



Working Copy

TOWN PLANNING SCHEME NO.2

DISTRICT ZONING SCHEME

SCHEME TEXT

Gazetted 19th November 2004

Updated to include AMD178 GG 03/02/2023

**Incorporating Planning Regulations Amendment Regulations 2020
– Schedule 2 Deemed provisions for local planning schemes &
Planning and Development (LPS) Regulations 2015 – Schedule 2**

CITY OF ROCKINGHAM

TOWN PLANNING SCHEME NO.2

DISTRICT ZONING SCHEME

The Rockingham City Council, under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act 1928 (as amended), hereinafter referred to as "The Act", hereby makes the following Town Planning Scheme for the purposes laid down in The Act.

The text of this local planning scheme must be read in conjunction with the deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015. Where a provision of this Scheme is inconsistent with a deemed provision, the deemed provision shall prevail.

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PART 1 - PRELIMINARY

1.1 Title

The City of Rockingham Town Planning Scheme No.2 – District Zoning Scheme, (“the Scheme”) comes into operation on its Gazettal date.

1.2 Responsible Authority

The City of Rockingham is the responsible authority for implementing the Scheme.

1.3 Scheme Area

The Scheme applies to the Scheme area which covers the whole of the area of land and waterways of the local government district of the City of Rockingham as shown on the Scheme Map.

1.4 Contents of Scheme

The Scheme comprises:

- (a) the deemed provisions (set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2); and
- (b) this Scheme Text; and
- (c) the Scheme Map (Sheets 1-34)

1.5 Arrangement of Scheme Text

The Scheme Text is divided into the following parts:

- PART 1 - PRELIMINARY
- PART 2 - RESERVES
- PART 3 - ZONES
- PART 4 - GENERAL DEVELOPMENT REQUIREMENTS
- PART 5 - SPECIAL CONTROLS
- PART 6 - USE AND DEVELOPMENT OF LAND
- PART 7 - NON-CONFORMING USES
- PART 8 - ADMINISTRATION

1.6 Scheme Objectives

1.6.1 General Objectives

The general objectives of the Scheme are:

- (a) to establish the preferred use of land well in advance of development;
- (b) to optimise the provision of services and facilities for the community;
- (c) to ensure the co-ordinated provision of adequate land for development;
- (d) to conserve and enhance features of cultural, historical, environmental and natural significance; and

- (e) to reconcile community needs and aspirations with appropriate land use and development.

1.6.2 Specific Objectives

The specific objectives of the Scheme are:

- (a) zoning the Scheme Area for the purposes described in the Scheme so as to promote the orderly and proper development of land by making suitable provisions for the use of land within the Scheme Area;
- (b) to secure the amenity, health and convenience of the Scheme Area and the inhabitants thereof;
- (c) to make provisions as to the nature and location of buildings and the size of lots when used for certain purposes;
- (d) to make provisions for the conservation and preservation of places of historic interest and landscape value;
- (e) to protect and enhance the environmental values and natural resources of the Scheme Area and to promote ecologically and environmentally sustainable land use and development which minimises resource use and waste;
- (f) to most effectively utilise resources and facilitate employment opportunities whilst enhancing the amenity of residents and having regard to the preservation of the natural environment;
- (g) to encourage the use of modern land planning and design techniques so as to realise the economic, social and aesthetic advantage of combining different types of land uses in a co-ordinated community design;
- (h) to promote aesthetic control and design guidelines at all levels of land use and development;
- (i) to promote co-ordinated development proposals and vehicular circulation systems;
- (j) to protect co-ordinated development proposals from ad-hoc and inconsistent development proposals;
- (k) to create a pedestrian traffic and landscape environment which complements the wide range of activities carried on or proposed within the Scheme Area;
- (l) to set aside land for future public use as reserves;
- (m) to encourage co-ordinated development of the Scheme Area having regard to the guidelines set out in the Local Planning Policy adopted by the Local Government for particular areas or the Scheme area as a whole, the Environmental Priorities of the Local Government and any other strategies and policies adopted by the Local Government from time to time; and
- (n) to make provision for other matters incidental to town planning and land use.

- 1.6.3 In considering applications for development approval, subdivision or amendments to this Scheme, the Local Government shall have regard to the general and specific objectives mentioned in previous clauses 1.6.1 and 1.6.2.

1.7 Revocation of Existing Scheme

The City of Rockingham Town Planning Scheme No.1 is repealed.

1.8 Relationship to 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 continue to have effect. The authority responsible for implementing the Metropolitan Region Scheme is the Western Australian Planning Commission.

1.9 Relationship of Scheme to Local Laws

The provisions of this Scheme shall have effect notwithstanding any local law, regulation or order for the time in force in the Scheme Area, and where the provisions of the Scheme are inconsistent with the provisions of any local law, regulation or order, the provisions of the Scheme shall prevail.

1.10 Interpretation

- 1.10.1 Unless the context otherwise requires, words and expressions used in the Scheme have the same meaning as they have:

- (a) in the *Planning and Development Act 2005* ("the Act");
- (b) if they are not defined in that Act:
 - (i) in Schedule 1 of the Scheme – Interpretations;
 - (ii) in the R-Codes.

- 1.10.2 If there is a conflict between the meaning of a word or expression in Schedule 1 – Interpretations and the meaning of that word or expression in the R-Codes:

- (a) in the case of a residential development, the definition in the R-Codes prevails; and
- (b) in any other case the definition in Schedule 1 – Interpretations prevails.

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 in accordance with clause 87 the proposed policy and a notice giving details of —
 - (i) the subject and nature of the proposed policy; and
 - (ii) the objectives of the proposed policy; and
 - (iii) how the proposed policy is made available to the public in accordance with clause 87; and
 - (iv) the manner and form in which submissions may be made; and
 - (v) the period for making submissions and the last day of that period;
 - ~~(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).~~

- (2) The period for making submissions specified in a notice under subclause (1)(a)(v) must not be less than the period of 21 days after the day on which the notice is first published under subclause (1)(a).
- (3) After the expiry of the period within which submission 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.
- (3A) The local government must not resolve under subclause (3) to proceed with the policy if —
- (a) the proposed policy amends or replaces a deemed-to-comply provision of the R-Codes; and
 - (b) under the R-Codes, the Commission’s approval is required for the policy; and
 - (c) the Commission has not approved the policy.
- (4) If the local government resolves to proceed with the policy, the local government must publish notice of the policy in accordance with clause 87. ~~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 must ensure that an up-to-date copy of each local planning policy made under this Scheme that is in effect is published in accordance with clause 87.
- (7) Subclause (6) is an ongoing publication requirement for the purposes of clause 87(5)(a).
- ~~(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.~~
- [Clause 4 amended: SL 2020/252 r. 46.]*

5. Procedure for amending local planning

- (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

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 by the local government in accordance with clause 87.

~~(ii) published in a newspaper circulating in the Scheme area.~~

PART 2 - RESERVES

2.1 Metropolitan Region Scheme Reserves

- 2.1.1 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 and compensation for injurious affection shall not be payable by the Local Government in respect of a Regional Reserve. The provisions of the Metropolitan Region Scheme continue to apply to those reserves.
- 2.1.2 The approval of Local Government under the Scheme is not required for the commencement or carrying out of any use or development on a Regional Reserve. The provisions of the Metropolitan Region Scheme continue to apply to such Reserves and approval is required under the Metropolitan Region Scheme from the Commission for the commencement or carrying out of any use or development on a Regional Reserve, unless specifically excluded by the Region Scheme.

2.2 Development and Use of Regional Reserves

Development and Use of Regional Reserves shall be in accordance with the provisions of the Metropolitan Region Scheme.

2.3 Local Reserves

The land shown as Local Reserves on the Scheme Map is land reserved under the Scheme for local government purposes or for the purposes shown on the Scheme Map.

2.4 Uses of Local Reserves

- 2.4.1 Any Local Reserves, until vested in the Local Government or other public authority, may be used:
- (a) for the purpose for which the land is reserved under this 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 date upon which the Scheme came into operation, 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 Local Government; or
 - (d) for any purpose approved by the Local Government but in accordance with any conditions imposed by the Local Government;

but shall not be used otherwise for any other purpose.

- 2.4.2 The use of any Local Reserve which is not owned by or has not been vested in the Local Government shall not be changed without the approval in writing of the Local Government unless the proposed new use is a public work exempted from the requirement of development approval by section 6 of the Act.

2.5 Development Standards on Reserved Land

Where the Local Government considers the development of any Local Reserve by any person, the Local Government shall to the extent that it is reasonable to do so apply or impose development standards and requirements which would be imposed for development of the kind in question on zoned land, and the Local Government shall for that purpose stipulate the zone most relevant for comparison.

2.6 Power to Deal with Reserved Land

Where the Local Government has acquired land for a Local Reserve or the land is reserved under the Scheme as Local Reserve and is in Local Government ownership, the Local Government shall not enter into any lease or licence or resolve to dispose of the land for a purpose inconsistent with the purpose for which the land was acquired or is reserved unless that use or purpose is permitted by the Scheme.

2.7 Compensation

2.7.1 If the Local Government refuses to give development approval for development on a Local Reserve and the fact of the land being reserved is the reason or one of the reasons for such refusal, or if the Local Government grants approval subject to a condition unacceptable to the applicant being a condition imposed only by reason of the land being reserved, and the applicant having exhausted all rights of appeal in respect of the refusal or imposition of the unacceptable condition (and subject to clause 2.7.2), the owner of the land may claim compensation from the Local Government for injurious affection in accordance with the Act. The amount of compensation payable by the Local Government shall not exceed the difference between:

- (a) the value of the land as affected by the refusal of approval, or by the imposition of the unacceptable condition as the case may be; and
- (b) the value of the land as not so affected.

Each of the values referred to in paragraphs (a) and (b) of this clause shall be market value and shall be assessed as at the date of the claim for compensation.

If the claimant and the Local Government cannot agree upon the amount of compensation payable, it shall be determined by arbitration in accordance with the Commercial Arbitration Act 1985.

2.7.2 No claim shall be made for compensation for injurious affection pursuant to clause 2.7.1 unless and until the applicant first has pursued all avenues for appeal against the Local Government's decision, and unless on such appeal the Local Government's refusal is upheld for the reason that, or for reasons including the fact that the land is reserved under the Scheme, and no claim for compensation for injurious affection in respect of the imposition of an unacceptable condition shall be made unless upon appeal a condition unacceptable to the applicant is upheld which relates to the land the subject of the appeal being reserved under the Scheme.

2.7.3 A claim for compensation under this clause shall be made within six (6) months of the decision of the Local Government refusing approval or imposing an unacceptable condition, or within six (6) months of the determination of an appeal against the refusal or imposition of the unacceptable condition.

- 2.7.4 Where compensation for injurious affection is claimed as a result of the operation of Part 11 Division 2 of the Act, Local Government may at its option elect to acquire the land so affected in accordance with the Land Acquisition and Public Works Act 1902 instead of paying compensation.

2.8 Right of Disposal

- 2.8.1 The Local Government may deal with or dispose of land acquired for a Local Reserve pursuant to the preceding clause upon such terms and conditions as it thinks fit, provided the land is used for, or preserved for, a use compatible with the purpose for which it was reserved, and subject to any other laws, the Local Government may grant a lease of the land.
- 2.8.2 Land referred to in clause 2.8.1 may be leased for any purpose or may be used under licence for any purpose pending the ultimate use of the land for the purpose for which it was acquired or is reserved, and provided the lease or licence will not compromise the ultimate use of the land for that purpose.

PART 3 - ZONES

3.1 Classification

3.1.1 The Scheme Area is divided into the following zones:

- Residential
- Development
- Primary Centre City Centre
- Primary Centre Waterfront Village
- Primary Centre Urban Village
- Primary Centre City Living
- Primary Centre Campus
- Primary Centre Urban Living
- District Town Centre
- Commercial
- Special Commercial
- Service Commercial
- Port Kennedy Business Enterprise
- Light Industry
- General Industry
- Special Industry
- Rural
- Special Rural
- Special Residential
- Community Purposes
- Special Use

3.1.2 The zones are delineated and depicted on the Scheme Map according to the legend on the Scheme Map.

3.2 Zoning Table

3.2.1 Table No.1 – Zoning Table indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme Area in the various zones. The permissibility of any uses 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.

3.2.2 The symbols used in the cross-reference in the Zoning Table have the following meanings:

- | | |
|------|--|
| ‘P’ | means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the 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 special notice in accordance with Clause 64 of the deemed provisions; |
| ‘IP’ | means a use that is not permitted unless the use is incidental to the predominant use of the land as determined by the Local Government; |

'X' means a use that is not permitted by the Scheme.

- 3.2.3 Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from any other Use Class which by its more general terms might otherwise include such a particular use.
- 3.2.4 If the use of 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 Classes, the Local Government may:
- (a) determine that the use is consistent with the objectives and purpose of the particular zone and is therefore permitted;
 - (b) determine that the proposed use may be consistent with the objectives and purposes of the particular zone and thereafter follow the advertising procedures of Clause 64 of the deemed provisions in considering an application for development approval; or
 - (c) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted.

3.3 Additional Uses

- 3.3.1 Notwithstanding anything contained within the Zoning Table, the land specified in Schedule No.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 No.2 with respect to that land.
- 3.3.2 Additional Uses will be illustrated on the Scheme Map by a broken black border around the affected lot and an identification number cross-referenced to Schedule No.2.

3.4 Special Use Zone

- 3.4.1 Special Use Zones are set out in Schedule No.3 and are in addition to the zones in the Zoning Table.
- 3.4.2 A person shall not use any land, or any building or structure on land in a Special Use Zone, except for the purpose set out against that land in Schedule No.3 and subject to compliance with any conditions set out in Schedule No.3 with respect to that land.
- 3.4.3 Each Special Use Zone will be numbered on the Scheme Map and cross-referenced to Schedule No.3.

City of Rockingham Town Planning Scheme No. 2
Scheme TextCity of Rockingham Town Planning Scheme No. 2
Scheme Text

USE CLASS	ZONING	Residential	Development	Primary Centre City Centre	Primary Centre Waterfront Village	Primary Centre Urban Village	Primary Centre City Living	Primary Centre Campus	Primary Centre Urban Living	District Town Centre	Commercial	Special Commercial	Service Commercial	Port Kennedy Business Enterprise	Light Industry	General Industry	Special Industry	Rural	Special Rural	Special Residential	Community Purposes	Special Use	
COMMERCIAL USES (CONT'D)			Subject to Clause 27 of the deemed provisions, use class permissibility shall be determined in accordance with the provisions of the relevant Structure Plan.																				
Home Occupation	D			D	D	D	D	X	D	D	X	X	X	X	X	X	X	X	D	As per Clause 4, 12, Schedule No. 4 and Plan No's 3 and 4	As per Clause 4, 13, Schedule No.5 and Plan No's 5, 6 and 7	As per Schedule No. 3	
Homestore	A			X	X	X	X	X	X	X	X	X	X	X	X	X	X	A					X
Industry: Cottage	D			D	D	D	D	X	D	D	X	X	X	X	X	X	X	D					X
Laundromat	X			D	D	D	X	X	X	D	D	D	D	D	D	X	X	X					X
Liquor Store - Large	X			D	D	A	X	X	X	A	A	X	X	X	X	X	X	X					X
Liquor Store - Small	X			D	D	D	X	X	X	D	D	X	X	X	X	X	X	X					X
Lunch Bar	X			D	D	D	X	IP	X	D	D	X	D	D	D	D	X	X					X
Market	X			D	D	D	X	X	X	D	D	X	D	D	D	X	X	X					X
Medical Centre	X			D	D	D	D	X	D	D	D	P	D	D	X	X	X	X					D
Motor Vehicle Wash	X			X	X	X	X	X	X	D	D	X	D	D	D	D	X	X					X
Night Club	X			A	X	X	X	X	X	X	X	X	X	X	X	X	X	X					X
Office	X			D	D	D	X	IP	X	D	D	P	P	P	IP	IP	IP	X					D
Public Amusement	X			D	D	D	X	X	X	D	D	X	D	D	D	X	X	X					X
Reception Centre	X			D	D	D	D	X	X	D	D	X	X	X	X	X	X	A					X
Recreation - Private	X			D	D	D	X	X	X	D	D	X	D	D	D	X	X	D					X
Restaurant/Café	X			D	D	D	D	X	X	D	D	X	X	X	X	X	X	A					X
Restricted Premises	X			A**	X	X	X	X	X	X	X	X	X	X	A	X	X	X					X
Service Station	X			D	D	D	X	X	X	D	D	X	X	D*	D	D	X	X					X
Shop	X			D	D	D	D	IP	D	D	P	X	X	X	X	X	X	X					X
Small Bar	X			D	D	D	D	IP	X	D	D	X	X	X	X	X	X	X					X
Tavern	X			D	D	D	X	IP	X	D	D	X	X	X	X	X	X	X					X
Tourist Development	X			X	X	X	X	X	X	X	X	X	X	X	X	X	X	A					X
Veterinary Centre	X			D	D	D	X	X	X	D	D	P	D	D	D	X	X	D					X
Warehouse/Storage	X		D	D	D	X	X	X	D	D	X	P	P	D	D	X	X		X				
INDUSTRIAL USES			Subject to Clause 27 of the deemed provisions, use class permissibility shall be determined in accordance with the provisions of the relevant Structure Plan.																				
Commercial Vehicle Parking	A			X	X	X	X	X	X	X	X	D	D	D	D	D	X	A	As per Clause 4, 12, Schedule No. 4 and Plan No's 3 and 4	As per Clause 4, 13, Schedule No. 5 and Plan No's 5, 6 and 7	As per Schedule No. 3		
Contractor's Yard	X			X	X	X	X	X	X	X	X	X	X	D	D	D	X	X					X
Fuel Depot	X			X	X	X	X	X	X	X	X	X	X	D*	D	D	D	X					X
Industry : General	X			X	X	X	X	X	X	X	X	X	X	X	X	D	X	X					X
Industry : General (Licensed)	X			X	X	X	X	X	X	X	X	X	X	X	X	A	A	X					X
Industry : Hazardous	X			X	X	X	X	X	X	X	X	X	X	X	X	X	A	X					X
Industry : Light	X			X	X	X	X	X	X	D	X	X	X	D*	P	D	X	X					X
Industry : Noxious	X			X	X	X	X	X	X	X	X	X	X	X	X	X	A	X					X
Industry : Service	X			X	X	X	X	X	X	D	X	X	P	D*	D	D	X	X					X
Landscape Supply Yard	X			X	X	X	X	X	X	X	X	X	X	D*	D	D	X	A					X
Motor Vehicle, Boat or Caravan Sales	X			X	X	X	X	X	X	D	X	X	P	P	D	D	X	X					X

USE CLASS	ZONING	Residential	Development	Primary Centre City Centre	Primary Centre Waterfront Village	Primary Centre Urban Village	Primary Centre City Living	Primary Centre Campus	Primary Centre Urban Living	District Town Centre	Commercial	Special Commercial	Service Commercial	Port Kennedy Business Enterprise	Light Industry	General Industry	Special Industry	Rural	Special Rural	Special Residential	Community Purposes	Special Use
INDUSTRIAL USES (CONT'D)																						
Motor Vehicle Repair		X	Subject to Clause 27 of the deemed provisions, use class permissibility shall be determined in accordance with the provisions of the relevant Structure Plan.	X	X	X	X	X	X	D	X	X	D	P*	D	D	X	X	As per Clause 4.12, Schedule No.4 and Plan No's 3 and 4	As per Clause 4.13, Schedule No.5 and Plan No's 5, 6 and 7	X	As per Schedule No.3
Motor Vehicle Wrecking Premises		X		X	X	X	X	X	X	X	X	X	X	P*	D	D	X	X				
Open Air Display		X		X	X	X	X	X	X	D	X	X	P	D	D	IP	X	X				
Salvage Yard		X		X	X	X	X	X	X	X	X	X	X	D*	A	A	X	X				
Sawmill		X		X	X	X	X	X	X	X	X	X	X	X	X	A	X	A				
Trade Display		X		X	X	X	X	X	X	X	X	X	D	D	D	D	X	IP				
Trade Supplies		X		X	X	X	X	X	X	D	D	X	P	P	D	X	X	X				
Transport Depot		X		X	X	X	X	X	X	X	X	X	X	D*	D	D	X	X				
Veterinary Hospital		X		X	X	X	X	X	X	X	X	D	D	D	D	X	X	D				
RURAL USES																						
Abattoir		X	Subject to Clause 27 of the deemed provisions, use class permissibility shall be determined in accordance with the provisions of the relevant Structure Plan.	X	X	X	X	X	X	X	X	X	X	X	X	X	A	A	As per Clause 4.12, Schedule No.4 and Plan No's 3 and 4	As per Clause 4.13, Schedule No.5 and Plan No's 5, 6 and 7	X	As per Schedule No.3
Agriculture – Extensive		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	D				
Agriculture – Intensive		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	D				
Animal Establishment		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	A				
Animal Husbandry - Intensive		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	A				
Industry : Extractive		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	A				
Industry : Primary Production		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	A				
Produce Store		X		X	X	X	X	X	X	X	X	X	X	D	D	X	X	D				
Rural Home Business		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	D				
Rural Pursuit/Hobby Farm		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	D				
Stockyards		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	D				
Tree Farm		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	D				
Wildlife Park		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	A				
Winery		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	D				

USE CLASS	ZONING	Residential	Development	Primary Centre City Centre	Primary Centre Waterfront Village	Primary Centre Urban Village	Primary Centre City Living	Primary Centre Campus	Primary Centre Urban Living	District Town Centre	Commercial	Special Commercial	Service Commercial	Port Kennedy Business Enterprise	Light Industry	General Industry	Special Industry	Rural	Special Rural	Special Residential	Community Purposes	Special Use
UTILITIES / COMMUNITY			Subject to Clause 27 of the deemed provisions, use class permissibility shall be determined in accordance with the provisions of the relevant Structure Plan.																			
Car Park		X		D	D	D	D	D	X	D	D	D	D	P	X	X	X	X		As per Clause 4.12, Schedule No.4 and Plan No's 3 and 4	As per Clause 4.13, Schedule No.5 and Plan No's 5, 6 and 7	As per Schedule No.3
Civic Use		X		D	D	D	D	D	X	D	D	D	D	X	X	X	X	A				
Communications Antennae – Commercial		X		D	D	D	X	D	X	D	D	D	D	D	D	D	D	D				
Communications Antennae – Domestic		P		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				
Community Purpose		D		D	D	D	IP	D	D	D	D	D	D	D	D	X	X	D				
Corrective Institution		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X				
Educational Establishment		X		D	D	D	D	P	D	D	D	D	D	D	X	X	X	A				
Exhibition Centre		X		D	D	D	X	IP	X	D	D	X	X	X	X	X	X	D				
Hospital		X		X	X	X	X	X	X	D	X	X	X	X	X	X	X	X				
Hospital : Special Purposes		X		X	X	X	X	X	X	D	X	X	X	X	X	X	X	X				
Place of Worship		A		D	D	D	D	IP	D	D	D	X	D	D	A	X	X	A				
Public Utility		D		D	D	D	D	D	D	D	D	D	D	D*	D	D	D	D				
Telecommunications Infrastructure		X		D	D	D	D	D	D	D	D	D	D	D	D	D	D	D				

Uses not specified above shall be dealt with under clause 3.2.4.

* Refer to sub-clauses 4.9.4.1(a), 4.9.4.1(b), 4.9.4.2(a) and 4.9.4.2(b).

** Refer to clause 4.3A.4

NOTE: To avoid doubt, the headings “RESIDENTIAL USES”, “COMMERCIAL USES”, “INDUSTRIAL USES”, “RURAL USES”, AND “UTILITIES/COMMUNITY” to this table are not to be taken to be part of this Scheme.

PART 4 - GENERAL DEVELOPMENT REQUIREMENTS

4.1 Residential Zone

4.1.1 Objective

The objective of the Residential Zone is to promote a high quality residential environment by maintaining and enhancing the quality of existing residential areas and providing for a range of residential densities and housing types throughout the Scheme Area.

4.1.2 Residential Development: R-Codes

- (a) A copy of the R-Codes is to be kept and made available for public inspection at the offices of the Local Government.
- (b) Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the R-Codes is to conform to the provisions of those Codes.
- (c) The R-Codes density applicable to land within the Scheme Area shall be determined by reference to the R-Codes density number superimposed on the particular areas shown on the Scheme Map as being contained within the solid black line borders, or where such an area abuts another area having a Residential Design Code density, as being contained within the centre-line of those borders.
- (d) Development to the residential density as shown on the Scheme Map shall only be permitted upon connection to reticulated sewerage or in compliance with the Government Sewerage Policy requirements for development of unsewered land; otherwise the provisions of the R5 density code shall apply.

4.1.3 Special Application of R-Codes

- (a) In order to encourage residential development within the District Town Centre Zone, the Local Government may exercise its discretion in respect of the standard Residential Design Code provisions.
- (b) Use of discretionary power by the Local Government in relation to the standard provisions of the R-Codes for residential development in the District Town Centre Zone, is detailed in clause 4.5.5.
- (c) The Local Government may only exercise its discretion in respect of such development standards provided that it is satisfied that such use of discretionary power is in the interest of orderly and proper planning and will not detract from the respective desired District Town Centre environments.
- (d) Notwithstanding that a single house or two grouped dwellings do not require development approval, any person who wishes the Local Government to exercise its discretion in respect of any particular provision of the R-Codes relating to the erection of a single house or two grouped dwellings shall, at the time of lodging an application for a building license or earlier, apply for Local Government's Development approval for the exercise of discretion.

The Local Government may exercise its discretion with or without conditions or may refuse to grant its consent. The Local Government shall, before granting its consent, satisfy itself that:

- (i) the discretion requested is one which the Local Government has the power to exercise; and
- (ii) exercise of the discretion would not compromise the objectives of the R-Codes.

4.2 Development Zone

4.2.1 Operation

- (a) Development Areas adopted and approved subsequently to the date of gazettal of this Scheme are shown on the Scheme Map as DA with a number and included in Schedule No.8.
- (b) In respect of a Development Area shown on the Scheme Map, the provisions applying to the Development Area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme.

4.2.2 Purpose

- (a) To identify areas requiring comprehensive planning prior to subdivision and development.
- (b) To coordinate subdivision, land use and development in areas requiring comprehensive planning.

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.

14. Terms used

In this Part —

precinct structure plan means a plan for the coordination of future subdivision, zoning and development of an area of land;

standard structure plan means a plan for the coordination of future subdivision and zoning of an area of land;

structure plan means a standard structure plan or a precinct structure plan.

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 information required under subclause (1A).

~~(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;~~

(1A) For the purposes of subclause (1)(c) —

- (a) a standard structure plan or precinct structure plan must include 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 covered by the plan; and
- (b) a precinct structure plan must also include the following information —
 - (i) the standards to be applied for the buildings, other structures and works that form part of the subdivision and development covered by the plan;

- (ii) arrangements for the management of services for the subdivision and development covered by the plan;
- (iii) arrangements to be made for vehicles to access the area covered by the plan;
- (iv) the proposed staging of the 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 considered 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.~~

(2) The local government —

- (a) must advertise the proposed structure plan by publishing in accordance with clause 87 —
 - (i) the proposed structure plan; and
 - (ii) a notice of the proposed structure plan; and
 - (iii) any accompanying material in relation to the proposed structure plan that the local government considers should be published; and
- (b) may also advertise the proposed structure plan by doing either or both of the following —
 - (i) 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 proposed structure plan;
 - (ii) erecting a sign or signs in a conspicuous place on the land the subject of the proposed structure plan giving notice of the proposed structure plan.

(3) A notice published or given, or on a sign erected, under subclause (2) in relation to a proposed structure plan must specify —

- (a) the manner and form in which submissions may be made; and
- (b) the period under subclause (3A) for making submissions and the last day of that period.

(3A) The period for making submissions on a proposed structure plan is —

- (a) the period of 42 days after the day on which the notice is first published under subclause (2)(a)(ii); or
- (b) a longer period approved by the Commission.

(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 modification 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~~
- (a) the last day of the period for making submissions on the proposed structure plan that applies under clause 18(3A); 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 structured 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 persons 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~~

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

(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.

(1A) The Commission may approve a precinct structure plan that provides for further details of development included in the plan to be submitted to, and approved by, the local government for the purposes of the plan before development approval is granted (or, if development approval is not required, before development commences).

(2) The Commission may only approve a structure plan referred to in subclause (1) or (1A) 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 approve 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.~~

28. Duration of approval

- (1) Subject to this clause and clause 29A, the approval of a structure plan has effect for —
 - (a) the period of 10 years commencing on the day on which the Commission approves the plan; or
 - (b) another period determined by the Commission when approving the plan.
- (2) The Commission may extend the period for which the approval of a structure plan has effect under subclause (1) if there are no changes to the terms of the plan.
- (3) The Commission may revoke its approval of a structure plan if —
 - (a) a new structure plan is approved in relation to the area to which the structure plan to be revoked relates; or
 - (b) the Commission considers that the plan has been implemented or is otherwise no longer required; or
 - (c) the Commission considers that the structure plan cannot be effectively implemented because of a legislative change or a change in a State planning policy; or
 - (d) for a structure plan that was the subject of an application under clause 16(3), the revocation is agreed to by —
 - (i) the owner of the land to which the structure plan relates (or, if the land is owned by 2 or more owners, each of them); and
 - (ii) the local government.
- (4) For the purposes of subclause (1), a structure plan that was approved before 19 October 2015 is taken to have been approved on that day.

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 under this clause ~~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 under this clause or clause 29A(2) 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.

29A. Revocation or amendment of structure plan resulting from scheme amendment

- (1) The Commission must, as soon as is reasonably practicable, revoke the approval of a structure plan if —
 - (a) an amendment to this Scheme that affects the area to which the structure plan relates takes effect; and
 - (b) the amendment includes a statement in relation to the structure plan under the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 35A(a).
- (2) If an amendment to this Scheme that affects the area to which a structure plan relates takes effect, and that amendment includes a statement in relation to the structure plan under the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 35A(b), the Commission must as soon as is reasonably practicable amend the structure plan in accordance with the statement.
- (3) The procedures referred to in clause 29(2) do not apply in relation to the amendment of a structure plan under subclause (2).

Part 5 — Activity centre plans

30. Terms used

In this part —

Activity centres 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 required 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 standard 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 application 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 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 submission 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 submission 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 submission 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 on 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 related 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.~~

4.2.3 Comprehensive Development Plans Made under Previous Scheme

- 4.2.3.1 Any Comprehensive Development Plan duly approved by the Local Government and the Commission under clause 5.25 of Town Planning Scheme No.1, is to continue as if it were approved as a Structure Plan under Town Planning Scheme No.2.
- 4.2.3.2 Any Comprehensive Development Plan that, on the Gazettal date, is being prepared under clause 5.25 of Town Planning Scheme No.1, may continue to be prepared in the manner required under that scheme, and following approval by the Local Government and the Commission is to continue as if it were approved as a Structure Plan under Town Planning Scheme No.2.

4.2A Proposed Structure Plans for land being rezoned to the Development Zone

4.2A.1 Definitions

In this clause 4.2A

“Proposed Scheme Amendment” means a proposed Town Planning Scheme Amendment to this Scheme which:

- (a) will, if it comes into force and effect, rezone land to the Development Zone, show the land as a Development Area on the Scheme Map and include the land, with a number, in Schedule No.8; and
- (b) is initiated and advertised in accordance with the Regulations.

“Regulations” means *Planning and Development (Local Planning Schemes) Regulations 2015*.

4.2A.2 Land to which this clause applies

This clause 4.2A applies to land which is the subject of a Proposed Scheme Amendment.

4.2A.3 Application of certain provisions of clause 4.2

Notwithstanding that the land is not in the Development Zone and is not a Development Area:

- (a) clause 27(3) (a) (b) and (c) in Schedule A; and
- (b) clause 27(4) (a) (b) and (c) in Schedule A;

But only in relation to a determination or decision of the Commission under a clause specified in paragraph (a) or (b), are to apply to land in which this clause applies.

4.3 Primary Centre

4.3.1 Zone within the Primary Centre

- (a) The Primary Centre comprises:
 - (i) the Primary Centre City Centre Zone;
 - (ii) the Primary Centre Waterfront Village Zone;
 - (iii) the Primary Centre Urban Village Zone;
 - (iv) the Primary Centre City Living Zone;
 - (v) the Primary Centre Campus Zone; and
 - (vi) the Primary Centre Urban Living Zone.

4.3.2 Objectives of the Primary Centre

The objectives of the Primary Centre are:

- (a) to establish a people orientated, mixed use Primary Centre through the development of urban scaled, inner city housing, which will allow people to live within walking distance of work, shops and a wide range of social and community activities;
- (b) to create a series of connected villages and precincts with distinctly inner-city characteristics and a level of amenity that encourages consolidated, medium to high density residential development between the City Centre and Rockingham Beach along a fixed route transit system;
- (c) to foster the provision of a balanced and diverse mix of uses within the Primary Centre which will contribute to the development of an active and interesting character in the public and private domain of the Primary Centre;
- (d) to encourage and facilitate sustainable economic growth and employment self sufficiencies in the Primary Centre;
- (e) to promote the Rockingham Primary Centre as the preferred location for investment in higher order public and employment generating infrastructure, to foster employment self sufficiency and to reduce travel distances for employees living in the region;

- (f) to foster the development of a credible and legible Primary Centre which possesses a diversity of activities through its built form and public spaces, framed around a legible public street pattern, with generally contiguous and active building frontages positioned at the street front boundary;
- (g) to facilitate efficient access to the Primary Centre and between the various social and economic activities within it (the Primary Centre), through the accommodation of pedestrian, cycle, public transport and private vehicles in a manner which supports the development of a consolidated, pedestrian-oriented urban environment;
- (h) to create a permeable, well connected network of public streets, laneways, arcades and public spaces that provide high quality linkages, particularly for pedestrians, to support the full range of Primary Centre activities;
- (i) to provide a range of activities in the Primary Centre, which will encourage people to mix and create a strong sense of community;
- (j) to create high quality public spaces to foster community use and interaction and to create a sense of place and public ownership;
- (k) to create a street-based transit system, with closely spaced stops, which will encourage a highly utilised public transport system;
- (l) to develop the Rockingham Primary Centre to offer a high standard of amenity and urban design, planned according to transit oriented development principles around a fixed route public transport system;
- (m) to provide an appropriate land use pattern, which will sustain a fixed route public transport system that encourages mixed use development, higher density residential development and employment patterns;
- (n) to facilitate generally contiguous development along a fixed transit route that offers multiple choices in lifestyle and convenience, focused on the public transport alignment;
- (o) to develop the Rockingham Primary Centre in accordance with the Western Australian Planning Commission Activity Centre hierarchy, to ensure a long-term and integrated approach by public authorities to the planning economic and social infrastructure; and
- (p) to develop the Rockingham Primary Centre to provide a similar level of services and functions to the Perth Central Business District.

4.3.3 Special Considerations Applicable to Development Applications

Without limiting Clause 67 of the deemed provisions, in considering an application for development approval of development within the Primary Centre, the Local Government is to have due regard to:

- (a) the objectives of the Primary Centre;
- (b) the provisions of the Centre Plan;
- (c) the objectives of the Zone in which the development is proposed;

- (d) in the case of the Primary Centre City Centre Zone – the provisions of the Development Policy Plan (City Centre Sector and Southern Gateway and Rockingham Station Sectors) and any other Policy adopted under Clause 4(3) of the deemed provisions which applies to the Primary Centre City Centre Zone;
- (e) in the case of the Primary Centre Waterfront Village Zone – the provisions of the Development Policy Plan (Waterfront Village Sector) and any other Policy adopted under Clause 4(3) of the deemed provisions which applies to the Primary Centre Waterfront Village Zone;
- (f) in the case of the Primary Centre Urban Village Zone – the provisions of the Development Policy Plan (Smart Village Sector) and any other Policy adopted under Clause 4(3) of the deemed provisions which applies to the Primary Centre Urban Village Zone;
- (g) in the case of the Primary Centre City Living Zone – the provisions of the Development Policy Plan (Northern Waterfront Sector) and any other Policy adopted under Clause 4(3) of the deemed provisions which applies to the Primary Centre City Living Zone;
- (h) in the case of the Primary Centre Campus Zone – the provisions of the Development Policy Plan (Campus Sector) and any other Policy adopted under Clause 4(3) of the deemed provisions which applies to the Primary Centre Campus Zone;
- (i) in the case of the Primary Centre Urban Living Zone – the provisions of the Development Policy Plan (Eastern Sector and Southern Gateway and Rockingham Station Sectors) and any other Policy adopted under Clause 4(3) of the deemed provisions which applies to the Primary Centre Urban Living Zone; and
- (j) in the case of any other Zone – the provisions of any Policy adopted under Clause 4(3) of the deemed provisions and applying to the Zone or the land in which the development is proposed.

4.3.4 Special Considerations Applicable to Subdivision Applications

In formulating recommendations and comments with respect to applications for subdivision approval, the Local Government is to have due regard to:

- (a) the objectives of the Primary Centre;
- (b) the provisions of the Centre Plan;
- (c) the objectives of the Zone in which the subdivision is proposed;
- (d) in the case of the Primary Centre City Centre Zone – the provisions of the Development Policy Plan (City Centre Sector and Southern Gateway and Rockingham Station Sectors) and any other Policy adopted under sub-clause 4(3) of the deemed provisions which applies to the Primary Centre Local Government Centre Zone;
- (e) in the case of the Primary Centre Waterfront Village Zone – the provisions of the Development Policy Plan (Waterfront Village Sector) and any other Policy

adopted under sub-clause 4(3) of the deemed provisions which applies to the Primary Centre Waterfront Village Zone;

- (f) in the case of the Primary Centre Urban Village Zone – the provisions of the Development Policy Plan (Smart Village South Sector) and any other Policy adopted under sub-clause 4(3) of the deemed provisions which applies to the Primary Centre Urban Village Zone;
- (g) in the case of the Primary Centre City Living Zone – the provisions of Development Policy Plan (Northern Waterfront Sector) and any other Policy adopted under sub-clause 4(3) of the deemed provisions which applies to the Primary Centre City Living Zone;
- (h) in the case of the Primary Centre Campus Zone – the provisions of the Development Policy Plan (Campus Sector) and any other Policy adopted under sub-clause 4(3) of the deemed provisions which applies to the Primary Centre Campus Zone;
- (i) in the case of the Primary Centre Urban Living Zone – the provisions of the Development Policy Plan (Eastern Sector and Southern Gateway and Rockingham Station Sectors) and any other Policy adopted under sub-clause 4(3) of the deemed provisions which applies to the Primary Centre Urban Living Zone; and
- (j) in the case of any other Zone – the provisions of any Policy adopted under sub-clause 4(3) of the deemed provisions and applying to the Zone or the land in which the subdivision is proposed.

4.3.5 Subdivision – Need for an Integrated Development Guide Plan

- (1) The Local Government is not to support an application for subdivision approval of land within the Primary Centre unless:
 - (a) an Integrated Development Guide Plan, adopted by the Local Government, is in effect with respect to the land; and
 - (b) the proposed subdivision is generally consistent with the Integrated Development Guide Plan.
- (2) An owner of land within the Primary Centre may prepare a proposed Integrated Development Guide Plan in accordance with this clause.
- (3) A proposed Integrated Development Guide Plan is to:
 - (a) set out details of:
 - (i) proposed building envelopes;
 - (ii) indicative building configurations;
 - (iii) setbacks;
 - (iv) pedestrian and vehicular access;
 - (v) indicative car parking layouts;
 - (vi) any right of way and easements; and

- (vii) any other information required by the Local Government.
- (4) The Local Government is to consider a proposed Integrated Development Guide Plan which has been prepared in accordance with this clause and the Local Government may:
 - (a) refuse to adopt it; or
 - (b) adopt it without modifications.
- (5) An owner aggrieved by:
 - (a) a refusal under subclause (4)(a) or subclause (6); or
 - (b) a modification under subclause (4)(b) or subclause (6) which is considered unacceptable; or
 - (c) a failure by the Local Government to make a decision on the proposed Integrated Development Guide Plan within 35 days after the date on which it is submitted to the Local Government,has a right of review under Part 14 of the Act.
- (6) Within 14 days after the date of a decision of the Local Government under subclause (4), an owner aggrieved by the decision may give to the Local Government a written request to re-consider their proposed Integrated Development Guide Plan.

4.3.6 Policies for Sectors

- (1) The Local Government may designate any land within the Primary Centre as a Sector.
- (2) The Local Government may prepare a Policy under Clause 4(3) of the deemed provisions to apply to any Sector designated under subclause (1).

4.3A Primary Centre City Centre Zone

4.3A.1 Objectives of the Zone

The objectives of the Primary Centre City Centre Zone are:

- (a) to provide an identifiable 'City Centre' which provides for major CBD functions in a predominately 'Main Street' development configuration;
- (b) to contribute to the development of integrated retail, office, commercial, residential, civic and community facilities generally in accordance with the requirements of the Development Policy Plan for the City Centre Sector and the Council Avenue Sub-Precinct forming part of the Southern Gateway and Rockingham Station Sectors;
- (c) to achieve high intensity land use and built form outcomes, including a range of medium to high density housing, within a walkable catchment of the central public transit system;
- (d) to create a permeable, well connected network of public streets and spaces that provides legible and high amenity linkages, particularly for pedestrians;
- (e) to locate car parking areas behind street front buildings;
- (f) to provide contiguous, activated street front development;
- (g) to promote active day and night time retail and social environments;
- (h) to encourage vibrant and diverse uses which promote the Primary Centre City Centre Zone as a destination;
- (i) to provide a high amenity, street based transit route through the core of the Primary Centre City Centre Zone;
- (j) to encourage development that will provide a high calibre model of sustainable, transit oriented development; and
- (k) to provide high quality public spaces that permits a range of recreation and social activities and foster high quality development along their margins.

4.3A.2 R-Codes Not to Apply

The R-Codes are not to apply to the development of land in the Primary Centre City Centre Zone for any of the residential purposes dealt with by the R-Codes.

4.3A.3 Minimum Residential Density

In the Primary Centre City Centre Zone, all development for the purpose of grouped or multiple dwellings must have a minimum of one dwelling per 125m² of land area.

4.3A.4 Restricted Premises

- (1) This clause applies to development on land having a street frontage to any of the following streets:
 - (a) Civic Boulevard;
 - (b) Council Avenue;
 - (c) Central Promenade;
 - (d) Syren Street;
 - (e) Contest Parade; and
 - (f) Read Street.
- (2) Notwithstanding any other provision of the Scheme including Table No.1, Restricted Premises are an X use.

4.3B **Primary Centre Waterfront Village Zone**

4.3B.1 Objectives of the Zone

The objectives of the Primary Centre Waterfront Village Zone are:

- (a) to promote contemporary waterfront residential and accommodation, commercial, tourism and recreational activities, which serves local residents and visitors alike, in accordance the Development Policy Plan for the Waterfront Village Sector;
- (b) to maximise the potential of the northerly coastal aspect, sheltered beach and shady parkland of the Waterfront through appropriate quality built form and site responsive architecture;
- (c) to achieve appropriate land use and built form outcomes, including a range of medium to high density housing, within a walkable catchment of the central public transit system;
- (d) to create a permeable, well connected network of public streets and spaces that provides legible and high amenity linkages, particularly for pedestrians;
- (e) to provide contiguous, activated street front development;
- (f) to promote active day and night time retail and social environments;
- (g) to encourage vibrant and diverse uses which promote the Waterfront as a destination;
- (h) to provide a high amenity, street based transit route that will provide a high calibre model of sustainable, transit orientated development; and

- (i) to provide high quality public spaces that permits a range of recreation and social activities and foster high quality development along their margins.

4.3B.2 R-Codes

- (a) Where residential development is proposed the R-AC0 density code of R-Codes is to apply.
- (b) In order to encourage residential development within the Primary Centre Waterfront Village Zone, consistent with the urban design objectives for individual Precincts set out in the Policy or other adopted Policies, the Local Government may exercise its discretion in respect to the R-Codes provisions.

4.3B.3 Minimum Residential Density

In the Primary Centre Waterfront Village Zone, all development for the purpose of grouped or multiple dwellings must have a minimum of one dwelling per 180m² of land area.

4.3C Primary Centre Urban Village Zone

4.3C.1 Objectives of the Zone

The objectives of the Primary Centre Urban Village Zone are:

- (a) to contribute to the development of integrated retail, office, commercial, residential, civic and community facilities generally in accordance with the requirements of the Development Policy Plan for the Smart Village Sector;
- (b) to achieve high intensity land use and built form outcomes, including a range of medium to high density housing, within a walkable catchment of the central public transit system;
- (c) to create a permeable, well connected network of public streets and spaces that provides legible and high amenity linkages, particularly for pedestrians;
- (d) to locate car parking areas behind street front buildings;
- (e) to provide contiguous, activated street front development;
- (f) to promote active day and night time retail and social environments;
- (g) to encourage vibrant and diverse uses which promote the Primary Centre Urban Village Zone as a destination;
- (h) to provide a high amenity, street based transit route through the core of the Primary Centre Urban Village Zone;
- (i) to encourage development that will provide a high calibre model of sustainable, transit oriented development; and

- (j) to provide high quality public spaces that permits a range of recreation and social activities and foster high quality development along their margins.

4.3C.2 R-Codes

- (a) Where residential development is proposed the R-AC0 density code of R-Codes is to apply.
- (b) In order to encourage residential development within the Primary Centre Urban Village Zone, consistent with the urban design objectives for individual Precincts set out in the Policy or other adopted Policies, the Local Government may exercise its discretion in respect of the R-Codes provisions.

4.3C.3 Minimum Residential Density

- (a) In the Primary Centre Waterfront Village Zone, all development for the purpose of grouped or multiple dwellings must have a minimum of one dwelling per 180m² of land area.

4.3D Primary Centre City Living Zone

4.3D.1 Objectives of the Zone

The objectives of the Primary Centre City Living Zone are:

- (a) to promote contemporary waterfront residential, tourist accommodation and recreational activities, generally in accordance with the requirements of the Development Policy Plan for the Northern Waterfront Sector;
- (b) to maximise the potential of the northerly coastal aspect, sheltered beach and foreshore parklands of the Northern Waterfront Sector through appropriate quality built form and site responsive architecture;
- (c) to achieve appropriate land use and built form outcomes, including a range of medium to high density housing, within a walkable catchment of the central public transit system;
- (d) to create a permeable, well connected network of public streets and spaces that provides legible and high amenity linkages, particularly for pedestrians;
- (e) to encourage development that will provide a high calibre model of sustainable transit oriented development;
- (f) to provide high quality public spaces that permits a range of recreation and social activities and foster high quality development along their margins;
- (g) off street carparking will generally be located behind, under or over ground floor, street front buildings;
- (h) to encourage innovative and diverse built form which promotes the Northern Waterfront Sector as a desirable place to live; and

- (i) to provide contiguous, activated street front development.

4.3D.2 R-Codes

- (a) Where residential development is proposed the R-AC0 density code of R-Codes is to apply.
- (b) In order to encourage residential development within the Primary Centre City Living Zone, consistent with the urban design objectives for individual Precincts set out in the Policy or other adopted Policies, the Local Government may exercise its discretion in respect of the R-Codes provisions.

4.3D.3 Minimum Residential Density

In the Primary Centre City Living Zone, all development for the purpose of grouped or multiple dwellings must have a minimum of one dwelling per 180m² of land area.

4.3E **Primary Centre Campus Zone**

4.3E.1 Objectives of the Zone

The objectives of the Primary Centre Campus Zone are:

- (a) contribute to and encourage the development of high quality educational facilities and allied land use activities, generally in accordance with the requirements of the Development Policy Plan for the Campus Sector;
- (b) promote educational and education related commerce and research support activities within the Campus Sector to service the growing demands of the Strategic Metropolitan Centre catchment;
- (c) encourage the orderly development of the education campuses to optimise shared resources, present a generally integrated townscape character and deliver appropriate built form outcomes;
- (d) provide for a high amenity, street based bus transit route through the Campus Sector in accordance with the alignment shown in the Development Policy Plan;
- (e) create a permeable, well connected network of public streets and spaces that provides legible and high amenity linkages;
- (f) provide for high quality public spaces which encourages a range of formal and informal social activities; and
- (g) encourage complimentary landscaping treatments within the Campus Sector, with particular emphasis along Ennis Avenue, Dixon Road and Simpson Avenue to convey a clear sense of arrival at the edge of the Strategic Metropolitan Centre.

4.3F Primary Centre Urban Living Zone

4.3F.1 Objectives of the Zone

The objectives of the Primary Centre Urban Living Zone are to:

- (a) encourage contemporary residential development generally in accordance with the requirements of the Development Policy Plan for the Eastern Sector and Southern Gateway and Rockingham Station Sectors;
- (b) achieve appropriate land use and built form outcomes, including a range of medium density housing options, within a walkable catchment of the public transit system;
- (c) create a permeable, well connected network of public streets and spaces that provide legible and high amenity linkages, particularly for pedestrians;
- (d) encourage innovative and diverse built form which promotes the Eastern Sector and Southern Gateway Sector as a desirable place to live; and
- (e) promote contiguous, residential street front development consistent with a contemporary inner-city townscape discipline.

4.3F.2 R-Codes

- (a) where residential development is proposed the R-AC0 density codes of R-Codes is to apply;
- (b) In order to encourage residential development within the Primary Centre Urban Living Zone, consistent with the urban design objectives for individual Precincts set out in the Policy or other adopted Policies, the Local Government may exercise its discretion in respect of the R-Codes provisions.

4.3F.3 Minimum Residential Density

- (a) In the Primary Centre Urban Living Zone, all development for the purpose of grouped or multiple dwellings must have a minimum of one dwelling per 250m² of land area.

4.5 District Town Centre Zone

4.5.1 Objective

To establish a clear and concise statement of planning and main street principles to guide the development of 'Main Street' Town Centres having due regard to the objectives and principles outlined within a prepared District Town Centre Policy, and supported by any other Plan or Policy that the Local Government may adopt from time to time as a guide to future development within the zone.

