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# TOWN OF BASSENDEAN

## LOCAL PLANNING SCHEME NO. 10

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*Amended to include Amd 6 gg 4/10/13*

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### DISCLAIMER

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Consultation with the respective Local Government Authority should be made to view a legal version of the Scheme.

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

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## TOWN OF BASSENDAN TPS 10 - TEXT AMENDMENTS

AMD NO	GAZETTAL DATE	UPDATED		DETAILS
		WHEN	BY	
				Gazetted 24/6/08 Capture completed by D Hepden
1	22/9/09	29/9/09	DH	Part 5 - amending Clause 5.10.3.
6	4/10/13	29/10/13	NM	Inserted Additional Use No. 13 into Schedule 2 – Additional Uses.

## **PREAMBLE**

This Local Planning Scheme of the Town of Bassendean consists of this Scheme Text and the Scheme Maps. The Scheme Text should be read with the Local Planning Strategy for the Town.

Part 2 of the Scheme Text sets out the Local Planning Framework. At the core of this Framework is the Local Planning Strategy which sets out the long-term planning directions for the local government, applies State and regional planning policies and provides the rationale for the zones and other provisions of the Scheme. In addition to the Local Planning Strategy, the Framework provides for Local Planning Policies which set out the general policies of the local government on matters within the Scheme.

The Scheme divides the local government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.

### Scheme Details

The Town of Bassendean  
Local Planning Scheme No. 10  
*DISTRICT ZONING SCHEME*

The Town of Bassendean under the powers conferred by the *Planning and Development Act 2005* makes the following Local Planning Scheme.

## LAYOUT OF SCHEME

- Part 1** Preliminary - sets out the Scheme title, responsible authority for implementing the Scheme, definitions used in the Scheme, Scheme area, contents, purpose, aims and relationship to other Schemes and laws.
- Part 2** Local Planning\_ Policy Framework - sets out the relationship between the Scheme and the Local Planning Strategy and the procedures for preparing and adopting Local Planning Policies.
- Part 3** Reserves - sets out the reserves which apply in the Scheme area and related provisions.
- Part 4** Zones and the use of land - sets out the zones which apply in the Scheme area and the uses which may require approval or may be prohibited.
- Part 5** General Development Requirements - sets out the planning requirements which may apply to a particular use or development in a zone.
- Part 6** Special Control Areas - sets out particular provisions which may apply in addition to the zone requirements and generally concerns landscape, environmental, built form, and land and site management issues.
- Part 7** Heritage Protection - sets out special provisions which apply to heritage places and areas.
- Part 8** Development of Land - sets out the circumstances under which approval is required for the development of land as distinct from the use of land.
- Part 9** Applications for Planning Approval - sets out the procedure for applying for planning approval including both the use and development of land.
- Part 10** Procedure for Dealing with Applications - sets out the procedure for dealing with applications for planning approval and the matters to be taken into account.
- Part 11** Enforcement and Administration - sets out the general provisions for the administration and enforcement of the Scheme.

## SCHEDULES

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# **PART 1 - PRELIMINARY**

## **1.1 CITATION**

1.1.1 The Town of Bassendean Scheme No. 10 ("the Scheme") comes into operation on its Gazettal date.

1.1.2 The following Scheme is revoked:

The Town of Bassendean Local Planning Scheme No. 3, gazetted on 18 March 1983.

## **1.2 RESPONSIBLE AUTHORITY**

The Town of Bassendean is the responsible authority for implementing the Scheme.

## **1.3 SCHEME AREA**

The Scheme applies to the Scheme area which covers all of the local government district of the Town as shown on the Scheme Map.

Note: The Scheme area (or part) is also subject to the Metropolitan Region Scheme (see clause 1.10) and other town planning schemes (see clause 1.9).

## **1.4 CONTENTS OF SCHEME**

The Scheme comprises:

- (a) the Scheme Text;
- (b) the Scheme Map (sheets 1 - 2).

The Scheme is to be read in conjunction with the Local Planning Strategy.

## **1.5 PURPOSES OF SCHEME**

The purposes of the Scheme are to:

- (a) set out the local government's planning aims and intentions for the Scheme area;
- (b) set aside land as reserves for public purposes;
- (c) zone land within the Scheme area for the purposes defined in the Scheme;
- (d) control and guide land use and development;
- (e) set out procedures for the assessment and determination of planning applications;
- (f) make provision for the administration and enforcement of the Scheme; and
- (g) address other matters set out in the Schedule Seven to the Planning and Development Act.

## **1.6 THE AIMS OF THE SCHEME**

The aims of the Scheme are:

- (a) to enhance the lifestyle of residents and provide community and leisure facilities for a range of socio-demographic groups;
- (b) to encourage a housing stock that provides for a variety of lifestyle choices for a range of socio economic and age groups;



- (c) to promote vibrant local shopping opportunities and provide for home businesses;
- (d) to preserve local Aboriginal and European culture and heritage;
- (e) to promote local tourist attractions;
- (f) to protect and enhance the environment and natural resources of Bassendean and in particular urban bushland and the river environs; and
- (g) to promote greater use of alternative modes of transport and public transport.

## **1.7 DEFINITIONS**

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

- (a) in the Planning and Development Act; or
- (b) if they are not defined in that Act:
  - (i) in the Dictionary of defined words and expressions in Schedule 1; or
  - (ii) in the Residential Design Codes.

1.7.2 If there is a conflict between the meaning of a word or expression in the Dictionary of defined words and expressions in Schedule 1 and the meaning of that word or expression in the Residential Design Codes:

- (a) in the case of a residential development, the definition in the Residential Design Codes prevails; and
- (b) in any other case the definition in the Dictionary prevails.

1.7.3 Notes, and instructions printed in italics, are not part of the Scheme.

## **1.8 RELATIONSHIP WITH LOCAL LAWS**

Where a provision of the Scheme is inconsistent with a local law, the provision of the Scheme prevails.

## **1.9 RELATIONSHIP WITH OTHER SCHEMES**

By way of information, the following other Schemes of the Town of Bassendean are, at the Gazettal date of the Scheme, complementary to the Scheme:

Scheme No. 4A                      Gazettal date 20 January 1981

## **1.10 RELATIONSHIP WITH THE METROPOLITAN REGION SCHEME**

The Scheme is complementary to the Metropolitan Region Scheme and the provisions of the Metropolitan Region Scheme continue to have effect.

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

## **PART 2 - LOCAL PLANNING POLICY FRAMEWORK**

### **2.1 SCHEME DETERMINATIONS TO CONFORM WITH LOCAL PLANNING STRATEGY**

Except to the extent that the Local Planning Strategy is inconsistent with the Scheme, determinations of the local government under the Scheme are to be consistent with the Local Planning Strategy.

### **2.2 LOCAL PLANNING POLICIES**

The local government may prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme area so as to apply:

- (a) generally or for a particular class or classes of matters; and
- (b) throughout the Scheme area or in one or more parts of the Scheme area,

and may amend or add to or rescind the Policy.

### **2.3 RELATIONSHIP OF LOCAL PLANNING POLICIES TO SCHEME**

2.3.1 If a provision of a Local Planning Policy is inconsistent with the Scheme, the Scheme prevails.

2.3.2 A Local Planning Policy is not part of the Scheme and does not bind the local government in respect of any application for planning approval but the local government is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

Note: Local Planning Policies are guidelines used to assist the local government in making decisions under the Scheme. Although Local Planning Policies are not part of the Scheme they must be consistent with, and cannot vary, the intent of the Scheme provisions, including the Residential Design Codes. In considering an application for planning approval, the local government must have due regard to relevant Local Planning Policies as required under clause 10.2.

### **2.4 PROCEDURE FOR MAKING OR AMENDING A LOCAL PLANNING POLICY**

2.4.1 If a local government resolves to prepare a Local Planning Policy, the local government:

- (a) is to 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) where the draft Policy may be inspected;
  - (ii) the subject and nature of the draft Policy; and
  - (iii) in what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made;
- (b) may publish a notice of the proposed Policy in such other manner and carry out such other consultation as the local government considers appropriate.

2.4.2 After the expiry of the period within which submissions may be made, the local government is to:

- (a) review the proposed Policy in the light of any submissions made; and

- (b) resolve to adopt the Policy with or without modification, or not to proceed with the Policy.

2.4.3 If the local government resolves to adopt the Policy, the local government is to:

- (a) publish notice of the Policy once in a newspaper circulating in the Scheme area; and
- (b) if, in the opinion of the local government, the Policy affects the interests of the Commission, forward a copy of the Policy to the Commission.

2.4.4 A Policy has effect on publication of a notice under clause 2.4.3(a).

2.4.5 A copy of each Local Planning Policy, as amended from time to time, is to be kept and made available for public inspection during business hours at the offices of the local government.

2.4.6 Clauses 2.4.1 to 2.4.5, with any necessary changes, apply to the amendment of a Local Planning Policy.

## **2.5 REVOCATION OF LOCAL PLANNING POLICY**

A Local Planning Policy may be revoked by:

- (a) the adoption by a local government of a new Policy under clause 2.4 that is expressed to supersede the existing Local Planning Policy; or
- (b) publication of a notice of revocation by the local government once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area.

## **PART 3 - RESERVES**

### **3.1 RESERVES**

Certain lands within the Scheme area are classified as:

- (a) Regional Reserves; or
- (b) Local Reserves.

### **3.2 REGIONAL RESERVES**

3.2.1 The lands shown as "Regional Reserves" on the Scheme Map are lands reserved under the Metropolitan Region Scheme and are shown on the Scheme Map for the purposes of the *Planning and Development Act 2005*. These lands are not reserved under the Scheme.

3.2.2 The approval of the local government under the Scheme is not required for the commencement or carrying out of any use or development on a Regional Reserve.

Note: The provisions of the Metropolitan Region Scheme continue to apply to such Reserves and approval is required under the Metropolitan Region Scheme from the Commission for the commencement or carrying out of any use or development on a Regional Reserve unless specifically excluded by the Region Scheme.

### **3.3 LOCAL RESERVES**

"Local Reserves" are delineated and depicted on the Scheme Map according to the legend on the Scheme Map.

### **3.4 USE AND DEVELOPMENT OF LOCAL RESERVES**

3.4.1 A person must not:

- (a) use a Local Reserve; or
- (b) commence or carry out development on a Local Reserve,  
without first having obtained planning approval under Part 9 of the Scheme.

3.4.2 In determining an application for planning approval the local government is to have due regard to:

- (a) the matters set out in clause 10.2; and
- (b) the ultimate purpose intended for the Reserve.

3.4.3 In the case of land reserved for the purposes of a public authority, the local government is to consult with that authority before determining an application for planning approval.

## **PART 4 - ZONES AND THE USE OF LAND**

### **4.1 ZONES**

4.1.1 The Scheme area is classified into the zones shown on the Scheme Map.

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

### **4.2 OBJECTIVES OF THE ZONES**

The objectives of the zones are:

#### **4.2.1 Residential Zone**

The objectives of the Residential Zone are:

- (a) to maintain life long or long-time residents as an integral component of the Bassendean community;
- (b) to continue and increase the attraction for young families to reside and raise their families in the Bassendean community;
- (c) to recognise the role of Bassendean as a middle metropolitan area that is well placed to contribute meaningfully to sustainable urban development for the Perth Region, and therefore facilitate the planned gradual increase in population growth in a manner that provides net environmental, social and economic benefit;
- (d) to make provision for housing types that respond to the demands of an ageing population and declining occupancy rates;
- (e) to limit non-residential activities to those of which the predominant function is to service the local residential neighbourhood and for self-employment or creative activities, provided such activities have no detrimental effect on the residential amenity;
- (f) to ensure that the density of development takes cognisance of the availability of reticulated sewerage, the effluent disposal characteristics of the land and other environmental factors; and
- (g) to ensure that subdivision and development comply with the Local Planning Strategy and the principles of any Local Planning Policy adopted by the Council.

#### **4.2.2 Local Shopping Zone**

The objectives of the Local Shopping Zone are:

- (a) to provide for the local retail and service needs of the locality;
- (b) to ensure that the local needs of residents are met, whilst maintaining a retail hierarchy to ensure that the catchment of the Town Centre zone is not adversely affected;
- (c) to ensure a respect for the residential amenity of the surrounding neighbourhood, particularly in terms of design and location of vehicle parking, pedestrian movement, pedestrian and vehicular safety, and control of signage;

- (d) to ensure that development conforms with the Local Planning Strategy and the principles of any Local Planning Policy adopted by the Council.

#### **4.2.3 Town Centre Zone**

The objectives of the Town Centre Zone are:

- (a) to promote, facilitate and strengthen the town centre zone as the principal focus of the district in terms of shopping, professional, administrative, cultural, entertainment and other business activities;
- (b) To recognise the unique and specific function of each precinct within the town centre in terms of:
  - (i) Traditional main street pedestrian based commercial retail, west of Wilson Street;
  - (ii) Civic, drive-by commercial and town centre living uses between Wilson and Whitfield Street; and
  - (iii) Car based retail in the Bassendean Village Shopping Centre.
- (c) to accommodate a diversity of commercial, cultural and residential facilities;
- (d) to encourage the integration of existing and proposed facilities within the zone so as to promote ease of pedestrian movement and the sharing of infrastructure, as well as to retain the opportunity for any future expansion of the area;
- (e) to achieve safety and efficiency in traffic circulation;
- (f) to ensure that buildings, ancillary structures and advertising are of high quality and achieve an architectural theme contributing to the uniqueness of the townscape;
- (g) to provide sheltered places for pedestrians and shade to car parking areas;
- (h) to preclude the storage of bulky and unsightly goods from public view;
- (i) to provide landscaping appropriate to the scale of development; and
- (j) to ensure that development conforms with the Local Planning Strategy and the principles of any Local Planning Policy adopted by the Council.

