



TOWN PLANNING SCHEME NO. 1 SCHEME TEXT

WORKING VERSION – February 2023

DISCLAIMER

This is a Working Version of the Scheme Text, not a legal version. This Scheme Text is to be read in conjunction with 'Schedule 2 – Deemed provisions for local planning schemes' of the *Planning and Development (Local Planning Schemes) Regulations 2015 (as amended)*, with reference in this Working Version to "the Deemed Provisions" being a reference to Schedule 2 of the Regulations. In accordance with Regulation 10(4) of the Regulations, the provisions in Schedule 2 are deemed provisions which are automatically incorporated into the TPS 1 Scheme Text notwithstanding that they do not appear in the Scheme Text.

For ease of reference, a copy of the Deemed Provisions is included as Appendix 1 in this Working Version.

Notes

- Items with a strikethrough in black font reflect gazetted Amendments to TPS 1.
- The text in blue font cross-refers to relevant parts/clauses of the Deemed Provisions that apply.

Whilst all care has been taken to accurately portray the current Scheme provisions as amended by the Deemed Provisions, no responsibility shall be taken for any omissions or errors in this documentation.

Consultation with the Town should be made to view a legal version of the Scheme.

Please advise the Town of any errors or omissions in this document.

Original Town Planning Scheme Gazettal Date: 30 September 1998

TOWN OF VICTORIA PARK TPS 1 - TEXT AMENDMENTS

AMDT NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
3	2/2/01	1/2/01	DH	Schedule 1 - introducing new definition "nightclub" following the existing definition of 'net floor area'. Zoning Table - adding new use class "Nightclub".
5	31/8/01	29/8/01	DH	Precinct Plan 10 - amending by inserting the following text as a new paragraph after the first paragraph of the Statement of Intent: "The area of land identified as Special Use zone generally bounded by Welshpool Road, Forward Street, Swansea Street East, Milford Street and Shepperton Road is to be consolidated as a node of commercial uses and serve as part of the southern "Gateway" to the Town of Victoria Park." Precinct Plan 10 - incorporating provisions for "Special use Zone" following the Development Standard provisions for the Office/Residential Zone.
12	6/9/02	3/9/02	DH	Table 1 - amending by changing Use Class for "Motor Vehicles and Marine Sales Premises, Open Air Sales and Display" to an "X" use in the "Residential, Residential/Commercial", "Office/Residential", "Local Centre", "District Centre" zones, an "AA" use in the "Commercial" zone and a "P" use in the "Industrial 1 and 2 zones." Amending Precinct Plan No's P3,4,7,8,11 and 12 by amending each extract of the Zoning Table appearing in those Precinct Plans such that Motor Vehicles and Marine Sales Premises, and Open Air Sales and Display is an "X" use within Local Centre and District Centre zones, and an "AA" use within Commercial zones.
6	8/10/02	10/10/02	DH	<i>Scheme Text</i> - Schedule 1 - inserting new definition following "Home Occupation" for "Home Office". <i>Scheme Text</i> - Clause 31 - "Exemption From Planning Approval" - inserting after existing provision (e) "(f) a home office;" and re-alphabetising the remaining existing provisions contained in the clause. <i>Policy Manual</i> - amending section 3.4 Home Occupation of the Policy Manual by inserting provision "3.4.3.g) The Proposed use will not cause injury to or adversely affect the amenity of the neighbourhood." <i>Scheme Text</i> - Zoning Table - amending Scheme Text zoning table by substituting all the "P" symbol notated against "Home Occupation" use class to an "AA" use in the "Residential", "Residential/Commercial", "Local Centre" & "District Centre" zones, an "AA/X ³ " symbol in the Commercial zone, an "X" symbol in the "Industrial 1 & 2" zones, and in the Special Use Zone a note "Refer to provisions in Precinct Plan". <i>Note: An amendment was unable to be made in the "Office/Commercial" zone as this does not exist.</i> <i>Precinct Plans</i> - amending Precinct Plan zoning tables Nos P1-P13 (inclusive) by substituting all the "P" symbols in the list of Zones notated against the Home Occupation Use Class to an "AA" use in the "Residential", "Residential/Commercial", "Local Centre" & "District Centre" zones, an "AA/X ³ " symbol in the Commercial zone, an "X" symbol in the "Industrial 1 & 2" zones, and in the Special Use Zone a note "Refer to provisions in Precinct Plan". <i>Note: An amendment was unable to be made in the "Office/Commercial" zone as this does not exist.</i> <i>Precinct Plans No. 2</i> - modifying the "Use Area" Table by substituting all the "P" symbols in the list of Zones notated against the Home Occupation Use Class with "AA" symbols. <i>Scheme Text</i> - Zoning Table - amending Scheme Text zoning table by substituting existing symbols notated against "Home Office" use class to a "P" use in the "Residential", "Residential/Commercial", "Local Centre" & "District Centre" zones, a "P/X ³ " symbol in the Commercial zone, an "X" symbol in the "Industrial 1 & 2" zones, and in the Special Use Zone a note "Refer to provisions in Precinct Plan". <i>Note: An amendment was unable to be made in the "Office/Commercial" zone as this does not exist.</i>
6 (Cont'd)	8/10/02	10/10/02	DH	<i>Precinct Plan No. 2</i> - modifying "Use Area" Table by inserting the use class "Home Office" after the use class "Home Occupation" by inserting the "P" symbols in the list of zones notated against the Home Office Use Class. <i>Note: An amendment was unable to be made in the "Office/Commercial" zone as this does not exist.</i>
16	15/11/02	14/11/02	DH	Precinct Plan - amending Precinct Plan P13 in respect of land within the 'Special Use zone - Residential and Special Facilities' by including

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				additional text under the heading 'Development Standards' to include 'Building Height'.
8	4/2/03	12/2/03	DH	<p>Clause 12 section (1)(c) - amending sections (i)-(ix) inclusive.</p> <p>Clause 51 section (4), paragraph 3 - indent to be consistent with remainder of the provision.</p> <p>Policy Manual:</p> <p>Section 1.0 Note in paragraph 2 <i>"The register cannot be compiled until"</i> to be replaced with <i>"The register cannot be compiled until"</i>.</p> <p>Section 3.0 clause 3.1.1. paragraph 1 line 10 <i>"Buildings staff"</i> to be replaced with <i>"Building staff"</i>.</p> <p>Section 3.0 clause 3.1.2. paragraph 1 line 5 <i>"of a local scale"</i> to be replaced with <i>"on a local scale"</i>.</p> <p>Section 3.0 policy 3.2. clause 3.2.2 - replace letters "b), c) and d) with i., ii., and iii. respectively and indenting paragraphs and also replacing the letter "e)" with the letter "b)".</p> <p><i>Note: amendment does not call for replacement of letters (f) and (g).</i></p> <p>Precinct Plan 4 - McCallum Precinct, under Residential Zone heading para 1 <i>"Although the residential area is only small high density residential development, in line with R80 residential standards is appropriate."</i> to be replaced with <i>"Although the residential area is only small, high density residential development, in line with R80 residential standards is appropriate"</i>.</p> <p>Precinct Plan 6 - Victoria Park Precinct, under the Residential Zone heading, para 3, <i>"Local shops, child care facilities, schools and recreational areas serving the day-to-day needs of residents may be appropriate"</i> to be replaced with <i>"Child care facilities, schools and recreational areas serving the day-to-day needs of residents may be appropriate"</i>.</p> <p>Precinct Plan 6 - Victoria Park Precinct, under Residential Zone heading, para 6 <i>"Priority will be given to ensuring that new development. Particularly infill and development at higher densities, does not result in undue loss of privacy or amenity for existing residents"</i> to be replaced with <i>"Priority will be given to ensuring that new development, particularly infill and development at higher densities, does not result in undue loss of privacy or amenity for existing residents"</i>.</p> <p>Precinct Plan 8 - Carlisle Precinct, under the Residential Zone heading, para 2 <i>"that serve the day-to-day needs to residents"</i> to be replaced with <i>"that serve the day-to-day needs of residents"</i>.</p> <p>Precinct Plan 10 - Shepperton Precinct, under the Office/Residential Zone heading, para 4 <i>"The impact of car parks on the amenity of adjacent residential areas shall be reduced by ensure vehicle access to sites is via existing access points"</i> to be replaced with <i>"The impact of car parks on the amenity of adjacent residential areas shall be reduced by ensuring vehicle access to sites is via existing access points"</i>.</p> <p>Precinct Plan 11B - Albany Highway Precinct, under the Statement of Intent heading, para 4 <i>"The compatibility of all commercial and retail uses"</i> to be replaced with <i>"The compatibility of all commercial and retail uses"</i>.</p> <p>Precinct Plan 12A - East Victoria Park Precinct, under the Reserves heading, paragraph 3 <i>"vital to the residential areas the serve"</i> to be replaced with <i>"vital to the residential areas they serve"</i>.</p> <p>Precinct Plan 12B - East Victoria Park Precinct, under the Residential Zone heading, paragraph 3 <i>"are appropriate to these localities"</i> to be replaced with <i>"are appropriate in these localities"</i>.</p> <p>Precinct Plan 12B - East Victoria Park Precinct, under the Reserves heading, para 3 <i>"vital to the residential areas the serve"</i> to be replaced with <i>"vital to the residential areas they serve"</i>.</p> <p>Precinct Plan 13 - Curtin Precinct, under the Residential and Special Facilities heading, para 2 <i>"is of extreme important"</i> to be replaced with <i>"is of extreme importance"</i>.</p>
15	4/2/03	13/2/03	DH	<p>Schedule 1 - deleting definition "day care centre".</p> <p>Schedule 1 - inserting new definition "child care premises".</p> <p>Schedule 1 - inserting new definition "family day care".</p> <p>Clause 31 - amending by adding additional provision "(i)".</p> <p>Policy Manual - delete Policy 3.9 'Child Day Care Centres within Residential Areas' and replacing with new policy '3.9 Child Care facilities within Residential Areas'.</p>

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28	23/5/03	27/5/03	DH	<p>In Precinct Plan 2</p> <ul style="list-style-type: none"> - Delete first paragraph contained in the "STATEMENT OF INTENT" section and replace with "<i>The Burswood Precinct should be redeveloped primarily as an area of mixed office and residential uses east of the railway and for residential uses with integrated mixed use development west of the railway.</i>" - In "SPECIAL USE ZONE" section delete first paragraph immediately under heading "SPECIAL USE ZONE", which reads, "THIS AREA COMPRISES THE...COMMERCIAL AREA", and the heading "Road Network" and the paragraph immediately under the heading, "COUNCIL WILL NOT CONSIDER...THE BURSWOOD PENINSULA." and replace with new text. - Under the heading "STRUCTURE PLAN" delete paragraph (c) and replace with "(c) <i>All land within the Special Use Zone shall be designated "R-IC" under the Western Australian Planning Commission Residential Design Codes (R Codes).</i> <p>In the "SPECIAL USE ZONE" section delete and replace the "Use Area" Table.</p> <p>In the "SPECIAL USE ZONE" section delete 'Development Standards' 1. to 7. (inclusive) and the whole of the section headed "GENERAL DESIGN GUIDELINES" and replace with the new text following directly under the heading "DEVELOPMENT STANDARDS".</p> <p>Policy Manual Adding a new policy to the Policy Manual "3.15 Design Guidelines for Burswood Lakes".</p> <p>Table of Contents Adding reference to Policy 3.15 "DESIGN GUIDELINES FOR BURSWOOD LAKES" following '3.11.9 ORNAMENTAL DETAILS'.</p>
29	23/5/03	28/5/03	DH	<p>Precinct Plans Amending Precinct Plan 2 - Burswood Precinct by modifying the 'Development Standards' section in the 'Special Use Zone' by inserting two new sub headings and associated text, after sub heading '(b) Setbacks' and then re-alphabetising the remaining existing provisions contained in the clause.</p>
26	26/8/03	25/8/03	DH	<p>Precinct Plans Amending Precinct Plan 12(Sheet A) East Victoria Park Precinct: by adding text provision to the 'Special Use' zone after the last paragraph to read: CARPARKING/DRAINAGE The only permitted use of this land is carparking and/or drainage.</p>
27	3/2/04	3/2/04	DH	<p>Scheme Text Schedule 2 – adding additional use "1. No. 47 (Lot 10) Star Street, Carlisle on Diagram 65589" together with permitted uses and conditions.</p>
30	17/2/04	18/2/04	DH	<p>Scheme Text Adding "Division 3 – Special Control Areas" and clause "29A Operation of Special Control Areas" after clause 29. Table of Contents – amending by inserting after "Schedule 6" Register of Places of Cultural Heritage Significance", a new schedule "Schedule 7: Special Control Areas". Table of Contents – including a new Schedule in the list of Schedules "Schedule 7 – Special Control Areas".</p>
23A	6/4/04	7/4/04	DH	<p>Part 3 – amending text by including a new subclause (b) to clause 29A1, to be inserted after subclause (a). Part 3 – amending text to include new clause "29AB Development Areas and Structure Plans" after clause 29AA 'Building and Design Areas'. Table of Contents – adding reference to clause 29AB by inserting after "29AA Building and Designs Area" the words "29AB Development Areas and Structure Plans". Schedule 7 – amending by adding new Special Control Area – "DA1" being "The whole of the area being portion of Swan Loc 35 (known as Belmont Park Racecourse" together with purpose and particular requirements.</p>
19	14/9/04	20/9/04	DH	<p>Precinct Plan – amending the development standards of the 'commercial Zone' contained in Precinct Plan P4 by replacing point 5 'Building Height'. Precinct Plan – amending the development standard of the 'Residential Zone' contained in Precinct Plan P10 by inserting the additional provision for "Building Height". Precinct Plan – amending the development standards of the 'Residential</p>

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				Zone' contained in Precinct Plan P12 (Sheets A and B) by deleting the existing 'Height Limit' provision and inserting a new provision for 'Building Height'.
25	12/10/04	13/10/04	DH	Policy Manual - including Policy 4.12 to be "Design Guidelines for Developments with Buildings above 3 Storeys" Policy Manual – amending Table of Contents to include above.
24	18/2/05	1/3/05	DH	Scheme Text: - Adding new subclause (a) to clause 29A(1), to read "(a) Building and Design Areas shown on the Precinct Plans as BD with a number and included in Schedule 7." - Amending text to include a new clause "29AA Building and Design Areas" after clause 29A to read "Schedule 7 describes the Building and Design Areas in more detail and sets out the purpose and particular requirements that may apply to the Building and Design Areas." Schedule 7 – amending to include new Special Control Area – BD 1 – Lot 905 Burswood Road (known as Sands & McDougall Site). Table of Contents – adding reference to clause 29AA by inserting under 29A Operation of Special Control Areas' to read "29AA Building and Design Areas".
31	8/3/05	16/3/05	DH	Policy Manual – Policy 3.12 Sunbury Park Site Design Guidelines amend by: - replacing first paragraph in clause 3.12.5 to read "These guidelines apply to lots 474 to 499 as shown on the attached Drawing S1 and lot 500 to 569 and shown on the attached Drawing S2. - replacing first paragraph in clause 3.12.5 to read "Lot sizes within the subdivision range in area generally between 200m ² and 240m ² . No lot will be less than 200m ² in area. - replacing Clause 3.12.6a) to read "With respect to any lot, the amalgamation to form larger development sites or the further subdivision to create smaller single house lots will not be supported. (E) - replacing Clause 3.12.6b) to read "With the exception of Lots 522 to 530, all lots must address their primary street frontage, whilst meeting the necessary on-site parking and open space requirements of the guidelines. (E) - replacing Clause 3.12.6c) to read "Lots 522 to 530 are to address the Public Open Space as if it was the primary street frontage whilst meeting the necessary on-site parking and open space requirements of the guidelines. Two-storey development on these lots is to include windows facing towards and providing surveillance of Kitchener Avenue. (E) - replacing Clause 3.12.6d) to read "Lot levels must not be varied from those provided. (E) - replacing paragraph 2 in Clause 3.12.7.1c) to read "Nil side setbacks are permitted, although not a requirement, on the boundaries identified on Drawing S2 subject to compliance with clause 3.12.9 (D) - in paragraph 1 in Clause 3.12.7.1d) replace the word "Planning" with the word "Design". - in clause 3.12.7.1e) modify clause to read "Lots 522 to 531 are required to be setback between 1 metre (minimum) and 2 metres (maximum) from the primary street boundary. Nil setbacks are permitted to both side boundaries with the exception of lots 522, 530 and 531. (E) - modify Clause 3.12.9, paragraph 2 to read "Plans showing any overshadowing impact of the proposed development, will be required by Council to be submitted as part of the information lodged at the development approval stage. Council will require that notwithstanding the nil setback guidelines indicated on Drawing S2, the dwelling be designed such that its shadow cast at midday, 21 June onto any other adjoining residential property does not exceed 35% of the site area of that adjoining property or Council will assess the applications in accordance with the Performance Criteria requirements of Clause 3.9.1 of the Residential Design Codes of Western Australia. (E)
33	1/4/05	3/5/05	DH	Precinct Plans: Amending Precinct Plan P 8 – Carlisle Precinct by reclassifying portions of Lot 20 and Pt Lot 6 (No. 264) Orrong Road, Carlisle and portion of the Galaxy Way road reserve from 'Other Regional Roads' reservation to 'Residential' zone with a permitted site density of R30.

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34	3/5/05	3/5/05	DH	Precinct Plans: Amending Precinct Plan P12 Sheet B – East Victoria Park Precinct by reclassifying portion of Location 4332 Albany Highway, East Victoria Park from 'Residential' zone to 'Public Purposes' Town of Victoria Park Scheme Reserve with a Civic Use/Community Purpose notation (CU/CP) and 'Parks and Recreation' town of Victoria Park Scheme Reserve
37	11/11/05	15/11/05	DH	Precinct Plan P2 (Sheet B) – modifying Table 1 – General Site Requirements by removing figure "16" under the Open Space column – Min. Communal (m ²) for Multiple Dwelling and inserting the comment "refer to communal open space table below". Inserting a new table – Open Space following Table 1. Inserting definition of "Plot Ratio" following the table of plot ratio requirements under clause (1)(c).
20	31/1/06	7/2/06	DH	Precinct Plan – amending Precinct Plan P11 Sheet B in respect to 'Albany Highway Central' by adding additional clause 5. under heading of Development Standards. Precinct Plan – amending Precinct Plan P11 Sheet B in respect to "District Centre Zone- East Victoria Park Shopping Area' by adding additional Clause "7. Building Height" under heading of Development Standards. Precinct Plan – amending Precinct Plan P11 Sheet B in respect to the 'Residential/Commercial Zone by adding Clause "8. Building Height:" under the heading of Development Standards". Precinct Plan – amending Precinct Plan P11 Sheet B in respect to the District Centre Zone – East Victoria Park Gateway Shopping Centre Area by adding Clause "7. Building Height:" under the heading Development Standards. Policy Manual – amending Policy 4.8 'Albany Highway Residential/Commercial Design Guidelines' by deleting the words "Heights of buildings can be 2-3 levels, or more if the development meets the objectives for the area" and inserting the words "Heights of buildings shall be a maximum of 11.5 metres (3 storeys)". Policy Manual – amending Policy 4.7 'East Victoria Park Gateway Shopping Area Design Guidelines' by modifying Clause 4.7.4.2(a). Policy Manual – modifying Figure 3 – Built Form by deleting the notation " Building could be 103 storeys high".
14	7/4/06	18/4/06	DH	Precinct Plan P11 (Sheet B) – in respect to the Commercial Zone – Albany Highway Gateway adding Development Standard "5. Building Height". Precinct Plan P11 (Sheet B) – in respect to the District Centre Zone – Victoria Park Shopping Area adding Development Standard "7. Building Height:".
40	9/2/07	13/2/07	DH	Schedule 4 - modifying schedule in the "Type of Advertisement" column. Part 4 - adding new clause "39A - Determination of Application for Advertisement". Table of Contents - modify by inserting new heading under Part 4 to read "39A. Determination of Application for Advertisement".
41	9/2/07	19/2/07	DH	Schedule 2 - adding additional use area No. 2 "No. 9 (Lot 712, Strata Lot 11) McMillan Street, Victoria Park on Vol 2546 Fol 485 Strata Plan 43914" together with relevant permitted uses and development standards & conditions.

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38	15/6/07	19/6/07	dh	<p>POLICY MANUAL: Make below changes to Policy Manual: Deleting from Policy Manual "3.2 Ancillary Accommodation"/ Deleting from Policy Manual "3.3 Development of Aged or Dependent Persons' Dwelling". Policy Manual 3.4 Home Occupation - reformat clause 3.4.3b), c), d) and e). Policy Manual 3.7 Mixed Residential/Commercial Development - modify clause 3.7.8a) by deleting the words 'the 'B' standard of'". Policy Manual 3.8 Structures Within Setbacks in Residential Areas - delete. Policy Manual 3.9 Child Care Facilities Within Residential Areas - modify clause 3.9.2 a) iii. Policy Manual 3.9 Child Care Facilities Within Residential Areas - modify Clause 3.9.2 a) by deleting the words "Any applications submitted for child care premises will be referred to the Child Care Services Board/Licensing Unit for confirmation of compliance with the <i>Community Services (child Care) Regulations 1988.</i>" Policy Manual 3.10 Vehicular Access to Properties Via a Right-of-Way - modify clause 3.10.1. Policy Manual 3.10 Vehicular Access to Properties Via a Right-of-Way - delete Clause 3.10.2a)ii a), b), c) and d). Policy Manual 3.10 Vehicular Access to Properties Via a Right-of-Way - modify Clause 3.10.2a)ii. Policy Manual 3.11 Raphael Residential Precinct Design Guidelines - delete.</p>
39	10/7/07	19/7/07	DH	<p>Scheme Text: Schedule 1 - modifying definitions "Residential Planning Codes", "Residential Design Codes", "dwelling", "floor area of a building", "grouped dwelling", "multiple dwelling", "residential building" and "single house". Schedule 1 - inserting definition of "Day Care Centre", "substantially commenced" and "single bedroom dwelling".. Schedule 3 - modify Schedule. Schedule 5 - modify schedule by inserting the word "substantially" between the words "not" and "commenced". Zoning Table - modify Clause 15 (Zoning Table) by inserting the use "Single Bedroom Dwelling" with relevant symbols applicable. Clause 31(1) - replacing sub-clause (g) with new wording. Clause 31(1) - adding new sub-clause (j). Policy Manual: Policy 5.1 (Parking Policy) - modify subclause 5.1.6.1 by inserting sub-clause (d). Policy 5.1 - modify the table following Clause 5.1.6.2 by deleting the Activity/Use of 'Technical Schools and Tertiary Institutions' and deleting the associated number of car parking bays for this use. Policy 5.1 - modify the table following Clause 5.1.6.2 by inserting a car parking requirement for 'Educational Establishment' and 'Research and Development'. Policy 5.1 - modify the table following Clause 5.1.6.2 by modifying the car parking requirement for 'Institutional home/nursing home' and 'Child Care facilities'. Policy 5.1 - modify clause 5.1.6.3(a). Policy 5.1 - modify clause 5.1.6.4(a). Policy 5.1 - modify clause 5.1.6.12.2b). Policy 5.1 - replace the word "should" with "shall" in Clauses 5.1.6.1a), 5.1.6.7a), 5.1.6.9a), 5.1.6.12a) and 5.1.6.12.5a). Policy 5.1 - modify clause 5.1.7.7. by deleting sub-clause b) and rewording sub-clause a) to read "Appendix A: Car Parking Bay and Manoeuvring Dimensions for Residential and Non-Residential Development."</p>

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				<p>Policy 5.1 - modify Appendix A: Car Parking Bay and Manoeuvring Dimensions for Non-residential Development by retitling the Appendix as "Appendix A: Car Parking Bay and Manoeuvring Dimensions for Residential and Non-Residential Development".</p> <p>Policy 5.1 - modifying Appendix A.</p> <p>Policy 5.1 - deleting existing Appendix B.</p> <p>Policy 4.8 - modify clause 4.8.6a) to read "a) Where available, vehicular access shall be from a right-of-way or adjoining side street. Vehicular access directly onto Albany Highway is restricted to existing crossovers only."</p> <p>Policy 4.8 - modify the drawing following Clause 4.8.7 to indicate that vehicular access is to be from a right-of-way.</p> <p>Policy Manual 4.11 - renumbering clauses 4.11.2a) and b) as Clauses 4.11.2b) and c) respectively and inserting a new Clause 4.11.2a).</p> <p>Policy 4.11 - modify clause 4.11.2b)ii to read "satellite dishes greater than 1.5 metres in diameter are required to be located at ground level, with a maximum height of three (3) metres and should be located or screened such that they are not visible from any street or adjoining property."</p> <p>Policy 4.11 - modify clause 4.11.2c)ii to read "satellite dishes greater than 2.0 metres in diameter are required to be located at ground level, with maximum height of three (3) metres and should be located or screened such that they are not visible from any street or adjoining property"</p> <p>Policy 4.11 - inserting clause 4.11.2d).</p> <p>Policy 3.12 Sunbury Park Site Design Guidelines - modify Clause 3.12.3 paragraph 2 by replacing the term 'Residential Design Guidelines' with 'Local Planning Policy - Streetscape'.</p> <p>Policy 3.12 - deleting the reference to Policy 3.2 'Ancillary Accommodation' and Policy 3.8 'Structures Within Setbacks in Residential Areas' in Clause 3.12.3 paragraph 3.</p> <p>Policy 3.12 - in Clauses 3.12.11a) and 3.12.23a) replace the term 'Town Planning Scheme Policy 3.1 Residential Design Guidelines, Section 3.1.6.6' with 'Local Planning Policy - Streetscape' to read " a)Front Fences Low front fences are encouraged in order to maintain an interaction between the dwellings and the street. Front fences are to comply with the Local Planning Policy - Streetscape (E)"</p> <p>Policy 3.12 - modifying clause 3.12.21 by replacing reference to Clause 3.9.1 of the Residential Codes with Clause 3.9.1 of the Residential Design Codes to read "Council will not require strict compliance with the provisions of Clause 3.9.1 of the Residential Design Codes in respect to overshadowing. (D)"</p> <p>Policy 3.12 - inserting a sub-clause "d)" in Clause 3.12.8 and 3.12.20.</p>
43	31/10/08	10/11/08	DH	<p>Zoning Table - amending permissibility for use class "Restr8icted Premises" and adding footnote 4 to end of table.</p> <p>Schedule 1 - modifying definition of "Restricted Premises".</p> <p>Amending Precinct Plans P3, P4, P7, P8, P10 and P11 by amending the extract of the Zoning Table appearing in those Precinct Plans to reflect the amendments to the Zoning Table contained in the Scheme Text..</p>
44	29/7/09	17/8/09	DH	<p>Zoning Table - deleting existing Footnote 3 and modifying use classes "Home Occupation", "Home Office" & "Single House, Grouped Dwelling, Aged or Dependent Persons' Dwelling, Multiple Dwelling" in the Commercial Zone.</p> <p>Zoning Table - adding footnotes 3 & 4 and modifying use classes "Fast Food Outlet, Restaurant", "Hotel, Motel, Tavern", "Shop" and "Showroom" in the Office/Residential zone.</p> <p>Clause 22 - adding additional point (5).</p>
46	03/09/10	13/09/10	NM	<p>Scheme Text:</p> <p>Schedule 1 – Definitions;</p> <ul style="list-style-type: none"> - Replaced the definition of “storey” - Deleted the definition of “height” - Added new definition “building height” - Added new definition “natural ground level” - Replaced definition of “plot ratio” - Added new definition “plot ratio floor area” - Modified definition of “net floor area” - Deleted the definition of “floor area of a building” <p>Precinct Plan:</p> <p>Deleted 'Note(s)' relating to 'Building height' within Precinct Plan 2 – Burswood Precinct "Office/Residential Zone" an Precinct Plan 4 – McCallum Precinct "Residential Zone" and "Commercial Zone".</p>

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48	25/01/11	01/02/11	NM	<p>Replaced the notation "X/AA" with "X/AA⁵" within Zoning table, zone "Restricted Premises".</p> <p>Deleted "Lodging House" from Zoning Table.</p> <p>Deleted sub-clauses 23 (2) and (3) and renumbered (4) accordingly.</p> <p>Replaced sub-clause 38(1).</p> <p>Deleted the words "with the period of 60 days" and "within that period of 90 days" within Clause 43.</p> <p>Deleted the definition "Lodging house" and the associated "note" from Schedule 1 – Definitions.</p> <p>Inserted definitions "permanent" and "temporary" into Schedule 1 – Definitions.</p> <p>Replaced the words "TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED)" with the words "PLANNING AND DEVELOPMENT ACT 2005" within Schedule 5 – Notice of Council Decision.</p> <p>Policy 4.14 – Replaced the word "speaking" with "parking" in c) Area 3 Parkside Residential, (ii) Land Use, dot point 3.</p> <p>Policy 4.14 – deleted provisions under (ii) Lot size and development controls for i) Area 9 Shepperton Streetscape Overlay, and inserted new text.</p> <p>Policy 5.1 – deleted the words "or part thereof" under Clause 5.1.6.2 in relation to the parking requirements for 'Showroom' and 'Warehouse/Industry'.</p>
51	30/12/11	17/01/12	NM	Replaced Schedule 3 – Application for Planning Approval.
49	13/07/12	31/07/12	NM	<p>Precinct Plan</p> <p>Inserted "Building Height" and related paragraph under the paragraph headed "Development Standards" under the heading "Residential Zone" within Precinct Plan P5 Raphael Precinct.</p> <p>Modified Precinct Plan P6 Victoria park Precinct plan under the heading "Development Standards". Inserted the words ", except where otherwise specified" after the last sentence of the second paragraph of the preamble in Residential Zone.</p>
58	11/12/12	18/12/12	NM	Inserted Additional Use No. 3 into Schedule 2 – Additional uses.
49	8/3/13	25/3/13	NM	<p>Inserted subclause (6) East Victoria Park Precinct into Clause 22 – Special Application of the Residential Planning Codes.</p> <p>Precinct Plan</p> <p>Inserted notation 'No Multiple Dwellings' to Sheet A.</p> <p>Inserted a sentence after 'development standards for building heights' for Sheets A and B.</p>
57	22/2/13	8/4/13	NM	<p>Inserted sub-clause (7) within Clause 22.</p> <p>Inserted sub-clause (c) within Clause 29AB (12).</p> <p>Precinct Plan</p> <p>Replaced some text under 'Statement of Intent' of Burswood Peninsula Precinct Plan P1 Sheet A.</p> <p>Replaced text under 'Special Use Zone' of Burswood Peninsula Precinct Plan P1 Sheet A.</p>
60	19/8/14	24/2/15	RC	<p>Amend the Town Planning Scheme Text Zoning Table and add a Footnote 6 following Footnote 5.</p> <p>Amend Precinct Plan P11 - Sheet B – 'Albany Highway Precinct' by amending the extract of the Zoning Table for the Commercial zones known as 'Albany Highway Gateway' and 'Albany Highway Central'.</p> <p>Modify Town Planning Scheme Text Schedule 2 – Additional Uses.</p> <p>Modify Town Planning Scheme No. 1 Precinct Plan P11, Sheet A by applying to relevant properties the 'Ref. No' for that property listed in Schedule 2 – Additional Uses, of the Town Planning Scheme No. 1 Scheme Text.</p>
61	14/11/14	21/11/14	RC	<p>Amend Schedule 1 – by inserting a use class and the definition of "Liquor Store Small" and "Liquor Store Large" and "net lettable area".</p> <p>Schedule 1 – amend definition of 'Shop'.</p> <p>'Zoning table' – insert use classes of "Liquor Store – Small" and "Liquor Store – Large", and associated permissibility.</p> <p>Amend Precinct Plans to reflect the amendment to the Zoning Table in the Scheme Text. (P1 – P13).</p>
64	14/11/14	21/11/14	RC	Include a new sub-clause (5) to Clause 35 authorising Council to display development plans on the Council's website for the purposes of advertising an application for public comment.