4.5.2 Town Centre Policies

- (a) For the purposes of Clause 4.5 of this Scheme, 'the Policies' means the Baldivis Town Centre Policy and the Secret Harbour Town Centre Policy

adopted by the Local Government including any amendments made under clause 4.5.7 and any associated policies and performance standards adopted by the Local Government from time to time.

- (b) In assessing development applications on land within the District Town Centre Zone, the Local Government shall have due regard for both the general principles and the more specific use precinct requirements of the Policies.
- (c) A copy of the Baldivis Town Centre Policy and the Secret Harbour Town Centre Policy shall be kept and made available for public inspection during working hours at the offices of the Local Government.

4.5.3 Planning Principles

In determining any development application within the District Town Centre Zone, the Local Government shall:

- (a) be guided by the objectives of the Policies;
- (b) have due regard to the impact of the development on the establishment, quality and use of the public domain;
- (c) seek to encourage a mix of uses both within individual developments and more broadly within the Centres as a whole;
- (d) have due regard to the principles and objectives of State Planning Policy 4.2: Activity Centres for Perth and Peel; and
- (e) consider the specific requirements of the policies established by the Policies for each of the use precincts within the Zone.

4.5.4 Planning Control

- (a) In assessing applications for development approval and formulating recommendations and comments on applications for the subdivision of land, the Local Government shall have due regard to the objective of the District Town Centre Zone and the principles and policies as set out in the Policies.
- (b) Prior to formulating any comments and recommendations on applications for the subdivision and development of land within the District Town Centre Zone, the Local Government will require the applicant to prepare and submit an Integrated Development Guide Plan, which illustrates building envelopes, indicative building configurations, setbacks, pedestrian and vehicular access, indicative carparking layouts and any rights of way or access easements required, and any other information required by the Local Government.
- (c) An Integrated Development Guide Plan prepared in accordance with Clause 4.5.4 (b) shall take account of and adhere to the principles and proposals as set out in the Policies.
- (d) Where a proposed Integrated Development Guide Plan will require the Local Commercial Strategy to be amended, the Commission's endorsement of the Plan will be necessary.
- (e) An Integrated Development Guide Plan prepared or received by the Local Government shall be considered by the Local Government for adoption and in making its decision the Local Government may:

- (i) reject the Plan;
 - (ii) adopt the Plan with or without modifications.
- (f) An applicant aggrieved by the Local Government:
 - (i) refusing an Integrated Development Guide Plan;
 - (ii) approving an Integrated Development Guide Plan subject to conditions or requirements unacceptable to the applicant; or
 - (iii) failing to make a decision on an Integrated Development Guide Plan within 35 days of the date of submission of the Plan;

shall have a right of appeal under Part 14 of the Act.
- (g) An applicant dissatisfied by a decision of the Local Government in respect of an Integrated Development Guide Plan may, within 14 days of the date of the Local Government's decision, request the Local Government in writing for a reconsideration of the Plan. In that case the operative date respectively for the purpose of the appeal right arising under paragraph I shall be the refusal or approval upon the reconsideration of the Plan.

4.5.5 Special Application of R-Codes

In order to encourage residential development consistent with the precinct policies established by the Policies, and subject to Clause 4.1.3I of the Scheme, the Local Government may exercise its discretion in respect of the R-Codes in relation to carparking; street and side setbacks; distances between buildings in different occupancies on the same lot; and open space.

4.5.8 Environmental Conditions

Subdivision and development shall comply with those requirements of Schedule No.7 of the Scheme – Environmental Conditions, relating to the Baldivis Town Centre.

4.6 **Commercial Zone**

4.6.1 Objective

The objective of the Commercial Zone is to provide for the development of District, Neighbourhood and Local shopping facilities to cater for the present and future residents of the Local Government consistent with the Local Government's Local Commercial Strategy and supported by any other Plan or Policy that the Local Government from time to time may adopt as a guide for the future development within the zone.

4.6.2 Form of Development

- (a) In considering applications for development approval in the Commercial Zone, the Local Government shall ensure that that site planning, scale, built-form, elevations and landscaping of the development positively contribute to the streetscape, appearance and amenity of the locality.

4.6.3 Parking

Provision shall be made for the on-site parking of motor vehicles in all development in the Commercial Zone in accordance with the provisions of clause 4.15 and Table No.4.

4.6.4 Setbacks

In assessing applications for development approval, the Local Government shall take into account the following requirements when determining the setbacks for developments in the Commercial Zone:

- (a) where a development is proposed to be located on a lot having a common boundary with a Residential zoned lot or residential use class, the setbacks shall not be less than those prescribed in the R-Codes for the particular density code of the adjoining residential lot;
- (b) in all other cases, setbacks to be determined by the Local Government taking into account the principles outlined in clause 4.6.2 and the requirements of the Building Code of Australia.

4.6.5 Landscaping

- (a) Subject to (b) below, within any development in a Commercial Zone a minimum of ten percent (10%) of the total site area shall be provided as landscaping in the form approved by the Local Government. The area of the site required to be provided under this sub-clause shall not include areas which would normally be set aside for pedestrian movement.
- (b) Where the provision of ten percent (10%) of the total site area as landscaping is not practicable, the Local Government may consider an equivalent contribution towards streetscape works in the public streets adjoining the property, based on the principles outlined in clause 4.6.2. Streetscape works may incorporate elements such as kerbside parking, pedestrian footpaths, soft landscaping, street trees, lighting and street furniture.

4.6.6 Modification of Policy and/or Guidelines

- (a) The Local Government may modify the Local Commercial Strategy, provided that it is satisfied that such modification is in the interest of orderly and proper planning and will not detract from the amenity of the locality.
- (b) Modifications shall be advertised for public comment in accordance with the provisions of Clauses 4 and 5 of the deemed provisions, unless the proposed modification is minor.

4.6A Part of Lots 14 and 299 Kerosene Lane, Baldivis - Special Provisions

- (a) In this clause:

“Additional Use” means the additional use specified in Item 22 of Schedule No.2;

“Applicable Land” means that part of Lots 14 and 299 Kerosene Lane, Baldivis which is designated as within the Commercial Zone under the Structure Plan;

“Existing Improvements” means the buildings and improvements which are situated on the Applicable Land on the Rezoning Date;

“Rezoning Date” means the date when the Structure Plan is amended to designate the Applicable Land as within the Commercial Zone;

“Structure Plan” means the Structure Plan applying to the Applicable Land which was approved by the Local Government and endorsed by the Commission.

- (b) This clause 4.6A:

- (i) applies to the Applicable Land; and
- (ii) comes into effect on the Rezoning Date.

- (c) Notwithstanding any other provision of the Scheme, any change of use of the Applicable Land from the Additional Use to any other use, requires development approval.

- (d) Notwithstanding any other provision of the Scheme but subject to clause 4.6A(i), any development approval granted after the Rezoning Date, is not to take effect until:

- (i) the use of the Applicable Land for the purpose of the Additional Use ceases; and
- (ii) the Existing Improvements are:
 - (A) demolished and removed from the Applicable Land; or
 - (B) altered or redeveloped in accordance with a development approval granted after the adoption of an Integrated Development Guide Plan under clause 4.6A(i).

- (e) Clause 4.6A(d) does not apply to a development approval insofar as the development approval authorises the demolition of the Existing Improvements or the alteration or redevelopment of the Existing Improvements referred to in clause 4.6A(d)(ii)(B).

- (f) Prior to formulating any comments and recommendations on applications for the subdivision and development of the Applicable Land, the Local Government will require the applicant to prepare and submit an Integrated Development Guide Plan, which illustrates building envelopes, indicative building configurations, setbacks and vehicular access, indicative carparking layouts and any rights of way or access easements required, and any other information required by the Local Government.
- (g) Where a proposed Integrated Development Guide Plan will require the Local Commercial Strategy to be amended, the Commission's endorsement of the Plan will be necessary.
- (h) An Integrated Development Guide Plan prepared or received by the Local Government shall be considered by the Local Government for adoption and in making its decision the Local Government may:
 - (i) reject the Plan; or
 - (ii) adopt the Plan with or without modifications.
- (i) In considering an Integrated Development Guide Plan for adoption, the Local Government is to have due regard to such of the matters set out in Clause 67 of the deemed provisions as are, in the opinion of the Local Government, relevant.
- (j) An applicant aggrieved by the Local Government:
 - (i) refusing an Integrated Development Guide Plan;
 - (ii) approving an Integrated Development Guide Plan subject to conditions or requirements unacceptable to the applicant; or
 - (iii) failing to make a decision on an Integrated Development Guide Plan within 35 days of the date of submission of the Plan,
 shall have a right of appeal under Part 14 of the Act.
- (k) An applicant dissatisfied by a decision of the Local Government in respect of an Integrated Development Guide Plan may, within 14 days of the date of the Local Government's decision, request the Local Government in writing for a reconsideration of the Plan. In that case the operative date respectively for the purpose of the appeal arising under Clause 4.6A(j) shall be the refusal or approval upon the reconsideration of the Plan.

4.7 Special Commercial Zone

4.7.1 Objective

To provide for the development of Offices, Medical Centres, Veterinary Clinics, Veterinary Hospitals and the like in convenient locations within the Scheme Area. The Special Commercial Zone is to cater for the demand for office floorspace as generated by the needs of residents within the municipality, consistent with the Local Government's Local Commercial Strategy and supported by any other Plan or Policy that the Local Government from time to time may adopt as a guide for the future development within the Zone.

4.7.2 Form of Development

In considering applications for development approval in the Special Commercial Zone, the Local Government shall ensure that site planning, scale, built-form, elevations and landscaping of the development positively contribute to the streetscape, appearance and amenity of the locality.

4.7.3 Parking

Provision shall be made for the on-site parking of motor vehicles in all development in the Special Commercial Zone in accordance with the provisions of clause 4.15 and Table No.4.

4.7.4 Setbacks

In assessing applications for development approval, the Local Government shall take into account the following requirements when determining the setbacks for developments in the Special Commercial Zone:

- (a) where a development is proposed to be located on a lot having a common boundary with a Residential zoned lot or residential use class, the setbacks shall not be less than those prescribed in the R-Codes for the particular density code of the adjoining residential lot;
- (b) in all other cases, setbacks to be determined by the Local Government taking into account the principles outlined in clause 4.7.2 and the requirements of the Building Code of Australia.

4.7.5 Landscaping

- (a) Subject to (b) below, within any development in a Special Commercial Zone a minimum of ten percent (10%) of the total site area shall be provided as landscaping in the form approved by the Local Government. The area of the site required to be provided under this sub-clause shall not include areas which would normally be set aside for pedestrian movement.
- (b) Where the provision of ten percent (10%) of the total site area as landscaping is not practicable, the Local Government may consider an equivalent contribution towards streetscape works in the public streets adjoining the property, based on the principles outlined in clause 4.7.2. Streetscape works may incorporate elements such as kerbside parking, pedestrian footpaths, soft landscaping, street trees, lighting and street furniture.

4.8 **Service Commercial Zone**

4.8.1 Objective

To promote the establishment of showrooms/storerooms, service functions, offices, commercial recreation and bulk retail uses requiring larger floor areas with a high standard of building development, landscaping and working environment.

4.8.2 Form of Development

In considering applications for development approval in the Service Commercial Zone, the Local Government shall ensure that site planning, scale, built-form, elevations and landscaping of the development positively contribute to the streetscape, appearance and amenity of the locality.

4.8.3 Parking

Provision shall be made for the on-site parking of motor vehicles in all development in the Service Commercial Zone in accordance with the provisions of clause 4.15 and Table No.4.

4.8.4 Setbacks

The following setback requirements shall apply to all development in the Service Commercial Zone:

- (a) a minimum front setback of nine (9) metres shall apply;
- (b) where a lot has frontage to two or more streets, the prescribed front setback of nine (9) metres shall apply to the primary street and a minimum setback of three (3) metres shall apply to the secondary street or streets, unless otherwise determined by Local Government.

4.8.5 General Development Provisions

The following general development provisions shall apply to all developments in the Service Commercial Zone, unless otherwise specified in the East Rockingham Development Guidelines described in clause 4.10.6:

- (a) The facades of all buildings visible from the primary road or open space area shall be of masonry construction or any other material approved by the Local Government in respect of the ground floor level, provided that if concrete panels are used, such panels must have an exposed aggregate or textured finish. The second floor level, or its equivalent, may be constructed of other material in accordance with the Building Code of Australia and to the satisfaction of the Local Government;
- (b) No fence visible from a road or open space reserve shall be constructed of materials/colours which in the opinion of the Local Government are unsightly or detract from the amenity of the locality. Any industrial fencing (e.g. chain wire fencing) forward of the street building setback line shall be landscaped to the satisfaction of the Local Government;
- (c) No use of the area between the street alignment and building setback lines shall be permitted other than for landscaping or for pedestrian and vehicular circulation and parking, except that not more than 20% of the setback area may be used for trade display purposes approved by the Local Government, excluding the landscaping setback area.

4.8.6 Landscaping

Within any development in a Service Commercial Zone a minimum of ten percent (10%) of the total site area shall be provided as landscaping in the form approved by the Local Government. The ten percent landscaping provision shall comprise a minimum five (5) metre wide planting strip adjacent to the primary street boundary, and a minimum three (3) metre wide planting strip on the secondary street or streets, plus the street verge to be landscaped and maintained to the satisfaction of the Local Government. The area of the site required to be provided under this sub-clause shall not include areas which would normally be set aside for pedestrian movement.

4.8.7 East Rockingham Industrial Park

- (a) In assessing applications for development approval and formulating comments and recommendations on applications for the subdivision of the land comprising Part Crown Grant 1490 Patterson Road, Rockingham, otherwise known as the Challenger Business Park, the Local Government shall take into account the Local Development Plan (92/02/12), as signed by the Chief Executive Officer.
- (b) In considering applications for development approval within the Challenger Business Park, the Local Government shall ensure that general site planning, built form and landscaping have due regard to the East Rockingham Development Guidelines as outlined in clause 4.10.6 and consider the protection of the amenity of nearby residential areas.

4.9 **Port Kennedy Business Enterprise Zone**

4.9.1 Objective

To promote service commercial and office land uses within the area to service the demands of the locality and in recognition of the Local Government's regional responsibility to provide light industrial land within the region, encourage the development of light industrial land uses in an orderly and proper manner.

4.9.2 Form of Development

In considering applications for development approval in the Port Kennedy Business Enterprise Zone, the Local Government, in addition to any other aim or objective of the Scheme and to any other matter it is required or permitted to consider, shall have regard to the following:

- (a) promotion of a high standard of building development, landscaping and working environment;
- (b) protection of the amenities of adjacent residential areas;
- (c) management of drainage systems and land use to promote groundwater conservation; and
- (d) safe movement of vehicular and pedestrian traffic in the area.

4.9.3 Planning Control

4.9.3.1 In formulating comments and recommendations on applications for the subdivision of land in the Port Kennedy Business Enterprise Zone, the Local Government shall take into account the Structure Plan approved by the Western Australian Planning Commission.

4.9.3.2 Prior to the consideration of any subdivision or development on Lot 17 and Lot 4 Port Kennedy Drive, Port Kennedy, a Structure Plan shall be submitted for the approval of the Western Australian Planning Commission which addresses, inter alia, the protection of a representative sample of Becher Suite Wetlands, however, not exceeding 10% of the subdivisional area.

4.9.4 Land Use Control

4.9.4.1 Notwithstanding Table No.1 of the Scheme, the following specific provisions shall apply to any lot with frontage to Warnbro Sound Avenue, Port Kennedy Drive, Ennis Avenue or any adjacent parallel service road, as shown hatched on the Structure Plan approved by the Western Australian Planning Commission:

- (a) 'Fuel Depot', 'Industry: Rural', 'Landscape Supply Yard', 'Motor Vehicle Wrecking Premises' and 'Salvage Yard' shall be "X" uses within the above described portion of the Zone;
- (b) 'Motor Vehicle Repair Station' shall be an "D" use within the above described portion of the Zone;
- (c) In considering any application for development approval within this portion of the Zone, Local Government may:
 - (i) Only approve a use that is not considered to have a detrimental affect on the visual amenity of the locality as viewed from the perimeter roads and in this regard, may impose specific requirements relating to both landscaping and use of building materials to achieve this objective; and
 - (ii) Only consider uses which do not emit any light, noise, dust or odours considered detrimental to the existing or future amenity of landowners in the vicinity.

4.9.4.2 Notwithstanding Table No.1 of the Scheme, the following specific provisions shall apply to any lot within 50m of the northern boundary of the Zone, as defined by the broken black line on the Structure Plan approved by the Western Australian Planning Commission:

- (a) 'Fuel Depot', 'Industry: Light', 'Industry: Rural', 'Industry: Service', 'Landscape Supply Yard', 'Motor Vehicle Wrecking Premises', 'Public Utility', 'Salvage Yard', 'Service Station' and 'Transport Depot' shall be "X" uses within the above described portion of the Zone;
- (b) 'Motor Vehicle Repair Station' shall be an "D" use within the above described portion of the Zone;
- (c) Lots directly abutting the northern boundary of the Zone will be required to provide and maintain a vegetation buffer to the satisfaction of the Local Government;
- (d) Development on lots directly abutting the northern boundary shall be setback a distance no less than 1.0 times the maximum height of the proposed structure;
- (e) Residential dwellings within this portion of the Zone shall be located between the predominant use on the site and the northern boundary;
- (f) The Local Government may impose special conditions in relation to building material if deemed appropriate; and
- (g) No use will be permitted if it is deemed by the Local Government to have a detrimental affect on the existing or future amenity of the residential land to the north.

4.9.5 Parking

Provision shall be made for the on-site parking of motor vehicles in all development in the Port Kennedy Business Enterprise Zone in accordance with the provisions of clause 4.15 and Table No.4.

4.9.6 Setbacks

The following setback requirements shall apply to all development in the Port Kennedy Business Enterprise Zone:

- (a) a minimum front setback of nine (9) metres shall apply; and
- (b) where a lot has frontage to two or more streets, the prescribed front setback of nine (9) metres shall apply to the primary street and a minimum setback of three (3) metres shall apply to the secondary street or streets, unless otherwise determined by Local Government.

4.9.7 General Development Provisions

The following general development provisions shall apply to all developments in the Port Kennedy Business Enterprise Zone:

- (a) The facades of all buildings visible from the primary road or open space area shall be of masonry construction or any other material approved by the Local Government in respect of the ground floor level, provided that if concrete panels are used, such panels must have an exposed aggregate or textured finish. The second floor level, or its equivalent, may be constructed of other material in accordance with the Building Code of Australia and to the satisfaction of the Local Government;
- (b) No fence visible from a road or open space reserve shall be constructed of materials/colours which in the opinion of the Local Government are unsightly or detract from the amenity of the locality. Any industrial fencing (e.g. chain wire fencing) forward of the street building setback line shall be landscaped to the satisfaction of the Local Government; and
- (c) No use of the area between the street alignment and building setback lines shall be permitted other than for landscaping or for pedestrian and vehicular circulation and parking, except that not more than 20% of the setback area may be used for trade display purposes approved by the Local Government, excluding the landscaping setback area.

4.9.8 Landscaping

Within any development in the Port Kennedy Business Enterprise Zone a minimum of ten percent (10%) of the total site area shall be provided as landscaping in the form approved by the Local Government.

The ten percent landscaping provision shall comprise a minimum five (5) metre wide planting strip adjacent to the primary street boundary, and a minimum three (3) metre wide planting strip on the secondary street or streets, plus the street verge to be landscaped and maintained to the satisfaction of the Local Government.

The area of the site required to be provided under this sub-clause shall not include areas which would normally be set aside for pedestrian movement.

4.10 Industrial Zones

4.10.1 Objectives

The following objectives apply to industrial zoned land within the Scheme Area:

- (a) to provide for a range of industrial land uses by establishing guiding principles and policies that are environmentally and socially acceptable;
- (b) to encourage and facilitate the establishment of attractive and efficient industrial areas ensuring that acceptable levels of safety and high standards of amenity are provided through the application of appropriate land use, design and landscaping controls; and
- (c) to ensure that industrial areas are developed in a manner which has due regard to potential industries and their infrastructure needs, and that adjacent urban areas are not subjected to pollution and hazards.

4.10.2 Form of Development

In considering an application for development approval on industrial zoned land, the Local Government, in addition to any other aim or objective of the Scheme and to any other matter it is required or permitted to consider, shall have regard to the following:

- (a) promotion of a high standard of building development, landscaping and working environment;
- (b) protection of the amenity of adjacent residential and open space areas;
- (c) management of drainage systems and land uses to promote groundwater conservation; and
- (d) to ensure safe movement of vehicular and pedestrian traffic in the area.

4.10.3 Parking

Provision shall be made for the on-site parking of motor vehicles for all development on industrial zoned land in accordance with the provisions of clause 4.15 and Table No.4.

4.10.4 General Development Provisions

On all industrial zoned land within the Local Government, unless otherwise specified in the East Rockingham Industrial Zones Policy:

- (a) The facades of all buildings visible from the primary road or open space area shall be of masonry construction or any other material approved by the Local Government in respect of the ground floor level, provided that if concrete panels are used, such panels must have an exposed aggregate or textured finished. The second floor level or its equivalent may be constructed of any other material in accordance with the Building Code of Australia and to the satisfaction of Local Government.
- (b) No fence visible from a road or open space reserve shall be constructed of materials/colours which in the opinion of Local Government are unsightly or detract from the amenity of the locality, or be used for signage where the

approval of the Local Government has not been granted. Any industrial (eg. chain wire) fencing forward of the street building setback line shall be landscaped to the satisfaction of the Local Government.

- (c) No use of the area between the street alignment and the prescribed building setback line shall be permitted other than for landscaping, or for pedestrian and vehicular circulation and parking, except that not more than 20% of the setback area may be used for trade display purposes, to be approved at the discretion of the Local Government.

4.10.5 East Rockingham Industrial Zones Policy

The East Rockingham Industrial Zones Policy has been prepared to guide the orderly development of serviced industrial land within Rockingham and East Rockingham.

4.10.6 Setbacks and Landscaping for Industrial Zones

TABLE NO.2 - SETBACK REQUIREMENTS FOR INDUSTRIAL ZONES

Zone	Building Setback Requirements	
Special Industry Zone and General Industry Zone	Primary Street Frontage:	Minimum: 15 metres
	Secondary Street Frontage:	Minimum: 10 metres
	Side and Rear Setbacks:	In accordance with the Building Code of Australia
Light Industry Zone	Primary Street Frontage:	Minimum: 15 metres
	Secondary Street Frontage:	Minimum: 3 metres
	Side and Rear Setbacks:	In accordance with the Building Code of Australia

TABLE NO.3 - LANDSCAPING REQUIREMENTS FOR INDUSTRIAL ZONES

Zone	Building Setback Requirements	
Special Industry Zone and General Industry Zone	Primary Street Frontage:	Minimum: 10 metres, plus the street verge
	Secondary Street Frontage:	Minimum: 5 metres, plus the street verge
Light Industry Zone	Primary Street Frontage:	Minimum: 5 metres, plus the street verge
	Secondary Street Frontage:	Minimum: 3 metres, plus the street verge

Note - Notwithstanding the above, any development in proximity to a pipeline will need prior consultation with the pipeline operator to determine a suitable setback distance.

4.10.7 Local Development Plans

- 4.10.7.1 A proponent in the General Industry and Special Industry Zones may choose to prepare a Local Development Plan ("LDP") for works, to detail proposed development, which enable a holistic approach to site development:
- (a) A LDP shall include: site dimensions, all existing and proposed buildings, access ways, car parking and loading areas, ground levels, the location, use, height. Dimension, floor area and elevations of any proposed buildings and other works and proposed advertising signs and any other information the Local Government considers relevant;
 - (b) The LDP shall be submitted to the Local Government for approval, prior to any works being carried out on the site;
 - (c) In considering whether to grant approval to a LDP, the Local Government shall advertise the LDP for public inspection in accordance with the requirements of Clause 18 of the deemed provisions;
 - (d) Upon receipt of an approved LDP, development approval of the Local Government is not required for any development carried out in accordance with the approved LDP;
 - (e) All proposed development must be carried out in accordance with an approved LDP shall require development approval of the Local Government pursuant to Clause 60 of the deemed provisions;
 - (f) Once approved, an LDP is valid for a period of five years from the date of approval;
 - (g) Where an approved LDP exists for a site, industrial development shall be undertaken in accordance with the approved LDP;
 - (h) All minor works undertaken in Clause 61(7) (a) to (g) in Schedule A shall comply with the standards and requirements of Part 4 - General Development Requirements;
 - (i) Local Government may specify in a Local Planning Policy prepared and adopted in accordance with Part 2 Division 2 of the deemed provisions, additional types of works not requiring development approval under the Scheme. Such works may not include use or development which increases the off-site impact of industry, including risks, airborne emissions, odours, noise, vibration, or light spill or new use and development of a Use Class defined under Table No.1 – Zoning Table different to that approved for the site or uses requiring licensing; and
 - (j) Once an approved LDP has expired, it is no longer valid until revised by the proponent supported by the Local Government and approved by the Commission.
- 4.10.7.2 Notwithstanding Clause 4.10.7.1, a Local Development Plan will not be valid where it is the subject of the Strategic Environment Assessment being undertaken by EPA pursuant to Part IV of the Environmental Protection Act 1986 (EP Act) until the Minister for the

Environment has issued a 'Statement that a proposal may be implemented' pursuant to the EP Act.

4.11 Rural Zone

4.11.1 Objective

The objective of the Rural Zone is to preserve land for farming and foster semi-rural development which is sympathetic to the particular characteristics of the area in which it is located, having due regard to the objectives and principles outlined in the Rural Land Strategy and supported by any other Plan or Policy that the Local Government may adopt from time to time as a guide to future development within the Zone.

4.11.2 General Provisions

On all land zoned Rural in the Scheme Area, unless otherwise recommended in the Rural Land Strategy:

- (a) Setbacks: All development, including the clearing of land, shall be setback a minimum of 30 metres from the primary street and 10 metres from all other boundaries, other than for the purpose of providing a fire break or vehicular accessway.
- (b) Clearing of Vegetation: No native or remnant vegetation shall be removed or cleared unless approved by the Local Government, and other than for the purpose of a fire break, fire protection within a asset protection zone, dwelling, outbuilding, fence and vehicular access or where such vegetation is dead, diseased or dangerous.

Note: The extent of the 'asset protection zone' is defined in the publication 'Planning for Bush Fire Protection'. For slopes up to 10 degrees the asset protection zone has a width of 20 metres and within this area clearance of vegetation for the purposes of fire protection may be undertaken without the need for development approval.

- (c) Agricultural Pursuits: Agriculture – Intensive or rural pursuit/hobby farm, and the breeding and keeping of animals for commercial gain, shall not be permitted without the prior approval of the Local Government. The Local Government will only grant approval after being satisfied that the character and amenity of the site will not be adversely affected and the land is capable of supporting the activities when the land management practices to be implemented by the applicant will be considered.

The Local Government may, in granting approval, impose limits on stocking, having due regard to the Stocking Rate Guidelines provided by the Department of Agriculture and Food, and any other condition it sees fit to maintain the environmental quality, landscape character and amenity of the site and locality.

- (d) Rural Subdivision: The subdivision of rural land will only be supported by the Local Government where the subdivision does not result in an increase in lot density in the case of a boundary realignment. Such subdivision shall not impinge on the ability of adjacent lots to achieve further subdivision.
- (e) Peel Harvey Coastal Plain Catchment: In accordance with the provisions of clause 5.1, the Local Government shall be guided by the objectives and provisions of the policy statement contained in the Environmental Protection

Policy (Peel-Harvey Estuarine System) 1991 and the State Local Planning Policy No. 2.1 – Peel-Harvey Coastal Plain Catchment, in determining applications within the subject area.

- (f) Serpentine River And Peel Drains: The Local Government shall be guided by the recommendations of the Serpentine River Flood Study, administered by the Department of Water, in determining applications adjacent to the Serpentine River or the network of secondary Peel Drains.
- (g) Swan Coastal Plain Lakes: In accordance with the provisions of clause 5.2, the Local Government shall be guided by the objectives of the Policy Statements contained in the Environmental Protection (Swan Coastal Plain Lakes) Policy 1992, in determining applications within the subject area.

4.11.3 Precinct Planning

- (a) The Rural Land Strategy divides the Scheme area into Rural Planning Units which reflect varying development potential based on land capability, location and the committed nature of land. The Rural Planning Precincts are shown on Plan No.2.
- (b) The specific requirements and performance standards under each Planning Units, as set out in the Strategy, shall be considered by the Local Government in dealing with any application for development approval.

4.11.4 Planning Control

In assessing applications for rezoning, development approval and formulating comments and recommendations on applications for the subdivision of land, the Local Government shall take into account the objective for the particular Zone and the principles and policies as set out in the Rural Land Strategy.

4.11.5 Modification of Rural Land Strategy

- (a) The Local Government, following consultation with and having due regard to the comments and recommendations of the Commission, may modify the Rural Land Strategy, provided that it is satisfied that such modification is in the interest of orderly and proper planning and will not detract from the amenity of the locality.
- (b) Modifications to the Rural Land Strategy shall be advertised for public comment in accordance with the provisions of Clause 5 of the deemed provisions, unless in the opinion of the Local Government the proposed modification is minor.

4.12 Special Rural

4.12.1 Objectives

- (a) To identify areas within which co-ordinated subdivision can occur for the purposes of providing a rural lifestyle that is not associated with large scale, intensive rural activities, whilst also allowing for the effective management of the land to ensure the retention of the rural landscape and amenity and conserve and enhance the natural environment.
- (b) To ensure that all development within Special Rural zones is in accordance with the Provisions Relating to Specified Areas as set out in Schedule No.4 of the Scheme that has due regard to the objectives and principles outlined in the Rural Land Strategy and supported by any other Plan or Policy that the Local Government may adopt from time to time as a guide to future development within the Zone.

4.12.2 Application Procedure

Notwithstanding the provisions of Clauses 60 and 61 of the deemed provisions, the Local Government's prior development approval shall be required for any development or use of land within the Special Rural zone.

4.12.3 Planning Control

In assessing applications for development approval and formulating comments and recommendations on applications for the subdivision of land, the Local Government shall take into account the objectives of the Special Rural Zone, the principles and policies as set out in the Rural Land Strategy and the Provisions Relating to Specified Areas as identified on Plan No's 3 and 4 and set out in Schedule No.4.

4.12.4 Special Provisions

In addition to such other provisions of the Scheme as may affect it, any land which is included in a Special Rural Zone shall be subject to those provisions as may be specifically set out against it in Schedule No.4.

4.13 Special Residential Zone

4.13.1 Objective

- (a) 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.
- (b) To ensure that all development within Special Residential zones is in accordance with the Provisions Relating to Specified Areas as set out in Schedule No.5 of the Scheme that has due regard to the objectives and principles outlined in the Rural Land Strategy and supported by any other Plan or Policy that the Local Government and the Commission may adopt from time to time as a guide to future development within the Zone.

4.13.2 Application Procedure

Notwithstanding the provisions of Clauses 60 and 61 of the deemed provisions, the Local Government's development approval shall be required for any development or use of land within the Special Residential Zone.

4.13.3 Planning Control

In assessing applications for development approval and formulating comments and recommendations on applications for the subdivision of land, the Local Government shall take into account the objectives of the Special Residential Zone, the principles and policies as set out in the Rural Land Strategy and the Provisions Relating to Specified Areas as identified on Plan No's 5, 6 and 7 and set out in Schedule No.5.

4.13.4 Special Provisions

In addition to such other provisions of the Scheme as may affect it, any land which is included in a Special Residential Zone shall be subject to those provisions as may be specifically set out against it in Schedule No.5.

4.14 Community Purposes Zone

4.14.1 Objective

The objective of the Community Purposes Zone is to provide for the development of religious, educational, health and social care facilities, accommodation for the aged and infirm, and other services by organisations involved in activities for community benefit, in convenient locations within the Scheme Area.

4.14.2 Form of Development

In considering applications for development approval in the Community Purposes Zone, the Local Government shall ensure that site planning, scale, built-form, elevations and landscaping of the development positively contribute to the streetscape, appearance and amenity of the locality.

4.14.3 Parking

Provision shall be made for the on-site parking of motor vehicles in all development in the Community Purposes Zone in accordance with the provisions of clause 4.15 and Table No.4.

4.14.4 Planning Control

(a) Setbacks: In determining applications for development approval, the Local Government shall take into account the following requirements when determining the setbacks for developments in the Community Purposes Zone:

- (i) where a development is proposed to be located on a lot having a common boundary with a Residential zoned lot or residential use class, the setbacks shall not be less than those prescribed in the R-Codes for the particular density code of the adjoining residential lot;
- (ii) in all other cases, setbacks to be determined by the Local Government taking into account the principles outlined in clause 4.14.2 and the requirements of the Building Code of Australia.

(b) Landscaping

Within any development in a Community Purposes Zone the Local Government may require a contribution of up to ten percent (10%) of the total

site area to be provided as landscaping in the form approved by the Local Government. The area of the site required to be provided under this clause should not include areas which would normally be set aside for pedestrian movement.

4.15 Car parking

4.15.1 Parking Requirements

4.15.1.1 Where land is proposed to be developed in the Primary Centre City Centre Zone, the Primary Centre Urban Village Zone, the Primary Centre City Living Zone, the Primary Centre Campus Zone, the Primary Centre Urban Living Zone or the District Town Centre Zone for a purpose specified in Table No.5, the minimum number of car parking bays required, and the maximum number of car parking bays allowable, for the proposed development is to be determined in accordance with Table No.5.

4.15.1.2 Where land is proposed to be developed in the Primary Centre Waterfront Village Zone, for a purpose specified in Table No.6, the minimum number of car parking bays required for the development is to be determined in accordance with Table No.6.

4.15.1.3 Where land is proposed to be developed in any zones other than the Primary Centre City Centre Zone, the Primary Centre Waterfront Village Zone, the Primary Centre Urban Village Zone, the Primary Centre Northern Waterfront Zone, the Primary Centre Campus Zone, the Primary Centre Urban Living Zone or the District Town Centre Zone for a purpose specified in Table No.6, the minimum number of car parking bays required for the development is to be determined in accordance with Table No.6.

4.15.1.4 Where land is proposed to be developed:

(a) In any zone other than the Primary Centre City Centre Zone, the Primary Centre Waterfront Village Zone, the Primary Centre Urban Village Zone, the Primary Centre City Living Zone, the Primary Centre Campus Zone, the Primary Centre Urban Living Zone or the District Town Centre Zone for a purpose which is not specified in Table No.6;

(b) in the Primary Centre City Centre Zone, Primary Centre Urban Village Zone, the Primary Centre City Living Zone, the Primary Centre Campus Zone, the Primary Centre Urban Living Zone or the District Town Centre Zone for a purpose which is not specified in Table No.5; or

(c) in the Primary Centre Waterfront Village Zone for a purpose which is not specified in Table No.6,

the Local Government is to determine the minimum number of car parking bays required for the development having regard to:

(i) the nature of the proposed development;

- (ii) the number of employees likely to be employed on the site;
- (iii) the anticipated demand for parking; and
- (iv) the orderly and proper planning of the locality.

4.15.2 Provision of Parking in the Primary Centre Waterfront Village Zone

4.15.2.1 In the Primary Centre Waterfront Village Zone, the minimum number of car parking bays required under clause 4.15.1 is to be provided as follows:

- (a) for development other than:
 - (i) development for any of the purposes dealt with by the R-Codes; or
 - (ii) Short Stay Accommodation

not less than 60% of the minimum number must be provided in the form of cash-in-lieu payment to the Local Government;
- (b) for:
 - (i) development for any of the purposes dealt with by the R-Codes, and notwithstanding provision of those codes; or
 - (ii) Short Stay Accommodation

the visitor allocation as per the R-Codes must be provided in the form of cash-in-lieu payment to the Local Government; and
- (c) the number of parking spaces provided on-site shall be reduced by the number of parking spaces provided through the cash in lieu contribution.

4.15.2.2 Paragraphs (a), (b) and (c) of clause 4.15.6.2 are to apply to the cash-in-lieu payment referred to in this clause.

4.15.3 Parking to be On-Site

Subject to the provisions of clauses 4.15.4 and 4.15.6, parking bays required to be provided under the Scheme in relation to any use or development shall be provided on the site of such use or development.

4.15.4 Reciprocal Parking

Where a development comprises separate uses that operate at different times to one another, the Local Government upon being satisfied that such separate operating times will be permanent, may determine the parking requirements on a reciprocal-use basis, providing conditions specifying separate operating times are imposed on the development approval and these conditions are complied with at all times.

4.15.5 Parking for Combined Uses

Where a development contains a variety of uses, parking shall be calculated on an individual-use basis in accordance with the requirements specified in clause 4.15.1 and, if applicable, the R-Codes.

4.15.6 Cash-In-Lieu of Parking Provision

- 4.15.6.1
- (1) This clause applies to development in all zones other than the Primary Centre Waterfront Village Zone.
 - (2) The Local Government may agree to accept a cash payment in lieu of the provision of carparking, but subject to the following requirements:
 - (a) the cash-in-lieu payment shall not be less than the estimated cost to the owner or developer of providing and constructing the parking bays required by this Scheme, plus the value, as estimated by a sworn valuer approved by the Local Government, of that area of his land which would have been occupied by the parking spaces and manoeuvring area.
 - (b) payments made under this clause shall be paid into a parking fund to be used for the provision of public carparking facilities. The Local Government may use this fund to provide public parking facilities anywhere within reasonable proximity to the subject land in which a cash-in-lieu arrangement is made; and
 - (c) all costs incurred in obtaining the valuation shall be borne by the developer proposing the cash-in-lieu contribution.
- 4.15.6.2
- (1) This clause applies to development in the Primary Centre Waterfront Village Zone.
 - (2) In this clause:
 - (a) “Area A” means the land shown as “Area A” on Plan No.8; and
 - (b) “Area B” means the land shown as “Area B” on Plan No.8.
 - (3) In the case of development on land within Area A – the cash-in-lieu payment shall not be less than the estimated cost of providing and constructing the parking bays (and all necessary vehicular and pedestrian access areas and manoeuvring areas) in the form of a multi-decked structure, where the cost of providing and constructing a multi-decked structure is the sum of the estimated cost of constructing a multi-decked structure (including full civil works, lighting, signage, lifts and lift shafts, line marking, decorative cladding/screening, landscaping, security and vehicle monitoring equipment as estimated by a qualified Quantity Surveyor, approved by the Council, acting in accordance with the principles and costings

set out in the then current edition of Rawlinsons Australian Construction Handbook, insofar as those principles and costings apply to those items.

- (4) In the case of development on land within Area B – the cash-in-lieu payment shall not be less than the estimated cost of the owner or developer of providing and constructing the parking bays in the form of on-street parking bays (including full civil works, lighting, signage, line marking and landscaping), for that area of land which would have been occupied by the parking spaces and manoeuvring area as estimated by a qualified civil engineer approved by the Local Government.
- (5) Payments made under subclause (3) shall be paid into a parking fund to be used for the provision of public car parking facilities within Area A of the Primary Centre Waterfront Village Zone.
- (6) Payments made under subclause (4) shall be paid into a parking fund to be used for the provision of public car parking facilities within Area B of the Primary Centre Waterfront Village Zone.
- (7) All costs incurred in obtaining the estimate shall be borne by the developer proposing the development.

4.15.7 Additional Development or Change of Use

Where an appropriate parking area has been provided to a level commensurate with the approved development and an application for development approval is lodged with the Local Government to expand the development or change a use within the development, the result of which generates the need for additional parking, the Local Government shall either:

- (a) require the provision of additional parking on-site; or
- (b) accept a cash-in-lieu of parking payment in accordance with clause 4.15.6 in the event that additional parking cannot be provided on-site.

4.15.8 Construction/Design Standards

Unless otherwise permitted by the Local Government, vehicle parking, manoeuvring and circulation areas, including crossovers, shall be designed, constructed, sealed, drained, kerbed, marked and landscaped to the specifications and satisfaction of the Local Government.

**TABLE NO.4
CAR PARKING TABLE ***

USE CLASS	MINIMUM CARPARKING REQUIREMENT
Bulky Goods Showroom	1 bay per 50m ² NLA
Child Care Premises	1 bay per employee and 1 bay per eight children
Cinema/Theatre	1 bay per 4 seats
Club Premises	1 bay for every 4 persons the building is designed to accommodate
Consulting Rooms	5 bays per consultant
Convenience Store	6 bays per 100m ² NLA
Fast Food Outlet	1 bay per 11m ² NLA (including outdoor eating areas)
Garden Centre	1 bay per 50m ² indoor display and sales NLA and 1 bay per 200m ² outdoor display area
Health Studio	1 bay per 15m ² NLA available to the public, including swimming pools
Holiday Accommodation	1 bay per unit, plus 1 bay per employee
Home Store	6 bays per 100m ² NLA
Hospital	1 bay per 3 beds
Hotel	1 bay per bedroom, plus 1 bay for every 5m ² of bar and public areas, including lounges, beer gardens and restaurant/café
Industry, Bulky Goods Showroom, Warehouse/Storage	1 bay per 50m ² NLA for factory units and bulky goods showrooms, plus 1 bay per 100m ² NLA for warehouses or 1 bay per employee, whichever is the greater
Lunch Bar	6 bays per 100m ² NLA
Market	3 bays per stall or 1 bay per 10m ² of floorspace (whichever is the greater)
Medical Centre	5 bays per practitioner
Motor Vehicle Repair	1 bay for every service bay, plus 1 bay per employee
Night Club	1 bay for every 5m ² of bar and public areas, including lounges, beer gardens and restaurants
Office	1 bay per 20m ² NLA
Open Air Display	1 bay per 200 m ² display area
Place of Worship	1 bay per 4 persons accommodated
Reception Centre	1 bay for every 4 persons the building is designed to accommodate
Recreation - Private	1 bay for every 4 persons the building is designed to accommodate
Residential	In accordance with the R-Codes
Restaurant/Café	1 bay for every 4 persons the building is designed to accommodate
Service Station	1 bay for every service bay, plus 1 bay per employee and 6 bays per 100m ² NLA of retail floorspace
Shop	6 bays per 100m ² NLA
Tavern	1 bay for every 5m ² of bar and public areas, including lounges, beer gardens and restaurants
Veterinary Centre	5 bays per consultant
Warehouse/Storage	1 bay per 100m ² NLA

* Refer to Table No.5 for recommended carparking provision within the Primary Centre City Centre and District Town Centre zones.

TABLE NO.5

MINIMUM REQUIREMENTS AND MAXIMUM ALLOWANCES – PRIMARY CENTRE CITY CENTRE ZONE, PRIMARY CENTRE URBAN VILLAGE ZONE, PRIMARY CENTRE CITY LIVING ZONE, PRIMARY CENTRE CAMPUS ZONE, PRIMARY CENTRE URBAN LIVING ZONE & DISTRICT TOWN CENTRE ZONE*

USE	MINIMUM PARKING STANDARD (and MAXIMUM PARKING ALLOWABLE – in brackets)
Single house, grouped dwellings and multiple dwellings	The provisions of the R-Codes are taken to apply
Cinema, Theatre	1 bay per 8 (6) seats
Consulting Rooms	3 (4) bays per consultant
Fast Food Outlet	1 bay per 14 (11) m ² NLA
Health Studio	1 bay per 20 (15) m ² NLA available to the public, including swimming pools
Office	1 bay per 60 (40) m ² NLA
Recreation - Private, Restaurant/Café, Reception Centre	1 bay for every 8 (6) persons the building is designed to accommodate
Shop	1 bay per 22 (17) m ² NLA
Bulky Goods Showroom, Warehouse/Storage	1 bay per 80 (60) m ² NLA
Hotel, Motel, Tavern	1 bay per bedroom plus 1 bay for every 5 (4) m ² of bar and public areas including lounges, beer gardens and restaurant/café
Child Care Premises	1 bay per employee and 1 bay per eight children
Public Assembly, Place of Worship	1 bay per 8 (6) seats
Holiday Accommodation	The provisions of the R-Codes with respect to multiple dwellings are taken to apply

*Subject to the provisions and qualifications detailed under Transport Policy 6.5.6 – Parking, as contained within the Development Policy Plan.

TABLE NO.6**CAR PARKING STANDARDS WITHIN THE PRIMARY CENTRE WATERFRONT VILLAGE ZONE**

USE	MINIMUM PARKING STANDARD
Residential	As per R-Codes
Cinema, Theatre	1 bay per 8 seats
Consulting Rooms	3 bays per consultant
Fast Food Outlet	1 bay per 14 m ² NLA
Health Studio	1 bay per 20m ² NLA available to the public, including swimming pools
Office	1 bay per 40 m ² NLA
Recreation - Private, Restaurant/Café, Reception Centre	1 bay for every 8 persons the building is designed to accommodate
Shop/Retail	1 bay per 22 m ² NLA
Bulky Goods Showroom, Warehouse/Storage	1 bay per 80 m ² NLA
Hotel, Tavern	1 bay per bedroom plus 1 bay for every 6.2 m ² of bar and public areas including lounges, beer gardens and restaurants
Place of Worship, Public Assembly	1 bay per 8 seats
Holiday Accommodation	As per the Residential Allocation

4.16 Home Occupations and Home Businesses

4.16.1 Home Occupations

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 20m²; and
- (d) does not involve the display on the premises of a sign with an area exceeding 0.2m²; 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;
- (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 requires in the zone in which the dwelling is located.

4.16.2 Home Businesses

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 50m²; 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.

4.17 Commercial Vehicles

- 4.17.1 Parking of a commercial vehicle in any zone shall not be permitted except in accordance with the provisions set out in the following paragraphs of this clause. The provisions of clause 4.17 do not apply when the commercial vehicle parking is in association with or incidental to a commercial, industrial or rural land use that has been approved by the Local Government or a use that is otherwise lawfully being undertaken on the land.
- 4.17.2 Despite any other provision of this Scheme, no commercial vehicle is permitted to remain on privately owned land within the Residential Zone, Development Zone, Special Residential Zone, Special Rural Zone, Rural Zone, Port Kennedy Business Enterprise Zone, Light Industry Zone, General Industry Zone, Special Commercial Zone and Service Commercial Zone for a period longer than is necessary for loading or unloading unless the local government has issued a development approval permitting the parking of such a vehicle.
- 4.17.3 A commercial vehicle may be permitted to be parked, subject to obtaining development approval, within the Residential Zone, Special Residential Zone, Development Zone, Rural Zone or Special Rural Zone, provided that:
 - (a) The commercial vehicle is parked on a lot containing only a Single House;
 - (b) The commercial vehicle forms an essential part of the occupation of an occupant of the dwelling;
 - (c) No commercial vehicle repair;
 - (d) In the opinion of the local government, the commercial vehicle is not likely to adversely affect the amenity of the surrounding land;
 - (e) Notwithstanding clause 77 of the deemed provisions, the Local Government has the ability to withdraw development approval for a commercial vehicle, without the prior application from the owner of land in respect of which development approval has been granted, if the commercial vehicle is not being used in accordance with any of the requirements in clause 4.17.3.
- 4.17.4 An approval granted under clause 68 of the deemed provisions, pursuant to clause 4.17.3:
 - (a) is granted to the person to whom it is issued;
 - (b) is not capable of being transferred or assigned to any other person; and
 - (c) does not apply to the land in respect of which it is granted.
- 4.17.5 In assessing applications for development approval, the Local Government shall take into account:
 - (a) the objectives of the particular zone;

- (b) any Policy pertaining to that zone which Local Government may from time to time adopt;
- (c) on-site parking location;
- (d) potential impacts on neighbouring residents in terms of noise, emissions, visual appearance or any other nuisance;
- (e) frequency and times of arrival/departure, and parking duration;
- (f) the use of the vehicle and whether such vehicle is to be used for business purposes operating out of the premises on a call-out basis.

4.18 Amenity

- 4.18.1 No land, building, vehicle, machine, tool or electrical appliance shall be used in such a manner as to permit the escape therefrom of smoke, dust, fumes, odour, noise, vibration, illumination or waste products in such quantity or extent or in such a manner as to create or be a nuisance to any inhabitant of the neighbourhood of such land or to traffic or persons using roads in the vicinity.
- 4.18.2 No property shall be maintained or finished so that in the opinion of the Local Government its external appearance would disfigure the locality or tend to blight the appearance of neighbouring properties. Further, all land and buildings shall be so used and maintained as to preserve the amenity of the neighbourhood in which they are situated.

4.19 Restrictive Covenants

- 4.19.1 Subject to the provisions of clause 4.19.2, a restrictive covenant affecting any land in the Scheme Area by which, or the effect of which, is that the number of residential units that may be constructed on the land is limited or restricted to a number less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the R-Codes which apply under the Scheme.
- 4.19.2 Where clause 4.19.1 operates to extinguish or vary a restrictive covenant the Local Government is not to grant development approval to the development of the land which would, but for the operation of clause 4.19.1, 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 64 of the deemed provisions.

4.20 Discretion to Modify Development Standards

- 4.20.1 Except for development in respect of which the R-Codes apply, if a development is the subject of an application for development approval and does not comply with a standard or requirement prescribed under the Scheme, the Local Government may, notwithstanding the non-compliance, approve the application unconditionally or subject to such conditions as the Local Government thinks fit.
- 4.20.1A For Mixed-Use Development, in respect of which a default R-AC3 density coding otherwise applies under deemed-to-comply provision 6.1.1 C1 of the R-Codes, if a development is the subject of an application for development approval and does not comply with the site area requirements applicable to R-AC3, the Local Government may, notwithstanding the non-compliance, approve the application provided it accords with the performance criteria set out in a Local Planning Policy adopted under the provisions of Part 2 Division 2 of the deemed provisions.

- 4.20.2 In considering an application for development approval under this clause, where, in the opinion of the Local Government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the Local Government is to:
- (a) consult the affected parties by following one or more of the provisions for advertising uses under Clause 64 of the deemed provisions;
 - (b) have regard to any expressed views prior to making its determination to grant the variation.
- 4.20.3 The power conferred by this clause may only be exercised if Local Government is satisfied that:
- (a) approval of the proposed development would be appropriate having regard to the criteria set out in Clause 67 of the deemed provisions;
 - (b) approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenity of the locality;
 - (c) the non-compliance will not have any adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality; and
 - (d) the spirit and purpose of the requirements or standards will not be unreasonably departed from.