#### **4.2.4 General Industry Zone**

The objectives of the General Industry zone are:

- (a) To provide for a broad range of industrial uses, excluding noxious or hazardous activities;
- (b) To accommodate industry that would not otherwise comply with the performance standards of light industry;
- (c) To accommodate a range of manufacturing and associated service activities which will not, by the nature of their operations, detrimentally affect the amenity of the adjoining or nearby land;
- (d) To achieve safety and efficiency in traffic circulation, and also recognise the function of Collier Road as a regional road;

- (e) To provide car parking and landscaping appropriate to the scale of development;
- (f) To preclude the storage of unsightly goods from public view; and
- (g) To ensure that development conforms with the Local Planning Strategy and the principles of any Local Planning Policy adopted by the Council.

#### **4.2.5 Light Industry Zone**

The objectives of the Light Industry zone are:

- (a) To accommodate a range of manufacturing and associated service activities which will not, by nature of their operations, detrimentally affect the amenity of the adjoining or nearby land;
- (b) To ensure that where any development adjoins zoned or developed residential properties, such development is suitably set back, screened or otherwise treated as not to detract from the residential amenity;
- (c) To achieve safety and efficiency in traffic circulation, and also recognise the function of Collier Road as a regional road;
- (d) To provide car parking and landscaping appropriate to the scale of development;
- (e) To preclude the storage of unsightly goods from public view; and
- (f) To ensure that development conforms with the Local Planning Strategy and the principles of any Local Planning Policy adopted by the Council.

### **4.3 ZONING TABLE**

4.3.1 The Zoning Table indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme area in the various zones. The permissibility of any uses is determined by cross reference between the list of use classes on the left hand side of the Zoning Table and the list of zones at the top of the Zoning Table.

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

- 'P' means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme;
- D' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval;
- 'A' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4;
- 'X' means a use that is not permitted by the Scheme.

4.3.3 A change in the use of land from one use to another is permitted if:

- (a) the local government has exercised its discretion by granting planning approval;

- (b) the change is to a use which is designated with the symbol 'P' in the cross reference to that zone in the Zoning Table and the proposed use complies with all the relevant development standards and any requirements of the Scheme;
- (c) the change is an extension of a use within the boundary of the lot which does not change the predominant use of the lot; or
- (d) the change is to an incidental use that does not change the predominant use of the land.

- Note:
1. The planning approval of the local government is required for the development of land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the use and development of land.
  2. The local government will not refuse a 'ID' use because of the unsuitability of the use for the zone but may impose conditions on the use of the land to comply with any relevant development standards or requirements of the Scheme, and may refuse or impose conditions on any development of the land.
  3. In considering a 'D' or 'A' use, the local government will have regard to the matters set out in clause 10.2.
  4. The local government must refuse to approve any 'X' use of land. Approval to an 'X' use of land may only proceed by way of an amendment to the Scheme.



**TABLE 1 - ZONING TABLE**

	Residential	Town Centre	Local Shopping	Light Industry	General Industry
Agriculture - Extensive	X	X	X	X	X
Agriculture - Intensive	X	X	X	D	D
Agroforestry	X	X	X	X	X
Amusement Parlour	X	D	A	D	D
Ancillary Accommodation	D	D	D	X	X
Animal Establishment	X	X	X	X	A
Animal Husbandry - Intensive	X	X	X	X	X
Bed & Breakfast	A	D	D	X	X
Betting Agency	X	D	A	X	X
Caravan Park	A	X	X	X	X
Caretaker's Dwelling	D	D	D	D	D
Carpark	D	D	D	D	D
Child Care Premises	A	D	D	D	A
Cinema/Theatre	X	D	X	X	X
Civic Use	D	P	P	D	A
Club Premises	A	D	A	D	A
Commercial Vehicle Parking	D	D	D	P	P
Community Purpose	A	D	D	D	A
Consulting Rooms	A	P	P	X	X
Convenience Store	X	P	P	D	D
Corner Shop	A	P	P	D	D
Corrective Institution	X	X	X	X	X
Dwelling	P	D	A	X	X
Educational Establishment	A	D	D	D	X
Exhibition Centre	D	D	D	D	D
Family Day Care,	P	P	P	X	X
Fast Food Outlet	X	D	A	A	D
Fuel Depot	X	X	X	A	P
Funeral Parlour	X	D	X	D	A
Grouped Dwelling	P	D	A	X	X
Home Business	A	D	A	D	D
Home Occupation	D	D	D	D	D
Home Office	P	P	P	P	P
Home Store	A	D	D	D	D
Hospital	A	A	A	X	X
Hotel	X	D	A	X	X
Industry - Cottage	A	D	D	P	P
Industry - Extractive	X	X	X	X	A
Industry - General	X	X	X	A	
Industry - Light	X	D	A	P	P
Industry - Mining	X	X	X	X	A
Industry - Rural	X	X	X	A	D
Industry - Service	X	D	D	P	P
Lunch Bar	X	P	P	D	D
Marina	X	X	X	X	X
Marine Filling Station	X	A	X	A	A
Market	X	D	D	D	D
Medical Centre	X	D	D	D	X
Motel	X	D	A	X	X
Motor Vehicle, Boat or Caravan Sales	X	D	X	D	A
Motor Vehicle Repair	X	X	X	D	P
Motor Vehicle Wash	X	D	A	X	D
Multiple Dwelling	P	D	A	X	X
Night Club	X	A	X	X	X
Office	X	P	P	D	D
Park Home Park	A	X	X	X	X
Place of Worship	A	D	D	D	X
Plantation	X	X	X	X	X

	<b>Residential</b>	<b>Town Centre</b>	<b>Local Shopping</b>	<b>Light Industry</b>	<b>General Industry</b>
Plant Nursery	X	D	D	D	D
Recreation - Private	X	D	A	A	D
Residential Building	D	X	X	X	X
Restaurant	X	P	D	X	X
Restricted Premises	X	A	A	X	X
Rural Pursuit	X	X	X	A	A
Service Station	X	A	A	A	A
Shop	X	P	P	X	X
Showroom	X	D	D	D	D
Storage	X	X	X	D	P
Tavern	X	A	A	X	X
Telecommunications Infrastructure	A	A	A	A	A
Trade Display	X	X	X	D	D
Transport Depot	X	X	X	D	P
Warehouse	X	D	D	P	P
Winery	X	A	D	X	X

#### 4.4 INTERPRETATION OF THE ZONING TABLE

4.4.1 Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.

4.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may:

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for planning approval; or
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

#### 4.5 ADDITIONAL USES

Despite anything contained in the Zoning Table, the land specified in Schedule 2 may be used for the specific use or uses that are listed in addition to any uses permissible in the zone in which the land is situated subject to the conditions set out in Schedule 2 with respect to that land.

Note: An additional use is a land use that is permitted on a specific portion of land in addition to the uses already permissible in that zone that applies to the land.

#### 4.6 RESTRICTED USES

Despite anything contained in the Zoning Table, the land specified in Schedule 3 may only be used for the specific use or uses that are listed and subject to the conditions set out in Schedule 3 with respect to that land.

There are no restricted uses which apply to the Scheme.

Note: A restricted use is the only use or uses that is permitted on a specific portion of land and other uses that would otherwise be permissible in the zone are not permitted.

#### **4.7 SPECIAL USE ZONES**

4.7.1 Special use zones are set out in Schedule 4 and are in addition to the zones in the Zoning Table.

4.7.2 A person must not use any land, or any structure or buildings on land, in a special use zone except for the purpose set out against that land in Schedule 4 and subject to compliance with any conditions set out in Schedule 4 with respect to that land.

There are no special use zones which apply to the Scheme

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

#### **4.8 NON-CONFORMING USES**

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

- (a) the continued use of any land for the purpose for which it was being lawfully used immediately prior to the Gazettal date;
- (b) the carrying out of any development on that land for which, immediately prior to the Gazettal date, an approval or approvals, lawfully required to authorise the development to be carried out, were duly obtained and are current; or
- (c) subject to clause 11.2.1, the continued display of advertisements which were lawfully erected, placed or displayed prior to the Gazettal date.

Note: "Land" has the same meaning as in the Planning and Development Act and includes houses, buildings and other works and structures.

#### **4.9 EXTENSIONS AND CHANGES TO A NON-CONFORMING USE**

4.9.1 A person must not:

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

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

4.9.2 An application for planning approval under this clause is to be advertised in accordance with clause 9.4.

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

#### **4.10 DISCONTINUANCE OF NON-CONFORMING USE**

Where a non-conforming use of any land has been discontinued for a period of 6 months the land must not be used after that period otherwise than in conformity with the provisions of the Scheme.

#### **4.11 TERMINATION OF A NON-CONFORMING USE**

The local government may effect the discontinuance of a non-conforming use by the purchase of the land, or by the payment of compensation to the owner or occupier or to both the owner and occupier of that land, and may enter into an agreement with the owner for that purpose.

Note: Sections 190 and 191 of the Planning and Development Act enables the local government to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a town planning scheme, subject to Part 9 of the *Land Administration Act 1997*, that section and the Scheme.

#### **4.12 DESTRUCTION OF NON-CONFORMING USE BUILDINGS**

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

## **PART 5 - GENERAL DEVELOPMENT REQUIREMENTS**

### **5.1 COMPLIANCE WITH DEVELOPMENT STANDARDS AND REQUIREMENTS**

Any development of land is to comply with the provisions of the Scheme.

### **5.2 RESIDENTIAL DESIGN CODES**

5.2.1 A copy of the Residential Design Codes is to be kept and made available for public inspection at the offices of the local government.

5.2.2 Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform with the provisions of those Codes.

5.2.3 The Residential Design Codes density applicable to land within the Scheme area is to be determined by reference to the Residential Design Codes density number superimposed on the particular areas contained within the borders shown on the Scheme Map or where such an area abuts another area having a Residential Planning Code density, as being contained within the area defined by the centre-line of those borders.

### **5.3 SPECIAL APPLICATION OF RESIDENTIAL DESIGN CODES**

#### **5.3.1 Split Density Code and Corner Lots**

5.3.1.1 Where a Split Density Code is depicted on the Scheme maps, any development shall conform to the lower density code applicable to the lot, unless Council determines that development up to the middle or higher density code is acceptable, having regard for sub-clause 5.3.1.2.

5.3.1.2 Subdivision or development in excess of the lower density coding shall be considered to be acceptable to Council where:-

- (a) in the opinion of Council the lot has a road frontage sufficient to allow at least two homes and a shared accessway, where required to service development to the rear;
- (b) There is due regard for relevant Local Planning Policies;
- (c) Identified heritage objectives are not compromised;
- (d) The proposal demonstrates elements of water sensitive urban design; and
- (e) The existing streetscape is being preserved.

5.3.1.3 The Council may permit the development, or support the subdivision of an existing R17.5 or R20 coded corner lot to a maximum density of R25 provided the original lot has frontage to two constructed roads and any new lots created or new dwellings constructed shall have their own frontage to a constructed road.

5.3.1.4 The amalgamation of abutting lots with an existing corner lot in order to create a larger lot for the purpose of development and/or subdivision at a higher density is not consistent with the intent of clause 5.3.1.4 and the original R17.5 or R20 code shall apply to the abutting amalgamated lot.

## **5.4 RESTRICTIVE COVENANTS**

- 5.4.1 Subject to clause 5.4.2, a restrictive covenant affecting any land in the Scheme area by which, or the effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Design Codes which apply under the Scheme.
- 5.4.2 Where clause 5.4.1. operates to extinguish or vary a restrictive covenant the local government is not to grant planning approval to the development of the land which would, but for the operation of clause 5.4.1, have been prohibited unless the application has been dealt with as an 'A' use and has complied with all of the advertising requirements of clause 9.4.

## **5.5 VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS**

- 5.5.1 Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.
- 5.5.2 In considering an application for planning approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to:
- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 9.4; and
  - (b) have regard to any expressed views prior to making its determination to grant the variation.
- 5.5.3 The power conferred by this clause may only be exercised if the local government is satisfied that:
- (a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2; and
  - (b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

## **5.6. ENVIRONMENTAL CONDITIONS**

- 5.6.1 There are no environmental conditions to the Scheme.
- 5.6.2 Environmental conditions to which the Scheme is, or amendments to the Scheme are, subject are incorporated into the Scheme by Schedule 10 of the Scheme.
- 5.6.3 Where appropriate, the environmental conditions are indicated on the Scheme Map by the symbol EC to indicate that environmental conditions apply to the land.
- 5.6.4 The local government is to:
- (a) maintain a register of all relevant statements published under sections 48F and 48G of the EP Act; and
  - (b) make the statements available for public inspection at the offices of the local government.

Note: Environmental conditions are those required to be incorporated into a Scheme or an amendment to a Scheme following assessment under the *Environmental Protection Act 1986*.