AMDT NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
63	09/06/15	14/09/15	RC	Insert clause 31A relating to the granting, revoking or amending of a planning approval.
68	31/07/15	14/09/15	RC	Deleting clause 46 relating to Planning Policies and replacing with a new clause 46 relating to Local Planning Policies. Modify the definition of planning policy in Schedule 1.
69	2/12/16	19/12/16	RC	Amended Clause 3 by deleting subclause (1) (c) and inserting new subclause 1 (a) and renumbering related subclauses. Amended Note 1 associated with Clause 3 to delete the words "planning policy". Amended the Note associated with Clause 21 to delete the words "Planning Policies". Amended Clause 22(4) and 22(5) Amended Clause 38(1)(a). Amended the "planning policy" definition in Schedule 1 – Definitions. Removing the Scheme Policy Manual as forming part of the Scheme.
67	5/5/17	11/7/17	RC	<ol style="list-style-type: none"> 1. Amend Schedule 2 to include an Additional Use of Multiple Dwellings for Nos. 2-8A (Lots 1, 2, 137-141) Basinghall St, East Victoria Park and insert development standards/conditions that apply. 2. Modify Precinct Plan P12, Sheet A by applying to 2-8A (Lots 1, 2, 137, 128, 139, 140 and 141) the "A54" notation as listed in Schedule 2 - Additional Uses, of the Town Planning Scheme No. 1 Scheme Text.

AMDT NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
75	23/6/17	11/7/17	GM	<p>Deleted the following parts, clauses, subclauses and schedules from the Scheme Text as they have been superseded by the deemed provisions set out in the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Schedule 2 – Part 3, Division 2 (and associated Notes); 29AB (1) and (3)-(16); 30 (and associated Notes); 31 (with items (1)(b), (c), (e), (h), (i), and (j) to be moved to a new Schedule A and item (e) to be modified to refer to a heritage list or heritage area rather than the Register of Places of Cultural Heritage Significance); 31A; 33 (and associated Note); 35 (and associated Note); 36 (and associated Note); 40 (and associated Note); 41; 42; 43 (and associated Note); 45 (and associated Note); 46; 46A; 46B; 48; 49 (and associated Note); 53 (with subclauses (2), (3) and (4) to be moved to a new Schedule A); Schedule 3; Schedule 5; Schedule 6.</p> <p>Deleted the following definitions from Schedule 1 of the Scheme Text as they have been superseded by the deemed provisions set out in the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Schedule 2 - Act; advertisement; Chief Executive; conservation; conservation area; cultural heritage significance; heritage agreement; owner; place; premises; register of places of cultural heritage significance; Residential Design Codes; Residential Planning Codes; Scheme area; substantially commenced.</p> <p>Amended the following clauses in the Scheme Text by removing reference to the clause deleted by the amendment and replace them with cross reference to deemed provisions set out in the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Schedule 2 – 18(2), 32(1), 37(2), 38(3), 39(1) 39A(1), Schedule 7 Area 'BD1'.</p> <p>Deleted Notes from the following clauses – 3, 13, 14, 16, 18, 24, 47, 50 and 52.</p> <p>Deleted Notes from definitions in Schedule 1 – 'land', 'lot' and 'public authority'.</p> <p>Amended Notes in the following clauses – 10, 11, 14, 15, 16, 34, 47 and 54.</p> <p>Amended Notes in Schedule 1 of the following definitions – 'development', 'dwelling', 'grouped dwelling', 'residential building', 'single bedroom dwelling', 'single house', 'multiple dwelling'.</p> <p>Deleted references to the following terms in the Scheme Text and Precinct Plans and replace them with the corresponding term throughout -</p> <p>'Residential Planning Codes' with 'R-Codes'.</p> <p>'<i>Totalisator Agency Betting Board Act 1960</i>' with '<i>Racing and Wagering Western Australia Act 2003</i>'.</p> <p>'<i>Health Act 1911</i>' with the '<i>Health (Miscellaneous Provisions) Act 1911</i>'.</p> <p>'Planning Approval' (including associated Notes) with 'Development Approval'.</p> <p>Inserted new Schedule A – Supplemental Provisions to the Deemed Provisions.</p> <p>Renumbered and renamed all remaining Schedules in the Scheme Text as follows:</p> <p>Schedule B - Definitions Schedule C - Additional Uses Schedule D - Advertisements Requiring Development Approval Schedule E - Special Control Areas</p> <p>Replaced cross-references to Schedules 1, 2, 4 and 7 with Schedules B, C, D and E respectively, throughout the Scheme Text (including associated Notes).</p> <p>Amended definitions in the new Schedule B – Definitions – 'amenities', 'Metropolitan Region Scheme', 'Western Australian Planning Commission', and added new definition 'deemed clause'.</p> <p>Amended clauses 50(1), 52(1) and 52(2).</p> <p>Updated the Scheme Text as necessary to reflect consequential changes, including contents page, clause numbers, page numbers etc. Precinct Plans amended.</p>
76	24/11/2017	29/11/2017	GM	<p>Inserted A55, No. 18 (Lot 101) Twickenham Road, Burswood on Diagram 77286, Volume 1863, Folio 639 into Schedule 2 – Additional Uses.</p> <p>Modified Town Planning Scheme No. 1 Precinct Plan P3 'Causeway Precinct' by applying to the property known as No. 18 (Lot 101) Twickenham Road, Burswood the notation of 'A55' as the Reference Number for that property listed in Schedule 2 - Additional Uses, of the Town Planning Scheme No. 1 Scheme Text.</p>

AMDT NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
77	19/06/2018	03/07/2018	MLD	Schedule 1 – amend definition of “Industry”. Schedule 1 – amend definition of “Light Industry” Amend Schedule 1 – by inserting a use class and the definition of “Service Industry” ‘Zoning table’ – insert use classes of “Service Industry” and associated permissibility. Amend Precinct Plans to reflect the amendment to the Zoning Table in the Scheme Text. (P1 – P13).
81	25/1/2019	8/2/2018	MLD	1. Delete from Schedule A, part 6(m) of Deemed Clause 61. 2. Delete Schedule D ‘Advertisements Requiring Development Approval’
80	18/04/2019	15/05/2019	GM	1. Inserting general and land use terms and definitions in Schedule B ‘Definitions’ of the Scheme Text; 2. Amending general and land use terms definitions in Schedule B ‘Definitions’ of the Scheme Text; 3. Deleting and replacing general and land use terms and definitions in Schedule B ‘Definitions’ of the Scheme Text; 4. Deleting general and land use terms and definitions in Schedule B ‘Definitions’ of the Scheme Text; 5. Replacing the Zoning Table in the Scheme Text with an amended Zoning Table; 6. Amending extracts of the Zoning Table in all Precinct Plans in accordance with the Zoning Table listed in item 5 above; and 7. Amending clause 16 (2) of the Scheme Text to replace ‘clause 37’ with ‘clause 28’.
78	20/12/2019	3/02/2020	GM	1. Modify the Town Planning Scheme No. 1 Precinct Plan P12 ‘East Victoria Park’ by recoding the property at No. 384 (Lot 3) Berwick Street, East Victoria Park from R30 to R60. 2. Modify Town Planning Scheme No. 1 Precinct Plan 12 ‘East Victoria Park’ by inserting the following development standards for development of the property at No. 384 (Lot 3) Berwick Street, East Victoria Park – In relation to the land at No. 384 (Lot 3) Berwick Street, East Victoria Park, the following provisions apply to the development of land – (a) A Local Development Plan is to be prepared and approved prior to the commencement of any development on the site. (b) Vehicle and/or pedestrian access to be provided to/from Berwick Street, Baillie Avenue and/or Carson Street, and to be supported by a Traffic Impact and Road Safety Assessment report.
84	09/10/2020	13/10/2020	GM	Inserting the following land use definition into Schedule B – Definitions of the Scheme Text: ‘home business’. Amending the Zoning Table in the Scheme Text by inserting the use class Home Business in the left hand column under the heading ‘Use Class’ and inserting the permissibility of this use in each zone. Amending the extract of the Zoning Table that appears in all Precinct Plans for all zones to reflect the amendment to the Zoning Table in item 2 above. Amending Clause 31 in the Scheme Text by: • Inserting ‘and Home Businesses’ to the end of the clause header after ‘for Home Occupations’. • Insert ‘or Home Business’ within the text of the clause after ‘a Home Occupation’
83	08/12/2020	09/12/2020	GM	Inserting into Schedule C – Additional Use A56 - Nos. 7, 9, 11 & 15 (Lots 2, 3, 31 & 32) Teddington Road, Burswood. Modify Town Planning Scheme No. 1 Precinct Plan P3 ‘Causeway Precinct’ by applying to the property known as Nos. 7, 9, 11 & 15 (Lots 2, 3, 31 & 32)) Teddington Road, Burswood the notation of ‘A56’ as the Reference Number for that property listed in Schedule C – Additional Uses, of the Town Planning Scheme No. 1 Scheme Text.
85	27/04/2021	27/04/2021	MLD	Insert into Schedule C - Additional Uses A57 No. 53-55 (Lots 31, 32 and 33) Canning Highway, Victoria Park. Modify Town Planning Scheme No. 1 Precinct Plan P4 ‘McCallum Precinct’ by applying to the properties known as Nos. 53 & 55 (Lots 31, 32 & 33) Canning Highway, Victoria Park the notation ‘A57’ as the Reference Number for that property listed in Schedule C – Additional Uses, of the Town Planning Scheme No. 1 Scheme Text.

AMDT NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
91	17/02/2023	22/02/2023	IH	Insert into Schedule C - Additional Uses A58 Nos. 98, 100, 102, 104 and 106 (Lots 1, 2, 3, 4 and 5) Goodwood Parade, Burswood. Modify Town Planning Scheme No. 1 Precinct Plan P2 'Burswood Precinct' by applying to the properties known as Nos. 98, 100, 102, 104 and 106 (Lots 1, 2, 3, 4 and 5) Goodwood Parade, Burswood the notation 'A58' as the Reference Number for that property listed in Schedule C – Additional Uses, of the Town Planning Scheme No. 1 Scheme Text.

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PART I - INTRODUCTORY

1. Title
2. Commencement
3. Scheme Documents
4. Scheme Area
5. Responsible Authority
6. Objectives and Intentions
7. Relationship with Other Laws
8. Minor Town Planning Scheme
9. Repeals
10. Definitions

1. TITLE

This Town Planning Scheme may be referred to as the Town of Victoria Park Town Planning Scheme No. 1.

2. COMMENCEMENT

This Scheme commences on the Gazettal date.

NOTE:

The "Gazettal date" is defined in Schedule 4 B.

3. SCHEME DOCUMENTS

(1) This Scheme comprises the following documents -

- (a) The deemed provisions (set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2);
- (b) the Scheme text;
- (c) each of the precinct plans; and
- ~~(e) each planning policy; and~~
- (d) each Council register.

NOTES:

~~1. The "Scheme text", "precinct plans", "planning policy", and "Council register" are defined in Schedule 4 B.~~

~~2. The amendment procedures applying to each Scheme document are set out in clauses 46 and 47.~~

~~AMENDED BY AMD 75 GG 23/6/17~~

~~AMENDED BY AMD 69 GG 2/12/16; AMD 75 GG 23/6/17~~

(2) If there is any inconsistency between the Scheme text and any other Scheme document, the Scheme text is to prevail.

4. SCHEME AREA

This Scheme applies to the Scheme area which covers all the municipal district of the Town of Victoria Park apart from the area comprising the land known as the "Resort Lands" to which Section 7 of the Casino (Burswood Island) Agreement Act 1985 applies.

NOTE:

Parts of the Scheme area are also subject to other planning laws such as the Metropolitan Region Scheme (see clause 7) and a minor town planning scheme (see clause 8).

5. RESPONSIBLE AUTHORITY

The authority responsible for administering this Scheme is the Council

NOTE:

The "Council" is defined in Schedule 4 B.

~~AMENDED BY AMD 75 GG 23/6/17~~

6. OBJECTIVES AND INTENTIONS

(1) The Council has prepared this Scheme for the purpose of controlling and guiding development and growth in a responsible manner and which can initiate, accommodate and respond to change.

(2) The overall goal of this Scheme is to ensure that the Town of Victoria Park and its environs will be widely recognised as providing a high level of services and amenities in a friendly and accountable manner.

(3) The general objectives of this Scheme are -

- (a) to cater for the diversity of demands, interests and lifestyles by facilitating and encouraging the provision of a wide range of choices in housing, business, employment, education, leisure, transport and access opportunities;

- (b) to protect and enhance the health, safety and general welfare of the Town's inhabitants and the social, physical and cultural environment of the Town;
- (c) to ensure that the use and development of land is managed in an effective and efficient manner within a flexible framework which -
 - (i) recognises the individual character and needs of localities within the Scheme area; and
 - (ii) can respond readily to change;
- (d) to ensure planning at the local level is consistent with the Metropolitan Region Scheme and wider regional planning strategies and objectives;
- (e) to promote the development of a sense of local community and recognise the right of the community to participate in the evolution of localities;
- (f) to promote and safeguard the economic well-being and functions of the Town;
- (g) to co-ordinate and ensure that development is carried out in an efficient and environmentally responsible manner which -
- (i) makes optimum use of the Town's growing infrastructure and resources;
- (ii) promotes an energy efficient environment; and
- (iii) respects the natural environment; and
- (h) to promote and safeguard the cultural heritage of the Town by -
 - (i) identifying, conserving and enhancing those places which are of significance to the Town's cultural heritage;
 - (ii) encouraging development that is in harmony with the cultural heritage value of an area; and
 - (iii) promoting public awareness of cultural heritage generally.

7. RELATIONSHIP WITH OTHER LAWS

NOTES:

- (1) This Scheme is complementary to, and not a substitute for, the Metropolitan Region Scheme.
- (2) Where a provision of this Scheme is inconsistent with a provision of a by-law, the provision of this Scheme prevails.
- (3) The ~~Residential Planning Codes~~ R-Codes are to be read as part of this Scheme.

- 1. The "Metropolitan Region Scheme" is defined in Schedule 4 B.
AMENDED BY AMD 75 GG 23/6/17
- 2. The authority responsible for implementing the Metropolitan Region Scheme is the Western Australian Planning Commission.

AMENDED BY AMD 75 GG 23/6/17

8. MINOR TOWN PLANNING SCHEME

The Council administers the Carlisle Minor Town Planning Scheme No. 3 which is complementary to this Scheme.

9. REPEALS

NOTE:

The following written laws are repealed -

The repeal of this Scheme and By-law extends to any amendments to them (see section 33 of the Interpretation Act 1984).

Name	Date of Publication in the Government Gazette
(a) City of Perth City Planning Scheme	20 December 1985
(b) Zoning By-law No 63	10 October 1961

10. DEFINITIONS

NOTE:

- (1) In this Scheme, unless the context otherwise requires, the words and expressions used have the meanings set out in Schedule 4 B.
- (2) Where a word or term is defined in the ~~Residential Planning Codes~~ R-Codes then notwithstanding anything else in the Scheme that word or term when used in respect of residential development has the meaning given to it in the ~~Residential Planning Codes~~ R-Codes.
- (3) Words and expressions used in the Scheme but not defined in Schedule 4 B, elsewhere in the Scheme or in the ~~Residential Planning Codes~~ R-Codes shall have their normal and common meanings.

The definitions of words and expressions set out in Section 2 (1) of the ~~Town Planning and Development Act 1928~~ and Section 6 of the ~~Metropolitan Region Town Planning Scheme Act 1959~~ the Act are also relevant for the purposes of this Scheme.
AMENDED BY AMD 75 GG 23/6/17

AMENDED BY AMD 75 GG 23/6/17

PART 2 - LAND USE

- 11. Precincts
- 12. Reserves and Scheme Zones
- 13. Types of Uses
- 14. Use of a Town of Victoria Park Scheme Reserve
- 15. Use of Land in a Scheme Zone
- 16. Unlisted Uses
- 17. Additional Uses
- 18. Non-Conforming Uses
- 19. Register of Non-Conforming Uses

11. PRECINCTS

- (1) The Scheme area is divided into the precincts set out in the precinct table at the end of this clause.
- (2) For each precinct, there is a precinct plan/or plans.

PRECINCT TABLE

P1	Burswood Peninsula
P2	Burswood
P3	Causeway
P4	McCallum
P5	Raphael
P6	Victoria Park
P7	Lathlain
P8	Carlisle
P9	Welshpool
P10	Shepperton
P11	Albany Highway
P12	East Victoria Park
P13	Curtin

NOTE:

~~“precinct” and “precinct plan”: and “Scheme area” are defined in Schedule 4 B.~~

AMENDED BY AMD 75 GG 23/6/17

12. RESERVES AND SCHEME ZONES

AMD 8 GG 4/2/03

- (1) The land within the Scheme area is classified into either-
 - (a) a Metropolitan Region Scheme reserve; or
 - (b) a Town of Victoria Park Scheme reserve; or
 - (c) one of the following Scheme zones -
 - (i) Residential;
 - (ii) Residential/Commercial
 - (iii) Office/Residential;
 - (iv) Local Centre;
 - (v) District Centre;
 - (vi) Commercial;
 - (vii) Industrial
 - (viii) Industrial (2); or
 - (ix) Special Use.
- (2) The classification of land within the Scheme area is shown on the precinct plan in which that land is located.

NOTE:

~~“Metropolitan Region Scheme reserve” and “Town of Victoria Park Scheme reserve” are defined in Schedule 4 B.~~

AMENDED BY AMD 75 GG 23/6/17

13. TYPE OF USES

- (1) Uses are classified in this Scheme as -
 - (a) permitted uses (see clauses 14 and 15);
 - (b) discretionary uses; and
 - (c) prohibited uses.

NOTE:

~~A use may be approved by the Council by the grant of planning approval under Part 4 of this Scheme.~~

AMENDED BY AMD 75 GG 23/6/17

14. USE OF A TOWN OF VICTORIA PARK SCHEME RESERVE

NOTE:

- (1) A permitted use for a Town of Victoria Park Scheme Reserve is -
 - (a) a use which gives effect to the purposes for which the land is reserved under this Scheme; and
 - (b) where the land is vested in a public authority, a Commonwealth agency or in the Council a use which gives effect to any purpose for which the land may lawfully be used.

~~4.—“public authority” and “Commonwealth agency” and the “Council” are defined in Schedule 4 B.~~

~~2.—Planning approval is granted by the Council under Part 4 of this Scheme.~~
AMENDED BY AMD 75 GG 23/6/17

15. USE OF LAND IN A SCHEME ZONE

NOTE::

- (1) The Scheme 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 use 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.

Planning Development approval is required for most uses (see ~~clauses 30 and 31~~) deemed clauses 60 and 61).
AMENDED BY AMD 75 GG 23/6/17

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.
- “**AA**” means that the use is not permitted unless the Council has granted ~~planning~~ development approval.
- “**X**” means a use that is not permitted by the Scheme.

AMENDED BY AMD 75 GG 23/6/17

- (2) Where in the Zoning Table a particular use is mentioned it is deemed to be excluded from any other Use Class which by its more general term might otherwise include such particular use.

ZONING TABLE

Zone Use Class	Residential	Residential/Commercial	Office/Residential	Local Centre	District Centre	Commercial	Industrial (1)	Industrial (2)	Special Use
	1.	2.	3.	4.	5.	6.	7.	8.	9.
Consulting Rooms, Day-Care Centre	AA	P	P/X ²	P	P	P	P	P	Refer to provisions in Precinct Plan
Convenience Store, Service Station	X	X	X	AA	AA	AA	AA	AA	
Educational Establishment, Place of Worship	AA	AA	AA/X ²	P	P	P	AA	AA	
Fast Food Outlet, Restaurant <i>AMD 44 GG 29/7/09</i>	X	AA	P/X ² / AA ³	P	P	P	P	P	
General Industry, Transport Depot	X	X	X	X	X	X	AA	P	
Hazardous Industry, Noxious Industry	X	X	X	X	X	X	X	X	
Home Occupation <i>AMD 6 GG 8/1/02; AMD 44 GG 29/7/09</i>	AA	AA	P	AA	AA	AA	X	X	
Home Office <i>AMD 6 GG 8/1/02; AMD 44 GG 29/7/09</i>	P	P	P	P	P	P	X	X	
Hospital, Nursing Home, Residential Building	AA	AA	AA/X ²	AA	AA	AA	AA	AA	
Hotel, Motel, Tavern <i>AMD 44 GG 29/7/09</i>	X	X	X/ AA ³	X	AA	AA	X	X	
Light Industry	X	X	X	X	X	AA	P	P	
Liquor Store-Small <i>AMD 61 GG 14/11/14</i>	X	P	AA	P	P	AA	X	X	
Liquor Store-Large <i>AMD 61 GG 14/11/14</i>	X	X	X	X	AA	AA	AA	X	
Lodging House, Serviced Apartment <i>AMD 48 GG 25/01/11</i>	AA	AA	P/X ²	AA	AA	AA	X	X	
Massage Rooms	X	X	X	X	X	X	AA	AA	
Motor Vehicles and Marine Sales Premises, Open Air Sales and Display <i>AMD 12 GG 6/9/02 AMD 60 GG 19/8/14</i>	X	X	X	X	X	X ⁶ /AA	P	P	
Nightclub <i>AMD 3 GG 2/2/01</i>	X	X	X	X	X	X	X	X	
Office	X	P	P	P	P	P	P	P	
Restricted Premises <i>AMD 43 GG 31/10/08; AMD 48 GG 25/01/11</i>	X	X	X	X	X/AA ⁵	X/AA ⁵	AA	AA	X
Service Industry <i>AMD 77 GG 19/06/18</i>	X	AA	AA	AA	AA	AA	P	AA	Refer to provisions in Precinct Plan
Single Bedroom Dwelling <i>AMD 39 GG 10/7/07</i>	AA	P	P	P	P	P	X	X	
Shop <i>AMD 44 GG 29/7/09</i>	X	P	AA/X ² / AA ⁴	P	P	AA	AA	AA	
Showroom <i>AMD 44 GG 29/7/09</i>	X	P	P/X ² / AA ³	X	P	P	P	P	
Single House, Grouped Dwelling, Aged or Dependent Persons' Dwelling, Multiple Dwelling <i>AMD 44 GG 29/7/09</i>	P ¹	P	P	AA	AA	P	X	X	
Warehouse	X	X	X	X	AA	P	P	P	