4.21 Environmental Conditions

- 4.21.1 In accordance with section 86 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 and 48G of the Environmental Protection Act, are incorporated into the Scheme by:
- (a) Clauses 4.21.1 to 4.21.3 inclusive;
 - (b) Schedule No.7 of the Scheme;
 - (c) Appropriate modifications to the Scheme Maps.
- 4.21.2 Where appropriate, the environmental conditions are indicated on the Scheme Map by the symbol EC to indicate that environmental conditions apply to the land.
- 4.21.3 The Local Government shall maintain a register of all the Statements published under sections 48F and 48G of the Environmental Protection Act referred to in sub-clause 4.21.1 which shall be made available for public inspection at the offices of the Local Government.

4.22 Licensed Premises Applications

4.22.1 Unless Local Government waives any particular requirement, every application for a Premises to be licensed under the *Liquor Control Act 1988* shall be accompanied by the following:

- (a) A full set of the liquor licensing application papers;
- (b) A full set of the floor, site and elevation plans of the premises;
- (c) Full details as to what conditions are sought to be imposed on the license;
- (d) Details on how the proposed business to be licensed is to be managed;
- (e) Any other plan or information that the Local Government may reasonably require to enable the application to be determined.

4.22.2 In determining any application for a Licensed Premises, Local Government shall take into account the General and Specific Objectives of the Scheme, Clause 67 of the deemed provisions of the Scheme and have regard to any relevant Policy of the Local Government.

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 local planning policy or structure plan ~~a structure plan~~ requires a local development plan to be prepared for the area; or
- (c) another provision of this Scheme requires a local development plan to be prepared for the area; or
- ~~(e) — 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 structure 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 application 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 for any public authority or utility service that the local government considers appropriate.
- (2) The local government —
- (a) must advertise the proposed local development plan by publishing in accordance with clause 87 —
 - (i) the proposed local development plan; and
 - (ii) a notice of the proposed local development plan; and

- (iii) any accompanying material in relation to the proposed local development plan that the local government considers should be published; and
- (b) may also advertise the proposed local development plan by doing either or both of the following —
 - (i) giving notice of the proposed local development plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the plan;
 - (ii) erecting a sign or signs in a conspicuous place on the land the subject of the proposed local development plan giving notice of the proposed local development plan.

~~(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) A notice published or given, or on a sign erected, under subclause (2) in relation to a proposed local development plan must specify —

- (a) the manner and form in which submissions may be made; and
- (b) the period for making submissions and the last day of that period.

(5) The period for making submissions specified in a notice under subclause (4)(b) must not be less than the period of 14 days after the day on which the notice of the proposed local development plan is first published under subclause (2)(a)(ii).

~~(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 office 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\(2\)](#) ~~clause 67~~ of 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.

(1A) The local government must not approve a local development plan under subclause (1) if —

- (a) the local development plan amends or replaces a deemed-to-comply provision of the R-Codes; and
- (b) under the R-Codes, the Commission's approval is required for the local development plan; and
- (c) the Commission has not approved the local development 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 accordance with clause 50\(5\)](#) ~~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 approve 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

- (1) If the local government approves a local development plan the local government must publish the local development plan in accordance with clause 87.
- (2) Subclause (1) is an ongoing publication requirement for the purposes of clause 87(5)(a).

~~**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 19 October 2015 is taken to have been approved on that day. ~~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 5 - SPECIAL CONTROLS

5.1 The Peel-Harvey Coastal Plain Catchment

- 5.1.1 The State Planning Policy No.2.1 – The Peel-Harvey Coastal Plain Catchment was published in the Government Gazette of the 21st February 1992 to ensure that existing and proposed land uses within the catchment to the Peel-Harvey Estuarine System are controlled so as to avoid and minimise environmental damage. A portion of the catchment is contained within the Scheme area.
- 5.1.2 The Local Government shall be guided by the objectives and policy statements contained in the State Planning Policy No.2.1, together with the Environmental Protection (Peel-Harvey Estuarine System) Policy of the Environmental Protection Authority published in March 1992, copies of which shall be kept and made available for public inspection at the offices of the Local Government.
- 5.1.3 For the purposes of the definition of development under the Act, clearing of land and the commencement of agriculture – intensive on any land shall be deemed to be development of land and a material change of use thereby requiring the approval of the Local Government.
- 5.1.4 In considering an application to develop land for agriculture – intensive within the Peel-Harvey Coastal Plain Catchment, the Local Government shall:
- (a) take account of soil types, slope, groundwater flows, surface water drainage and proximity to the Peel-Harvey Estuary;
 - (b) take account of the objectives of the State Planning Policy No.2.1, as amended, with respect to the potential impact of the proposal on the environment and water quality; and
 - (c) consult with Department of Agriculture and Food and the Department of Water and Environmental Regulation and take account of any advice in making its determination, or defer its decision pending formal assessment by the Environmental Protection Authority under Part IV of the Environmental Protection Act 1986.

5.2 The Swan Coastal Plain Lakes Policy

- 5.2.1 The Environmental Protection (Swan Coastal Plain Lakes) Policy 1992 was published in the Government Gazette of 18 December 1992, for the purpose of protecting the environmental values of lakes on the Swan Coastal Plain. A number of those lakes are located within the Scheme Area.
- 5.2.2 The Local Government shall be guided by the objectives and policy statements contained in the Environmental Protection (Swan Coastal Plain Lakes) Policy 1992, copies of which shall be kept and made available for public inspection at the offices of the Local Government.

5.3 Control of Advertisements

5.3.1 Power to Control Advertisements

- (a) For the purpose of this Scheme, 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 Local Government development approval is required in addition to any licence pursuant to the Local Government's Signs, Hoardings and Bill Posting Local-Laws.
- (b) Applications for the Local Government's development approval pursuant to this Part shall be submitted in accordance with the provisions of Clauses 62 and 63 of the deemed provisions and shall be accompanied by a completed Additional Information for development approval for Advertisements as set out in Clause 86(2) of the deemed provisions giving details of the advertisement(s) to be erected, placed or displayed on the land.
- (c) 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.

5.3.2 Existing Advertisements

An existing advertisement is one which:

- (a) was lawfully erected, placed or displayed prior to the Gazettal Date; or
- (b) may be erected, placed or displayed pursuant to a licence or other approval granted by the Local Government prior to the Gazettal Date,

and an existing advertisement may, except as otherwise provided, continue to be displayed or to be erected and displayed in accordance with the licence or approval as appropriate.

5.3.3 Consideration of Applications

Without limiting the generality of the matters which may be taken into account when making a decision upon an application for development approval to erect, place or display an advertisement, the Local Government shall examine each such application in the light of the objectives of the Scheme 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.

5.3.4 Exemptions from the Requirement to Obtain Development approval

Subject to the provisions of the Main Roads (Control of Signs) Regulations 1983 and notwithstanding the provisions of clause 5.3.1 (a), the Local Government's prior development approval is not required in respect of an exempted advertisement listed in Schedule No.6. The exemptions listed in Schedule No.6 do not apply to land, buildings, objects, structures and places included on the Heritage List or within a Heritage Area established or designated under clause 9 of the deemed provisions.

5.3.5 Scheme to Prevail

Where any provision of this Clause is found to be at variance with the provisions of any Local Law with respect to signs, the provisions of the Scheme shall prevail.

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 Act 2018* section 7(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 area 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.~~

(2) A heritage list established under subclause (1) must set out a description of each place and the reason for its entry on the heritage list.

(2A) The local government must ensure that an up-to-date copy of the heritage list is published in accordance with clause 87.

(2B) Subclause (2A) is an ongoing publication requirement for the purposes of clause 87(5)(a).

(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 a period specified in the notice; and
~~21 days of the day on which the notice is serves 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 out without modification, or that the place be removed from the heritage list.

- (3A) The period for making submissions specified in a notice under subclause (3)(b) must not be less than the period of 21 days after the day on which the notice is given under subclause (3)(a).

- (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 modifications 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) Before designating an area as a heritage area the local government must —

- (a) give each owner of land affected by the proposed designation —

(i) notice of the proposed designation; and

(ii) a copy of the proposed local planning policy for the heritage area or details of how the proposed local planning policy is made available to the public under clause 4(1)(a); and

- (b) advertise the proposed designation by —

(i) publishing in accordance with clause 87 a notice of the proposed designation; 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

- (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) details of how the proposed local planning policy for the heritage area is made available to the public under clause 4(1)(a); and

(c) the manner and form in which submissions may be made; and

(d) the period for making submissions and the last day of that period.

- (5) The period for making submissions specified in the notice under subclause (4)(d) must not be less than the period of 21 days after the day on which the notice is first published under subclause (3)(b)(i).

- ~~(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 the 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 without modification; or
 - (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 Act 2018 Part 7](#) ~~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 State Register of Heritage Places under the *Heritage Act 2018* section 42 or included on the heritage list; or ~~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 under clause 64(4); and ~~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.

13A. Heritage list and heritage areas under former Scheme

(1) This clause applies if —

(a) this Scheme comes into operation on or after the day on which the *Planning Regulations Amendment Regulations 2020* Part 2 Division 2 comes into operation; and

(b) immediately before this Scheme came into operation, another local planning scheme (the **former Scheme**) applied to the Scheme area.

(2) On and after the day on which this Scheme comes into operation —

(a) the heritage list established under the former Scheme continues under this Scheme and is taken to be the heritage list established under clause 8; and

(b) any heritage area that was designated under the former Scheme immediately before this Scheme comes into operation continues under this Scheme and is taken to be a heritage area designated under clause 9; and

(c) any local planning policy of a kind referred to in clause 9(2) in effect under the former Scheme immediately before this Scheme comes into operation continues under this Scheme and is taken to be a local planning policy in effect under Part 2 Division 2.

(3) This clause does not prevent the amendment, modification or revocation under this Scheme of the heritage list or any designation of a heritage area or local planning policy.

5.4 Development Contributions - Anstey Park

5.4.1 Interpretation

In clause 5.4, unless the context otherwise requires:

‘Cost Contribution’ has the meaning given to it in the applicable Development Contribution Plan;

‘Infrastructure’ has the meaning given to it in the applicable Development Contribution Plan; and

‘Owner’ means an owner of land that is located within a Development Contribution Area.

5.4.2 Operation

(a) This clause 5.4 applies only to the land defined as ‘Development Contribution Area No.1’ in Schedule No.9.

(b) Development Contribution Area No.1 is shown on the Scheme Map as DCA with the number 1 included in Schedule No.9.

(c) In respect of Development Contribution Area No.1 shown on the Scheme Map, the provisions applying to the Development Contribution Area apply in

addition to the provisions applying to any underlying zone or reserve and general provisions of the Scheme

5.4.3 Purpose

- (a) To identify areas requiring Cost Contributions that relate to subdivision and development.
- (b) To provide for the equitable sharing of the costs of Infrastructure and any other costs specified in the Development Contribution Plan between Owners.
- (c) To coordinate the timely provision of Infrastructure.

5.4.4 Development Contribution Plan Pre-requisite to Subdivision and Development

- 5.4.4.1 Where a Development Contribution Area is prescribed in the Scheme, all Owners within that Development Contribution Area are required to make a Cost Contribution in accordance with the applicable Development Contribution Plan contained in Schedule No.9 and the provisions of clause 5.4.
- 5.4.4.2 The Development Contribution Plan for any Development Contribution Area does not have effect until it has been incorporated in Schedule No.9 as part of the Scheme.
- 5.4.4.3 Subject to clause 5.4.4.5, the Local Government is not to support subdivision or approve development in a Development Contribution Area until a Development Contribution Plan is in effect and the Owner who has applied for subdivision or development approval has made arrangements in accordance with clause 5.4.7.1 for the payment of the Owner's Cost Contribution.
- 5.4.4.4 Clause 5.4.4.3 does not apply to the development of a single house or outbuildings associated with a single house on a lot which has not been subdivided since the coming into operation of clause 5.4.
- 5.4.4.5 Where a Development Contribution Plan is necessary but is not in effect, the Local Government may support subdivision or approve development where the Owner has made other arrangements satisfactory to the Local Government with respect to the Owner's contribution towards the provision of Infrastructure in the Development Contribution Area.

5.4.5 Content and Principles of Development Contribution Plans

- 5.4.5.1 The Development Contribution Plan is to specify:
 - (a) the Development Contribution Area to which the Development Contribution Plan applies;
 - (b) the Infrastructure and any other things to be funded through the Development Contribution Plan; and
 - (c) the method of determining the Cost Contribution of each Owner.

- 5.4.5.2 (a) A Development Contribution Plan is to specify the period during which it is to operate, but in any event, is not to operate for more than 5 years.
- (b) The period during which a Development Contribution Plan is to operate may be extended and the Development Contribution Plan may be amended accordingly.
- 5.4.5.3 For the purposes of calculating the Owner's Cost Contribution both the area of an Owner's land and the total area of land in a Development Contribution Area, the area of land provided or required in that Development Contribution Area for:
- (a) roads designated under the Metropolitan Region Scheme as Primary Regional Roads and Other Regional Roads;
- (b) public open space;
- (c) government primary and secondary schools; and
- (d) such other land as is set out in the Development Contribution Plan,
- is to be excluded.
- 5.4.5.4 (a) Where a Development Contribution Plan contains estimated costs, such estimated costs are to be reviewed at least annually by the Local Government in accordance with the best and latest information available to the Local Government until the expenditure on the relevant item has occurred.
- (b) Where requested in writing by an Owner, the Local Government is to have such estimated costs independently certified by an appropriate qualified person.
- 5.4.5.5 Where any Cost Contribution has been calculated on the basis of an estimated cost the Local Government may:
- (a) adjust the Cost Contribution of any Owner in accordance with the revised estimated costs or the final expenditure; or
- (b) accept a Cost Contribution based upon estimated costs as a final Cost Contribution and may enter into an agreement with an Owner accordingly.
- 5.4.5.6 Where an Owner's Cost Contribution is adjusted under clause 5.4.5.5, the Local Government, on receiving a request in writing from an Owner, is to provide the Owner with a copy of estimated costs and the calculation of adjustments.

5.4.6 Liability for Cost Contributions

An Owner's liability to pay the Owner's Cost Contribution to the Local Government arises on the earlier of:

- (a) the Local Government confirming to the Commission that conditions of subdivision approval supervised by the Local Government and imposed on an

application to subdivide the Owner's land within the Development Contribution Area have been complied with;

- (b) prior to the Commission endorsing its approval on the Diagram or Plan of Survey of the subdivision of the Owner's land within the Development Contribution Area;
- (c) at the time of carrying out any development or commencing any new or extended use on the Owner's land within the Development Contribution Area;
- (d) at the time of applying to the Local Government or Commission for approval of any new or extended use, or any other development on the Owner's land within the Development Contribution Area; or
- (e) on the expiry of the Development Contribution Plan.

5.4.7 Collection and Enforcement

- 5.4.7.1
 - (a) The Owner, with the agreement of the Local Government, may pay the Owner's Cost Contribution by:
 - (i) cheque or cash;
 - (ii) transferring to the Local Government land to the value of the Cost Contribution;
 - (iii) some other method acceptable to the Local Government; or
 - (iv) any combination of these methods.
 - (b) The Owner, with the agreement of the Local Government, may pay the Owner's Cost Contribution in a lump sum, by instalments or in such other manner as agreed with the Local Government.
- 5.4.7.2
 - (a) The amount of any Cost Contribution for which an Owner is liable under clause 5.4.6, but has not paid, is a charge on the Owner's land to which the Cost Contribution relates, and the Local Government may lodge a caveat against the Owner's title to that land.
 - (b) The Local Government may, at the Owner's expense and subject to such other conditions as the Local Government thinks fit, withdraw a caveat lodged under clause 5.4.7.2(a) to permit a dealing and then re-lodge the caveat to prevent further dealings.
 - (c) If the Cost Contribution is paid in full, and if requested to do so by the Owner, the Local Government may, at the expense of the Owner, withdraw any caveat lodged in accordance with clause 5.4.7.2.

5.4.8 Administration of Funds

- 5.4.8.1 The Local Government is to establish and maintain a reserve account in accordance with the Local Government Act 1995 for each Development Contribution Area into which Cost Contributions for that Development Contribution Area will be credited and from which all payments for the cost of Infrastructure within that Development Contribution Area and for other things and matters specified in the Development Contribution Plan will be paid. The purpose of such a reserve account or the use of money in such a reserve account is limited to the application of funds for that Development Contribution Area.
- 5.4.8.2 The Local Government is to provide to every Owner an audited annual statement of accounts for that Development Contribution Area as soon as practicable after the audited annual statement of accounts becomes available.

5.4.9 Shortfall or Excess in Cost Contributions

- 5.4.9.1 If there is a shortfall in the total of Cost Contributions when all Cost Contributions have been made or accounted for in a particular Development Contribution Area, the Local Government may:
- (a) make good the shortfall from its municipal fund;
 - (b) enter into agreements with Owners to fund the shortfall; or
 - (c) raise loans or borrow from a financial institution,
- but nothing in paragraph 5.4.9.1(a) restricts the right or power of the Local Government to impose a differential rate to a specified Development Contribution Area in that regard.
- 5.4.9.2 If there is an excess in the total of Cost Contributions when all Cost Contributions have been made or accounted for in a particular Development Contribution Area, the Local Government is to use the excess funds for the provision of additional facilities in that Development Contribution Area.

5.4.10 Valuation

Method 1 – Market Value

- 5.4.10.1 (a) Unless Part 10 of the *Land Administration Act* 1997 applies, clause 5.4.10 applies if it is necessary to ascertain the Value of any land for the purposes of clause 5.4.
- (b) In clause 5.4.10:
- “Value” means the capital sum which an unencumbered estate in fee simple of the land might reasonably be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require:
- (i) on the basis that there are no buildings, fences or other improvements of a like nature on the land;

- (ii) on the assumption that any rezoning necessary for the purpose of the development has come into force; and
- (iii) taking into account the added value of all other improvements on or appurtenant to the land.

“Valuer” means a licensed valuer agreed by the Local Government and the Owner, or where the Local Government and the Owner are unable to reach agreement, a valuer appointed by the President of the Australian Property Institute for the time being.

- 5.4.10.2 If any Owner objects to a valuation made by the Valuer, the Owner may give notice to the Local Government requesting a review of the amount of the Value, at the Owner’s expense, within 28 days after being informed of the Value.
- 5.4.10.3 If the Valuer does not change the Value of the land to a figure acceptable to the Owner, the Value is to be determined under clause 5.4.10.6.
- 5.4.10.4
 - (a) At the request of the Local Government or the Owner, the Value placed upon the land of an Owner may be revised from time to time by a Valuer.
 - (b) The Valuer may:
 - (i) reconsider the Values placed on other land in the Development Contribution Area; and
 - (ii) make such revisions as considered just and equitable to those Values,

if the Valuer considers this is necessary as a result of a re-valuation made under clause 5.4.10.2.
- 5.4.10.5 The date of valuation is the date that the Owner’s liability to pay the Owner’s Cost Contribution to the Local Government arises under clause 5.4.6, or any earlier date as is agreed between the Local Government and the Owner.
- 5.4.10.6
 - (a) Where there is a dispute or difference between the Local Government and the Owner regarding a Value, the dispute or difference is to be resolved as follows:
 - (i) by any method agreed upon by the Local Government and the Owner; or
 - (ii) if the Local Government and the Owner cannot agree, by arbitration in accordance with the Commercial Arbitration Act 1985.
 - (b) In any case, mediation of the dispute is to be attempted without prejudice to the rights of either the Local Government or the Owner.

5.4.11 Land Acquisition

The Local Government may acquire land for the carrying out of any Infrastructure works either by agreement or compulsorily under the powers conferred by sections 190 and 191 of the Act.

5.4.12 Arbitration

Subject to clause 5.4.10.6, any dispute between any Owner and the Local Government in connection with the Cost Contribution required to be made by an Owner under clause 5.4 is to be resolved by arbitration in accordance with the Commercial Arbitration Act 1985.

5.5 **Development Contribution Areas**

5.5.1 Operation

- (a) This clause 5.5 applies to Development Contribution Areas as shown on the Scheme Map as DCA with a number and included in Schedule No.11.
- (b) In respect of a Development Contribution Area shown on the Scheme Map, the provisions applying to the Development Contribution Area apply in addition to the provisions applying to any underlying zone or reserve and general provisions of the Scheme.

5.5.2 Interpretation

In clause 5.5, unless the context otherwise requires:

‘Administrative Costs’ means the costs and estimated costs of the Local Government in carrying out the Administrative Items and includes any of those costs incurred prior to the Operative Date.

‘Administrative Items’ has the meaning given to it in the Development Contribution Plan.

‘Cost Apportionment Schedule’ means a schedule prepared and distributed in accordance with clause 5.5.11.

‘Cost Contribution’ means the contribution to the cost of Infrastructure and Administrative Costs.

‘Development Contribution Area’ means shown on the Scheme Map as DCA with a number and included in Schedule No.9.

‘Development Contribution Plan’ means a Development Contribution Plan prepared in accordance with the provisions of State Planning Policy 3.6 Development Contributions for Infrastructure and the provisions of this clause 5.5 of the Scheme (as incorporated in Schedule No.11 to this Scheme).

‘Development Contribution Plan Report’ means a report prepared and distributed in accordance with clause 5.5.11.

‘Infrastructure’ has the meaning given to it in the Development Contribution Plan.

‘Infrastructure Costs’ means:

- (a) the costs and estimated costs of the Local Government in carrying out the Infrastructure; and
- (b) the costs and estimated costs of the Local Government in reimbursing owners who have, with agreement of the Local Government, carried out any Infrastructure, and includes costs and estimated costs described in the Development Contribution Plan.

‘Local Government’ means the Local Government or Local Governments in which the Development Contribution Area is located or through which the services and facilities are provided.

‘Owner’ means an Owner of land that is located within a Development Contribution Area.

5.5.3 Purpose

The purpose of having Development Contribution Areas is to:

- (a) provide for the equitable sharing of the costs of Infrastructure and Administrative Costs between Owners;
- (b) ensure that Cost Contributions are reasonably required as a result of the subdivision and development of land in the Development Contribution Area; and
- (c) coordinate the timely provision of Infrastructure.

5.5.4 Development Contribution Plan Required

A Development Contribution Plan is required to be prepared for each Development Contribution Area.

5.5.5 Development Contribution Plan Part of Scheme

The Development Contribution Plan is incorporated in Schedule No.11 as part of this Scheme.

5.5.6 Subdivision, Strata Subdivision and Development

The Local Government shall not withhold its support for subdivision, strata subdivision or refuse to approve a development solely for the reason that a Development Contribution Plan is not in effect, there is no approval to advertise a Development Contribution Plan, or that there is no other arrangement with respect to an Owner’s contribution towards the provision of community infrastructure.

5.5.7 Guiding Principles for Development Contribution Plans

- (1) The Development Contribution Plan for any Development Contribution Area is to be prepared in accordance with the following principles:
 - (a) Need and the nexus
The need for the Infrastructure included in the plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).

- (b) Transparency
Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.
 - (c) Equity
Development contributions should be levied from all developments within a Development Contribution Area, based on their relative contribution to need.
 - (d) Certainty
All development contributions should be clearly identified and methods of accounting for cost adjustments determined at the commencement of a development.
 - (e) Efficiency
Development contributions should be justified on a whole of life capital cost basis consistent with maintaining financial discipline on service providers by precluding over recovery of costs.
 - (f) Consistency
Development contributions should be applied uniformly across a Development Contribution Area and the methodology for applying contributions should be consistent.
 - (g) Right of consultation and review
Owners have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the calculation of the costs of the contributions is not reasonable.
 - (h) Accountable
There must be accountability in the manner in which development contributions are determined and expended.
- (2) Development Contribution Plan No.2 is taken to satisfy the guiding principles specified in Clause 5.5.7 of the Scheme.

5.5.8 Recommended Content of Development Contribution Plans

The Development Contribution Plan is to specify:

- (a) the Development Contribution Area to which the Development Contribution Plan applies;
- (b) the Infrastructure and Administrative Items to be funded through the Development Contribution Plan;
- (c) the method of determining the Cost Contribution of each Owner; and
- (d) the priority and timing for the provision of Infrastructure.

5.5.9 Period of Development Contribution Plan

A Development Contribution Plan shall specify the period during which it is to operate.

5.5.10 Land Excluded

In calculating both the area of an Owner's land and the total area of land in a Development Contribution Area, the area of land provided in that Development Contribution Area for:

- (a) roads designated under the Metropolitan Region Scheme as primary regional roads and other regional roads;
- (b) existing public open space;
- (c) existing government primary and secondary schools; and
- (d) such other land as is set out in the Development Contribution Plan,

is to be excluded.

5.5.11 Development Contribution Plan Report and Cost Apportionment Schedule

5.5.11.1 Within 90 days of the Development Contribution Plan coming into effect, the Local Government is to adopt and make available a Development Contribution Plan Report and Cost Apportionment Schedule to all Owners in the Development Contribution Area.

5.5.11.2 The Development Contribution Plan Report and the Cost Apportionment Schedule shall set out in detail the calculation of the Cost Contribution for each Owner in the Development Contribution Area, based on the methodology provided in the Development Contribution Plan, and shall take into account any proposed staging of the development.

5.5.11.3 The Development Contribution Plan Report and the Cost Apportionment Schedule do not form part of the Scheme, but once adopted by the Local Government they are subject to review as provided under clause 5.5.12.

5.5.12 Cost Contributions Based on Estimates

5.5.12.1 The determination of Infrastructure Costs and Administrative Costs is to be based on amounts expended, but when expenditure has not occurred, it is to be based on the best and latest estimated costs available to the Local Government and adjusted accordingly, if necessary.

5.5.12.2 Where a Cost Apportionment Schedule contains estimated costs, such estimated costs are to be reviewed at least annually by the Local Government:

- (a) in the case of land to be acquired, in accordance with clause 5.5.13; and
- (b) in all other cases, in accordance with the best and latest information available to the Local Government, until the

expenditure on the relevant item of Infrastructure or Administrative Costs has occurred.

5.5.12.3 The Local Government is to have such estimated costs independently certified by appropriate qualified persons and must provide such independent certification to an Owner when requested to do so.

5.5.12.4 Where any Cost Contribution has been calculated on the basis of an estimated cost, the Local Government:

- (a) is to adjust the Cost Contribution of any Owner in accordance with the revised estimated costs; and
- (b) may accept a Cost Contribution, based upon estimated costs, as a final Cost Contribution and enter into an agreement with the Owner accordingly.

5.5.12.5 Where an Owner's Cost Contribution is adjusted under clause 5.5.12.4, the Local Government, on receiving a request in writing from an Owner, is to provide the Owner with a copy of estimated costs and the calculation of adjustments.

5.5.12.6 If an Owner objects to the amount of a Cost Contribution, the Owner may give notice to the Local Government requesting a review of the amount of the Cost Contribution by an appropriate qualified person ('independent expert'); agreed by the Local Government and the Owner at the Owner's expense, within 28 days after being informed of the Cost Contribution.

5.5.12.7 If the independent expert does not change the Cost Contribution to a figure acceptable to the Owner, the Cost Contribution is to be determined:

- (a) by any method agreed between the Local Government and the Owner; or
- (b) if the Local Government and the Owner cannot agree on a method pursuant to (a) or on an independent expert, by arbitration in accordance with the Commercial Arbitration Act 1985, with the costs to be shared equally between the Local Government and Owner.

5.5.13 Valuation

5.5.13.1 Clause 5.5.13 applies in order to determine the value of land to be acquired for the purpose of providing Infrastructure.

5.5.13.2 In clause 5.5.13:

'Value' means the fair market value of land, at a specified date, which is defined as the capital sum that would be negotiated in an arms length transaction in an open and unrestricted market, assuming the highest and best use of the land with all its potential and limitations (other than the limitation arising from the transaction for which the land is being valued), wherein the parties act knowledgeably, prudently and without compulsion to buy or sell.

The net land value is to be determined by a static feasibility valuation model, using the working sheet model attached to this Scheme as

Schedule No.10. As part of that feasibility an appropriate profit and risk factor is to be determined from which a 10 per cent profit factor is to be excluded from the calculation.

‘Valuer’ means a licensed Valuer agreed by the Local Government and the Owner, or, where the Local Government and the Owner are unable to reach agreement, by a Valuer appointed by the President of the Western Australian Division of the Australian Property Institute.

5.5.13.3 If an Owner objects to a valuation made by the Valuer, the Owner may give notice to the Local Government requesting a review of the amount of the Value, at the Owner’s expense, within 28 days after being informed of the Value.

5.5.13.4 If, following a review, the Valuer’s determination of the Value of the land is still not a figure acceptable to the Owner, the Value is to be determined:

- (a) by any method agreed between the Local Government and the Owner; or
- (b) if the Local Government and the Owner cannot agree, the Owner may apply to the State Administrative Tribunal for a review of the matter under part 14 of the Planning and Development Act 2005.

5.5.14 Liability for Cost Contributions

5.5.14.1 An Owner must make a Cost Contribution in accordance with the applicable Development Contribution Plan and the provisions of clause 5.5.

5.5.14.2 An Owner must pay the Owner’s Cost Contribution to the Local Government immediately prior to the earlier of:

- (a) the Local Government giving advice to the Commission that conditions of subdivision approval of the Owner’s land within the Contribution Area, which conditions are cleared by the Local Government, have been complied with;
- (b) the Western Australian Planning Commission endorsing its approval on the deposited plan or survey strata plan of the subdivision of the Owner’s land within the Development Contribution Area;
- (c) the commencement of any development on the Owner’s land within the Development Contribution Area;
- (d) the approval of any strata plan by the Local Government or Western Australian Planning Commission on the Owner’s land within the Development Contribution Area; or
- (e) the approval of a change or extension of use by the Local Government on the Owner’s land within the Development Contribution Area.

5.5.14.3 Notwithstanding clause 5.5.14.2, an Owner's liability to pay the Owner's Cost Contribution does not arise if the Owner commences development of the first single house or outbuildings associated with that first single house on an existing lot which has not been subdivided or strata subdivided since the coming into effect of the Development Contribution Plan.

5.5.14.4 Where a Development Contribution Plan expires in accordance with clause 5.5.9, an Owner's liability to pay the Owner's Cost Contribution under that Development Contribution Plan shall be deemed to continue in effect and be carried over into any subsequent Development Contribution Plan which includes the Owner's land, subject to such liability.

5.5.15 Payment of Cost Contribution

5.5.15.1 The Owner, with the agreement of the Local Government, is to pay the Owner's Cost Contribution by:

- (a) cheque or cash;
- (b) transferring to the Local Government or a public authority land in satisfaction of the Cost Contribution;
- (c) the provision of physical Infrastructure;
- (d) some other method acceptable to the Local Government; or
- (e) any combination of these methods.

5.5.15.2 The Owner, with the agreement of the Local Government, may pay the Owner's Cost Contribution in a lump sum, by instalments or in such other manner acceptable to the Local Government.

5.5.16 Charge on Land

5.5.16.1 The amount of any Cost Contribution for which an Owner is liable under clause 5.5.14, but has not paid, is a charge on the Owner's land to which the Cost Contribution relates, and the Local Government may lodge a caveat, at the Owner's expense, against the Owner's certificate of title to that land.

5.5.16.2 The Local Government, at the Owner's expense and subject to such other conditions as the Local Government thinks fit, can withdraw a caveat lodged under clause 5.5.16.1 to permit a dealing and may then re-lodge the caveat to prevent further dealings.

5.5.16.3 If the Cost Contribution is paid in full, the Local Government, is requested to do so by the Owner and at the expense of the Owner, is to withdraw any caveat lodged under clause 5.5.16.

5.5.17 Administration of Funds

5.5.17.1 The Local Government is to establish and maintain a reserve account in accordance with the Local Government Act 1995 for each Development Contribution Area into which Cost Contributions for that Development Contribution Area will be credited and from which all

payments for the Infrastructure Costs and Administrative Costs within that Development Contribution Area will be paid.

The purpose of such reserve account or the use of money in such a reserve account is limited to the application of funds for that Development Contribution Area.

5.5.17.2 Interest earned on Cost Contributions credited to a reserve account in accordance with clause 5.5.17.1 is to be applied in the Development Contribution Area to which the reserve account relates.

5.5.17.3 The Local Government is to publish an audited annual statement of accounts for that Development Contribution Area as soon as practicable after the audited annual statement of accounts becomes available.

5.5.18 Shortfall or Excess in Cost Contributions

5.5.18.1 If there is a shortfall in the total of Cost Contributions when all Cost Contributions have been made or accounted for in a particular Development Contribution Area, the Local Government may:

- (a) make good the shortfall;
- (b) enter into agreements with Owners to fund the shortfall; or
- (c) raise loans or borrow from a financial institution,

but nothing in paragraph 5.5.18.1(a) restricts the right or power of the Local Government to impose a differential rate to a specified Development Contribution Area in that regard.

5.5.18.2 If there is an excess in funds available to the Development Contribution Area when all Cost Contributions have been made or accounted for in a particular Development Contribution Area, the Local Government is to refund the excess funds to contributing Owners for that Development Contribution Area. To the extent, if any, that it is not reasonably practicable to identify Owners and/or their entitled amount of refund, any excess in funds shall be applied, to the provision of additional facilities or improvements in that Development Contribution Area.

5.5.19 Powers of the Local Government

The Local Government in implementing the Development Contribution Plan has the power to:

- (a) acquire any land or buildings within the Scheme area under the provisions of the Planning and Development Act 2005; and
- (b) deal with or dispose of any land which it has acquired under the provisions of the Planning and Development Act 2005 in accordance with the law and for such purpose may make such agreements with other Owners as it considers fit.

5.5.20 Arbitration

Subject to clauses 5.5.13.3 and 5.5.13.4, any dispute between an Owner and the Local Government in connection with the Cost Contribution required to be made by an Owner is to be resolved by arbitration in accordance with the Commercial Arbitration Act 1985.

PART 6 - USE AND DEVELOPMENT OF LAND

6.1 Design Review Panel

- 6.1.1 The Local Government may appoint a Design Review Panel for the purpose of considering, and advising the Local Government with respect to applications and/or planning documents.
- 6.1.2 The Local Government shall prepare and adopt a Local Planning Policy in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015* that details the operation of the Design Review Panel and specifies the matters on which the Design Review Panel will be consulted.
- 6.1.3 When dealing with applications and/or planning documents on which a recommendation has been made by the Design Review Panel, the decision-maker shall have due regard for that recommendation

6.2 Amending or Revoking a Development approval

The Local Government may, on written application from the owner of land in respect of which development approval has been granted, revoke or amend the development approval, prior to the commencement of the use or development subject of the development approval.

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) development approval is not required for the development under ~~the development is of a type referred to in~~ clause 61.

Note:

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 is not required for works if —
- (a) the works are of a class specified in Column 1 of an item in the Table; and
- (b) if conditions are set out in Column 2 of the Table opposite that item — all of those conditions are satisfied in relation to the works.

Table

	Column 1 Works	Column 2 Conditions
1.	The demolition or removal of any of the following — (a) a single house; (b) an ancillary dwelling; (c) an outbuilding; (d) an external fixture; (e) a boundary wall or fence; (f) a patio; (g) a pergola; (h) a verandah; (i) a deck; (j) a garage; (k) a carport; (l) a swimming pool; (m) shade sails.	The works are not located in a heritage-protected place.
2.	The demolition of a building that is not a single house, ancillary dwelling, multiple dwelling or grouped dwelling.	(a) The building does not share a common wall with another building. (b) The works are not located in a heritage-protected place.
3.	The demolition or removal of a cubbyhouse.	The works are not located in a heritage-protected place.
4.	The demolition or removal of a flagpole.	The works are not located in a heritage-protected place of a kind referred to in clause 1A(1)(a) to (e).
5.	Internal building work that does not materially affect the external appearance of the building.	Either — (a) neither the building nor any part of it is located in a heritage-protected place of a kind referred to in clause 1A(1)(a) to (e); or (b) the building, or a part of it, is located in a heritage-protected place of a kind referred to in clause 1A(1)(a), (c), (d) or (e), but the interior of the building is specified as not being of cultural heritage significance in the relevant register, order, agreement or list referred to in that clause.
6.	The erection of, or alterations or additions to, a single house on a lot.	(a) The R-Codes apply to the works. (b) The works comply with the deemed-to-comply provisions of the R-Codes. (c) The works are not located in a heritage-protected place.

	Column 1 Works	Column 2 Conditions
7.	<p>The erection or installation of, or alterations or additions to, any of the following on the same lot as a single house or a grouped dwelling —</p> <ul style="list-style-type: none"> (a) an ancillary dwelling; (b) an outbuilding; (c) an external fixture; (d) a boundary wall or fence; (e) a patio; (f) a pergola; (g) a verandah; (h) a deck; (i) a garage; (j) a carport. 	<ul style="list-style-type: none"> (a) The R-Codes apply to the works. (b) The works comply with the deemed-to-comply provisions of the R-Codes. (c) The works are not located in a heritage-protected place.
8.	<p>The installation of, or alterations or additions to, any of the following on the same lot as a single house or a grouped dwelling —</p> <ul style="list-style-type: none"> (a) a swimming pool; (b) shade sails. 	<p>The works are not located in a heritage-protected place.</p>
9.	<p>The temporary erection or installation of an advertisement.</p>	<ul style="list-style-type: none"> (a) The advertisement is erected or installed in connection with an election, referendum or other poll conducted under the <i>Commonwealth Electoral Act 1918</i> (Commonwealth), the <i>Referendum (Machinery Provisions) Act 1984</i> (Commonwealth), the <i>Electoral Act 1907</i>, the <i>Local Government Act 1995</i> or the <i>Referendums Act 1983</i>. (b) The primary purpose of the advertisement is for political communication in relation to the election, referendum or poll. (c) The advertisement is not erected or installed until the writ or writs have been issued or, for an election, referendum or poll under the <i>Local Government Act 1995</i>, until the 36th day before the day on which the election referendum or poll is to be held. (d) The advertisement is removed no later than 48 hours after the election, referendum or poll is conducted. (e) The advertisement is not erected or installed within 1.5 m of any part of a crossover or street truncation.

	Column 1 Works	Column 2 Conditions
10.	The erection or installation of a sign of a class specified in a local planning policy or local development plan that applies to the works as not requiring development approval.	<ul style="list-style-type: none"> (a) The sign complies with any requirements specified in the local planning policy or local development plan in relation to the exemption from the requirement for development approval. (b) The sign is not erected or installed within 1.5 m of any part of a crossover or street truncation. (c) The works are not located in a heritage-protected place.
11.	Works to change an existing sign that has been erected or installed on land.	<ul style="list-style-type: none"> (a) The erection or installation of the existing sign was the subject of development approval or was exempt from the requirement for development approval. (b) The changes do not alter the size or location of the existing sign or result in the sign containing any illumination, animation, movement or reflective, retro-reflective or fluorescent materials. (c) The sign is not used for advertising (other than the advertising of a business operated on the land). (d) The works are not located in a heritage-protected place.
12.	The installation of a water tank.	<ul style="list-style-type: none"> (a) The water tank is not installed in the street setback area of a building. (b) The volume of the water tank is no more than 5 000 L. (c) The height of the water tank is no more than — <ul style="list-style-type: none"> (i) for a tank fixed to a building — the height of the eaves of the building; or (ii) for a tank that is not fixed to a building and is more than 1 m from each boundary of the lot — 2.4 m; or (iii) for a tank that is not fixed to a building and is 1 m or less from a boundary of the lot — 1.8 m. (d) The works are not located in a heritage-protected place.
13.	The erection or installation of a cubbyhouse.	<ul style="list-style-type: none"> (a) The cubbyhouse is not erected or installed in the street setback area of a building. (b) The floor of the cubbyhouse is no more than 1 m above the natural ground level. (c) The wall height of the cubbyhouse is no more than 2.4m above the natural ground level.

	Column 1 Works	Column 2 Conditions
		(d) The building height of the cubbyhouse is no more than 3m above the natural ground level. (e) The area of the floor of the cubbyhouse is no more than 10 m ² . (f) The cubbyhouse is not erected or installed within 1 m of more than 1 boundary of the lot.
14.	The erection or installation of a flagpole.	(a) The height of the flagpole is no more than 6 m above the natural ground level. (b) The flagpole is no more than 200mm in diameter. (c) The flagpole is not used for advertising. (d) There is no more than 1 flagpole on the lot. (e) The works are not located in a heritage-protected place.
15.	The installation of solar panels on the roof of a building.	(a) The solar panels are parallel to the angle of the roof. (b) The works are not located in a heritage-protected place.
16.	Maintenance and repair works.	Either — (a) the works are not located in a heritage-protected place; or (b) the maintenance and repair works are of a kind referred to in the <i>Heritage Regulations 2019</i> regulation 41(1)(b) to (i).
17.	Temporary works.	The works are in existence for less than 48 hours, or a longer period agreed by the local government, in any 12-month period.
18.	Works that are urgently necessary for any of the following — (a) public safety; (b) the safety or security of plant or equipment; (c) the maintenance of essential services; (d) the protection of the environment.	The works are not located in a heritage-protected place of a kind referred to in clause 1A(1)(a), (b) or (d).
19.	Works that are wholly located on an area identified as a regional reserve under a region planning scheme.	
20.	Works specified in a local planning policy or local development plan that applies to the works as works that do not require development approval (other than works referred to in item 10).	The works comply with any requirements specified in the local planning policy or local development plan in relation to the exemption from the requirement for development approval.
21.	Works of a type identified elsewhere in this Scheme as works that do not require development approval.	The works comply with any requirements specified in this Scheme in relation to the exemption from the requirement for development approval.

Notes for this subclause:

1. Approval may be required from the Commission for development on a regional reserve under a region planning scheme.
2. Section 157 of the Act 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.
3. Section 6 of the Act applies in respect of the carrying out of public works.
4. Clause 1B sets out circumstances in which development is taken to comply with a deemed-to-comply provision of the R-Codes.

(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 for this paragraph:

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

- (b) development that is a class P use in relation to the zone in which the development is located, if —
 - (i) the development has no works component; or
 - (ii) development approval is not required for the works component of the development;
- (c) development that is an exempt class D use under subclause (3) in relation to the zone in which the development is located, if —
 - (i) the development has no works component; or
 - (ii) development approval is not required for the works component of the development;
- (d) the use of premises as a home office;
- (e) the use of premises as a drop-off refund point if —
 - (i) the premises are otherwise used as a shop (as defined in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1 clause 38); or
 - (ii) the premises are not in a residential zone and the use of the premises as a drop-off refund point is an incidental use of the premises;
- (f) temporary use that is in existence for less than 48 hours, or a longer period agreed by the local government, in any 12-month period;
- (g) 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;
- (h) use of a type identified elsewhere in this Scheme as use that does not require development approval.

(3) For the purposes of subclause (2)(c), a use of land is an exempt class D use in relation to the zone in which the land is located if —

- (a) the use is a class D use in relation to the zone; and
- (b) the use is of a class set out in Column 1 of an item in the Table; and
- (c) the zone is of a class set out in Column 2 of the Table opposite that item; and
- (d) if conditions are set out in Column 3 of the Table opposite that item — all of those conditions are satisfied in relation to the use.

Table

	Column 1 Use	Column 2 Zones	Column 3 Conditions
1.	Shop	Commercial, centre or mixed use zone	Net lettable area is no more than 300 m ² .
2.	Restaurant/cafe	Commercial, centre or mixed use zone	Net lettable area is no more than 300 m ² .
3.	Convenience store	Commercial, centre or mixed use zone	Store is not used for the sale of petroleum products.
4.	Consulting rooms	Commercial, centre or mixed use zone	No more than 60% of the glass surface of any window on the ground floor of the consulting rooms is obscured glass.
5.	Office	Commercial, centre or mixed use zone	Office is not located on the ground floor of a building.
6.	Liquor store — small	Commercial, centre or mixed use zone	Store is in the metropolitan region or Peel Region Scheme area.
7.	Small bar	Commercial, centre or mixed use zone	(a) Small bar is in the metropolitan region or Peel Region Scheme area. (b) The lot on which the small bar is located does not directly adjoin a residential
8.	Recreation — private	Commercial, centre or mixed use zone Light industry zone	(a) Premises are in the metropolitan region. (b) Net lettable area of any indoor area of the premises is no more than 300 m ² . (c) No more than 60% of the glass surface of any window on the ground floor of a building on the premises is obscured glass.
9.	Home occupation	All zones	

(4) A reference in Column 1 of the Table to subclause (3) to a class of land use is a reference to that use as defined in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1 clause 38, whether or not —

- (a) the relevant definition is included in this Scheme; or
- (b) this Scheme includes a different definition for that use; or
- (c) this Scheme refers to that class of land use by a different name.

(5) Subclause (2) has effect despite the zoning table for this Scheme.

(6) Despite subclauses (1) and (2), an exemption under those subclauses does not apply to development if —

- (a) the development is undertaken in a special control area and the special provisions that apply to that area under this Scheme provide that development approval is required for the development; or
 - (b) the development is undertaken on land designated by an order made under the *Fire and Emergency Services Act 1998* section 18P as a bush fire prone area and development approval is required under clause 78D(3) for the development.
- (7) An exemption from the requirement for development approval that applies under this clause (other than an exemption under item 10 or 20 in the Table to subclause (1)) is not affected by any provision of a local planning policy or local development plan.
- (8) If development consists of both works and use of land —
 - (a) subject to subclause (2)(b)(ii) and (c)(ii), any exemption under subclause (1) that applies to the works does not affect whether development approval is required for the use; and
 - (b) any exemption under subclause (2) that applies to the use does not affect whether development approval is required for the works.

61A. Advice by local government that development approval not required for erection of, or alterations or additions to, single house

- (1) This clause applies only if —
 - (a) the Scheme area is wholly or partly in the metropolitan region or the Peel Region Scheme area; or
 - (b) the local government has made an election under subclause (5)(a) and has not revoked that election under subclause (5)(b).
- (2) An owner of a lot in the Scheme area who proposes to carry out works consisting of the erection of, or alterations or additions to, a single house on the lot may apply to the local government for written advice that the local government is satisfied that development approval of the local government is not required for the works because of an exemption under item 6 in the Table to clause 61(1).
- (3) An application under subclause (2) must be —
 - (a) made in a manner and form approved by the Commission; and
 - (b) accompanied by any documents or other information required by the approved form; and
 - (c) accompanied by any fee for determining the application imposed by the local government under the *Planning and Development Regulations 2009*.
- (4) Within 14 days after an application under subclause (2) is made, the local government must —
 - (a) provide advice to the applicant, in the manner and form approved by the Commission, that the local government is satisfied that development approval of the local government is not required for the works because of an exemption under item 6 in the Table to clause 61(1); or
 - (b) notify the applicant, in the manner and form approved by the Commission, that the local government is not satisfied as referred to in paragraph (a).

- (5) The local government may, by written notice given to the Commission and published in accordance with clause 87 —
- (a) elect to provide advice under this clause; or
 - (b) revoke an election under paragraph (a).

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 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 and identified on that list as having an interior with cultural heritage significance; or

- (iv) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29;

- (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 ground 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;

(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 the Scheme; or

(ii) on land located within an area designed under the 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.

Note:

1. 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.

2. 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-existent 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

(a) in a special control area; or

(b) on land designated by an order made under the *Fire and Emergency Services Act 1998* section 18P as a bush fire prone 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.

[Clause 61 amended in Gazette 7 Dec 2015 p. 4883-4.]

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 dimension 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 structure and environmental features, including watercourses, wetlands and native vegetation on the site;
 - (iv) the structured 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 structure 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, numbers, 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 locations, 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.

63A. Action by local government on receipt of application

- (1) On receipt of an application for development approval, the local government must —
 - (a) consider whether the application and accompanying material comply with clauses 62 and 63; and
 - (b) within 7 days after the day on which the application is received, advise the applicant by written notice —
 - (i) if the local government is satisfied that the application and accompanying material comply with clauses 62 and 63 — that the application has been accepted for assessment; or
 - (ii) otherwise — that the applicant must amend the application, or provide further accompanying material, before the application can be accepted for assessment.
- (2) If the local government does not give advice under subclause (1)(b) within the 7-day period referred to in that subclause, the application is taken to be accepted for assessment on the day after the end of that period.
- (3) If the local government gives advice under subclause (1)(b)(ii) and the applicant amends the application or provides further accompanying material as required, this

clause applies again in respect of the application as amended or as accompanied by the further material as if references to the receipt of the application were to the receipt of the amendment or the further material.

64. Advertising applications

- (1) The local government —
 - (a) must advertise a complex application for development approval in accordance with subclause (3); and
 - (b) must advertise an application for development approval in accordance with subclause (4) if the application is not a complex application and —
 - (i) relates to development that is a class A use in relation to the zone in which the development is located; or
 - (ii) relates to the extension of a non-conforming use; or
 - (iii) relates to development that does not comply with the requirements of this Scheme; or
 - (iv) relates to development for which the local government requires a heritage assessment to be carried out under clause 11(1); or
 - (v) is of a kind identified elsewhere in this Scheme as an application that is required to be advertised; and
 - (c) may advertise any other application for development approval in accordance with subclause (4).
- (2) Subclause (1)(b)(iii) does not apply if the local government is satisfied that the non-compliance with the requirements of this Scheme is of a minor nature.
- (3) For the purposes of subclause (1)(a), a complex application is advertised by doing all of the following —
 - (a) publishing in accordance with clause 87 —
 - (i) a notice of the proposed development in the form set out in clause 86(3); and
 - (ii) the application for development approval; and
 - (iii) any accompanying material in relation to the application that the local government considers should be published;
 - (b) giving notice of the proposed development —
 - (i) to the owners and occupiers of every property that is within 200 m of the proposed development; and
 - (ii) to any other owners and occupiers of properties in the vicinity of the proposed development who, in the opinion of the local government, are likely to be affected by the granting of development approval;
 - (c) erecting, in the manner and form approved by the Commission, a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed development in the form set out in clause 86(3).

Note for this subclause:

Under clause 88, the Commission may approve varied requirements that apply if it is not practicable for the local government to comply with subclause (3)(b) or (c).