## **5.7 GENERAL DEVELOPMENT REQUIREMENTS**

### **5.7.1 Unkempt Land**

To preserve the Local Amenity:

- (a) for any land within the Town, where in the opinion of the Council any undergrowth, refuse, rubbish or disused material is likely to adversely affect the amenity of the area or the health, comfort or convenience of the inhabitants thereof, the Council may cause a notice to be served on the owner or occupier of such land requiring, within a specified time, removal from the land of such undergrowth, refuse, rubbish or disused material;
- (b) every owner or occupier of land to whom a notice is served shall comply with it within the time period therein specified; and
- (c) any person who fails to comply with any notice served commits an offence and is liable to action under clause 11.4.

### **5.7.2 Carparking**

#### **5.7.2.1 General**

A person shall not develop or use land or erect, use or adapt any building for use for the purpose indicated in Table 1 of the Scheme, unless car parking spaces of the numbers specified in Table 2 are provided and such spaces are constructed, marked and maintained in accordance with the provisions of the Scheme.

Where an application is made for planning approval and the purpose for which the land or building is to be used is not specified in Table 2, the local government shall determine the number of car parking spaces to be provided on the land having regard to the nature of the proposed development, the number of employees likely to be on the site, the prevention of the obstruction of roads and streets, and the orderly and proper planning of the locality and the preservation of its amenities.

#### **5.7.2.2 Consideration of Applications Requiring Off Street Parking**

When considering any application for planning approval, the local government shall have regard to and may impose conditions on the required car parking spaces. In particular, the local government shall take into account and may impose conditions concerning:

- (a) the proportion of car parking spaces to be roofed and covered;
- (b) the proportion of car parking spaces to be below natural ground level;
- (c) the means of access to each parking space and the adequacy of any vehicular manoeuvring area;
- (d) the location of the car parking spaces on the site and their effect on the amenity of adjoining development, including the potential effect if those spaces should later be roofed, covered or enclosed.
- (e) the extent to which car parking spaces are located within the required building setback areas;

- (f) the location of proposed public footpaths, vehicular crossings, private footpaths within the lot, and the effect on both pedestrian and vehicular traffic movement and safety;
- (g) the suitability and adequacy of proposed screening or natural planting; and
- (h) the design and layout of other types of parking facilities such as bicycle parking facilities.

#### 5.7.2.3 General Requirements for Off-street Parking

The following general requirements apply when off street parking is required:

- (a) classification certificates for any buildings or structures requiring such certificates shall be issued only after all parking and loading facilities have been completed in accordance with the Scheme;
- (b) when the use of any building is changed to a use requiring greater parking facilities, additional parking shall be provided to meet the new requirements. When the use of any premises is enlarged or expanded, additional parking to meet the requirements of this section shall be provided for the enlarged and expanded portion only;
- (c) any off street parking or loading facility which is permitted but not required by the Scheme, shall comply with the standards herein governing the location, design, improvement and operation of such facilities;
- (d) all permitted or required parking and loading facilities shall be provided on the same lot as the building or use served, except in cases where the local government considers off-site location to be appropriate due to varying physical and economic conditions;
- (e) use of car parking spaces for the storage of merchandise, vehicles for sale, recreational vehicles, trucks, wrecked or abandoned vehicles or the repair of vehicles is prohibited;
- (f) the dimensions of car parking spaces, parking angle, driveway widths and landscaping detail in the relevant local government's policy shall be used by the local government in determining the layout of car parking areas; and
- (g) the local government may vary the dimensions specified by up to 10 percent where obstructions, site dimensions or topography result in the loss of a car parking space in any run of car parking spaces. This provision shall be used in order to obtain one additional space in a run of spaces and shall not be used to modify landscaping, shade tree or driveway access requirements.

#### 5.7.2.4 Joint Use of Parking Facilities

Parking facilities may be provided jointly subject to the satisfaction of the requirements contained hereunder. When there is an overall deficiency in the number of spaces provided, parking facilities for an adjoining use, where peak hours of operation are substantially different, may be provided jointly. Such joint usage shall be subject to the satisfaction of the following conditions:

- (a) the submission of sufficient evidence to demonstrate that no substantial conflict will exist in the principal hours or peak demand of the buildings or uses for which the joint use is proposed;



- (b) the number of parking spaces which may be credited against the requirements of each building or use involved shall not exceed the number of spaces reasonably anticipated to be available during the hours of operation;
- (c) parking spaces designated for joint use shall be easily accessible and no further than 200 metres in distance from an appropriate entrance of the building which the spaces are proposed to serve; and
- (d) the local government may require an agreement to be entered into between the owners and occupiers of the adjoining properties as to the terms and conditions of the joint use of the parking facilities and providing for the creation of easements or other rights in order to ensure the continued availability of a specified number of parking spaces for the use of each of those properties.

Where the owner demonstrates to the satisfaction of the local government that there is not the demand for the number of parking spaces specified in Table 2, the local government may permit the owner to provide landscaping in lieu of parking spaces not constructed and the landscaping shall be included in calculations as car parking but not as landscaping, but the local government may from time-to-time require that additional parking spaces be provided.

#### 5.7.2.5 Cash in Lieu of Parking

In the Town Centre and Commercial Zones where a developer satisfies the local government that the minimum car parking requirements cannot be provided on the site, the local government may accept a cash payment in lieu of the provision of car parking spaces, but subject to the following requirements:

- (a) a cash-in -lieu payment shall be not less than the estimated cost to the owner Of providing and constructing the parking spaces required by the Scheme, plus the value, as estimated by the Valuer-General of that area of this land which would have been occupied by the parking spaces;
- (b) before the local government agrees to accept a cash payment in lieu of the provisions of parking spaces, the local government must either have already provided a public car park nearby, or must have firm proposals for providing a public car park area nearby within a period of not more than eighteen months from the time of agreeing to accept the cash payment; and
- (c) payments made under this clause shall be paid into a special fund to be used to provide public car parks and the local government may use that fund to provide public car parks in the immediate vicinity.

#### 5.7.2.6 Landscaping Construction and Maintenance

The owner and occupier of premises on which car parking spaces are provided shall ensure that:

- (a) the car parking area is landscaped with shade trees, laid out, constructed, drained and maintained in accordance with the approved plan;
- (b) the car parking spaces are sealed and clearly marked out at all times to the satisfaction of the local government; and
- (c) all trafficable areas to be sealed to the satisfaction of the local government.

#### 5.7.2.7 Landscaping for Off-Street Parking

Boundary landscaping shall be provided for parking areas with more than 5 parking spaces and interior landscaping shall be provided for open parking areas with 21 or more parking spaces. Landscaping shall comply with the following requirements:

- (a) all areas between parking areas and adjoining streets shall have a minimum of 2.0 metres wide permanent landscape area, except in the instance of corner lots, where minimum width of 1.0 m shall apply. In addition, the local government may also require permanent landscaping between the parking area and all other side and rear property lines; and
- (b) for open parking areas, with 21 or more parking spaces, there shall be provided a minimum of 1 square metre of permanent landscaping for every 10 Square metres of parking bay area. Such landscaping shall not be in addition to any other landscaping required by this Scheme.

#### 5.7.2.8 Short-Term Parking Bays

In addition to the car parking requirements specified in Table 2, the local government may require the provision of additional car parking bays for short term parking for the purpose of dropping-off persons attending/visiting a property.

**TABLE 2 - MINIMUM CAR PARKING SPACES**

Aged or Dependant Persons' Dwelling, Single House, Group Dwelling, Multiple Dwellings	As per Residential Design Codes
Car Sales Premises, Boating Sales Premises, Caravan Sales Premises	1 space for each 20m <sup>2</sup> of display area
Consulting Room/Medical Clinic	5 spaces per consultant
Consulting Room/Medical Clinic attached to a dwelling	5 per consultant plus 2 for the dwelling
Corner Store	1 space per 20m <sup>2</sup> of gross floor area
Day Care/Child Minding Centre	1 per employee and 1 per 6 children
General/Light Industry	1 space for every 50m <sup>2</sup> of gross floor area
Health Centre/Gymnasium	1 per 20m <sup>2</sup> of gross floor area
High School	5 spaces per classroom
Home Occupation	2 spaces plus 2 for dwelling
Hospital	1 per 2 beds
Hotel/Tavern	1 per bedroom plus 1 space for every 3m <sup>2</sup> of bar and public area
Place of Public Worship	1 per 5 seats
Infant Health Clinic	4
Lunchbar	1 per 20m <sup>2</sup> of gross floor area
Motel	1.5 spaces per unit
Night Club/Cabaret Room	1 space for every 5m <sup>2</sup> of bar and lounge
Nursing Home	1 per 5 beds
Office	1 space for every 20m <sup>2</sup> of lettable floor area
Open-air Display, Trade Display	1 per 20m <sup>2</sup> of display area or at the local government's discretion
Pre-School Centre	1 per staff member
Primary School	1.25 per classroom
Public Library	1 per 40m <sup>2</sup> of public floor area
Residential Building	1.5 spaces per bed
Restaurant/Eating House	1 space for every 4 seats

Shops	8 per 100m <sup>2</sup> gross floor area
Showroom	1 per 20m' of gross floor area
Squash Courts	4 per court
Take-Away Food Outlet	1 per 1m length of queuing area
Theatre, Cinema, Public Hall, Concert Hall, Dance Hall	1 per 5 seats
Warehouse	1 per 100m' of gross floor area

### **5.7.3 Development in Swan River Flood Way and Flood Plain**

In considering applications for development within the Swan River Flood Way and Floodplain, as identified by the Department of Environment, the local government shall have regard to the requirements of the Department of Environment.

### **5.7.4 Connection to Local Drainage System**

5.7.4.1 The local government may require developments in areas that experience flooding problems or where soils are not suitable for storm water disposal to connect to the local drainage system.

5.7.4.2 Where the local drainage system is required to be upgraded or extended to provide for connections required under sub clause 5.7.4.1, the local government shall require contributions towards the cost of such upgrading or extension.

### **5.7.5 Road Hierarchy**

5.7.5.1 Where the local government has adopted a road hierarchy, it may impose conditions on any development abutting a Primary Distributor, District Distributor or Local Distributor Road with respect to:

- (i) building setbacks;
- (ii) the safe and convenient ingress and egress of vehicular traffic;
- (iii) road widening requirements;
- (iv) the sharing of crossovers and parking areas; and
- (v) reciprocal rights of carriageway for vehicular traffic.

5.7.5.2 The local government may:

- (a) refuse to permit more than one vehicular entrance or exit to or from any lot;
- (b) require separate entrances and exits; and
- (c) require that entrances and exits be placed in positions nominated by it so as to avoid or to reduce traffic hazards.

5.7.5.3 Subject to any requirement of the local government, in the case of a development on land abutting a road reserved under the Metropolitan Region Scheme which is proposed to be widened, where a proposed development has a frontage to that road, any building comprised in such development shall be set back from the street alignment of the road as if the road had been widened as proposed.

## **5.7.6 Bicycle Facilities**

The local government may require the provision of facilities that provide for and encourage cycling as part of any private development. Such facilities shall provide for storage and parking of bicycles and change rooms/showers for cyclists.

## **5.7.7 Tree Preservation**

### **5.7.7.1 Interpretation**

In this section, unless the context otherwise requires:

- (a) "cut" includes prune, lop, damage, injure or interfere with; and
- (b) "tree" includes a group of trees or other vegetation.

### **5.7.7.2 Tree Preservation Order**

1. The local government may order the preservation and maintenance of a tree, having regard to a tree's:
  - (a) aesthetic quality;
  - (b) historical association;
  - (c) rarity; or
  - (d) other characteristics, which in the opinion of the local government, makes the tree worthy of preservation.
2. The local government may, from time-to-time, amend or repeal an order made under sub-clause 1.

### **5.7.7.3 Notice of a Tree Preservation Order**

1. Subject to sub-clause 5.7.7.2 above, where the local government proposes to order, or to amend or repeal an order, that a tree is to be preserved, the local government is to:
  - (a) give notice of the proposed order, or the proposed amendment or repeal of the order, to the owner and occupier of the land on which the tree is located; and
  - (b) invite the owner and occupier of that land to make written submissions to the local government about the proposed order, or the proposed amendment or repeal of the order, within 14 days or such further period as the local government may determine.
2. Where, in the opinion of the local government, there is a risk of imminent damage to a tree requiring an order to be made or amended as a matter of urgency, it may make or amend the order without notice to the owner or occupier of the land on which the tree is located.
3. Where the local government makes or amends an order under sub-clause 5.7.7.2 of this sub-clause, the local government, as soon as practicable, is to:
  - (a) give notice of the order or amended order to the owner and occupier of the land on which the tree is located; and

- (b) invite the owner and occupier to make written submissions to the local government about whether the order or amended order should be retained, amended or repealed.

#### 5.7.7.4 Destruction, etc, of Trees

Except with the prior written consent of the local government, given under Sub-clause 5.7.7.5 below, a person shall not:

- (i) cut, remove or otherwise destroy; or
- (ii) cause or permit to be cut, removed or otherwise destroyed a tree which is the subject of an order, or an amended order, or where the owner has been given notice of a proposed order, under this section.