AMENDED BY AMD 80 GG 14/04/19

Zone Use Class	Residential	Residential/Commercial	Office/Residential	Local Centre	District Centre	Commercial	Industrial (1)	Industrial (2)	Special Use
	1.	2.	3.	4.	5.	6.	7.	8.	9.
Amusement Parlour	X	AA	AA/X ²	AA	AA	AA	AA	X	
Animal Establishment	X	X	X	X	X	X	AA	X	
Animal Husbandry - Intensive	X	X	X	X	X	X	X	X	
Art Gallery	X	AA	AA	AA	AA	AA	AA	X	
Betting Agency	X	AA	P/X ² / AA ³	AA	AA	AA	X	X	
Brewery	X	X	AA/X ²	X	AA	AA	AA	X	
Bulky Goods Showroom	X	P	P/X ² / AA ³	X	P	P	P	P	
Car Park	X	X	AA	AA	AA	AA	AA	AA	
Child Care Premises	AA	P	P/X ²	P	P	P	AA	AA	
Cinema/Theatre	X	X	X	X	AA	AA	X	X	
Civic Use	X	AA	AA/X ²	AA	P	AA	X	X	
Club Premises	X	X	AA	X	AA	AA	AA	X	
Commercial Vehicle Parking	AA	AA	AA	AA	AA	AA	P	P	
Community Purpose	AA	AA	AA/X ²	AA	P	AA	X	X	
Consulting Rooms	AA	P	P/X ²	P	P	P	P	P	
Convenience Store	X	X	X	AA	AA	AA	AA	AA	
Educational Establishment	AA	AA	AA/X ²	P	P	P	AA	AA	
Exhibition Centre	X	AA	AA	AA	AA	AA	AA	X	
Family Day Care	AA	AA	P	X	X	X	X	X	
Fast Food Outlet	X	AA	P/X ² / AA ³	P	P	P	P	P	
Funeral Parlour	X	AA	AA/X ²	X	AA	AA	AA	X	
General Industry	X	X	X	X	X	X	AA	P	
Grouped Dwelling	P	P	P	AA	AA	P	X	X	
Hazardous Industry	X	X	X	X	X	X	X	X	
Home Business AMD 84 GG	AA	AA	P	AA	AA	AA	X	X	
Home Occupation	AA	AA	P	AA	AA	AA	X	X	
Home Office	P	P	P	P	P	P	X	X	
Home Store	AA	AA	AA	AA	AA	AA	X	X	
Hospital	AA	AA	AA/X ²	AA	AA	AA	AA	AA	
Hotel	X	X	X/AA ³	X	AA	AA	X	X	
Light Industry	X	X	X	X	X	AA	P	P	
Liquor Store-Small	X	P	AA	P	P	AA	X	X	
Liquor Store-Large	X	X	X	X	AA	AA	AA	X	
Lunch Bar	X	AA	P/X ² / AA ³	P	P	P	P	P	
Market	X	AA	AA/X ²	AA	AA	AA	X	X	
Massage Rooms	X	X	X	X	X	X	AA	AA	
Motel	X	X	X/AA ³	X	AA	AA	X	X	
Motor Vehicles and Marine Sales Premises	X	X	X	X	X	X ⁶ /AA	P	P	
Motor Vehicle Repair	X	X	X	X	X	X	P	P	
Motor Vehicle Wash	X	X	X	X	AA	AA	P	P	
Multiple Dwelling	P ¹	P	P	AA	AA	P	X	X	
Nightclub	X	X	X	X	X	X	X	X	
Noxious Industry	X	X	X	X	X	X	X	X	

Refer to provisions in Precinct Plan

Nursing Home	AA	AA	AA/X ²	AA	AA	AA	AA	AA		
Office	X	P	P	P	P	P	P	P		
Place of Worship	AA	AA	AA/X ²	P	P	P	AA	AA		
Reception Centre	X	AA	AA/X ²	AA	AA	AA	AA	X		
Recreation - Private	X	AA	AA/X ²	AA	AA	AA	AA	X		
Residential Building	AA	AA	AA/X ²	AA	AA	AA	AA	AA		
Restaurant/Café	X	AA	P/X ² / AA ³	P	P	P	P	P		
Restricted Premises	X	X	X	X	X/AA ⁵	X/AA ⁵	AA	AA		X
Serviced Apartment	AA	AA	P/X ²	AA	AA	AA	X	X		Refer to provisions in Precinct Plan
Service Industry	X	AA	AA	AA	AA	AA	P	AA		
Service Station	X	X	X	AA	AA	AA	AA	AA		
Shop	X	P	AA/X ² / AA ⁴	P	P	AA	AA	AA		
Single House	P	P	P	AA	AA	P	X	XX		
Small Bar	X	AA	AA/X ²	AA	AA	AA	X	X		
Tavern	X	X	X/AA ³	X	AA	AA	X	X		
Transport Depot	X	X	X	X	X	X	AA	P		
Telecommunications Infrastructure	AA	AA	AA	AA	AA	AA	AA	AA		
Veterinary Centre	X	AA	AA/X ²	AA	AA	AA	X	X		
Warehouse/Storage	X	X	X	X	AA	P	P	P		

P - Permitted Use

AA - Discretionary Use

X - Prohibited Use

Footnotes:

- Multiple Dwellings are only permitted in areas coded R40 and above, and in addition are subject to clause 22 Special Application of the ~~Residential Planning Codes~~ R-Codes. *AMENDED BY AMD 75 GG 23/6/17*
- The "Prohibited Use" notation applies to the Office/Residential Zone within Precinct P10 - Shepperton Precinct.
- The "Discretionary Use" notation applies to the Office/Residential Zone within Precinct P3 - Causeway Precinct. *AMD 44 GG 29/7/09*
- The 'Discretionary Use' notation only applies to the Office/Residential Zone within Precinct P3 - Causeway Precinct. "Shop" uses should primarily be limited to "Area 8 - Retail Hub Overlay" with the total shop floor space within the Precinct being limited to 1400m²-. *AMD 43 GG 31/10/08; AMD 44 GG 29/7/09;*
- The "Discretionary Use" notation only applies to the Albany Highway Gateway Commercial zone and the East Victoria Park Gateway Shopping Area District Centre zone located within Precinct P11–Albany Highway Precinct, and the Commercial zone located within Precinct P4–McCallum Precinct. *AMD 48 GG 25/01/11*
- The "Prohibited Use" notation applies to the Commercial Zone within Precinct P11 – Albany Highway Precinct. *AMD 60 GG 19/8/14*

16. UNLISTED USES

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 Class categories the Council may:

- (1) determine that the use is consistent with the objectives and purposes of the particular Zone and is therefore permitted; or
- (2) determine that the proposed use may be consistent with the objectives and purposes of the Zone and thereafter follow the advertising procedures of ~~clause 37~~ clause 28 in considering an application for ~~planning~~ development approval; or
*AMENDED BY AMD 75 GG 23/6/17;
AMENDED BY AMD 80 GG 15/05/19*
- (3) determine that the use is not consistent with the objectives and purposes of that particular Zone and is therefore not permitted.

NOTES

- ~~1. Planning~~ Development approval must be obtained for most unlisted uses (see ~~clauses 30, 31 and 37~~; clause 28 and deemed clauses 60 and 61).
- ~~2. Planning approval is granted by the Council under Part 4 of this Scheme.~~
AMENDED BY AMD 75 GG 23/6/17

17. ADDITIONAL USES

- (1) An additional use is a use which, in relation to a specific site -
 - (a) is a prohibited use in the precinct in which that use is located;
 - (b) is listed, with reference to that site, in Schedule 2 C; and
 - (c) is taken, as the result of its listing in Schedule 2 C, to be a permitted use for that site subject to the conditions, if any, set out in Schedule 2 C in respect of that use. *AMENDED BY AMD 75 GG 23/6/17*
- (2) The Council may -
 - (a) after receiving an application for ~~planning~~ development approval involving a prohibited use; or
 - (b) at any other time,

initiate an amendment to Schedule 2 C of this Scheme to add, amend or delete an additional use to the site to which it applies or one or more conditions to which that use is subject. *AMENDED BY AMD 75 GG 23/6/17*
- (3) The Council is not to initiate an amendment under subclause (2) unless it is satisfied that -
 - (a) a development involving the proposed additional use would be consistent with -
 - (i) the orderly and proper planning of the

NOTE:

The listing of any use, or the amendment or revocation of any use, in Schedule 2 C is an amendment to this Scheme Text to which clause 32 ~~47~~ applies. *AMENDED BY AMD 75 GG 23/6/17*

- locality;
 - (ii) the conservation of the amenities of the locality; and
 - (iii) the statement of intent set out in the relevant precinct plan.
- (b) the use of the specific site for that purpose would not have any undue adverse effect on -
- (i) the occupiers and users of the development;
 - (ii) the property in, or the inhabitants of, the locality; or
 - (iii) the likely future development of the locality.

18. NON-CONFORMING USES

- (1) Except as otherwise provided in this Scheme, no provision of the Scheme shall be deemed to prevent:
- (a) the continued use of any land or building for the purpose for which it was being lawfully used at the Gazettal date of the Scheme;
 - (b) the carrying out of any development thereon for which, immediately prior to that time, an approval or approvals, lawfully required to authorise the development to be carried out, were duly obtained and are current; or
 - (c) the continued display of advertisements which were lawfully erected, placed or displayed prior to the approval of this Scheme.
- (2) A person shall not alter or extend a non-conforming use or erect, alter or extend a building used in conjunction with a non-conforming use without first having applied for and obtained the ~~planning~~ development approval of the Council under the Scheme and unless in conformity with any other provision and requirements contained in the Scheme. All applications for ~~planning~~ development approval under this clause will be subject to notice under ~~clause 35~~ deemed clause 64 and the Council shall have special regard to the impact of the proposed erection, alteration or extension of the building on the preservation of the amenity of the locality.
- (3) Notwithstanding anything contained in the Zoning Table, the Council may grant its ~~planning~~ development approval to the change of use of any land from a non-conforming use to another non-conforming use if the proposed use is, in the opinion of the Council, less detrimental to the amenity of the locality than the original non-conforming use and is, in the opinion of the Council, closer to the intended purpose of the Zone or Reserve.

NOTES:

- 1.—A “non-conforming use” and “Gazettal date” are defined in Schedule 4 B.
- 2.—~~The reference to the “Act” is to the Town Planning and Development Act 1928, Section 13 of which enables a Council to purchase or, with the consent of the governor, take compulsorily subject to the Public Works Act 1902 any land within a town planning scheme.~~
- 3.—~~Planning approval is granted by the Council under Part 4 of this Scheme.~~

AMENDED BY AMD 75 GG 23/6/17

AMENDED BY AMD 75 GG 23/6/17

- (4) When a non-conforming use of any land or buildings has been discontinued for a period of six months or more such land or building shall not thereafter be used otherwise than in conformity with the provisions of the Scheme.
- (5) The Council may effect the discontinuance of a non-conforming use by the purchase of the affected property, or by the payment of compensation to the owner or the occupier or to both the owner and the occupier of that property, and may enter into an agreement with the owner for that purpose.
- (6) When a building used for a non-conforming use is destroyed to 75 per cent or more of its value, the land on which the building is built shall not thereafter be used otherwise than in conformity with the Scheme, and the buildings shall not be repaired or 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 ~~planning~~ development approval of the Council.

AMENDED BY AMD 75 GG 23/6/17

19. REGISTER OF NON-CONFORMING USES

- (1) A person who wishes the Council to record a non-conforming use may submit to the Council in writing full details of the nature, location and extent of the non-conforming use.
- (2) Where the Council is satisfied that a non-conforming use exists, it is to record, in a register of non-conforming uses, details of each non-conforming use.
- (3) A copy of the register of non-conforming uses is to be -
 - (a) kept at the offices of the Council; and
 - (b) made available for public inspection during office hours.

PART 3 - DEVELOPMENT REQUIREMENTS

Division 1 - General Development Requirements

- 20. Source of Development Requirements
- 21. ~~Residential Planning Codes~~, R-Codes
- 22. Special Application of the ~~Residential Planning Codes~~ R-Codes
- 23. Densities
- 24. Sewerage Connection

AMENDED BY AMD 75 GG 23/6/17

Division 2 - Places of Cultural Heritage Significance

- 25. ~~Declaration of Places of Cultural Heritage Significance~~
- 26. ~~Declaration of a Conservation Area~~
- 27. ~~Register of Places of Cultural Heritage Significance~~
- 28. ~~Heritage Agreements~~
- 29. ~~Variations to Standards~~
- 29A. 25A. Operation of Special Control Areas
- 29AA. 25AA. Building and Design Areas
- 29AB. 25AB. Development Areas and Structure Plans

AMENDED BY AMD 75 GG 23/6/17

DIVISION 1 - GENERAL DEVELOPMENT REQUIREMENTS

20. SOURCE OF DEVELOPMENT REQUIREMENTS

Unless otherwise consistent with a ~~planning~~ development approval, the development of land is to be in accordance with the standards and requirements contained in this Scheme text, the precinct plan applying to the land proposed to be developed, the planning policies, Council registers, and the ~~Residential Planning Codes R-Codes~~.

AMENDED BY AMD 75 GG 23/6/17

21. RESIDENTIAL PLANNING CODES

NOTE:

(1) For the purposes of this Scheme, ~~“Residential Planning Codes” means the Residential Planning Codes set out in Appendix 2 Statement of Planning Policy No. 1, together with any amendments thereto~~ R-Codes is defined in deemed clause 1.

This Scheme comprises the Scheme Text, Precinct Plans, Planning Policies, and Council Registers.

AMENDED BY AMD 69 GG 2/12/16

(2) A copy of the ~~Residential Planning Codes~~ R-Codes, as amended, shall be kept and made available for public inspection at the offices of the Council.

(3) Unless otherwise provided for in the Scheme the development of land for any of the residential purposes dealt with by the ~~Residential Planning Codes~~ R-Codes shall conform to the provisions of those Codes.

(4) The ~~Residential Planning Codes~~ R-Codes dwelling density applicable to land within the Scheme Area shall be determined by reference to the ~~Residential Planning Code’s~~ R-Codes dwelling 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 Planning Code~~ R-Codes dwelling density, as being contained within the centre-line of those borders.

AMENDED BY AMD 75 GG 23/6/17

22. SPECIAL APPLICATION OF THE ~~RESIDENTIAL PLANNING CODES~~ R-CODES

Notwithstanding the provisions of the ~~Residential Planning Codes~~ R-Codes the following special applications of the ~~Residential Planning Codes~~ R-Codes apply -

(1) Victoria Park Precinct - Multiple dwellings are not permitted within areas coded Residential R40;

(2) Lathlain Precinct - Within the area codes Residential R40/R60, development to a maximum dwelling density of Residential R60 will only be permitted where two or more of the lots are amalgamated; and

AMENDED BY AMD 75 GG 23/6/17

(3) Shepperton Precinct -

(a) in the area north of Shepperton Road and west of Oats Street, coded Residential R40, multiple dwellings are not permitted; and

- (b) in the area south of Shepperton road and west of Dane Street coded Residential R40, multiple dwellings are not permitted.
- (4) Sunbury Park Precinct -
- Setback, building heights, plot ratio and site coverage shall ~~comply with~~ be guided by the Site Design Guidelines for Sunbury Park - Part A and Part B as contained in the ~~Town of Victoria Park Town Planning Scheme No. 1 - Policy Manual~~. planning policies.
AMD 2 GG 26/10/99; AMD 69 GG 2/12/16
- (5) Causeway Precinct - development requirements shall ~~comply with~~ be guided by the Development Standards for Causeway Precinct as contained in the ~~Town of Victoria Park Town Planning Scheme No. 1 - Policy Manual~~. planning policies. AMD 44 GG 29/7/09; AMD 69 GG 2/12/16
- (6) East Victoria Park Precinct –
AMD 49 GG 8/3/13
- (a) in the area bounded by Lennard Street, Berwick Street, McMillan Street and Hordern Street coded Residential R40, multiple dwellings are not permitted.
- (b) In the area bounded by Kent Street, Berwick Street, Basinghall Street, Moorgate Street and Gloucester Street, coded Residential R40, multiple dwellings are not permitted.
- (7) Burswood Peninsula Precinct – in the area north of the Graham Farmer Freeway (known as the Belmont Park Racecourse Site and included in the Special use zone), all residential densities shall be as shown on an adopted structure plan and site and development requirements shall comply with that included in the adopted structure plan for the site. AMD 57 GG 22/2/13

23. DENSITIES

- (1) The permitted site dwelling density per hectare under the ~~Residential Planning Codes R-Codes~~ for any land is to be determined by reference to the ~~Residential Planning Codes R-Codes~~ density number, as illustrated on the relevant Precinct Plan, for that land.
AMENDED BY AMD 75 GG 23/6/17
- ~~(2) Subject to compliance with the procedures set out in the Residential Planning codes for notifying affected owners and occupiers, the Council may grant an increase in the permitted dwelling density by up to 50% if the proposed development effects the discontinuance of a non-conforming use.~~ DELETED BY AMD 48 GG 25/01/11
- ~~(3) Where the Council allows an increase in the permitted dwelling density, the standards and provisions of the Residential Planning Codes which relate to that higher density are to apply.~~ DELETED BY AMD 48 GG 25/01/11
- (2) Land developed for the purpose of serviced apartments, hotels, motels, or other similar short term commercial

accommodation, is to conform with the standards and requirements applicable to multiple dwellings under the ~~Residential Planning Codes~~ R-Codes for the dwelling density illustrated on the relevant Precinct Plan for that land. *AMD 48 GG 25/01/11; AMENDED BY AMD 75 GG 23/6/17*

24. SEWERAGE CONNECTION

- (1) Notwithstanding any provision on this Scheme to the contrary, all residential developments are to be connected to a comprehensive sewerage system, if one is available.

- (2) Where no comprehensive sewerage system is available, the Council is not to grant ~~planning~~ development approval for any residential development, other than the erection of a single house, unless the proposed development complies with the requirements of the Government Sewerage Policy.

AMENDED BY AMD 75 GG 23/6/17

NOTE:

~~“Gazetta date” is defined in Schedule 1.~~

DELETED BY AMD 75 GG 23/6/17

DIVISION 2 - PLACES OF CULTURAL HERITAGE SIGNIFICANCE

25. ~~DECLARATION OF PLACES OF CULTURAL HERITAGE SIGNIFICANCE~~

- (1) ~~If in the opinion of the Council a place—~~
- ~~(a) is of cultural heritage significance or possesses special interest related to or associated with the cultural heritage; and~~
 - ~~(b) should be conserved or enhanced,~~
- ~~the Council may by resolution declare the place to be significant and worthy of conservation.~~
- (2) ~~In considering a proposal to declare a place as significant and worthy of conservation, the Council is to—~~
- ~~(a) give the owner and occupier of the place—~~
 - ~~(i) details of the proposal; and~~
 - ~~(ii) 14 days, or such further time as the Council may determine, to make a written submission to the Council about the proposal; and~~
 - ~~(b) take into account any written submission duly made under this clause.~~
- (3) ~~Where the Council declares a place to be significant and worthy of conservation, it is to give notice of its declaration to the heritage Council of Western Australia and the owner and occupier of the place.~~
- (4) ~~In this clause, the power to declare a place significant and worthy of conservation includes the power to amend or revoke a declaration of that type.~~

26. ~~DECLARATION OF A CONSERVATION AREA~~

- (1) ~~If, in the opinion of the Council, it is necessary or appropriate to have special planning controls to conserve or enhance the cultural heritage significance of an area, the Council may, by resolution, declare that area to be a conservation area.~~
- (2) ~~In considering a proposal to declare an area to be a conservation area, Council is to—~~
- ~~(a) give the owner and occupier of the place—~~
 - ~~(i) details of the proposal; and~~
 - ~~(ii) 28 days to make a written submission to the Council about the proposal; and~~
 - ~~(b) take into account any written submission made within 28 days under this clause.~~
- (3) ~~The Council may adopt for each conservation area a planning policy.~~

NOTE:

A "place" is defined in Schedule 1. It may include works, buildings and contents of buildings.

DELETED BY AMD 75 GG 23/6/17

REFER TO THE DEEMED PROVISIONS, PART 3 – HERITAGE PROTECTION

NOTE:

The procedures relating to the adoption of a planning policy are set out in clause 46.

DELETED BY AMD 75 GG 23/6/17

REFER TO THE DEEMED PROVISIONS, PART 3 – HERITAGE PROTECTION

~~(4) Where the Council declares an area to be a conservation area and adopts a planning policy for that area, it is to give notice of its declaration and, when available, a copy of the planning policy to -~~

~~(a) each of the owners and occupiers of land within that area; and~~

~~(b) the Heritage Council of Western Australia.~~

~~(5) In this clause, the power to declare an area to be a conservation area includes the power to amend or revoke a declaration of that type.~~

27. REGISTER OF PLACES OF CULTURAL HERITAGE SIGNIFICANCE

REFER TO THE DEEMED PROVISIONS, PART 3 - HERITAGE PROTECTION

~~(1) The Council is to record in a register of places of cultural heritage significance, a list of places which -~~

~~(a) are the subject of a declaration under clause 25;~~

~~(b) are being considered for the purposes of a declaration under clause 25; or~~

~~(c) are the subject of a declaration under clause 26.~~

~~(2) A copy of the register is to be -~~

~~(a) kept at the offices of the Council; and~~

~~(b) made available for public inspection during office hours.~~

28. HERITAGE AGREEMENTS

~~The Council may, in accordance with the Heritage of Western Australia Act 1990, 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.~~

NOTES:

1. A heritage agreement may include, a covenant, intended to run with the land, relating to the development or use of the land or any part of the land.

2. A heritage agreement may be entered into whether or not the place to which it applies is listed in the Register of Places of Cultural Heritage Significance.

3. Detailed provisions relating to heritage agreements are set out in Section 29 of the Heritage of Western Australia Act 1990.

DELETED BY AMD 75 GG 23/6/17

29. VARIATIONS TO STANDARDS

~~(1) Where a development is proposed which would -~~

~~(a) conserve or enhance the whole or part of a conservation area or a place which has been declared by the Council to be significant and worthy of conservation; and~~

~~(b) not adversely affect the cultural heritage significance of the conservation area or place, the Council may grant, by way of planning approval, modifications to any development requirement specified in this Scheme or in the Residential Planning Codes including -~~

~~(c) in respect of a residential development - an increase of up to 50% from the specified maximum dwelling density; and~~

REFER TO THE DEEMED PROVISIONS, PART 3 - HERITAGE PROTECTION

~~(d) in respect of a non-residential development – an increase of up to 10% from the specified maximum plot ratio; and
as long as the increase or variation would not adversely affect the cultural heritage significance of that, or any other, conservation area or place including the streetscape or precinct in which it is located.~~

~~(2) The Council is not to grant planning approval for a development that requires the grant, under subclause (1), of a modification which might, in the Council's opinion, significantly affect an adjoining property or a property in the general locality unless –~~

REFER TO THE DEEMED PROVISIONS, PART 3 – HERITAGE PROTECTION

~~(a) the application seeking the incentive or bonus is advertised in accordance with clause 35; and~~

~~(d) any submissions duly received in response to that advertising are considered by the Council.~~

DELETED BY AMD 75 GG 23/6/17

DIVISION 3 – SPECIAL CONTROL AREAS

AMD 30 GG 17/2/04

29A- 25A. OPERATION OF SPECIAL CONTROL AREAS

AMENDED BY AMD 75 GG 23/6/17

- (1) The following Special Control Areas are shown on the Scheme Map:
 - (a) Building and Design Areas shown on the Precinct Plans as BD with a number and included in Schedule 7 E.
AMD 24 GG 18/2/05; AMENDED BY AMD 75 GG 23/6/17
 - (b) Development Areas shown on the Precinct Plans as DA with a number and included in Schedule 7 E.
AMD 23A GG 6/4/04; AMENDED BY AMD 75 GG 23/6/17
- (2) In respect of a Special Control Area shown on Precinct Plans, the provisions applying to the Special Control Area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme.

29AA- 25AA. BUILDING AND DESIGN AREAS

AMENDED BY AMD 75 GG 23/6/17

Schedule 7 E describes the Building and Design Areas in more detail and sets out the purpose and particular requirements that may apply to the Building and Design Areas.

AMD 24 GG 18/2/05; AMENDED BY AMD 75 GG 23/6/17

29AB- 25AB. DEVELOPMENT AREAS AND STRUCTURE PLANS

AMD 23A GG 6/4/04; AMENDED BY AMD 75 GG 23/6/17

~~(1) Interpretation~~

~~In clause 29AB, unless the context otherwise requires:~~

~~'Owner' means an owner or owners of land in the Development Area; and~~

~~'Structure Plan' means a Structure Plan that has come into effect in accordance with clause 29AB(12)(a).~~ DELETED BY AMD 75 GG 23/6/17

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS', AND PART 6 'LOCAL DEVELOPMENT PLANS'

~~(2)(1) Purpose of Development Areas~~

~~(a) The purpose of Development Areas are to:~~

- ~~(i) identify areas requiring comprehensive planning; and~~
- ~~(ii) coordinate subdivision and development in areas requiring comprehensive planning.~~

~~(b) Schedule 7 E describes the Development Areas in detail and sets out the specific purposes and requirements that apply to the Development Areas.~~ AMENDED BY AMD 75 GG 23/6/17

~~(3) Subdivision and Development in Development Areas~~

~~(a) The development of land within a Development Area is to comply with Schedule 7.~~

~~(b) The subdivision and development of land within a Development Area is to generally be in accordance with any structure plan that applies to that land.~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

~~(4) Structure Plan Required~~

~~(a) The local government is not to:~~

- ~~(i) consider recommending subdivision; or~~
- ~~(ii) approve development of land within a Development Area unless there is a structure plan for the Development Area or for the relevant part of the Development Area.~~

~~(b) Notwithstanding clause 29AB(4)(a), a local government may recommend subdivision or approve the development of land within a Development Area prior to a structure plan coming into effect in relation to that land, if the local government is satisfied that this will not prejudice the specific purposes and requirements of the Development Area.~~

~~(5) Preparation of Proposed Structure Plans~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

~~(a) A proposed structure plan may be prepared by:~~

~~(i) the local government; or~~

~~(ii) an owner.~~

~~(b) A proposed structure plan may be prepared for all, or part of, a Development Area.~~

~~(6) Details of Proposed Structure Plan~~

~~(a) A proposed structure plan is to contain the following details:~~

~~(i) a map showing the area to which the proposed structure plan is to apply;~~

~~(ii) a site analysis map showing the characteristics of the site including:~~

- ~~* landform, topography, and capability;~~
- ~~* conservation and environmental values including bushland, wetlands, damp lands, streams and water courses, foreshore reserve and any environmental policy areas;~~
- ~~* hydrogeological conditions including approximate depth to water table;~~
- ~~* sites and features of Aboriginal and European heritage value;~~

~~(iii) a context analysis map of the immediate surrounds to the site including:~~

- ~~* the pattern of the neighbourhoods, and existing and planned neighbourhood, town and regional centres;~~
- ~~* transport routes, including freeways, arterial routes and neighbourhood connector alignments, public transport routes, strategic cycle routes, bus stops and rail stations;~~
- ~~* existing and future land use;~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

- (iv) ~~for district structure plans a map showing proposals for:~~
- ~~• the pattern of neighbourhoods around town and neighbourhood centres;~~
 - ~~• arterial routes and neighbourhood connector streets;~~
 - ~~• the protection of natural features such as water courses and vegetation;~~
 - ~~• major open spaces and parklands;~~
 - ~~• major public transport routes and facilities;~~
 - ~~• the pattern and disposition of land uses;~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

- (v) ~~for local structure plans a map showing proposals for:~~
- ~~• neighbourhoods around proposed neighbourhoods and town centres;~~
 - ~~• existing and proposed commercial centres;~~
 - ~~• natural features to be retained;~~
 - ~~• street block layouts;~~
 - ~~• the street network including street types;~~
 - ~~• transportation corridors, public transport network, and cycle and pedestrian networks;~~
 - ~~• land uses including residential densities and estimates of population;~~
 - ~~• schools and community facilities;~~
 - ~~• public parklands; and~~
 - ~~• urban water management areas;~~

- (vi) ~~a written report to explain the mapping and to address the following:~~
- ~~• the planning framework for the structure plan including any applicable regional or district structure plans, and any policies, strategies and scheme provisions which apply to the land, and any environmental conditions which apply under the Scheme;~~
 - ~~• the site analysis including reference to the matters listed in clause 29AB(6)(a)(ii) above, and, in particular, the significance of the conservation, environmental and heritage values of the site;~~
 - ~~• the context analysis including reference to the matters listed in clause 29AB(6)(a)(iii) above;~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

- ~~• how planning for the structure plan area is to be integrated with the surrounding land;~~
- ~~• the design rationale for the propose pattern of subdivision, land use and development;~~
- ~~• traffic management and safety;~~
- ~~• parkland provision and management;~~
- ~~• urban water management;~~
- ~~• proposals for public utilities including sewerage, water supply, drainage, gas, electricity and communication services;~~
- ~~• the proposed method of implementation including any cost sharing arrangements and details of any staging of subdivision and development.~~

~~(b) The maps referred to in clause 29AB(6)(a) are to:~~

~~(i) be drawn to a scale that clearly illustrates the details referred to in clause 29AB(6)(a); and~~

~~(ii) include a north point, visual bar scale, key street names and a drawing title and number.~~