- (4) For the purposes of subclause (1)(b) or (c), an application that is not a complex application is advertised by doing any or all of the following, as determined by the local government —
 - (a) publishing in accordance with clause 87 —
 - (i) a notice of the proposed development in the form set out in clause 86(3); and

- (ii) the application for development approval; and
 - (iii) any accompanying material in relation to the application that the local government considers should be published;
 - (b) giving notice of the proposed development to owners and occupiers of properties in the vicinity of the development who, in the opinion of the local government, are likely to be affected by the granting of development approval;
 - (c) erecting, in the manner and form approved by the Commission, a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed development in the form set out in clause 86(3).
- (5) A notice published or given, or on a sign erected, in accordance with subclause (3) or (4) in relation to an application for development approval must specify —
- (a) the manner and form in which submissions may be made; and
 - (b) the applicable period under subclause (6) or (7) for making submissions and the last day of that period.
- (6) The period to be specified in a notice published or given, or on a sign erected, in accordance with subclause (3) in relation to a complex application is —
- (a) the period of 28 days after the day on which the notice of the application is first published under subclause (3)(a); or
 - (b) a longer period agreed in writing between the applicant and the local government.
- (7) The period to be specified in a notice published or given, or on a sign erected, in accordance with subclause (4) in relation to an application that is not a complex application is —
- (a) the period of 14 days after the day on which the notice of the application is first published or given, or the sign is first erected, as the case requires; or
 - (b) a longer period agreed in writing between the applicant and the local government.

64A. Applicant for development approval may be required to pay costs of advertising or erect signs

- (1) The local government may require an applicant for development approval to pay the costs of the local government advertising the application for development approval under clause 64.
- (2) The local government may, instead of erecting signs under clause 64(3)(c) or (4)(c), require the applicant for development approval to erect those signs.

~~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 the 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

65A. Local government may request additional information or material

- (1) If an application for development approval has been accepted for assessment, the local government may, by written notice given to the applicant, request the applicant to provide any further information or material that the local government reasonably requires to determine the application.
- (2) A request under subclause (1) may be made whether or not the local government gave the applicant advice under clause 63A(1)(b)(ii) in relation to the application before it was accepted for assessment.
- (3) A request under subclause (1) must state the period within which the further information or material must be provided, which must be a period of at least 21 days after the day on which the request is made.
- (4) Only 1 request under subclause (1) can be made in relation to an application for development approval unless —
 - (a) the application is a complex application; or
 - (b) the application is required to be advertised under clause 64(1)(b); or
 - (c) a copy of the application is required to be provided to a statutory, public or planning authority under clause 66; or
 - (d) after the application was accepted for assessment, the applicant, on their own initiative, submitted further information or material relevant to the application to the local government and the request relates to that further information or material.

65B. Applicant may agree to or refuse request for additional information or material

- (1) If a request under clause 65A(1) is made to an applicant for development approval, the applicant may, by written notice given to the local government within 7 days after the day on which the request is made, agree to or refuse the request.
- (2) If the applicant does not agree to or refuse the request within the 7-day period referred to in subclause (1), the applicant is taken to have refused the request.
- (3) If an applicant agrees to a request under clause 65A(1), the period set out in subclause (4) is not to be counted for the purposes of determining when the application for development approval must be determined under clause 75(1).
- (4) For the purposes of subclause (3), the period —
 - (a) begins on the day on which the applicant agrees to the request; and
 - (b) ends on the earlier of the following —
 - (i) the day on which the applicant gives the information or material specified in the request to the local government;
 - (ii) the last day of the period stated in the notice of request under clause 65A(3).
- (5) If an applicant refuses a request under clause 65A(1) —
 - (a) the local government must not refuse to determine the application for development approval merely because the applicant has refused the request; and
 - (b) the making of the request does not affect when the application for development approval must be determined under clause 75(1).

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 in accordance with subclause (3A), ~~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.
- (3A) The local government may extend the 42-day period referred to in subclause (3) once only by a period of not more than 14 days.
- (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. Consideration of application by local government ~~Matters to be considered by local government~~

- (1) Development approval cannot be granted on an application for approval of —
 - (a) development that is a class X use in relation to the zone in which the development is located, unless —
 - (i) the development relates to land that is being used for a non-conforming use; and
 - (ii) the local government considers that the proposed use of the land would be less detrimental than the non-conforming use;
 or
 - (b) development that otherwise does not comply with a requirement of this Scheme, unless —
 - (i) this Scheme gives the local government discretion to waive or vary the requirement or to grant development approval despite non-compliance with the requirement; or
 - (ii) the development is permitted under a provision of this Scheme in relation to non-conforming uses.
- (2) In considering an application for development approval (other than an application on which approval cannot be granted under subclause (1)), ~~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 considered adopting or approving;
 - (c) and 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;

- (fa) any local planning strategy for this Scheme endorsed by the Commission;
- (g) any local planning policy for the Scheme area;
- (h) any structure plan or ~~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 —
 - (i) the compatibility of the development with the desired future character of its setting; and
 - (ii) the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- ~~(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.
- (3) Subclause (1) has effect despite the zoning table for this Scheme.

68. Determination of applications

- (1) If an application for approval of development is advertised under clause 64, the local government must not determine the application until after the end of —
 - (a) for a complex application advertised in accordance with clause 64(3) — the period for making submissions that applies under clause 64(6); or
 - (b) for an application advertised in accordance with clause 64(4) — each period for making submissions specified in a notice published or given, or on a sign erected, in accordance with that clause.
- (1A) If a copy of an application for approval of development has been provided to a statutory, public or planning authority under clause 66, the local government must not determine the application until after the end of each period for providing a memorandum to the local government that applies under clause 66(3).

~~(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).

Note for this clause:

Under the *Planning and Development (Development Assessment Panels) Regulations 2011* regulation 16A(2), for an application determined by a Development Assessment Panel the period within which development must be substantially commenced is 4 years.

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 in compliance with a requirement under clause 64(1)(a) or (b) or a copy of the application is provided to a statutory, public or planning authority under clause 66 — within 90 days after the day on which the application is accepted for assessment; or
 - (b) otherwise — within 60 days after the day on which the application is accepted for assessment; or

~~(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 approval;

(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 9A — Provisions about car parking

[Heading inserted: SL 2020/252 r. 80.]

Division 1 — General

[Heading inserted: SL 2020/252 r. 80.]

77A. Terms used

In this Part —

applicable minimum on-site parking requirement, in relation to development

(a) means a minimum on-site parking requirement that applies to the development (and, if the local government has varied a minimum on-site parking requirement in relation to the development under clause 77D(1)(a), means that requirement as so varied); but

(b) does not include a minimum on-site parking requirement that has been waived in relation to the development under clause 77D(1)(b);

minimum on-site parking requirement means a provision of this Scheme, or a local planning policy, that provides for the minimum number of car parking spaces that must be provided as part of development of a specified kind;

parking space shortfall, in relation to development, has the meaning given in clause 77C;

payment in lieu of parking condition means a condition requiring a payment to be made in lieu of satisfying a minimum on-site parking requirement;

payment in lieu of parking plan has the meaning given in clause 77J(1);

relevant payment in lieu of parking plan, in relation to development, means the payment in lieu of parking plan in effect from time to time for the area in which the development is located;

shared parking arrangement condition means a condition requiring entry into an arrangement for shared parking in lieu of satisfying a minimum on-site parking requirement.

[Clause 77A inserted: SL 2020/252 r. 80.]

77B. Development to which this Part applies

- (1) This Part applies to development in —
 - (a) the metropolitan region; or
 - (b) the Peel Region Scheme area.
- (2) Despite subclause (1), this Part does not apply to development to which the R-Codes apply.

[Clause 77B inserted: SL 2020/252 r. 80.]

77C. Parking space shortfall for development

If development does not comply with an applicable minimum on-site parking requirement, the *parking space shortfall* for the development is the number of car parking spaces calculated as follows —

$M - A$

where —

M is the minimum number of car parking spaces required to be provided as part of the development under the applicable minimum on-site parking requirement;

A is the actual number of car parking spaces to be provided as part of the development.

[Clause 77C inserted: SL 2020/252 r. 80.]

77D. Variation of minimum on-site parking requirement in relation to development

- (1) The local government may —
 - (a) vary a minimum on-site parking requirement that applies to development so that the minimum number of car parking spaces that must be provided as part of the development is a lower number; or
 - (b) waive a minimum on-site parking requirement that applies to development.
- (2) The local government must not vary or waive a minimum on-site parking requirement under subclause (1) in relation to development unless the local government is satisfied —
 - (a) that reasonable efforts have been made to comply with the minimum on-site parking requirement without adversely affecting access arrangements, the safety of pedestrians or persons in vehicles, open space, street trees or service infrastructure; and
 - (b) that —
 - (i) in the case of a variation — the lower number of car parking spaces would be adequate for the demands of the development, having regard to the likely use of the car parking spaces, the availability of off-site parking facilities and the likely use of alternative means of transport; or
 - (ii) in the case of a waiver — it is not necessary for car parking spaces to be provided as part of the development, having regard to the availability of off-site parking facilities and the likely use of alternative means of transport.

[Clause 77D inserted: SL 2020/252 r. 80.]

77E. Development that does not comply with applicable minimum on-site parking requirement

- (1) Development is not required to comply with an applicable minimum on-site parking requirement if —
 - (a) development approval is not required for the development under clause 61; or
 - (b) development approval has been granted for the development subject to either or both of the following —
 - (i) a payment in lieu of parking condition imposed in accordance with clause 77H;
 - (ii) a shared parking arrangement condition imposed in accordance with clause 77Q.
- (2) The local government must not grant development approval for development that does not comply with an applicable minimum on-site parking requirement unless the approval is granted subject to a condition or conditions referred to in subclause (1)(b).

[Clause 77E inserted: SL 2020/252 r. 80.]

77F. Imposition of both payment in lieu of parking condition and shared parking arrangement condition

- (1) The local government must not under clause 68(2)(b) impose on an approval of development both a payment in lieu of parking condition in accordance with clause 77H and a shared parking arrangement condition in accordance with clause 77Q, unless —
 - (a) the parking space shortfall for the development is at least 2; and
 - (b) the local government has given the applicant for development approval a notice of apportionment stating that —
 - (i) a specified number of the car parking spaces in the parking space shortfall are to be dealt with by the payment in lieu of parking condition; and
 - (ii) the remainder of the car parking spaces in the parking space shortfall are to be dealt with by the shared parking arrangement condition.
- (2) If the local government gives a notice of apportionment under subclause (1)(b), then —
 - (a) for the purpose of imposing the payment in lieu of parking condition in accordance with clause 77H, the parking space shortfall for the development is taken to be the number of car parking spaces specified in the notice under subclause (1)(b)(i); and
 - (b) for the purpose of imposing the shared parking arrangement condition in accordance with clause 77Q, the parking space shortfall for the development is taken to be the number of car parking spaces specified in the notice under subclause (1)(b)(ii).

[Clause 77F inserted: SL 2020/252 r. 80.]

Division 2 — Payment in lieu of provision of car parking spaces

[Heading inserted: SL 2020/252 r. 80.]

77G. When payment in lieu of parking condition may be imposed

- (1) The local government must not impose a payment in lieu of parking condition on an approval of development under clause 68(2)(b) otherwise than in accordance with

clause 77H.

- (2) The local government must not impose a payment in lieu of parking condition on an approval of development under clause 68(2)(b) in accordance with clause 77H unless a payment in lieu of parking plan that applies to the area in which the development is to be located is ineffect under this Division.
- (3) Despite subclause (2), during the period of 2 years commencing on the day on which the *Planning Regulations Amendment Regulations 2020* Part 2 Division 3 comes into operation —
 - (a) the local government may under clause 68(2)(b) impose a payment in lieu of parking condition in accordance with clause 77H on an approval of development if there are interim parking provisions that apply to the area in which the development is to be located; and
 - (b) if the local government imposes a condition as referred to in paragraph (a) — the interim parking provisions are taken to be the relevant payment in lieu of parking plan for the development for the purposes of this Division.
- (4) In subclause (3) —

interim parking provisions means provisions of this Scheme, or of a local planning policy or local development plan, if the provisions —

 - (a) are in effect immediately before the day on which the *Planning Regulations Amendment Regulations 2020* Part 2 Division 3 comes into operation; and
 - (b) deal with the imposition of payment in lieu of parking conditions; and
 - (c) set out —
 - (i) the area to which the provisions apply; and
 - (ii) the purposes for which money paid in accordance with a payment in lieu of parking condition imposed on an approval of development located in that area will be applied.

[Clause 77G inserted: SL 2020/252 r. 80.]

77H. Payment in lieu of parking condition

- (1) Subject to clause 77G, if the local government grants approval for development that does not satisfy an applicable minimum on-site parking requirement, the local government may under clause 68(2)(b) impose a condition requiring the owner of the land on which the development is to be located to make a payment to the local government in lieu of satisfying the applicable minimum on-site parking requirement.
- (2) The maximum amount of the payment required under a condition referred to in subclause (1) is the amount calculated in accordance with the determination under subclause (4).
- (3) Subclause (2) does not prevent the local government from imposing a condition that requires a payment that is lower than the maximum amount referred to in that subclause.
- (4) The Commission must, by notice published in the *Gazette*, determine the method to be used to calculate a reasonable estimate of the costs to the local government of providing in the area to which the relevant payment in lieu of parking plan applies a number of car parking spaces equivalent to the parking space shortfall for the development.
- (5) A determination under subclause (4) may provide for different calculation methods

that apply in different circumstances.

- (6) The Commission may revoke a determination under subclause (4) by a subsequent determination under that subclause.
- (7) A determination under subclause (4) may be combined in a single instrument with 1 or more other determinations of that kind issued under 1 or more other local planning schemes or all other local planning schemes.

[Clause 77H inserted: SL 2020/252 r. 80.]

77I. Application of money paid under payment in lieu of parking condition

- (1) All money received by the local government in accordance with a payment in lieu of parking condition imposed on an approval of development in accordance with clause 77H must be paid into a reserve account established under the *Local Government Act 1995* section 6.11 for the purposes set out in the relevant payment in lieu of parking plan for the development.
- (2) The money must be applied for the purposes set out in the relevant payment in lieu of parking plan.
- (3) If interest is earned from the investment of money held under subclause (1), that interest must be applied for the purposes set out in the relevant payment in lieu of parking plan.
- (4) Subclause (5) applies if —
 - (a) a person (the *relevant payer*) pays money to the local government in accordance with a payment in lieu of parking condition imposed in accordance with clause 77H; and
 - (b) at the end of the period of 10 years commencing on the day on which the local government receives the money, or a longer period approved by the Commission, either or both of the following applies —
 - (i) any of the money received has not been applied in accordance with subclause (2);
 - (ii) any interest earned from the investment of the money received has not been applied in accordance with subclause (3).
- (5) The local government must repay the money and interest referred to in subclause (4)(b)(i) and (ii) to the relevant payer.
- (6) The local government is not required to comply with subclause (5) if —
 - (a) after taking reasonable steps to find the relevant payer, the relevant payer cannot be found; or
 - the relevant payer is a body corporate that has been dissolved.
- (7) If subclause (6) applies, then despite subclauses (2) and (3), the money and interest referred to in subclause (4)(b)(i) and (ii) may be applied for any purpose that —
 - (a) relates to the provision or maintenance of public parking infrastructure or other transport infrastructure (for example, public transport infrastructure or cycling or pedestrian paths) in the Scheme area; or
 - (b) is ancillary or incidental to purposes referred to in paragraph (a).

[Clause 77I inserted: SL 2020/252 r. 80.]

77J. Payment in lieu of parking plan

- (1) A *payment in lieu of parking plan* is a plan setting out the following —
 - (a) the area to which the plan applies;
 - (b) the purposes for which money paid in accordance with any payment in lieu of parking condition imposed by the local government on an approval of development located in the area will be applied, which must —
 - (i) relate to the provision or maintenance of public parking infrastructure or other transport infrastructure (for example, public transport infrastructure or cycling or pedestrian paths) in the area to which the plan applies; or
 - (ii) be ancillary or incidental to purposes referred to in subparagraph (i);
 - (c) any other information required by the Commission.
- (2) The local government may —
 - (a) prepare a payment in lieu of parking plan for any part of the Scheme area; or
 - (b) adopt a payment in lieu of parking plan prepared by an owner of land in the part of the Scheme area to which the plan would apply.
- (3) A payment in lieu of parking plan must be prepared in the form approved by the Commission.

[Clause 77J inserted: SL 2020/252 r. 80.]

77K. Advertising payment in lieu of parking plan

- (1) If the local government resolves to prepare or adopt a payment in lieu of parking plan the local government must, unless the Commission otherwise agrees, advertise the proposed plan as follows —
 - (a) publish in accordance with clause 87 the proposed plan and a notice giving details of —
 - (i) how the proposed plan is made available to the public in accordance with clause 87; and
 - (ii) the manner and form in which submissions may be made; and
 - (iii) the period for making submissions and the last day of that period;
 - (b) give notice of the proposed plan in any other way, and carry out any other consultation, that the local government considers appropriate.
- (2) The period for making submissions specified in a notice under subclause (1)(a)(iii) must not be less than the period of 21 days after the day on which the notice is first 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 payment in lieu of parking plan in the light of any submissions made; and
 - (b) resolve —
 - (i) to approve the plan without modification; or
 - (ii) to approve the plan with modifications; or
 - (iii) not to approve the plan.

- (4) If the local government approves the payment in lieu of parking plan under subclause (3)(b)(i) or (ii), the local government must publish notice of the approval in accordance with clause 87.

[Clause 77K inserted: SL 2020/252 r. 80.]

77L. Publication of payment in lieu of parking plan

- (1) The local government must ensure that an up-to-date copy of each payment in lieu of parking plan in effect under this Scheme is published in accordance with clause 87.
- (2) Subclause (1) is an ongoing publication requirement for the purposes of clause 87(5)(a).

[Clause 77L inserted: SL 2020/252 r. 80.]

77M. Procedure for amending payment in lieu of parking plan

- (1) The procedures for making a payment in lieu of parking plan set out in clauses 77J to 77L, with any necessary changes, are to be followed in relation to an amendment to a payment in lieu of parking plan.
- (2) Despite subclause (1), the local government may approve an amendment to a payment in lieu of parking plan without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.
- (3) The amendment of a payment in lieu of parking plan does not extend the period for which the plan has effect under clause 77N.

[Clause 77M inserted: SL 2020/252 r. 80.]

77N. Duration of payment in lieu of parking plan

- (1) Unless sooner revoked, a payment in lieu of parking plan has effect for —
- (a) the period of 10 years commencing on the day after the day on which the local government first publishes notice of the approval of the plan under clause 77K(4); or
- (b) a longer period approved by the Commission.
- (2) The Commission may approve a longer period under subclause (1)(b) in relation to a payment in lieu of parking plan either before or after the plan is approved by the local government.
- (3) A payment in lieu of parking plan may be revoked —
- (a) by a subsequent payment in lieu of parking plan that expressly revokes the payment in lieu of parking plan; or
- (b) by a notice of revocation —
- (i) prepared by the local government; and
- (ii) published by the local government in accordance with clause 87.

[Clause 77N inserted: SL 2020/252 r. 80.]

77O. Payment in lieu of parking plan ceasing to be in effect when money has not been applied

- (1) This clause applies if —
- (a) a person (the **relevant payer**) pays money to the local government in accordance with a payment in lieu of parking condition imposed on an approval of development in accordance with clause 77H; and
 - (b) any of the money, or any interest earned from the investment of the money, has not been applied or repaid under clause 77I; and
 - (c) the relevant payment in lieu of parking plan (the **former plan**) that was in effect for the development ceases to have effect under clause 77N(1); and
 - (d) as a result of the cessation, there is no payment in lieu of parking plan in effect for the area in which the development is located.
- (2) During the period that applies under subclause (3), clause 77I applies as if the former plan continued to be the relevant payment in lieu of parking plan for the development.
- (3) The period that applies for the purposes of subclause (2) is the period that —
- (a) commences on the day (**cessation day**) on which the former plan ceases to have effect; and
 - (b) ends —
 - (i) if a new payment in lieu of parking plan comes into effect for the area in which the development is located within the period of 2 years commencing on cessation day — when the new plan comes into effect; or
 - (ii) otherwise — at the end of the 2-year period commencing on cessation day.
- (4) If at the end of the 2-year period commencing on cessation day there is still no payment in lieu of parking plan in effect for the area in which the development is located, the local government must repay to the relevant payer any of the following that has not been applied or repaid under clause 77I before the end of that period —
- (a) money paid as referred to in subclause (1)(a);
 - (b) interest earned from the investment of that money.
- (5) Clause 77I(6) and (7) apply with any necessary changes to a requirement to repay money under subclause (4) as if it were a requirement under clause 77I(5).

[Clause 77O inserted: SL 2020/252 r. 80.]

Division 3 — Shared parking arrangements

[Heading inserted: SL 2020/252 r. 80.]

77P. When shared parking arrangement condition may be imposed

The local government must not impose a shared parking arrangement condition on an approval of development under clause 68(2)(b) otherwise than in accordance with clause 77Q.

[Clause 77P inserted: SL 2020/252 r. 80.]

77Q. Shared parking arrangement condition

- (1) If the local government grants approval for development that does not comply with an applicable minimum on-site parking requirement, the local government may under clause 68(2)(b) impose a condition requiring the following —

- (a) that the owner of the land on which the development is to be located must enter into an arrangement (the *shared parking arrangement*) with an owner of other land (the *shared site*) —
 - (i) that provides for a number of car parking spaces equivalent to the parking space shortfall for the development to be made available on the shared site for the purposes of the development; and
 - (ii) that meets any other requirements specified by the local government;
 - (b) that the owner must apply to the local government for approval of the shared parking arrangement under this clause;
 - (c) that the development must not commence unless the local government has approved the shared parking arrangement under this clause;
 - (d) that a shared parking arrangement approved by the local government must not be terminated or varied without the approval of the local government.
- (2) The local government must not impose a condition under subclause (1) unless the local government is satisfied that the owner of the shared site is prepared to enter into a shared parking arrangement that meets the requirements of the condition.
- (3) Without limiting subclause (1)(a)(ii), the requirements specified under that subclause may include requirements relating to the form and content of the arrangement.
- (4) An application for approval of a shared parking arrangement referred to in subclause (1)(b) must include the following —
- (a) a copy of the shared parking arrangement;
 - (b) information about the matters referred to in subclause (6);
 - (c) a draft plan for the management of parking in relation to the development;
 - (d) any other information required by a relevant local planning policy.
- (5) If an application is made in accordance with subclause (4), the local government may approve or refuse to approve the shared parking arrangement.
- (6) In determining whether to approve the shared parking arrangement under subclause (5), the local government —
- (a) may have regard to any relevant matters, including —
 - (i) whether the peak operation hours of the development will overlap with those of the shared site; and
 - (ii) whether the use of the car parking spaces to be made available on the shared site will impede the use of delivery or service areas on the shared site; and
 - (iii) any relevant local planning policy; and
 - (b) must not approve the shared parking arrangement unless the local government is satisfied that —
 - (i) adequate car parking is likely to be available at all times for both the proposed development and the shared site; and
 - (ii) the relationship between the proposed development and the shared site will be such that the shared car parking spaces are likely to be used by persons using the proposed development.

[Clause 77Q inserted: SL 2020/252 r. 80.]

Part 10A — Bushfire risk management

[Heading inserted in Gazette 7 Dec 2015 p. 4884.]

78A. Terms used

In this Part, unless the contrary intention appears —

AS 3959 means Australian Standard AS 3959 — Construction of buildings in bushfire-prone areas, as adopted from time to time as a referenced document for the purposes of the Building Code;

BAL contour map, in relation to a development site, means a scale map of an area that includes the development site —

(a) prepared in accordance with State planning policy 3.7: Planning in Bushfire Prone Areas as part of a plan of subdivision that has been approved under Part 10 of the Act for the area; and

(b) that shows the indicative bushfire attack levels (BAL) for the area;

bushfire attack level assessment means an assessment prepared in a manner and form set out in AS 3959 to determine a bushfire attack level (BAL) as set out in AS 3959;

construction of a building includes the erection, assembly or placement of a building but does not include the renovation, alteration, extension, improvement or repair of a building;

development approval means development approval of the local government obtained under Part 8;

development site means that part of a lot on which a building that is the subject of development stands or is to be constructed;

habitable building means a permanent or temporary structure on land that —

(a) is fully or partially enclosed; and

(b) has at least one wall of solid material and a roof of solid material; and

(c) is used for a purpose that involves the use of the interior of the structure by people for living, working, studying or being entertained;

specified building means a structure of a kind specified in this Scheme as a kind of structure to which this Part applies in addition to its application to habitable buildings.

[Clause 78A inserted in Gazette 7 Dec 2015 p. 4884-5.]

78B. Application of Part to development

(1) This Part does not apply to development unless the development is —

(a) the construction or use, or construction and use, of a single house or ancillary dwelling on a lot or lots with a total area of 1 100 m² or more; or

(b) the construction or use, or construction and use, of —

(i) a habitable building other than a single house or ancillary dwelling;
or

(ii) a specified building.

(2) The requirements in this Part are in addition to any provisions relating to development in a bushfire prone area that apply in a special control area.

[Clause 78B inserted in Gazette 7 Dec 2015 p. 4886.]

78C. Determining whether development site is in a bushfire prone area

For the purposes of this Part, a development site is subject, or likely to be subject, to bushfires and is referred to as being *in a bushfire prone area* if the development site is on land designated by an order made under the *Fire and Emergency Services Act 1998* section 18P as a bush fire prone area.

[Clause 78C inserted in Gazette 7 Dec 2015 p. 4886.]

78D. Proposed development in a bushfire prone area

(1) Unless subclause (2) applies, before commencing any development on a development site a person (the *developer*) must cause to be prepared a bushfire attack level assessment for the development site if the development site —

(a) is in a bushfire prone area; and

(b) has been in a bushfire prone area for a period of at least 4 months.

(2) A developer is not required under subclause (1) to cause to be prepared a bushfire attack level assessment for a development site if —

(a) a BAL contour map has been prepared in relation to the development site; or

(b) because of the terrain of the development site it is not possible to calculate the bushfire attack level of the development site.

(3) The developer must have development approval to commence any development on the development site if —

(a) the bushfire attack level assessment prepared under subclause (1) calculates the bushfire attack level of the development site as BAL - 40 or BAL - Flame Zone; or

(b) a bushfire attack level assessment has not been prepared under subclause (1) but a BAL contour map prepared in relation to the development site indicates that the bushfire attack level of the development site is BAL - 40 or BAL - Flame Zone; or

(c) because of the terrain of the development site it is not possible to calculate the bushfire attack level of the development site.

(4) Subclause (3) applies —

(a) in addition to any requirement in this Scheme for development approval to be obtained; and

(b) despite any exemption in this Scheme from the requirement to obtain development approval.

[Clause 78D inserted in Gazette 7 Dec 2015 p. 4886-7.]

78E. Matters to be considered for development approval

(1) In considering an application for development approval for development to which this Part applies, the local government is to have regard to the bushfire resistant construction requirements of the Building Code.

(2) The matters referred to in subclause (1) are in addition to any other matters that the local government is to have regard to in considering the application in accordance with this Scheme.

[Clause 78E inserted in Gazette 7 Dec 2015 p. 4887-8.]

78F. Transitional provisions for sites in new bushfire prone areas

- (1) In this clause, each of these terms has the meaning given in the *Building Act 2011* section 3 —

building permit

building work

- (2) In this clause —

application means an application under the *Building Act 2011* for a building permit;

transitional permit means a building permit granted in respect of an application to do building work on a development site if —

- (a) the site was not in a bushfire prone area when the application was made; or
- (b) the site has been in a bushfire prone area for a period of less than 4 months when the application was made.

- (3) Clause 78D does not apply to the commencement of development to which a transitional permit applies.

[Clause 78F inserted in Gazette 7 Dec 2015 p. 4888.]

78G. Transitional provisions relating to *Planning and Development (Local Planning Schemes) Amendment Regulations 2015*

- (1) In this clause —

commencement day means the day on which the *Planning and Development (Local Planning Schemes) Amendment Regulations 2015* clause 5 comes into operation;

previous bushfire provisions means any provisions in this Scheme that, immediately before commencement day, required a developer in an area that was identified under this Scheme as being an area that is subject, or likely to be subject to bushfires to —

- (a) cause to be prepared a bushfire attack level assessment for a development site; or
- (b) to have development approval to commence development on a development site because —

- (i) a bushfire attack level assessment prepared for the development site calculates the bushfire attack level of the development site as BAL - 40 or BAL - Flame Zone; or

- (ii) it is not possible to calculate the bushfire attack level of the development site because of the terrain of the development site;

transitional development site means a development site that is located in an area that —

- (a) is a bushfire prone area; and
- (b) immediately before commencement day was an area identified in any way under this Scheme as being as area that is subject, or likely to be subject, to bushfires;

transition period means the period of 4 months beginning on commencement day.

- (2) Clause 78D(1) applies in respect of development on a transitional development site if —

- (a) the development is commenced within the transition period; and
- (b) a developer would have been require under the previous bushfire provisions to prepare a bushfire attack level assessment for the development site.

(3) Clause 78D(3) applies in respect of development on a transitional development site if

(a) the development is commenced within the transition period; and

(b) a developer would have been required under the previous bushfire provisions to have development approval to commence the development.

(4) For the purposes of paragraph (b) of the definition of *transitional permit* in clause 78F(2), an area that immediately before commencement day was identified in any way under this Scheme as being an area that is subject, or likely to be subject, to bushfires is to be taken on and from commencement day to have been in a bushfire prone area for a period of at least 4 months.

[Clause 78G inserted in Gazette 7 Dec 2015 p. 4888-90.]

PART 7 - NON-CONFORMING USES

7.1 Non-Conforming Use Rights

Except as otherwise provided in this Part, no provision of the Scheme is to be taken to prevent:

- (a) the continued use of any land or building for the purpose for which it was being lawfully used immediately prior to the gazettal date of the Scheme;
- (b) the carrying out of any development on that land for which, immediately prior to the gazettal date, an approval or approvals, lawfully required to authorise the development to be carried out, were duly obtained and are current; or
- (c) the continued display of advertisements which were lawfully erected, placed or displayed prior to the gazettal date.

7.2 Extension of Non-Conforming Use

7.2.1 A person must not:

- (a) alter or extend a non-conforming use;
- (b) erect, alter or extend a building used in conjunction with or in furtherance of a non-conforming use;
- (c) change the use of land from a non-conforming use to another non-conforming use;

without first having applied for and obtained development approval under the Scheme.

7.2.2 An application for development approval under this clause is to be advertised in accordance with clause 64 of the deemed provisions.

7.3 Change of Non-Conforming Use

Where an application is for a change of use from an existing non-conforming use to another non-conforming use, the Local Government is not to grant its development approval unless the proposed use is less detrimental to the amenity of the locality than the existing non-conforming use and is, in the opinion of the Local Government, closer to the intended purpose of the zone.

7.4 Discontinuance of Non-Conforming Use

7.4.1 Where a non-conforming use of any land or building has been discontinued for a period of six (6) months or more, the land must not be used after that period otherwise than in conformity with the provisions of the Scheme;

7.4.2 The Local Government may affect the discontinuance of a non-conforming use by the purchase of the land, or by the payment of compensation to the owner or occupier of that land, and may enter into an agreement with the owner for that purpose.

7.5 Destruction of Buildings

If a building used for a non-conforming use is destroyed to 75% or more of its value, the building is not to be repaired, rebuilt, altered or added to for the purpose of being used for a non-conforming use or in a manner not permitted by the Scheme, except with the development approval of the Local Government.

PART 8 - ADMINISTRATION

8.1 Offences

- 8.1.1 A person shall not erect, alter or add to a building or use or change the use of any land or building, or permit or suffer any land or building to be used or the use of any land or building to be changed for any purpose:
- (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, or any Scheme repealed by this Scheme, have been and continue to be complied with; and
 - (d) unless all standards laid down and all requirements prescribed by the Scheme or determined by the 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.
- 8.1.2 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 open to Local Government is liable to the penalties prescribed by section 214 of the Act.
- 8.1.3 The offences and penalties specified in clause 8.1 apply to the advertiser, as defined in clause 5.3.11.

8.2 Notice for Removal of Certain Buildings

- 8.2.1 Twenty-eight (28) days written notice is hereby prescribed as the notice to be given pursuant to section 214 of the Act for the removal of certain buildings.
- 8.2.2 The Local Government may recover expenses under section 215 (2) of the Act in a court of competent jurisdiction.

8.3 Enforcement

Failure to comply with the conditions imposed by the Local Government on the grant of development approval or failure to carry out development in strict accordance with the plan approved by the Local Government in respect of a particular proposal shall constitute a contravention of the Scheme and the Local Government may:

- (a) by written notice served on the owner and/or occupier of the land, in accordance with clause 8.2, require the development to be carried out in accordance with the conditions imposed on any approval granted and/or in strict accordance with the plans approved within the period specified in the notice (not being less than 28 days) failing which Local Government may enter the land and carry out the work itself and recover any expenses so incurred from the person in default as a simple contract debt in such court of civil jurisdiction as is competent to deal with the amount of the claim; and/or

- (b) prosecute the owner or occupier of the land as the case may be pursuant to section 223 of the Act.

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.

8.4 Compensation

8.4.1 A person whose land or property is injuriously affected by the making or amendment of the Scheme may make a claim for compensation under section 173 of the Act:

- (a) in any case, within 6 months of the date of publication of notice of the approval of the Scheme or the amendment, as the case requires, in accordance with the Town Planning Regulations 1967; or
- (b) where the land has been reserved for a public purpose and:
 - (i) an application made under the Scheme for approval to carry out development on the land is refused; or
 - (ii) an application made under the Scheme for approval to carry out development on the land is granted subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a public purpose,

not later than 6 months after the application is refused or the permission granted.

8.4.2 A person whose land or property is injuriously affected by the making of a Scheme may not claim compensation for that injurious affection more than once under clause 8.4.1.

8.5 Election to Purchase and Valuation

8.5.1 Where compensation for injurious affection is claimed pursuant to clause 8.4, the Local Government may, at its option, elect to acquire the land so affected instead of paying compensation.

8.5.2 Where the Local Government elects to acquire the land in respect of which the claim for compensation for injurious affection is made, the Local Government shall give notice of that election to the claimant by notice in writing within three (3) months of the claim for compensation being made.

8.5.3 Where the Local Government elects to acquire land as provided in clause 8.5.1, if the Local Government and the owner of the land are unable to agree as to the price to be paid for the land by the Local Government, the price at which the land may be acquired by the Local Government shall be the value of the land as determined in accordance with clause 8.5.4.

8.5.4 The value of the land referred to in clause 8.5.3 shall be the value thereof on the date that the Local Government elects to acquire the land and that value shall be determined:

- (a) by arbitration in accordance with the Commercial Arbitration Act 1985; or

- (b) by some other method agreed upon by the Local Government and the owner of the land,

and the value shall be determined without regard to any increase or decrease, if any, in value attributable wholly or in part to this Scheme.

- 8.5.5 The Local Government may deal with or dispose of land acquired for a Local Reserve upon such terms and conditions as it sees fit provided the land is used for, or preserved for, a use compatible with the use for which it is reserved.

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

Owner details		
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>		

Applicant details (if different from owner)		
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:
Property details		
Lot No:	House/Street No:	Location No:

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:
4.	Details of signs (if any) to be removed if this application is approved: Note: This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed as detailed in 4 above. Signature of advertiser(s): (if different from land owners) Date:

- (3) The form of a notice of public advertisement of a planning proposal referred to in clause 64(3)(a)(i) or (c) or (4)(a)(i) or (c) ~~clause 64(4)~~ is as follows —

Planning and Development Act 2005

City/Town/Shire of

Notice of public advertisement of planning proposal

The local government has received an application to use and/or develop land for the following purpose and public comments are invited.

Lot No:

Street:

Suburb:

Proposal:

.....

.....

Details of the proposal are available to the public at
Submissions may be made on the proposal in the period ending on the
..... day of Comments on the proposal may be
submitted to the local government in writing on or before that day.

~~Details of the proposal are available for inspection at the local
government office. Comments on the proposal may be submitted
to the local government in writing on or before the day of~~

.....

Signed:

Dated:

.....

.....

for and on behalf of the City/Town/Shire of:

- (4) The form of a notice of determination on an application for development approval referred to in clause 70 is as follows —

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:

☐ Approved subject to the following conditions

☐ 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 *Planning and Development Act 2005* 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.)

Part 12 — Miscellaneous

[Heading inserted: SL 2020/252 r. 79.]

87. Requirements for making documents available to public

- (1) This clause applies if under a provision of this Scheme the local government is required to publish in accordance with this clause a notice, plan, application or other document (the *document*).
- (2) The local government must make the document available in accordance with the applicable requirements of subclauses (3) to (5).

Note for this subclause:

Under clause 88, the Commission may approve varied requirements that apply if it is not practicable for the local government to publish documents in accordance with subclauses (3) to (5).

- (3) For all documents, the local government must —
 - (a) publish on the website of the local government —
 - (i) the document; or
 - (ii) a hyperlink to a webpage on which the document is published;
 - and

- (b) if it is reasonably practicable to do so — make a copy of the document available for public inspection at a place in the district of the local government during normal business hours.
- (4) If the document is a notice and the local government considers that it is appropriate in the circumstances for the notice to be published in a newspaper, the local government must also ensure that the notice is published in a newspaper circulating in the relevant locality in the local government district.
- (5) The local government must ensure that the document remains published under subclause (3)(a) and (if applicable) available for public inspection under subclause (3)(b) —
 - (a) if the document is published in compliance with a requirement that is expressed to be an ongoing publication requirement — at all times that the document is in effect; or
 - (b) if the document is published in compliance with a requirement to advertise for submissions under this Scheme — during the whole of the period within which submissions may be made; or
 - (c) if paragraphs (a) and (b) do not apply — during a period that the local government considers is reasonable.

[Clause 87 inserted: SL 2020/252 r. 79.]

88. Commission may approve varied requirements for publication of documents and advertising of complex applications

- (1) In this clause —
 - complex application notice and signage requirements* means the requirements of clause 64(3)(b) and (c) in relation to advertising complex applications;
 - document* has the meaning given in clause 87(1);
 - publication requirements* means the requirements of clause 87(3) to (5) in relation to making documents available to the public.
- (2) If the Commission considers that it is not practicable for the local government to comply with any of the publication requirements in relation to documents that it is or may become required to publish, the Commission may give the local government a written notice approving varied requirements that apply in relation to the local government making documents available to the public.
- (3) If a notice under subclause (2) is in effect, the local government is taken to comply with the applicable publication requirements in relation to a document if the local government complies with those requirements as varied by the notice.
- (4) If the Commission considers that it is not practicable for the local government to comply with any of the complex application notice and signage requirements in relation to complex applications it is or may become required to advertise, the Commission may give the local government a written notice approving varied requirements that apply in relation to the local government advertising complex applications.
- (5) If a notice under subclause (4) is in effect, a complex application made to the local government is taken to be advertised in compliance with the complex application notice and signage requirements if it is advertised in compliance with those requirements as varied by the notice.
- (6) A notice under subclause (2) or (4) —
 - (a) must state whether it has effect indefinitely or for a period specified in the notice; and
 - (b) takes effect when it is given to the local government; and
 - (c) ceases to be in effect —

- (i) if the Commission gives the local government a further written notice revoking it; or
- (ii) at the end of the period (if any) specified under paragraph (a).

[Clause 88 inserted: SL 2020/252 r. 79.]

Part 13 — Transitional provisions for Planning Regulations Amendment Regulations 2020

[Heading inserted: SL 2020/252 r. 79.]

89. Terms used

In this Part —

amended deemed provisions means the deemed provisions of this Scheme set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 as amended by the *Planning Regulations Amendment Regulations 2020* Part 2 Division 2;

commencement day means the day on which the *Planning Regulations Amendment Regulations 2020* Part 2 Division 2 comes into operation;

former deemed provisions means the deemed provisions of this Scheme set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 as in force immediately before commencement day.

[Clause 89 inserted: SL 2020/252 r. 79.]

90. Application of amendments made by *Planning Regulations Amendment Regulations 2020*

(1) The amendments to Part 7 made by the *Planning Regulations Amendment Regulations 2020* do not apply in relation to development —

- (a) that commenced before commencement day; or
- (b) for which development approval was granted before commencement day.

(2) The amendments to Parts 8 and 9 made by the *Planning Regulations Amendment Regulations 2020* do not apply in relation to an application for development approval made before commencement day.

[Clause 90 inserted: SL 2020/252 r. 79.]

91. Advertising processes in progress on commencement day

(1) In this clause —

relevant advertising process —

- (a) means any of the following processes —
 - (i) the advertising of a proposed local planning policy, or amendment to a local planning policy, under clause 4;
 - (ii) the advertising of the proposed designation of a heritage area, or the proposed amendment or revocation of the designation of a heritage area, under clause 9;
 - (iii) the advertising of a proposed structure plan, or amendment to a structure plan, under clause 18;
 - (iv) the advertising of a proposed local development plan, or amendment to a local development plan, under clause 50; and
- (b) includes the giving of notices to persons or public authorities or the erection of signs as part of a process referred to in paragraph (a).

- (2) A relevant advertising process that commenced, but was not completed, before commencement day may be completed in accordance with the relevant requirements of the former deemed provisions rather than the amended deemed provisions.
 - (3) If the relevant advertising process for a policy, designation, plan or amendment (the ***relevant planning instrument***) is completed in accordance with subclause (2) —
 - (a) the relevant planning instrument is taken to have been advertised in compliance with the relevant requirements of the amended deemed provisions; and
 - (b) this Scheme applies with any necessary changes to the relevant planning instrument.
- [Clause 91 inserted: SL 2020/252 r. 79.]

92. Activity centre plans or structure plans in effect before commencement day

- (1) In this clause —
 - current activity centre plan*** —
 - (a) means an activity centre plan under this Scheme for which the approval is in effect immediately before commencement day; and
 - (b) includes a plan taken to be an activity centre plan under the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 79 that is in effect under this Scheme immediately before commencement day;
 - current structure plan*** —
 - (a) means a structure plan under this Scheme for which the approval is in effect immediately before commencement day;
 - and
 - (b) includes a plan taken to be a structure plan under the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 79 that is in effect under this Scheme immediately before commencement day.
- (2) On and after commencement day, a current activity centre plan —
 - (a) continues in effect under this Scheme; and
 - (b) is taken to be a precinct structure plan approved under this Scheme for which the approval has effect; and
 - (c) may be amended or revoked accordingly.
- (3) On and after commencement day, a current structure plan —
 - (a) continues in effect under this Scheme; and
 - (b) is taken to be a standard structure plan approved under this Scheme for which the approval has effect; and
 - (c) may be amended or revoked accordingly.
- (4) Clause 28 of the amended deemed provisions applies to a structure plan, whether it is a plan referred to in subclause (2) or (3) or a plan approved under this Scheme on or after commencement day.

[Clause 92 inserted: SL 2020/252 r. 79.]

93. Activity centre plans or amendments in course of preparation on commencement day

- (1) In this clause —
 - preparation and approval process***, in relation to an activity centre plan or amendment to an activity centre plan, means the process for preparing or accepting, advertising, reporting on, modifying and approving the plan or amendment set out in Part 5 of the former deemed provisions.
- (2) This clause applies to an activity centre plan or amendment to an activity centre plan if —

- (a) 1 or more steps in the preparation and approval process for the plan or amendment occurred before commencement day under Part 5 of the former deemed provisions; but
- (b) the Commission did not approve or refuse to approve the proposed plan or amendment before commencement day.
- (3) If the process of advertising the proposed activity centre plan or amendment under clause 34 of the former deemed provisions commenced but was not completed before commencement day —
 - (a) that advertising process may be completed in accordance with the requirements of that clause; and
 - (b) after the advertising process referred to in paragraph (a) is completed —
 - (i) the proposed plan or amendment is taken to be a proposed precinct structure plan or amendment to a precinct structure plan that has been advertised in compliance with the requirements of clause 18 of the amended deemed provisions; and
 - (ii) the other steps taken before commencement day in the preparation and approval process for the plan or amendment are taken to have been taken under and in accordance with the equivalent provision of Part 4 of the amended deemed provisions.
- (4) If subclause (3) does not apply, on and after commencement day —
 - (a) the proposed activity centre plan or amendment is taken to be a proposed precinct structure plan or amendment to a precinct structure plan; and
 - (b) the steps taken before commencement day in the preparation and approval process for the plan or amendment are taken to have been taken under and in accordance with the equivalent provision of Part 4 of the amended deemed provisions.

[Clause 93 inserted: SL 2020/252 r. 79.]

SCHEDULES

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 8(5) Heritage places contained within the industrial zones marked with an asterisk on the Heritage List, are to be conserved on the basis of either incorporation as a part of future industrial development or for removal and relocation elsewhere in the municipality.

Clause 27 (3) (a) A Structure Plan is required for a Development Area, or for any particular part or parts of a Development Area, before recommending subdivision or approving the development of land within the Development Area.

(b) The Commission may, as a condition of adopting or approving a Proposed Structure Plan, require a more detailed Structure Plan in future if the Local Government or the Commission considers that it will be necessary to provide additional detail to the proposals contained in the Proposed Structure Plan.

(c) Schedule No.9 describes the Development Areas in more details and sets out the purpose and particular requirements that may apply to the Development Area.

Clause 27 (4) (a) A Structure Plan may with the agreement of the Commission, be prepared and implemented in stages;

(b) A Structure Plan may relate to only part of a Development Area;

(c) In considering a Proposed Structure Plan for part of a Development Area, the proponent may be required to demonstrate how planning for the subject land may be integrated with planning for the balance of the Development Area, including how broad land uses, essential services, main movement systems and major conservation and recreation areas are to be integrated and provide information on the arrangement for implementation.

Clause 61(6) (a) the use of land reserved under the Scheme, where such land is held by the Local Government or vested in a public authority.

(i) for the purposes for which the land is reserved under the Scheme; or

(ii) in the case of land vested in a public authority, for any purposes for which such land may be lawfully used by that authority.

(b) the erection of a boundary fence except as otherwise required by the Scheme.

(c) the erection on a lot of two grouped dwellings where the proposed use is designated with the symbol "P" and "D" in the cross-reference to

that zone in the Zoning Table and in the Development Zone, except where otherwise provided by the Scheme.

- (d) the carrying out of any works on, in, over or under a street or road by a public authority acting pursuant to the provisions of any Act.
- (e) the carrying out of works urgently necessary in the public safety or security of plant or equipment or for the maintenance of essential services.
- (f) a family day care centre.
- (g) any of the exempted classes of advertisements listed in Schedule No.6 except in respect of a place included in the Heritage List or in a Heritage Area.
- (h) single short stay accommodation within the Development Area within the area covered by the Port Kennedy Development Agreement Act, 1992 (as amended), including any extensions, ancillary buildings or swimming pools.
- (i) the minor works undertaken on land in the General and Special Industrial Zones (as detailed in Clause 61(7), where such works are undertaken in accordance with an Structure Plan prepared in accordance with Clause 4.10.7 of the Scheme.

Clause 61(7) Minor Works in the General and Special Industry Zones Not Requiring Development approval.

The development approval of the Local Government is not required for the following minor works on land undertaken in the General and Special Industry Zones where such works:

- (a) are undertaken in accordance with an approved SP;
- (b) in the opinion of Local Government, involve minor alteration or modification to an approved SP;
- (c) involve the minor rearrangement of landscaping or car parking areas provided that the overall area of landscaping or number and size of car parking bays are not diminished and are reconstructed and marked out in accordance with Local Government's approved engineering standards;
- (d) re-arrange, alter or renew plant (Plant includes industrial infrastructure such as tanks and associated bunding, silos, pipe work and pipe racks, conveyor belts, cooling towers, air compressors, tanker loading facilities and rigging) provided that the area of plan external to the existing building area is not increased, the capacity of the plant does not exceed approved levels and hazard or risk levels are not increased offsite;
- (e) re-arrange, alter or renew a utility installation or infrastructure that is ancillary to an existing use and development;

- (f) are necessary to comply with licenses or notices issued under State Government legislation or regulations;
- (g) involve a shed or structure, not exceeding 100 square metres in floor area, which is not a driveway, carpark or loading or landscaping area, unless such areas are replaced and which:
 - is not used for activities which increase the offsite impacts of the industry by virtue of the generation of risks, airborne emissions, odours, noise, vibration, or light spill;
 - is used for the storage of material, equipment or machinery or the carrying out of activities associated with the construction, maintenance and similar functions.

Notwithstanding Clause 61(7) (a) to 61(7) (g), all other applicable licenses or approvals are to be obtained and complied with including Local Government's East Rockingham Industrial Park – Environmental Local Planning Policy; and

Prior to the commencement of any of these works, a copy of the plans and details should be forwarded to Local Government for records.

- Clause 63(3) (d) 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 structure 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;
- (e) An assessment of the cultural significance of any existing buildings or the development site itself according to policy guidelines adopted by the Local Government in relation to the Heritage Area or place which may be affected;
- (f) Any other information which the Local Government indicates that it considers relevant.

Clause 64(6) Where an application is made for Development Approval to commence a use or carry out development which involves an 'A' use, the Local Government is not to grant approval to that application unless notice of the application is first given in accordance with clause 64 of the deemed provisions.

Clause 64(7) Where an application is made for development approval to commence a use or carry out development which involves a 'D' use, or for any other development which requires development approval of the Local Government, the Local Government may give notice of the application in accordance with Clause 64 of the deemed provisions.

Clause 78(3) The Local Government in implementing the Scheme has the power to acquire any land or building within the Scheme Area under the provisions of the Scheme or the Act.

SCHEDULE NO.1 - INTERPRETATIONS

(under clause 1.10)

1. General Interpretations

In the Scheme:

Absolute Majority: shall have the same meaning as is given to it in and for the purposes of the *Local Government Act 1995*.

[r. 10(4)]

Part 1 — Preliminary

1. Terms used

If a word or expression used in this Scheme is listed in this clause, its meaning is as follows

~~In this Scheme—~~

Act means the *Planning and Development Act 2005*;

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;

Additional Use: means a use that is permitted on a specific portion of land in addition to the uses already permissible in that zone that applies to the land.