#### 5.7.7.5 Local Government's Consent

1. An application for the local government's consent for the purposes of sub-clause 5.7.4 above, is:
  - a) to be in writing;
  - b) to be signed by the owner or occupier of the land upon which the tree is situated;
  - c) where the local government considers it necessary and so requires, be accompanied by a report of a tree surgeon or expert holding qualifications or having experience acceptable to the local government as to the condition of the tree; and
  - d) to specify the work proposed to be done to the tree.
2. The local government may refuse to consider an application which does not comply with sub-clause 1 above.
3. In respect of an application under sub-clause 1, the local government, subject to sub-clause 4, may refuse to grant or may grant, with or without any conditions it considers to be appropriate, its consent.
4. The local government is not to grant its consent to work which, if carried out, might result in the destruction of or permanent harm to, a tree which is the subject of an order, or amended order, under this Section unless:
  - a) the local government certifies in writing that the tree is dangerous;
  - b) it is necessary to remove the tree for the purpose of constructing or erecting a building, structure, fence or access way in respect of which Planning Consent or a building licence has been issued by the local government; or
  - c) the local government or a public authority considers that it is necessary to cut, remove or destroy the tree to provide a public utility or service.

5. A consent given by the local government under this Section is:
  - (a) to be in writing;
  - (b) to specify the tree to which the consent relates;
  - (c) to specify the work authorised by the consent; and
  - (d) to specify the conditions, if any, to which the consent is subject.

#### 5.7.7.6 Registry of Tree Preservation Orders

1. The local government is to record, in a Registry of Tree Preservation Orders, a list of the trees subject to orders under this Section.
2. A copy of the Registry is to be:
  - (a) kept at the offices of the local government; and
  - (b) made available for public inspection during the office hours.

### 5.7.8 Restricted Premises

5.7.8.1 In considering an application to establish Restricted Premises on land in a Commercial or Town Centre Zone, the local government shall have regard to the following matters:

- (a) The proximity of the site to schools, or other similar uses which may not be consistent with the proposed use;
- (b) The other types of retail use already in operation in the locality, particularly those which attract children or family groups; and
- (c) The need to avoid a concentration of restricted premises in a particular area.

### 5.7.9 Floodlighting

No person shall erect, install or maintain any floodlighting, spotlight or other forms of lighting for any purpose, unless the emission of light from such devices is oriented or controlled so as not to interfere with the amenity of any adjacent residential zone nor cause traffic hazard in the nearby street system.

### 5.7.10 Development on Land Subject to Dampness

Where, in the opinion of the local government, the dampness of the site on which a building is proposed to be constructed so warrants, the local government may require that one or all of the following measures shall be carried out:

1. the subsoil shall be effectively drained;
2. the surface of the ground beneath the building shall be regraded or filled and provided with adequate outlets to prevent any accumulation of water beneath the building; and
3. the surface of the ground beneath the building shall be covered with an approved damp-resisting material.

### **5.7.11 Parking of Commercial Vehicles**

1. No person shall park, or cause to be parked or permit to be parked any commercial vehicle in excess of three (3) tonnes combined tare weight on any lot within the Residential, Town Centre or Local Shopping zones without the planning approval of Council.
2. The parking of any commercial vehicle on any lot within the residential, Town Centre or Local Shopping zones, shall at all times comply with the following standard requirements:
  - (a) The commercial vehicle shall not exceed 9 metres in length and 3 metres in height; and
  - (b) There shall be a limit of one (1) commercial vehicle per lot;
  - (c) The operating of refrigeration units and or undertaking of mechanical repairs and or loading and unloading of the commercial vehicle shall be prohibited; and
  - (d) Commercial vehicles used to carry livestock or hazardous materials shall be prohibited.
3. Subject to the provisions of the scheme, where the Council grants approval to park a commercial vehicle, the following provisions shall apply:
  - (a) The approval shall be personal to the applicant and shall not be transferred or signed to any other person;
  - (b) The person(s) to whom approval is given by the Council to park a commercial vehicle shall not after the granting of that approval, park a commercial vehicle at any residential premises other than the land in respect of which the Council's approval was granted; and
  - (c) If a vehicle has been parked with the approval of the Council, and if, in the opinion of the Council, such vehicle is causing a nuisance or annoyance to neighbours or to owners or occupiers of land in the neighbourhood, the Council may revoke its approval, where either or :
    - (i) the applicant is not complying with the conditions of approval;
    - (ii) the nature of nuisance or annoyance has been verified; and
    - (iii) the applicant has not rectified the source of nuisance, annoyance or non compliance within seven (7) days of written notification,after which no person shall park a commercial vehicle upon that land without the further approval of Council.

## **5.8 GENERAL DEVELOPMENT REQUIREMENTS - RESIDENTIAL ZONE**

### **5.8.1 Preliminary**

This clause applies to all development within the Residential Zone as depicted on the Scheme Map.

### **5.8.2 General**

In considering applications for planning approval within the Residential Zone, the local government shall have regard to the Objective for the Zone and any relevant Policy Statement prepared by the local government.

### **5.8.3 Sewerage Connection**

All residential development shall be connected to a comprehensive reticulated sewerage system. Where no such connection is available, no residential development, other than the erection of a single house, shall be permitted unless:

- (a) the proposed development complies with the Government Sewerage Policy for the Metropolitan Region or
- (b) the lot, the subject of an application has been developed for residential purposes under the provisions of a previously gazetted Local Planning Scheme and redevelopment is only carried out to an equivalent or less extent as previously approved.

### **5.8.4 Relocated Buildings**

Any building or structure which has previously been partly or wholly erected on any lot, either within or outside the Scheme area, shall not be relocated to any land within the Residential Zone, unless the planning approval of the local government is granted.

## **5.9 GENERAL DEVELOPMENT REQUIREMENTS - INDUSTRIAL ZONES**

### **5.9.1 Preliminary**

This clause applies to all development within the Light and General Industry Zones as depicted on the Scheme Map.

### **5.9.2 General**

In considering applications for planning approval within the Light and General Industry Zones, the local government shall have regard to the objective for the Zone, and all development shall have regard to the Industrial Strategy component of the Local Planning Strategy and any relevant Local Planning Scheme Policy.

### **5.9.3 Use of Setback Areas**

The land between the street alignment and the building setback shall not be used for any purpose except one or more of the following:

- (a) a means of access and egress;
- (b) the parking of vehicles used by customers and employees;
- (c) the loading and unloading of vehicles (refer to 9.4)
- (d) open air display of goods, provided such area does not cover more than 20% of the setback area, is not within 3 metres of the street alignment and does not reduce the area set aside for landscaping;
- (e) landscaping; and
- (f) the display and sale of motor vehicles where the local government's approval has been granted.



#### **5.9.4 Waste Water and Effluent Disposal**

All development shall be connected to a comprehensive reticulated sewerage system. Where no such connection is available, the local government may consult with the Department of Health and the Environmental Protection Authority when considering the suitability of the application.

No land shall be used for the disposal of any waste products, by-products, industrial waste or residue of any form, nature or description unless the prior approval of the local government has been granted.

In considering an application for planning approval, the local government shall have regard to the possible effects of the development on the amenity of the surrounding areas and the possible result of such development on the soils, sub-soils as well as ground waters.

### **5.10 GENERAL DEVELOPMENT REQUIREMENTS - TOWN CENTRE ZONE**

#### **5.10.1 Preliminary**

This clause applies to development within the Town Centre Zone as depicted on the Scheme Map.

#### **5.10.2 General**

In considering applications for planning approval within the Town Centre Zone, the local government shall have regard to the Objective for the Zone and all development shall have regard to the following Policy Statements:

- (a) Town Centre Design Guidelines; and
- (b) any other relevant Policy Statement prepared by the local government.

#### **5.10.3 Residential Development**

The local government may, at its discretion, permit residential development within the Town Centre Zone to a maximum density of R Inner City. Residential development shall only be permitted where the local government is satisfied that this development is complementary to the scale and character of buildings within the Town Centre Zone. *AMD 1 GG 22/9/09*

### **5.11 GENERAL DEVELOPMENT REQUIREMENTS - LOCAL SHOPPING ZONE**

#### **5.11.1 Preliminary**

This clause applies to all development within the Local Shopping Zone as depicted on the Scheme map.

#### **5.11.2 General**

In considering applications for planning approval within the Local Shopping Zone, the local government shall have regard to the objective for the Zone and all development shall have regard to the following Policy Statements:

- (a) Local Shopping Zone Design Guidelines; and
- (b) any other relevant Policy Statement prepared by the local government.

### **5.11.3 Use of Setback Areas**

The land between the street alignment and the building setback shall not be used for any purpose except one or more of the following:

- (a) a means of access and egress;
- (b) the parking of vehicles used by customers and employees;
- (c) the loading and unloading of vehicles;
- (d) open air display of goods, provided such area does not cover more than 20% of the setback area, is not within 3 metres of the street alignment and does not reduce the area set aside for landscaping;
- (e) landscaping; and
- (f) the display and sale of motor vehicles where the local government's approval has been granted.

### **5.11.4 Residential Development**

The local government may, at its discretion, permit residential development within the Local Shopping Zone to a maximum density of R60. Residential development shall only be permitted where the local government is satisfied that this development is complementary to the scale and character of buildings within the Local Shopping Zone.

## **PART 6 - SPECIAL CONTROL AREAS**

### **6.1 OPERATION OF SPECIAL CONTROL AREAS**

6.1.1 The following special control areas are shown on the Scheme Map:

- (a) Development Areas shown on the Scheme Map as DA with a number and included in Schedule 11.
- (b) Development Contribution Areas shown on the Scheme Map as DCA with a number and included in Schedule 12.

6.1.2 In respect of a Special Control Area shown on a Scheme Map, 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.

### **6.2 DEVELOPMENT AREAS**

#### **6.2.1 Interpretation**

In clause 6.2, 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 6.2.12.1.

#### **6.2.2 Purpose of Development Areas**

6.2.2.1 The purposes of Development Areas are to:

- (a) identify areas requiring comprehensive planning; and
- (b) coordinate subdivision and development in areas requiring comprehensive planning.

6.2.2.2 Schedule 11 describes the Development Areas in detail and sets out the specific purposes and requirements that apply to the Development Areas.

#### **6.2.3 Subdivision and Development in Development Areas**

6.2.3.1 The development of land within a Development Area is to comply with Schedule 11.

6.2.3.2 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.

#### **6.2.4 Structure Plan required**

6.2.4.1 The local government is not to:

- (a) consider recommending subdivision; or
- (b) 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.

6.2.4.2 Notwithstanding clause 6.2.4.1, 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.

6.2.4.3 Any Structure Plan or Detailed Area Plan duly approved and operative under the previous town planning scheme is to have the full force and effect as if it were approved under this Scheme.

## **6.2.5 Preparation of proposed structure plans**

6.2.5.1 A proposed structure plan may be prepared by:

- (a) the local government; or
- (b) an owner.

6.2.5.2 A proposed structure plan may be prepared for all, or part of, a Development Area.

## **6.2.6 Details of proposed structure plan**

6.2.6.1 A proposed structure plan is to contain the following details:

- (a) a map showing the area to which the proposed structure plan is to apply;
- (b) a site analysis map showing the characteristics of the site including:
  - (i) landform, topography and land capability;
  - (ii) conservation and environmental values including bushland, wetlands, damp lands, streams and water courses, foreshore reserves and any environmental policy areas;
  - (iii) hydrogeological conditions, including approximate depth to water table;
  - (iv) sites and features of Aboriginal and European heritage value.
- (c) a context analysis map of the immediate surrounds to the site including:
  - (i) the pattern of neighbourhoods, and existing and planned neighbourhood, town and regional centres;
  - (ii) transport routes, including freeways, arterial routes and neighbourhood connector alignments, public transport routes, strategic cycle routes, bus stops and rail stations;
  - (iii) existing and future land use.
- (d) for district structure plans a map showing proposals for:
  - (i) the pattern of neighbourhoods around town and neighbourhood centres;
  - (ii) arterial routes and neighbourhood connector streets;
  - (iii) the protection of natural features such as water courses and vegetation;
  - (iv) major open spaces and parklands;

- (v) major public transport routes and facilities;
  - (vi) the pattern and disposition of land uses; and
  - (vii) schools and community facilities.
- (e) for local structure plans a map showing proposals for:
- (i) neighbourhoods around proposed neighbourhoods and town centres;
  - (ii) existing and proposed commercial centres;
  - (iii) natural features to be retained;
  - (iv) street block layouts;
  - (v) the street network including street types;
  - (vi) transportation corridors, public transport networks, and cycle and pedestrian networks;
  - (vii) land uses including residential densities and estimates of population;
  - (viii) schools and community facilities;
  - (ix) public parklands; and
  - (x) urban water management areas.
- (f) a written report to explain the mapping and to address the following:
- (i) 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;
  - (ii) the site analysis including reference to the matters listed in clause 6.2.6.1 (b) above, and, in particular, the significance of the conservation, environmental and heritage values of the site;
  - (iii) the context analysis including reference to the matters listed in clause 6.2.6.1 (c) above;
  - (iv) how planning for the structure plan area is to be integrated with the surrounding land;
  - (v) the design rationale for the proposed pattern of subdivision, land use and development;
  - (vi) traffic management and safety;
  - (vii) parkland provision and management;
  - (viii) urban water management;
  - (ix) proposals for public utilities including sewerage, water supply, drainage, gas, electricity and communication services; and

- (x) the proposed method of implementation including any cost sharing arrangements and details of any staging of subdivision and development.
- (g) The maps referred to in clause 6.2.6.1 are to:
  - (a) be drawn to a scale that clearly illustrates the details referred to in clause 6.2.6.1; and
  - (b) include a north point, visual bar scale, key street names and a drawing title and number.

6.2.6.2 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.

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

#### **6.2.7 Submission to Local Government and Commission**

6.2.7.1 A proposed structure plan prepared by an owner is to be submitted to the local government.

6.2.7.2 Within 7 days of preparing or receiving a proposed structure plan which proposes the subdivision of land, the local government is to forward a copy of the proposed structure plan to the Commission.