~~(c) A proposed structure plan may, to the extent that it does not conflict with the Scheme, impose a classification on the land included in it by reference to reserves, zones or the *Residential Planning Codes*, and where the proposed structure plan becomes a structure plan, the local government is to have due regard to such reserves, zones or *Residential Planning Codes* when recommending subdivision or approving development of land within a Development Area.~~

~~(d) A proposed structure plan must, in the opinion of the local government, be consistent with orderly and proper planning.~~

~~(7) Submission to Local Government and Commission~~

~~(a) A proposed structure plan prepared by an owner is to be submitted to the local government.~~

~~(b) Within 7 days of preparing or receiving a propose structure plan which proposes the subdivision of land, the local government is to forward a copy of the propose structure plan to the Commission.~~

~~(c) The Commission is to provide comments to the local government as to whether it is prepared to endorse the propose structure plan with or without modifications.~~

~~(d) The Commission must provide its comments to the local government within 30 days of receiving the proposed structure plan.~~

~~(8) Advertising of Structure Plan~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

~~(a) Within 60 days of preparing or receiving a proposed structure plan that conforms with clause 29AB(6) and complies with the Scheme (or such longer time as may be agreed in writing between the owner who submitted the proposed structure plan and the local government), the local government is to:~~

~~(i) advertise, or require the owner who submitted the proposed structure plan to advertise, the proposed structure plan for public inspection by one or more of the following ways:~~

- ~~* notice of the proposed structure plan published in a newspaper circulating in the Scheme area;~~
- ~~* a sign or signs displaying notice of the proposed structure plan to be erected in a conspicuous place or places in the Development Area, or part of the Development Area, to which the proposed structure plan applies; and~~

~~(ii) give notice or require the owner who submitted the proposed structure plan to give notice, in writing to:~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

- ~~* all owners whose land is included in the proposed structure plan;~~
- ~~* all owners and occupiers who, in the opinion of the local government, are likely to be affected by the adoption of the proposed structure plan;~~
- ~~* such public authorities and other persons as the local government nominates.~~

~~(b) The advertisement and notice are to:~~

~~(i) explain the scope and purpose of the proposed structure plan;~~

~~(ii) specify when and where the proposed structure plan may be inspected; and~~

~~(iii) invite submissions to the local government by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.~~

~~(9) Adoption of Proposed Structure Plan~~

~~(a) The local government is to consider all submissions received and within 60 days of the latest date specified in the notice or advertisement for the making of submissions is to:~~

~~(i) adopt the proposed structure plan, with or without modifications; or~~

~~(ii) refuse to adopt the proposed structure plan and, where the proposed structure plan was submitted by an owner, give reasons for this to the owner.~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

~~(b) (i) In making a determination under clause 29AB(9)(a), the local government is to have due regard to the comments and advice received from the Commission in relation to the proposed structure plan.~~

~~(ii) If the Commission requires modifications to the proposed structure plan, the local government is to consult with the Commission prior to making a determination under clause 29AB(9)(a).~~

~~(c) If the local government, after consultation with the Commission, is of the opinion that a modification to the proposed structure plan is substantial, the local government may:~~

~~(i) readvertise the proposed structure plan; or~~

~~(ii) require the owner who submitted the proposed structure plan to readvertise the proposed structure plan;~~

~~and thereafter, the procedures set out in clause 29AB(8)(a) onwards are to apply.~~

~~(d) If within the period referred to in clause 29AB(9)(a), or such further time as may be agreed in writing between the owner who submitted the proposed structure plan and the local government, the local government has not made a determination under clause 29AB(9)(a), the local government is deemed to have refused to adopt the proposed structure Plan.~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

~~(10) Endorsement by Commission~~

~~(a) If the proposed structure plan proposes the subdivision of land, then within 7 days, of making its determination under clause 29AB(9)(a), the local government is to forward the proposed structure plan to the Commission for its endorsement.~~

~~(b) As soon as practicable after receiving the proposed structure plan, the Commission is to determine whether to endorse the proposed structure plan.~~

~~(c) The Commission is to notify the local government of its determination under clause 29AB(10)(b).~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

~~(11) Notification of Structure Plan~~

~~(a) As soon as practicable after adopting a proposed structure plan under clause 29AB(9)(a) and if clause 29AB(10) applies, as soon as practicable after being notified of the Commission's decision under clause 29AB(10)(c), the local government is to forward a copy of the structure plan to:~~

~~(i) any public authority or person that the local government thinks fit; and~~

~~(ii) where the structure plan was submitted by an owner, to the owner.~~

~~(12) Operation of Structure Plan~~

~~(a) A structure plan comes into effect:~~

~~(i) where the structure plan proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to clause 29AB(10)(b); or~~

~~(b) If a provision of a structure plan is inconsistent with a provision of the Scheme, then the provision of the Scheme prevails to the extent of the inconsistency.~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

~~(c) Where land is within the area of a Structure Plan — *AMD 57 GG 22/2/13*~~

~~(i) which specifies land use permissibility, then the land use permissibility in the Structure Plan will apply to that land and not the land use permissibility which would otherwise apply to the land under the Scheme; and~~

~~(ii) Which stipulates standards and requirements for development of land, then the standards and requirements for development in the Structure Plan will apply to that land and not any standards and requirements of the same kind which would otherwise apply to the land under the Scheme. Any standards or requirements of a kind which are provided for in the Scheme but not provided for in the Structure Plan shall continue to apply to the land.~~

~~(13) Inspection of Structure Plan~~

- ~~(a) The structure plan and the Commission's notification under clause 29AB(10)(c) is to be kept at the local government's administrative offices, and is to be made available for inspection by any member of the public during office hours.~~

~~(14) Variation to Structure Plan~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

- ~~(a) The local government may vary a structure plan:~~
- ~~(i) by resolution if, in the opinion of the local government, the variation does not materially alter the intent of the structure plan;~~
 - ~~(ii) otherwise, in accordance with the procedures set out in clause 29AB(6) onwards.~~
- ~~(b) If the local government varies a structure plan by resolution, and the variation does not propose the subdivision of land, the local government is to forward a copy of the variation to the Commission within 10 days of making the resolution.~~
- ~~(c) If the local government varies a structure plan by resolution, and the variation proposes the subdivision of land, the local government is to forward a copy of the variation to the Commission within 10 days of making the resolution for its endorsement.~~
- ~~(d) As soon as practicable after receiving the copy of the variation referred to in clause 29AB(14)(c), the Commission is to determine whether to endorse the proposed variation.~~
- ~~(e) The Commission is to notify the local government of its determination under clause 29AB(14)(d).~~
- ~~(f) A variation to a structure plan by resolution comes into effect:~~
- ~~(i) where the variation proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to clause 29AB(14)(d), or~~
 - ~~(ii) on the day on which the local government resolves to make the variation under clause 29AB(14)(a)(i).~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

(15) Detailed Area Plan

~~(a) Where it is considered desirable to enhance, elaborate or expand the details or provisions contained in a structure plan for a particular lot or lots, a detailed area plan may be prepared by:~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

~~(i) the local government; or~~

~~(ii) an owner.~~

~~(b) A detailed area plan may include details as to:~~

~~(i) building envelopes;~~

~~(ii) distribution of land uses within a lot;~~

~~(iii) private open space;~~

~~(iv) services;~~

~~(v) vehicular access, parking, loading and unloading area, storage yards and rubbish collection closures;~~

~~(vi) the location, orientation and design of buildings and the space between buildings;~~

~~(vii) advertising signs, lighting and fencing;~~

~~(viii) landscaping, finished site levels and drainage;~~

~~(ix) protection of sites of heritage, conservation or environmental significance;~~

~~(x) special development controls and guidelines; and~~

~~(xi) such other information considered relevant by the local government.~~

~~(c) When a proposed detailed area plan is prepared under clause 29AB(15)(a), the local government is to:~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

~~(i) advertise, or require the owner who submitted the proposed detailed area plan to advertise, the proposed detailed area plan for public inspection by one or more of the following ways:~~

- ~~• notice of the proposed detailed area plan published in a newspaper circulating in the Scheme area;~~
- ~~• a sign or signs displaying notice of the proposed detailed area plan to be erected in a conspicuous place or places in the Development Area, or part of the Development Area, to which the proposed detailed area plan applies; and~~

~~(ii) give notice or require the owner who submitted the proposed detailed area plan to give notice, in writing to:~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

- ~~• all owners whose land is included in the proposed detailed area plan;~~
- ~~• all owners and occupiers who, in the opinion of the local government, are likely to be affected by the adoption of the proposed detailed area plan;~~
- ~~• such public authorities and other persons as the local government nominates.~~

~~(d) The advertisement and notice are to:~~

- ~~(i) explain the scope and purpose of the proposed detailed area plan;~~
- ~~(ii) specify when and where the proposed detailed plan may be inspected; and~~
- ~~(iii) invite submissions to the local government by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.~~

~~(e) The local government is to consider all submissions received and:~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

- ~~(i) approve the detailed area plan with or without conditions; or~~
- ~~(ii) refuse to approve the detailed area plan and, where the proposed detailed area plan was submitted by an owner, give reasons for this to the owner.~~

~~(f) If within 60 days of receiving a detailed area plan prepared under clause 29AB(15)(a)(ii), or such longer period as may be agreed in writing between the owner and the local government, the local government has not made one of the determinations referred to in clause 29AB(15)(e), the local government is deemed to have refused to approve the detailed area plan.~~

~~(g) On approved by the local government, the detailed area plan constitutes a variation of the structure plan.~~

~~(h) The local government may vary a detailed area plan in accordance with the procedures set out in clause 29AB(15) on wards provided such variations do not prejudice the intention of any related structure plan.~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

~~(16) Appeal~~

~~(a) An owner who has submitted a proposed structure plan under clause 29AB(7)(a) may appeal, under Part V of the Town Planning Act:~~

~~(i) any failure of the local government to advertise, or require the owner to advertise, a proposed structure plan within the required time period under clause 29AB(8)(a);~~

~~(ii) any determination of the local government:~~

~~* to refuse to adopt a proposed structure plan (including a deemed refusal); or~~

~~* to require modifications to a proposed structure plan that are unacceptable to that owner.~~

~~(b) An owner who has submitted a detailed area plan in accordance with clause 29AB(15) may appeal, in accordance with Part V of the Town Planning Act, any discretionary decision made by the local government under clause 29AB(15).~~

REFER TO THE DEEMED PROVISIONS, PART 4 'STRUCTURE PLANS' AND PART 6 'LOCAL DEVELOPMENT PLANS'

DELETED BY AMD 75 GG 23/6/17

PART 4 - PLANNING DEVELOPMENT APPROVAL

AMENDED BY AMD 75 GG 23/6/17

- ~~30.~~ ~~Need for Planning Approval~~
- ~~31.~~ ~~Exemption from Planning Approval~~
- ~~32.~~ 26. ~~Unauthorised Existing Developments~~
- ~~33.~~ ~~Form of Application~~
- ~~34.~~ 27. ~~Design Advisory Committee~~
- ~~35.~~ ~~Advertising Procedure~~
- ~~36.~~ ~~Determination of Application – General Provisions~~
- ~~37.~~ 28. ~~Determination of Application for an Unlisted Use~~
- ~~38.~~ 29. ~~Determination of Non-Complying Applications~~
- ~~39.~~ 30. ~~Determination of Application for Demolition~~
- ~~39A.~~ 30A. ~~Determination of Application for Advertisement~~
- ~~40.~~ ~~Notice of Council Decision~~
- ~~41.~~ ~~Term of Planning Approval~~
- ~~42.~~ ~~Temporary Planning Approval~~
- ~~43.~~ ~~Deemed Refusal~~
- ~~44.~~ 31. ~~Revocation of Planning Development Approval for Home Occupations~~
- ~~45.~~ ~~Appeals~~

AMENDED BY AMD 75 GG 23/6/17

30. NEED FOR PLANNING APPROVAL

- (1) ~~A person shall not begin or continue development of any land or building in the Scheme area, unless it is a development exempted by clause 31, without first having applied for and obtained planning approval.~~
- (2) ~~To avoid any doubt, development for which planning approval is required includes both use (which is the subject of Part 2 of this Scheme) and development (which is the subject of Part 3).~~

DELETED BY AMD 75 GG 23/6/17

REFER TO THE DEEMED PROVISIONS, CLAUSE 60 'REQUIREMENT FOR DEVELOPMENT APPROVAL'

NOTES:

1. ~~A "planning approval", which is defined in Schedule 1 is granted by the Council. In some cases, approval might also be required by the Western Australian Planning Commission under the Metropolitan Region Town Planning Scheme Act 1959.~~

2. ~~A "development" is defined in Schedule 1. As well as building works it includes any changes of use for which planning approval may be required (see clause 31); an unlisted use (see clause 16); or demolition (see clause 39).~~

DELETED BY AMD 75 GG 23/6/17

31. EXEMPTION FROM PLANNING APPROVAL

- (1) ~~Planning approval is not required for the following development -~~
- (a) ~~building or other work for the alteration of any building or structure where those works affect only its interior or do not materially affect its external appearance unless the building or structure is -~~
- (i) ~~located in a place that has been entered in the Register of Heritage Places under the Heritage of Western Australia Act 1990;~~
- (ii) ~~the subject of an Order under Part 6 of the Heritage of Western Australia Act 1990; or~~
- (iii) ~~listed in the Register of Places of Cultural Heritage Significance; or~~
- (b) ~~building or other work carried out by the Town, a public authority or a Commonwealth agency in connection with the maintenance or improvement of a public street; or~~
- (c) ~~building or other work carried out by the Town, a public authority or a Commonwealth agency in connection with any public utility; or~~
- (d) ~~development on a Metropolitan Region Scheme Reserve; or~~
- (e) ~~all advertisements with the exception of land, buildings, objects, structures and places included on the Register of Places of Cultural Heritage Significance and those advertisements listed in Schedule 4;~~
- (f) ~~a home office; *AMD 6 GG 8/10/02*~~
- (g) ~~a change in the use of land or a building where the new use and the last approved use are within the same Use Class that does not: *AMD 6 GG 8/10/02; AMD 39 GG 10/7/07*~~

REFER TO THE DEEMED PROVISIONS, CLAUSE 61 'DEVELOPMENT FOR WHICH DEVELOPMENT APPROVAL NOT REQUIRED';

ALSO REFER TO SCHEDULE A OF THIS SCHEME TEXT 'SUPPLEMENTAL PROVISIONS TO THE DEEMED PROVISIONS'

NOTES:

1. ~~The Register of Places of Cultural heritage Significance also contains a list of each area declared by the Council to be a conservation area (see clauses 25 and 27).~~

2. ~~Planning approval is not required for certain developments carried out in accordance with~~

(a) ~~subdivisional approval - see Section 20D of the Town Planning and Developmental Act 1928; and~~

(b) ~~development on certain land subject to the Casino (Burswood island) Agreement Act 1985, referred to in clause 4.~~

3. ~~Development of a Metropolitan Region Scheme reserve may require approval under the Metropolitan Region Town Planning Scheme Act 1959 and the Metropolitan Region Scheme.~~

DELETED BY AMD 75 GG 23/6/17

ALSO REFER TO THE DEEMED PROVISIONS CLAUSE 61A 'ADVICE BY LOCAL GOVERNMENT THAT DEVELOPMENT APPROVAL NOT REQUIRED FOR ERECTION OF, OR ALTERATIONS OR ADDITIONS TO, SINGLE HOUSE'

- ~~(i) involve any internal works that alter the approved use areas; or~~
- ~~(ii) involve any external building works or that alters the external appearance of the building; or~~
- ~~(h) the use of land in a reserve, where such land is held by the Council or vested in a public authority -
AMD 6 GG 8/10/02~~
- ~~(i) for the purpose for which the land is reserved under the Scheme; or~~
- ~~(ii) in the case of land vested in a public authority, for any purpose for which the land may be lawfully used by that authority.~~
- ~~(i) a family day care service for five children or less (including any children of the service provider(s)), when operated within the hours of 7am and 7pm by no more than one person in addition to any occupier of the dwelling. AMD 15 GG 4/2/03~~
- ~~(j) a satellite dish with a diameter of 1.0 metre or less not visible from the street. AMD 39 GG 10/7/07~~

DELETED BY AMD 75 GG 23/6/17

31A AMENDING OR REVOKING A PLANNING APPROVAL

REFER TO THE DEEMED PROVISIONS, CLAUSE 77 'AMENDING OR CANCELLING DEVELOPMENT APPROVAL'

~~The local government may, on written application from the owner of land in respect of which planning approval has been granted, revoked or amend the planning approval, prior to the commencement of the use or development subject of the planning approval.~~

AMD 63 GG 09/06/15 DELETED BY AMD 75 GG 23/6/17

32. 26 UNAUTHORISED EXISTING DEVELOPMENTS

AMENDED BY AMD 75 GG 23/6/17

- (1) Where a development has been, or is being, carried out contrary to ~~clause 30~~ deemed clause 60, a person may apply to the Council for ~~planning~~ development approval for that development.
- (2) If the Council grants ~~planning~~ development approval in respect of an application made under subclause (1), the ~~planning~~ development approval is not to be taken as -
 - (a) authorising development before the date on which the Council resolved to grant the ~~planning~~ development approval; or
 - (b) preventing action being taken in respect of the unauthorised development before the date on which the Council resolved to grant ~~planning~~ development approval.

AMENDED BY AMD 75 GG 23/6/17

33. FORM OF APPLICATION

- (1) ~~An application for planning approval is to—~~
- ~~(a) be made generally in the form set out in Schedule 3 of the Scheme and contain the information and material set out in the Council's Planning Policy for application for planning approval and be forwarded to the Council;~~
 - ~~(b) be made by the owner of the land on which the development is proposed or a person authorised in writing by the owner to make an application for planning approval; and~~
 - ~~(c) include all information, plans and documents required, by a provision of this Scheme Text, a Planning Policy or otherwise, to be included in an application for planning approval.~~

DELETED BY AMD 75 GG 23/6/17

34. 27. DESIGN ADVISORY COMMITTEE

AMENDED BY AMD 75 GG 23/6/17

- (1) The Council may appoint a design advisory committee for the purpose of considering, and advising the Council with respect to, applications.
- (2) The design advisory committee may be consulted on design matters relating to development.

NOTE:

The prescribed form of an application for planning approval is set out in Schedule 3 of the Scheme Text.

REFER TO THE DEEMED PROVISIONS, CLAUSE 62 'FORM OF APPLICATION'; CLAUSE 63 'ACCOMPANYING MATERIAL'; AND CLAUSE 63A 'ACTION BY LOCAL GOVERNMENT ON RECEIPT OF APPLICATION'.

NOTE:

Matters relating to the powers, constitution and procedures of an advisory committee are set out in section 5.8 – 5.18 of the Local Government Act 1995.

AMENDED BY AMD 75 GG 23/6/17

35. ADVERTISING PROCEDURE

- ~~(1) Where an application involves an unlisted use, the Council is to direct the applicant to advertise the application in any matter that it considers to be appropriate.~~
- ~~(2) Where an application does not involve an unlisted use, the Council may direct the applicant to advertise the application in any manner that it considers to be appropriate.~~
- ~~(3) Written submissions in respect of an application advertised in accordance with this clause are to be lodged with the Council within the period and in the form (if any) prescribed in the relevant advertisement or notice.~~
- ~~(4) The Council may decline to consider a submission that has not been lodged on time or fails to comply with any other requirement applying to it.~~
- (5) In relation to subclause (1) and (2), the Council is authorised to display development plans on the Council's website for the purposes of advertising the application for public comments. *AMD 64 GG 14/11/14*

NOTES:

1. An application which seeks a variation to a development requirement under clause 29 must also be advertised in accordance with this clause.

2. The Council may make a planning policy under clause 46 setting out advertising requirements and procedures.

DELETED BY AMD 75 GG 23/6/17

REFER TO THE DEEMED PROVISIONS, CLAUSE 64 'ADVERTISING APPLICATIONS' AND CLAUSE 64A 'APPLICANT FOR DEVELOPMENT APPROVAL MAY BE REQUIRED TO PAY COSTS OF ADVERTISING OR ERECT SIGNS'

REFER TO THE DEEMED PROVISIONS, CLAUSE 87 'REQUIREMENTS FOR MAKING DOCUMENTS AVAILABLE TO PUBLIC' AND CLAUSE 88 'COMMISSION MAY APPROVE VARIED REQUIREMENTS FOR PUBLICATION OF DOCUMENTS AND ADVERTISING OF COMPLEX APPLICATIONS'

~~36. DETERMINATION OF APPLICATION – GENERAL PROVISIONS~~

~~(1) The Council may refuse to consider an application which does not comply with the requirements of this Part.~~

~~(2) In assessing an application, the Council –~~

~~(a) may consult with any person or body; and~~

~~(b) is to have regard to any written submissions lodged with the Council under clause 35 (3).~~

~~(3) Subject to subclause (4), the Council may –~~

~~(a) refuse an application; or~~

~~(b) approve an application either –~~

~~(i) unconditionally; or~~

~~(ii) subject to such conditions as the Council considers to be appropriate.~~

~~(4) In respect of an application –~~

~~(a) for demolition; or~~

~~(b) which must be advertised or which requires the support of the Western Australian Planning Commission or both,~~

~~the Council may refuse or approve the application in accordance with clauses 16, 17, or 39 respectively.~~

~~(5) Without limiting the scope of the Council's discretion to determine an application under subclause (3), the Council is to have regard to –~~

~~(a) The provisions of this Scheme and of any other written law applying within the Scheme area including the Metropolitan Region Scheme;~~

~~(b) any relevant planning policy;~~

~~(c) any relevant precinct plan;~~

~~(d) any Statement of Planning Policy of the Western Australian Planning Commission;~~

~~(e) any planning study approved by the Council;~~

~~(f) any submission accompanying or related to the application;~~

NOTE:

Applications for demolition are dealt with in clause 39.

DELETED BY AMD 75 GG 23/6/17

REFER TO THE DEEMED PROVISIONS CLAUSE 65A 'LOCAL GOVERNMENT MAY REQUEST ADDITIONAL INFORMATION OR MATERIAL' AND CLAUSE 65B 'APPLICANT MAY AGREE TO OR REFUSE REQUEST FOR ADDITIONAL INFORMATION OR MATERIAL'

REFER TO THE DEEMED PROVISIONS, CLAUSE 66 'CONSULTATION WITH OTHER AUTHORITIES', CLAUSE 67 'CONSIDERATION OF APPLICATION BY LOCAL GOVERNMENT' AND CLAUSE 68 'DETERMINATION OF APPLICATIONS'

- ~~(g) the orderly and proper planning of the locality;~~
- ~~(h) the conservation of the amenities of the locality;
and~~
- ~~(i) the design, scale and relationship to existing buildings and surroundings of any proposed building or structure.~~

DELETED BY AMD 75 GG 23/6/17

37. 28. DETERMINATION OF APPLICATION FOR AN UNLISTED USE

AMENDED BY AMD 75 GG 23/6/17

NOTE:

Unlisted uses are described and identified in clause 16.

- (1) Subject to subclause (2), the Council may refuse or approve an application which involves an unlisted use.
- (2) The Council cannot grant ~~planning~~ development approval for a development which involves an unlisted use unless -
 - (a) the advertising procedure referred to in ~~clause 35~~ deemed clause 64 has been followed; and
 - (b) it is satisfied, by an absolute majority, that the proposed development is consistent with the matters listed in ~~clause 36 (5)~~ deemed clause 67.

AMENDED BY AMD 75 GG 23/6/17

38. 29. DETERMINATION OF NON-COMPLYING APPLICATIONS

AMENDED BY AMD 75 GG 23/6/17

~~(1) In this clause -~~

~~(a) an application which does not comply with a standard or requirement of this Scheme (including a standard or requirement set out in a planning policy or in the relevant Precinct Plan), where the standard or requirement does not provide for any permitted variation, is called a Non-complying application; and~~

~~(b) a non-complying application does not include an application involving a prohibited use.~~

DELETED BY AMD 48 GG 25/01/11

(1) In this clause -

(a) An application which does not comply with a standard or requirement of this Scheme (including a standard or requirement set out in a ~~planning policy or in relevant~~ Precinct Plan), where that standard or requirement does not provide for variation, is called a "non-complying application";

AMENDED BY AMD 69 GG 2/12/16

(b) An application involving a prohibited use, and an application for residential development in a Residential zone, are not non-complying applications for the purpose of item (a) of this subclause(1);and

(c) In the case of development in a Non-Residential zone, notwithstanding that a relevant standard or requirement may provide for variation, an application for such development is to be treated as, and shall be considered always to have been, a non-complying application so as to attract the discretion in this clause 38.

AMD 48 GG 25/01/11

(2) Subject to subclause (3), the Council may refuse or approve a non-complying application.

- (3) The Council cannot grant ~~planning~~ development approval for a non-complying application unless –
- (a) if so required by the Council under ~~clause 35 (2)~~, deemed clause 64 the application has been advertised; and
 - (b) the Council is satisfied by an absolute majority that -
 - (i) if approval were to be granted, the development would be consistent with -
 - the orderly and proper planning of the locality;
 - the conservation of the amenities of the locality; and
 - the statement of intent set out in the relevant Precinct Plan; and
 - (ii) the non-compliance would not have any undue adverse affect on -
 - the occupiers or users of the development;
 - the property in, or the inhabitants of, the locality; or
 - the likely future development of the locality.

AMENDED BY AMD 75 GG 23/6/17

39. 30. DETERMINATION OF APPLICATION FOR DEMOLITION

AMENDED BY AMD 75 GG 23/6/17

- (1) In considering an application for or involving demolition, the Council is to have regard to the matters listed in ~~clause 36 (5)~~ deemed clause 67 and -
- (a) may defer consideration of the application until -
 - (i) it has granted ~~planning~~ development approval for subsequent development of the relevant site;
 - (ii) it has issued a building licence for that development; and
 - (iii) it is satisfied that the subsequent development will commence;
 - (b) may approve the application, subject to conditions including -
 - (i) the retention, maintenance, reinstatement or repositioning of any part of the existing building or structure;
 - (ii) the screening of the site during redevelopment; and

- (iii) where the development that has been approved has not been substantially commenced for a total period of more than

six months, the landscaping of or other treatment of the site to the satisfaction of the Council; or

- (c) may refuse the application.

AMENDED BY AMD 75 GG 23/6/17

39A. 30A. DETERMINATION OF APPLICATION FOR ADVERTISEMENT

AMD 40 GG 9/2/07; DELETED BY AMD 75 GG 23/6/17

- (1) In considering an application for or involving an advertisement, the Council is to have regard to the matters listed in ~~Clause 36(5)~~ deemed clause 67 and -

- (a) the impact of the sign on the quality of the streetscape where it is to be displayed and more generally of the district;
- (b) whether the size of the sign appropriately relates to the architectural style, design and size of a building on which the sign is to be displayed, and in measuring the size of a sign a polygon shall be taken immediately around the text, graphics or image of the sign and not the entire background, except where the finish or colour of the background differs substantially from the background against which the sign is to be displayed.
- (c) whether the colour scheme and materials of the sign are compatible with the architectural style and design of a building on which the sign is to be displayed;
- (d) whether the colour scheme and materials of the sign are compatible with the overall architectural style and design of the area or precinct in which the sign is to be displayed; and
- (e) how many signs are on the land where the sign will be displayed.

AMENDED BY AMD 75 GG 23/6/17

- (2) Council may refuse to approve an application, where -

- (a) the sign may obstruct the sight lines of a person driving or riding a vehicle or a pedestrian;
- (b) the sign may unreasonably distract persons driving or riding vehicles;
- (c) the sign may detract from the quality of the streetscape or area where it is to be displayed;
- (d) the size of the sign does not appropriately relate to the architectural style, design and size of a building on which the sign is to be displayed;

- (e) the colour scheme and materials of the sign are not compatible with the architectural style and design of a building on which the sign is to be displayed;
- (f) the colour scheme and materials of the sign are not compatible with the overall architectural style and design of the area or precinct in which the sign is to be displayed; or
- (g) the sign will be additional to other signs on the land where it will be displayed.