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;

Amusement Machine: means any machine, game or device whether mechanical or electronic or a combination of both operated by one or more players for amusement and recreation.

ancillary dwelling has the meaning given in the R-Codes;

Appeal Tribunal: means the State Administrative Tribunal constituted under the *State Administrative Tribunal Act 2004*.

Authorised Officer: means an Officer of the Local Government, authorised by the Local Government to exercise all or some of the powers of the Local Government under this Scheme.

Baldivis Town Centre Policy: means the Baldivis Town Centre Policy, as adopted by the Local Government, together with any amendments and associated policies and performance standards.

Battle-axe Lot: has the same meaning as is given to that term in the R-Codes.

Building: has the same meaning as is given to that term in the R-Codes.

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)

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.

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;

built heritage conservation means conservation as defined in the *Heritage Act 2018* section 4; ~~*Heritage of Western Australia Act 1990* section 3(1);~~

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.

Centre Plan: means the documents entitled “Rockingham Strategic Regional Centre – Centre Plan, Volumes 1 and 2” as adopted by the

Local Government on 22 September 2009 and by the Commission on 10 November 2009.

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.

class A use, in relation to a zone, means a use identified in the zoning table for this Scheme (regardless of the symbol used) as a use that is not permitted in the zone unless the local government has exercised its discretion by granting development approval after advertising the application in accordance with clause 64;

class D use, in relation to a zone —

- (a) means a use identified in the zoning table for this Scheme (regardless of the symbol used) as a use that is not permitted in the zone unless the local government has exercised its discretion by granting development approval; but
- (b) does not include a class A use;

class P use, in relation to a zone, means a use identified in the zoning table for this Scheme (regardless of the symbol used) as a use that is permitted in the zone if it complies with any relevant development standards and requirements of this Scheme;

class X use, in relation to a zone, means a use identified in the zoning table for this Scheme (regardless of the symbol used) as a use that is not permitted in the zone;

commercial, centre or mixed use zone means —

- (a) if this Scheme includes the model provision set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1 clause 16 — a Commercial zone, Centre zone or Mixed Use zone; or
- (b) otherwise — a zone (however named) the objectives of which as set out in this Scheme indicate that it is an area suitable for —
 - (i) a range of shops, offices, restaurants and other commercial outlets (whether or not in a town centre or activity centre); or
 - (ii) a wide variety of active uses on street level that are compatible with residential and other non-active uses on upper levels;

complex application means —

- (a) an application for approval of development that is a use of land if the use is not specifically referred to in the zoning table for this Scheme in respect of the zone in which the development is located; or
- (b) an application of a kind identified elsewhere in this Scheme, or in a local planning policy, as a complex application for development approval;

Container has the meaning given in the WARR Act section 47C(1);

container collection cage means a cage or other structure in which members of the public may place empty containers for the purposes of the container deposit scheme, without receiving payment of the refund amount in exchange;

container deposit recycling centre means a refund point that has or can accommodate facilities for the consolidation or sorting of empty containers pending collection for the purposes of the container deposit scheme;

container deposit scheme means the scheme established by the WARR Act Part 5A;

cultural heritage significance has the meaning given in the *Heritage Act 2018* section 5(1); ~~meaning given in the *Heritage of Western Australia Act 1990* section 3(1);~~

deemed-to-comply provision, of the R-Codes, means a provision of the R-Codes described in the R-Codes as a deemed-to-comply provision or a deemed-to-comply requirement;

Commercial Vehicle: means a vehicle, whether licensed 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).

Commission: means the Western Australian Planning Commission constituted under the Act.

Conservation: means, in relation to any place or Heritage Precinct, the management of that place or precinct in a manner that will:

- (a) enable the cultural heritage significance of that place or precinct to be retained; and
- (b) yield the greatest sustainable benefit for the present community without diminishing the cultural heritage significance of that place or precinct,

and may include the preservation, stabilisation, protection, restoration, reconstruction, adaptation and maintenance of that place or precinct having due regard to relevant professional standards and the provision of an appropriate visual setting.

Local Government: means the Local Government of the City of Rockingham.

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;

Deemed Provisions: means the Schedule 2 – Deemed Provisions for local planning schemes in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Development:	means the development or use of any land, including: <ul style="list-style-type: none"> (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land; (b) the carrying out on the land of any excavation, or other works; (c) in the case of a place to which a Conservation Order made under section 59 of the <i>Heritage of Western Australia Act 1990</i> applies, any act or thing that: <ul style="list-style-type: none"> (i) is likely to change the character of that place or the external appearance of any building; or (ii) would constitute an irreversible alteration of the fabric of any building.
Development Policy Plan (City Centre Sector):	means the Policy entitled “Development Policy Plan (City Centre Sector)” as amended from time to time.
Development Policy Plan (Campus Sector)	means the Policy entitled “Development Policy Plan (Campus Sector)” as amended from time to time.
Development Policy Plan (Eastern Sector)	means the Policy entitled “Development Policy Plan (Eastern Sector)” as amended from time to time.
Development Policy Plan (Northern Waterfront Sector):	means the Policy entitled “Development Policy Plan (Northern Waterfront Sector)” as amended from time to time.
Development Policy Plan (Smart Village South Sector):	means the Policy entitled “Development Policy Plan (Smart Village South Sector)” as amended from time to time.
Development Policy Plan (Southern Gateway and Rockingham Station Sectors):	means the Policy entitled “Development Policy Plan (Southern Gateway and Rockingham Station Sectors)” as amended from time to time.
Development Policy Plan (Waterfront Village Sector):	means the Policy entitled “Development Policy Plan (Waterfront Village Sector)” as amended from time to time.
District:	means the district of the City of Rockingham.

drop-off refund point means a refund point that —

- (a) is located in a building; and
- (b) is not a container deposit recycling centre;

excluded holiday period day means a day that is in —

- (a) a period commencing on 25 December in a year and ending on the next 1 January; or
- (b) a period of 7 days commencing on Good Friday in a year;

East Rockingham

Development Guidelines: means the East Rockingham Industrial Park Development Guidelines, as adopted by the Local Government, together with any amendments and associated policies and performance standards.

Environmental Priorities: means the Environmental Priorities of the Local Government as set out in the State of the Environment Report, as adopted by the Local Government, together with any amendments or associated policies and performance standards.

Exempted Advertisement: means an exempted advertisement referred to in Schedule No.6.

Existing Advertisement: means an existing advertisement referred to in clause 5.3.2.

Floor Area: has meaning given in the Building Code.

Freeway: means a road classed as a Primary Regional Road in the Metropolitan Region Scheme or a regional planning scheme and which is planned to a freeway standard and grade separated interchanges where direct access is restricted from adjacent property.

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.

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;

Gross Leasable Area: means in relation to a building, the area of all floors capable of being occupied by a tenant for 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.

Height:

when used in relation to a building that is used for:

- (a) residential purposes, has the same meaning as in the R-Codes; or
- (b) purposes other than residential purposes, means the maximum vertical distance between the natural ground level and the finished roof height directly above.

grouped dwelling has the meaning given in the R-Codes;

heritage-protected place has the meaning given in clause 1A;

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

Incidental Use:

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

Industrial Policy:

means the East Rockingham Industrial Park: Environmental Local Planning Policy, as adopted by the Local Government, together with any amendments thereto and associated policies and performance standards.

Integrated Development Guide Plan:

means a plan prepared in accordance with paragraph (b) of clause 4.3.7, paragraph (b) of clause 4.4.7 and paragraph (b) of clause 4.5.4 of the Scheme Text and which deals *inter alia* with the matters referred to in those paragraphs.

Land:

shall have the same meaning given to it in and for the purposes of the Act.

Licensed Premises:

means any premises licensed or proposed to be licensed under the *Liquor Control Act 1988*.

light industry zone means —

- (a) if this Scheme includes the model provision set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1 clause 16 — a Light Industry zone; or
- (b) otherwise — a zone (however named) the objectives of which as set out in this Scheme indicate that it is an area suitable for a range of light industrial uses and service industries generally compatible with urban areas that cannot be located in commercial zones;

Local Commercial Strategy:

means the Local Commercial Strategy, as adopted by the Local Government, together with any amendments and associated policies and performance standards.

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;

Local Reserve: means land shown on the Scheme Map as a Local Reserve.

Lot: has the same meaning as in the Act, but does not include a strata or survey strata lot.

maintenance and repair works means works that —

- (a) are carried out to maintain or repair any building, structure or land or otherwise to prevent any building, structure or land from deteriorating or falling into a state of disrepair; and
- (b) do not result in any material alteration to the building, structure or land, including any material alteration to the materials used in or on, or the design or specifications of, the building, structure or land;

Minister for Heritage means the Minister who administers the *Heritage Act 2018*;

multiple dwelling has the meaning given in the R-Codes;

Metropolitan Region

Scheme: means the Metropolitan Region Scheme made pursuant to the former Metropolitan Region Town Planning Scheme Act 1959 published in the Government Gazette of the 9th August 1963 and as amended from time to time.

Minerals: has the meaning given in the *Mining Act 1978* section 8(1).

Minister: means the Minister for Planning or the Minister of the Western Australian Government responsible for town planning.

natural ground level, in relation to land subject to development, means —

- (a) the ground level specified in either of the following that applies to the land (or, if both of the following apply to the land, the more recent of the following) —
 - (i) a condition on an approval of a plan of subdivision that specifies a ground level;
 - (ii) a previous development approval for site works on the land that specifies a ground level;or
- (b) if paragraph (a) does not apply — the level of the land before any disturbance to the land relating to the development;

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;

- Net Lettable Area (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 such 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.

non-conforming use has the meaning given in section 172 of the Act;

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;

Peel Region Scheme area means the area to which the Peel Region Scheme applies;

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 of 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;

**Peel-Harvey Coastal
Plain Catchment:**

means all of the land within the Scheme Area located within the administrative boundary of the Peel-Harvey Coastal Plain Catchment, as set out in the Commission's State Planning Policy No.2.1.

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.

Plot Ratio:

means the ratio of the gross total of the areas of all floors to the area of land within the site boundaries and in calculating the gross total of the areas of all floors the areas shall be measured over any walls but shall not include lift shafts, stairs or stair landings, machinery rooms, air conditioning, equipment rooms, non-habitable floor space in basements, areas used exclusively for the parking of wheeled vehicles at or below ground level, lobbies or amenities common to more than one dwelling or private open balconies.

Policy:

means a local Planning Policy made in accordance with Part 2, Division 2 of the deemed provisions.

Potable Water:

means water in which the levels of physical, chemical and microbiological constituents do not exceed the maximum permissible levels set out in "International Standards for Drinking Water" published by the World Health Organisation.

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.

Primary Centre:

means that portion of the Scheme Area shown and designated on the Scheme Maps as the "Primary Centre".

Public Authority:

shall have the same meaning given to it in and for the purposes of the Act.

refund amount has the meaning given in the WARR Act section 47C(1);

refund point has the meaning given in the WARR Act section 47C(1);

residential zone —

- (a) if this Scheme includes the model provision set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 1 clause 16 — means a Residential zone, Special Residential zone or Rural Residential zone; or
- (b) otherwise —
 - (i) means a zone (however named) the objectives of which as set out in this Scheme indicate that it is an area suitable for residential use (regardless of residential lot sizes in the zone and whether or not a limited range of rural and related ancillary pursuits are permitted); but
 - (ii) does not include a zone (however named) the objectives of which as set out in this Scheme indicate that it is an area suitable for a wide variety of active uses on street level that are compatible with residential and other non-active uses on upper levels;

reverse vending machine means a permanently-located unattended device that accepts empty containers from members of the public in exchange for the payment of the refund amount;

Restoration: means any work or process on, at or in respect of a building, structure or place which wholly or partly brings back the building structure or place to its original condition or which reinstates its historic or natural character either by rebuilding or repairing its fabric or by removing accretions or additions.

Retail: means the sale or hire of goods or services to the public.

Rural Land Strategy: means the Rural Land Strategy, as adopted by Local Government, together with any amendments and associated policies and performance standards.

Schedule: means a schedule to the Scheme.

Secret Harbour Town Centre Policy: means the Secret Harbour Town Centre Policy, as adopted by the Local Government, together with any amendments and associated policies and performance standards.

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.

single house has the meaning given in the R-Codes;

site works means works that affect the ground level, whether by excavation or filling;

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

single house has the meaning given in the R-Codes;

site works means works that affect the ground level, whether by excavation or filling;

street setback area, of a building, means the area between the building and the boundary of a road reserve that abuts the lot, and if the lot abuts 2 or more road reserves, means the area between the building and boundary of the road reserve to which the building faces;

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;

WARR Act means the *Waste Avoidance and Resource Recovery Act 2007*;

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.

Waterway: means an artificial waterway in and for the purposes of the Act.

Wholesale: means the sale of any goods or materials to be sold by others.

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 protection order made under the *Heritage Act 2018* Part 4 Division 1a ~~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 work on, land, but does not include a reserve of special control area.

1A. Heritage-protected places

- (1) A **heritage-protected place** is a place —
 - (a) that is entered in the State Register of Heritage Places under the *Heritage Act 2018* section 42; or
 - (b) that is under consideration for entry into the State Register of Heritage Places as described in subclause (2); or
 - (c) that is the subject of an order under the *Heritage Act 2018* Part 4; or

- (d) that is the subject of a heritage agreement that has been certified under the *Heritage Act 2018* section 90; or
 - (e) that is included on a heritage list as defined in clause 7; or
 - (f) that is within a heritage area as defined in clause 7.
- (2) For the purposes of subclause (1)(b), a place is under consideration for entry into the State Register of Heritage Places if —
- (a) the Heritage Council has made a preliminary determination under the *Heritage Act 2018* section 39(2) that the place warrants review under section 40(1) but the review has not commenced; or
 - (b) the Heritage Council has commenced but has not completed a review of the place under the *Heritage Act 2018* section 40(1); or
 - (c) the Heritage Council has made a recommendation under the *Heritage Act 2018* section 40(2) that the place be entered in the State Register of Heritage Places but the Minister for Heritage has not yet given a direction under section 41(1) of that Act in relation to that recommendation.

[Clause 1A inserted: SL 2020/252 r. 45.]

1B. Development taken to comply with deemed-to-comply provision of R-Codes

For the purposes of this Scheme, development is taken to comply with a deemed-to-comply provision of the R-Codes if the development complies with —

- (a) a provision of a local development plan, precinct structure plan or local planning policy if —
 - (i) the provision amends or replaces the deemed-to-comply provision; and
 - (ii) for a provision of a local development plan or local planning policy where the plan or policy is required to be approved by the Commission under the R-Codes — the plan or policy is approved by the Commission;
 or
- (b) a provision that —
 - (i) is in a structure plan that was approved before 19 October 2015; and
 - (ii) amends or replaces the deemed-to-comply provision.

[Clause 1B inserted: SL 2020/252 r. 45.]

1C. Excluded holiday period days not counted in time periods

For the purposes of this Scheme, an excluded holiday period day is not to be counted in calculating a period of time that is expressed as a number of days, business days or working days.

[Clause 1C inserted: SL 2020/252 r. 45.]

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.

2. Land Use Interpretations

In the Scheme:

Abattoir: means a 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 the 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.

Ancillary Accommodation: has the same meaning as is given to that term in the R-Codes.

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.

Communications Antennae

– Commercial: means any mast, antennae, 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.

Communications Antennae

– Domestic: means any mast, antennae, aerial, satellite dish and other associated equipment used for the reception or transmission of television or radio signals or for other electronic communications where such device is consistent with the predominant style and size of other such devices in the locality, and provided that neither its vertical nor horizontal dimensions exceed two metres.

Community Purpose: means the use of 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.

Contractor's Yard: means premises used for the storage of contractor's plant and equipment, including prefabricated or transportable buildings and materials.

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 300m² 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.

Display Home Centre: means a group of two or more dwellings which are intended to be open for public inspection as examples of dwelling design.

Dry Cleaning Premises: means premises used for the cleaning of garments and other fabrics by chemical processes.

- Dwelling:** means a building or portion of a building being used or intended, adapted or designed to be used for the purpose of human habitation on a permanent basis by:
- (a) a single person;
 - (b) a single family; or
 - (c) no more than six persons who do not comprise a single family.
- 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:** 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, café or fast food services, but does not include the sale or consumption of alcohol under the Liquor Licensing Act 1988;
 - (f) take-away food retailing without a facility for drive-through service;
 - (g) public ablution facilities, including provision for truckers, 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;
- (j) dump points for the disposal of black and/or grey water from recreational vehicles.

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.

Health Studio: means premises designed and equipped for physical exercise, recreation and sporting activities including outdoor recreation.

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 50m²; 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 rate 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 20m²; and
- (d) does not involve the display on the premises of a sign with an area exceeding 0.2m²; 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 100m²; and
- (b) is operated by a person residing in the dwelling.

Hospital: means premises that are a hospital within the meaning given in the *Health Services Act 2016* section 8(4).

Hospital – Special Purposes: means a building used or designed for use wholly or principally for the purpose of a hospital or sanatorium for the treatment of infectious or contagious diseases, or hospital for the treatment of the mentally ill or similar use.

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 – Cottage: means a trade or light industry producing arts and craft goods which does not fall within the provisions of a “home occupation” and which, in the opinion of Local Government:

- (a) does not cause injury to or adversely affect the amenity of the neighbourhood;
- (b) where operated in a Residential Zone, does not employ any person other than a member of the occupier’s household;

- (c) is conducted in an out-building which is compatible with the principal uses to which land in the zone in which it is located may be put;
- (d) does not occupy an area in excess of 50m²;
- (e) does not display a sign exceeding 0.2m² in area.

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 – General: means an industry other than a cottage, extractive, general (licensed), hazardous, light, noxious, rural or service industry.

Industry – General (Licensed): means an industry which is a category of Prescribed Premises set out in Schedule 1 of the Environmental Protection Regulations 1987 or premises subject to registration set out in Schedule 2 of the Environmental Protection Regulations 1987, but does not include an abattoir, agriculture – intensive, animal husbandry – intensive, industry – extractive, industry – hazardous, industry – noxious, industry – primary production, industry – rural, landfill (Prescribed Premises Category 63, 64, 65 and 66), or stockyards.

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 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 – Noxious: means an industry in which the processes involved constitute an offensive trade within the meaning of the *Health Act 1911* and/or the City of Rockingham Health Local Laws 1996, but does not include an abattoir, dry cleaning premises, laundromat or animal husbandry intensive.

**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.

Industry – Service:

means a light industry carried out from premises which may have a retail shop front and from which goods manufactured on the premises may be sold; or premises having a retail shop front and used as a depot for receiving goods to be serviced.

Landscape Supply Yard:

means premises used for the storage and sale in bulk of sand, soil, stone, gravel, mulch, woodchips, wood, paving slabs, limestone blocks and other such materials.

Laundromat:

means a building, open to the public in which coin-operated or other washing machines, with or without provision for drying clothes, are available for use.

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 300m².

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 300m².

Lodging House:

shall have the same meaning as is given to it in and for the purposes of the *Health Act 1911* (as amended).

Lunch Bar:

means premises or part of premises used for the sale of takeaway food (in a form ready to be consumed without further preparation) within industrial or commercial areas.

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.

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: <ul style="list-style-type: none"> (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.
Motor Vehicle Wrecking Premises:	means premises used for the storage, breaking up or dismantling of motor vehicles and includes the sale of second-hand motor vehicle accessories and spare parts.
Night Club:	means premises the subject of a nightclub licence granted under the <i>Liquor Control Act 1988</i> .
Nursing Home:	means any building used for the medical treatment or care of sick persons, whether resident or not, but does not include a Medical Centre or hospital.
Office:	means premises used for administration, clerical, technical, professional or other like business activities.
Open Air Display:	means the use of land as a site for the open air display and/or sale and hire of goods and equipment.
Park Home Park:	means premises used as a park home park as defined in the <i>Caravan Parks and Camping Grounds Regulations 1997</i> Schedule 8.
Place of Worship:	means premises used for religious activities such as a chapel, church, mosque, synagogue or temple.
Produce Store:	means premises wherein fodders, fertilisers and grain are displayed and offered for sale.
Public Amusement:	means premises used for the amusement or entertainment of the public, with or without charge.
Public Utility:	means any work or undertaking constructed or maintained by a public authority or the Local Government as may be required to provide water, sewerage, electricity, gas, drainage, communications or other similar services.
Reception Centre:	means premises used for hosted functions on formal or ceremonial occasions.

Recreation – Private:	means premises that are: <ul style="list-style-type: none"> (a) used for indoor or outdoor leisure, recreation or sport; and (b) not usually open to the public without charge.
Residential Building:	has the same meaning as in the R-Codes.
Restaurant/Café:	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 <i>Liquor Control Act 1988</i> .
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: <ul style="list-style-type: none"> (a) publications that are classified as restricted under the <i>Classification (Publications, Films and Computer Games) Enforcement Act 1995</i> (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.
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: <ul style="list-style-type: none"> (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 200m²; 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.

Salvage Yard: means premises 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.

Sawmill: means premises where logs or large pieces of timber are sawn but does not include a joinery works unless logs or large pieces of timber are sawn therein.

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; and/or
- (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles.

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.

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*.

Stockyards: means any land, building or other structure used for the holding and/or sale of animal stock.

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 purposes 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 <i>Carbon Rights Act 2003</i> 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.
Veterinary Hospital:	means premises used in connection with the treatment of animal injuries and ailments, and includes the care and accommodation of animals during or after such treatment.
Warehouse/Storage:	means premises including indoor or outdoor facilities used for: <ul style="list-style-type: none"> (a) the storage of goods, equipment, plant or materials; or (b) the display or sale by wholesale of goods.
Wildlife Park:	means premises used for the keeping, breeding and display of fauna and/or flora and the term includes a zoo but does not include animal establishment or keeping, breeding or showing of domestic pets.
Winery:	means premises used for the production of viticultural produce and associated sale of the produce.

SCHEDULE NO.2 - ADDITIONAL USES
(under clause 3.3)

No.	Site Description	Additional Use	Special Conditions
2.	Lot 153 Safety Bay Road, Safety Bay	Consulting Rooms	N/A
3.	Lot 47 Cnr Safety Bay and Penguin Roads, Safety Bay	Marine Sales Maintenance and Repairs	N/A
4.	Lot 166 Cnr Safety Bay and McLarty Roads, Safety Bay	Marine Sales, Maintenance and Repairs	N/A
5.	Lot 2 and Pt Lot 201 Cnr Kent and Wanliss Streets, Rockingham	Ancillary Offices	N/A
6.	Lot 12 Cnr Dixon Road and Crocker Street, Rockingham	Service Station	N/A
8.	Lot 324 Cnr Cygnus and Read Street, Rockingham and Lot 325 Cygnus Street, Rockingham	Medical Centre	N/A
11.	Lot 116 Cnr Council Avenue and Kitson Street, Rockingham	Offices	N/A
12.	Lot 271 Safety Bay Road, Waikiki	Consulting Rooms	N/A
13.	Lot 6 Fifty Road, Baldivis	Residential Building	N/A
14.	Lot 71 Cnr Mandurah and Outridge Roads, Baldivis	Restaurant, Reception Centre and Tavern	N/A
15.	Lot 293 Kerosene Lane, Baldivis	Marron/Fish Farm and Four Associated Grouped Dwellings	N/A
16.	Lot 688 Grange Drive, Cooloongup	Medical Centre	N/A
17.	Lot 127 Fletcher Road, Karnup	Short Stay Accommodation	Not exceeding 15 bedrooms.
18.	Lot 1331 Dixon Road, Rockingham	Consulting Rooms and Office	N/A
19.	Lot 139 Paxton Way, Port Kennedy	Club Premises	N/A
20.	Lot 231 Safety Bay Road, Warnbro	Motor Repair Station, Showroom for Hire of Garden Equipment and Trailers or Office	N/A

No.	Site Description	Additional Use	Special Conditions
21.	Lot 54 (No. 74A) Parkin Street, Rockingham	Consulting Rooms, Medical Centre, Office, Shop and Showroom	<p>No more than one (1) Additional Use being operated from the premises at any one time but does not preclude any other Additional Use specified being approved as an incidental use.</p> <p>Mixture of uses is not permitted unless the Local Government has exercised its discretion by granting development approval.</p> <p>The Additional Use shall only be operated in association with a residential dwelling on the site.</p>
22.	Lot 299 Kerosene Lane, Baldivis	<p>(a) The retail sale of fresh fruit and vegetables; and</p> <p>(b) The retail sale of eggs, bakery goods, cereals, dairy products, meat, poultry, seafood, condiments, preserves, confectionery, non-alcoholic refreshments, nursery and horticultural products intended for household use, but only as an incidental use to the use referred to in paragraph (a).</p>	<p>1. The Additional Use of the land shall conform to the following requirements:</p> <p>(i) the floor area of any building or buildings used for that purpose shall not exceed 1,130m²; and</p> <p>(ii) no goods other than those specified in the Additional Use shall be sold.</p> <p>2. The additional Use shall cease by 30 June 2015.</p> <p>3. The use of the land for the Additional Use is conditional on the preparation and adherence to a suitable traffic management plan approved by the Local Government.</p>

No.	Site Description	Additional Use	Special Conditions
			4. For the removal of doubt, the Additional Use and the Special Conditions applying to it are not a standard or requirement capable of variation pursuant to Clause 4.20.1.
23.	Lot 685 (No.2) Grange Drive, Cooloongup	Offices and Consulting Rooms	Development approval.
24.	Lot 726 (No.10) Langley Street, Rockingham, Lot 727 (No.8) Langley Street, Rockingham and Lots 707-709 (No.21, 23 and 25) Thorpe Street, Rockingham	Nursing Home	<p>1. The nursing home must be designed to accommodate the same building setbacks as those that would be required under the R-Codes if the development was considered to be a residential building.</p> <p>2. The provision of a Traffic and Carparking Report by a suitably qualified consultant that demonstrates to the satisfaction of Local Government that all carparking requirements can be accommodated on-site.</p>
25.	Lot 8 (No.12) Endeavour Drive, Port Kennedy	Shop 'D' Showroom 'D' Club Premises 'D' Private Recreation 'D'	The floor area of any building or buildings used for the purpose of "Shop" shall not exceed 350m ² retail NLA.
26.	Lot 20 (No.216) Arcadia Drive, Safety Bay	Short Stay Accommodation	Compliance with the conditions of the Development approval issued by the Local Government on the 30th January 2007 (Ref: 20.2006.193) or any subsequent approval issued by the Local Government

No.	Site Description	Additional Use	Special Conditions
27.	Lot 81 (No.218) Safety Bay Road, Shoalwater	Residential: (a) Grouped Dwellings or (b) Multiple Dwellings	Residential development must be in accordance with the R30 Residential Density Code.
28.	Lot 100 (No.1-3) Leeuwin Parade, Rockingham	Office and Consulting Rooms	N/A
29.	Lot 48 (No.335) Eighty Road, Baldivis	Communications Antennae – Commercial	<ol style="list-style-type: none"> 1. The antenna is to have a maximum height of 18 metres. 2. Development approval is required for the additional use. 3. Any development approval granted is to include measures for the lowering of the antenna and planting of vegetation to provide for screening of the antenna from the view of the rear garden of Lot 47 (No.333) Eighty Road, Baldivis.
30.	Lot 40 (No.129) Dixon Road, East Rockingham	Service Station and Fast Food Outlet	<ol style="list-style-type: none"> 1. In these Special Conditions 'Land' means Lot 40 (No.129) Dixon Road, East Rockingham. 2. Not more than one building on the Land is to be used for the purpose of a Fast Food Outlet. 3. No part of any building is to be used for the purpose of a Fast Food Outlet except a building approved, developed and used for the purpose of a Service Station.

No.	Site Description	Additional Use	Special Conditions
30.			<p>4. The Net Lettable Area of a building use for the purpose of Fast Food Outlet must not exceed 150m².</p> <p>5. No part of the land designated or developed for the purpose of a Service Station or Fast Food Outlet is to be used for the sale or service of food or drink to any person while the person is in a vehicle.</p> <p>6. No sign is to be displayed which advertises a Fast Food Outlet unless the sign also advertises a Service Station.</p> <p>7. For the removal of doubt, the Additional Purpose and the Special Conditions which apply to it are not a standard or requirement capable of variation pursuant to Clause 4.20.1. (AMD 146 GG 24/4/15)</p>
31.	Lot 8 (No.5) Belrose Crescent, Cooloongup	Nursing Home	
32.	Portion of Lot 2664 on DP 66987 Secret Harbour Boulevard, Secret Harbour	Nursing Home and Medical Centre	<p>1. The Nursing Home use is permitted if it complies with any relevant development standards and requirements of this scheme.</p>

No.	Site Description	Additional Use	Special Conditions
32.			<p>2. The Medical Centre use is not permitted unless it is incidental to the predominant Nursing Home use of the land as determined by the local government.</p> <p>3. The Medical Centre use is limited to a maximum of four (4) health practitioners operating within the Medical Centre at any one time.</p> <p>4. Prior to any development occurring on the site, a Local Development Plan must be prepared and adopted by the Local Government.</p>

SCHEDULE NO.3 - SPECIAL USE ZONES

(under clause 3.4)

No.	Site Description	Use	Special Conditions
2.	Reserve 29935 (Lot 1305) Cnr Rockingham and Governor Roads, Rockingham	Caravan Park and Ancillary Uses	N/A
4.	Lot 12 Mandurah Road, Baldivis	Private School, Church and Ancillary Uses	N/A
5.	Lots 24 and 25 Cnr Val and Harrison Streets, Rockingham	Carparking Area	N/A
6.	Lot 501 Warnbro Sound Avenue, Port Kennedy	Open Air Display	N/A
7.	Lot 51 Dixon Road, East Rockingham	Caravan Park and Ancillary Uses	N/A
8.	Lot 10 Cnr Mandurah and Fifty Roads, Baldivis	Caravan Park and Ancillary Uses	N/A
9.	Portion of Lot 9045 Secret Harbour Boulevard, Secret Harbour	(1) Golf Course and Ancillary Uses (2) Reception Centre	<ol style="list-style-type: none"> 1. The use of 'Reception Centre' is restricted to a building approved and developed for the use of a golf clubhouse, with the exception of activities incidental to a reception that may take place on land surrounding the golf clubhouse. 2. The use of 'Reception Centre' shall not be permitted unless the land subject to Special Use Zone 9 is being used for the purpose of a golf course. 3. Any development application which seeks approval of a 'Reception Centre' land use, or which seeks to amend or expand an approved 'Reception Centre' land use must be accompanied by an

No.	Site Description	Use	Special Conditions
9.			<p>acoustic assessment and noise management plan to be approved by Local Government.</p> <p>4. The conditions which apply to the use of 'Reception Centre' in this zone are not standards or requirements capable of being varied pursuant to clause 4.20.1.</p>
10.	Lot 109 Lake and Sloan Streets and Lot 54 Lake Street, Rockingham	Residential	The development of no more than twenty one (21) grouped dwellings conforming to the requirements of the R40 Code of the R-Codes
11.	Portion of Lot 9000 Paparone Road, Baldivis – East of Kwinana Freeway	Freeway Service Centre	<p>(a) The eating area shall not be greater than 240m² (equivalent to approximately 150 sit-down customers) with limited take away food retailing contained within a single building without a drive thru fast-food facility.</p> <p>(b) Fuel shall only be sold by retail and there shall be no bulk fuel service.</p> <p>(c) Vehicles servicing shall be limited to emergency breakdown repairs and there shall be one only service/lubrications bay for the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles (excluding premises use for a transport depot, panel beating, major repairs or wrecking).</p>

No.	Site Description	Use	Special Conditions
11.			<p>(d) Shower and toilet facilities for both sexes shall be provided.</p> <p>(e) Overnight accommodation is prohibited.</p> <p>(f) The aggregate floor space of all retailing facilities shall be no more than 200m².</p> <p>(g) Parking for a range of vehicles shall be provided.</p> <p>(h) All facilities shall be available on a 24-hour basis.</p> <p>(i) All signs to be erected on the access lanes leading to the Freeway Service Centre sites shall be provided in accordance with a signage strategy approved by the Local Government and the Western Australian Planning Commission so as to minimise commercial advertising along the Freeway.</p> <p>(j) Main Roads truck safety inspection/monitoring facilities and weighbridge are permitted, provided it can be demonstrated to the satisfaction of the Local Government, that the facility will not have any adverse off-site impacts on rural land.</p>

No.	Site Description	Use	Special Conditions
11.			(k) The installation of an on-site effluent disposal system to the satisfaction of the Department of Health or if required an effluent holding tank is to be installed for off-site disposal at an approved Water Corporation facility. When a connection is available, the Freeway Service Centre is to be connected to reticulated sewerage.
12.	Portion of Lot 9000 Paparone Road, Baldivis – West of Kwinana Freeway	Freeway Service Centre	<p>(a) The eating area shall not be greater than 240m² (equivalent to approximately 150 sit-down customers) with limited take-away food retailing contained within a single building without a drive thru fast-food facility.</p> <p>(b) Fuel shall only be sold by retail and there shall be no bulk fuel service.</p> <p>(c) Vehicles servicing shall be limited to emergency breakdown repairs and there shall be one only service/lubrication bay for the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles, (excluding premises used for a transport depot, panel beating, spray painting, major repairs or wrecking).</p> <p>(d) Shower and toilet facilities for both sexes shall be provided.</p>

No.	Site Description	Use	Special Conditions
12.			<p>(e) Overnight accommodation is prohibited.</p> <p>(f) The aggregate floor space of all retailing facilities shall be no more than 200m².</p> <p>(g) Parking for a range of vehicles shall be provided.</p> <p>(h) All facilities shall be available on a 24-hour basis.</p> <p>(i) All signs to be erected on the access lanes leading to the Freeway Service Centre sites shall be provided in accordance with a signage strategy approved by the Local Government and the Western Australian Planning Commission as to minimise commercial advertising along the Freeway.</p> <p>(j) Main Roads truck safety inspection/monitoring facilities and weighbridge are permitted, provided it can demonstrate to the satisfaction of the Local Government, that the facility will not have an adverse impact on the amenity of existing and future residential development occurring in the locality.</p> <p>(k) The installation of an on-site effluent disposal system to the satisfaction of the Department of Health or if required an</p>

No.	Site Description	Use	Special Conditions
12.			<p>effluent holding tank is to be installed for off-site disposal at an approved Water Corporation facility. When connection is available, the Freeway Service Centre is to be connected to reticulated sewerage.</p>

SCHEDULE NO.4 - SPECIAL RURAL ZONES

PROVISIONS RELATING TO SPECIFIED AREAS

(Referring to Clause 4.12 and Plan No's 3 and 4)

SPECIAL RURAL ZONES

PORTIONS OF PLANNING UNIT 2 OF THE RURAL LAND STRATEGY

Location Table

Plan Reference	Description of Location *
2(i)	Land generally bounded by Sixty Eight, Baldivis, Foster, Churcher and Eighty Roads including former Pt Lots 736, 737, 738, 741-744, 745, 746, 748, 749, 853, 1 and 2, Baldivis
2(ii)	Land generally bounded by Stakehill, Fletcher, Nairn and Paganoni Roads, Freeway Reserve and Pine Plantation including former Lots 879, 880, 881 Stakehill Road, 870-875, 10, 13 & 16 Fletcher Road, Pt Lot 1A Paganoni Road, Baldivis
2(iii)	Lot 9 of Peel Estate Lots 856-858 Stakehill Road and Lots 15, 20, 25, and 33 Churcher Rd, Baldivis
2(iv)	Lot 500 Paganoni Rd, Karnup
2(v)	Lots 129 & 30 Stakehill Road, Baldivis

* Lot Reference at the time of rezoning and may have changed.

Provisions

In addition to all relevant provisions of the Scheme, the following Special Provisions shall apply to the land described in the 'Location Table':

1. Where appropriate, subdivision shall generally be in accordance with the Structure Plan certified by the Commission, as the subdivision plan relating to the areas as described above in the 'Location Table', and shall form part of the Scheme.
2. The Local Government will generally not recommend approval to lot sizes less than two (2) hectares.
3. (a) The following use is permitted ('P'):
 - (i) Residential – Single house (maximum of one (1) per lot only)
 - (ii) Communications Antennae – Domestic
- (b) The following uses are not permitted, unless approval is granted by the Local Government ('D'):
 - (i) Home Occupation
 - (ii) Residential Building
 - (iii) Rural Pursuit

- (iv) Caretaker's Dwelling as an incidental use
 - (v) Communications Antennae – Commercial
- (c) The following uses are not permitted, unless the Local Government, at its discretion, permit the use after notice of application has been given in accordance with Clause 64 of the deemed provisions:
- (i) Bed and Breakfast
 - (ii) Home Business
 - (iii) Industry – Cottage
 - (iv) Agriculture – Intensive
 - (v) Telecommunications Infrastructure
 - (vi) Holiday House
 - (vii) Commercial Vehicle Parking
 - (viii) Rural Home Business

The following use is not permitted, unless the use is incidental to the predominant use of the land as determined by the Local Government ('IP'):

- (i) Ancillary Accommodation
- (d) Notwithstanding the above, for the Location 2(iv) on Lot 500 Paganoni Road, Baldivis, Landscape Supply Yard, Wildlife Park and Industry: Extractive shall be treated as ('D') uses, in the locations identified on the Structure Plan.
- (e) All other uses listed in Table No. 1 not listed above shall be treated as Prohibited ('X') uses.
- (f) Uses not listed are subject to Clause 3.2.4 of the Scheme.
4. The symbols used in provision 3 above have the same meaning as those set out in clause 3.2.2 of the Scheme.
5. In addition to a building license, the Local Government's prior development approval shall be consistent with Clause 61(6) of Schedule A.
6. At the time of applying for development approval, a plan of the site shall be submitted by the applicant to the satisfaction and specification of the Local Government, which shall show site contours, existing trees and stands of vegetation, those trees and vegetation to be removed and retained and proposals for tree planting.
7. (a) Where the Local Government considers that local environmental conditions are significant enough to warrant restriction to development and vegetation clearing, the Local Government require a person to submit for the Local Government's approval a plan identifying the location of building envelopes on each lot at the time of subdivision. The location and size of the building envelopes must be to the satisfaction of the Local Government.
- (b) Where building envelopes are approved in relation to any lot, no clearing or development, other than for fire management purposes or to construct a vehicle accessway that has received the prior written approval of the Local Government, shall be approved outside the designated building envelope.
- (c) The size and location of an approved building envelope may be varied with the approval of the Local Government.

8. Where no building envelopes are required, all development, including the clearing of land, (except for firebreaks), shall comply with the following setbacks unless otherwise specified by the Local Government: -
- (a) Thirty (30) metres from other subdivisional roads (primary setback);
 - (b) Ten (10) metres from all other boundaries;
 - (c) Forty (40) metres from Mandurah Road,;
 - (d) Fifty (50) metres from the Kwinana Freeway reservation,;
 - (e) Setbacks to tourism uses shall be a minimum of thirty (30) metres from any adjoining boundary and the setback shall be vegetated to ensure screening of the activity,;
 - (f) Land adjoining the explosive depot to incorporate a further 70 metre landscape buffer;
 - (g) For Location 2(iv), the existing shed on lot 2 Fletcher Road is exempt from this requirement.
9. A person shall not construct a dwelling unless either a minimum 90,000 litre roof water storage tank with the necessary accompanying roof catchment, or other type of domestic water supply is incorporated in the approved plans, and constructed at the same time as the dwelling. If with the approval of the Local Government groundwater is used the approval of the Department of Water is also required.
10. All bores for the purpose of groundwater extraction shall require the prior approval of the Department of Water having regard to the location of any effluent disposal system, water bodies, drains and neighbouring bores.
11. On-site effluent disposal servicing development on the lots shall be to the satisfaction of the Local Government. In the event that a nutrient fixing effluent disposal system is not required, every dwelling shall have connected an effluent disposal system that:
- (a) has a vertical separation of 2 or more metres between the base of the effluent disposal system or the irrigation area, and the highest recorded groundwater level;
 - (b) has at least a 100 metre horizontal separation between the effluent disposal system and the existing drains, water courses and water bodies; and
 - (c) has been approved in writing by the Local Government;
12. Stormwater drainage shall be contained on-site to the satisfaction and specifications of the Local Government.
13. With the intention of preserving the existing natural vegetation and mature trees and preventing land use practices detrimental to the amenity of the locality, the approval of the Local Government is required for the use and development of land. The Local Government will have regard to limits on stocking, the limited groundwater resources, tree and vegetation preservation and the effects on the environment of the locality and residents of the estate when considering the application and may, should approval be granted, impose any conditions as practical and may modify or vary such conditions to take account of seasonal changes.
14. The keeping of horses, sheep, goats and other grazing animals shall be subject to the prior approval of the Local Government. Approval to keep animals shall not exceed the stocking rates recommended by Agriculture Western Australia.

For Location 2(iii), the Local Government may approve the grazing of animals outside the Building Envelope, if specified, provided that it is satisfied that nutrient input to the land can be controlled and that such will not result in the removal or damage of the vegetation and trees and result in soil erosion and dust pollution. As a condition of approval the Local Government may require the animals to be stabled or corralled.

Where, in the opinion of the Local Government, the continued presence of animals on any portion of land is likely to contribute, or is contributing to dust pollution or soil erosion, notice may be served on the owner of the said land, requiring the immediate removal of those animals specified in the notice for a period specified in the notice.

15. No native vegetation or significant habitat trees shall be removed, including from within a building envelope, except where established with written prior approval from Local Government. The Local Government may approve the removal of vegetation where the following context applies:
 - (a) The trees are dead, diseased or dangerous;
 - (b) The establishment of a fire break as required under regulation or local law;
 - (c) Fire protection within an asset protection zone as defined in the Western Australian Planning Commission publication "Guidelines for Planning in Bushfire Prone Areas";
 - (d) Access to an approved development site is required;
 - (e) Subdivisional works require the removal of vegetation.
16. Firebreaks shall be constructed and maintained to the satisfaction of the Department of Fire and Emergency Services and the Local Government. In order to preserve the amenity of the area, Local Government may, at its discretion, vary the position of any required firebreak to avoid destruction of vegetation or to address the physical features of the subject land.
17. The developer shall, within the Strategic Revegetation Areas depicted on the Structure Plan, plant trees and shrubs of a species, density and distribution to be determined by the Local Government. Tree planting shall be undertaken to the satisfaction of the Local Government prior to the clearance of Deposited Plans.

The developer of the estate shall maintain the trees and shrubs planted within the Strategic Revegetation Area (Tree Planting Area Guide Plan depicted on the Structure Plan), and vegetation retained on each lot, to the satisfaction of the Local Government until the land as a whole or in lots is sold. Thereafter the new landowner(s) shall be responsible for the maintenance and the replacement (if and where necessary) of those trees and shrubs planted by the developer and vegetation retained on each lot to the satisfaction of the Local Government.

The developer shall notify in writing any prospective purchaser of the requirement for the continued maintenance of Strategic Revegetation (or Tree Planting) Areas.

18. All buildings and outbuildings are to be sympathetic in design, materials and colour to compliment surrounding landscape elements and be sited away from focal points and located where screening vegetation or landform can be utilised.
19. All fencing shall be constructed in accordance with Local Governments Local Law.

20. Development affecting wetlands shall comply with the provisions of the Environmental Protection (Swan Coastal Plain Lakes) Policy 1992 and development within the Peel-Harvey Catchment Area shall comply with State Planning Policy No.2.1 (The Peel-Harvey Coastal Plain Catchment).
22. With respect to Location 2(iii), for the purpose of maintaining the environmental quality of Churcher Swamp and associated 50 metre buffer, there shall be no:
- (a) Clearing, filling, excavating, grazing or artificial retention, pumping or diversion of water within Churcher Swamp and associated 50 metre buffer;
 - (b) Spraying (pesticide/herbicide), cultivation, fertilising or tilling of land within Churcher Swamp and associated 50 metre buffer. The no spray requirement does not preclude the carrying out of noxious weed control in accordance with Agriculture WA's requirements or pest control as authorised by Local Government.
23. The developer making arrangements satisfactory to the Local Government to ensure that prospective purchasers of the lots created will be advised of those provisions of the Scheme and Policies which relate to the use and management of the land. Furthermore, for Location 2(iv) that prospective purchasers of those lots located within 500 metres of the market garden on Lot 3 Fletcher Road, Baldivis, are to be made aware of the existence of the market garden.
24. With the intention of preserving the existing natural vegetation and preventing land use practices detrimental to the amenity of the locality the Local Government shall have regard to the following when considering any application for an Intensive Agricultural Pursuit:
- (a) the impact of stocking rates;
 - (b) the impact on groundwater resources;
 - (c) tree and vegetation preservation;
 - (d) nutrient application; or
 - (e) the clearing of land.
25. Where lots have been identified as containing vegetation that is of regional conservation value (such as being included within Bush Forever as Bush Forever Site No. 278), the following requirements shall apply:
- (a) Management of the vegetation to comply with the approved Environmental Management Plan prepared to ensure its long term protection. The Environmental Management Plan shall include a Fire Management Plan and Strategic Revegetation Plan and shall address boundary fencing and strategic firebreaks to avoid unnecessary fragmentation, clearing and degradation of the vegetation;
 - (b) The Environmental Management Plan will be provided to prospective purchasers;
 - (c) Building Envelopes shall be defined at the time of subdivision and be of a size sufficient to include all buildings and the required 20 metre fuel reduction zone around buildings. The location and area of building envelopes shall be to the

satisfaction of the Local Government and may be varied at the discretion of the Local Government;

- (d) No clearing or development, other than for fire management purposes (consistent with the Fire Management Plan) or to construct a vehicle accessway which has received the prior written approval of the Local Government shall be approved outside the designated Building Envelopes;
- (e) A Memorial be placed on Title of each lot to notify prospective landowners of the conservation value of the vegetation on the site;
- (f) In the Priority Conservation Area, no planting of non-indigenous species is permitted;
- (g) No uses other than single dwelling, associated outbuildings and home occupation to be approved;
- (h) On-site effluent disposal servicing development on the lots shall be to the satisfaction of the Local Government;
- (i) All buildings and outbuildings are to utilise non-reflective materials in their construction and where possible are to use earth tones and colours such that the buildings are sympathetic to, and integrated with, the surrounding environment;
- (j) The keeping of horses or livestock is not permitted;
- (k) All subdivision is to be in general accordance with the Structure Plan certified by the Commission as the subdivision plan relating to Lot 10 Fletcher Road, Karnup. No further subdivision is recommended;

Should any of the above requirements conflict with other provisions in the Scheme that relate to the Special Rural zone, the above requirements shall prevail.

SPECIAL RURAL ZONES

PORTIONS OF PLANNING UNIT 3 OF THE RURAL LAND STRATEGY

(Referring to Clause 4.12 and Plan No's 3 and 4)

Location Table

Plan Reference	Description of Location*
3(i)	Lots 1-11, 13, 14, 16, 18, 19, 22, 200 and 201 Emerald Court; Lots 20 and 21 Singleton Beach Road; Lots 22-26 and 29 Jade Court; Lots 27, 28 and 30 Penson Street, Singleton.
3(ii)	Portion of Lots 28 and 29 Sawley Close; Pt Lots 14-16 and Lot 17 Dampier Drive; Lots 1 and 2 and portion of Lot 3 Crystaluna Drive; portion of Lots 4,10,12 and 13 Peelford Glen, Golden Bay.

* Lot reference at the time of rezoning and may have changed.

Provisions

In addition to all relevant provisions of the Scheme, the following Special Provisions shall apply to the land described in the 'Location Table':

1. Subdivision shall generally be in accordance with the Structure Plan certified by the Commission, as the subdivision plan relating to the areas as described above in the 'Location Table', and shall form part of the Scheme.
2.
 - (a) The Local Government will not recommend approval to further subdivision of the lots, other than generally in accordance with the Structure Plan.
 - (b) Notwithstanding the above, the Local Government will generally not recommend approval to lot sizes less than two (2) hectares, where reticulated water is not provided, or one (1) hectare, where reticulated water is provided.
 - (c) Only one building shall be constructed within the area shown on the subdivision plan as the 'Building Envelope'.
3.
 - (a) The follow use is permitted ('P'):
 - (i) Residential – Single house (maximum of one (1) per lot only)
 - (ii) Communications Antennae – Domestic
 - (b) The following uses are not permitted unless approval is granted by the Local Government ('D'):
 - (i) Home Occupation
 - (ii) Residential Building
 - (iii) Rural Pursuit
 - (iv) Caretaker's Dwelling as an incidental use
 - (v) Communications Antennae – Commercial

- (c) The following uses are not permitted, unless the Local Government, at its discretion, permit the use after notice of application has been given in accordance with Clause 64 of the deemed provisions:
- (i) Bed and Breakfast
 - (ii) Home Business
 - (iii) Industry – Cottage
 - (iv) Agriculture – Intensive
 - (v) Telecommunications Infrastructure
 - (vi) Holiday House
 - (vii) Commercial Vehicle Parking
 - (viii) Rural Home Business
- (d) Notwithstanding the above, for former Planning Unit 6 (the land generally bound by Stakehill Road, Warnbro Sound Avenue, Mandurah Road and north of Pt Lot 1 Gordon Road), the following uses are not permitted unless approval is granted by the Local Government ('D'):
- (i) Agriculture – Intensive
 - (ii) Rural Pursuit
 - (iv) Veterinary Clinic
 - (v) Veterinary Hospital
- (e) The following use is not permitted, unless the use is incidental to the predominant use of the land as determined by the Local Government ('IP'):
- (i) Ancillary Accommodation
- (f) Notwithstanding points 3(a) and (b) above, for Location 3(i), Intensive Agricultural Pursuits for commercial gain shall not be permitted.
- (g) All other uses listed in Table No. 1 not listed above shall be treated as Prohibited ('X') uses.
- (h) Uses not listed are subject to Clause 3.2.4 of the Scheme.
4. The symbols used in Provision 3 above have the same meaning as those set out in clause 61(6) of Schedule A of the Scheme.
5. In addition to a building license, the Local Government's prior development approval shall be consistent with Clause 61(6) of Schedule A.
6. At the time of applying for development approval, a plan of the site shall be submitted by the applicant to the satisfaction and specification of the Local Government, which shall show site contours, existing trees and stands of vegetation, those trees and vegetation to be removed and retained and proposals for tree planting.
7. (a) Where the Local Government considers that local environmental conditions are significant enough to warrant restriction to development and vegetation clearing, the Local Government require a person to submit for the Local Government's approval a plan identifying the location of building envelopes on each lot at the time of subdivision. The location and size of the building envelopes must be to the satisfaction of the Local Government.