6.2.7.3 The Commission is to provide comments to the local government as to whether it is prepared to endorse the proposed structure plan with or without modifications.

6.2.7.4 The Commission must provide its comments to the local government within 30 days of receiving the proposed structure plan.

#### **6.2.8 Advertising of structure plan**

6.2.8.1 Within 60 days of preparing or receiving a proposed structure plan that conforms with clause 6.2.6 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:

- (a) 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:
  - (i) notice of the proposed structure plan published in a newspaper circulating in the Scheme area;
  - (ii) 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
- (b) give notice or require the owner who submitted the proposed structure plan to give notice, in writing to:

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

6.2.8.2 The advertisement and notice are to:

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

## **6.2.9 Adoption of proposed structure plan**

6.2.9.1 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:

- (a) adopt the proposed structure plan, with or without modifications; or
- (b) 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.

6.2.9.2 (a) In making a determination under clause 6.2.9.1, the local government is to have due regard to the comments and advice received from the Commission in relation to the proposed structure plan.

- (b) 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 6.2.9.1.

6.2.9.3 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:

- (a) readvertise the proposed structure plan; or
- (b) require the owner who submitted the proposed structure plan to readvertise the proposed structure plan;

and thereafter, the procedures set out in clause 6.2.8.1 onwards are to apply.

6.2.9.4 If within the period referred to in clause 6.2.9.1, 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 6.2.9.1, the local government is deemed to have refused to adopt the proposed structure plan.

### **6.2.10 Endorsement by Commission**

6.2.10.1 If the proposed structure plan proposes the subdivision of land, then within 7 days of making its determination under clause 6.2.9.1, the local government is to forward the proposed structure plan to the Commission for its endorsement.

6.2.10.2 As soon as practicable after receiving the proposed structure plan, the Commission is to determine whether to endorse the proposed structure plan.

6.2.10.3 The Commission is to notify the local government of its determination under clause 6.2.10.2.

### **6.2.11 Notification of structure plan**

As soon as practicable after adopting a proposed structure plan under clause 6.2.9.1 and if clause 6.2.10 applies, as soon as practicable after being notified of the Commission's decision under clause 6.2.10.3, the local government is to forward a copy of the structure plan to:

- (a) any public authority or person that the local government thinks fit; and
- (b) where the structure plan was submitted by an owner, to the owner.

### **6.2.12 Operation of structure plan**

6.2.12.1 A structure plan comes into effect:

- (a) where the structure plan proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to clause 6.2.10.2; or
- (b) on the day on which it is adopted by the local government under clause 6.2.9.1 in all other cases.

6.2.12.2 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.

### **6.2.13 Inspection of Structure Plan**

The structure plan and the Commission's notification under clause 6.2.10.3 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.

### **6.2.14 Variation to structure plan**

6.2.14.1 The local government may vary a structure plan:

- (a) by resolution if, in the opinion of the local government, the variation does not materially alter the intent of the structure plan;
- (b) otherwise, in accordance with the procedures set out in clause 6.2.6 onwards.

6.2.14.2 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.



6.2.14.3 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.

6.2.14.4 As soon as practicable after receiving the copy of the variation referred to in clause 6.2.14.3, the Commission is to determine whether to endorse the proposed variation.

6.2.14.5 The Commission is to notify the local government of its determination under clause 6.2.14.4.

6.2.14.6 A variation to a structure plan by resolution comes into effect:

- (a) where the variation proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to clause 6.2.14.4; or
- (b) on the day on which the local government resolves to make the variation under clause 6.2.14.1 (a).

#### **6.2.15 Detailed Area Plan**

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

- (a) the local government; or
- (b) an owner.

6.2.15.2 A detailed area plan may include details as to:

- (a) building envelopes;
- (b) distribution of land uses within a lot;
- (c) private open space;
- (d) services;
- (e) vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;
- (f) the location, orientation and design of buildings and the space between buildings;
- (g) advertising signs, lighting and fencing;
- (h) landscaping, finished site levels and drainage;
- (i) protection of sites of heritage, conservation or environmental significance;
- (j) special development controls and guidelines; and
- (k) such other information considered relevant by the local government.

6.2.15.3 When a proposed detailed area plan is prepared under clause 6.2.15.1, the local government is to:

- (a) 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:
  - (i) notice of the proposed detailed area plan published in a newspaper circulating in the Scheme area;
  - (ii) 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
- (b) give notice or require the owner who submitted the proposed detailed area plan to give notice, in writing to:
  - (i) all owners whose land is included in the proposed detailed area plan;
  - (ii) all owners and occupiers who, in the opinion of the local government, are likely to be affected by the adoption of the proposed detailed area plan;
  - (iii) such public authorities and other persons as the local government nominates.

6.2.15.4 The advertisement and notice are to:

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

6.2.15.5 The local government is to consider all submissions received and:

- (a) approve the detailed area plan with or without conditions; or
- (b) 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.

6.2.15.6 If within 60 days of receiving a detailed area plan prepared under clause 6.2.15.1(b), or such longer period as may be agreed in writing between the owner and the local government, the local government has not made one of the determinations referred to in clause 6.2.15.5, the local government is deemed to have refused to approve the detailed area plan.

6.2.15.7 Once approved by the local government, the detailed area plan constitutes a variation of the structure plan.

6.2.15.8 The local government may vary a detailed area plan in accordance with the procedures set out in clause 6.2.15 onwards provided such variations do not prejudice the intention of any related structure plan.

## **6.2.16 Right of Review**

6.2.16.1 An owner who has submitted a proposed structure plan under clause 6.2.7.1 may appeal, under Part 14 of the Planning and Development Act:

- (a) 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 6.2.8.1;
- (b) any determination of the local government:
  - i. to refuse to adopt a proposed structure plan (including a deemed refusal); or
  - ii. to require modifications to a proposed structure plan that are unacceptable to that owner.

6.2.16.2 An owner who has submitted a detailed area plan in accordance with clause 6.2.15 may appeal, in accordance with Part 14 of the Planning and Development Act, any discretionary decision made by the local government under clause 6.2.15.

### **6.2.17 Revocation of Agreed Structure Plan or Detailed Area Plan**

6.2.17.1 Any Agreed Structure Plan may, subject to the approval of the Commission, be revoked by Council;

6.2.17.2 Public Notice of the revocation shall be given in accordance with clause 6.2.11;

6.2.17.3 The Council may revoke an Agreed Detailed Area Plan. Following the Council's decision to revoke an Agreed Detailed Area Plan, the Agreed Detailed Area Plan shall be deleted from the Agreed Structure Plan together with any associated flagging, marking or annotation. The Council shall advise the Commission of its decision to revoke an Agreed Detailed Area Plan.

## **PART 7 - HERITAGE PROTECTION**

### **7.1 HERITAGE LIST**

- 7.1.1 The local government is to establish and maintain a Heritage List to identify those places within the Scheme area which are of cultural heritage significance and worthy of conservation under the provisions of the Scheme, together with a description of each place and the reasons for its entry.
- 7.1.2 In the preparation of the Heritage List the local government is to:
- (a) have regard to the municipal inventory prepared by the local government under section 45 of the *Heritage of Western Australia Act 1990*; and
  - (b) include on the Heritage List such of the entries on the municipal inventory as it considers to be appropriate.
- 7.1.3 In considering a proposal to include a place on the Heritage List the local government is to:
- (a) notify in writing the owner and occupier of the place and provide them with a copy of the description proposed to be used under clause 7.1.1 and the reasons for the proposed entry;
  - (b) invite submissions on the proposal from the owner and occupier of the place within 21 days of the day the notice is served;
  - (c) carry out such other consultations as it thinks fit; and
  - (d) consider any submissions made and resolve to enter the place on the Heritage List with or without modification or reject the proposal after consideration of the submissions.
- 7.1.4 Where a place is included on the Heritage List, the local government is to give notice of the inclusion to the Commission, the Heritage Council of Western Australia and to the owner and occupier of the place.
- 7.1.5 The local government is to keep a copy of the Heritage List with the Scheme documents for public inspection.
- 7.1.6 The local government may remove or modify the entry of a place on the Heritage List by following the procedures set out in clause 7.1.3.

- Note:
1. The purpose and intent of the heritage provisions are:
    - (a) to facilitate the conservation of places of heritage value; and
    - (b) to ensure as far as possible that development occurs with due regard to heritage values.
  2. A "place" is defined in Schedule 1 and may include works, buildings and contents of buildings.

### **7.2 DESIGNATION OF A HERITAGE AREA**

- 7.2.1 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, the local government may, by resolution, designate that area as a heritage area.

- 7.2.2 The local government is to:
- (a) adopt for each heritage area a Local Planning Policy which is to comprise:
    - (i) a map showing the boundaries of the heritage area;
    - (ii) a record of places of heritage significance; and
    - (iii) objectives and guidelines for the conservation of the heritage area; and
  - (b) keep a copy of the Local Planning Policy for any designated heritage area with the Scheme documents for public inspection.
- 7.2.3 If a local government proposes to designate an area as a heritage area, the local government is to:
- (a) notify in writing each owner of land affected by the proposed designation and provide the owner with a copy of the proposed Local Planning Policy for the heritage area;
  - (b) advertise the proposal by:
    - (i) publishing a notice of the proposed designation once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area;
    - (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
    - (iii) such other methods as the local government considers appropriate to ensure widespread notice of the proposal; and
  - (c) carry out such other consultation as the local government considers appropriate.
- 7.2.4 Notice of a proposal under clause 7.2.3(b) is to specify:
- (a) the area subject of the proposed designation;
  - (b) where the proposed Local Planning Policy which will apply to the proposed heritage area may be inspected; and
  - (c) in what form and in what period (being not less than 21 days from the day the notice is published or the sign is erected, as the case requires) submissions may be made.
- 7.2.5 After the expiry of the period within which submissions may be made, the local government is to:
- (a) review the proposed designation in the light of any submissions made; and
  - (b) resolve to adopt the designation with or without modification, or not to proceed with the designation.
- 7.2.6 If the local government resolves to adopt the designation, the local government is to forward a copy of the designation to the Heritage Council of Western Australia, the Commission and each owner of land affected by the designation.

- 7.2.7 The local government may modify or revoke a designation of a heritage area.
- 7.2.8 Clauses 7.2.3 to 7.2.6 apply, with any necessary changes, to the amendment of a designation of a heritage area.

### **7.3 HERITAGE AGREEMENTS**

The local government 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.

- Note: 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. DETAILED provisions relating to heritage agreements are set out in the *Heritage of Western Australia Act 1990*.

### **7.4 HERITAGE ASSESSMENT**

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 heritage place listed on the Heritage List.

### **7.5 VARIATIONS TO SCHEME PROVISIONS FOR A HERITAGE PLACE OR HERITAGE AREA**

Where desirable to:

- (a) facilitate the conservation of a heritage place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the Heritage List under clause 7.1.1; or
- (b) enhance or preserve heritage values in a heritage area designated under clause 7.2.1,

the local government may vary any site or development requirement specified in the Scheme or the Residential Design Codes by following the procedures set out in clause 5.5.2.

## PART 8 - DEVELOPMENT OF LAND

### 8.1 REQUIREMENT FOR APPROVAL TO COMMENCE DEVELOPMENT

Subject to clause 8.2, all development on land zoned and reserved under the Scheme requires the prior approval of the local government. A person must not commence or carry out any development without first having applied for and obtained the planning approval of the local government under Part 9.

- Note:
1. The planning approval of the local government is required for both the development of land (subject of this Part) and the use of land (subject of Part 4).
  2. Development includes the erection, placement and display of any advertisements.
  3. Approval to commence development may also be required from the Commission under the Metropolitan Region Scheme.

### 8.2 PERMITTED DEVELOPMENT

Except as otherwise provided in the Scheme, for the purposes of the Scheme the following development does not require the planning approval of local government:

- (a) the carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building 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) included on the Heritage List under clause 7.1 of the Scheme;
- (b) the erection on a lot of a single house including any extension, ancillary outbuildings and swimming pools, except where:
  - (i) the proposal requires the exercise of a discretion by the local government under the Scheme to vary the provisions of the Residential Design Codes; or
  - (ii) the development will be located in a heritage area designated under the Scheme; or
  - (iii) the development will be located in a Special Control Area designated under the Scheme.
  - (iv) the development will be located within the Swan River Flood Plain or Floodway and such development does not comply with any relevant Local Planning Scheme Policy.
- (c) the demolition of any building or structure except where the building or structure is:
  - (i) located in a place that has been entered in the Register of Places under the *Heritage of Western Australia Act 1990*;
  - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*;
  - (iii) included on the Heritage List under clause 7.1 of the Scheme; or

- (iv) located within a heritage area designated under the Scheme;
- (d) a home office;
- (e) any works which are temporary and in existence for less than 48 hours or such longer time as the local government agrees; and
- (f) any of the exempted classes of advertisements listed in Schedule 5 except in respect of a place included in the Heritage List or in a heritage area.

Note: Development carried out in accordance with a subdivision approval granted by the Commission is exempt under section 157 of the Planning and Development Act.

### **8.3 AMENDING OR REVOKING A PLANNING APPROVAL**

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

### **8.4 UNAUTHORISED EXISTING DEVELOPMENTS**

8.4.1 The local government may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.

8.4.2 Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of planning approval.