40. ~~NOTICE OF COUNCIL DECISION~~

~~As soon as is practicable after making a decision in relation to an application, the Council is to give the applicant, in writing, generally in the form prescribed in Schedule 5—~~

- ~~(a) notice of the approval or refusal;~~
- ~~(b) the reason or reasons for the approval or refusal;~~
- ~~(c) the conditions, if any, to which approval is subject.~~

DELETED BY AMD 75 GG 23/6/17

REFER TO THE DEEMED PROVISIONS, CLAUSE 70 'FORM AND DATE OF DETERMINATION'

NOTE:

The prescribed form of the Notice of Council Decision is set out in Schedule 5 of the Scheme Text.
DELETED BY AMD 75 GG 23/6/17

41. ~~TERM OF PLANNING APPROVAL~~

- ~~(1) Subject to subclause (2), a planning approval is valid from the date on which the Council resolved to grant planning approval until expiry of the period, if any, imposed by the Council under clause 42.~~
- ~~(2) A planning approval is to lapse if the development has not been substantially commenced before the expiration of two years, or such further period as the Council may determine, from the date on which the Council resolved to grant planning approval.~~

DELETED BY AMD 75 GG 23/6/17

REFER TO THE DEEMED PROVISIONS, CLAUSE 71 'COMMENCEMENT OF DEVELOPMENT UNDER DEVELOPMENT APPROVAL'

~~42. TEMPORARY PLANNING APPROVAL~~

~~The Council may, in granting planning approval, limit the period during which the development may be carried out where—~~

- ~~(a) it considers that development in excess of that period might adversely affect the amenities of the locality or the orderly and proper planning of the locality; or~~
- ~~(b) for any other reason it considers that approval ought to be granted for a limited or trial period.~~

DELETED BY AMD 75 GG 23/6/17

REFER TO THE DEEMED PROVISIONS, CLAUSE 72 'TEMPORARY DEVELOPMENT APPROVAL'

~~43. DEEMED REFUSAL~~

~~(1) Subject to subclauses (2) and (3), an application is taken to have been refused where notice of planning approval is not given to the applicant by the Council within—~~

- ~~(a) 60 days of the receipt of the application; or~~
- ~~(b) such further time as may be agreed in writing between the applicant and the Council.~~
~~—AMD 48 GG 25/01/11~~

~~(2) Subject to subclause (3), an application in respect of any place which—~~

- ~~(a) is listed in the Register of Places of Cultural Heritage Significance; or~~
- ~~(b) is being considered, under clause 25 or 26, for~~

~~the purposes of being declared to be significant and worthy of conservation,~~

~~is taken to have been refused where notice of planning approval is not given to the applicant within;~~

- ~~(c) 90 days of the receipt of the application; or~~
- ~~(d) such further time as may be agreed in writing between the applicant and the Council.~~
~~—AMD 48 GG 25/01/11~~

~~(3) Nothing in this clause prevents the Council from making a decision about an application after the expiry of the periods referred to in subclauses (1) and (2).~~

DELETED BY AMD 75 GG 23/6/17

NOTE:

An applicant for planning approval has a right of appeal where there has been a deemed refusal (see clause 45).

DELETED BY AMD 75 GG 23/6/17

REFER TO THE DEEMED PROVISIONS, CLAUSE 75 'TIME FOR DECIDING APPLICATION FOR DEVELOPMENT APPROVAL'

44. 31. REVOCATION OF PLANNING DEVELOPMENT APPROVAL FOR HOME OCCUPATIONS AND HOME BUSINESSES

AMENDED BY AMD 84 GG 09/10/2020

If, in the case of a ~~planning~~ Development Approval granted for a Home Occupation or Home Business, a notice served under clause ~~52(1)~~ 35 (1) is not complied with, the Council may, without further notice to the owner or occupier, revoke its ~~planning~~ Development Approval.

NOTE:

Where ~~planning~~ development approval has been revoked under this clause, a fresh application for ~~planning~~ development approval must be submitted to and approved by the Council before any development which was the subject of the revoked ~~planning~~ development approval can be continued or recommended.

AMENDED BY AMD 75 GG 23/6/17

~~45. APPEALS~~

~~(1) Subject to the provisions of the Act, an applicant for planning approval has a right of appeal against the exercise by the Council of a discretion to~~

~~(a) impose a condition of planning approval; or~~

~~(b) refuse to grant planning approval.~~

DELETED BY AMD 75 GG 23/6/17

NOTES:

~~1. The appeal provisions are set out in Part V of the Town Planning and Development Act 1928.~~

~~2. An appeal may be either to the Minister for Planning or to the Town Planning Appeal Tribunal.~~

DELETED BY AMD 75 GG 23/6/17

REFER TO THE DEEMED PROVISIONS, CLAUSE 76 'REVIEW OF DECISIONS'

PART 5 - MISCELLANEOUS

46.		Planning Policies
47.	32.	Amendment of Other Scheme Documents
48.		Agreements and Dealings with Land
49.		Delegation
50.	33.	Compensation
51.	34.	Election to Purchase and Valuation

AMENDED BY AMD 75 GG 23/6/17

46. LOCAL PLANNING POLICIES AMDT 68 GG 31/7/15

REFER TO THE DEEMED PROVISIONS, CLAUSE 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.~~

DELETED BY AMD 75 GG 23/6/17

46A. PROCEDURE FOR MAKING OR AMENDING A LOCAL PLANNING POLICY AMDT 68 GG 31/7/15

REFER TO THE DEEMED PROVISIONS, CLAUSE 4 'PROCEDURE FOR MAKING LOCAL PLANNING POLICY' AND CLAUSE 5 'PROCEDURE FOR AMENDING LOCAL PLANNING POLICY'

- ~~(1) If the local government resolves to prepare a local planning policy, the local government must advertise the proposed policy as follows —
 - ~~(a) publish a notice of the proposed policy once a week for 2 consecutive weeks 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 last day the notice of the policy is published under subclause (1)(a).~~
- ~~(3) After the expiry of the period within which submissions may be made, the local government must —~~
- ~~(a) review the proposed policy in the light of any submissions made; and~~
- ~~(b) resolve to —~~
- ~~(i) adopt the policy with or without modification; or~~
- ~~(ii) not to proceed with the policy.~~
- ~~(4) If the local government resolves to adopt the policy, the local government must publish notice of the policy once 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 is kept and made available for public inspection during business hours at the offices of the local government.~~
- ~~(7) Subclauses (1) to (6), with any necessary changes, apply to the amendment of a local planning policy.~~

AMD 68 GG 31/07/15

DELETED BY AMD 75 GG 23/6/17

REFER TO THE DEEMED PROVISIONS, CLAUSE 4 'PROCEDURE FOR MAKING LOCAL PLANNING POLICY' AND CLAUSE 5 'PROCEDURE FOR AMENDING LOCAL PLANNING POLICY'

~~46B. REVOCATION OF LOCAL PLANNING POLICY~~ ~~AMDT 68 GG 31/7/15~~

~~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 once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area.~~

AMD 68 GG 31/07/15

DELETED BY AMD 75 GG 23/6/17

REFER TO THE DEEMED PROVISIONS, CLAUSE 6 'REVOCATION OF LOCAL PLANNING POLICY'

47. 32. AMENDMENT OF OTHER SCHEME DOCUMENTS

- (1) Council may only amend or revoke a Scheme document with the exception of a Council register in accordance with the procedures applying to a town planning scheme amendment. ~~set out in Section 7 of the Act.~~

AMENDED BY AMD 75 GG 23/6/17

- (2) An amendment to a Council Register may be made by resolution of the Council.

NOTES:

~~1. The reference to the Act is to the Town Planning and Development Act 1928.~~

21. The Interpretation Act 1984 defines "amend" to include "replace, substitute, in whole or in part, add to or vary".

~~32. The detailed provisions applying to a town planning scheme amendment are contained in the Town Planning Regulations 1967 made under the Town Planning and Development Act 1928. Planning and Development (Local Planning Schemes) Regulations 2015.~~

AMENDED BY AMD 75 GG 23/6/17

~~48. AGREEMENTS AND DEALINGS WITH LAND~~

- ~~(1) For the purpose of carrying out of this Scheme and ensuring compliance with it, the Council may—~~

~~(a) enter into any agreement with any owner, occupier or other person having an interest in land affected by this Scheme;~~

~~(b) acquire any land within the Scheme area; and~~

~~(c) deal with or dispose of any land which it has acquired.~~

DELETED BY AMD 75 GG 23/6/17

REFER TO THE DEEMED PROVISIONS, CLAUSE 78 'POWERS OF LOCAL GOVERNMENT'

~~49. DELEGATION~~

- ~~(1) The Council may, either generally or in a particular case or in a particular class of cases, by resolution passed by an absolute majority of the Council, delegate to—~~

~~(a) a Committee of the Council; or~~

~~(b) an Officer of the Council, any power conferred or duly imposed on the Council under this Scheme.~~

DELETED BY AMD 75 GG 23/6/17

NOTE:

~~Sections 58 and 59 of the Interpretation Act 1984 apply to the construction and scope of this delegation power.~~

DELETED BY AMD 75 GG 23/6/17

REFER TO THE DEEMED PROVISIONS, DIVISION 2 'DELEGATIONS'

50- 33. COMPENSATION

AMENDED BY AMD 75 GG 23/6/17

- (1) Except as otherwise provided, the time limit for the making of claims for compensation for injurious affection pursuant to ~~Section 11~~ of the Act resultant from the making of, or the making of an amendment to the Scheme is six (6) months from the date of publication of the Scheme or the Scheme Amendment in the Government Gazette.
- (2) Where, in respect of any application for ~~planning~~ development approval to commence and carry out development on land reserved under this Scheme, the Council, or any appellate body thereafter, refuses or grants approval subject to conditions such that the effect of the decision is to permit the land to be used or developed for no purpose other than a public purpose, the owner of the land may, within six (6) months of the date of the relevant decision, claim compensation from the Council for injurious affection. AMENDED BY AMD 75 GG 23/6/17

NOTES:

~~4. The reference to the Act is to the Town Planning and Development Act 1928.~~

21. The "Gazettal date" is defined in Schedule 4B.

AMENDED BY AMD 75 GG 23/6/17

51- 34. ELECTION TO PURCHASE AND VALUATION

AMENDED BY AMD 75 GG 23/6/17

- (1) Where compensation for injurious affection is claimed pursuant to clause 50, the Council may, at its option elect to acquire the land so affected instead of paying compensation.
- (2) Where the Council elects to acquire the land in respect of which the claim for compensation for injurious affection is made, the Council shall give notice of that election to the claimant by notice in writing within three (3) months of the claim for compensation being made.
- (3) Where the Council elects to acquire land as provided in subclause (1), if the Council and the owner of the land are unable to agree as to the price to be paid for the land may be acquired by the Council shall be the value of the land as determined in accordance with subclause (4).
- (4) The value of the land referred to in subclause (3) shall be the value thereof on the date that the Council 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 Council 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.
- (5) The Council may deal with or dispose of land acquired for a Council reserve pursuant to the preceding subclause (5) or upon such terms and conditions as it thinks fit provided the land is used for, or preserved for, a use compatible with the use for which it was reserved.

PART 6 - ENFORCEMENT

<u>52.</u>	<u>35.</u>	<u>Notice</u>
<u>53.</u>		<u>Authorised Entry</u>
<u>54.</u>	<u>36.</u>	<u>Offences</u>

AMENDED BY AMD 75 GG 23/6/17

52. 35. NOTICES

AMENDED BY AMD 75 GG 23/6/17

- (1) A notice required to be given by the Council under ~~section 10 (1)~~ of the Act is to be a 28 day notice signed by the ~~Chief Executive~~ local government CEO and sent by registered post to the owner and to any occupier or lessee of the premises affected by the notice.
- (2) The Council may recover expenses under ~~section 10 (2)~~ of the Act in any manner in which it is from time to time entitled to recover rates levied by it under the ~~Local Government Act 1960~~ Local Government Act 1995.

AMENDED BY AMD 75 GG 23/6/17

NOTE:

The reference to the Act is to the Town Planning and Development Act.

DELETED BY AMD 75 GG 23/6/17

53. AUTHORITY ENTRY

- ~~(1) An officer authorised by the Council may, with any assistance required, enter at any reasonable time any building or land to determine whether the provisions of this Scheme have been or are being observed.~~
- ~~(2) An authorised officer exercising the power of entry under subclause (1) or any other person accompanying an authorised officer who-~~
 - ~~(a) finds a person committing; or~~
 - ~~(b) on reasonable grounds suspects a person of having committed, a breach of a provision of this Scheme.~~

~~may ask that person for his or her name and address.~~
- ~~(3) A person who-~~
 - ~~(a) in any way opposes the exercise of an authorised officer's power of entry; or~~
 - ~~(b) when asked to do so under subclause (2), refuses to state his or her name or address or states a false name or address,~~

~~commits an offence.~~
- ~~(4) A person who gives or is suspected of giving a false name or address to the person making the enquiry under subclause (2) may, without any other warrant, be apprehended by the person making the demand and taken before a Justice to be dealt with according to law.~~

DELETED BY AMD 75 GG 23/6/17

REFER TO THE DEEMED PROVISIONS, CLAUSE 79 'ENTRY AND INSPECTION POWERS';

ALSO REFER TO SCHEDULE A OF THIS SCHEME TEXT 'SUPPLEMENTAL PROVISIONS TO THE DEEMED PROVISIONS'

54. 36. OFFENCES

AMENDED BY AMD 75 GG 23/6/17

- (1) Subject to Part 4 of this Scheme, 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) other than a purpose permitted or approved of by the Council in the zone in which that land or building is situated;
 - (b) unless all approvals, consents or licences required by this Scheme or any other law have been granted or issued;
 - (c) unless all conditions imposed upon the grant or issue of any approval, consent or licence required by this Scheme or any other law have been and continue to be complied with; and
 - (d) unless all standards laid down and all requirements prescribed by this Scheme or determined by the Council pursuant to this Scheme with respect to that building, or the use of that land or building have been and continue to be complied with.
- (2) Where the Council has granted ~~planning~~ development approval for the development of land on a condition which involves the maintenance or continuance of the state or condition of any place, area, matter or thing a person shall not use or permit or suffer the use of that land for any purpose whole the state or condition of that place, area, matter or thing is not being maintained or continued in accordance with that condition.

NOTE:

A person who fails to comply with a provision of this Scheme is guilty of an offence and is subject of the penalty set out in ~~Section 10 (4) of the Town Planning and Development Act 1928.~~ the Act.

AMENDED BY AMD 75 GG 23/6/17

SCHEDULES

Schedule	A	Supplemental Provisions to the deemed provisions
Schedule 4	B	Definitions
Schedule 2	C	Additional Uses
Schedule 3		Application for Planning Approval
Schedule 4	D	Advertisements Requiring Planning Development Approval
Schedule 5		Notice of Council Decision
Schedule 6		Register of Places of Cultural Heritage Significance
Schedule 7	E	Special Control Areas

AMENDED BY AMD 75 GG 23/6/17; SCHEDULE D DELETED BY AMENDMENT 81 GG 25/1/2019

SCHEDULE A: SUPPLEMENTAL PROVISIONS TO THE DEEMED PROVISIONS

These provisions are to be read in conjunction with the stated deemed provisions (Schedule 2) contained in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Deemed Clause 61

- (6) In accordance with deemed clause 61, for the purposes of the Scheme the following development does not require the development approval of the Council :
- (k) building or other work carried out by the Town, a public authority or a Commonwealth agency in connection with the maintenance or improvement of a public street; or
 - (l) building or other work carried out by the Town, a public authority or a Commonwealth agency in connection with any public utility; or
 - ~~(m) all advertisements with the exception of land, buildings, objects, structures and places in a heritage area, on a heritage list or those advertisements listed in Schedule D; DELETED BY AMENDMENT 81 – GG 25/1/2019~~
 - (~~m~~) the use of land in a reserve, where such land is held by the Council or vested in a public authority-
 - (i) for the purpose for which the land is reserved under the Scheme; or
 - (ii) in the case of land vested in a public authority, for any purpose for which the land may be lawfully used by that authority.
 - (~~n~~) a family day care service for five children or less (including any children of the service provider(s)), when operated within the hours of 7am and 7pm by no more than one person in addition to any occupier of the dwelling.
 - ~~(p) a satellite dish with a diameter of 1.0 metre or less not visible from the street.~~

Deemed Clause 79

- (3) An authorised officer exercising the power of entry under subclause (2) or any other person accompanying an authorised officer who -
- (a) finds a person committing; or
 - (b) on reasonable grounds suspects a person of having committed, a breach of a provision of this Scheme may ask that person for his or her name and address.
- (4) A person who -
- (a) in any way opposes the exercise of an authorised officer's power of entry; or
 - (b) when asked to do so under subclause (3), refuses to state his or her name or address or states a false name or address, commits an offence.
- (5) A person who gives or is suspected of giving a false name or address to the person making the enquiry under subclause (3) may, without any other warrant, be apprehended by the person making the demand and taken before a Justice to be dealt with according to law.

INSERTED BY AMD 75 GG 23/6/17

SCHEDULE 4 B : DEFINITIONS

AMENDED BY AMD 75 GG 23/6/17
AMENDED BY AMD 80 AG 15/05/19

1. In this Scheme, unless the contrary intention appears -

“absolute majority” means in relation to the Council, means a total majority of the members for the time being of the Council, whether present and voting or not;

~~“Act” means the Town Planning and Development Act 1928; DELETED BY AMD 75 GG 23/6/17~~

“Act” - Refer definition in clause 1 of the deemed provisions.

“activity centre” – Refer definition in clause 1 of the deemed provisions.

“additional use” means a use, in respect of a specific site, listed in Schedule 2 C to which clause 17 applies; AMENDED BY AMD 75 GG 23/6/17

~~“advertisement” means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or partly for the purpose of an advertisement, announcement or direction and includes any hoarding or similar structure used or adapted for use, for the display of advertisements and “advertising” has a correlative meaning. DELETED BY AMD 75 GG 23/6/17~~

“advertisement” – Refer definition in clause 1 of the deemed provisions.

~~“aged or dependent persons’ dwelling” means an independently constructed dwelling for the purpose of accommodating a person who is aged 55 years or over or is a person with a recognised form of handicap requiring special accommodation provisions for independent living or special care. DELETED BY AMD 80 GG 14/04/19~~

“aged person” has the same meaning given to it in the R-Codes; INSERTED BY AMD 80 GG 14/04/19

“amenity” - Refer definition in clause 1 of the deemed provisions.

“ancillary dwelling” – Refer definition in clause 1 of the deemed provisions.

~~“amenities”, depending on its context, means -~~

~~(a) the expectations of those living and working in an area about the quality of their environment including its pleasantness, character, beauty, harmony in the exterior design of buildings, privacy and security; or~~

(b) facilities providing use, convenience or enjoyment; AMENDED BY AMD 75 GG 23/6/17

~~“amusement facility” means any land or buildings, open to the public, used for not more than two amusement machines where such use is incidental to the predominant use; DELETED BY AMD 80 GG 14/04/19~~

“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; INSERTED BY AMD 80 GG 14/04/19

“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; INSERTED BY AMD 80 GG 14/04/19

“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; INSERTED BY AMD 80 GG 14/04/19

“application” means an application for planning development approval; *AMENDED BY AMD 75 GG 23/6/17*

“approved plan” means any plan that -

- (a) forms part of an application for which planning development approval has been granted; and
- (b) has been endorsed with the approval of the Council; *AMENDED BY AMD 75 GG 23/6/17*

“art gallery” means premises-

- (a) that are open to the public; and
- (b) where artworks are displayed for viewing or sale; *INSERTED BY AMD 80 GG 14/04/19*

“betting agency” means an office or totalisator agency established under the *Racing and Wagering Western Australia Act 2003*; *INSERTED BY AMD 80 GG 14/04/19*

“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*; *INSERTED BY AMD 80 GG 14/04/19*

“building” includes a structure erected or placed on land;

“Building Code” - Refer definition in clause 1 of the deemed provisions.

~~**“building height”**~~

- ~~(a) for development in the Residential Zone, has the same meaning given to it in the Residential Design Codes and is subject to the provisions of Table 3 of the Residential Design Codes, unless other buildings heights are prescribed under the Scheme or Council policy; and~~
- ~~(b) for all other instances (including where building heights are not subject to the provisions of Table 3 of the Residential Design Codes), means the vertical distance at any point from natural ground level to the uppermost part of the building above that point (roof ridge, parapet or wall), excluding:
 - ~~(i) any enclosed roof structures of a high quality design that reduce the visual impact of lift plan and other similar utility or services and/or provides weather protection to areas used for private or communal open space, not exceeding 3.0 metres in height, such that the roof structure does not represent more than 25% of the floor area of the uppermost level of the building and is no more than 50% of the length or width of the uppermost level of the building; and~~
 - ~~(ii) Minor architectural projections or external fixtures above the roof line.~~~~

~~And where the building heights are prescribed as maximums for the number of storeys and metric dimension, both limits apply in all instances, as the intent is to enable flexibility to permit floor to floor dimensions for each storey to be increased to allow variations in flooring, services systems and ceiling heights, in excess of any minimum standard prescribed by the Building Code of Australia.~~

~~Note:~~

~~“natural ground level” is defined elsewhere in this Schedule;
AMD 46 GG 03/09/10~~

~~**“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;—~~

~~*AMENDED BY AMD 80 GG 14/04/19;*~~

“building height” – Refer definition in clause 1 of the deemed provisions.

“built heritage conservation” - Refer definition in clause 1 of the deemed provisions.

“bulk 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;

INSERTED BY AMD 80 GG 14/04/19

~~“caretaker’s dwelling” means a building used as a dwelling by a person having the care of the building, plant, equipment or grounds associated with an industry, business, office or reception area carried on or existing on the same site;~~

“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;

AMENDED BY AMD 80 GG 14/04/19

~~“car park” means premises used primarily for parking private vehicles or taxis whether or not -~~

~~(a) as a public or private car park; and~~

~~(b) for reward~~

~~but does not include -~~

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

~~(d) any premises used for the display of vehicles for sale;~~

“carpark” 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;

AMENDED BY AMD 80 GG 14/04/19

~~“Chief Executive” means the Chief Executive or Deputy Chief Executive of the Council; DELETED BY AMD 75 GG 23/6/17~~

~~“child care premises” has the same meaning as in the Community Services (Child Care) Regulations 1988. AMD 15 GG 4/2/03~~

Note:

~~Section 3 of the Community Services (Child Care) Regulations 1988 defines “child care premises” to mean “premises specified in a licence or permit as premises in which a child care service may be provided”~~

“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;
AMENDED BY AMD 80 GG 14/04/19

“cinema/theatre” means premises where the public may view a motion picture or theatrical production;
INSERTED BY AMD 80 GG 14/04/19

“civic use” means premises used by a government department, an instrumentality of the State or the local government for administrative, recreational or other purposes;
INSERTED BY AMD 80 GG 14/04/19

“class A use” – Refer definition in clause 1 of the deemed provisions.

“class D use” – Refer definition in clause 1 of the deemed provisions.

“class P use” – Refer definition in clause 1 of the deemed provisions.

“class X use” – Refer definition in clause 1 of the deemed provisions.

“club premises” means premises used by a legally constituted club or association or other body of persons united by a common interest;
INSERTED BY AMD 80 GG 14/04/19

“commercial” means any activity involving any form of purchase, hire or sale of goods or services;

“commercial, centre or mixed use zone” – Refer definition in clause 1 of the deemed provisions.

“commercial vehicle” means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including-

- (a) a utility, van, truck, tractor, bus or earthmoving equipment; and
 - (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a);
- INSERTED BY AMD 80 GG 14/04/19

“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;
- INSERTED BY AMD 80 GG 14/04/19

“commencement day” means the day this Scheme comes into effect under section 87(4) of the Act;
INSERTED BY AMD 80 GG 14/04/19

“Commonwealth agency” includes a Commonwealth Minister, department, body or officer and an agency or instrumentality of the Crown in right of the Commonwealth;

~~**“community uses”** means those uses, in a particular locality, which provide services or facilities, such as health or social services or meeting facilities, to those who live or work in that locality;~~

“community purpose” means premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit;
AMENDED BY AMD 80 GG 14/04/19

“complex application” – Refer definition in clause 1 of the deemed provisions.

~~**“conservation”** has the same meaning given to it in the Heritage of Western Australia Act 1990;~~

Note:

~~Under the Heritage of Western Australia Act 1990, “conservation” is defined to mean, in relation~~

~~to any place—~~

~~“the management of that place in a manner that will—~~

- ~~(a) enable the cultural heritage significance of that place to be retained; and~~
- ~~(b) yield the greatest sustainable benefit for the present community without diminishing the cultural heritage significance of that place, and may include the preservation, stabilisation, protection, restoration, reconstruction, adaptation, and maintenance of that place in accordance with relevant professional standards, and the provision of an appropriate visual setting”.~~ DELETED BY AMD 75 GG 23/6/17

~~“conservation area” means an area declared by the Council under clause 26 of this Scheme;~~

DELETED BY AMD 75 GG 23/6/17

“consulting rooms” means premises used for the investigation and/or treatment of physical or mental injuries or ailments (not including a hospital) in the practice of a profession by a person who is a legally qualified medical practitioner, dentist, physiotherapist, podiatrist or similar, but does not include a masseur and does not include a premises practising therapeutic massage or similar services;

“container” – Refer definition in clause 1 of the deemed provisions.

“container collection cage” – Refer definition in clause 1 of the deemed provisions.

“container deposit recycling centre” – Refer definition in clause 1 of the deemed provisions.

“container deposit scheme” – Refer definition in clause 1 of the deemed provisions.

“convenience store” means land and buildings used for the retail sale of convenience goods being those goods commonly sold in supermarkets, delicatessens and newsagents but including the sale of petrol and operated during hours which may include, but which may extend beyond normal trading hours and provide associated parking. The buildings associated with a convenience store shall not exceed 300m² gross leasable area;

~~“Council” means the Council of the Town of Victoria Park;~~ DELETED BY AMD 75 GG 23/6/17

“Council register” means -

- (a) register of places of cultural heritage significance;
- (b) register of non-conforming uses; and
- (c) any other register kept by the Council under this Scheme;

~~“cultural heritage significance” has the same meaning given to it in the Heritage of Western Australia Act 1990;~~

Note:

~~The Heritage of Western Australia defines “cultural heritage significance” to mean, in relation to a place – “the relative value which that place has in terms of its aesthetic, historic, scientific or social significance, for the present community and future generations”.~~ DELETED BY AMD 75 GG 23/6/17

“cultural heritage significance” - Refer definition in clause 1 of the deemed provisions.

~~“day care centre” means “Child Care Premises” or “Family Day Care” as defined in this schedule;~~

AMD 15 GG 4/2/03; AMD 39 GG 10/7/07

DELETED BY AMD 80 GG 14/04/19

“deemed clause” refers to the relevant clause in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 ‘Deemed provisions for local planning schemes’; INSERTED BY AMD 75 GG 23/6/17

“deemed-to-comply provision” - Refer definition in clause 1 of the deemed provisions; see also clause 1B of the deemed provisions.

“dependant person” has the same meaning given to it in the R-Codes; INSERTED BY AMD 80 GG 14/04/19

“development” has the same meaning as is given to it in the Act;

NOTE

~~Section 2 (1) of the Town Planning and Development Act 1928 defines “development” to mean — At the development or use of any land, including any demolition, erection, construction, alteration of or addition to any building or structure on the land and the carrying out on the land of any excavation or other works and, in the case of a place to which a Conservation Order made under section 59 of the Heritage of Western Australia Act 1990 applies, also includes any act or thing that —~~

- ~~(a) is likely to change the character of that place or the external appearance of any building;
or
(b) would constitute an irreversible alteration of the fabric of any building”.~~

The *Planning and Development Act 2005* defines “development” to mean —
“the development or use of any land, including —

- (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 *Heritage of Western Australia Act 1990* applies, any act or thing that —
 - (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;”

AMENDED BY AMD 75 GG 23/6/17

“development contribution plan” - Refer definition in clause 1 of the deemed provisions.