- (b) Where building envelopes are approved in relation to any lot, no clearing or development other than for fire management purposes or to construct a vehicle accessway that has received the prior written approval of the Local Government, shall be approved outside the designated building envelope.
 - (c) The size and location of an approved building envelope may be varied with the approval of the Local Government.
- 8. Where no building envelopes are required, all development, including the clearing of land (except for firebreaks), shall comply with the following setbacks unless otherwise specified by the Local Government: -
 - (a) Forty (40) metres from Mandurah Road;
 - (b) Thirty (30) metres from other subdivisional roads (primary setback)
 - (c) Ten (10) metres from all other boundariesunless otherwise specified in the Rural Land Strategy.
- 9. Notwithstanding the above, for Location 3(ii), where no building envelope is shown buildings shall be setback a minimum of 15 metres from the primary street frontage, 5 metres from the side boundaries and 10 metres from the rear and be positioned to minimize any disturbance if existing vegetation on the lot. The setbacks may be varied if in the opinion of the Local Government it would result in the retention of vegetation on the site.
- 10. All lots below two (2) hectares in area shall be connected to a reticulated water supply. Where lots are not connected to a reticulated water supply, a person shall not construct a dwelling unless either a minimum 90,000 litre roof water storage tank with the necessary accompanying roof catchment, or other type of domestic water supply is incorporated in the approved plans, and constructed at the same time as the dwelling. If with the approval of the Local Government groundwater is used the approval of the Department of Water is also required.
- 11. All bores for the purpose of groundwater extraction shall require the prior approval of the Department of Water having regard to the location of any effluent disposal system, water bodies, drains and neighbouring bores.
- 12. On-site effluent disposal servicing development on the lots shall be to the satisfaction of the Local Government. In the event that a nutrient fixing effluent disposal system is not required, every dwelling shall have connected an effluent disposal system that:
 - (a) has a vertical separation of 2 or more metres between the base of the effluent disposal system or the irrigation area, and the highest recorded groundwater level;
 - (b) has at least a 100 metre horizontal separation between the effluent disposal system and the existing drains, water courses and water bodies; and
 - (c) has been approved in writing by the Local Government.
- 13. Notwithstanding point 12 above, for Location 3(ii), on –site effluent disposal systems servicing development on the lots shall be in the form of alternative wastewater treatment systems having approved phosphorus retention capability, in accordance with the specifications and to the satisfaction of Local Government.

14. Stormwater drainage shall be contained on-site to the satisfaction and specifications of the Local Government.
15. With the intention of preserving the existing natural vegetation and mature trees and preventing land use practices detrimental to the amenity of the locality, the approval of the Local Government is required for the use or development of land. The Local Government will have regard to limits on stocking, the limited groundwater resources, tree and vegetation preservation and the effects on the environment of the locality and residents of the estate when considering the application and may, should approval be granted, impose any conditions as practical and may modify or vary such conditions to take account of seasonal changes.
16. The keeping of horses, sheep, goats and other grazing animals shall be subject to the prior approval of the Local Government. Approval to keep animals shall not exceed the stocking rates recommended by Agriculture Western Australia.

The Local Government may approve the grazing of animals provided that it is satisfied that nutrient input to the land can be controlled and that such will not result in the removal or damage of the vegetation and trees or result in soil erosion and dust pollution. As a condition of approval the Local Government may require the animals to be stabled or corralled.

Where, in the opinion of the Local Government, the continued presence of animals on any portion of land is likely to contribute, or is contributing to dust pollution or soil erosion, notice may be served on the owner of the said land, requiring the immediate removal of the animals specified in the notice for a period specified in the notice.

17. Notwithstanding point 16 above, for Location 3(ii), being portion of Lots 28 and 29 Sawley Close, Lots 27 and 32-36 Trennant Park Gardens; Portion of Lots 14-16 and Lot 17 Dampier Drive; Lots 1 and 2 and portion of Lot 3 Crystaluna Drive; Portions of Lots 4,10,12 and 13 Peelford Glen, Golden Bay; the keeping of horses or livestock is not permitted.
18. Notwithstanding point 16 above, for Location 3(i), being on the land south of Singleton Beach Road, one horse may be accommodated on each lot, with other livestock being considered at the discretion of the Local Government, and with the advice of Agriculture WA. On the land north of Singleton Beach Road, horses and livestock are not permitted.
19. No native vegetation or significant habitat trees shall be removed, including from within a building envelope, except where established with written prior approval from Local Government. The Local Government may approve the removal of vegetation where the following context applies:
 - (a) The trees are dead, diseased or dangerous;
 - (b) The establishment of a fire break as required under regulation or local law,
 - (c) Fire protection within an asset protection zone as defined in the Western Australian Planning Commission publication "Guidelines for Planning in Bushfire Prone Areas";
 - (d) Access to an approved development site is required;
 - (e) Subdivisional works require the removal of vegetation.

20. Firebreaks shall be constructed and maintained to the satisfaction of the Department of Fire and Emergency Services and the Local Government. In order to preserve the amenity of the area, Local Government may, at its discretion, vary the position of any required firebreak to avoid destruction of vegetation or to address the physical features of the subject land.
21. The developer shall, within the Strategic Revegetation Areas depicted on the Structure Plan, plant trees and shrubs of a species, density and distribution to be determined by the Local Government. Tree planting shall be undertaken to the satisfaction of the Local Government prior to the clearance of Deposited Plans.

The developer shall maintain the trees and shrubs planted, and vegetation to be retained on each lot, to the satisfaction of the Local Government, until the land as a whole or in lots is sold. Thereafter the new landowner(s) shall be responsible for the maintenance and the replacement (if and where necessary) of those plants and shrubs planted by the developer and vegetation retained on each lot to the satisfaction of the Local Government.

The developer shall notify any prospective purchaser of the requirement for the continued maintenance of Strategic Revegetation Areas.

22. No native vegetation or significant habitat trees shall be removed, including from within a building envelope, except where established with written prior approval from Local Government. The Local Government may approve the removal of vegetation where the following context applies:
- (a) The trees are dead, diseased or dangerous;
 - (b) The establishment of a fire break as required under regulation or local law,
 - (c) Fire protection within an asset protection zone as defined in the Western Australian Planning Commission publication "Guidelines for Planning in Bushfire Prone Areas";
 - (d) Access to an approved development site is required;
 - (e) Subdivisional works require the removal of vegetation.
23. All buildings and outbuildings are to be sympathetic in design, materials and colour to compliment surrounding landscape elements and be sited away from focal points and located where screening vegetation or landform can be utilised.
24. All fencing shall be in accordance with the Local Government's Local Law.
25. Development affecting wetlands shall comply with the provisions of the Environmental Protection (Swan Coastal Plain Lakes) Policy 1992.
26. With respect to Location 3(i) for on the land north of Singleton Beach Road, the following provisions apply:
- (a) The subdivider shall provide additional vegetation screening as deemed necessary by Local Government;
 - (b) Each building envelope and front setback area shall be rehabilitated by each owner within 12 months of the construction of a dwelling;

- (c) The subdivider shall ensure that all surface disturbance resulting from the construction of service lines be rehabilitated to the satisfaction of Local Government;
27. The developer shall make arrangements satisfactory to the Local Government to ensure that prospective purchasers of the lots created will be advised of those provisions of the Scheme and Policies which relate to the use and management of the land.
28. With the intention of preserving the existing natural vegetation and preventing land use practices detrimental to the amenity of the locality the Local Government shall have regard to the following when considering any application for an Intensive Agricultural Pursuit:
- (a) the impact of stocking rates;
 - (b) the impact on groundwater resources;
 - (c) tree and vegetation preservation;
 - (d) nutrient application; or
 - (e) the clearing of land.

SPECIAL RURAL ZONES

PORTIONS OF PLANNING UNIT 4 OF THE RURAL LAND STRATEGY

(Referring to Clause 4.12 and Plan No's 3 and 4)

Location Table

Plan Reference	Description of Location*
4(i)	Lot 11 (No.153) Mandurah Road, Baldivis (now 30 and 31 Mandurah Road)
4(ii)	Lots 1-4 Bamber Place, Baldivis; Lots 5 & 6 Tincombe Grove, Baldivis; Portion of Lot 578 Mandurah Road, Baldivis
4(iii)	Pt Lot 12 Mandurah Road, Karnup; Lot 102 Stakehill Road, Karnup; Lot 301-303 Olive Hill Close, Karnup; Lot 301-303 Olive Hill Close, Lots 648, 649 and 652 Stakehill Road and Lot 10 Mandurah Road, Karnup
4(iv)	Lot 891 Fletcher Road, Karnup
4(v)	Lot 50 Pike Road, Baldivis; Portion of Lot 8 Mandurah Road, Baldivis
4(vi)	Lot 106 Eighty Road, Baldivis ¹ .

* Lot reference at the time of rezoning and may have changed.

¹Denotes land which is not subject to Provision No.1 of Schedule No.4 – Special Rural Zones Portions of Planning Unit No.4.

Provisions

In addition to all relevant provisions of the Scheme, the following Special Provisions shall apply to the land described in the 'Location Table':

1. Subdivision shall generally be in accordance with the Structure Plan certified by the Commission, as the subdivision plan relating to the areas as described above in the 'Location Table', and shall form part of the Scheme.
2. The Local Government will generally not recommend approval to lot sizes less than two (2) hectares, where reticulated water is not provided, or one (1) hectare, where reticulated water is provided.
3. (a) The following use is permitted ('P'):
 - (i) Residential – Single house (maximum of one (1) per lot only)
 - (ii) Communications Antennae – Domestic
- (b) The following uses are not permitted unless approval is granted by the Local Government ('D'):
 - (i) Home Occupation
 - (ii) Residential Building

- (iii) Rural Pursuit
 - (iv) Caretaker's Dwelling as an incidental use
 - (v) Communications Antennae – Commercial
- (c) The following uses are not permitted, unless the Local Government, at its discretion, permit the use after notice of application has been given in accordance with Clause 64 of the deemed provisions:
 - (i) Bed and Breakfast
 - (ii) Home Business
 - (iii) Industry – Cottage
 - (iv) Agriculture – Intensive
 - (v) Telecommunications Infrastructure
 - (vi) Holiday House
 - (vii) Commercial Vehicle Parking
 - (viii) Rural Home Business
- (d) The following use is not permitted, unless the use is incidental to the predominant use of the land as determined by the Local Government ('IP'):
 - (i) Ancillary Accommodation
- (e) All other uses listed in Table No. 1 not listed above shall be treated as Prohibited ('X') uses.
- (f) Uses not listed are subject to Clause 3.2.4 of the Scheme.
- 4. The symbols used in Provision 3 above have the same meaning as those set out in clause 3.2.2 of the Scheme.
- 5. In addition to a building license, the Local Government's prior development approval shall be consistent with Clause 61(6) of Schedule A.
- 6. At the time of applying for development approval, a plan of the site shall be submitted by the applicant to the satisfaction and specification of the Local Government, which shall show site contours, existing trees and stands of vegetation, those trees and vegetation to be removed and retained and proposals for tree planting.
- 7. For Location 4(iii) land uses other than a single residence that are permitted or may be permitted by the Local Government pursuant to the Scheme shall only be permitted when the Local Government is satisfied following consultation with the Department of Water and Environmental Regulation that the land use does not involve excessive nutrient application or the clearing of the land.
- 8.
 - (a) Where the Local Government considers that local environmental conditions are significant enough to warrant restriction to development and vegetation clearing, the Local Government require a person to submit for the Local Government's approval a plan identifying the location of building envelopes on each lot at the time of subdivision. The location and size of the building envelopes must be to the satisfaction of the Local Government.
 - (b) Where building envelopes are approved in relation to any lot, no clearing or development, other than for fire management purposes or to construct a vehicle accessway that has received the prior written approval of the Local Government, shall be approved outside the designated building envelope.
 - (c) The size and location of an approved building envelope may be varied with the approval of the Local Government.

9. Where no building envelopes are required, all development, including the clearing of land (except for firebreaks), shall comply with the following setbacks unless otherwise specified by the Local Government: -
- (a) Forty (40) metres from Mandurah Road
 - (b) Thirty (30) metres from other subdivisional roads (primary setback)
 - (c) Ten (10) metres from all other boundaries
- unless otherwise specified in the Rural Land Strategy.
10. With respect to Location 4(ii) all allotments are to be connected to reticulated sewer.
11. A person shall not construct a dwelling unless either a minimum 90,000 litre roof water storage tank with the necessary accompanying roof catchment, or other type of domestic water supply is incorporated in the approved plans, and constructed at the same time as the dwelling. If with the approval of the Local Government groundwater is used the approval of the Department of Water is also required.
12. All bores for the purpose of groundwater extraction shall require the prior approval of the Department of Water, having regard to the location of any effluent disposal system, water bodies, drains and neighbouring bores.
13. On-site effluent disposal servicing development on the lots shall be to the satisfaction of the Local Government. In the event that a nutrient fixing effluent disposal system is not required, every dwelling shall have connected an effluent disposal system that:
- (a) has a vertical separation of 2 or more metres between the base of the effluent disposal system or the irrigation area, and the highest recorded groundwater level;
 - (b) has at least a 100 metre horizontal separation between the effluent disposal system and the existing drains, water courses and water bodies; and
 - (c) has been approved in writing by the Local Government.
14. Stormwater drainage shall be contained on-site to the satisfaction and specifications of the Local Government.
15. With the intention of preserving the existing natural vegetation and mature trees and preventing land use practices detrimental to the amenity of the locality, the approval of the Local Government is required for any use or development of land. The Local Government will have regard to limits on stocking, the limited groundwater resources, tree and vegetation preservation and the effects on the environment of the locality and residents of the estate when considering the application and may, should approval be granted, impose any conditions as practical and may modify or vary such conditions to take account of seasonal changes.
16. The keeping of horses, sheep, goats and other grazing animals shall be subject to the prior approval of the Local Government. Approval to keep animals shall not exceed the stocking rates recommended by Agriculture Western Australia.

In Locations 4(i), (iii), and (iv), the Local Government may approve the grazing of animals provided that it is satisfied that nutrient input to the land can be controlled and

that such will not result in the removal or damage of the vegetation and trees or result in soil erosion and dust pollution. As a condition of approval the Local Government may require the animals to be stabled or corralled.

Where, in the opinion of the Local Government, the continued presence of animals is likely to contribute, or is contributing to dust pollution and soil erosion, notice may be served on the owner of the land, requiring immediate removal of the animals specified in the notice for a period specified in the notice.

17. No native vegetation or significant habitat trees shall be removed, including from within a building envelope, except where established with written prior approval from Local Government. The Local Government may approve the removal of vegetation where the following context applies:
 - (a) The trees are dead, diseased or dangerous;
 - (b) The establishment of a fire break as required under regulation or local law,
 - (c) Fire protection within an asset protection zone as defined in the Western Australian Planning Commission publication "Guidelines for Planning in Bushfire Prone Areas";
 - (d) Access to an approved development site is required;
 - (e) Subdivisional works require the removal of vegetation.
18. Firebreaks shall be constructed and maintained to the satisfaction of the Department of Fire and Emergency Services and the Local Government. In order to preserve the amenity of the area, Local Government may, at its discretion, vary the position of any required firebreak to avoid destruction of vegetation or to address the physical features of the subject land.
19. The developer shall, within the Strategic Revegetation Areas depicted on the Structure Plan, plant trees and shrubs of a species, density and distribution to be determined by the Local Government. Tree planting shall be undertaken to the satisfaction of the Local Government prior to clearance of the Deposited Plans.

The developer shall maintain the trees and shrubs planted and vegetation to be retained on each lot, to the satisfaction of the Local Government until the land as a whole or in lots is sold. Thereafter the new landowner(s) shall be responsible for the maintenance and the replacement (if and where necessary) of those trees and shrubs planted by the developer and vegetation retained on each lot to the satisfaction of the Local Government.

The developer shall notify in writing any prospective purchaser of the requirement for the continued maintenance of Strategic Revegetation Areas.
20. All fencing shall be in accordance with the Local Government's Local Laws.
21. In Location 4(ii) boundary fencing shall only be of a post and wire strand construction to a maximum height of 1.2 metres.
22. Development affecting wetlands shall comply with the Environmental Protection (Swan Coastal Plain Lakes) Policy 1992.

23. With respect to Location 4(i), and in particular Lots 30 and 31 Mandurah Road, no development, clearing, filling, excavation, filling of land, grazing or any other use is permitted in the area designated on the Structure Plan as 'Opwin Swamp' or the 50 metre no development buffer, without the specific approval of the Local Government.
24. With respect to Location 4(i), and in particular In relation to Lots 30 and 31 Mandurah Road, for the purposes of maintaining 'Opwin Swamp', the following Management Provisions shall apply:
- (a) No new dams, artificial retention of water, pumping, diversion of water or modification of Opwin Swamp's natural form shall be undertaken without the prior approval of the Local Government;
 - (b) The activities of stock on the land immediately surrounding Opwin Swamp shall be controlled such that the problems of erosion, pollution and vegetation degradation do not occur;
 - (c) A no spray (pesticide/herbicide), non-cultivation and non-nitrogenous fertiliser application buffer of 50 metres from Opwin Swamp shall apply. The no spray requirement does not preclude the carrying out of noxious weed control in accordance with Agriculture WA's requirements, or pest control as authorised by the Local Government.
25. With respect to maintaining Stakehill Swamp, the following Wetland Management Provisions shall apply:
- (a) No new dams, artificial retention of water, pumping, diversion of water or modification to the natural form of the wetland shall be undertaken without the prior approval of Local Government;
 - (b) A no-spray (pesticide/herbicide), non-cultivation and non-nitrogenous fertiliser application buffer of 50 metres from the foreshore of the wetlands shall apply. The no spray requirement does not preclude the carrying out of noxious weed control in accordance with Agriculture WA requirements or pest control as authorised by Local Government;
 - (c) The developer shall prepare and implement a Wetland Management Plan to the specification and satisfaction of the Department of Water and Environmental Regulation and Local Government, at the time of subdivision.
26. All buildings and outbuildings are to be sympathetic in design, materials and colour to compliment surrounding landscape elements and be sited away from focal points and located where screening vegetation or landform can be utilised.
27. The developer shall make arrangements satisfactory to the Local Government to ensure that prospective purchasers of the lots created will be advised of those provisions of the Scheme and Policies which relate to the use and management of the land.

28. With the intention of preserving the existing natural vegetation and preventing land use practices detrimental to the amenity of the locality the Local Government shall have regard to the following when considering any application for an Intensive Agricultural Pursuit: -
- (a) the impact of stocking rates;
 - (b) the impact on groundwater resources;
 - (c) tree and vegetation preservation;
 - (d) nutrient application; or
 - (e) the clearing of land.

SPECIAL RURAL ZONES

PORTIONS OF PLANNING UNIT 5 OF THE RURAL LAND STRATEGY

(Referring to Clause 4.12 and Plan No's 3 and 4)

Location Table

Plan Reference	Description of Location*
5(i)	Lots 101-105 and 129 Zig Zag and Papparone Road, Baldvis; (AMD 145 GG 31/3/15)
5(ii)	Lots 1063 to 1068 Baldvis Road and Karnup Road, Baldvis;
5(iii)	Eastern Side of Amarillo Drive and Hilltop Drive, Karnup (including former lots 77-92);
5(iv)	Lot 1006 Baldvis Road, Baldvis; (AMD 169 GG 19/3/19)

* Lot reference at the time of rezoning and may have changed.

Provisions

In addition to all relevant provisions of the Scheme, the following Special Provisions shall apply to the land described in the 'Location Table':

1. Subdivision shall generally be in accordance with the Structure Plan certified by the Commission as the subdivision plan relating to the areas as described above in the 'Location Table', and shall form part of the Scheme.
2. The Local Government will generally not recommend approval to lot sizes less than two (2) hectares.
3. (a) The following uses is permitted ('P'):
 - (i) Residential – Single house (maximum of one (1) per lot only)
 - (ii) Communications Antennae – Domestic
- (b) The following uses are not permitted unless approval is granted by the Local Government ('D'):
 - (i) Home Occupation
 - (ii) Residential Building
 - (iii) Rural Pursuit
 - (iv) Caretaker's Dwelling as an incidental use
 - (v) Communications Antennae – Commercial
- (c) The following uses are not permitted, unless the Local Government, at its discretion, permit the use after notice of application has been given in accordance with Clause 64 of the deemed provisions:
 - (i) Bed and Breakfast
 - (ii) Home Business
 - (iii) Industry – Cottage
 - (iv) Agriculture – Intensive
 - (v) Telecommunications Infrastructure

- (vi) Holiday House
 - (vii) Commercial Vehicle Parking
 - (viii) Rural Home Business
- (d) Notwithstanding the above, for Location 5(i), on Lots 532-538 and 540 Baldivis Road, Baldivis the following uses additional to Clauses above are not permitted unless approval is granted by the Local Government ('D'):
- (i) Veterinary Surgery
 - (ii) Veterinary Hospital
- (e) Notwithstanding the above, for Location 5(ii), the following uses are also permitted ('P') on Lots 1063 to 1068 Cnr Baldivis Road and Karnup Road, Baldivis:
- (i) Healing Clinic and Retreat Centre are permitted uses only within that land identified on the Structure Plan. These uses are defined as follows:

Healing Clinic: means a building or part of a building, designed or adapted for the use of practitioners who are suitably qualified in the prevention or treatment of physical or mental injuries or ailments.

Retreat Centre: means a building with short stay accommodation facilities designed or adapted for conducting group workshops and seminars.
- With regard to the permitted Healing Clinic and Retreat Centre, the following carparking requirements shall apply:
- Healing Clinic: ten (10) parking bays.
- Retreat Centre: one (1) parking bay per short stay accommodation unit.
- (f) The following use is not permitted, unless the use is incidental to the predominant use of the land as determined by the Local Government ('IP'):
- (i) Ancillary Accommodation
- (g) All other uses listed in Table No. 1 not listed above shall be treated as Prohibited ('X') uses.
- (h) Uses not listed are subject to Clause 3.2.4 of the Scheme.
4. The symbols used in Provision 3 above have the same meaning as those set out in clause 3.2.2 of the Scheme.
5. In addition to a building license, the Local Government's prior development approval shall be consistent with Clause 61(6) of Schedule A.
6. At the time of applying for Development approval, a plan of the site shall be submitted by the applicant, to the satisfaction and specification of the Local Government, which shall show site contours, existing trees and stands of vegetation, those trees and vegetation to be removed and retained and proposals for tree planting.

7.
 - (a) Where the Local Government considers that local environmental conditions are significant enough to warrant restriction to development and vegetation clearing, the Local Government require a person to submit for the Local Government's approval a plan identifying the location of building envelopes on each lot at the time of subdivision. The location and size of the building envelopes must be to the satisfaction of the Local Government.
 - (b) Where building envelopes are approved in relation to any lot, no clearing or development, other than for fire management purposes or to construct a vehicle accessway that has received the prior written approval of the Local Government, shall be approved outside the designated building envelope.
 - (c) The size and location of an approved building envelope may be varied with the approval of the Local Government.
8. Where no building envelopes are required, all development, including the clearing of land (except for firebreaks), shall comply with the following setbacks unless otherwise specified by the Local Government: -
 - (a) Fifty (50) metres from the Kwinana Freeway Reservation;
 - (b) Forty (40) metres from Mandurah Road;
 - (c) Thirty (30) metres from other subdivisional roads (primary setback);
 - (d) Ten (10) metres from all other boundaries;
 - (e) Setbacks to tourism uses in Location 5 (iii) shall be a minimum of 30 metres from any adjoining boundary and the setback shall be vegetated to ensure screening of the activity.

Unless otherwise specified in the Rural Land Strategy.

9. A person shall not construct a dwelling unless either a minimum 90,000 litre roof water storage tank with the necessary accompanying roof catchment, or other type of domestic water supply is incorporated in the approved plans, and constructed at the same time as the dwelling. If with the approval of the Local Government groundwater is used the approval of the Department of Water is also required.
10. All bores for the purpose of groundwater extraction shall require the prior approval of the Department of Water, having regard to the location of any effluent disposal system, water bodies, drains and neighbouring bores.
11. On-site effluent disposal servicing development on the lots shall be to the satisfaction of the Local Government. In the event that a nutrient fixing effluent disposal system is not required, every dwelling shall have connected an effluent disposal system that:
 - (a) has a vertical separation of 2 or more metres between the base of the effluent disposal system or the irrigation area, and the highest recorded groundwater level;
 - (b) has at least a 100 metre horizontal separation between the effluent disposal system and the existing drains, water courses and water bodies; and
 - (c) has been approved in writing by the Local Government.

12. Stormwater drainage shall be contained on-site to the satisfaction and specifications of the Local Government.
13. With the intention of preserving the existing natural vegetation and mature trees and preventing land use practices detrimental to the amenity of the locality, the approval of the Local Government is required for any the use or development of land including intensive agricultural pursuits and the breeding or keeping of animals for commercial gain in Location 5(iii). The Local Government will have regard to limits on stocking, the limited groundwater resources, tree and vegetation preservation and the effects on the environment of the locality and residents of the estate when considering the application and may, should approval be granted, impose any conditions as practical and may modify or vary such conditions to take account of seasonal changes.
14. The keeping of horses, sheep, goats and other grazing animals shall be subject to the prior approval of the Local Government. Approval to keep animals shall not exceed the stocking rates recommended by Agriculture Western Australia.

The Local Government may approve the grazing of animals provided that it is satisfied that nutrient input to the land can be controlled and that such will not result in the removal or damage of the vegetation and trees or result in soil erosion and dust pollution. As a condition of approval the Local Government may require the animals to be stabled or corralled.

Where, in the opinion of the Local Government, the continued presence of animals on any portion of land is likely to contribute, or is contributing to dust pollution or soil erosion, notice may be served on the owner of the said land, requiring the immediate removal of the animals specified in the notice for a period specified in the notice.

15. No native vegetation or significant habitat trees shall be removed, including from within a building envelope, except where established with written prior approval from Local Government. The Local Government may approve the removal of vegetation where the following context applies:
 - (a) The trees are dead, diseased or dangerous;
 - (b) The establishment of a fire break as required under regulation or local law,
 - (c) Fire protection within an asset protection zone as defined in the Western Australian Planning Commission publication "Guidelines for Planning in Bushfire Prone Areas";
 - (d) Access to an approved development site is required;
 - (e) Subdivisional works require the removal of vegetation.
16. Firebreaks shall be constructed and maintained to the satisfaction of the Department of Fire and Emergency Services and the Local Government. In order to preserve the amenity of the area, Local Government may, at its discretion, vary the position of any required firebreak to avoid destruction of vegetation or to address the physical features of the land.
17. The developer shall, within the Strategic Revegetation Areas depicted on the Structure Plan, plant trees and shrubs of a species, density and distribution to be determined by the Local Government. Tree planting shall be undertaken to the satisfaction of the Local Government prior to the clearance of the Deposited Plans.

The developer shall maintain the trees and shrubs planted, and vegetation retained on each lot, to the satisfaction of the Local Government until the land as a whole or in lots is sold. Thereafter the new landowner(s) shall be responsible for the maintenance and the replacement (if and where necessary) of those trees and shrubs planted by the developer and vegetation retained on each lot to the satisfaction of the Local Government.

The developer shall notify in writing any prospective purchasers of the requirement for the continued maintenance of Strategic Revegetation Areas.

18. All buildings and outbuildings are to be sympathetic in design, materials and colour to compliment surrounding landscape elements and be sited away from focal points and located where screening vegetation or landform can be utilised.
19. All fencing shall be in accordance with the Local Government's Local Law. With respect to Location 5(i) boundary fencing shall only be of a post and wire strand construction, to a maximum height of 1.2 metres.
20. Development affecting wetlands shall comply with the provisions of the Environmental Protection (Swan Coastal Plain Lakes) Policy 1992 and development within the Peel-Harvey Catchment Area shall comply with State Planning Policy No.2.1 (The Peel-Harvey Coastal Plain Catchment).
21. With respect to Location 5(i), to ensure adequate flood protection for dwellings, a minimum building floor level 0.5 metres above the 1:100 year flood level, in areas of inundation is required, as determined by the Local Government.
22. With regards to maintaining Beenyup Pool at Location 5(ii), the following 'Beenyup Pool Management Provisions' shall apply:
 - (a) No new dams, artificial retention of water, pumping, diversion of water or modification of the wetland's natural form shall be undertaken without the prior approval of the Local Government.
 - (b) The activities of stock on the land immediately surrounding Beenyup Pool shall be controlled such that problems of erosion, pollution and vegetation degradation do not occur.
 - (c) A no spray (pesticide/herbicide), non-cultivation and no nitrogenous fertiliser application buffer of 50 metres from the foreshore of Beenyup Pool shall apply. The no spray requirements does not preclude the carrying out of noxious weed control in accordance with Agriculture WA's requirements or pest control as authorised by the Local Government.
23. The developer shall make arrangements satisfactory to the Local Government to ensure that prospective purchasers of lots created will be advised of those provisions of the Scheme and Policies which relate to the use and management of the land.
24. With the intention of preserving the existing natural vegetation and preventing land use practices detrimental to the amenity of the locality the Local Government shall have regard to the following when considering any application for an Intensive Agricultural Pursuit:
 - (a) The impact of stocking rates;
 - (b) The impact on groundwater resources;

- (c) Tree and vegetation preservation;
- (d) Nutrient application; or
- (e) The clearing of land.

25. With respect to Location 5(iv), the following provisions shall apply:

(a) Pipeline Protection Plan

- (i) Prior to commencement of site works for subdivision or development on any land within or abutting the high pressure natural gas pipeline easement, the subdivider/developer shall prepare a Pipeline Protection Plan to the requirements of the Local Government with the concurrence of the Department of Consumer and Employment Protection on advice from the high pressure natural gas pipeline operator.
- (ii) The plan referred to in Provision 25(a)(i) shall detail measures to ensure public safety and protection of the high pressure natural gas pipeline in accordance with the *Petroleum Pipelines Act 1969*, the Australian Pipeline Code AS 2885-1997, SAA HB105 and the Environmental Protection Authority's guidance statement for achieving its risk criteria for development in proximity to existing and proposed high pressure gas transmission pipelines, or the most recent equivalents recognised by the Environmental Protection Authority.

(b) High Pressure Natural Gas Pipeline

- (i) The following activities, land uses and developments are prohibited within the high pressure natural gas pipeline easement:
 - 1. Ground disturbing activities, other than for the purposes for which the easement was created, and for uses and developments that comply with Provision 25(b)(ii);
 - 2. Temporary residence (including caravans, camping and similar);
 - 3. Storage of materials and equipment;
 - 4. Fires and barbecues;
 - 5. Explosives, inflammables and corrosives (including storage of liquefied petroleum gas and fuel oil);
 - 6. Refuse disposal and landfill;
 - 7. Service stations, fuel lines and storage of fuel;
 - 8. Vegetation with an expected growth exceeding one metre in height and plantings within one metre of the centre of the pipeline (with the exception of lawn); and
 - 9. Large obstructions to line of site along the easement.

- (ii) The following land uses and developments may be permitted within the high pressure natural gas pipeline easement, with the written approval of the Local Government on advice of the pipeline operator, subject to compliance with the Pipeline Protection Plan referred to in Provision 25(a)(i):
 - 1. Cycleways and footpaths;
 - 2. Road crossings and services (with minimum depth of cover over the pipeline of 1.2 metres);
 - 3. Public Open Space;
 - 4. Signage and other facilities that are necessary to comply with the Pipeline Protection Plan referred to in Provision 25(a)(i);
 - 5. Carparking during the time that the adjoining land is being developed (with minimum depth of cover over the pipeline of 1.2 metres).
- (iii) Minimum setbacks for land uses and developments from the centre of the high pressure natural gas pipeline shall be:
 - 1. 96 metres in the case of sensitive development as determined by the Local Government on advice of the Department of Consumer and Employment Protection and the pipeline operator, and including aged persons accommodation, child care centres, schools and hospitals;
 - 2. 32 metres to the boundary of each residential lot; in the case of residential development; and
 - 3. At the Local Government's discretion, following consultation with the Department of Consumer and Employment Protection and the pipeline operator, in the case of all other uses and developments which facilitate the gathering of people within 96 metres of the centre of the pipeline.

SPECIAL RURAL ZONES

PORTIONS OF PLANNING UNIT 6 OF THE RURAL LAND STRATEGY

(Referring to Clause 4.12 and Plan No's 3 and 4)

Location Table

Plan Reference	Description of Location*
6(i)	Lot 448 Baldivis Road and Lot 449 cnr Baldivis Road and St Albans Road, Baldivis
6(ii)	Lot 914 Telephone Lane, cnr Haines Road, Lot 471 cnr Telephone Lane and Mundijong Road; Lot 913 Haines Road; Lots 5, 501, Pt Lot 585, Pt Lot 586 and Pt Lot 587 Doghill Road; Lots 589 and 590 Haines Road, Baldivis; Lot 913 Haines Road, Baldivis; Lots 22 and 1103 Doghill Road, Baldivis; Lot 4 Doghill Road, Baldivis
6(iii)	Peel Estate lots 111 and 1112 being Lot 106 and 854 cnr Powell and Doghill Roads, Baldivis; Lots 1109 and 1110 and 51 Doghill Road, Baldivis (being Lots 200-203 Powell Road, Baldivis), and Portion of Lot 50 Wilkinson Road, Baldivis, Lot 3 Fifty Road, Baldivis
6(iv)	Pt lot 926 and the western portion of Lot 936 Young Road, Baldivis

* Lot reference at the time of rezoning and may have changed.

Provisions

In addition to all relevant provisions of the Scheme, the following Special Provisions shall apply to the land described in the 'Location Table':

1. Subdivision shall generally be in accordance with Structure Plan certified by the Commission, as the subdivision plan relating to the areas as described above in the 'Location Table', and shall form part of the Scheme.
2. The Local Government will generally not recommend approval to lot sizes less than eight (8) hectares minimum.
3. (a) The following use is permitted ('P'):
 - (i) Residential – Single house (maximum of one (1) per lot only)
 - (ii) Communications Antennae – Domestic
- (b) The following uses are not permitted unless approval is granted by the Local Government ('D'):
 - (i) Home Occupation
 - (ii) Residential Building
 - (iii) Rural Pursuit
 - (iv) Caretaker's Dwelling as an incidental use
 - (v) Communications Antennae – Commercial

- (c) The following uses are not permitted, unless the Local Government, at its discretion, permit the use after notice of application has been given in accordance with Clause 64 of the deemed provisions:
- (i) Bed and Breakfast
 - (ii) Home Business
 - (iii) Industry – Cottage
 - (iv) Agriculture – Intensive
 - (v) Telecommunications Infrastructure
 - (vi) Holiday House
 - (vii) Commercial Vehicle Parking
 - (viii) Rural Home Business
- (d) The following use is not permitted, unless the use is incidental to the predominant use of the land as determined by the Local Government ('IP'):
- (i) Ancillary Accommodation
- (e) All other uses listed in Table No. 1 not listed above shall be treated as Prohibited ('X') uses.
- (f) Uses not listed are subject to Clause 3.2.4 of the Scheme.
4. The symbols used in Provision 3 above have the same meaning as those set out in clause 3.2.2 of the Scheme
5. In addition to a building licence, the Local Government's prior development approval shall be consistent with Clause 61(6) of Schedule A.
6. At the time of applying for development approval, a plan of the site shall be submitted by the applicant to the satisfaction and specification of the Local Government which shall show site contours, existing trees and stands of vegetation, those trees and vegetation to be removed and retained and proposals for tree planting.
7. (a) Where the Local Government considers that local environmental conditions are significant enough to warrant restriction to development and vegetation clearing, the Local Government require a person to submit for the Local Government's approval a plan identifying the location of building envelopes on each lot at the time of subdivision. The location and size of the building envelopes must be to the satisfaction of the Local Government.
- (b) Where building envelopes are approved in relation to any lot, no clearing or development, other than for fire management purposes or to construct a vehicle accessway that has received the prior written approval of the Local Government, shall be approved outside the designated building envelope.
- (c) The size and location of an approved building envelope may be varied with the approval of the Local Government.
8. All development, including the clearing of land (except for firebreaks), shall comply with the following setbacks unless otherwise specified by the Local Government: -
- (a) Fifty (50) metres from Kwinana Freeway;

- (b) Thirty (30) metres from other subdivisional roads (primary setback);
- (c) Ten (10) metres from all other boundaries;
- (d) For Location 6(i) a 50 metre landscaped buffer is required along the Kwinana Freeway Reservation.

Unless otherwise specified in the Rural Land Strategy.

9. For Location 6(ii) and (iii) land uses other than a single residence that are permitted or may be permitted by the Local Government pursuant to the Scheme shall only be permitted when the Local Government is satisfied following consultation with the Department of Water and Environmental Regulation that the land use does not involve excessive nutrient application or the clearing of the land.
10. A person shall not construct a dwelling unless either a minimum 90,000 litre roof water storage tank with the necessary accompanying roof catchment, or other type of domestic water supply is incorporated in the approved plans, and constructed at the same time as the dwelling. If with the approval of the Local Government groundwater is used the approval of the Department of Water is also required.
11. All bores for the purpose of groundwater extraction shall require the prior approval of the Department of Water having regard to the location of any effluent disposal system, water bodies, drains and neighbouring bores.
12. On-site effluent disposal servicing development on the lots shall be to the satisfaction of the Local Government. In the event that a nutrient fixing effluent disposal system is not required, every dwelling shall have connected an effluent disposal system that:
 - (a) has a vertical separation of 2 or more metres between the base of the effluent disposal system or the irrigation area, and the highest recorded groundwater level;
 - (b) has at least a 100 metre horizontal separation between the effluent disposal system and the existing drains, water courses and water bodies; and
 - (c) has been approved in writing by the Local Government.
13. Stormwater drainage shall be contained on-site to the satisfaction and specification of the Local Government.
14. The keeping of horses, sheep, goats and other grazing animals shall be subject to the prior approval of the Local Government. Approval to keep animals shall not exceed the stocking rates recommended by Agriculture Western Australia.

The Local Government may approve the grazing of animals provided that it is satisfied that nutrient input to the land can be controlled and that such will not result in the removal or damage of the vegetation and trees or result in soil erosion and dust pollution. As a condition of approval the Local Government may require the animals to be stabled or corralled.

Where, in the opinion of the Local Government, the continued presence of animals on any portion of land is likely to contribute, or is contributing to dust pollution, soil erosion or vegetation degradation, notice may be served on the owner of the said land, requiring the immediate removal of those animals specified in the notice for a period specified in the notice.

15. No native vegetation or significant habitat trees shall be removed, including from within a building envelope, except where established with written prior approval from Local Government. The Local Government may approve the removal of vegetation where the following context applies:
 - (a) The trees are dead, diseased or dangerous;
 - (b) The establishment of a fire break as required under regulation or local law,
 - (c) Fire protection within an asset protection zone as defined in the Western Australian Planning Commission publication "Guidelines for Planning in Bushfire Prone Areas";
 - (d) Access to an approved development site is required;
 - (e) Subdivisional works require the removal of vegetation.
16. All buildings and outbuildings are to be sympathetic in design, materials and colour to compliment surrounding landscape elements and be sited away from focal points and located where screening vegetation or landform can be utilised.
17. Firebreaks shall be constructed and maintained to the satisfaction of the Department of Fire and Emergency Services and the Local Government. In order to preserve the amenity of the area, Local Government may, at its discretion, vary the position of any required firebreak to avoid destruction of vegetation or to address the physical features of the land.
18. The developer shall, within the Strategic Revegetation Areas shown on the Structure Plan, plant trees and shrubs of a species, density and distribution to be determined by the Local Government. Tree planting shall be undertaken to the satisfaction of the Local Government prior to clearance of Deposited Plans.

The developer shall maintain the trees and shrubs planted and vegetation to be retained on each lot to the satisfaction of the Local Government until the land as a whole or in lots is sold. Thereafter the new landowner(s) shall be responsible for the maintenance and the replacement (if and where necessary) of those trees and shrubs planted by the developer and vegetation retained on each lot to the satisfaction of the Local Government.

The developer shall notify in writing any prospective purchasers of the requirement for the continued maintenance of Strategic Revegetation Areas.
19. All fencing shall be in accordance with the Local Government's Local Laws.
20. Development affecting wetlands shall comply with the provisions of the Environmental Protection (Swan Coastal Plain Lakes) Policy 1992 and development within the Peel-Harvey Catchment Area shall comply with State Planning Policy No.2.1 (The Peel-Harvey Coastal Plain Catchment).
21. With respect to Locations 6(ii) and 6 (iv), to ensure adequate flood protection for dwellings:
 - (a) A minimum building floor level of 0.5 metres above the 1:100 year flood level in areas of inundation is required and sand pads shall be graded and landscaped to the Local Government's satisfaction; and

- (b) No development is permitted within 20 metres of the 1:100 floodway.
- 22. Drainage reserves shall be fenced to the satisfaction of Local Government to prevent stock access and to promote revegetation.
- 23. The developer shall make arrangements satisfactory to the Local Government to ensure that prospective purchasers of lots created will be advised of those provisions of the Scheme and Policies which relate to the use and management of the land.
- 24. With the intention of preserving the existing natural vegetation and preventing land use practices detrimental to the amenity of the locality the Local Government shall have regard to the following when considering any application for an Intensive Agricultural Pursuit:
 - (a) the impact of stocking rates;
 - (b) the impact on groundwater resources;
 - (c) tree and vegetation preservation;
 - (d) nutrient application; or
 - (e) the clearing of land.

SPECIAL RURAL ZONES

PORTIONS OF PLANNING UNIT 7 OF THE RURAL LAND STRATEGY

(Referring to Clause 4.12 and Plan No's 3 and 4)

Location Table

Plan Reference	Description of Location*
7(i)	Lots 13, 100 & 101 St Albans Road, Baldivis; Part Lot 926 Young Road, Baldivis; Lots 503 and 504 Doghill Road, Baldivis; Lot 1 Doghill Road, Baldivis; eastern portion of Lot 936 Young Road, Baldivis; Portion of Lot 100 Young Road and Lot 2 Doghill Road, Baldivis
7(ii)	Lot 12 Doghill Road, Baldivis
7(iii)	Fmr Lot 1004, Lot 21 Doghill Road, Lot 8 Doghill Road, Lot 17 Doghill Road, and Lot 20 Doghill Road, Baldivis
7(iv)	Lots 300 St Albans Road, Baldivis
7(v)	Lot 3 Doghill Road, Baldivis
7(vi)	Lots 705-709 St Albans Road and Lot 500 Doghill Road, Baldivis

*Lot reference at the time of rezoning and may have changed.

Provisions

In addition to all relevant provisions of the Scheme, the following Special Provisions shall apply to the land described in the 'Location Table':

1. Subdivision shall generally be in accordance with the Structure Plan certified by the Commission, as the subdivision plan relating to the areas as described in the 'Location Table', and shall form part of the Scheme.
2. The Local Government will generally not recommend approval to lot sizes less than two (2) hectares (based on land capability).
3. (a) The following use is permitted ('P'):
 - (i) Residential – Single house (maximum of one (1) per lot only)
 - (ii) Communications Antennae – Domestic
- (b) The following uses are not permitted unless approval is granted by the Local Government ('D'):
 - (i) Home Occupation
 - (ii) Residential Building
 - (iii) Rural Pursuit
 - (iv) Caretaker's Dwelling as an incidental use
 - (v) Communications Antennae – Commercial
- (c) The following uses are not permitted, unless the Local Government, at its discretion, permit the use after notice of application has been given in accordance with Clause 64 of the deemed provisions:
 - (i) Bed and Breakfast
 - (ii) Home Business
 - (iii) Industry - Cottage

- (iv) Agriculture - Intensive
 - (v) Telecommunications Infrastructure
 - (vi) Holiday House
 - (vii) Commercial Vehicle Parking
 - (viii) Rural Home Business
- (d) The following use is not permitted, unless the use is incidental to the predominant use of the land as determined by the Local Government ('IP'):
- (i) Ancillary Accommodation
- (e) All other uses listed in Table No. 1 not listed above shall be treated as Prohibited ('X') uses.
- (f) Uses not listed are subject to Clause 3.2.4 of the Scheme.
4. The symbols used in provision 3 above have the same meaning as those set out in clause 3.2.2 of the Scheme.
5. In addition to a building license, the Local Government's prior development approval shall be consistent with Clause 61(6) of Schedule A.
6. At the time of applying for development approval, a plan of the site shall be submitted by the applicant to the satisfaction and specification of the Local Government which shall show site contours, existing trees and stands of vegetation, those trees and vegetation to be removed and retained and proposals for tree planting.
7. (a) Where the Local Government considers that local environmental conditions are significant enough to warrant restriction to development and vegetation clearing, the Local Government require a person to submit for the Local Government's approval a plan identifying the location of building envelopes on each lot at the time of subdivision. The location and size of the building envelopes must be to the satisfaction of the Local Government.
- (b) Where building envelopes are approved in relation to any lot, no clearing or development, other than for fire management purposes or to construct a vehicle accessway that has received the prior written approval of the Local Government, shall be approved outside the designated building envelope.
- (c) The size and location of an approved building envelope may be varied with the approval of the Local Government.
8. All development, including the clearing of land (except for firebreaks), shall comply with the following setbacks unless otherwise specified by the Local Government: -
- (a) Thirty (30) metres from subdivisional roads (primary setback)
 - (b) Ten (10) metres from all other boundaries
 - (c) Thirty (30) metres from Saint Albans Road
- unless otherwise specified in the Rural Land Strategy.

9. A person shall not construct a dwelling unless either a minimum 90,000 litre roof water storage tank with the necessary accompanying roof catchment, or other type of domestic water supply is incorporated in the approved plans, and constructed at the same time as the dwelling. If with the approval of the Local Government groundwater is used the approval of the Department of Water is also required.
10. All bores for the purpose of groundwater extraction shall require the prior approval of the Department of Water, having regard to the location of any effluent disposal system, water bodies, drains and neighbouring bores.
11. On-site effluent disposal servicing development on the lots shall be to the satisfaction of the Local Government. In the event that a nutrient fixing effluent disposal system is not required, every dwelling shall have connected an effluent disposal system that:
 - (a) has a vertical separation of 2 or more metres between the base of the effluent disposal system or the irrigation area, and the highest recorded groundwater level;
 - (b) has at least a 100 metre horizontal separation between the effluent disposal system and the existing drains, water courses and water bodies; and
 - (c) has been approved in writing by the Local Government.

Notwithstanding the above, the development of portion of Lot 100 Young Road, Lot 2 Doghill Road, proposed Lot 1 Young Road (formerly the western portion of Lot 926 Young Road), and all lots within Location 7 (vi) shall be serviced with a nutrient fixing effluent disposal system to the satisfaction of Local Government.

12. Stormwater drainage shall be contained on-site to the satisfaction and specifications of the Local Government.
13. With the intention of preserving the existing natural vegetation and mature trees and preventing land use practices detrimental to the amenity of the locality, the approval of the Local Government is required for the use and development of land. The Local Government will have regard to limits on stocking, the limited groundwater resources, tree and vegetation preservation and the effects on the environment of the locality and residents of the estate when considering the application and may, should approval be granted, impose any conditions as practical and may modify or vary such conditions to take account of seasonal changes.
14. The keeping of horses, sheep, goats and other grazing animals shall be subject to the prior approval of the Local Government. Approval to keep animals shall not exceed the stocking rates recommended by the Agriculture Western Australia.

The Local Government may approve the grazing of animals provided that it is satisfied that nutrient input to the land can be controlled and that such will not result in the removal or damage of the vegetation and trees or result in soil erosion and dust pollution. As a condition of approval the Local Government may require the animals to be stabled or corralled.

Where, in the opinion of the Local Government, the continued presence of animals on any portion of land is likely to contribute, or is contributing to dust pollution or soil erosion, notice may be served on the owner of the said land, requiring the immediate removal of the animals specified in the notice for a period specified in the notice.

15. No native vegetation or significant habitat trees shall be removed, including from within a building envelope, except where established with written prior approval from Local Government. The Local Government may approve the removal of vegetation where the following context applies:
 - (a) The trees are dead, diseased or dangerous;
 - (b) The establishment of a fire break as required under regulation or local law,
 - (c) Fire protection within an asset protection zone as defined in the Western Australian Planning Commission publication "Guidelines for Planning in Bushfire Prone Areas";
 - (d) Access to an approved development site is required;
 - (e) Subdivisional works require the removal of vegetation.
16. Firebreaks shall be constructed and maintained to the satisfaction of the Department of Fire and Emergency Services and the Local Government. In order to preserve the amenity of the area, Local Government may, at its discretion, vary the position of any required firebreak to avoid destruction of vegetation or to address the physical features of the land.
17. The developer shall, within the Strategic Revegetation Areas depicted on the Structure Plan, plant trees and shrubs of a species, density and distribution to be determined by the Local Government. Tree planting shall be undertaken to the satisfaction of the Local Government prior to the clearance of Deposited Plans.

The developer shall maintain the trees and shrubs planted, and vegetation retained on each lot, to the satisfaction of the Local Government until the land as a whole or in lots is sold. Thereafter the new landowner(s) shall be responsible for the maintenance and the replacement (if and where necessary) of those trees and shrubs planted by the developer and vegetation retained on each lot to the satisfaction of the Local Government.

The developer shall notify any prospective purchaser of the requirement for the continued maintenance of the Strategic Revegetation Areas.
18. All buildings and outbuildings are to be sympathetic in design, materials and colour to compliment surrounding landscape elements and be sited away from focal points and located where screening vegetation or landform can be utilised.
19. All fencing shall be in accordance with the Local Government's Local Laws.
20. Development affecting wetlands shall comply with the provisions of the Environmental Protection (Swan Coastal Plain Lakes) Policy 1992 and development within the Peel-Harvey Catchment Area shall comply with State Planning Policy No.2.1 (The Peel-Harvey Coastal Plain Catchment).
21. Minimum setbacks for uses and developments from the centre of the gas pipeline easement shall be 45 metres to the building envelope, or at the Local Government's discretion.
22. The development of roads (with minimum depth of cover over the pipeline of 1.2 metres) and signage may be permitted within the gas pipeline easement with the written approval of the Local Government on advice from the pipeline operator.