- Note:
1. Applications for approval to an existing development are made under Part 9.
  2. The approval by the local government of an existing development does not affect the power of the local government to take appropriate action for a breach of the Scheme or the Act in respect of the commencement or carrying out of development without planning approval.



## PART 9 - APPLICATIONS FOR PLANNING APPROVAL

### 9.1 FORM OF APPLICATION

9.1.1 An application for approval for one or more of the following:

- (a) a use or commencement of development on a Local Reserve under clause 3.4;
- (b) commencement of a 'P' use which does not comply with all relevant development standards and requirements of the Scheme as referred to in clause 4.3.2;
- (c) commencement of a 'D' use or an 'A' use as referred to in clause 4.3.2;
- (d) commencement of a use not listed in the Zoning Table under clause 4.4.2(b);
- (e) alteration or extension of a non-conforming use under clause 4.9;
- (f) a change of a non-conforming use under clause 4.9;
- (g) continuation of a non-conforming use under clause 4.12;
- (h) variation of a site or development requirement under clause 5.5;
- (i) commencement of development under clause 8.1;
- (j) continuation of development already commenced or carried out under clause 8.4;
- (k) subsequent planning approval pursuant to an approval under clause 10.8.1; and
- (l) the erection, placement or display of an advertisement,

is, subject to clause 9.1.2, to be made in the form prescribed in Schedule 6 and is to be signed by the owner, and accompanied by such plans and other information as is required under the Scheme.

9.1.2 An application for the erection, placement or display of an advertisement is to be accompanied by the additional information set out in the form prescribed in Schedule 7.

- Note: 1. Under the provisions of the Metropolitan Region Scheme, an application for planning approval in respect of land which is wholly within a regional reserve is to be referred by the local government to the Commission for determination. No separate determination is made by the local government.
2. An application for planning approval in respect of land which is wholly within the management area of the Swan River Trust is to be referred by the local government to the Swan River Trust for determination by the Minister responsible for the *Swan River Trust Act 1988*.
3. An application for planning approval in respect of land which is zoned under the Metropolitan Region Scheme and is -
- (a) affected by a gazetted notice of resolution made by the Commission under clause 32 of the Metropolitan Region Scheme;
  - (b) within or partly within a planning control area declared by the Commission under section 35C of the *Metropolitan Region Local Planning Scheme Act 1959* or section 37B of the *Western*

*Australian Planning Commission Act 1985;*

partly within the management area of the Swan River Trust or which abuts waters that are in that area; or

- (c) affected by a notice of delegation published in the *Gazette* by the Commission under section 20 of the *Western Australian Planning Commission Act 1985* and is not of a type which may be determined by the local government under that notice,

is to be referred by the local government to the Commission in accordance with the requirements of the Metropolitan Region Scheme and notice of delegation. Separate determinations are made by the local government under the Scheme and the Commission under the Region Scheme.

## **9.2 ACCOMPANYING MATERIAL**

Unless the local government waives any particular requirement every application for planning approval is to be accompanied by:

- (a) a plan or plans to a scale of not less than 1:500 showing:
  - (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 and the location, height and type of all existing structures, and structures and vegetation proposed to be removed;
  - (iii) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
  - (iv) the existing and proposed means of access for pedestrians and vehicles to and from the site;
  - (v) the location, number, dimensions and layout of all car parking spaces intended to be provided;
  - (vi) 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;
  - (vii) 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 same; and
  - (viii) the nature and extent of any open space and landscaping proposed for the site;
- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain;
- (c) any specialist studies that local government may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies; and
- (d) any other plan or information that the local government may require to enable the application to be determined.

### **9.3 ADDITIONAL MATERIAL FOR HERITAGE MATTERS**

Where an application relates to a place entered on the Heritage List or within a heritage area, the local government may require an applicant to provide one or more of the following to assist the local government in its determination of the application:

- (a) street elevations drawn to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application, and drawn as one continuous elevation;
- (b) a detailed schedule of all finishes, including materials and colours of the proposed development and, unless the local government exempts the applicant from the requirement or any part of it, the finishes of the existing developments on the subject lot and on each lot immediately adjoining the subject lot.

### **9.4 ADVERTISING OF APPLICATIONS**

9.4.1 Where an application is made for planning approval to commence a use or commence or carry out development which involves a use which is -

- (a) an 'A' use as referred to in clause 4.3.2; or
- (b) a use not listed in the Zoning Table,

the local government is not to grant approval to that application unless notice is given in accordance with clause 9.4.3.

9.4.2 Despite clause 9.4.1, where application is made for a purpose other than a purpose referred to in that clause, the local government may require notice to be given in accordance with clause 9.4.3.

9.4.3 The local government may give notice or require the applicant to give notice of an application for planning approval in one or more of the following ways:

- (a) notice of the proposed use or development served on nearby owners and occupiers who, in the opinion of the local government, are likely to be affected by the granting of planning approval, stating that submissions may be made to the local government by a specified date being not less than 14 days from the day the notice is served;
- (b) notice of the proposed use or development published in a newspaper circulating in the Scheme area stating that submissions may be made to the local government by a specified day being not less than 14 days from the day the notice is published;
- (c) a sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than 14 days from the day the notice is erected.

9.4.4 The notice referred to in clause 9.4.3(a) and (b) is to be in the form prescribed in Schedule 8 with such modifications as are considered appropriate by the local government.

9.4.5 Any person may inspect the application for planning approval referred to in the notice and the material accompanying that application at the offices of the local government.

9.4.6 After the expiration of the specified period from the serving of notice of the application for planning approval, the publication of the notice or the erection of a sign or signs, whichever is the later, the local government is to consider and determine the application.

## **PART 10 - PROCEDURE FOR DEALING WITH APPLICATIONS**

### **10.1 CONSULTATION WITH OTHER AUTHORITIES**

10.1.1 In considering an application for planning approval the local government may consult with any other statutory, public or planning authority it considers appropriate.

10.1.2 In the case of land reserved under the Scheme for the purposes of a public authority, the local government is to consult that authority before making its determination.

### **10.2 MATTERS TO BE CONSIDERED BY LOCAL GOVERNMENT**

The local government in considering an application for planning approval is to have due regard to such of the following matters as are in the opinion of the local government relevant to the use or development the subject of the application:

- (a) the aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area, including the Metropolitan Region Scheme;
- (b) the requirements of orderly and proper planning including any relevant proposed new Local Planning Scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;
- (c) any approved statement of planning policy of the Commission;
- (d) any approved environmental protection policy under the *Environmental Protection Act 1986*;
- (e) any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State;
- (f) any Local Planning Policy adopted by the local government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the local government under the Scheme;
- (g) in the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;
- (h) the conservation of any place that has been entered in the Register within the meaning of the *Heritage of Western Australia Act 1990*, or which is included in the Heritage List under clause 7.1, and the effect of the proposal on the character or appearance of a heritage area;
- (i) the compatibility of a use or development with its setting;
- (j) any social issues that have an effect on the amenity of the locality;
- (k) the cultural significance of any place or area affected by the development;
- (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (m) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- (n) the preservation of the amenity of the locality;

- (o) the relationship of the proposal 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 proposal;
- (p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (r) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
- (s) whether public utility services are available and adequate for the proposal;
- (t) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (u) whether adequate provision has been made for access by disabled persons;
- (v) 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;
- (w) whether the proposal is likely to cause soil erosion or land degradation;
- (x) the potential loss of any community service or benefit resulting from the planning approval;
- (y) any relevant submissions received on the application;
- (z) the comments or submissions received from any authority consulted under clause 10.1.1;
- (za) any other planning consideration the local government considers relevant.

### **10.3 DETERMINATION OF APPLICATIONS**

In determining an application for planning approval the local government may:

- (a) grant its approval with or without conditions; or
- (b) refuse to grant its approval.

### **10.4 FORM AND DATE OF DETERMINATION**

10.4.1 As soon as practicable after making a determination in relation to the application, the local government is to convey its determination to the applicant in the form prescribed in Schedule 9 and the date of determination is to be the date given in the notice of the local government's determination.

10.4.2 Where the local government refuses an application for planning approval the local government is to give reasons for its refusal.

### **10.5 TERM OF PLANNING APPROVAL**

10.5.1 Where the local government grants planning approval for the development of land:

- (a) the development approved is to be substantially commenced within 2 years, or such other period as specified in the approval, after the date of the determination; and
- (b) the approval lapses if the development has not substantially commenced before the expiration of that period.

10.5.2 A written request may be made to the local government for an extension of the term of planning approval at any time prior to the expiry of the approval period in clause 10.5.1.

## **10.6 TEMPORARY PLANNING APPROVAL**

Where the local government grants planning approval, the local government may impose conditions limiting the period of time for which the approval is granted.

Note: A temporary planning approval is where the local government grants approval for a limited period, for example, where the land may be required for some other purpose in the future, and is different to the term of the planning approval which is the period within which the development must commence.

## **10.7 SCOPE OF PLANNING APPROVAL**

Planning approval may be granted:

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

## **10.8 APPROVAL SUBJECT TO LATER APPROVAL OF DETAILS**

10.8.1 Where an application is for a development that includes the carrying out of any building or works, the local government may grant approval subject to matters requiring the subsequent planning approval of the local government. These matters may include the siting, design, external appearance of the buildings, means of access, landscaping, and such other matters as the local government thinks fit.

10.8.2 In respect of an approval requiring subsequent planning approval, the local government may require such further details as it thinks fit prior to considering the application.

10.8.3 Where the local government has granted approval subject to matters requiring the later planning approval of the local government, an application for approval of those matters must be made not later than 2 years after the date of the determination of the first approval, or such other period as is specified in the approval.

## **10.9 DEEMED REFUSAL**

10.9.1 Subject to clause 10.9.2, an application for planning approval is deemed to have been refused if a determination in respect of that application is not conveyed to the applicant by the local government within 60 days of the receipt of the application by the local government, or within such further time as is agreed in writing between the applicant and the local government.

10.9.2 An application for planning approval which is the subject of a notice under clause 9.4 is deemed to be refused where a determination in respect of that application is not conveyed to the applicant by the local government within 90 days of the receipt of the application by the local government, or within such further time as is agreed in writing between the applicant and the local government.

10.9.3 Despite an application for planning approval being deemed to have been refused, the local government may issue a determination in respect of the application at any time after the expiry of the period specified in clause 10.9.1 or 10.9.2, as the case requires, and that determination is as valid and effective from the date of determination as if it had been made before the period expired.

#### **10.10 RIGHT OF REVIEW**

An applicant aggrieved by a determination of the local government in respect of the exercise of a discretionary power under the Scheme may make application for review under Part 14 of the Planning and Development Act.

## **PART 11 - ENFORCEMENT AND ADMINISTRATION**

### **11.1 POWERS OF THE LOCAL GOVERNMENT**

11.1.1 The local government in implementing the Scheme has the power to:

- (a) enter into an agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matter pertaining to the Scheme;
- (b) acquire any land or buildings within the Scheme area under the provisions of the Scheme or the Planning and Development Act; and
- (c) deal with or dispose of any land which it has acquired under the provisions of the Scheme or the Planning and Development Act in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.

11.1.2 An employee of the local government authorised by the local government may, at all reasonable times and with such assistance as may be required, enter any building or land for the purpose of ascertaining whether the provisions of the Scheme are being observed.

### **11.2 REMOVAL AND REPAIR OF EXISTING ADVERTISEMENTS**

11.2.1 Where an existing advertisement at, or at any time after, the coming into force of the Scheme, is, in the opinion of the local government, in conflict with the amenity of the locality, the local government may by written notice (giving clear reasons) require the advertiser to remove, relocate, repair, adapt or otherwise modify the advertisement.

11.2.2 Where, in the opinion of the local government, an advertisement has deteriorated to a point where it is in conflict with the aims of the Scheme or it ceases to be effective for the purpose for which it was erected or displayed, the local government may by written notice require the advertiser to:

- (a) repair, repaint or otherwise restore the advertisement to a standard specified by the local government in the notice; or
- (b) remove the advertisement.

11.2.3 For the purpose of clauses 11.2.1 and 11.2.2 any notice is to be served on the advertiser and is to specify:

- (a) the advertisement the subject of the notice;
- (b) full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice; and
- (c) the period, being not less than 60 days from the date of the local government's-determination, within which the action specified is to be completed by the advertiser.

11.2.4 A person on whom notice is served under this clause may application for review under Part 14 of the Planning and Development Act against the determination of the local government.

### **11.3 DELEGATION OF FUNCTIONS**

11.3.1 The local government may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or the CEO,



within the meaning of those expressions under the *Local Government Act 1995*, the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.

11.3.2 The 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 duties under clause 11.3.1.

11.3.3 The exercise of the power of delegation under clause 11.3.1 requires a decision of an absolute majority as if the power had been exercised under the *Local Government Act 1995*.

11.3.4 Sections 5.45 and 5.46 of the *Local Government Act 1995* and the regulations referred to in section 5.46 apply to a delegation made under this clause as if the delegation were a delegation under Division 4 of Part 5 of that Act.

#### **11.4 PERSON MUST COMPLY WITH PROVISIONS OF SCHEME**

A person must not:

- (a) contravene or fail to comply with the provisions of the Scheme;
- (b) use any land or commence or continue to carry out any development within the Scheme area:
  - (i) otherwise than in accordance with the Scheme;
  - (ii) unless all approvals required by the Scheme have been granted and issued;
  - (iii) otherwise than in accordance with any conditions imposed upon the grant and the issue of any approval required by the Scheme; and
  - (iv) otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or determined by the local government under the Scheme with respect to that building or that use.