“discretionary use” means a use described in clauses 13 and 15;

“drop-off refund point” – Refer definition in clause 1 of the deemed provisions.

“dwelling” has the same meaning given to it in the ~~Residential Design Codes R-Codes~~; AMD 39 GG 10/7/07

NOTE:

~~Clause 2.2 of The Residential Design Codes R-Codes defines “dwelling” to mean - “a building or portion of a building being used, adapted or designed or intended to be used for the purpose of human habitation on a permanent basis by a single person, a single family, or no more than six persons who do not comprise a single family”;~~ AMENDED BY AMD 75 GG 23/6/17

~~**“educational establishment”** means a school, college, university, technical institute, kindergarten, academy or other educational centre, but does not include an institutional building;~~

“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;

AMENDED BY AMD 80 GG 14/04/19

“excluded holiday period” – Refer definition in clause 1 of the deemed provisions; see also clause 1C of the deemed provisions.

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

INSERTED BY AMD 80 GG 14/04/19

~~**“family day care”** means premises used to provide family day care within the meaning of the *Community Services (Child Care) Regulations 1988*.~~ AMD 15 GG 4/2/03

Note:

Section 3 of the *Community Services (Child Care) Regulations 1988* defines “family day care”

~~to mean “a child care service provided to a child in a private dwelling in a family or domestic environment.~~

“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; *AMENDED BY AMD 80 GG 14/04/19*

~~**“fast food outlet”** means premises where food is prepared and sold-~~

- ~~(a) to be taken away; or~~
- ~~(b) for consumption on those or adjacent premises - if the operation of the premises is likely to attract considerable vehicular traffic to those premises for short periods;~~

DELETED BY AMD 80 GG 14/04/19

NOTE:

The related definition of “restaurant” is set out later in this schedule.

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

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

INSERTED BY AMD 80 GG 14/04/19

~~**“floor area of a building”** means -~~ *AMD 39 GG 10/7/07*

~~(a) for a private building used for residential purposes - has the same meaning as plot ratio as defined in the Residential Design Codes;~~

~~(b) for a non-private building used for residential purposes- the gross total area of-~~

~~(i) each of the floors of a lodging house; or~~

~~(ii) those parts of each of the floors used for residential purposes of a hotel, a motel, a serviced apartment, a private hotel, an educational establishment, an institutional building or a hospital which accommodates members of the staff of the hospital, including the area of passages, lobbies, amenities and accessways, but shall not include the area of lift shafts, stairs, plant rooms, non-habitable floorspace in basements, private car parks and any portion of an open balcony which portion is of not more than 2.4 metres in depth provided that the longest open side of the balcony has no enclosure other than a balustrade of not more than 1.05 metres in height and to which there is no access other than by way of the tenancy of which it forms an exclusive part; and~~

~~(c) for a building not used for residential purposes - the gross total area of each of the floors of the building including the area of car parking spaces in public fee-paying car parks but shall not include the area of private car parks, the areas of lift shafts, stairs, toilets, amenities, plant rooms and the thickness of any external walls;~~ *DELETED BY AMD 46 GG 03/09/10*

“funeral parlour” means premises used-

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

INSERTED BY AMD 80 GG 14/04/19

“frontage” means the boundary line or lines between land and the street or streets upon which that land abuts;

~~**“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;~~ *AMENDED BY AMD 80 GG 14/04/19*

“frontage” – Refer definition in clause 1 of the deemed provisions.

“Gazettal date” means the date on which this Scheme is published in the Government Gazette;

“general industry” means an industry other than a cottage, extractive, hazardous, light or noxious industry.

~~“grouped dwelling” has the same meaning given to it in the Residential Design Codes R-Codes;~~
~~AMD 39 GG 10/7/07~~

Note:

~~Clause 2.2 of The Residential Design Codes R-Codes defines “grouped dwelling” to mean – “a dwelling that is one of a group of two or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above another, except where conditions of landscape or topography dictate otherwise, and includes a dwelling on a survey strata with common property”;~~ ~~AMENDED BY AMD 75 GG 23/6/17~~

“grouped dwelling” – Refer definition in clause 1 of the deemed provisions.

“hazardous industry” 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 poverty, or to the biophysical environment. Examples of such industry include oil refineries and chemical plants but would generally exclude light, rural or service industries;

“Health Act” means the ~~Health Act 1911~~ *Health (Miscellaneous Provisions) Act 1911*; ~~AMENDED BY AMD 75 GG 23/6/17~~

~~“height” when used in relation to a building that is used for –~~

- ~~(a) residential purposes, has the same meaning given to it in and for the purpose of the Residential Planning Codes; or~~
- ~~(b) purposes other than residential purposes, means the measurement taken from the natural ground level immediately in front of the centre of the face of the building to a level at the top of the eaves, parapet or flat roof, whichever is the highest, but does not include –~~
 - ~~(i) any lift plant, water tower or similar utility or service, not exceeding 3.0 metres in height; or~~
 - ~~(ii) any architectural feature or decoration (other than a free-standing sign) not used for any form of accommodation which may be approved by the Council;~~
~~DELETED BY AMD 46 GG 03/09/10~~

~~“heritage agreement” means an agreement entered into under clause 28 of this Scheme and section 29 of the Heritage of Western Australia Act;~~ ~~DELETED BY AMD 75 GG 23/6/17~~

“Heritage of Western Australia Act” means the *Heritage of Western Australia Act 1990*;

“heritage-protected place” – Refer definition in clause 1 of the deemed provisions; see also clause 1A of the deemed provisions.

“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 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.

AMENDED BY AMD 84 GG 09/10/20

~~“home occupation” means the carrying on or any business conducted in a dwelling or within the boundaries of the lot upon which a dwelling is constructed but does not include the sale or hire of any goods;~~

“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 a.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;

AMENDED BY AMD 80 GG 14/04/19

~~**Home Office:** means a home occupation limited to a business carried out solely within a dwelling by a resident of the dwelling but which does not~~

~~AMD 6 GG 8/10/02~~

- ~~(a) entail clients, customers or delivery vehicles travelling to and from the dwelling;~~
- ~~(b) involve any advertising signs on the premises; or~~

- ~~(c) require any external change to the appearance of the dwelling.~~

“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;

AMENDED BY AMD 80 GG 14/04/19

“home store” means a shop attached to a dwelling that-

- (a) has a net lettable area not exceeding 100 m²; and
- (b) is operated by a person residing in the dwelling;

INSERTED BY AMD 80 GG 14/04/19

~~“hospital” means a building in which persons are received and lodged for medical treatment or care and includes a maternity hospital;~~

“hospital” means premises that are a hospital within the meaning given in the *Health Services Act 2016* section 8(4);

AMENDED BY AMD 80 GG 14/04/19

~~“hotel” means premises providing accommodation for the public the subject of a hotel licence under the Liquor Licensing Act 1988 and may include a betting agency operated in accordance with the Totalisator Agency Betting Board Act 1960 Racing and Wagering Western Australia Act 2003, but does not include a motel, tavern or boarding house the subject of a limited hotel~~

~~licence or other licence granted under that Act;~~ AMENDED BY AMD 75 GG 23/6/17

“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;

AMENDED BY AMD 80 GG 14/04/19

~~**“incidental use”** means a use of premises which is consequent on, or naturally attaching, appertaining or relating to, the predominant use;~~ INSERTED BY AMD 80 GG 14/04/19

“incidental use” – Refer definition in clause 1 of the deemed provisions.

~~**“industry”** means the carrying out of any process for or incidental to—~~

- ~~(a) the making, altering, repairing or ornamentation, painting, finishing, cleaning, packing or canning or adapting for sale or the breaking up or demolition of any article or part of any article;~~
- ~~(b) the winning, processing or treatment of minerals;~~
- ~~(c) the generation of electricity or the production of gas;~~
- ~~(d) the manufacture of edible goods for human or animal consumption – being a process carried on in the course of trade or business, whether or not for gain, but the term does not include operations connected with—~~
- ~~(e) the carrying out of agriculture;~~
- ~~(f) site work on buildings, works or land; and~~
- ~~(g) in the case of the manufacture of goods referred to in paragraph (d), the preparation of food for sale on the premises of a shop;~~

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; and
- (e) incidental purposes; AMENDED BY AMD 77 GG 19/06/18

“land” has the same meaning given to it in the Act;

Note:

~~Section 2 (1) of the Town Planning Development Act 1928 defines “land” to include – land tenements and hereditaments and any interest therein, and also houses, buildings, and other works and structures”~~ AMENDED BY AMD 75 GG 23/6/17

“landscaped area” means any area developed by the planting of lawns, garden beds, shrubs or trees and includes any area developed with rockeries, ornamental ponds, swimming pools, barbecue areas or children’s playgrounds and includes any other area approved by the Council as Landscaped area;

~~**“light industry”** means an industry;~~

- ~~(a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises, will not cause any injury to, or will adversely affect the amenity of the locality by reason of the emission of light, noise, electrical interference, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water or other waste products; and~~
- ~~(b) the establishment of which will not, or the conduct of which does not, impose an undue~~

~~load on any existing or proposed service for the supply or provision of water, gas, electricity, sewerage facilities, or any other like services;~~

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; *AMENDED BY AMD 77 GG 19/06/18*

“light industry zone” – Refer definition in clause 1 of the deemed provisions.

~~“**Liquor Store – Small**” means premises with a net lettable area not exceeding 300m² which are subject to, or will require, a liquor store licence under the Liquor Control Act 1988 (WA).~~
AMD 61 GG 14/11/14

“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; *AMENDED BY AMD 80 GG 14/04/19*

~~“**Liquor Store – Large**” means premises with a net lettable area exceeding 300m² which are subject to, or will require, a liquor store licence under the Liquor Control Act 1988 (WA).~~
AMD 61 GG 14/11/14

“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; *AMENDED BY AMD 80 GG 14/04/19*

“local area traffic management” means the management of traffic on residential or other streets;

“local government” - Refer definition in clause 1 of the deemed provisions.

“local government CEO” - Refer definition in clause 1 of the deemed provisions.

“local planning strategy” - Refer definition in clause 1 of the deemed provisions.

“lodging house” has the same meaning given to it in the Health Act;

Note:

~~Section 3 (1) of the Health Act defines “Lodging house” to mean – “any building or structure, permanent or otherwise, and any part thereof, in which provision is made for lodging or boarding more than 4 persons, exclusive of the family or the keeper thereof, for hire or reward; but the term does not include –~~

~~(a) premises licensed under a publican’s general licence, limited hotel licence, or wayside-house licence, granted under the Licensing Act 1911;~~

~~(b) premises used as a boarding school approved under the Education Act 1928; or~~

~~(c) any building comprising residential flats”.~~ *DELETED BY AMD 48 GG 25/01/11*

“lot” has the same meaning given to it in the Act;

Note:

~~Section 2 (1) of the Town Planning and Development Act 1928 defines “Lot” to mean – “a defined portion of land depicted on a plan or diagram publicly exhibited in the public office of the Department of Land Administration, or deposited in the Office of Titles or Registry of Deeds and for which a separate Crown Grant or Certificates of Title has been or can be issued; or depicted on a subdivisional plan or diagram, whether so exhibited or deposited or not, but which is, whether before or after the coming into operation of the Town Planning and Development Act Amendment Act 1956, approved by the Commission and includes the whole of the land the subject –~~

~~(a) of a crown Grant issued under the Land Act 1933; or~~

~~(b) of a certificate of title issued under the Transfer of Land Act 1893; or~~

~~(c) of a survey into a lot pursuant to a direction given under section 17 of the Land Act 1933; or~~

~~(d) of a part-lot shown on a plan or subdivision or diagram deposited in the Department of Land Administration, Office of Titles, or Registry of Deeds; or~~

~~(e) of a conveyance registered under the Registration of Deeds Act 1856.”~~

AMENDED BY AMD 75 GG 23/6/17

“maintenance and repair works” – Refer definition in clause 1 of the deemed provisions.

“marina” means-

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

INSERTED BY AMD 80 GG 14/04/19

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

INSERTED BY AMD 80 GG 14/04/19

“massage rooms” means premises used by a masseur or which provides therapeutic massage or similar services;

“Metropolitan Region Scheme” means the Metropolitan Region Scheme made under the Metropolitan Region Town Planning Scheme Act 1959 Act;

AMENDED BY AMD 75 GG 23/6/17

“Metropolitan Region Scheme reserve” means land reserved under the Metropolitan Region Scheme;

“Minister” means the Minister for Planning or the Minister of the Western Australian Government responsible for town planning;

“Minister for Heritage” – Refer definition in clause 1 of the deemed provisions.

~~**“motel”** means any land or buildings used or intended to be used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the accommodation of patrons with motor vehicles and to which a licence under the Liquor Licencing Act 1988 may have been granted.~~

“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;

AMENDED BY AMD 80 GG 14/04/19

“motor vehicles and marine sales premises” means any land or buildings used for the display and sale of new or second hand motor-cycles, cars, trucks, caravans and boats or any one or more of them and may include the servicing of motor vehicles sold from the site;

“motor vehicle repair” means premises used for or in connection with-

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

INSERTED BY AMD 80 GG 14/04/19

“motor vehicle wash” means premises primarily used to wash motor vehicles;

INSERTED BY AMD 80 GG

14/04/19

~~**“multiple dwelling”** has the same meaning given to it in the Residential Design Codes R-Codes.~~

AMD 39 GG 10/7/07

Note:

Clause 2.2 of the Residential Design Codes defines “multiple dwelling” to mean – “a dwelling in a group of more than one where any part of a dwelling is vertically above part of any other but

does not include a grouped dwelling”;

~~“The R-Codes defines “multiple dwelling” to mean —“a dwelling in a group of more than one dwelling on a lot where any part of the plot ratio area of a dwelling is vertically above any part of the plot ratio area of any other but :~~

- ~~• does not include a grouped dwelling; and~~
- ~~• includes any dwellings above the ground floor in a mixed use development.”~~

~~AMENDED BY AMD 75 GG 23/6/17~~

“multiple dwelling” – Refer definition in clause 1 of the deemed provisions.

~~“**natural ground level**” for all forms of development means the levels on a site which precede the proposed development. Where it is evident that the site has been substantially modified by a previous development, the natural ground level will be determined at Council’s discretion using either the corners of the site as reference points or historical data;—~~ AMD 46 GG 03/09/10

“natural ground level” – Refer definition in clause 1 of the deemed provisions.

“net floor area” for the purpose of determining car parking requirements under the parking policy, has the same meaning as “plot ratio floor area”, but does not include any area of public fee paying car parks. AMD 46 GG 03/09/10

~~“**net lettable area**” means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas —~~

- ~~(a) all 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;~~

~~AMSD 61 GG 14/11/14~~

~~“**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 spaces and 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;~~

~~AMENDED BY AMD 80 GG 14/04/19~~

“net lettable area” or “nla” – Refer definition in clause 1 of the deemed provisions.

~~“**night club**” means premises in respect of which a cabaret licence is required pursuant to the Liquor Licensing act 1988 in order to trade and includes any land or other premises associated with the licensed premises;~~

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

AMENDED BY AMD 80 GG

14/04/19

“non-conforming use” means a use of land which, although lawful immediately prior to the coming into operation of this Scheme, is a prohibited use;

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

AMENDED BY AMD 80 GG 14/04/19

“non-conforming use” – Refer definition in clause 1 of the deemed provisions.

“noxious industry” means an industry which is subject to licensing as “Prescribed Premises” under the *Environmental Protection Act 1986* (as amended);

“nursing home” means any building used for the medical treatment or care of sick persons, whether resident or not, but does not include consulting rooms;

~~“office” means a building or part of a building used for the conduct of administration, the practise of a profession, the carrying on of agencies, a post office, bank, building society, insurance office, estate agency, typist and secretarial services, or services of a similar nature, and where not conducted on the site thereof, the administration of or the accounting in connection with a commercial or industrial undertaking;~~

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

AMENDED BY AMD 80 GG 14/04/19

~~“open air sales and display” means the use of land for the display, sale or hire of goods or equipment in the open air;~~

DELETED BY AMD 80 GG 14/04/19

~~“owner” in relation to any land includes the Crown in right of the State and the Commonwealth and every person who jointly or severally, whether at law or in equity -~~

~~(a) is entitled to the land for any estate of fee simple in possession; or~~

~~(b) is person to whom the Crown has lawfully contracted to grant the fee simple of the land; or~~

~~(c) is entitled to receive or is in receipt of, or if the lands were let to a tenant, would be entitled to receive the rents and profits, whether as a beneficial owner, trustee, mortgagee in possession or otherwise;~~ DELETED BY AMD 75 GG 23/6/17

“owner” - Refer definition in clause 1 of the deemed provisions.

“Peel Region Scheme” – Refer definition in clause 1 of the deemed provisions.

“permanently”, in relation to the term used in the land use definition of ‘residential building means six months or more. AMD 48 GG 25/01/11

“permitted use” means a use described in clauses 13 and 15;

~~“place” for the purposes of Division 2 of Part 3 dealing with places of cultural heritage significance, has the same meaning as given to it in the Heritage of Western Australia Act, 1990;~~

Note:

~~Section 3 (1) of the Heritage of Western Australia Act 1990 defines “place” to mean - “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 sea shore 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 purposes of this Act and such of their immediate surroundings as may be required for the purposes of the conservation of those works or buildings;~~

~~(c) as much of the land beneath the place as is required for the purposes of its conservation”.~~ DELETED BY AMD 75 GG 23/6/17

“planning development approval” means approval, with or without conditions, granted by Council in respect of an application, to begin or continue development; AMENDED BY AMD 75 GG 23/6/17

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

INSERTED BY AMD 80 GG 14/04/19

“planning policy” means a local planning policy made by the Council under ~~clause 46~~ pursuant to Part 2 Division 1 of the deemed provisions; *AMD 68 GG 31/7/15; AMD 69 GG 2/12/16*

“plot ratio” means —

- (a) ~~Residential Development: the ratio of the gross total of all floors of buildings on a site to the area of land in the site boundaries. For this purpose, such areas shall include the area of any walls but excludes the area of any lift shafts, the stairs or stair landings common to two or more dwellings, machinery, air conditioning and equipment rooms, space that is wholly below natural ground level, areas used exclusively for the parking of vehicles at or below natural ground level, lobbies or amenities areas common to more than one dwelling, or balconies or verandahs;~~
- (b) ~~Non-Residential Development: The ratio of the gross total area of fully enclosed covered areas of a building(s) on a site to the area of land in the site boundaries, excluding —~~
- ~~—— Toilets and bathrooms;~~
 - ~~—— Lift shafts, stairs and stair landings;~~
 - ~~—— Machinery, air conditioning, storage, equipment and plant rooms;~~
 - ~~—— Lobbies and circulation spaces common to two or more tenancies;~~
 - ~~—— Staff tea preparation, lunch areas or amenities;~~
 - ~~—— Staff changeroom/locker facilities;~~
 - ~~—— Areas used for the parking of vehicles at or below ground level;~~
 - ~~—— Balconies, verandahs, terraces and courtyards, and~~
 - ~~—— Space that is wholly below natural ground level;~~

AMD 46 GG 03/09/10

“plot ratio” means the ratio of the gross plot ratio area of buildings on a development site to the area of land in the site boundaries;

AMENDED BY AMD 80 GG 14/04/19

“plot ratio floor area” means the floor area of a building as calculated in accordance with the definition of “plot ratio”. *AMD 46 GG 03/09/10*

DELETED BY AMD 80 GG 14/04/19

“plot ratio area” –

- (a) Residential Development: as defined by the R-Codes;
- (b) Non-Residential Development: The ratio of the gross total area of fully enclosed covered areas of a building(s) on a site to the area of land in the site boundaries, excluding -
- Toilets and bathrooms;
 - Lift shafts, stairs and stair landings;
 - Machinery, air conditioning, storage, equipment and plant rooms;
 - Lobbies and circulation spaces common to two or more tenancies;
 - Staff tea preparation, lunch areas or amenities;
 - Staff changeroom locker facilities;
 - Areas used for the parking of vehicles at or below ground level;
 - Balconies, verandahs, terraces and courtyards; and
 - Space that is wholly below natural ground level;

INSERTED BY AMD 80 GG 14/04/19

“precinct” means an area or neighbourhood of limited size having —

- (a) ~~a similar use or other characteristics; and~~
- (b) ~~specified boundaries.~~

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

AMENDED BY AMD 80 GG 14/04/19

“precinct plan” means a document setting out the planning intentions for a particular precinct;

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

INSERTED BY AMD 80 GG 14/04/19

~~“premises” includes land and buildings;~~ DELETED BY AMD 75 GG 23/6/17

“premises” - Refer definition in clause 1 of the deemed provisions.

“prohibited use” means a use described in clauses 13 and 15;

“public authority” has the same meaning given to it in the Act;

Note:

~~Section 2 (1) of the Act defines “public authority” to mean -
“a Minister of the Crown acting in his official capacity, a State Government department, State trading concern, State instrumentality, State public utility and any other person or body, whether corporate or not, who or which, under the authority of any Act, administers or carries on for the benefit of the State, a social service or public utility”.~~ AMENDED BY AMD 75 GG 23/6/17

“public utility” means any works or undertaking constructed or maintained by a public authority, Commonwealth agency or municipality to provide water, sewerage, electricity, gas, drainage, communications or other similar services;

~~“public worship – place of” means any land or buildings used primarily for religious activities but does not include an institution for primary, secondary, or higher education, or a residential training institution;~~ DELETED BY AMD 80 GG 14/04/19

“R-Codes” - Refer definition in clause 1 of the deemed provisions.

“reception centre” means premises used for hosted functions on formal or ceremonial occasions; INSERTED BY AMD 80 GG 14/04/19

“recreation-private” means premises that are-

- (a) used for indoor or outdoor leisure, recreation or sport; and
- (b) not usually open to the public without charge; INSERTED BY AMD 80 GG 14/04/19

“refund amount” – Refer definition in clause 1 of the deemed provisions.

“refund point” – Refer definition in clause 1 of the deemed provisions.

“region planning scheme” - Refer definition in clause 1 of the deemed provisions.

“register of non-conforming uses” means the register kept in accordance with clause 19;

~~“register of places of cultural heritage significance” means the register kept in accordance with clause 27;~~ DELETED BY AMD 75 GG 23/6/17

“research and development” means scientific and industrial research and the development, production and assembly of products associated with that research;

“reserve” - Refer definition in clause 1 of the deemed provisions.

“residential building” has the same meaning given to it in the Residential Design Codes R-Codes. AMD 39 GG 10/7/07

Note:

~~Clause 2.2 of The Residential Design Codes R-Codes defines “residential building” to mean -~~
"a building or portion of a building, together with rooms and outbuildings separate from such building but incidental thereto; such building being used or intended, adapted or designed to be used for the purpose of human habitation:

- temporarily by two or more persons, or
- permanently by seven or more persons, who do not comprise a single family; but does not include a hospital or sanatorium, a prison, a hotel, a motel, or a residential school"; AMENDED BY AMD 75 GG 23/6/17

~~“Residential Design Codes” means the Residential Design Codes set out in Appendix 1 of the Statement of Planning Policy No. 3.1 prepared under Section 5AA of the Act, as amended from time to time; AMD 39-GG-10/7/07 DELETED BY AMD 75 GG 23/6/17~~

~~“Residential Planning Codes” means the Residential Planning Codes set out in Appendix 2 to the Statement of Planning Policy No.1 prepared under 5AA of the Act, gazetted on 13 December 1991. AMD 39-GG-10/7/07~~

Note:

~~The Statement of Planning Policy No. 1 Residential Planning Codes has been revoked as of 4 October 2002 and replaced with Statement of Planning Policy No. 3.1 Residential Design Codes. Reference to the Residential Planning Codes shall be regarded as a reference to the Residential Design Codes; DELETED BY AMD 75 GG 23/6/17~~

“residential zone” – Refer definition in clause 1 of the deemed provisions.

~~“restaurant” means premises where food is prepared and sold principally for consumption on these or adjacent premises but does not include a fast food outlet; DELETED BY AMD 80 GG 14/04/19~~

Note:

~~A “fast food outlet” is defined earlier in this Schedule.~~

“restaurant/café” means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises for whom seating is provided, including premises that are licenced under the *Liquor Control Act 1988*; INSERTED BY AMD 80 GG 14/04/19

~~“restricted premises” means premises used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or exhibition, display or delivery of: AMD 43-GG-31/10/08~~

~~(a) publications that are classified as restricted under the Censorship Act 1996;~~

~~(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;~~

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

(a) publications that are classified as restricted under the *Classification (Publications, Films and Computer Games) Act 1995 (Commonwealth)*; or

(b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity; or

(c) smoking-related implements; AMENDED BY AMD 80 GG 14/04/19

~~“retail” means the sale or hire of products, goods or services to the public generally in small quantities and from a shop, showroom or fast food outlet;~~

“retail” means the sale or hire of goods or services to the public; AMENDED BY AMD 80 GG 14/04/19

“retail floor area” means the floor area of each of the floors of a building used for the display or sale of goods but does not include floor areas used for concealed storage, food preparation, a workshop or a toilet;

“reverse vending machine” – Refer definition in clause 1 of the deemed provisions.

~~“Scheme area” means the area defined in clause 4 of this Scheme; DELETED BY AMD 75 GG 23/6/17~~

“Scheme area” - Refer definition in clause 1 of the deemed provisions.

“Scheme text” means the document to which this Schedule is attached and includes this and all other Schedules;

“Scheme zone” means an area, identified in clause 12 (1), for which permitted uses are described in the Zoning Table;

~~“serviced apartment” means a building or buildings which include self-contained units for transient accommodation;~~

~~“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;

AMENDED BY AMD 80 GG 14/04/19

~~“service industry”~~

- (a) a light industry carried out from premises which may have a retail shop front and from which goods manufactured on premises may be sold; or
- (b) premises having a retail shop front and used as a depot for receiving goods to be serviced; AMD 77 GG 19/06/18

~~“service station” means any land or buildings used for the retail sale of petroleum products and motor vehicle accessories and for carrying out greasing, tyre repairs, minor mechanical repairs to motor vehicles but does not include a transport depot, panel beating, spray painting, major repairs or wrecking;~~

~~“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 vehicles accessories and goods of an incidental or convenience nature; or
- (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles;

AMENDED BY AMD 80 GG 14/04/19

~~“shop” means any building premises wherein goods are kept, exposed or offered for sale by retail, or within which services of a personal nature are provided (including a hairdresser, beauty therapist or manicurist) but does not include a showroom, liquor store or fast food outlet, or any other premises specifically defined elsewhere in this part; AMD 61 GG 14/11/14;~~

Note:

~~The Interpretation Act 1984 defines "sell" to include barter, exchange, offer to sell and expose for sale".~~

~~“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;~~

14/04/19

AMENDED BY AMD 80 GG

~~“showroom” means any building or part of a building used or intended for use for the purpose of displaying or offering for sale by wholesale or retail, automotive spare parts, carpets, large electrical appliances, furniture, hardware or goods of a bulky nature but does not include the sale by retail of foodstuffs, liquor or beverages, items of clothing or apparel, magazines, newspapers, books or paper products, china, glassware or domestic hardware, or items of personal adornment;~~

14/04/19

DELETED BY AMD 80 GG

~~“single bedroom dwelling” has the same meaning given to it in the Residential Design Codes R-Codes. AMD 39 GG 10/7/07; AMENDED BY AMD 75 GG 23/6/17~~

Note:

~~Clause 2.2 of The Residential Design Codes R-Codes defines "single bedroom dwelling" to mean - a dwelling that contains a living room and no more than one other habitable room that is capable of use as a bedroom"; AMENDED BY AMD 75 GG 23/6/17~~

~~“single house” has the same meaning given to it in the Residential Design Codes R-Codes;~~

AMD 39 GG 10/7/07; AMENDED BY AMD 75 GG 23/6/17

Note:

~~Clause 2.2 of The Residential Planning Codes R-Codes defines "single house" to mean - "a~~

~~dwelling standing wholly on its own green title or survey strata lot, together with any easement over adjoining land for support of a wall or for access or services and excludes dwellings on titles with areas held in common property";~~ AMENDED BY AMD 75 GG 23/6/17

"single house" – Refer definition in clause 1 of the deemed provisions.