23. The following development is prohibited within the high pressure natural gas pipeline easement:
- (a) ground breaking activities other than for the purposes for which the easement was created;
 - (b) temporary residence (including caravans, camping or similar;
 - (c) storage of materials and equipment;
 - (d) fires and barbecues;
 - (e) explosives, inflammables and corrosives (including storage of liquefied petroleum gas and fuel oil);
 - (f) refuse disposal and landfill;
 - (g) vegetation with an expected growth exceeding one metre in height and plantings within one metre of the centre of the pipeline (with the exception of lawn/grass);
 - (h) large obstructions to line of sight along the easement.
24. Development shall comply with the provisions of State Planning Policy No.2.1 – The Peel-Harvey Coastal Catchment.
25. A minimum building level of 0.5 metres above the 1 in 100 year flood level shall be achieved, with the batters of the sand pad being graded and landscaped to Local Government's satisfaction.
26. The developer shall make arrangements satisfactory to the Local Government to ensure that prospective purchasers of the lots created will be advised of those provisions of the Scheme and Policies which relate to the use and management of the land, and where the land is affected, the location of the gas pipeline, required buffers, management and land use requirements, the orchard on Lot 2 Doghill Road, Baldivis (landowners within 500 metres of the orchard to be advised) and the Macadamia Orchard on Lots 503 and 504 Doghill Road, Baldivis (abutting landowners are to be advised).
27. With the intention of preserving the existing natural vegetation and preventing land use practices detrimental to the amenity of the locality the Local Government shall have regard to the following when considering any application for an Intensive Agricultural Pursuit:
- (a) the impact of stocking rates;
 - (b) the impact on groundwater resources;
 - (c) tree and vegetation preservation;
 - (d) nutrient application; or
 - (e) the clearing of land.

28. Where lots have been identified as containing vegetation that is of regional conservation value (such as being included within Bush Forever Site No.369), the following requirements shall apply:
- (a) Management of the vegetation is to comply with the approved Environmental Management Plan prepared to ensure its long term protection. The Environmental Management Plan includes fire management, strategic revegetation, and addresses boundary fencing and strategic firebreaks to avoid unnecessary fragmentation, clearing and degradation of the vegetation.
 - (b) The Environmental Management Plan will be provided to prospective purchasers.
 - (c) A conservation covenant be placed on the Title of each lot to protect the vegetation in perpetuity and to be designated accordingly on the Structure Plan.
 - (d) Building Envelopes shall be defined at the time of subdivision and be of a size sufficient to include all buildings. The location and area of Building Envelopes shall be to the satisfaction of the Local Government and may be varied at the discretion of the Local Government.
 - (e) No clearing or development, other than for fire management purposes or to construct a vehicle accessway, which has received the prior written approval of the Local Government, shall be approved outside the designated Building Envelopes.
29. All lots within Location 7(vi) are to be connected to reticulated water.

SCHEDULE NO.5 - SPECIAL RESIDENTIAL ZONES

PROVISIONS RELATING TO SPECIFIED AREAS

(Referring to Clause 4.13 and Plan No.5)

SPECIAL RESIDENTIAL ZONES

PORTIONS OF PLANNING UNIT 3 OF THE RURAL LAND STRATEGY

Location Table

Plan Reference	Description of Location*
3(i)	Golden Bay Lots 21-26, 29, 30, 31, 101-104, 109, 110 Sawley Close; Lots 105-108 Tuckey Place; Lots 111-116 Lipscombe Close; Lots 117-122 Boothman Close Lot 6 Gaze Grove; Portion of Lots 4, 5, 10-13, 127-133 Peelfold Glen; Portion of Lots 14-16 Dampier Drive; Lots 1-26, 29-31 Sawley Close; 15 and 16 Dampier Drive; 2,3 Crystaluna Drive, Pt lot 10 Ayrton Court; Lots 4 and 13, 5-12, 37 Peelfold Glen, Golden Bay (Amend 356) Lot 101 and Lot 102 Crystaluna Drive (AMD 135)
3(ii)	Secret Harbour
3(iii)	Lot 200 and Lot 300 Dampier Drive, Golden Bay
3(iv)	Lots 800, 802, 804 and 806 Trenant Park Gardens, Golden Bay

* Lot reference at the time of rezoning and may have changed.

Provisions

In addition to all relevant provisions of the Scheme, the following Special Provisions shall apply to the land described in the 'Location Table':

1. Subdivision shall generally be in accordance with the Structure Plan certified by the Commission, as the subdivision plan relating to the areas as described above in the 'Location Table', and shall form part of the Scheme.
2. The Local Government will not recommend approval to further subdivision of the lots, other than generally in accordance with the Structure Plan.
3. (a) The following use is permitted ('P'):
 - (i) Residential - Single house (maximum of one (1) per lot only) and one (1) outbuilding per lot
 - (ii) Communications Antennae - Domestic
- (b) The following uses are not permitted unless approval is granted by the Local Government ('D'):
 - (i) Bed and Breakfast
 - (ii) Home Occupation

- (iii) Industry - Cottage
 - (iv) Residential Building
 - (c) The following uses are not permitted, unless the Local Government, at its discretion, permit the use after notice of application has been given in accordance with clause 64 of the deemed provisions:
 - (i) Holiday House
 - (ii) Commercial Vehicle Parking
 - (d) The following use is not permitted, unless the use is incidental to the predominant use of the land as determined by the Local Government ('IP'):
 - (i) Ancillary Accommodation
 - (e) All other uses listed in Table No. 1 not listed above shall be treated as Prohibited ('X') uses.
 - (f) Uses not listed are subject to Clause 3.2.4 of the Scheme.
4. The symbols used in Provision 3 above have the same meaning as those set out in clause 3.2.2 of the Scheme.
 5. In addition to a building license, the Local Government's prior development approval shall be consistent with Clause 61(6) of Schedule A.
 6. At the time of applying for development approval, a plan of the site shall be submitted by the applicant to the satisfaction and specification of the Local Government, which shall show site contours, existing trees and stands of vegetation, those trees and vegetation to be removed and retained and proposals for tree planting.
 7.
 - (a) Where the Local Government considers that local environmental conditions are significant enough to warrant restriction to development and vegetation clearing, the Local Government require a person to submit for the Local Government's approval a plan identifying the location of building envelopes on each lot at the time of subdivision. The location and size of the building envelopes must be to the satisfaction of the Local Government.
 - (b) Where building envelopes are approved in relation to any lot, no clearing or development, other than for fire management purposes or to construct a vehicle accessway that has received the prior written approval of the Local Government, shall be approved outside the designated building envelope.
 - (c) The size and location of an approved building envelope may be varied with the approval of the Local Government.
 8. With respect to Location 3(i), 3(iii) and 3(iv), all lots shall be connected to a reticulated water supply.
 9. All bores for the purpose of groundwater extraction shall require the prior approval of the Department of Water, having regard to the location of any effluent disposal system, water bodies, drains and neighbouring bores.
 10. With respect to Location 3(i), 3(iii) and 3(iv), on-site effluent disposal systems servicing development of the lots shall be in the form of alternative wastewater treatment systems having approved phosphorous retention capability, in accordance with the specifications and to the satisfaction of the Local Government.

11. With respect to Location 3(ii) and 3(iv), on-site effluent disposal servicing development on the lots shall be to the satisfaction of the Local Government. In the event that a nutrient fixing effluent disposal system is not required, every dwelling shall have connected to it an effluent disposal system that:
 - (a) has a vertical separation of 2 or more metres between the base of the effluent disposal system or the irrigation area, and the highest recorded groundwater level;
 - (b) has at least a 100 metre horizontal separation between the effluent disposal system and existing drains, water courses and water bodies; and
 - (c) has been approved in writing by the Local Government.
12. Stormwater drainage shall be contained on-site to the satisfaction and specifications of the Local Government.
13. The keeping of horses or livestock is not permitted.
14. No native vegetation or significant habitat trees shall be removed, including from within a building envelope, except where established with written prior approval from Local Government. The Local Government may approve the removal of vegetation where the following context applies:
 - (a) The trees are dead, diseased or dangerous;
 - (b) The establishment of a fire break as required under regulation or local law,
 - (c) Fire protection within an asset protection zone as defined in the Western Australian Planning Commission publication "Guidelines for Planning in Bushfire Prone Areas";
 - (d) Access to an approved development site is required;
 - (e) Subdivisional works require the removal of vegetation.
15. Firebreaks shall be constructed and maintained to the satisfaction of the Department of Fire and Emergency Services and the Local Government. In order to preserve the amenity of the area, Local Government may, at its discretion, vary the position of any required firebreak to avoid destruction of vegetation or to address the physical features of the subject land.
16. With respect to Location 3(i) and 3(iv), within areas designated "Landscape Protection Area" and "Landscape Buffer" on the Structure Plan, no trees or other flora shall be removed. The removal of trees or other flora to comply with the Bushfires Act 1954 will be permitted.

The land with particular reference to the Landscape Protection Area and Landscape Buffer is to be managed in such a manner as to avoid being laid bare of vegetation resulting in loose, wind erodible conditions.

Land within the Landscape Protection Area and Landscape Buffer shall not be used for any purpose which in the opinion of the Local Government would adversely affect the purpose of landscape protection, nor without the written consent of the Local Government.

17. Boundary fencing shall only be of post and wire strand construction to a maximum height of 1.2 metres.
18. With respect to Location 3(i), development affecting wetlands shall comply with the provisions of the Environmental Protection (Swan Coastal Plain Lakes) Policy 1992.
19. All buildings and outbuildings are to be sympathetic in design, materials and colour to compliment surrounding landscape elements and be sited away from focal points and located where screening vegetation or landform can be utilised.
20. With respect to Location 3(i) and 3(iii), any development on those lots marked with an 'S' on the Structure Plan are subject to special housing design requirements as specified in the Local Government's Development Guidelines for Special Residential zones. These requirements are necessary in order to minimise the amount of site earthworks to protect the landscape character of each lot.
21. With respect to Location 3(i), a minimum dryland buffer of 50 metres or 1 metre AHD higher than the furthest extent of the wetland dependant vegetation, whichever is largest, is required around a wetland. No development, building envelopes or clearing of land is permitted within this buffer area.
22. The developer shall make arrangements satisfactory to the Local Government to ensure that prospective purchasers of the lots created will be advised of those provisions of the Scheme and Policies which relate to the use and management of the land.
23. In the Landscape Protection Area of Location 3(iii) and 3 (iv), no planting of non-indigenous species is permitted.

SPECIAL RESIDENTIAL ZONES

PORTIONS OF PLANNING UNIT 4 OF THE RURAL LAND STRATEGY

(Referring to Clause 4.13 and Plan No.6)

Location Table

Plan Reference	Description of Location*
4(i)	Land referred to as Woodleigh Grove, Baldivis being Lots 326 and 330 Eighty Road including Part Eighty Road, Manor Approach, Treetop Way, Oak Way, Loxley Place, Archer Close.
4(ii)	Land referred to as Sherwood Estate being Lots 45-49 Eighty Road, Baldivis; Lots 15-19 Postans Court, Baldivis; Lots 20-30, Lots 36, 43 and 44 Brodie Court, Baldivis; Lots 31-35, 37, 40 and 58 Foxton Green, Baldivis; Lots 50-56, Lots 38 and 39 Chandler Ramble, Baldivis; Eastern moiety of Lot 332 Mandurah Road, Baldivis including part Tincombe Grove, Levey Way, Whittingham Lane, Dove Road and Maddren Way; Portion of Lot 50 Pike Road, Baldivis; Portion of Lot 8 Mandurah Road, Baldivis; Lot 783 Pike Road, Baldivis; Lot 156 Mandurah Road, Baldivis.
4(iii)	Portion of Lot 50 Mandurah Road; Lot 51 Cudliss Close; Lot 3 Fifty Road, Baldivis.
4(iv)	Lot 9501 (No.1503) Muzzlewood Street, Baldivis.
4(v)	Portions of Lots 9500 and 9501 Mandurah Road, Baldivis ¹ .

* Lot reference at the time of rezoning and may have changed.

¹ Denotes land which is not subject to Provision 1 of Schedule No.5 - Special Residential Zones Portions of Planning Unit 4 of the Rural Land Strategy and which is subject to Provision 24.

Provisions

In addition to all relevant provisions of the Scheme, the following Special Provisions shall apply to the land described in the 'Location Table':

1. Subdivision shall generally be in accordance with the Structure Plan certified by the Commission, as the subdivision plan relating to the areas as described above in the 'Location Table', and shall form part of the Scheme.
2. The Local Government will generally not recommend approval to lot sizes less than 5000m² minimum.
3. (a) The following uses are permitted ('P'):
 - (i) Residential - Single House (maximum of one (1) per lot only), and one (1) outbuilding per lot.
 - (ii) Communications Antennae - Domestic.

- (b) The following uses are not permitted unless approval is granted by the Local Government ('D'):
 - (i) Bed and Breakfast
 - (ii) Home Occupation
 - (iii) Industry – Cottage
 - (iv) Residential Building - (c) The following uses are not permitted, unless the Local Government, at its discretion, permit the use after notice of application has been given in accordance with clause 64 of the deemed provisions:
 - (i) Holiday House
 - (ii) Commercial Vehicle Parking - (d) The following use is not permitted, unless the use is incidental to the predominant use of the land as determined by the Local Government ('IP'):
 - (i) Ancillary Accommodation - (e) All other uses listed in Table No. 1 not listed above shall be treated as Prohibited ('X') uses.
 - (f) Uses not listed are subject to Clause 3.2.4 of the Scheme.
4. The symbols used in Provision 3 above have the same meaning as those set out in clause 3.2.2 of the Scheme.
 5. In addition to a building licence, the Local Government's prior development approval shall be required and such application shall be made on the form prescribed by the Local Government.
 6. At the time of applying for development approval, a plan of the site shall be submitted by the applicant to the satisfaction and specification of the Local Government, which shall show site contours, existing trees and stands of vegetation, those trees and vegetation to be removed and retained and proposals for tree planting.
 7.
 - (a) Where the Local Government considers that local environmental conditions are significant enough to warrant restriction to development and vegetation clearing, the Local Government require a person to submit for the Local Government's approval a plan identifying the location of building envelopes on each lot at the time of subdivision. The location and size of the building envelopes must be to the satisfaction of the Local Government.
 - (b) Where building envelopes are approved in relation to any lot, no clearing or development, other than for fire management purposes or to construct a vehicle accessway that has received the prior written approval of the Local Government, shall be approved outside the designated building envelope.
 - (c) The size and location of an approved building envelope may be varied with the approval of the Local Government.
 - (d) Where Building Envelopes are not warranted under this clause, setbacks for buildings shall be determined in accordance with the R2.5 Code of the R-Codes and shall not encroach onto land required for firebreaks.

8. All lots shall be connected to a reticulated water supply.
9. All bores for the purpose of groundwater extraction shall require the prior approval of the Department of Water, having regard to the location of any effluent disposal system, water bodies, drains and neighbouring bores.
10. Where lots are not required to be connected to a reticulated sewer supply, the method of on-site effluent disposal servicing development on the lots shall be to the satisfaction of the Local Government. In the event that a nutrient fixing effluent disposal system is not required, every dwelling shall have connected an effluent disposal system that:
 - (a) has a vertical separation of 2 or more metres between the base of the effluent disposal system or the irrigation area, and the highest recorded groundwater level;
 - (b) has at least a 100 metre horizontal separation between the effluent disposal system and the existing drains, water courses and water bodies; and
 - (c) has been approved in writing by the Local Government.

Notwithstanding the above, Lots 45-49 Eighty Road, 15-19 Postans Court, 20-30, Lot 36, 43 and 44 Brodie Court, 31-35, 37, 40 and 58 Foxtan Green, 50-56, Lots 38 and 39 Chandler Ramble, the eastern moiety of Lot 332 Mandurah Road, portion of Lots 9500 and 9501 Mandurah Road, Baldivis and Lots 326 and 330 Eighty Road, Baldivis shall be connected to a reticulated sewer supply.

11. Stormwater drainage shall be contained on-site to the satisfaction and specifications of the Local Government.
12. The keeping of horses and livestock is not permitted.
13. No native vegetation or significant habitat trees shall be removed, including from within a building envelope, except where established with written prior approval from Local Government. The Local Government may approve the removal of vegetation where the following context applies:
 - (a) The trees are dead, diseased or dangerous;
 - (b) The establishment of a fire break as required under regulation or local law,
 - (c) Fire protection within an asset protection zone as defined in the Western Australian Planning Commission publication "Guidelines for Planning in Bushfire Prone Areas";
 - (d) Access to an approved development site is required;
 - (e) Subdivisional works require the removal of vegetation.
14. Firebreaks shall be constructed and maintained to the satisfaction of the Department of Fire and Emergency Services and the Local Government. In order to preserve the amenity of the area, Local Government may, at its discretion, vary the position of any required firebreak to avoid destruction of vegetation or to address the physical features of the land.

15. The developer shall, within the Strategic Revegetation Area or Landscape buffer/ Planting Areas depicted on the Structure Plan, plant trees and shrubs of a species, density and distribution to be determined by the Local Government. Tree planting shall be undertaken to the satisfaction of the Local Government prior to clearance of the Deposited Plans.

The developer shall maintain the trees and shrubs planted, and vegetation to be retained on each lot, to the satisfaction of the Local Government until the land as a whole or in lots is sold. Thereafter the new landowner(s) shall be responsible for the maintenance and the replacement (if and where necessary) of those trees and shrubs planted by the developer and vegetation retained on each lot to the satisfaction of the Local Government.

The developer shall notify in writing any prospective purchasers of the requirement for the continued maintenance of Strategic Revegetation Areas or Landscape buffer/ Planting Areas.

16. Boundary fencing shall only be of post and wire strand construction to a maximum height of 1.2 metres.
17. Development affecting wetlands shall comply with the Environmental Protection (Swan Coastal Plain Lakes) Policy 1992.
18. All buildings and outbuildings are to be sympathetic in design, materials and colour to compliment surrounding landscape elements and be sited away from focal points and located where screening vegetation or landform can be utilised.
19. With respect to Location 4(i), for the purposes of maintaining Baldivis Swamp and Hollow Swamp, the following Wetland Management Provisions shall apply:
 - (a) No new dams, artificial retention of water, pumping, diversion of water or modification to the natural form of the wetland shall be undertaken without the prior approval of Local Government;
 - (b) A no-spray (pesticide/herbicide), non cultivation and non nitrogenous fertiliser application buffer of 50 metres from the foreshore of the wetlands shall apply. The no spray requirement does not preclude the carrying out of noxious weed control in accordance with Agriculture WA requirements or pest control as authorised by Local Government;
 - (c) The developer shall prepare and implement a Wetland Management Plan to the specification and satisfaction of the Department of Water and Environmental Regulation and Local Government, at the time of subdivision.
20. The developer shall make arrangements satisfactory to the Local Government to ensure that prospective purchasers of the lots created will be advised of those provisions of the Scheme and Policies which relate to the use and management of the land.
21. With respect to Location 4(iv), prior to the Local Government recommending approval of a subdivision or approving development, subdivision and development must be in accordance with the Western Australian Planning Commission's Guidelines for Planning in Bushfire Prone Area, which includes, but it not limited to:
 - (i) identifying appropriate hazard separation zones and asset protection zones;

- (ii) construction in accordance with AS3959 (noting c(iii) below);
 - (iii) no residential development is to be located within an area categorised as Bush Fire Attack level (BAL) BAL-FZ or BAL-40; and
 - (iv) consideration of ember protection features incorporated into all dwelling design on lots with a BAL of 12.5 or higher.
 - (v) two different vehicle access routes are provided, both of which connect to the public road network, provide safe access and egress to two different destinations and are available to all residents/the public at all times and under all weather conditions.
22. Regardless of whether the land has been designated as bush fire prone, any buildings to be erected within Location 4(iv) shall comply with the requirements of AS3959.
23. Future lots within Planning Unit 4, Location 4(iv) are to be a minimum of 1 hectare west of the ridge line, and a minimum of 5000m² east of the ridgeline. All future lots are to be connected to reticulated electricity and water, including the provision of fire hydrants to the standards and specifications of the Water Corporation.
24. With respect to Location 4(v), the local government may recommend subdivision approval to lots with a minimum lot size of 2,000m² for the northern site within Location 4(v). The southern site shall be subject to provision 2. Prior to recommending subdivision approval for either the northern site or the southern site in Location 4(v), the local government shall approve a local development plan for each site to identify building envelopes and significant trees that are to be retained in accordance with provision 7.

SPECIAL RESIDENTIAL ZONES

WARNBRO DUNES

(Referring to Clause 4.13 and Plan No.7)

Location

Lots 1-128 of Pt Lot 7 Fendam Street and Herlihy Way, Warnbro

Provisions

In addition to all relevant provisions of the Scheme, the following Special Provisions shall apply to the land described in the 'Location':

1. The Local Government will generally not recommend approval to further subdivision of the land.
2. (a) The following uses are permitted ('P'):
 - (i) Residential – Single House (maximum of one (1) per lot only);
 - (ii) Caretaker's Dwelling (may be provided within the single dwelling where it can be demonstrated that there is a requirement for such a facility).
 - (iii) Communications Antennae – Domestic
- (b) The following use is not permitted unless approval is granted by the Local Government ('D'):
 - (i) Home Occupation
- (c) The following uses are not permitted, unless the Local Government, at its discretion, permit the use after notice of application has been given in accordance with clause 64 of the deemed provisions:
 - (i) Holiday House
 - (ii) Commercial Vehicle Parking
- (d) The following use is not permitted, unless the use is incidental to the predominant use of the land as determined by the Local Government ('IP'):
 - (i) Ancillary Accommodation
- (e) All other uses are not permitted ('X').
3. The symbols used in Provision 2 above have the same meaning as those set out in clause 3.2.2 of the Scheme.
4. In addition to a building licence, Local Government's prior development approval shall be required and such application shall be made on the form prescribed by the Local Government.
5. At the time of applying for development approval, a plan of the site shall be submitted by the applicant to the satisfaction and specification of the Local Government, which shall show existing and proposed site contours and other information as requested by the Local Government.

6. All development and effluent disposal systems shall only be constructed within building envelopes approved at the time of subdivision. The building envelope shall be to the satisfaction of the Local Government and may be varied at the discretion of the Local Government, if:
 - (a) Local Government receives advice from a qualified environmental consultant that the variation will result in an environmental benefit; and
 - (b) only after consultation with the owners of affected or adjoining properties.
7. Earthworks shall not take place outside the Building Envelope unless to comply with Provision 12 or for the purpose referred to in Provision 10(b) of this Table.
8. In considering applications for the construction of a building on a lot, Local Government shall have regard to the following objectives:
 - (a) the need to prevent the importation of an excessive amount of fill that would raise a building envelope to an artificially high level; and
 - (b) the need to seek a balance between cutting and filling in attaining the proposed finished levels of the property.
9. No natural vegetation within the Building Envelope shall be cleared unless all reasonable measures are immediately taken to prevent soil erosion.
10. No native vegetation or significant habitat trees shall be removed, including from within a building envelope, except where established with written prior approval from Local Government. The Local Government may approve the removal of vegetation where the following context applies:
 - (a) The trees are dead, diseased or dangerous;
 - (b) The establishment of a fire break as required under regulation or local law,
 - (c) Fire protection within an asset protection zone as defined in the Western Australian Planning Commission publication "Guidelines for Planning in Bushfire Prone Areas";
 - (d) Access to an approved development site is required;
 - (e) Subdivisional works require the removal of vegetation.
11. No person shall drive a vehicle on that part of the lot outside the Building Envelope in such a way as to cause or be likely to cause damage to vegetation or soil erosion.
12. Firebreaks shall be maintained to the satisfaction of the Department of Fire and Emergency Services and the Local Government. In order to preserve the amenity of the area, Local Government may, at its discretion, vary the position of any required firebreak to avoid destruction of vegetation or to address the physical features of the land.
13. No flammable material, including flammable vegetation, shall be permitted to remain within a distance of 3 metres from the external wall of any habitable building on the lot.
14. Every dwelling shall have connected to it a nutrient-fixing effluent disposal system that:

- (a) has a vertical separation of 2 or more metres between the base of the leach drain or soak well and the highest recorded groundwater level; and
 - (b) has been approved in writing by the Local Government.
- 15. Any garage, carport or outbuilding constructed on the lot shall be of the same materials as the dwelling building except if the garage, carport or outbuildings is screened from the view of all roads, public accessways or designated areas of public open space.
- 16. Fencing shall only be erected on the boundary of the Building Envelope, not the property boundary.
- 17. The grazing of animals is prohibited.
- 18. (a) If, in the opinion of the Local Government:
 - (i) a condition of development approval is not being, or has not been, complied with; or
 - (ii) development is being or has been carried out in contravention of the Scheme or other than in accordance with the approved plans,then the Local Government shall give to the owner and occupier of the relevant land or building a notice in writing requiring the owner and occupier, or both, to comply with the condition, the Scheme or the approved plans, as the case may be, within a specified period as determined by the Local Government.
- (b) If the notice under Provision 18(a) is not complied with, an Officer of the Local Government, authorised by the Local Government for that purpose, may lawfully enter the land to carry out any works necessary to comply with the notice.
- (c) The Local Government may recover any expenses incurred under Provision 18(b) in any manner in which it is from time to time entitled to recover rates levied by it under the *Local Government Act 1995*.

SCHEDULE NO.6 - EXEMPTED ADVERTISEMENTS
(under clause 5.3.4)

LAND USE AND/OR DEVELOPMENT REQUIRING ADVERTISEMENT	EXEMPTED SIGN TYPE AND NUMBER (All non-illuminated unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
Dwellings	One professional name-plate as appropriate	0.2m ²
Home Occupation	One advertisement describing the nature of the home occupation	0.2m ²
Places of Worship, Meeting Halls and Places of Public Assembly	One advertisement detailing the function and/or the activities of the institution concerned.	0.2m ²
Cinemas, Theatres and Drive-In Theatres	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed.	Each advertisement sign not to exceed 5m ²
Shops, Showrooms and other uses appropriate to a Shopping Area	<p>All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5m from the ground floor level of the building subject to compliance with the requirements of the Signs, Hoarding and Bill Posting By-Laws, except in respect of development within the Primary Centre City Centre, Primary Centre Urban Village, Primary Centre Waterfront Village, Primary Centre City Living, Primary Centre Campus, Primary Centre Urban Living and District Town Centre zones.</p> <p>A maximum of one free-standing composite advertising sign appurtenant to the lot boundary adjacent to the primary street frontage as determined by Local Government.</p>	As per Signs, Hoarding and Bill Posting Local Laws.

LAND USE AND/OR DEVELOPMENT REQUIRING ADVERTISEMENT	EXEMPTED SIGN TYPE AND NUMBER (All non-illuminated unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
Industrial and Warehouse Premises	<p>A maximum of 4 advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding signs projecting from the building whether or not those signs are connected to a pole, wall or other building.</p> <p>A maximum of two free-standing advertisement signs not exceeding 5m in height above ground level.</p>	<p>Total area of any such advertisements shall not exceed 15m²</p> <p>Maximum permissible total area shall not exceed 10m² and individual advertisement signs shall not exceed 6m²</p>
Bulky Goods Showroom, race course, major racing tracks, sports stadia, major sporting grounds and complexes	All signs provided that, in each case the advertisement is not visible from outside the complex or facility concerned either from other private land or from public places and streets.	N/A
Public Places and Reserves	a) Advertisement signs (illuminated and non-illuminated) relating to the functions of government, a public authority or Local Government of a municipality excluding those of a promotional nature constructed or exhibited by or on behalf of any such body, and;	N/A
	b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, carpark, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a Government department, public authority or the Local Government of a municipality and;	N/A

LAND USE AND/OR DEVELOPMENT REQUIRING ADVERTISEMENT	EXEMPTED SIGN TYPE AND NUMBER (All non-illuminated unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
Public Places and Reserves	c) Advertisement signs illuminated and non-illuminated required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a Statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.	N/A
Railway Property and Reserves	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon a railway station.	No sign shall exceed 2m ² in area
Advertisements within Buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	N/A
All classes of buildings other than single family dwellings	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used for the managing agent thereof.	2m ²

TEMPORARY SIGNS	EXEMPTED SIGN TYPE AND NUMBER (All non-illuminated unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
Building Constructions Sites – advertisement signs displayed only for the duration of the construction as follows:		
(i) Dwelling	One advertisement per street frontage containing details of the projects and professional consultants and the contractors undertaking the construction work.	2m ²
(ii) Multiple Dwellings, Shops, Commercial and Industrial projects	One sign as for (i) above.	5m ²
(iii) Large Development or redevelopment projects involving shopping centres, office or other buildings exceeding 3 storeys in height	One sign as for (i) above. One additional sign showing the name of the project builder.	10m ² 5m ²
Sale of Goods or Livestock	One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose.	2m ²

TEMPORARY SIGNS	EXEMPTED SIGN TYPE AND NUMBER (All non-illuminated unless otherwise stated)	MAXIMUM AREA OF EXEMPTED SIGN
<p>Property Transactions</p> <p>Advertisement signs displayed for the duration of the period over which property transactions are offered and negotiated as follows:</p> <p>(a) Dwellings</p> <p>(b) Multiple Dwellings, Commercial and Industrial Properties</p>	<p>One sign per street frontage for each property relating to the sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed.</p> <p>One sign as for (a) above.</p>	<p>Each sign shall not exceed an area of 2m²</p> <p>Each sign shall not exceed an area of 5m²</p>
<p>(c) Large properties comprised of shopping centres, buildings in excess of four storeys and rural properties in excess of 5ha</p>	<p>One sign as for (a) above</p>	<p>Each sign shall not exceed an area of 10m²</p>
<p>Display Homes</p> <p>Advertisement signs displayed for the period over which homes are on display for public inspection.</p>	<p>(i) One sign for each dwelling on display.</p> <p>(ii) In addition to (i) above one sign for each group of dwellings displayed by a single project building of the range of dwellings on display.</p>	<p>2m²</p> <p>5m²</p>

SCHEDULE NO.7 - ENVIRONMENTAL CONDITIONS
(under clause 4.21)

Scheme or Amt No.	Location of Land	Gazettal Date	Environmental Conditions	
TPS No.1 – Amt 295	Baldivis Town Centre – Lots 6, 13 and Pt Lots 10 and 26 cnr Nairn Road and Safety Bay Road, Baldivis (EC1 on Scheme Map)	18.2.00	1 1-1	<p>Environmental Management Plans The following Environmental Management Plans shall be prepared in accordance with the specifications set out in Attachment 1 of the Minister for the Environment's 'Statement that a Scheme may be Implemented No.(5-2-7) published on 13.12.99:</p> <ul style="list-style-type: none"> • Drainage and Nutrient Management Plan; • Soil and Groundwater Contamination and Remediation Plan; and • Pipeline Protection Plan.
			1-2	<p>The above Environmental Management Plans shall be implemented in accordance with the provisions of the Plans, to the requirements of the Local Government.</p>
			2 2-1	<p>High Pressure Natural Gas Pipeline The following activities, land uses and developments are prohibited within the high pressure natural gas pipeline easement:</p> <ol style="list-style-type: none"> 1. Ground disturbing activities, other than for the purposes for which the easement was created, and for uses and developments that comply with condition 2-2 of this table; 2. Temporary residence (including caravans, camping and similar); 3. Storage of materials and equipment; 4. Fires and barbecues; 5. Explosives, inflammables and corrosives (including storage of liquefied petroleum gas and fuel oil); 6. Refuse disposal and landfill; 7. Service stations, fuel lines and storage of fuel; 8. Vegetation with an expected growth exceeding one metre in height and plantings within one metre of the centre of the pipeline (with the exception of lawn); and 9. Large obstructions to line of sight along the easement.

Scheme or Amt No.	Location of Land	Gazettal Date	Environmental Conditions	
TPS No.1 – Amt.295 (cont)			2-2	<p>The following land uses and developments may be permitted within the high pressure natural gas pipeline easement, with the written approval of the pipeline operator, subject to compliance with the Pipeline Protection Plan referred to in condition 1-1 of this Table:</p> <ol style="list-style-type: none"> 1. Cycleways and footpaths; 2. Road crossings and services (with minimum depth of cover over the pipeline of 1.2 metres); 3. Public open space; 4. Signage and other facilities that are necessary to comply with the Pipeline Protection Plan referred to in 1-1 of this Table; and 5. Carparking during the time that the adjoining land is being developed (with minimum depth of cover over the pipeline of 1.2 metres).
			2-3	<p>Minimum setbacks for land uses and developments from the centre of the high pressure natural gas pipeline shall be:</p> <ol style="list-style-type: none"> 1. 96 metres in the case of sensitive development as determined by the Local Government on advice of the Department of Employment and Consumer Protection and the pipeline operator, and including aged persons accommodation, child care centres, schools and hospitals; 2. 32 metres to the boundary of each residential lot, in the case of residential development; and 3. At the Local Government's discretion, following consultation with the Department of Employment and Consumer Protection and the pipeline operator, in the case of all other uses and developments which facilitate the gathering of people within 96 metres of the centre of the pipeline.

Scheme or Amt No.	Location of Land	Gazettal Date	Environmental Conditions	
TPS No.1 – Amt 300	Pt Lot 306, Part Lot 16, Lot 774 and Lot 313 Fifty Road, Baldivis (EC2 on Scheme Map)	13/12/02	1 1-1	<p>Environmental Management Plans. The following Environmental Management Plans shall be prepared in accordance with the specifications set out in Attachment 1 of the Minister for the Environment's "Statement that a Scheme may be Implemented" No.000580 published on 19th December 2001, and shall be subsequently implemented in accordance with the provisions of the Plans:</p> <ol style="list-style-type: none"> 1. Drainage and Nutrient Management Plan; 2. Soil and Groundwater Contamination Investigation and Remediation Plan; 3. Pipeline Protection Plan. 4. Spray Drift Investigation and Management; and 5. Vegetation Management Plan;
			2 2-1	<p>High Pressure Natural Gas Pipeline. The following activities, land uses and developments are prohibited within the high pressure natural gas pipeline easement:</p> <ol style="list-style-type: none"> 1. Ground disturbing activities, other than for the purposes for which the easement was created and for uses and developments that comply with condition 2-2 of this Table; 2. Temporary residence (including caravans, camping and similar); 3. Storage of materials and equipment; 4. Fires and barbecues; 5. Explosives, inflammables and corrosives (including storage of liquefied petroleum gas and fuel oil); 6. Refuse disposal and landfill; 7. Service stations, fuel lines and storage of fuel; 8. Vegetation with an expected growth exceeding one metre in height and plantings within one metre of the centre of the pipeline (with the exception of lawn); and 9. Large obstructions to line of sight along the easement.

Scheme or Amt No.	Location of Land	Gazettal Date	Environmental Conditions	
			2-2	<p>The following uses and developments may be permitted within the high pressure natural gas pipeline easement with the written approval of the local government on advice of the pipeline operator, subject to compliance with the Pipeline Protection Plan referred to in condition 1-1 of this Table:</p> <ol style="list-style-type: none"> 1. Cycleways and footpaths; 2. Road crossings and services (with minimum depth of cover over the pipeline of 1.2 metres); 3. Public open space; 4. Signage and other facilities that are necessary to comply with the Pipeline Protection Plan referred to in condition 1-1 of this Table; and 5. Car parking during the time that the adjoining land is being developed (with minimum depth of cover over the pipeline of 1.2 metres).
			2-3	<p>Minimum setbacks for uses and developments from the centre of the high pressure natural gas pipeline shall:</p> <ol style="list-style-type: none"> 1. Be 96 metres, in the case of sensitive development as determined by the Local Government on advice from the Department of Employment and Consumer Protection and the pipeline operator, and including aged persons accommodation, child care centres, schools and hospitals; 2. In the case of residential development, 32 metres to the boundary of each residential lot; and 3. At the local government's discretion, following consultation with the Department of Employment and Consumer Protection and the pipeline operator, in the case of all other uses and developments which facilitate the gathering of people, within 96 metres of the centre of the pipeline.

Scheme or Amt No.	Location of Land	Gazettal Date	Environmental Conditions	
			3 3-1	Development in Proximity to Market Gardens If the market gardens adjacent to Pt Lots 306 and 16 are continuing to operate at the time of subdivision, noise attenuation measures shall be designed and implemented so that noise impacts on the amendment area are in accordance with the Environmental Protection (Noise) Regulations 1997.

SCHEDULE NO.8 - DEVELOPMENT AREAS

(under clause 4.2)

Reference No.	Area	Provisions
DA7	Anstey Park Estate	An approved Structure Plan together with all approved amendments and detailed area plans, where applicable, shall apply to the land in order to guide subdivision and development.
DA9	Fifty Road, Baldivis	An approved Structure Plan together with all approved amendments and detailed area plans, where applicable, shall apply to the land in order to guide subdivision and development.
DA10	Settlers Hills Estate	An approved Structure Plan together with all approved amendments and detailed area plans, where applicable, shall apply to the land in order to guide subdivision and development.
DA13	Bayshore Estate Gardens	An approved Structure Plan together with all approved amendments and detailed area plans, where applicable, shall apply to the land in order to guide subdivision and development.
DA14	Golden Bay	An approved Structure Plan together with all approved amendments and detailed area plans, where applicable, shall apply to the land in order to guide subdivision and development.
DA19	CALM Baldivis	An approved Structure Plan together with all approved amendments and detailed area plans, where applicable, shall apply to the land in order to guide subdivision and development.
DA22	Baldivis (North)	<p>An approved Structure Plan together with all approved amendments and detailed area plans, where applicable, shall apply to the land in order to guide subdivision and development.</p> <p>In regards to Portion of Lot 323 Eighty Road, Baldivis the following provisions shall apply: -</p> <p>1 High Pressure Natural Gas Pipeline</p> <p>Minimum setbacks for land uses and developments form the centre of the high pressure natural gas pipeline shall be:</p> <ol style="list-style-type: none"> 1. 96 metres in the case of sensitive development as determined by the Local Government on advice of the Department of Employment and Consumer Protection and the pipeline operator, and including aged persons accommodation, child care centres, schools and hospitals;

Reference No.	Area	Provisions
DA22 (cont)		<ol style="list-style-type: none"> 32 metres to the boundary of each residential lot; in case of residential development; and At the Local Government's discretion, following consultation with the Department of Employment and Consumer Protection and the pipeline operator, in the case of all other uses and developments which facilitate the gathering of people within 96 metres of the centre of the pipeline.
DA24	Lot 169 Rae Road, Safety Bay	An approved Structure Plan together with all approved amendments and detailed area plans, where applicable, shall apply to the land in order to guide subdivision and development.
DA25	Peeldale – Lots 4, 5, 50 and Pt Lot 51 Baldivis Road, Baldivis; Lots 7, 8, 136, 930, 931, 5040, 9006, 9008 and 9012 and portions of Lots 5, 6, 9000 and 979 Baldivis Road, Baldivis 'The Rivergums'.	<ol style="list-style-type: none"> The subdivision and development of the land shall be generally in accordance with the approved Structure Plan together with all approved amendments and detailed area plans, where applicable. Prior to the submission of an application for subdivision approval and/or development, Local Government shall require the developer to prepare an Environmental Management Plan for the amendment area to meet the following objectives: <ul style="list-style-type: none"> To maintain and, where possible, enhance the integrity, functions and environmental values of the wetland; To maintain or enhance the quality of surface water so that existing and potential uses, including ecosystem maintenance, are protected; To ensure the provisions of the State Planning Policy No.2.1 – The Peel-Harvey Coastal Plain Catchment and the Environmental Protection (Peel Inlet – Harvey Estuary) Policy 1992 are met. <p>The Environmental Management Plan shall be prepared to the requirements of the City of Rockingham in consultation with the Department of Water and Environmental Regulation and the Department of Water.</p> <p>The Plan shall include:</p> <ul style="list-style-type: none"> Management objectives for the development as described above;

Reference No.	Area	Provisions
DA25 (cont)		<ul style="list-style-type: none"> - A description of the wetland, its current functions and habitat assessment; - Management actions to ensure the management objectives are achieved, including: <ul style="list-style-type: none"> - a drainage and catchment management plan incorporating Water Sensitive Urban Design Principles and Best Management Practices; - details of revegetation, provision of fauna habitats and weed control; - appropriate design of constructed wetlands to reduce potential mosquito populations; - management of human pressures and public access within the Public Open Space areas; - A monitoring program, including definition of performance criteria and analysis procedures, to demonstrate whether the management objectives are being met; - Contingency plans to be implemented in the event that performance criteria are not met; - Details on how the proposed management measures will be or are incorporated into the Comprehensive Development Plan for the land; and - Identification of responsibilities for implementation of the Plan. <p>The plan shall be implemented to the satisfaction of the City of Rockingham.</p>
DA26	Lots 31, 971 and 979 Baldivis Road	An approved Structure Plan together with all approved amendments and detailed area plans, where applicable, shall apply to the land in order to guide subdivision and development.
DA27	Lots 656 and 659 Baldivis Road	An approved Structure Plan together with all approved amendments and detailed area plans, where applicable, shall apply to the land in order to guide subdivision and development.
DA30	Lifestyle Village	An approved Structure Plan together with all approved amendments and Detailed Area Plans, where applicable, shall apply to the land in order to guide subdivision and development.

Reference No.	Area	Provisions
DA31	The Chase	An approved Structure Plan together with all approved amendments and Detailed Area Plans, where applicable, shall apply to the land in order to guide subdivision and development.
DA35	Lots 18, 19, 20, 21 Sixty Eight Road and Lots 22, 739 and 740 Baldivis Road	An approved Structure Plan together with all approved amendments and Detailed Area Plans, where applicable, shall apply to the land in order to guide subdivision and development.
DA36	Lots 877 and 878 Stakehill Road, Karnup	An approved Structure Plan together with all approved amendments and Detailed Area Plans, where applicable, shall apply to the land in order to guide subdivision and development.
DA37	Lot 300 and 1340 Stakehill Road, Karnup	An approved Structure Plan together with all approved amendments and Detailed Area Plans, where applicable, shall apply to the land in order to guide subdivision and development.
DA38	Lot 3 and 806 Mandurah Road, Karnup	An approved Structure Plan together with all approved amendments and Detailed Area Plans, where applicable, shall apply to the land in order to guide subdivision and development.
DA39	Lot 1002 Singleton Beach Road, Singleton	An approved Structure Plan together with all approved amendments and Detailed Area Plans, where applicable, shall apply to the land in order to guide subdivision and development.
DA40	Lots 2, 5, 6, 10, 129, 104, 105, 447, 459-463, 511-513, 521, 541, 543, 544, 545, 709, 746-750, 921, 922, 1000 Baldivis Road: Lot 510 Bodman Place; Lot 3 Key Close; Lots 104, 105, and 302 Paparone Road; Lots 515-520 Sabrina Road; Lots 1, 3, 4, 10, 101-103 Zig Zag Road, Baldivis	<p>An approved Local Structure Plan together with all approved amendments and detailed area plans, where applicable, shall apply to the land in order to guide subdivision and development.</p> <p>1. Proposed Local Structure Plan</p> <p>1-1 The following matters must be addressed as part of the preparation of the Proposed Local Structure Plan in addition to those set out in Clause 4.2.5:</p> <p>1. The preparation of a Fire Management Plan where a Bushfire Hazard Assessment determines the land as having a moderate to extreme risk of bushfire. (AMD 145 GG 31/3/15)</p> <p>2. An Acoustic Consultant Report prepared by a suitably qualified acoustic consultant to demonstrate how sensitive land uses will not be adversely impacted by noise generated by the Kwinana Freeway. (AMD 145 GG 31/3/15)</p>

Reference No.	Area	Provisions
DA41	Lots 1, 2, 355 and 780 Eighty Road, Lots 1001 and 3001 Pike Road and portions of Lots 1, 2 and 601 Mandurah Road, Baldivis	An approved Structure Plan together with all approved amendments and detailed area plans, where applicable, shall apply to the land in order to guide subdivision and development. (AMD 133 GG 7/2/14)
DA42	Lots 986 & 993 Baldivis Road, Baldivis	A Structure Plan is to be prepared and approved for the land.
DA43	Lot 1512 Lake Street and Lot 5000 Fisher Street, Rockingham	<ol style="list-style-type: none"> 1. A structure plan prepared and approved pursuant to Part 4 of the deemed provisions shall apply to the area to guide subdivision and/or development. 2. All subdivision and/or development must comply with the R60 residential density code of the R-Codes. 3. A maximum top of external wall height of 6 metres (or 2 storeys) shall apply within 25 metres of the Lake Street and Fisher Street lot boundary. 4. A maximum top of external wall height of 9 metres (or 3 storeys) shall apply within 25 metres of any land reserved for Public Open Space or Parks and Recreation. 5. A maximum top of external wall height of 15 metres or (5 storeys) may be permitted by Local Government where it can be demonstrated that the development is not visible from the adjacent lot boundary of Lake Street and Fisher Street and Public Open Space. 6. The preparation of a Fire Management Plan in accordance with the requirements of State Planning Policy 3.7 – Planning in Bushfire Prone Areas. 7. The provisions applying to the area are not a standard or requirement capable of variation pursuant to Clause 4.20.1.
DA44	Lot 1 Serpentine Road and Lots 503, 1006, 1007 & 1272 Baldivis Road, Baldivis	A Structure Plan is to be prepared and approved for the land.