Note: Section 218 of the Planning and Development Act provides that a person who -

- (a) contravenes or fails to comply with the provisions of a town planning scheme; or
- (b) commences or continues to carry out any development which is required to comply with a Local Planning Scheme otherwise than in accordance with that scheme or otherwise than in accordance with any condition imposed with respect to the development by the responsible authority pursuant to its powers under that scheme,

is guilty of an offence.

Penalty: \$50 000, and a daily penalty of \$5 000.

#### **11.5 COMPENSATION**

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

- (a) in any case, within 6 months of the date of publication of notice of the approval of the Scheme or the amendment, as the case requires, in accordance with the *Town Planning Regulations 1967*; or
- (b) where the land has been reserved for a public purpose and:
  - (i) an application made under the Scheme for approval to carry out development on the land is refused; or

- (ii) an application made under the Scheme for approval to carry out development on the land is granted subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a public purpose,

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

11.5.2 A person whose land or property is injuriously affected by the making of a Scheme may not claim compensation for that injurious affection more than once under clause 11.5.1.

- Note:
- 1. A claim for compensation in respect of the refusal of planning approval or the imposition of conditions on land reserved under the Metropolitan Region Scheme should be made under the (*Metropolitan Region Local Planning Scheme Act 1959/Western Australian Planning Commission Act 1985*).
  - 2. A claim for compensation under section 11(1) of the Planning and Development Act may be made in the Form No. 7 in Appendix A of the *Town Planning Regulations 1967*.

## **11.6 PURCHASE OR TAKING OF LAND**

11.6.1 If, where compensation for injurious affection is claimed under the Planning and Development Act, the local government elects to purchase or take the land compulsorily the local government is to give written notice of that election to the claimant within 3 months of the claim for compensation being made.

11.6.2 The local government may deal with or dispose of land acquired by it for the purpose of a Local Reserve upon such terms and conditions as it thinks fit but the land must be used, and preserved, for a use compatible with the purpose for which it is reserved.

Note: Sections 190 and 191 of the Planning and Development Act empowers the local government to purchase or compulsorily acquire land comprised in a scheme.

## **11.7 NOTICE FOR REMOVAL OF CERTAIN BUILDINGS**

11.7.1 Under section 214 of the Planning and Development Act, 28 days written notice is prescribed as the notice to be given for the removal of a building or other work referred to in that subsection.

11.7.2 The local government may recover expenses under section 214 of the Planning and Development Act in a court of competent jurisdiction.

## **SCHEDULES**

- Schedule 1     Dictionary of defined words and expressions
    - General definitions
    - Land use definitions
  - Schedule 2     Additional uses
  - Schedule 3     Restricted uses
  - Schedule 4     Special use zones
  - Schedule 5     Exempted advertisements
  - Schedule 6     Form of application for planning approval
  - Schedule 7     Additional information for advertisements
  - Schedule 8     Notice of public advertisement of planning proposal
  - Schedule 9     Notice of determination on application for planning approval
  - Schedule 10    Environmental conditions
- Schedule 3, 4, 11 and 12 do not apply to the Scheme

## SCHEDULE 1 - DICTIONARY OF DEFINED WORDS AND EXPRESSIONS

[cl 1.7]

### 1. General definitions In the Scheme -

**"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 purposes of, advertisement, announcement or direction, and includes any hoarding or similar structure used, or adapted for use, for the display of advertisements. The term includes any airborne device anchored to any land or building and any vehicle or trailer or other similar object placed or located so as to serve the purpose of advertising;

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

**"building envelope"** means an area of land within a lot marked on a plan approved by the responsible authority within which all buildings and effluent disposal facilities on the lot must be contained;

**"conservation"** has the same meaning as in the *Heritage of Western Australia Act 1990*;

**"cultural heritage significance"** has the same meaning as in the *Heritage of Western Australia Act 1990*;

**"floor area"** has the same meaning as in the *Building Code of Australia 1996* published by the Australian Building Codes Board;

**"frontage"**, when used in relation to a building that is used for:

- (a) residential purposes, has the same meaning as in the Residential Design Codes; and
- (b) purposes other than residential purposes, means the road alignment at the front of a lot and, if a lot abuts 2 or more roads, the one to which the building or proposed building faces;

**"Gazettal date"**, in relation to a Scheme, means the date on which the Scheme is published in the *Gazette* under section 87 of the Planning and Development Act;

**"height"** when used in relation to a building that is used for:

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

**"incidental use"** means a use of premises which is ancillary and subordinate to the predominant use;

**"local government"** means the Town of Bassendean;

**"Local Planning Strategy"** means the Local Planning Strategy in respect of the Scheme, as endorsed by the Commission under regulation 12B of the *Town Planning Regulations 1967* and amended from time to time;

**"lot"** has the same meaning as in the Planning and Development Act but does not include a strata or survey strata lot;

**"minerals"** has the same meaning as in the *Mining Act 1978*;

**"net lettable area (nla)"** 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;

**"non-conforming use"** has the same meaning as it has in section 172 of the Planning and Development Act;

**"owner"**, in relation to any land, includes the Crown and every person who jointly, or severally whether at law or in equity:

- (a) is entitled to the land for an estate in fee simple in possession;
- (b) is a person to whom the Crown has lawfully contracted to grant the fee simple of that land;
- (c) is a lessor or licensee from the Crown; or
- (d) is entitled to receive or is in receipt of, or if the land were let to a tenant, would be entitled to receive, the rents and profits from the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise;

**"place"**, in Part 7 (Heritage Protection) has the same meaning as it has in the *Heritage of Western Australia Act 1990*;

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

**"plot ratio"**, in the case of residential dwellings has the same meaning as in the Residential Design Codes;

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

**"predominant use"** means the primary use of premises to which all other uses carried out on the premises are subordinate, incidental or ancillary;

**"premises"** means land or buildings;

**"region scheme"** means a regional planning scheme made under the *Western Australian Planning Commission Act 1985*, as amended from time to time;

**"Region Scheme"** means the region scheme for the Perth Metropolitan region published in the *Gazette* of 1963;

**"Region Scheme - Metropolitan"** means the Metropolitan Region Scheme within the meaning of the *Metropolitan Region Local Planning Scheme Act 1959*;

**"Residential Design Codes"** means the Residential Design Codes in Appendix 2 to the Western Australian Planning Commission Statement of Planning Policy No. 1, as amended from time to time;

**"retail"** means the sale or hire of goods or services to the public;

**"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;

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

**"zone"** means a portion of the Scheme area shown on the map by distinctive colouring, patterns, symbols, hatching or edging for the purpose of indicating the restrictions imposed by the Scheme on the use and development of land, but does not include a reserve or special control area.

## 2. Land Use Definitions

In the Scheme -

**"agriculture - extensive"** means premises used for the raising of stock or crops but does not include agriculture - intensive or animal husbandry -intensive;

**"agriculture - intensive"** means premises used for trade or commercial purposes, including outbuildings and earthworks, associated with the following:

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

**"agroforestry"** means land used commercially for tree production and agriculture where trees are planted in blocks of more than one hectare;

**"amusement parlour"** means premises open to the public, where the predominant use is for amusement by means of amusement machines and where there are more than 2 amusement machines operating within the premises;

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

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

**"bed and breakfast"** means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast;

**"betting agency"** means an office or totalisator agency established under the *Totalisator Agency Board Betting Act 1960*;

**"caravan park"** has the same meaning as in the *Caravan Parks and Camping Grounds Act 1995*;

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

**"carpark"** means premises used primarily for parking vehicles whether open to the public or not but does not include any part of a public road used for parking or for a taxi rank, or any premises in which cars are displayed for sale;

**"child care premises"** has the same meaning as in the *Community Services (Child Care) Regulations 1988*;

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

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

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

**"Commercial Vehicle"** means a vehicle whether it is licensed or not and which is used in conjunction with a trade or profession and shall include trailers, tractors and their attachments, buses and earth moving machines whether self propelled or not but shall not include a passenger car derivative as defined by the Vehicle Sales Regulations 1976 (as amended), a van, utility or light truck which is rated by the manufacturer as being suitable of carrying loads of up to 1.5 tonnes;

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

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

**"convenience store"** means premises -

- (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents, or the retail sale of petrol and those convenience goods;
- (b) operated during hours which include, but may extend beyond, normal trading hours;
- (c) which provide associated parking; and
- (d) the floor area of which does not exceed 300 square metres net lettable area;

**"corner shop"** means a shop used for the sale of daily grocery needs to persons in the immediate locality, with a gross floor area not exceeding 100m<sup>2</sup>, attached to a dwelling in residential zones and which is operated as an additional use thereto by the permanent tenants of the dwelling.

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

**"dwelling"** means a building or portion of a building 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.

**"educational establishment"** means premises used for the purposes of education and includes a school, tertiary institution, business college, academy or other educational centre;

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

**"family day care"** means premises used to provide family day care within the meaning of the *Community Services (Child Care) Regulations 1988*;

**"fast food outlet"** means premises used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises, but does not include a lunch bar;

**"fuel depot"** means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel, but does not include a service station and specifically excludes the sale by retail into a vehicle for final use of such fuel from the premises;

**"funeral parlour"** means premises used to prepare and store bodies for burial, or cremation;

**"home business"** means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which -

- (a) does not employ more than 2 people not members of the occupier's household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 50 square metres;
- (d) does not involve the retail sale, display or hire of goods of any nature;
- (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and
- (f) does not involve the use of an essential service of greater capacity than normally required in the zone;

**"home occupation"** means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which:

- (a) does not employ any person not a member of the occupier's household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 20 square metres;
- (d) does not display a sign exceeding 0.2 square metres;



- (e) does not involve the retail sale, display or hire of goods of any nature;
- (f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and
- (g) does not involve the use of an essential service of greater capacity than normally required in the zone;

**"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:

- (a) entail clients or customers 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 store"** means any shop with a net lettable area not exceeding 100 square metres attached to a dwelling and which is operated by a person resident in the dwelling;

**"hospital"** means premises in which persons are admitted and lodged for medical treatment or care and includes a maternity hospital;

**"hotel"** means premises providing accommodation the subject of a hotel licence under the *Liquor Licensing Act 1988*, and may include a betting agency on those premises, but does not include a tavern or motel;

**"industry"** means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes premises on the same land used for:

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

incidental to any of those industrial operations;

**"industry - cottage"** means a trade or light industry producing arts and crafts goods which does not fall within the definition of a home occupation and which:

- (a) does not cause injury to or adversely affect the amenity of the neighbourhood;
- (b) where operated in a residential zone, does not employ any person other than a member of the occupier's household;
- (c) is conducted in an out-building which is compatible with the principal uses to which land in the zone in which it is located may be put;
- (d) does not occupy an area in excess of 50 square metres; and
- (e) does not display a sign exceeding 0.2 square metres in area;

**"industry - extractive"** means an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar material from the

land and includes the treatment and storage of those materials, or the manufacture of products from those materials on, or adjacent to, the land from which the materials are extracted, but does not include industry - mining;

**"industry - general"** means an industry other than a cottage, extractive, light, mining, rural or service industry;

**"industry - light"** means an industry:

- (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises do not cause any injury to or adversely affect the amenity of the locality;
- (b) the establishment or conduct of which does not, or will not, impose an undue load on any existing or proposed service for the supply or provision of essential services;

**"industry - mining"** means land used commercially to extract minerals from the land;

**"industry - rural"** means:

- (a) an industry handling, treating, processing or packing rural products; or
- (b) a workshop servicing plant or equipment used for rural purposes;

**"industry - service"** means:

- (a) an industry - light carried out from premises which may have a retail shop front and from which goods manufactured on the premises remises may be sold; or
- (b) premises having a retail shop front and used as a depot for receiving goods to be serviced;

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

**"marina"** means premises at which berths or pens, and fuelling, servicing, repairing, storage (including storage on land) and other facilities for boats are provided, with or without the sale of boating gear and equipment, and includes all jetties, piers, embankments, quays and moorings and all offices and storerooms used in connection with the marina;

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

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

**"medical centre"** means premises, other than a hospital, used by one or more health consultant(s) for the investigation or treatment of human injuries or ailments and for general outpatient care (including preventative care, diagnosis, medical and surgical treatment, and counselling);

**"motel"** means premises 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 may comprise premises licensed under the *Liquor Licensing Act 1988*;

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

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

- (a) electrical and mechanical repairs, or overhauls, to vehicles; or
- (b) repairs to tyres,

but does not include premises used for recapping or retreading of tyres, panel beating, spray painting or chassis reshaping;

**"motor vehicle wash"** means premises where the primary use is the washing of motor vehicles;

**"night club"** means premises:

- (a) used for entertainment with or without eating facilities; and
- (b) licensed under the *Liquor Licensing Act 1988*;

**"office"** means premises used for administration, clerical, technical, professional or other like business activities;

**"park home park"** has the same meaning as in the *Caravan Parks and Camping Grounds Regulations 1997*;

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

**"plantation"** has the same meaning as in the *Code of Practice for Timber Plantations in Western Australia* (1997) published by the Department of Conservation and Land Management and the Australian Forest Growers;

**"plant nursery"** means land and buildings used for the display and sale of garden products, including garden ornaments, plants, seeds, domestic garden implements and motorised implements and the display but not manufacture of prefabricated garden structures;

**"reception centre"** means premises used for functions on formal or ceremonial occasions but not for unhosted use for general entertainment purposes;