"site works" – Refer definition in clause 1 of the deemed provisions.

"small bar" means premises the subject of a small bar licence granted under the *Liquor Control Act 1988*;
14/04/19 INSERTED BY AMD 80 GG

"special control area" - Refer definition in clause 1 of the deemed provisions.

"storey" means that portion of a building which is situated between the top of any floor and the top of the floor next above it and if there is no floor above it, that portion between the top of the floor and the ceiling or underside of a roof above it, with the following exclusions:

- (a) roof structures of a high quality design that reduce the visual impact of lift plant and other similar utility or services, not exceeding 3.0 metres in height; and
- (b) unenclosed roof structures of a high quality design that provide weather protection to areas used for private or communal open space, not exceeding 3.0 metres in height, such that the roof structure does not represent more than 25% of the floor area of the uppermost level of the building and is no more than 50% of the length or width of the uppermost level of the building; and
- (c) minor architectural projections or external fixtures above the roof line; and
- (d) any portion of a building having 50% or more of its volume located below natural ground level; and
- (e) a floor area wholly contained within the roof space and having no vertical walls extending outside the external angle of the roof space, with the exception of the dormer windows.

Note: The definition of storey does not apply to Single Houses and Grouped Dwellings within the 'Residential Zone'. The height standards for these forms of development are as per the ~~Residential Design Codes R-Codes~~;

AMD 46 GG 03/09/10; AMENDED BY AMD 75 GG 23/6/17

"street alignment" means the boundary between the land comprising a street and the land abutting it, but, where a new street alignment is prescribed, means the boundary between that land and that new street alignment;

"street setback area" – Refer definition in clause 1 of the deemed provisions.

~~**"substantially commenced"** means that work or development the subject of planning approval has been begun by the performance of some substantial part of that work or development;~~ AMD 39 GG 10/7/07; DELETED BY AMD 75 GG 23/6/17

"substantially commenced" - Refer definition in clause 1 of the deemed provisions.

~~**"tavern"** means any land or buildings the subject of a Tavern Licence granted under the provisions of the Liquor Licensing Act 1988;~~

"tavern" means premises the subject of a tavern licence granted under the *Liquor Control Act 1988*;
AMENDED BY AMD 80 GG 14/04/19

"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;
INSERTED BY AMD 80 GG 14/04/19

"temporary", in relation to the term used in the land use definition of 'residential building' means less than six months.
AMD 48 GG 25/01/11

"Town" means the Town of Victoria Park established as a municipality under the *Local Government Act*;

Note:

The division of the municipality of the former City of Perth was effected by S.9 of the *City of Perth Restructuring Act 1993*.

“Town of Victoria Park Scheme reserve” means land reserved under this Scheme and shown on a Precinct Plan as a Town of Victoria Park Scheme reserve;

~~“transport depot” means any premises used-~~

~~(a) for the garaging of vehicles used or intended for use for the carriage of goods for hire or reward; or~~

~~(b) for the transfer of goods from one such vehicle to another such vehicle whether or not the land or the building is also used for the maintenance and repair of the vehicles;~~

“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; AMENDED BY AMD 80 GG 14/04/19

“unlisted use” has the meaning given to it in clause 16 of the Scheme Text;

“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;

INSERTED BY AMD 80 GG 14/04/19

~~“warehouse” means a building wherein goods are stored and may be offered for sale by wholesale;~~

DELETED BY AMD 80 GG 14/04/19

“wall height” – Refer definition in clause 1 of the deemed provisions.

“warehouse/storage” means premises including indoor or outdoor facilities used for -

- (a) the storage of goods, equipment, plant or materials; or
- (b) the display or sale by wholesale of goods; INSERTED BY AMD 80 GG 14/04/19

“Western Australian Planning Commission” means the Commission established by ~~Section 4 of the Western Australian Planning Commission Act 1985~~ the Act; AMENDED BY AMD 75 GG 23/6/17

“WARR Act” – Refer definition in clause 1 of the deemed provisions.

“wholesale” means the sale of goods or materials to be sold by others; INSERTED BY AMD 80 GG 14/04/19

“works” - Refer definition in clause 1 of the deemed provisions.

“zone” - Refer definition in clause 1 of the deemed provisions.

“Zoning Table” means the table set out at the end of clause 15;

2. In this Scheme, unless the contrary intention appears, a reference to -

- (a) land, includes part of the land;
- (b) premises, includes part of the premises; and
- (c) a building, includes part of the building;

Note:

The reference to "this Scheme" in clauses 1 and 2 includes all the Scheme documents listed in clause 3 (1) of the Scheme text.

SCHEDULE 2 C: ADDITIONAL USES

AMENDED BY AMD 75 GG 23/6/17

	Ref. No.	Land Particulars	Permitted Uses	Development Standards/Conditions
A1	1	<p>No. 47 (Lot 10) Star Street, Carlisle on Diagram 65589</p> <p><i>AMD 27 GG 3/2/04</i></p>	Office for Accountants only	<ol style="list-style-type: none"> 1. Additional Use of Office is restricted to use by accountants. 2. Additional Use of Office for accountants to be limited to the existing building identified by Strata Lot 2 on Strata Plan 11861. 3. Additional Use of Office for Accountants to be limited to existing building only with any redevelopment, extension or demolition relating to the subject Strata Lot 2 extinguishing the Additional Use. 4. A maximum of one sign to a maximum size of 1m² is permitted on Strata Lot 2.
A2	2	<p>No. 9 (Lot 712, Strata Lot 11) McMillan Street, Victoria Park on Vol 2546 Fol 485 Strata Plan 43914</p> <p><i>AMD 41 GG 9/2/07</i></p>	Office for Financial Planning Service only	<ol style="list-style-type: none"> 1. Additional Use of Office is restricted to use by Financial Planning Service. 2. Additional Use of Office for Financial Planning Service to be limited to the existing building identified by Strata Lot 11 on Strata Plan 43914. 3. Additional Use of Office for Financial Planning Service to be limited to existing building only with any redevelopment, extension or demolition relating to the subject Strata Lot 11 extinguishing the Additional Use. 4. A maximum net floor area of 94.6m² to be used for the Office for Financial Planning Service. 5. A minimum of two carparking bays to be provided on Strata Lot 11 at all times for use of the Office for Financial Planning Service.

	Ref. No.	Land Particulars	Permitted Uses	Development Standards/Conditions
A3	3	No. 10-12 (Lot 100) Asquith Street, Burswood on Diagram 72633, Volume 1781, Folio 957 <i>AMD 58 GG 11/12/12</i>	Motor Vehicle and Marine Sales Premises	<p>1. The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish in the following circumstances –</p> <p>(a) upon the expiry of ten (10) years from the date that an application for planning development approval for the use is first granted by the Council, except where a further application(s) for planning development approval has been granted for the continued operation of the use whereby the Additional use shall extinguish upon the expiry of that approval(s); or</p> <p>(b) upon the demolition, destruction or redevelopment of seventy-five (75) per cent or more of the value of the building(s) on the land approved to carry out the use;</p> <p>Whichever occurs first.</p> <p>2. The sale and display of vehicles is not to occur within the building(s) approved to carry out the use at all times.</p> <p>3. the open air sale and display of vehicles is not permitted.</p> <p>4. The use of any part of the existing building(s) on the site other than as a Motor Vehicle and Marine Sales Premises is restricted to the storage of vehicles incidental to the use only, or as otherwise permitted by a valid planning development approval for the site.</p> <p>5. The existing building being externally upgraded to the satisfaction of the Town.</p>

	Ref. No.	Land Particulars	Permitted Uses	Development Standards/Conditions
A4	4	No. 101 (Lot 800) Albany Highway, Victoria Park on Volume 2639, Folio 400 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A5	5	No. 107 – 111 (Lots 4 & 5) Albany Highway, Victoria Park on Volume 33, Folio 50A <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A6	6	No. 115 (Lot 51, Strata Lots 1, 2, 3, 4 & 5) Albany Highway, Victoria Park on Volume 2001, Folio 53, 54, 55, 56 & 57 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A7	7	No 141 (Lot 800) Albany Highway, Victoria Park on Volume 1906, Folio 175 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A8	8	No. 1-7 (Lot 22) Shepperton Road, Victoria Park on Volume 1930, Folio 266 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.

	Ref. No.	Land Particulars	Permitted Uses	Development Standards/Conditions
A9	9	No. 160 (Lots 1 & 2) Albany Highway, Victoria Park on diagram P002908 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A10	10	No. 9 (Lot 100) Albany Highway, Victoria Park on Volume 1930, Folio 268 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A11	11	No. 49-51 (Lots 51, 29, 9 & 10) Shepperton Road, Victoria Park on Volume 1422, Folio 574 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A12	12	No. 182 (Lot 1) Albany Highway, Victoria Park on Volume 1618, Folio 187 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A13	13	No. 184 (Lot 11) Albany Highway, Victoria Park on Volume 1218, Folio 305 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.

	Ref. No.	Land Particulars	Permitted Uses	Development Standards/Conditions
A14	14	No. 188 (Lots 4) Albany Highway, Victoria Park on Volume 1303, Folio 371 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A15	15	No. 190 (Lot 5) Albany Highway, Victoria Park on Volume 1303, Folio 371 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A16	16	No. 192 (Lot 6) Albany Highway, Victoria Park on Volume 1624, Folio 473 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A17	17	No. 196 (Lot 7 & 8) Albany Highway, Victoria Park on Volume 335, Folio 38A <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A18	18	No. 181 (Lots 283, 284 & 285) Albany Highway, Victoria Park on Volume 1458, Folio 947, Diagram P004377 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.

	Ref. No.	Land Particulars	Permitted Uses	Development Standards/Conditions
A19	19	No. 211-213 (Lot 1) Albany Highway, Victoria Park on Volume 145, Folio 120A <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A20	20	No. 210-246 (Lot 8) Albany Highway, Victoria Park on Volume 2122, Folio 537 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A21	21	No. 2 (Lots 3 & 92) Teddington Road, Victoria Park on Volume 1356, Folio 715, Diagram D046191 & D002908 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A22	22	No. 9 (Lot 7) Rushton Street, Victoria Park on Volume 2104, Folio 881 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A23	23	No. 61 – 61B (Lot 1) Shepperton Road, Victoria Park on Volume 1908, Folio 710 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.

	Ref. No.	Land Particulars	Permitted Uses	Development Standards/Conditions
A24	24	No. 495-513 (Lot 50) Albany Highway, Victoria Park on Volume 1834, Folio 825 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A25	25	No. 529-541 (Lot 101) Albany Highway, Victoria Park on Volume 2609, Folio 88 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A26	26	No. 526-528 (Lots 300 & 301) Albany Highway, Victoria Park on Volume 1667, Folio 479, Diagram P002916 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A27	27	No. 530-534 (Lot 299) Albany Highway, Victoria Park on Volume 1845, Folio 685 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A28	28	No. 544 (Lot 3) Albany Highway, Victoria Park on Volume 1652, Folio 156 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.

	Ref. No.	Land Particulars	Permitted Uses	Development Standards/Conditions
A29	29	No. 546 (Lot 2) Albany Highway, Victoria Park on Volume 1627, Folio 704 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A30	30	No. 552 (Lot 1) Albany Highway, Victoria Park on Volume 780, Folio 64 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A31	31	No. 554 (Lots 76 & 77) Albany Highway, Victoria Park on Volume 1086, Folio 139 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A32	32	No. 574 (Lot 17) Albany Highway, Victoria Park on Volume 105, Folio 10A <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A33	33	No. 577 (Lot 991) Albany Highway, Victoria Park on Volume 1474, Folio 183 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.

	Ref. No.	Land Particulars	Permitted Uses	Development Standards/Conditions
A34	34	No. 579A (Lot 992) Albany Highway, Victoria Park on Volume 1028, Folio 839 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A35	35	No. 593-595 (Lot 171) Albany Highway, Victoria Park on Volume 809, Folio 51 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A36	36	No. 614 (Lot 19) Albany Highway, Victoria Park on Volume 1683, Folio 846 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A37	37	No. 621-623 (Lot 201) Albany Highway, Victoria Park on Volume 1087, Folio 751 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A38	38	No. 625-629 (Lot 203) Albany Highway, Victoria Park on Volume 1366, Folio 345 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.

	Ref. No.	Land Particulars	Permitted Uses	Development Standards/Conditions
A39	39	No. 635-639 (Lot 1053) Albany Highway, Victoria Park on Volume 1718, Folio 525 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A40	40	No. 645-645A (Lot 56) Albany Highway, Victoria Park on Volume 1327, Folio 175 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A41	41	No. 1 (Lot 57) Tuam Street, Victoria Park on Volume 1225, Folio 832 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A42	42	No. 646 (Lots 451, 1 & 2) Albany Highway, Victoria Park on Volume 1685, Folio 987 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A43	43	No. 652 (Lot 327) Albany Highway, Victoria Park on Volume 1205, Folio 955 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.

	Ref. No.	Land Particulars	Permitted Uses	Development Standards/Conditions
A44	44	No. 1-3 (Lot 329) Miller Street, Victoria Park on Volume 1430, Folio 968 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A45	45	No. 660 (Lot 24) Albany Highway, Victoria Park on Volume 1104, Folio 273 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A46	46	No. 661 (Lots 1 & 2) Albany Highway, Victoria Park on Volume 1240, Folio 947, Diagram 005338 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A47	47	No. 667 (Lot 1083) Albany Highway, Victoria Park on Volume 1571, Folio 20 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A48	48	No. 671 (Lot 84) Albany Highway, Victoria Park on Volume 2568, Folio 378 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.

	Ref. No.	Land Particulars	Permitted Uses	Development Standards/Conditions
A49	49	No. 688 (Lot 2) Albany Highway, Victoria Park on Volume 1342, Folio 96 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A50	50	No. 707-709 (Lots 4 & 6) Albany Highway, Victoria Park on Volume 1166, Folio 413 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A51	51	No. 716 (Lot 6) Albany Highway, Victoria Park on Volume 1655, Folio 220 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A52	52	No. 720 (Lot 7) Albany Highway, Victoria Park on Volume 1655, Folio 219 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.
A53	53	No. 767 (Lots 11 & 12) Albany Highway, Victoria Park on Volume 1471, Folio 296 <i>AMD 60 GG 19/8/14</i>	Motor Vehicle and Marine Sales Premises	The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish where the use of the site for Motor Vehicle and Marine Sales Premises is discontinued for a period of six months or more, except where the site is being redeveloped in accordance with a valid planning development approval for Motor Vehicle and Marine Sales Premises.

	Ref. No.	Land Particulars	Permitted Uses	Development Standards/Conditions
A54	54	2 – 8A (Lots 1,2,137-141) Basinghall Street, Victoria Park <i>AMD 67 GG 5/5/17</i>	Multiple Dwellings	<p>Development to be in accordance with the following development standards and conditions, with variations permitted subject to achieving the outcomes identified in the relevant section below:</p> <p><u>General</u></p> <ul style="list-style-type: none"> Where there is an inconsistency between the development standards and conditions applicable to additional use A54 and the provisions of the Scheme, the Residential Codes and/or Council policies, the development standards and conditions applicable to additional use A54 prevail. <p><u>Residential Density</u></p> <ul style="list-style-type: none"> Development to be in accordance with the R60 residential code. <p><u>Setbacks</u></p> <ul style="list-style-type: none"> Minimum 4.0 metre setback to Basinghall Street. Minimum 4.0 metre setback from the north-eastern boundary. Other boundary setbacks as per the Residential Design Codes. <p><u>Building Height</u></p> <p>Subject to the setback requirements stated above the following building height limits apply:</p> <ul style="list-style-type: none"> Single storey development on any portion of the site. Development setback a minimum of 6.5 metres from the south-eastern boundary and setback consistent with Residential Design Codes from the south-western site boundary may comprise 2 storeys up to a maximum wall height of 6 metres. Development setback a minimum of 10.5 metres from the south – eastern boundary and a minimum of 5.5 metres from the south-western site boundaries may comprise 3 storeys up to a maximum wall height of 9 metres. Development to a maximum of 4 storeys up to a maximum wall height of 15 metres is permitted, where;

	Ref. No.	Land Particulars	Permitted Uses	Development Standards/Conditions
				<ul style="list-style-type: none"> ▪ Adjacent to the Basinghall Street frontage the 4th storey is located behind the alignment of the 3rd storey within a 45 degree recession plane. ▪ The 4th storey is setback a minimum of 19.5 metres from the south – eastern boundary. ▪ The 4th storey is setback a minimum of 14 metres from the south – western boundary. <p><u>Variations to Development Standards</u></p> <ul style="list-style-type: none"> • Variation to development standards including a plot ratio of up to a maximum of 1.0 may be considered by Council where the variations and resulting development achieve positive design outcomes, positive streetscape outcomes, high levels of amenity in new dwellings, and the protection of the amenity of adjoining residential properties. <p><u>Vehicular Access</u></p> <ul style="list-style-type: none"> • A 4m wide building setback being applied over Lot 1 from the adjoining boundary of the rear of commercial zoned lots 1,2 and 148 Albany Highway to allow for vehicular access to the properties fronting Albany Highway as a joint benefit. Additional vehicular access will be considered to the site if required as part of the development design, or as part of a staged development provided the number of vehicle access points in minimised as far as practical. <p><u>Basinghall Street Façade</u></p> <ul style="list-style-type: none"> • Buildings designed to address Basinghall Street with individual access to the ground floor units to Basinghall Street and with a high degree of surveillance over Basinghall Street are preferred. • The proposed development is to include design elements that reflect the architectural elements and streetscape of the locality.

	Ref. No.	Land Particulars	Permitted Uses	Development Standards/Conditions
A55	55	No. 18 (Lot 101) Twickenham Road, Burswood on Diagram 77286, Volume 1863, Folio 639 <i>AMD 76 GG 24/11/17</i>	Motor Vehicle and Marine Sales Premises	<p>1. Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish in the following circumstances:</p> <p>(a) upon the expiry of ten (10) years from the date that an application for development approval for the use is first granted by the Council, except where a further applications(s) for development approval has been granted for the continued operation of the use whereby the Additional Use shall extinguish upon the expiry of that approval(s); or</p> <p>(b) upon the demolition, destruction or redevelopment of seventy-five (75) per cent or more of the value of the buildings(s) on the land approved to carry out the use;</p> <p>2. The sale and display of vehicles is to occur within the building(s) approved to carry out the use at all times.</p> <p>3. The open air sale and display of vehicles is not permitted.</p> <p>4. The use of any part of the existing building(s) on the site other than as a Motor Vehicle and Marine Sales premises is restricted to the storage of vehicles incidental to the use only, or as otherwise permitted by a valid development approval for the site.</p> <p>5. The existing building being externally upgraded to the satisfaction of the Town.</p>
A56	56	Nos. 7, 9, 11 & 15 (Lots 2, 3, 31 & 32) Teddington Road, Burswood <i>AMD 83 GG 08/12/2020</i>	Motor Vehicle and Marine Sales Premises	<p>1. The Additional Use of Motor Vehicle and Marine Sales Premises shall extinguish upon the expiry of eleven (11) years from the gazettal date of this amendment, except where a further application for development approval has been granted for the continued operation of the use whereby the Additional Use shall extinguish upon the expiry of that approval(s);</p> <p>2. The sale and display of vehicles is to occur within the building(s) or structure(s) approved to carry out the use at all times; and</p> <p>3. Development is to result in a significant improvement to the visual appearance of the site.</p>

	Ref. No.	Land Particulars	Permitted Uses	Development Standards/Conditions
A57	57	No. 53-55 (Lots 31, 32 and 33) Canning Highway, Victoria Park on Plan 1741 <i>AMD 85 GG 27/04/2021</i>	Restaurant/Café (AA)	<ol style="list-style-type: none"> 1. Additional Uses is restricted to the ground floor at the corner of Taylor Street and McCallum Lane. 2. Additional Use must address the street to the satisfaction of the Town. 3. The maximum net lettable area of any Restaurant/Café uses shall be 120m² in aggregate. 4. The Additional Use of Restaurant/Café shall be deemed to be an 'AA' use for the purposes of the Scheme. 5. A development application for the Additional Uses is to be supported by technical reports assessing the parking demands of the use, and the extent of available nearby public parking.
A58	58	No. 98 (Lot 5) Goodwood Parade, Burswood on Plan 3983 and Volume/Folio 1082/142; No. 100 (Lot 4) Goodwood Parade, Burswood on Plan 3983 and Volume/Folio 1882/80; No. 102 (Lot 3) Goodwood Parade, Burswood on Plan 3983 and Volume/Folio 1230/279; No. 104 (Lot 2) Goodwood Parade, Burswood on Plan 3983 and Volume/Folio 1776/803; and No. 106 (Lot 1) Goodwood Parade, Burswood on Plan 3983 and Volume/Folio 1776/802. <i>AMD 91 GG 17/02/2023</i>	Tavern ('AA')	<p>The Additional Use of Tavern shall:</p> <ol style="list-style-type: none"> 1. Be deemed to be an 'AA' use for the purposes of the Scheme; and 2. Extinguish upon the expiry of ten (10) years from the gazettal date of this amendment, except where an application(s) for planning approval has been granted for the continued operation of the use beyond this time, in which case the Additional Use shall extinguish upon the expiry of that approval(s);

~~SCHEDULE 4 D: ADVERTISEMENTS REQUIRING PLANNING DEVELOPMENT APPROVAL~~

AMENDED BY AMD 75 GG 23/6/17

Type of Advertisement	Locations
Signs that require planning development approval under Part 6 of the Town of Victoria Park Signs Local Law 2006 (as amended from time to time)	All properties within the municipal district of the Town
<i>AMD 40 GG 9/2/07; AMENDED BY AMD 75 GG 23/6/17</i>	

DELETED BY AMDT 81. GG 25/1/2019

SCHEDULE 5: NOTICE OF COUNCIL DECISION

AMD 39 GG 10/7/07; AMD 48 GG 25/01/11 DELETED BY AMD 75 GG 23/6/17

_____ Date: _____

_____ File No: _____

_____ Serial No: _____

_____ **THIS IS NOT A BUILDING LICENCE**

PLANNING AND DEVELOPMENT ACT 2005
TOWN OF VICTORIA PARK TOWN PLANNING SCHEME NO. 1

NOTICE OF PLANNING APPROVAL/REFUSAL

PROPOSAL:

LOCATION:

NAME OF OWNER OF LAND ON WHICH THE DEVELOPMENT IS PROPOSED:

SURNAME/COMPANY NAME:

OTHER NAMES:

ADDRESS:

Approval to commence development in accordance with the Application for Planning Approval dated _____ and the approved/refused plans date stamped _____ was **APPROVED/REFUSED** by the Council, at its Meeting held on _____ in accordance with the provisions of the Town of Victoria Park Town Planning Scheme No. 1 and the Metropolitan Region Scheme, subject to the attached conditions/and having regard to the matters it is required to consider by the Schemes generally and in particular for the following reasons:

NOTE: ~~SHOULD THE APPLICANT BE AGGRIEVED BY THIS DECISION A RIGHT OF APPEAL MAY EXIST UNDER THE PROVISIONS OF THE TOWN PLANNING SCHEME OR THE METROPOLITAN REGION SCHEME.~~

This approval is valid for a period of _____ months only. If development is not substantially commenced within this period a fresh approval must be obtained before commencing or continuing the development.

_____ **CHIEF EXECUTIVE OFFICER**

_____ **DATE**

~~SCHEDULE 6: REGISTER OF PLACES OF CULTURAL HERITAGE SIGNIFICANCE~~

~~This Register contains places of cultural heritage significance. Places will be added to the Register occasionally and the Council's Planning Department should be contacted to conform whether or not a place is being considered for inclusion on the Register.~~

~~It should be noted that the Register contains the following three types of listings~~

- ~~• individual places;~~
- ~~• groups of places; and~~
- ~~• precincts.~~

~~Where a letter appears after the address of a place it signifies that the place is either part of a group of places (G), a precinct (P) or both (PG).~~

Location	Place	Estimated Date of Construction	Entry into Register of Places of Cultural Heritage Significance	Heritage Council of WA – Register of Heritage Places & Date of Listing
No. 314 Albany Hwy, Victoria Park	Broken Hill Hotel	1899	Gazettal date of Town Planning Scheme No 1	
No. 414-420 Albany Hwy, Victoria Park	Victoria Park Post Office	1913 to c1955	Gazettal date of Town Planning Scheme No 1	Permanent Listing – 10 October 1995
No. 990 Albany Hwy, East Victoria Park	Edward Millen Home (Hillview)	1912	Gazettal date of Town Planning Scheme No 1	
No. 1 Cargill Street, Victoria Park	Victoria Park Primary School	C1894 to 1940	Gazettal date of Town Planning Scheme No 1	Permanent Listing – 27 February 1996
No. 86 Mackie Street, Victoria Park	'Devenish House' (formerly known as 'Forrest Farmhouse')	1890	Gazettal date of Town Planning Scheme No 1	

DELETED BY AMD 75 GG 23/6/17

SCHEDULE 7-E: SPECIAL CONTROL AREAS

AMD 30 GG 17/2/04; AMENDED BY AMD 75 GG 23/6/17

Area No	Land Description	Purpose and Particular Requirements
DA1	The whole of the area being portion of Swan Loc 35 (known as Belmont Park Racecourse)	A structure Plan must be prepared and approved prior to any subdivision and/or development of the land, with the exception of development or use associated with the current racecourse activities.
	<i>AMD 23A GG 6/4/04</i>	
BD1	Lot 905 Burswood Road (known as Sands & McDougall site) as being land designated on Precinct Plan P3 – Causeway Precinct as BD 1 and included in Plan “BD 1 – Lot 905 Burswood Road, Burswood”	<p data-bbox="868 521 1222 553">(1) Planning Objectives</p> <p data-bbox="963 584 1414 674">The objectives for development and planning decisions making within BD 1 are:</p> <ul style="list-style-type: none"> <li data-bbox="963 705 1414 795">(a) the development of BD 1 as a whole in a co-ordinated manner; <li data-bbox="963 797 1414 887">(b) the adequate provision of carparking areas for residents and visitors; <li data-bbox="963 889 1414 1039">(c) the adequate provision of landscaped areas and green space offering attractive areas for pedestrians and residents; <li data-bbox="963 1041 1414 1245">(d) where provision is made between subdivisional lots for the sharing of open space, ensuring the long term availability of shared communal open space to occupiers of those lots; and <li data-bbox="963 1247 1414 1435">(e) ensuring the long term re-arrangement of plot ratio entitlements between parts of BD 1 which are or may be subdivided into separate lots. <p data-bbox="868 1467 1414 1713">(2) In addition to the matter referred to in clause 36(5) deemed clause 67 the Council shall have regard to the objectives set out in the preceding subclause when determining any application for planning development approval on land within BD 1.</p> <p data-bbox="868 1744 1414 1803">(3) Conflict with other provisions of the Scheme</p> <p data-bbox="963 1836 1414 2018">Where a provision contained in this Schedule pertaining to BD 1 is inconsistent with any other provision of the Scheme, the provision contained in this Schedule pertaining to BD 1 shall prevail.</p>
	<i>AMD 24 GG 18/2/05</i>	

AMENDED BY AMD 75 GG 23/6/17

Area No	Land Description	Purpose and Particular Requirements
BD1	<p>Lot 905 Burswood Road (known as Sands & McDougall site) as being land designated on Precinct Plan P3 – Causeway Precinct as BD 1 and included in Plan “BD 1 – Lot 905 Burswood Road, Burswood” (Cont’d)</p> <p><i>AMD 24 GG 18/2/05</i></p>	<p>(4) Plot Ratio</p> <p>(a) Reference in this clause to Lot 1, Lot 2, Lot 3 or Lot 4, or to the ROW is a reference to the land so designated in Plan ‘BD 1 – Lot 905 Burswood Road’ as contained in this Schedule.</p> <p>(b) For the purpose of determining plot ratio with respect to land within BD 1, Lot 1 and Lot 2 shall be treated as separate sites, each having plot ratio entitlements in accordance with the Scheme.</p> <p>(c) The area of any land taken from either of Lot 1 or Lot 2 and added to the ROW shall be notionally added back to the area of the Lot from which it was taken for the purpose of calculating the plot ratio entitlement of that lot.</p> <p>(d) Lots 3 and 4 shall be treated as one site for the purpose of calculating plot ratio. Regardless of how the plot ratio is distributed between the lots, the total plot ratio entitlements over the area of the two lots shall not exceed the plot ratio entitlements applicable to that area of land under this Scheme.</p> <p>(5) Carparking</p> <p>(a) Reference in this clause to Lot 1, Lot 2, Lot 3 or Lot 4, or to the ROW is a reference to the land so designated in Plan BD 1 ‘Lot 905 Burswood Road’ as contained in this Schedule.</p>

**Area No
BD1**

Land Description

Lot 905 Burswood Road (known as Sands & McDougall site) as being land designated on Precinct Plan P3 – Causeway Precinct as BD 1 and included in Plan “BD 1 – Lot 905 Burswood Road, Burswood” (Cont’d)

AMD 24 GG 18/2/05

Purpose and Particular Requirements

- (b) For the purpose of determining provisions for parking under the Scheme with respect to the land within BD 1, Lot 1 and Lot 2 shall be treated as separate sites, each having parking requirements and making provision for parking as required by any development approval issued by the Council.

