehicle, in accordance with clause 4.16.