**"recreation - private"** means premises used for indoor or outdoor leisure, recreation or sport which are not usually open to the public without charge;

**"residential building"** has the same meaning as in the Residential Design Codes;

**"restaurant"** means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the *Liquor Licensing Act 1988*;

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

- (a) publications that are classified as restricted under the *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;

**"rural pursuit"** means any premises used for:

- (a) the rearing or agistment of animals;
- (b) the stabling, agistment or training of horses;
- (c) the growing of trees, plants, shrubs or flowers for replanting in domestic, commercial or industrial gardens; or
- (d) the sale of produce grown solely on the lot,

but does not include agriculture - extensive or agriculture - intensive;

**"service station"** means premises used for —

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

but does not include premises used for a transport depot, panel beating, spray painting, major repairs or wrecking;

**"shop"** means premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet;

**"showroom"** means premises used to display, sell by wholesale or retail, or hire, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature;

**"storage"** means premises used for the storage of goods, equipment, plant or materials;

**"tavern"** means premises licensed as a tavern under the *Liquor Licensing Act 1988* and used to sell liquor for consumption on the premises;

**"telecommunications infrastructure"** means land used to accommodate any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use in or in connection with, a telecommunications network;

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

**"transport depot"** means land and buildings used for the garaging of motor vehicles used or intended to be used for carrying goods or persons for hire or reward or for any consideration, or for the transfer of goods or persons from one such motor vehicle to another of such motor vehicles and includes maintenance, management and repair of the vehicles uses, but not of other vehicles;

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

**"warehouse"** means premises used to store or display goods and may include sale by wholesale;

**"winery"** means premises used for the production of viticultural produce and may include sale of the produce.

## SCHEDULE 2 - ADDITIONAL USES

[cl. 4.5]

No.	Description of Land	Additional Use	Conditions
1	Lot 336 of Swan S. Cnr Reid Street and West Road, Bassendean	Vineyard and Wine making	
2	Lot 50 Guildford Road, Bassendean (Nos 163-165)	Medical Clinic	<ol style="list-style-type: none"> <li>1. No vehicular access to or from Guildford Road will be permitted.</li> <li>2. No more than three rooms within the clinic to be used for the treatment of patients.</li> <li>3. Lots 12 &amp; 3 Guildford Road to be amalgamated and all costs associated with this to be met by the applicant.</li> <li>4. A total of 14 parking bays shall be provided in accordance with the plan approved by Council.</li> <li>5. A directional sign to be erected and maintained by the occupier to indicate the location of both patient and employee parking areas.</li> </ol>
3	Lots 1,2,3,4,5,and 6 Earlsferry Court , Bassendean (1,3,5,7,9 and 11)	Single Residential Dwellings	<ol style="list-style-type: none"> <li>1. Prior to subdivision of the land, the existing single storey dwelling facing Nurstead Avenue shall be demolished; and</li> <li>2. all development of the land, including that which does not require the planning consent of Council under the Scheme, shall comply with the Earlsferry House Development Policy as adopted by Council. The development policy shall include reference to such matters as fencing, building orientation, design, height and construction materials, in addition to any other matters considered appropriate by Council.</li> </ol>
4	Lot 100 Guildford Road (corner North Road), Bassendean (309)	Service Station	As determined by Council
5	Lot 2; 175 Guildford Road, Bassendean	Veterinary Clinic	As determined by Council
6	Lot 51, 76 Railway Parade	Liquor Store/Shop	As determined by Council
7	Lot 743, 3a & 3b Railway Parade	Hairdressers/Shop	As determined by Council
8	Lot 742, 1 Broadway	Shop	As determined by Council
9	Lot 65, 82 Ivanhoe Street	Shop	As determined by Council
10	Lot 2, 77 West Road	Shop	As determined by Council
11	Lot 774, 37 Guildford Road	Shop/Lunchbar	As determined by Council
12	Lot 3 Gallagher Street (cnr Morley Drive)	Hotel/Tavern	As determined by Council

13	<p>Lots 3 and 250 (Nos 103-105) Old Perth Road, Bassendean  <i>AMD 6 GG 4/10/13</i></p>	Medical Centre	<ol style="list-style-type: none"> <li>1. Applications for Planning Approval are required for any change in land use.</li> <li>2. Lots 3 and 250 Old Perth Road to be amalgamated and all costs associated with this to be met by the applicant.</li> <li>3. A minimum total of 25 parking bays to be provided for the facility, to the satisfaction of Council.</li> <li>4. Limiting the number of practitioners to eleven (11) at any one time.</li> <li>5. 1.8m high fence, constructed of corrugated fibre cement sheeting or higher standard shall be provided from the building setback line on the eastern boundary to Lot 250 Old Perth Road.</li> </ol>
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## SCHEDULE 3 - RESTRICTED USES

[cl. 4.6]

No.	Description of Land	Restricted Use	Conditions

## SCHEDULE 4 - SPECIAL USE ZONES

[cl. 4.7.1]

No.	Description of Land	Special Use	Conditions



## SCHEDULE 5 - EXEMPTED ADVERTISEMENTS

[cl. 8.2(f)]

Land Use and/or Development	Exempted Sign	Maximum Size
Dwellings	One professional name-plate as appropriate	0.2m <sup>2</sup>
Home Occupation	One advertisement describing the nature of the home occupation	0.2m <sup>2</sup>
Places of Worship, Meeting Halls and Places of Public Assembly	One advertisement detailing the function and/or the activities of the institution concerned.	0.2m <sup>2</sup>
Cinemas, Theatres and Drive-in, Theatres	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed	Each advertisement sign not to exceed 5m <sup>2</sup>
Shops, Showrooms and other uses appropriate to a Shopping Area	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building subject to a compliance with the requirements of the Signs Hoarding and Bill Posting By laws.	
Showroom, race courses, major racing tracks, sports stadium, major sporting grounds and complexes.	All signs provided that, in each case, the advertisement is not visible from outside the complex or facility concerned either from other private land or from public places and streets.	N/A
Industrial Warehouse Premises	A maximum of 4 advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding signs projecting from a building whether or not those signs are connected to a pole, wall or other building. A maximum of two free-standing advertisement signs not exceeding 5m in height above ground level.	Total area of any such advertisements shall not exceed 15m. Maximum permissible total area shall not exceed 10m <sup>2</sup> and individual advertisement signs shall not exceed 6m <sup>2</sup>
Public Places and Reserves	<p>(a) Advertisement signs (illuminated and non-illuminated) relating to the functions of government, a public authority or council of a municipality excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body;</p> <p>(b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed of a Government department, public authority or the council of a municipality; and</p> <p>(c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any statute or regulation of the like made pursuant to powers contained within a Statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.</p>	N/A

Land Use and/or Development	Exempted Sign	Maximum Size
Railway Property and Reserves	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon a railway station.	No sign shall exceed 2m <sup>2</sup> in area.
Advertisements within Buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	N/A
All classes of buildings other than single family dwellings.	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	0.2m <sup>2</sup>
Building Construction Sites (advertisement signs displayed only for the duration of the construction as follows:	One Advertisement per street frontage containing details of the project and the contractors undertaking the construction work.	2m <sup>2</sup>
i) Dwellings	One sign as for (i) above.	5m <sup>2</sup>
ii) Multiple Dwellings, Shops, Commercial and Industrial Projects.	One sign as for (i) above.	10m <sup>2</sup>
iii) Large Development or redevelopment projects involving shopping centres, office or other buildings exceeding 3 storeys in height.	One additional sign showing the name of the project builder.	5m <sup>2</sup>
Sales of Goods or Livestock	One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose.	2m <sup>2</sup>
Displayed Homes Advertisement signs displayed for the period over which homes are on display for public inspection.	i) One sign for each dwelling on display. ii) In addition to (i) above, one sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display.	2m <sup>2</sup> 5m <sup>2</sup>
Property Transactions. Advertisement signs displayed for the duration of the period over which property transactions are offered and negotiated as follows: a) Dwellings b) Multiple Dwellings, Shops, Commercial and Industrial Properties. <b>TEMPORARY SIGNS</b> c) Large properties comprised of shopping centres, buildings in excess of four storeys and rural properties in excess of 5 ha.	One sign per street frontage for each property relating to the sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed. One sign as for (a) above. <b>EXEMPTED SIGN TYPE &amp; NUMBER (All non-illuminated unless otherwise stated)</b> One sign as for (a) above.	Each sign shall not exceed an area of 2m <sup>2</sup> . Each sign shall not exceed an area of 5m <sup>2</sup> <b>MAXIMUM AREA OF EXEMPTED SIGN</b> Each sign shall not exceed an area of 10m <sup>2</sup> .

# SCHEDULE 6 - FORM OF APPLICATION FOR PLANNING APPROVAL

[cl. 9.1.1]

## Application for Planning Approval

Application

### For Planning Approval

<b>OWNER DETAILS</b>	
Name:	
Address:	Postcode:
Phone (WK): Phone (HM): Phone (MB):	Fax: E-mail:
Contact person:	
Signature:	Date:
Signature:	Date:
<i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature.</i>	

<b>APPLICANT DETAILS</b>	
Name:	
Address:	Postcode:
Phone (WK): Phone (HM): Phone (MB):	Fax: E-mail:
Contact person for correspondence:	
Signature:	Date:

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

<b>EXISTING BUILDING/LAND USE:</b>
Description of proposed development and/or use:
Nature of any existing buildings and/or use:
Approximate cost of proposed development:
Estimated time of completion:

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

*(The content of the form of application must conform to Schedule 6 but minor variations may be permitted to the format.)*

## SCHEDULE 7 - ADDITIONAL INFORMATION FOR ADVERTISEMENTS

[cl. 9.1.2]

*Note: to be completed in addition to the Application for Planning approval form*

1.	Description of property upon which advertisement is to be displayed including full details of its proposed position within that property: .....
2.	<p>Details of proposed-sign:</p> <p>(a) Type of structure on which advertisement is to be erected (i.e. freestanding, wall mounted, other): .....</p> <p>(b) Height: ..... Width: ..... Depth: .....</p> <p>(c) Colours to be used: .....</p> <p>(d) Height above ground level - (to top of advertisement): ..... (to underside): .....</p> <p>(e) Materials to be used: .....</p> <p>Illuminated: Yes / No If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source: .....</p>
3.	Period of time for which advertisement is required: .....
4.	<p>Details of signs (if any) to be removed if this application is approved:</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 detailed in 4 above.</p> <p>Signature of advertiser(s): (if ..... different from land owners) .....</p> <p>Date: .....</p>



**SCHEDULE 9 - NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL**

[cl. 10.4.1]

Location:	
Lot:	Plan/Diagram:
Vol. No.:	Folio No.:
Application date:	Received on:
Description of proposed development: .....	
The application for planning approval is:	
<input type="checkbox"/> granted subject to the following conditions:	
<input type="checkbox"/> refused for the following reasons(s): Conditions/reasons for refusal:	
.....	
.....	
.....	
Note 1:	If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
Note 2:	Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.
Note 3:	If an applicant is aggrieved by this determination there is a right of review under Part 14 of the <i>Planning and Development Act 2005</i> . An application for review must be lodged 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 Schedule 9 but minor variations may be permitted to the format.)*

## SCHEDULE 10 - ENVIRONMENTAL CONDITIONS

[cl.5.6.1]

Scheme or Amendment No.	Gazettal Date	Environmental Conditions

[Appendix B inserted in Gazette 22 Oct 1999 p. 5199-275.]

## SCHEDULE 11 - DEVELOPMENT AREAS

[cl. 6.1.1(a)]

REF NO	AREA	PROVISIONS
DA-1	Lots 1, 2, 822, 823, 824, 825, 826, 827 and 7716 Scaddan Street and Lot 839 and Portion Swan Location Q1 Railway Parade and a portion of Scaddan Street road reserve, Bassendean	An approved Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.
DA-2	Lots 182, 183, 184 and 185 Kenny Street and Lots 6, 7, 101, and 102 Parker Street, Bassendean	An approved Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.
DA-3	Lots 9 and 10 Pearson Street, Ashfield	An approved Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.



## SCHEDULE 12 - DEVELOPMENT CONTRIBUTION AREAS

[cl. 6.1.1(b)]

REF NO	AREA	DEVELOPMENT CONTRIBUTIONS

**ADOPTION**

Adopted by resolution of the Council of the Town of Bassendean at the meeting of the Council held on the 26<sup>th</sup> day of August 2003 and the seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of:

  
MAYOR

  
CHIEF EXECUTIVE OFFICER

**FINAL APPROVAL**

Adopted by final approval by resolution of the Council of the Town of Bassendean at the Ordinary meeting of Council held on the 14<sup>th</sup> day of November 2005 and the seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of:



21/4/08  
DATE

  
MAYOR

21/4/08  
DATE

  
CHIEF EXECUTIVE OFFICER

**Recommended/Submitted**

DELEGATED UNDER S.16 OF  
THE PD ACT 2005

Date: \_\_\_\_\_

**Final Approval Granted**

It is hereby certified that this is a true copy of the Scheme/~~Amendment~~, final approval to which was endorsed by the Minister for Planning and Infrastructure on 18 / 5 / 2008

MINISTER FOR PLANNING  
AND INFRASTRUCTURE

Certified by  .....

Date: \_\_\_\_\_

Officer of the Commission Duly authorised pursuant to Section 24 of the Planning and Development Act 2005 and Regulation 22(3) of the Town Planning Regulations 1967.