- (c) Lot 3 and Lot 4 shall be treated as one site for the purpose of calculating parking requirements. Regardless of how parking areas are distributed between the lots, the total requirement for parking for the development established on the two lots shall comply with the requirements of the Scheme. The Council shall not allow any deficit of parking bays for development on one of the lots which is not made up by additional parking already provided or otherwise secured to the satisfaction of the Council on the other lot.

- (d) When the Council has approved development on either Lot 3 or Lot 4 that depends upon the provision of parking on the other lot, nothing may be done on either lot which would restrict free access from the lot benefited to the parking provided on the lot burdened by that requirement.

(6) Open Space

- (a) Reference in this clause to Lot 1, Lot 2, Lot 3 or Lot 4, or to the ROW is a reference to the land so designated in Plan ‘BD’ Lot 905 Burswood Road’ as contained in this Schedule.

Area No Land Description

Purpose and Particular Requirements

- (b) For the purpose of determining the allocation of communal open space on private land within BD 1, Lots 3 and 4 shall be treated as one site. The requirement for open space applicable to the total area of those lots may be distributed between the lots in such manner as the Council approves.
- (c) Subject to any determination by the Council to the contrary, nothing shall be done on either Lot 3 and Lot 4 which restricts free access for persons on one of those lots to communal open space areas provided on the other lot.

(7) Staged Development

- (a) Reference in this clause to Lot 1, Lot 2, Lot 3 or Lot 4 , or to the ROW is a reference to the land so designated in Plan 'BD 1 – Lot 905 Burswood Road' contained in this Schedule.
- (b) If development on either Lot 3 or Lot 4 or Lots 3 and 4 combined occurs in stages, each stage shall be constructed in such a manner that the stage has the appearance of a completed development, and without limiting the generality of the foregoing:
 - (i) the common facilities such as basement carparking areas and any common areas of open space shall be completed as part of the first stage of development; and

**Area No
BD1**

Land Description

Lot 905 Burswood Road (known as Sands & McDougall site) as being land designated on Precinct Plan P3 – Causeway Precinct as BD 1 and included in Plan “BD 1 – Lot 905 Burswood Road, Burswood” (Cont’d)

AMD 24 GG 18/2/05

Purpose and Particular Requirements

(ii) should either Lot 3 or Lot 4 be developed and development on the other lot not be commenced within twelve months after commencement of development on the first lot, the vacant land is to be landscaped to prevent unsightly vacant area.

(8) Application for ~~Town~~ Planning Development Approval

Notwithstanding any other provision of the Scheme, Council shall seek comments from all owners in the BD 1 area prior to determination of an Application for ~~Planning~~ Development Approval by the Council.

(9) Existing ~~Planning~~ Development Approval

(a) The provisions contained in this Schedule pertaining to BD1 do not in any way extend the validity of any current ~~planning~~ development approval issued prior to the coming into operation of these provisions, beyond the time period stipulated in that approval.

(b) If at the time of coming into operation of the provisions contained in this Schedule pertaining to BD 1 a valid ~~planning~~ development approval remains in operation in respect to the whole or part of any land within the area of BD 1, development may be carried out in accordance with the terms of the approval.

**Area No
BD1**

Land Description

Lot 905 Burswood Road (known as Sands & McDougall site) as being land designated on Precinct Plan P3 – Causeway Precinct as BD 1 and included in Plan “BD 1 – Lot 905 Burswood Road, Burswood” (Cont’d)

AMD 24 GG 18/2/05

Purpose and Particular Requirements

- (c) Notwithstanding the preceding provisions of this subclause, any development carried out within BD 1 whether ~~planning~~ development approval was given before or after the coming into operation of the provisions contained in this Schedule pertaining to BD 1, shall comply with the provisions of this Schedule pertaining to BD 1, and the use of land within the area of BD 1 shall be carried out in accordance with the provisions contained in this Schedule pertaining to BD 1.

- (d) To give effect to the provisions of paragraph (c), to the extent that it is necessary, it is intended that the provisions contained in this Schedule pertaining to BD 1 shall have retrospective effect.

- (10) Cessation of the Provisions Contained in This Schedule Pertaining to BD 1**
 - (a) The provisions contained in this Schedule pertaining to BD 1, with the exception of this clause, shall cease to have effect if within 5 years of the gazettal date of the amendment adding the BD 1 area to this Schedule 100% of the earthworks and footings for the floor area of the development of any one of the four lots has not been completed.

 - (b) In the event that the provisions contained in this Schedule pertaining to BD 1 cease to have effect by the operation of subclause (a), any special endorsement notation or provision whatsoever on Precinct Plan P3 – Causeway Precinct relating to BD 1 shall cease to have effect.

AMENDED BY AMD 75 GG 23/6/17

ADOPTION

Adopted by resolution of the Council of the Town of Victoria Park at the Ordinary Meeting of the Council held on the 9th day of August 1994.

J A E LEE
MAYOR

J M BONKER
CHIEF EXECUTIVE OFFICER

FINAL ADOPTION

Adopted for final approval by resolution of the Council of the Town of Victoria Park at the Ordinary meeting of the Council held on the 11th day of August 1998 and the seal of the Municipality was pursuant to that resolution, hereunto affixed in the presence of:

J A E LEE
MAYOR

J M BONKER
CHIEF EXECUTIVE OFFICER

RECOMMENDED FOR FINAL APPROVAL

CHAIRMAN OF THE
WESTERN AUSTRALIAN PLANNING COMMISSION

Date

FINAL APPROVAL GRANTED

MINISTER FOR PLANNING

Date 20 August 1998

Schedule 2 — Deemed provisions for local planning schemes

[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 —

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;

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;

ancillary dwelling has the meaning given 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;

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;

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);

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;

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;

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;

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;

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;

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 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;

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;

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;

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;

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);

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

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

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;

Scheme area means the area to which this Scheme applies;

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

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;

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;

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*;

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 1 applies, any act or thing that —
 - (i) is likely to damage the character of that place or the external appearance of any building; or
 - (ii) would constitute an irreversible alteration to the fabric of any building;

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

[Clause 1 amended: SL 2020/252 r. 44.]

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.]

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;
 - (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 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 submissions may be made, the local government must —
- (a) review the proposed policy in the light of any submissions made; and
 - (b) resolve to —
 - (i) proceed with the policy without modification; or
 - (ii) proceed with the policy with modification; or
 - (iii) not to proceed with the policy.
- (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.
- (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).

[Clause 4 amended: SL 2020/252 r. 46.]

5. Procedure for amending local planning policy

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

6. Revocation of local planning policy

A local planning policy may be revoked —

- (a) by a subsequent local planning policy that —
 - (i) is prepared in accordance with this Part; and
 - (ii) expressly revokes the local planning policy;
- or
- (b) by a notice of revocation —
 - (i) prepared by the local government; and
 - (ii) published by the local government in accordance with clause 87.

[Clause 6 amended: SL 2020/252 r. 47.]

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).

Note:

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

[Clause 7 amended: SL 2020/252 r. 48.]

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) 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
 - (c) carries out any other consultation the local government considers appropriate; and
 - (d) following any consultation and consideration of the submissions made on the proposal, resolves that the place be entered in the heritage list with or without modification, or that the place be removed from the heritage list.
- (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 modification to —
- (a) the Heritage Council of Western Australia; and
 - (b) each owner and occupier of the place.

[Clause 8 amended: SL 2020/252 r. 49.]

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).
- (6) After the expiry of the period within which submissions may be made, the local government must —
 - (a) review the proposed designation in the light of any submissions made; and
 - (b) resolve —
 - (i) to adopt the designation without modification; or
 - (ii) to adopt the designation with modification; or
 - (iii) not to proceed with the designation.
- (7) If the local government designates an area as a heritage area the local government must give notice of the designation to —
 - (a) the Heritage Council of Western Australia; and
 - (b) each owner of land affected by the designation.
- (8) The local government may modify or revoke a designation of a heritage area.
- (9) Subclauses (3) to (7) apply, with any necessary changes, to the amendment to a designation of a heritage area or the revocation of a designation of a heritage area.

[Clause 9 amended: SL 2020/252 r. 50.]

10. Heritage agreements

- (1) The local government may, in accordance with the *Heritage Act 2018* Part 7, 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).

[Clause 10 amended: SL 2020/252 r. 51.]

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
 - (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
 - (b) have regard to any views expressed prior to making its determination to vary the site or development requirements under this clause.

[Clause 12 amended: SL 2020/252 r. 52.]

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.

[Clause 13A inserted: SL 2020/252 r. 53.]

Part 4 — Structure plans

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.

[Clause 14 inserted: SL 2020/252 r. 54.]

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).

(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).

[Clause 16 amended: SL 2020/252 r. 55.]

17. Action by local government on receipt of application

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

18. Advertising structure plan

- (1) The local government must, within 28 days of preparing a structure plan or accepting an application for a structure plan to be assessed and advertised —
- (a) advertise the proposed structure plan in accordance with subclause (2); and
 - (b) seek comments in relation to the proposed structure plan from any public authority or utility service provider that the local government considers appropriate; and
 - (c) provide to the Commission —
 - (i) a copy of the proposed structure plan and all accompanying material; and
 - (ii) details of the advertising and consultation arrangements for the plan.
- (2) The local government —
- (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.

[Clause 18 amended: SL 2020/252 r. 56.]

19. Consideration of submissions

- (1) The local government —
- (a) must consider all submissions made to the local government within the period specified in a notice advertising the structure plan; and
 - (b) may consider submissions made to the local government after that time; and
 - (c) may request further information from a person who prepared the structure plan; and
 - (d) may advertise any modifications proposed to the structure plan to address issues raised in submissions.
- (2) If a local government makes a decision under subclause (1)(d) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the structure plan.

- (3) Modifications to a structure plan may not be advertised on more than one occasion without the approval of the Commission.

20. Local government report to Commission

- (1) The local government must prepare a report on the proposed structure plan and provide it to the Commission no later than 60 days after the day that is the latest of —
- (a) the last day 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.

[Clause 20 amended: SL 2020/252 r. 57.]

21. Cost and expenses incurred by local government

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

Development Regulations 2009 regulation 49, to be borne by the local government.

22. Decision of Commission

- (1) On receipt of a report on a proposed structure plan, the Commission must consider the plan and the report and may —
 - (a) approve the structure plan; or
 - (b) require the local government or the person who prepared the structure plan to —
 - (i) modify the plan in the manner specified by the Commission; and
 - (ii) resubmit the modified plan to the Commission for approval;or
 - (c) refuse to approve the structure plan.
- (2) Before making a decision under subclause (1), the Commission may, if the Commission considers that major modifications have been made to the structure plan since it was advertised, direct the local government to readvertise the structure plan in the manner specified by the Commission.
- (3) The Commission may not direct the local government to readvertise the structure plan on more than one occasion.
- (4) If the Commission is not given a report on a proposed structure plan in accordance with clause 20(1), the Commission may make a decision on the proposed structure plan under subclause (1) in the absence of the report.
- (5) The Commission is to be taken to have refused to approve a structure plan if the Commission has not made a decision under subclause (1) within —
 - (a) 120 days of the day on which the local government provides the report to the Commission, excluding any period between the Commission requiring modifications to the structure plan and the resubmission of the modified plan; or

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

23. Further services or information from local government

- (1) The Commission may direct the local government to give to the Commission technical advice and assistance or further information in writing in connection with the application if —
 - (a) the local government does not provide a report on a structure plan within the timeframe referred to in clause 20(1); or
 - (b) the local government provides a report on a structure plan that does not contain sufficient information for the Commission to make its decision on whether or not to approve the structure plan.
- (2) The direction must be in writing and must specify —
 - (a) the services or information required; and
 - (b) the time within which the local government must comply with the direction.
- (3) If a local government fails to comply with a direction given to it under subclause (1), the Commission may take reasonable steps to obtain the services or information referred to in the direction on its own behalf.

- (4) All costs incurred by the Commission in the exercise of the power conferred by subclause (3) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

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

[Clause 24 amended: SL 2020/252 r. 58.]

25. Review

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

26. Publication of structure plan approved by Commission

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

27. Effect of structure plan

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

28. Duration of approval

- (1) 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.

[Clause 28 inserted: SL 2020/252 r. 59.]

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.
- (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.

[Clause 29 amended: SL 2020/252 r. 60.]

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).

[Clause 29A inserted: SL 2020/252 r. 61.]

[Part 5 (cl. 30-45) deleted: SL 2020/252 r. 62.]

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 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
- (d) the Commission and the local government considers that a local development plan is required for the purposes of orderly and proper planning.

[Clause 47 amended: SL 2020/252 r. 63.]

48. Preparation of local development plan

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

49. Action by local government on receipt of application

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

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

50. Advertising of local development plan

- (1) The local government must, within 28 days of preparing a local development plan or accepting an application for a local development plan to be assessed and advertised —
- (a) advertise the proposed local development plan in accordance with subclause (2); and
 - (b) seek comments in relation to the proposed local development plan from any public authority or utility service that the local government considers appropriate.
- (2) The local government —
- (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.
- (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).

[Clause 50 amended: SL 2020/252 r. 64.]

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) to the extent that, in the opinion of the local government those matters are relevant to the development to which the plan relates.

[Clause 51 amended: SL 2020/252 r. 65.]

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) 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.

[Clause 52 amended: SL 2020/252 r. 66.]

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

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

54. Review

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

55. Publication of local development plan approved by local government

- (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).

[Clause 55 inserted: SL 2020/252 r. 67.]

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.

- (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.

[Clause 57 amended: SL 2020/252 r. 68.]

58. Revocation of local development plan

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

59. Amendment of local development plan

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

Part 7 — Requirement for development approval

60. Requirement for development approval

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

- (a) the person has obtained the development approval of the local government under Part 8; or
- (b) development approval is not required for the development under 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.

[Clause 60 amended: SL 2020/252 r. 69.]

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.

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	Column 1 Works	Column 2 Conditions
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>

	Column 1 Works	Column 2 Conditions
9.	The temporary erection or installation of an advertisement.	<p>(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>.</p> <p>(b) The primary purpose of the advertisement is for political communication in relation to the election, referendum or poll.</p> <p>(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.</p> <p>(d) The advertisement is removed no later than 48 hours after the election, referendum or poll is conducted.</p>

	Column 1 Works	Column 2 Conditions
		(e) The advertisement is not erected or installed within 1.5 m of any part of a crossover or street truncation.
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.	(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.

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	Column 1 Works	Column 2 Conditions
11.	Works to change an existing sign that has been erected or installed on land.	<p>(a) The erection or installation of the existing sign was the subject of development approval or was exempt from the requirement for development approval.</p> <p>(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.</p> <p>(c) The sign is not used for advertising (other than the advertising of a business operated on the land).</p> <p>(d) The works are not located in a heritage-protected place.</p>

	Column 1 Works	Column 2 Conditions
12.	The installation of a water tank.	<p>(a) The water tank is not installed in the street setback area of a building.</p> <p>(b) The volume of the water tank is no more than 5 000 L.</p> <p>(c) The height of the water tank is no more than —</p> <p>(i) for a tank fixed to a building — the height of the eaves of the building; or</p> <p>(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</p> <p>(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.</p> <p>(d) The works are not located in a heritage-protected place.</p>

	Column 1 Works	Column 2 Conditions
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 2.4 m above the natural ground level.(d) The building height of the cubbyhouse is no more than 3 m above the natural ground level.(e) The area of the floor of the cubbyhouse is no more than 10 m².(f) The cubbyhouse is not erected or installed within 1 m of more than 1 boundary of the lot.

	Column 1 Works	Column 2 Conditions
14.	The erection or installation of a flagpole.	<ul style="list-style-type: none"> (a) The height of the flagpole is no more than 6 m above the natural ground level. (b) The flagpole is no more than 200 mm 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.	<ul style="list-style-type: none"> (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.	<p>Either —</p> <ul style="list-style-type: none"> (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.

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	Column 1 Works	Column 2 Conditions
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.

	Column 1 Use	Column 2 Zones	Column 3 Conditions
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 zone.
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.

[Clause 61 inserted: SL 2020/252 r. 70.]

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).

[Clause 61A inserted: SL 2020/252 r. 70.]

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 —
 - (i) is authorised to make an application for development approval in respect of the land under scheme by-laws registered under the *Strata Titles Act 1985*; and
 - (ii) if the land is held under a leasehold scheme, has the written consent of the owner of the leasehold scheme to make the application;

- (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.

(2A) A term has the same meaning in subclause (2)(b) as is given in the *Strata Titles Act 1985* section 3(1).

- (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.

[Clause 62 amended: Gazette 31 Dec 2019 p. 4655-6.]

63. Accompanying material

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

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

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.

[Clause 64 inserted: SL 2020/252 r. 71.]

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.

[Clause 64A inserted: SL 2020/252 r. 71.]

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.

[Clause 65A inserted: SL 2020/252 r. 72.]

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).

[Clause 65B inserted: SL 2020/252 r. 72.]

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), 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.

[Clause 66 amended: SL 2020/252 r. 73.]

67. Consideration of application 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)), the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —
 - (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
 - (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the *Planning and Development (Local Planning Schemes) Regulations 2015* or any other proposed planning instrument that the local government is seriously considering adopting or approving;
 - (c) any approved State planning policy;
 - (d) any environmental protection policy approved under the *Environmental Protection Act 1986* section 31(d);
 - (e) any policy of the Commission;
 - (f) any policy of the State;
 - (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 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;
- (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.

[Clause 67 amended: SL 2020/252 r. 74.]

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).
- (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.

[Clause 68 amended: SL 2020/252 r. 75.]

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.

[Clause 71 amended: SL 2020/252 r. 76.]

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
 - (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.

[Clause 75 amended: SL 2020/252 r. 77.]

76. Review of decisions

- (1) In this clause —
affected person, in relation to a reviewable determination, means —
 - (a) the applicant for development approval; or
 - (b) the owner of land in respect of which an application for development approval is made;***reviewable determination*** means a determination by the local government to —
 - (a) refuse an application for development approval; or
 - (b) to grant development approval subject to conditions; or
 - (c) to refuse to amend or cancel a development approval on an application made under clause 77.
- (2) An affected person may apply to the State Administrative Tribunal for a review of a reviewable determination in accordance with the *Planning and Development Act 2005* Part 14.

77. Amending or cancelling development approval

- (1) An owner of land in respect of which development approval has been granted by the local government may make an application to the local government requesting the local government to do any or all of the following —
 - (a) to amend the approval so as to extend the period within which any development approved must be substantially commenced;

- (b) to amend or delete any condition to which the approval is subject;
 - (c) to amend an aspect of the development approved which, if amended, would not substantially change the development approved;
 - (d) to cancel the approval.
- (2) An application under subclause (1) —
- (a) is to be made in accordance with the requirements in Part 8 and dealt with under this Part as if it were an application for development approval; and
 - (b) may be made during or after the period within which the development approved must be substantially commenced.
- (3) Despite subclause (2), the local government may waive or vary a requirement in Part 8 or this Part in respect of an application if the local government is satisfied that the application relates to a minor amendment to the development approval.
- (4) The local government may determine an application made under subclause (1) by —
- (a) approving the application without conditions; or
 - (b) approving the application with conditions; or
 - (c) refusing the application.

Part 10A — Bushfire risk management

[Heading inserted: 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: 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: 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: 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: 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: 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 had 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: 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

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- (b) immediately before commencement day was an area identified in any way under this Scheme as being an 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 required 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: Gazette 7 Dec 2015 p. 4888-90.]

Part 10B — Exemptions from planning requirements for state of emergency

[Heading inserted: SL 2020/30 r. 5.]

78H. Minister may issue notice of exemption from planning requirements in state of emergency

- (1) If a state of emergency declaration is in force under the *Emergency Management Act 2005* Part 5 in relation to the whole or any area or

areas of the State, the Minister may, by notice in writing, issue 1 or more exemptions from planning requirements under this Scheme.

- (2) A notice under subclause (1) can be issued only if the Minister considers that it is necessary to do so for the purpose of facilitating response to, or recovery from, the emergency to which the state of emergency declaration relates.
- (3) A reference in subclause (1) to a planning requirement —
- (a) includes, without limiting that subclause —
 - (i) a requirement to obtain development approval; and
 - (ii) a requirement under a condition of development approval; and
 - (iii) a requirement relating to the permissibility of uses of land; and
 - (iv) a requirement relating to works; and
 - (v) a provision having the effect that a non-conforming use of land is no longer permitted because of a discontinuance of that non-conforming use; and
 - (vi) a requirement in relation to consultation, advertisement, applications, time limits or forms;
- but
- (b) does not include an environmental condition that applies to this Scheme as a result of an assessment carried out under the *Environmental Protection Act 1986*.
- (4) A notice under subclause (1) may be issued whether or not the state of emergency declaration applies in relation to any part of the Scheme area, but only if it is necessary for the purpose referred to in subclause (2).
- (5) An exemption in a notice under subclause (1) may —
- (a) apply generally or to land, or classes of land, specified in the notice; and
 - (b) be unconditional or subject to any conditions specified in the notice.

- (6) The Minister —
- (a) may, by notice in writing, amend a notice under subclause (1) for the purpose referred to in subclause (2); and
 - (b) may, by notice in writing, revoke a notice under subclause (1); and
 - (c) must under paragraph (b) revoke a notice under subclause (1) if the Minister considers that the notice is no longer necessary for the purpose referred to in subclause (2).

[Clause 78H inserted: SL 2020/30 r. 5.]

78I. Process for issuing notice under cl. 78H

- (1) A notice under clause 78H(1) or (6) must be signed by the Minister and published in the *Gazette*.
- (2) A notice under clause 78H(1) or (6) of this Scheme may be combined in a single instrument with 1 or more other notices of that kind issued under 1 or more other local planning schemes or all other local planning schemes.
- (3) Before issuing a notice under clause 78H(1) or (6), the Minister must, unless the Minister considers that it is impracticable to do so because of the urgency of the circumstances, make reasonable endeavours to consult in relation to the notice —
 - (a) the Commission; and
 - (b) WALGA.
- (4) The Minister must ensure that a copy of the notice is sent to the local government or WALGA.
- (5) A failure to comply with subclause (3) or (4) in relation to a notice does not invalidate the notice.

[Clause 78I inserted: SL 2020/30 r. 5.]

78J. Coming into effect and cessation of notices and exemptions under cl. 78H

- (1) A notice under clause 78H(1) or (6) must state the date and time at which it is signed.

- (2) A notice under clause 78H(1) must also state, for each exemption under the notice, that the exemption is to expire —
 - (a) when the state of emergency declaration ceases to be in force; or
 - (b) at a date and time stated in the notice, which must not be later than the end of the period of 5 years beginning on the day on which the notice is signed.
- (3) A notice under clause 78H(1) or (6) takes effect when it is signed.
- (4) An exemption under a notice under clause 78H(1) remains in effect, subject to any amendment or revocation of the notice under clause 78H(6), until the time of expiry stated under subclause (2) for that exemption.
- (5) When an exemption under a notice under clause 78H(1) is amended or ceases to be in effect, the provisions of this Scheme in relation to non-conforming uses of land do not apply in relation to any use or development of land that was permitted only because of the effect of the exemption prior to the amendment or cessation.

[Clause 78J inserted: SL 2020/30 r. 5.]

Part 10 — Enforcement and administration

Division 1 — Powers of local government

78. Powers of local government

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

79. Entry and inspection powers

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

80. Repair of existing advertisements

- (1) The local government may require the owner of an advertisement located in the Scheme area to repair the advertisement if, in the opinion of the local government, the advertisement has deteriorated to a point where it is in conflict with the aims of this Scheme.
- (2) A requirement referred to in subclause (1) must —
 - (a) be in the form of a written notice given to the person; and
 - (b) specify the advertisement the subject of the requirement; and
 - (c) set out clear reasons for the requirement; and
 - (d) set out full details of the action or alternative courses of action to be taken by the person; and
 - (e) specify the period, not being a period of less than 60 days from the day on which the notice is given to the person, within which the requirement must be complied with.
- (3) If the local government does not know who the owner of an advertisement is, the local government may give a notice referred to in subclause (1) to the owner of the land on which the advertisement is located and direct the owner of the land to give the notice to the owner of the advertisement within a period specified by the local government.
- (4) If an owner of land on which an advertisement is located does not give to the owner of the advertisement a notice as directed under

subclause (3), the owner of the land is to be taken to be the owner of the advertisement.

- (5) A person to whom a notice under this clause is given may apply for a review of the requirement to the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14.

Division 2 — Delegations

81. Terms used

In this Division —

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

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

82. Delegations by local government

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

83. Local government CEO may delegate powers

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

extends to a power or duty the exercise or discharge of which has been delegated by the local government to the CEO under that clause.

84. Other matters relevant to delegations under this Division

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

Division 3 — Miscellaneous

85. Agreement to use of material provided for Scheme purposes

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

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

Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2 Deemed provisions for local planning schemes

Part 11 Forms referred to in this Scheme

cl. 86

Phone: Work: Home: Mobile:	Fax:	Email:
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:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Title encumbrances (e.g. easements, restrictive covenants):		
Street name:	Suburb:	
Nearest street intersection:		

Proposed development	
Nature of development:	<input type="checkbox"/> Works <input type="checkbox"/> Use <input type="checkbox"/> Works and use
Is an exemption from development claimed for part of the development?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, is the exemption for:	<input type="checkbox"/> Works <input type="checkbox"/> Use
Description of proposed works and/or land use:	

	<p style="text-align: right;">to top of advertisement:</p> <p style="text-align: right;">to underside:</p> <p>(e) Materials to be used:</p> <p>.....</p> <p>.....</p> <p>Illuminated: Yes / No</p> <p>If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source:</p> <p>.....</p> <p>.....</p>
3.	<p>Period of time for which advertisement is required:</p> <p>.....</p>
4.	<p>Details of signs (if any) to be removed if this application is approved:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>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.</p> <p>Signature of advertiser(s):</p> <p>(if different from land owners)</p> <p>Date:</p>

- (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) is as follows —

Planning and Development Act 2005

City/Town/Shire of

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.)

[Clause 86 amended: SL 2020/252 r. 78.]

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.]