SCHEDULE NO.9 - DEVELOPMENT CONTRIBUTION AREAS
(under Clause 5.4)

Reference No.	Area	Provisions
DCA1	<p>The Area shown and described as DCA1 on the Scheme Map</p> <p>AMD 53 GG 25/7/08</p>	<p>Development Contribution Plan No. 1 (Anstey Park)</p> <p>1. Title</p> <p>This Development Contribution Plan may be referred to as Development Contribution Plan No. 1 (Anstey Park).</p> <p>2. Application</p> <p>Development Contribution Plan No. 1 (Anstey Park) applies to Contribution Area No. 1.</p> <p>3. Definitions</p> <p>In this Development Contribution Plan:</p> <p>“Contribution Area No. 1” means the land shown and described as DCA 1 on the Scheme Map;</p> <p>“Costs Contribution” means the amount referred to and calculated in accordance with clause 6 of this Development Contribution Plan;</p> <p>“Estimated Traffic Generation of the Owner’s Land” means the figure applicable to an Owner’s land, representing the estimated traffic generation figure for that land, as specified in Table 1 of this Development Contribution Plan;</p> <p>“Estimated Traffic Generation of Contribution Area No. 1” means the total figure for all land in Contribution Area No. 1, representing the estimated traffic generation figure for that land, as specified in Table 1 of this Development Contribution Plan;</p> <p>“General Costs” means:</p> <p>(a) the costs and estimated costs of the administration by the Local Government of this Development Contribution Plan including an amount considered reasonable by the Local Government to reimburse the Local Government for overheads, supervision and management costs and estimated costs of the preparation and implementation of this Development Contribution Plan;</p> <p>(b) legal costs and estimated legal costs of the Local Government in relation to the preparation and implementation of this Development Contribution Plan and any related amendment of the Scheme;</p>

		<p>(c) the costs and estimated costs of the Local Government in respect of the preparation and planning associated with this Development Contribution Plan including any advertising or gazettal;</p> <p>(d) the costs which the Local Government has agreed to reimburse in relation to the preparation of the Anstey Park Comprehensive Development Plan dated the 9th September 2004;</p> <p>(e) the costs and estimated costs of the Local Government with respect to the amendment of the Anstey Park Comprehensive Development Plan and any Structure Plan applicable to Contribution Area No.1;</p> <p>(f) all other costs and estimated costs not referred to in paragraph (a), (b), (c) or (d) or (e) of the Local Government in carrying out the Infrastructure; and</p> <p>(g) interest and fees and estimated interest and fees in relation to any loan raised or to be raised by the Local Government in meeting the costs and estimated costs referred to in paragraphs (a) to (e) inclusive,</p> <p>and includes any of those costs incurred prior to the Operative Date;</p> <p>“Infrastructure” means all works carried out by the Local Government associated with the development and maintenance (for a 2 year period) of any land in Contribution Area No.1 for the purpose of public open space;</p> <p>“Infrastructure Costs” means:</p> <p>(a) the costs and estimated costs of the Local Government in carrying out the Infrastructure;</p> <p>(b) the costs and estimated costs of the Local Government in reimbursing owners who have carried out any of the Infrastructure; and</p> <p>(c) the costs and estimated costs of the Local Government in purchasing and acquiring land in Contribution Area No. 1 for the purpose of public open space,</p> <p>and includes any of those costs incurred prior to the Operative Date;</p> <p>“Later Subdivider Costs”:</p> <p>(a) means any costs incurred by the Local Government in discharging a liability under the Later Subdivider Provisions of a later subdivider of land within Contribution Area No. 1 in relation to an original subdivider's costs of providing Warnbro Sound Avenue or Anstey Road;</p>
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		<p>(b) includes any of those costs incurred prior to the Operative Date; and</p> <p>(c) for the purposes of this definition the expressions “later subdivider” and “original subdivider” have the meanings given to them in, or for the purposes of, the Later Subdivider Provisions;</p> <p>“Later Subdivider Provisions” means section 28A(5) of the Town Planning and Development Act 1928 [which section continues to apply by virtue of section 29 of the Planning and Development (Consequential and Transitional Provisions) Act 2005] and section 159 of the Planning and Development Act 2005;</p> <p>“Operative Date” means the date on which this Development Contribution Plan comes into effect;</p> <p>“Owner” has the meaning given to in clause 5.4.1 of the Scheme;</p> <p>“Owner’s Net Ceded Land” means:</p> <p>(a) that portion of the Owner’s land, if any, which is ceded by the Owner to the Crown for public open space in order to satisfy a condition of an approval to subdivide the Owner’s land in accordance with the applicable Structure Plan; less</p> <p>(b) 50% of any part of that portion considered by the Local Government to be required for drainage;</p> <p>“Value” has the meaning given to it in clause 5.4.10 of the Scheme.</p> <p>4. Period of operation</p> <p>Development Contribution Plan No.1 (Anstey Park) operates for a period of 5 years commencing on the Operative Date.</p> <p>5. Subdivision to be consistent with Structure Plan</p> <p>Land in Contribution Area No.1 is to be subdivided consistently with the applicable Structure Plan including making provision for:</p> <p>(a) roads;</p> <p>(b) public open space;</p> <p>(c) government schools; and</p> <p>(d) land for other public purposes,</p> <p>as shown and described in the applicable Structure Plan.</p>
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		<p>6. Method of determining Cost Contributions</p> <p>The Cost Contribution payable by an Owner is:</p> <ul style="list-style-type: none"> (a) a proportion of the General Costs which proportion is the same as the proportion which the area of the Owner's land bears to the total area of land in Contribution Area No. 1; plus (b) a proportion of the Infrastructure Costs which proportion is the same as the proportion which the area of the Owner's land bears to the total area of land in Contribution Area No. 1; plus (c) a proportion of the Later Subdivider Costs which proportion is the same as the Estimated Traffic Generation of the Owner's Land bears to the Estimated Traffic Generation of the Contribution Area No. 1; minus (d) one hundred and ten per cent (110%) of the Value of the Owner's Net Ceded Land. <p>Example:</p> $OCC = (GC \times \frac{OL}{DCA}) + (IC \times \frac{OL}{DCA}) + (LSC \times \frac{TGOL}{TGDCA}) - (110\% \times \frac{VNCL}{OL})$ <p>Where:</p> <p>OCC is the Cost Contribution of the Owner;</p> <p>GC is the General Costs;</p> <p>OL is the area of the Owner's land;</p> <p>DCA is the total area of land in Contribution Area No. 1;</p> <p>IC is the Infrastructure Costs;</p> <p>LSC is the Later Subdivider Costs;</p> <p>TGOL is the Estimated Traffic Generation of the Owner's land;</p> <p>TGDCA is the Estimated Traffic Generation of Contribution Area No. 1;</p> <p>VNCL is the Value of the Owner's Net Ceded Land.</p> <p>Note:</p> <p>Clause 5.4.5.3 of the Scheme provides as follows:</p>
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		<p>“5.4.5.3 For the purposes of calculating the Owner’s Cost Contribution both the area of an Owner’s land and the total area of land in a Development Contribution Area, the area of land provided or required in that Development Contribution Area for:</p> <p>(a) roads designated under the Metropolitan Region Scheme as Primary Regional Roads and Other Regional Roads;</p> <p>(b) public open space;</p> <p>(c) government primary and secondary schools; and</p> <p>(d) such other land as is set out in the Development Contribution Plan,</p> <p>is to be excluded.”</p> <p>7. Deduction of Drainage Areas</p> <p>Notwithstanding clause 5.4.5.3 of the Scheme, the area of land provided or required for public open space is to have deducted from it, 50% of any portion of the land determined by the Local Government to be required for drainage.</p> <p>8. Land subdivided before the Operative Date</p> <p>The provisions of this Development Contribution Plan do not apply in respect of land which has been subdivided, in accordance with the Structure Plan applicable to Contribution Area No. 1, prior to the Operative Date.</p> <p>9. Local Planning Policy</p> <p>The Local Government may prepare a Local Planning Policy, under Part 2 Division 2 of the deemed provisions, with respect to any matter the Local Government considers necessary or desirable in connection with the implementation and administration of this Development Contribution Plan including the circumstances in which the Local Government will reimburse an Owner’s costs of carrying out any Infrastructure and the amount of the costs to be reimbursed or the method by which those costs are to be determined.</p> <p>10. Estimate of the Infrastructure Costs</p> <p>As at 14th March 2007, the estimate of the Infrastructure Costs was as follows:</p>
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		<p>(a) Land Acquisition - \$11,769,518.20;</p> <p>(b) Public Open Space Development - \$1,880,981.15;</p> <p>(c) Public Open Space Maintenance - \$1,335,044.12;</p> <p>(d) Stormwater Drainage Pipework - \$1,322,608.83;</p> <p>(e) Stormwater Drainage Earthworks - \$972,578.21.</p> <p>Note:</p> <p>Clauses 5.4.5.4, 5.4.5.5 and 5.4.5.6 of the Scheme provide as follows:</p> <p>“5.4.5.4 (a) Where a Development Contribution Plan contains estimated costs, such estimated costs are to be reviewed at least annually by the Local Government in accordance with the best and latest information available to the Local Government until the expenditure on the relevant item has occurred.</p> <p>(b) Where requested in writing by an Owner, the Local Government is to have such estimated costs independently certified by an appropriate qualified person.</p> <p>5.4.5.5 Where any Cost Contribution has been calculated on the basis of an estimated cost, the Local Government may:</p> <p>(a) adjust the Cost Contribution of any Owner in accordance with the revised estimated costs or the final expenditure; or</p> <p>(b) accept a Cost Contribution based upon estimated costs as a final Cost Contribution and may enter into an agreement with an Owner accordingly.</p> <p>5.4.5.6 Where an Owner’s Cost Contribution is adjusted under clause 5.4.5.5, the Local Government, on receiving a request in writing from an Owner, is to provide the Owner with a copy of estimated costs and the calculation of adjustments.”</p> <p>11. Estimate of Later Subdivider Costs</p> <p>As at 14th March 2007, the estimate of the Later Subdivision Costs was as follows:</p> <p>(a) Anstey Road - \$248,252.00; and</p> <p>(b) Warnbro Sound Avenue - \$637,977.00</p>
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12. Estimate of General Costs

As at 14th March 2007, the estimate of the General Costs was as follows:

- (a) Administration - \$255,794.65; and
- (b) Ongoing Management - \$152,770.00

TABLE 1

Estimated traffic generation figures

Lot No	Warnbro Sound Avenue	Anstey Road
	Estimated Traffic Generation	Estimated Traffic Generation
35	116	0
36	120	0
37	136	0
38	115	0
39	67	0
40	71	0
41	93	0
42	109	0
43	149	0
44	142	0
45	136	0
46	109	0
47	96	47
48	25	103
49	29	116
50	9	136
51	26	168
52	28	176
53	15	94
55	23	148
56	18	146
57	22	167
58	39	184
59	62	194
60	83	214
1	74	50
2	74	50
Pt Lot 54	29	122
Pt Lot 894	0	201
Lot 897	23	155
Lot 898	31	202
TOTAL	2069	2673

The lot numbers referred to in this Table are as shown on Plan AP1 dated the 14th March 2007 and signed by the Chief Executive Officer

SCHEDULE NO.10 - STATUTORY STATIC FEASIBILITY ASSESSMENT MODEL

AMD 101 GG 12/04/11

Gross realisation			
Net lot yield @ average market value per lot			
"x" lots @ "\$Y" per lot	\$		(1)
Less GST @ standard / normal rates			
(1) Multiplied by GST rate/(100+GST rate)	\$		(2)
(1-2)		\$	(3)
Less selling, marketing, advertising & settlement fees			
@ market % multiplied by (1)	\$		(4)
Add back Input Tax Credit on selling fees			
(4) Multiplied by GST rate/(100+GST rate)	\$		(5)
(4-5)		\$	(6)
Balance after selling costs etc & Input Tax Credit (3-6)		\$	(7)
Less adjusted profit & risk allowance as per SSP 3.6			
Market determined profit & risk allowance %			(8)
Less fixed profit allowance per SPP 3.6 10%			(9)
Rise rate applied (8-9) = %			(10)
EXPLANATION: (10) to be expressed as a whole number eg 15%=15 ie Risk = (7) multiplied by (10)/100+(10)		\$	(11)
Balance after profit & risk factor (7-11)		\$	(12)
Less development costs @ "X" lots multiplied by "\$Z" per lot	\$		(13)
Add back Input Tax Credit on (13)			
(13) Multiplied by GST rate/(100+GST rate)	\$		(14)
Development cost after Input Tax Credit (13-14)	\$		(15)
Add interest on net development costs (15)			
For 1/2 development & 1/2 selling term @ Applicable market rates			
(15) Multiplied by % rate	\$		(16)
(15+16)		\$	(17)

Balance after deduction of development costs & interest (12-17)		\$	(18)
Less interest on land value, rates & taxes and stamp duty Assessed over ½ development and ½ selling term @ Applicable market rates (18) Multiplied by (% rate/100+%rate)		\$	(19)
Balance after interest on the land (18-19)		\$	(20)
Less rates & taxes		\$	(21)
Balance after rates & taxes (20-21)		\$	(22)
Less Stamp Duty @ current statutory rates (22) Multiplied by stamp duty rate/(100+stamp duty rate)		\$	(23)
Residual Land Value prior to GST considerations (22-23)		\$	(24)
Add GST (24) + GST at prevailing statutory rate		\$	(25)
ASSESSED STATUTORY CONTRIBUTION PER SPP 3.6 (22+23)	\$		

SCHEDULE NO.11 - DEVELOPMENT CONTRIBUTION PLAN NO.2

AMD 101 GG 12/04/11; AMD 114 GG 26/3/13; AMD 160 GG 19/9/17

1. Title

This Development Contribution Plan is Development Contribution Plan No.2.

2. Application and Relationship to other Planning Instruments

- (1) This Development Contribution Plan No.2 applies to Development Contribution Area No.2.
- (2) Development Contribution Plan No.2 generally conforms, to the Plan for the Future, the 10 year Financial Management Plan and the Community Infrastructure Plan.

3. Definitions

- (1) In this Plan:

“Administrative Items” means:

- (a) preparation, administration and review of this Plan;
- (b) preparation and review of the Development Contribution Plan Report and the Costs Apportionment Schedule;
- (c) any arbitration and valuation with respect to this Plan; and
- (d) advice and representation with respect to this Plan including legal, accounting, planning, engineering and other professional advice and representation;

“Catchment Area” means a Catchment area described in column 2 of the Table to Clause 7 of DCP No.2;

“Catchment Area Yield”, in relation to a Catchment Area, means the Local Government’s estimate, from time to time, of the number of dwellings that are likely to be developed within the Catchment Area during the operation of this Plan;

“Development Contribution Area No.2” is that part of the Scheme Area shown and described as Development Contribution Area No.2 on the Development Contribution Area No.2 Map which forms part of the Scheme maps;

“Development Area Yield” means the Local Government’s estimate, from time to time, of the number of dwellings that are likely to be developed within the Development Area during the operation of this Plan;

“Infrastructure” means an item of infrastructure referred to in column 1 of the Table to Clause 7 of DCP No.2 and includes items referred to in Clause 9 of this Plan;

“Operative Date” means the date on which Amendment No.114 is gazetted;

“Owner’s Land” means the Owner’s land referred to in clause 5.5.13 of the Scheme;

“Owners Proposed Yield” means the number determined in accordance with clause 10 of this Plan;

“Sub-Area” means a Sub-Area referred to in Clause 6 of DCP No.2;

“Subdivision Approval” includes a strata scheme or a survey-strata plan as those terms are defined in the *Strata Titles Act 1985* and a freehold (green title) subdivision;

“Total Catchment Area Dwellings”, in relation to a Catchment Area, means the sum of the Local Government’s estimate, from time to time, of:

- (a) the number of dwellings likely to be developed within the Catchment Area during the operation of this Plan; plus
 - (b) the number of dwellings existing within the Catchment Area immediately prior to this Plan coming into operation.
- (2) Subject to sub-clause (1), words and expressions defined in clause 5.5.2 of the Scheme have the same meaning where appearing in this Plan.

4. Meaning of Dwelling Unit

- (1) In this Plan:

“Dwelling Unit”

- (a) in the case of a proposed subdivision, means a lot, as defined by the Act, or a lot in relation to a strata scheme or a lot in relation to a survey-strata plan, as those terms are defined in the *Strata Titles Act 1985*, and which lot is the subject of the proposed subdivision;
- (b) in the case of the proposed development, means a dwelling which is the subject of the proposed development.

but excludes:

- (i) any lot in relation to a strata scheme or a lot in relation to a survey-strata plan, as those terms are defined in the *Strata Titles Act 1985*, and which is used or approved for use in accordance with a development approval, for any purpose other than a dwelling;
- (ii) any lot referred to in paragraph (a) which is shown on an approved plan of the subdivision for any of the purposes specified in section 152(1) of the Act; or
- (iii) any common property as that term is defined in the *Strata Titles Act 1985*.

- (2) Paragraph (a) of the definition of “Dwelling Unit” in subclause (1) only applies where the proposed subdivision is of land within:
- (a) the Primary Centre City Centre Zone;
 - (b) the Primary Centre Waterfront Village Zone;
 - (c) the Primary Centre Urban Village Zone;
 - (d) the Primary Centre City Living Zone;
 - (e) the Commercial Zone;
 - (f) the District Town Centre Zone;
 - (g) the Residential Zone;
 - (h) the Rural Zone;
 - (i) the Special Rural Zone;
 - (j) the Special Residential Zone; or
 - (k) the Development Zone.

5. Description of items of Infrastructure

- (1) For the purpose of Clause 7 of DCP No.2 and the Table to that clause:

“Aqua Jetty Stage 2” means the development of aquatic facilities, gym facilities, group fitness rooms, basketball courts, offices, consulting rooms, spectator seating, first aid room, change rooms, crèche, outdoor café, play area and swimming club room;

“Baldivis Library and Community Centre” means the development of a library and community centre to be located in the Baldivis North Sub-Area;

“Baldivis Outdoor Courts” means the development of sporting and recreational hardcourts to be located in the Baldivis North Sub-Area;

“Baldivis South Multipurpose Community Centre” means the development of a multipurpose community centre in the Baldivis South Sub-Area;

“Baldivis South Youth Recreation Space” means the development of a recreation space for youth to be located in the Baldivis South Sub-Area;

“Baldivis Youth Recreation Space” means the development of a recreation space for youth in the Baldivis North Sub-Area or the Baldivis South Sub-Area;

“Baldivis District Sporting Complex” means the development of a district complex to be located in the Baldivis South Sub-Area;

“Baldivis Indoor Recreation Centre” means the development of the indoor recreation centre to be located in the Baldivis South Sub-Area;

“Baldivis Primary School Shared Use Reserve” means the development of a playing field and car parking to be adjoining the Baldivis Primary School located in the Baldivis North Sub-Area;

“East Baldivis Recreation Reserve” means the development of an active and passive open space reserve to be located in the Baldivis North Sub-Area;

“Kent Street Community Art Centre” means the development of a community art centre to be located in the Rockingham Sub-Area;

“Lark Hill Sportsplex Stage 2” means the development of playing fields, clubroom, indoor sports court facility, outdoor sports courts, flood lighting and carparking to be located at the Lark Hill Sportsplex in the Port Kennedy Sub-Area;

“Lawrie Stanford Reserve Active POS Masterplan” means the redevelopment of the Lawrie Stanford Reserve located in the Singleton Sub-Area;

“Lot 1507 Active POS Development” means the development of a subdistrict sporting reserve to be located in the Baldivis South Sub-Area;

“Rhonda Scarrott Reserve Active POS Masterplan” means the redevelopment of Rhonda Scarrott Reserve in the Golden Bay Sub-Area;

“Rockingham Aquatic Centre Redevelopment/Relocation” means the redevelopment of the Rockingham Aquatic Centre located in the Rockingham Sub-Area or the development of a new aquatic centre to be located in the Rockingham Sub-Area;

“Rockingham Youth Recreation Space” means the development of a recreation space for youth to be located in the Rockingham Sub-Area;

“Rockingham Youth Venue” means the development of a facility for youth to be located in the Rockingham Sub-Area;

“Secret Harbour Community Library” means the development of a community library to be located in the Secret Harbour Sub-Area;

“Secret Harbour Surf Club Redevelopment” means the redevelopment of the Secret Harbour Surf Life Saving Club premises in the Secret Harbour Sub-Area;

“Stan Twight Reserve Active POS Clubroom Redevelopment” means the redevelopment of the Stan Twight Reserve clubrooms in the Rockingham Sub-Area;

“Waikiki/Warnbro Youth Recreation Space” means the development of a recreation space for youth to be located in the Waikiki Sub-Area or the Warnbro Sub-Area.

- (2) For the purpose of clause 7 of DCP No.2 the following facilities associated with infrastructure items to be funded by the development contributions are non-commercial in nature:
 - (a) Facilities associated with consulting rooms and café proposed as part of the Aqua Jetty Stage 2;

- (b) Facilities associated with café or commercial kitchen of the following items:
 - (i) Baldivis District Sporting Complex;
 - (ii) Lawrie Stanford Active POS Masterplan;
 - (iii) Rockingham Aquatic Centre Redevelopment/Relocation;
 - (iv) Rockingham Youth Venue; and
 - (v) Secret Harbour Surf Life Saving Club Redevelopment.

6. Sub-Areas and Catchment Areas

- (1) For the purpose of this Plan:
 - (a) Development Contribution Area No.2 is divided into Sub-Areas; and
 - (b) Catchment Areas are comprised of one or more Sub-Areas and are described in column 2 of the Table to clause 7 of this Plan.
- (2) The Sub-Areas are shown and described on the Development Contribution Area No.2 Map which forms part of the Scheme Maps.
- (3) The Sub-Areas referred to in this Plan as follows:
 - (a) the Baldivis North Sub-Area;
 - (b) the Baldivis South Sub-Area;
 - (c) the Cooloongup Sub-Area;
 - (d) the Golden Bay Sub-Area;
 - (e) the Hillman Sub-Area;
 - (f) the Karnup Sub-Area;
 - (g) the Port Kennedy Sub-Area;
 - (h) the Rockingham Sub-Area;
 - (i) the Safety Bay Sub-Area;
 - (j) the Secret Harbour Sub-Area;
 - (k) the Shoalwater Sub-Area;
 - (l) the Singleton Sub-Area;
 - (m) the Waikiki Sub-Area; and
 - (n) the Warnbro Sub-Area.

7. Items of Infrastructure applicable to the Catchment Areas

An item of Infrastructure shown in column 1 of the following Table is applicable to the Catchment Area or Catchment Areas shown opposite that item in column 2 of the Table.

Table

Column 1	Column 2
Items of Infrastructure	Catchment Area to which the item applies
REGIONAL	
(1) Lark Hill Sportsplex Stage 2	All of the Sub-Areas
DISTRICT	
(2) Secret Harbour Surf Club Redevelopment	All of the Sub-Areas
(3) Rockingham Youth Recreation Space	All of the Sub-Areas
(4) Baldivis District Sporting Complex	All of the Sub-Areas
(5) Kent Street Community Arts Centre	All of the Sub-Areas
(6) Rockingham Youth Venue	All of the Sub-Areas
(7) Baldivis Indoor Recreation Centre	All of the Sub-Areas
(8) Rockingham Aquatic Centre Redevelopment/Relocation	All of the Sub-Areas
(9) Aqua Jetty Stage 2	All of the Sub-Areas
SUB DISTRICT	
(10) Baldivis Library and Community Centre	Baldivis North Sub-Area and Baldivis South Sub-Area
(11) Secret Harbour Community Library	Secret Harbour Sub-Area, Golden Bay Sub-Area and Singleton Sub-Area
(12) Baldivis Youth Recreation Space	Baldivis North Sub-Area and Baldivis South Sub-Area
(13) Stan Twight Reserve Active POS Clubroom Redevelopment	Rockingham Sub-Area, Hillman Sub-Area, Cooloongup Sub-Area, Safety Bay Sub-Area and Shoalwater Sub-Area
(14) Lawrie Stanford Reserve Active POS Masterplan	Secret Harbour Sub-Area, Golden Bay Sub-Area and Singleton Sub-Area
(15) Lot 1507 Active POS Development	Baldivis North Sub-Area and Baldivis South Sub-Area
(16) East Baldivis Recreation Reserve	Baldivis North Sub-Area and Baldivis South Sub-Area
(17) Baldivis Outdoor Courts	Baldivis North Sub-Area and Baldivis South Sub-Area

NEIGHBOURHOOD	
(18) Baldivis South Youth Recreation Space	Baldivis South Sub-Area
(19) Waikiki/Warnbro Youth Recreation Space	Waikiki Sub-Area and Warnbro Sub-Area
(20) Rhonda Scarrott Reserve Active POS Masterplan	Golden Bay Sub-Area and Singleton Sub-Area
(21) Baldivis South Multipurpose Community Centre	Baldivis South Sub-Area
(22) Baldivis Primary School Shared Use Reserve	Baldivis North Sub-Area

In this Table the headings “REGIONAL”, “DISTRICT”, “SUB DISTRICT” and “NEIGHBOURHOOD” are for ease of reference only and are not to be taken into account for the purpose of construing it.

8. Calculation of Cost Contribution

- (1) The Cost Contribution for which an owner of land is liable under clause 5.5.13 of the Scheme is to be calculated in accordance with the following formula:

OACC + OICC

Where:

OACC is the Owner’s Administrative Cost Contribution calculated in accordance with subclause (2);

OICC is the Owner’s Infrastructure Cost Contribution is the total amount referred to in subclause (4).

- (2) An Owner’s Administrative Cost Contribution is to be calculated in accordance with the following formula:

AC x OPY/DAY

Where:

AC is the Administrative Costs;

OPY is the Owner’s Proposed Yield;

DAY is the Development Area Yield.

- (3) An Owner’s Infrastructure Cost Contribution is to be calculated:

(a) separately for each item of Infrastructure which is applicable to a Catchment Area in which the Owner’s Land is located; and

(b) in accordance with the following formula:

ICI x OPY/TCAD

Where:

ICI is the Infrastructure Costs for that item of Infrastructure;

OPY is the Owner's Proposed Yield;

TCAD is the Total Catchment Area Dwellings for that Catchment Area.

- (4) An Owner's Infrastructure Cost Contribution is the total of the Owner's Infrastructure Cost Contributions calculated in accordance with subclause (3).

9. Reduction to certain items of Infrastructure

For the purpose of calculating an Owner's Infrastructure Cost Contribution under clause 8, where an item of Infrastructure is shown in Column 1 of the following Table, the Infrastructure Costs for that item of Infrastructure are to be reduced by the percentage Shown opposite that item in Column 2 of the Table.

Table

Column 1	Column 2
Items of Infrastructure	Percentage by which Infrastructure Costs are to be reduced
(1) Lark Hill Sportsplex Stage 2	17.59%

10. Calculation of Owner's Proposed Yield

- (1) The Owner's Proposed Yield is to be calculated in accordance with the following formula:

$$\text{PDU} - \text{EDU}$$

Where:

PDU is the number of Dwelling Units proposed to be developed or subdivided by the Owner on the Owner's land in accordance with the relevant development approval or subdivision approval.

EDU is the number of dwellings or vacant lots which existed on the Owner's Land prior to the issue of the relevant development approval or subdivision approval.

- (2) For the purpose of determining EDU under subclause (1), where a dwelling is developed after the Operative Date, that dwelling is only to be included in the number of dwellings where an Owner's Cost Contribution has been paid in respect of that dwelling.

11. When a cost contribution is not payable

Clause 5.5.13 of the Scheme does not apply where:

- (a) the only development approved and commenced is the development of a single house;
- (b) the subdivisional approval relates only to the creation of a lot or lots for the purpose a road, public open space, drainage or common property; or
- (c) the subdivisional approval or the development approval, as the case may be, will not create an additional number of Dwelling Units than existed prior to the approval.

12. Matters included in Infrastructure

For the purpose of this Plan, Infrastructure is taken to include:

- (a) land acquisition and purchase;
- (b) earthworks;
- (c) provision of services;
- (d) parking; and
- (e) landscaping,

considered necessary or desirable by the Local Government for the development of the Infrastructure.

13. Matters included in Infrastructure Costs

For the purpose of this Plan, Infrastructure Costs are taken to include costs and estimated costs of the Local Government with respect to:

- (a) planning and design;
- (b) invitation and determination of tenders;
- (c) implementation and administration of contracts;
- (d) provision for contingencies; and
- (e) any borrowing by the Local Government including interest and fees,

for the development of the Infrastructure.

14. Matters included in Administrative Costs

For the purpose of this Plan, Administrative Costs are taken to include costs and estimated costs of the Local Government:

- (a) in the carrying out of the Administrative Items; and
- (b) with respect to the preparation and review from time to time of the Development Contribution Plan Report and the Costs Apportionment Schedule.

15. Period of operation

This Plan is to be in operation until the expiry of a period of 20 years commencing on the Operative Date.

16. Priority and timing for the commencement of works

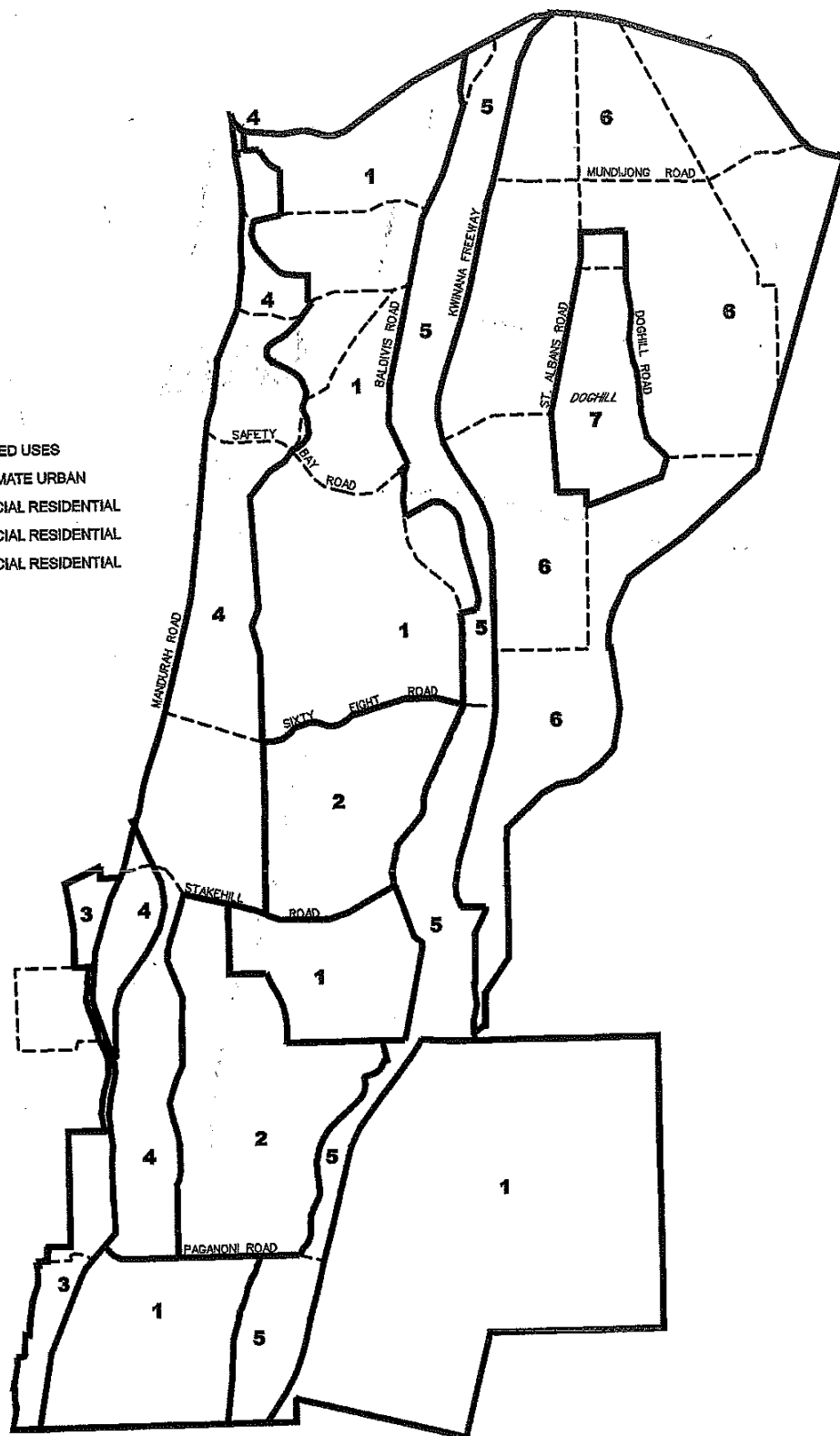
- (1) Contemporaneously with its adoption and subsequent review, from time to time of a Development Contribution Plan Report under clauses 5.5.11 and 5.5.12 of the Scheme, the Local Government is to consider and determine the Local Government's desired timing and priority for the provision of the items of Infrastructure.
- (2) The Local Government is to make available its determination under subclause (1) whenever it makes available a Development Contribution Plan Report.

17. Review of this Plan

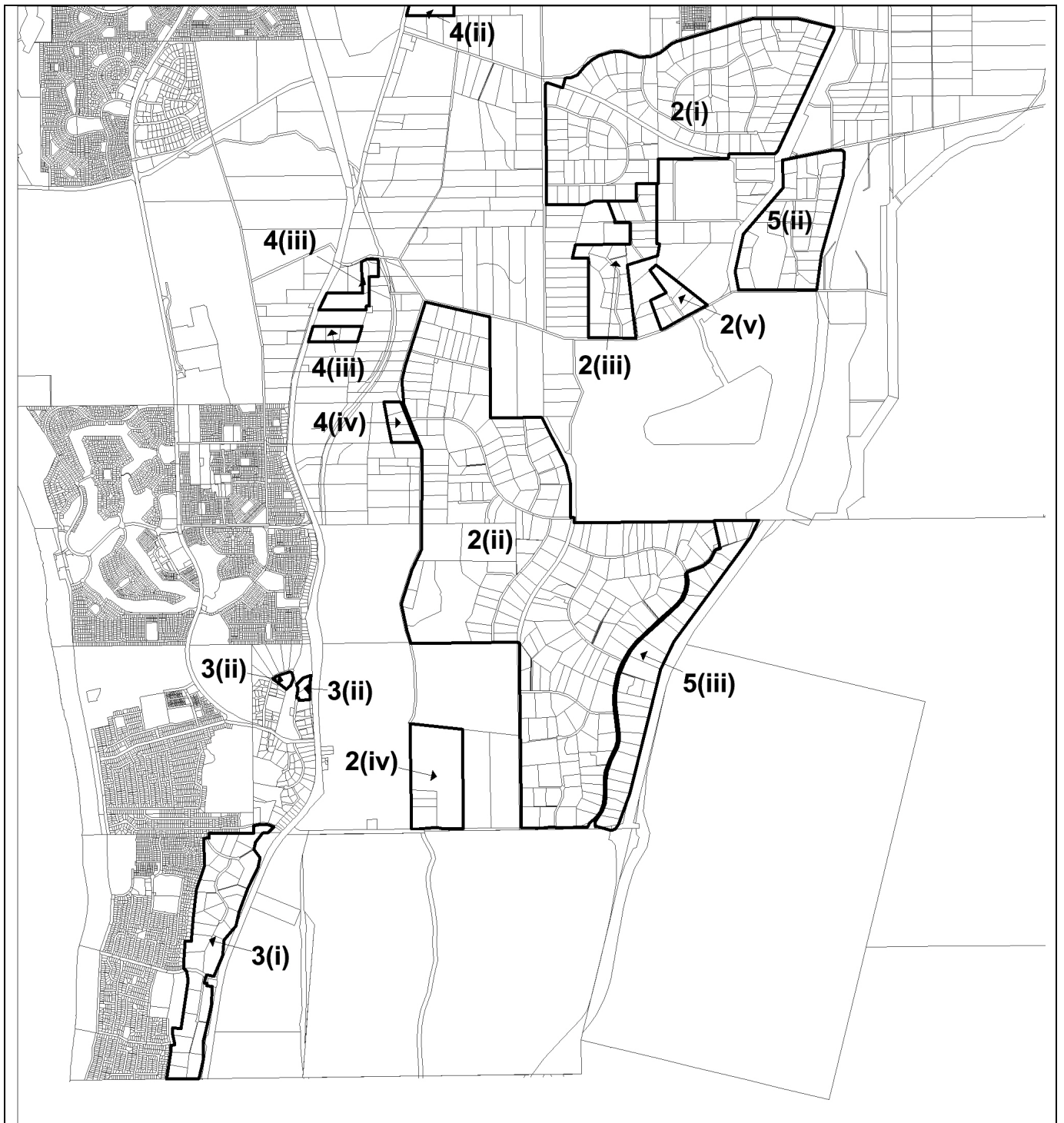
- (1) The Local Government is to carry out a review of the operation of this Plan as soon as is practicable after the expiration of every 5 years from the Operative Date, and in the course of that review the Local Government is to consider and have regard to:
 - (a) the extent to which development has occurred in Development Contribution Area No.2 since the Operative Date or the date of the last review under this clause, whichever is the later;
 - (b) the potential for further development in Development Contribution Area No.2; and
 - (c) any other matters that appear to the Local Government to be relevant to the operation of this Plan.
- (2) The Infrastructure costs and estimates in the Cost Apportionment Schedule must be reviewed annually.

PLANS

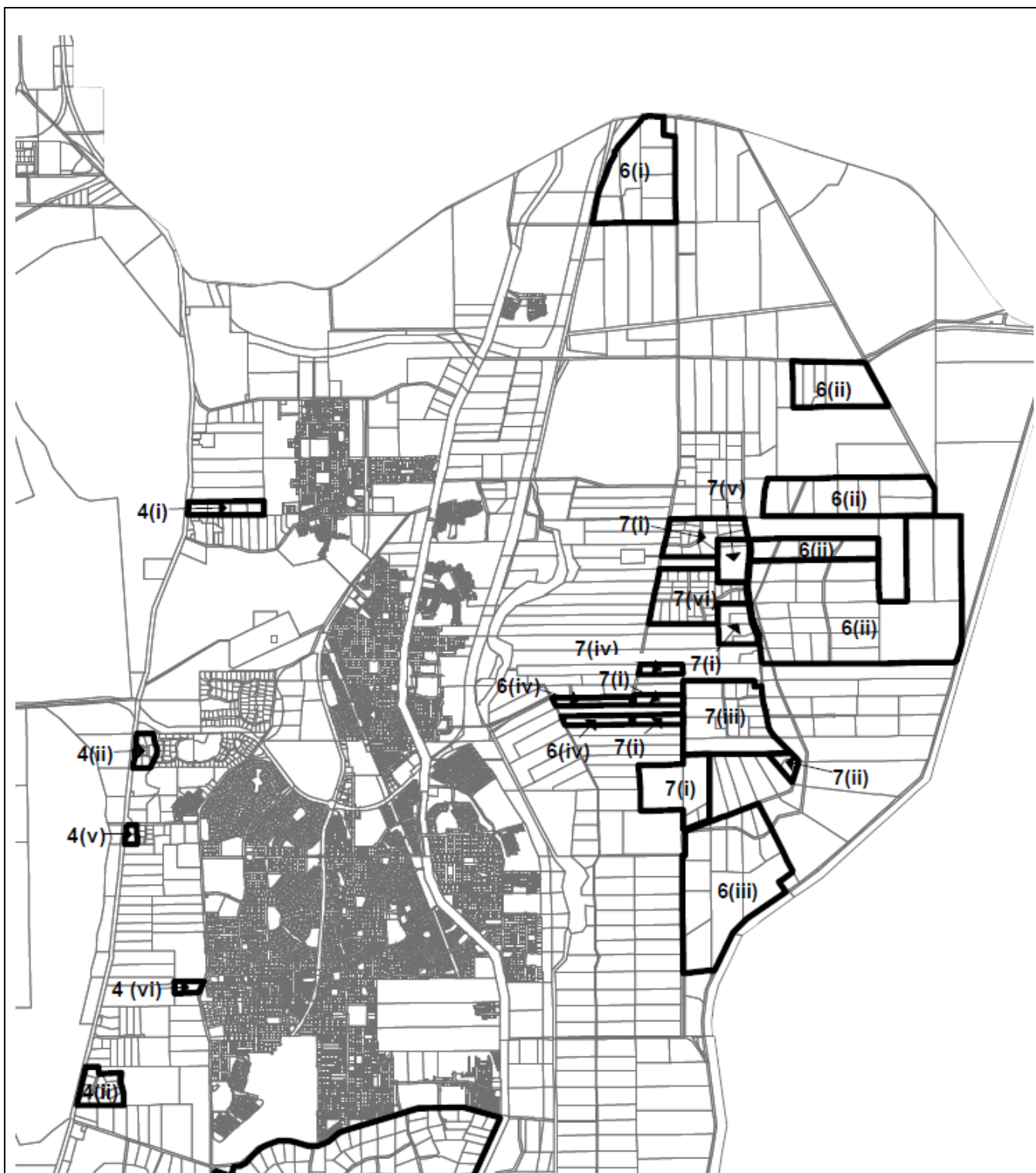
- 1** URBAN AND ASSOCIATED USES
- 2** SPECIAL RURAL - ULTIMATE URBAN
- 3** SPECIAL RURAL - SPECIAL RESIDENTIAL
- 4** SPECIAL RURAL - SPECIAL RESIDENTIAL
- 5** SPECIAL RURAL - SPECIAL RESIDENTIAL
- 6** RURAL
- 7** SPECIAL RURAL



PLAN NO.2
RURAL PLANNING UNITS
(UNDER CLAUSE 4.11 AND SCHEDULE No.4)



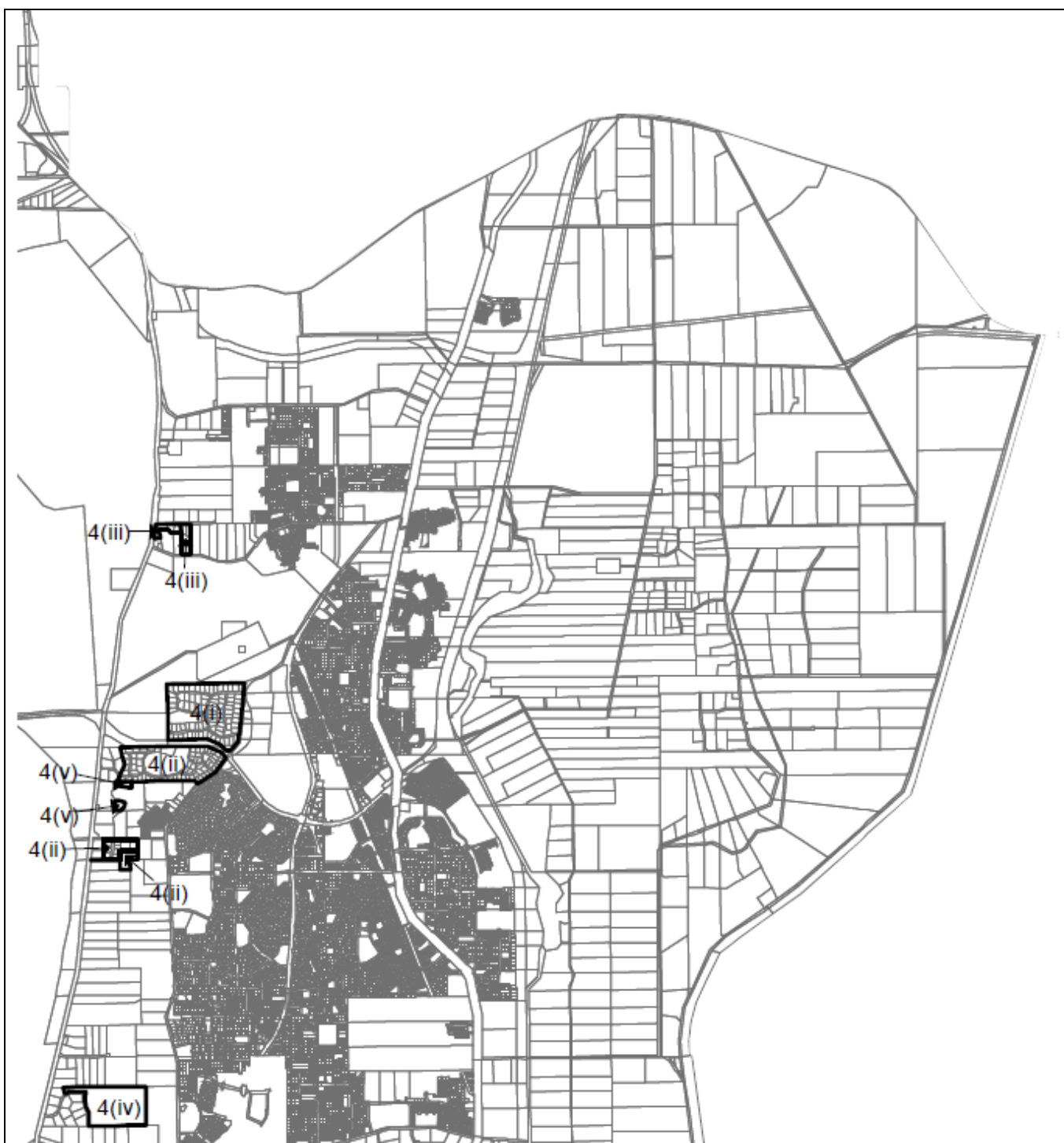
**PLAN NO.3
SPECIAL RURAL ZONES (SOUTH)
(UNDER CLAUSE 4.12 AND SCHEDULE NO.4)**



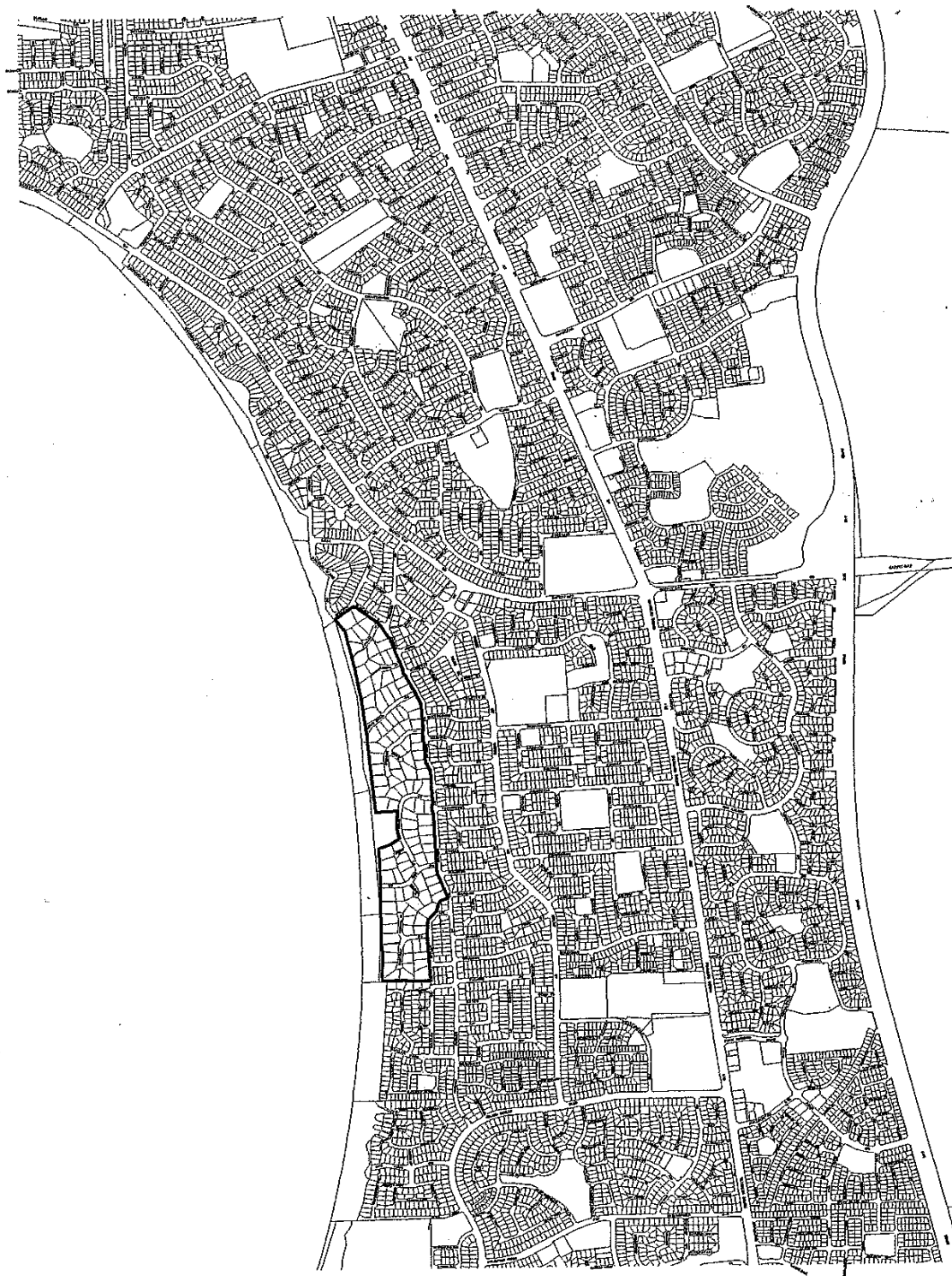
PLAN NO.4
SPECIAL RURAL ZONES (NORTH)
(UNDER CLAUSE 4.12 AND SCHEDULE NO.4)



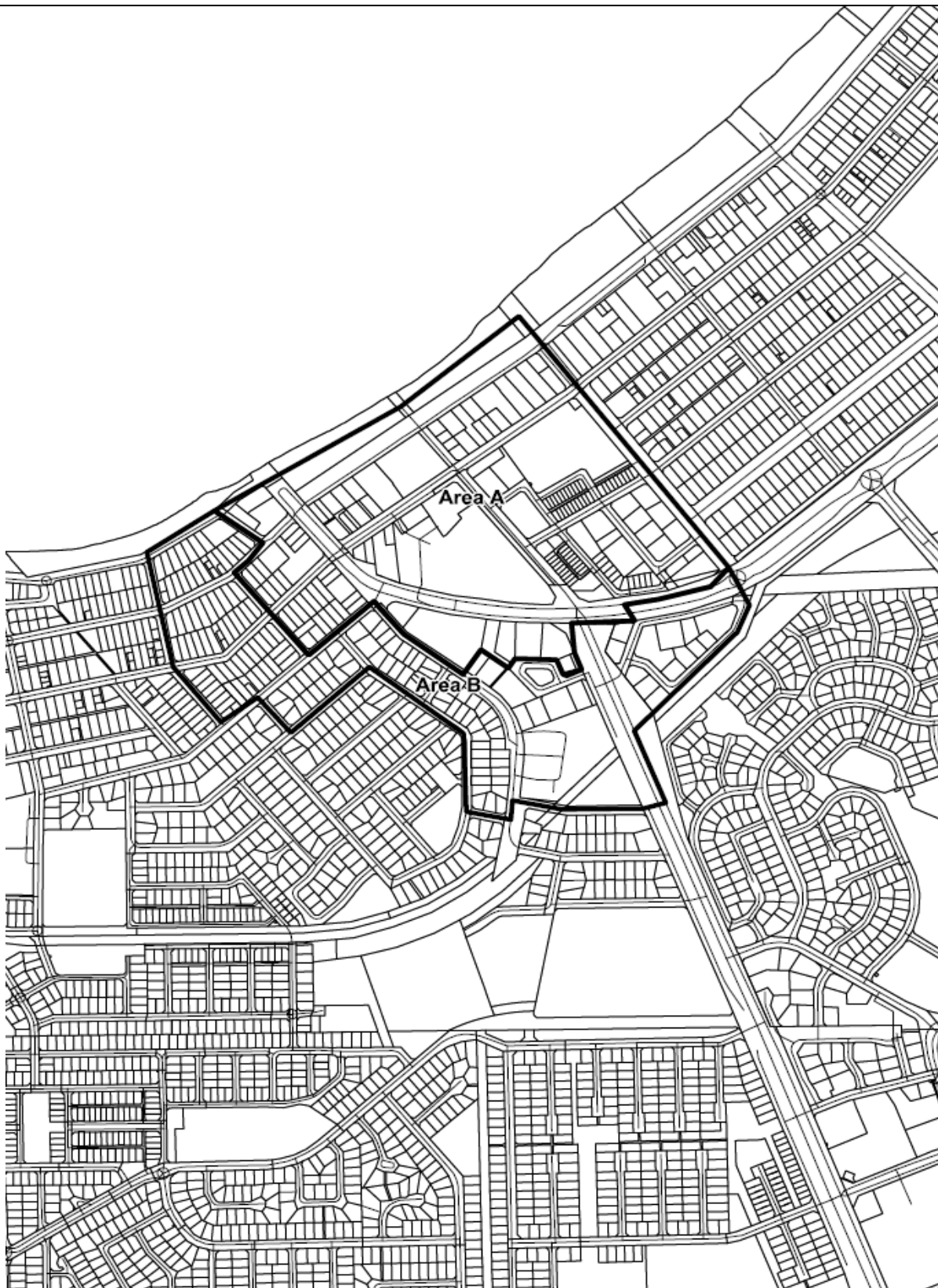
PLAN NO.5
SPECIAL RESIDENTIAL ZONES (SOUTH)
(UNDER CLAUSE 4.13 AND SCHEDULE NO.5)



PLAN NO.6
SPECIAL RESIDENTIAL ZONES (NORTH)
(UNDER CLAUSE 4.13 AND SCHEDULE NO.5)



PLAN NO.7
SPECIAL RESIDENTIAL ZONES (WEST)
(UNDER CLAUSE 4.13 AND SCHEDULE NO.5)



PLAN NO.8
CAR PARKING AREAS FOR PRIMARY CENTRE WATERFRONT VILLAGE ZONE
(UNDER CLAUSE 4.15.6.2)

ADOPTION

Adopted by resolution of the Council of the City of Rockingham at the Ordinary meeting of the Council held on the 26th day of August 1997.

.....
Chief Executive Officer

.....
Mayor

FINAL APPROVAL

1. Adopted for Final Approval by resolution of the City of Rockingham at the Ordinary meeting of the Council held on the 27th day of August 2002 and the Seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of:

.....
Chief Executive Officer

.....
Mayor

2. Adopted for Final Approval, as modified, by resolution of the City of Rockingham at the Ordinary Meeting of the Council held on the 24th day of August 2004 and the Seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of:

.....
Chief Executive Officer

.....
Mayor

3. Recommended/Submitted for Final Approval by the Western Australian Planning Commission

.....
Delegated Under Section 20 of WAPC Act 1985 for Chairperson,
Western Australian Planning Commission

.....
Date

4. Final Approval Granted

.....
Minister for Planning and Infrastructure

.....
Date