



Western Australia

Planning and Development Act 2005 8

## **Town Planning Regulations 1967**

These regulations were repealed by the *Planning and Development (Local Planning Schemes) Regulations 2015* r. 78 as at 19 Oct 2015 (see r. 2(b)).



## Town Planning Regulations 1967

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## Town Planning Regulations 1967

### 1. Citation

These regulations may be cited as the *Town Planning Regulations 1967*<sup>1</sup>.

[2. *Omitted under the Reprints Act 1984 s. 7(4)(f).*]

### 3. Interpretation

In these regulations unless the context requires otherwise —

***authorised person*** means a person or body appointed under regulation 3A as an authorised person for the purposes of the regulation in which the expression is used;

***Chief Executive Officer*** means the chief executive officer of the relevant local government;

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

***Development Scheme*** means a Scheme that involves one or more of the following —

- (a) works;
- (b) constructions;
- (c) alteration of boundaries,

but does not include a Scheme that involves the zoning or classification of land;

***Scheme*** means a Town Planning Scheme;

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*the Act* means the *Town Planning and Development Act 1928* (as amended);

*Town Planning Scheme Amendment* or *Amendment* means an amendment varying or amplifying a Scheme that has been approved and gazetted in accordance with section 7(4) of the Act;

and words and expressions used in these regulations have, when so used, the same respective meanings as are given to them in and for the purposes of the Act.

[*Regulation 3 amended in Gazette 7 Mar 1986 p. 704; 9 Feb 1996 p. 485; 2 Aug 1996 p. 3632; 27 Aug 2002 p. 4357-8.*]

**3A. Authorised persons**

- (1) Subject to subregulation (3), the Minister may by instrument in writing appoint any person or body to whom this regulation applies to be an authorised person for the purposes of any one or more of these regulations.
- (2) This regulation applies to —
  - (a) any officer employed in the office of the Minister;
  - (b) the chief executive officer of the Department;
  - (c) any officer of the Department nominated in writing for the purposes of this section by the chief executive officer of the Department;
  - (d) the Commission and any member of the Commission;
  - (e) the secretary of the Commission; and
  - (f) any committee established under the *Western Australian Planning Commission Act 1985*.
- (3) The Minister shall not appoint a person or body referred to in subregulation (2)(d), (e) or (f) as an authorised person for the purposes of regulation 13, 14, 19, 20 or 25AA.

- (4) The appointment of a person or body as an authorised person for the purposes of a regulation does not preclude the Minister from exercising or performing a function under that regulation.
- (5) The appointment may be made subject to such conditions, qualifications, limitations or exceptions as the Minister may specify.
- (6) The appointment may be amended or revoked by the Minister by instrument in writing.

*[Regulation 3A inserted in Gazette 27 Aug 2002 p. 4358.]*

#### **4. Resolution to prepare a Scheme**

- (1) The resolution of a local government to prepare a Scheme for any land within its district shall be in the Form No. 1 in Appendix A.
- (2) The resolution of a local government to prepare a Scheme for any land partly within its district and partly within an adjoining district shall be in the Form No. 1A in Appendix A.
- (3) A local government that passes a resolution referred to in subregulation (1) and (2) shall within 28 days after passing that resolution forward to the Commission —
  - (a) a copy of the resolution certified by the Chief Executive Officer;
  - (b) a map marked “Scheme Area Map”, signed by the Chief Executive Officer, on which is delineated the area of land proposed to be included in the Scheme; and
  - (c) a statement setting forth —
    - (i) the objects and intentions of the Scheme; and
    - (ii) the anticipated format of the Scheme.
- (4) The resolution of the local governments of 2 or more adjoining districts to prepare or adopt a joint Scheme in respect of land that is situated partly within the district of each local government shall be in the Form No. 1A in Appendix A.

- (5) Where the local governments of 2 or more adjoining districts pass a resolution referred to in subregulation (4), each local government shall within 28 days after the passing of that resolution forward to the Commission —
- (a) a copy of the resolution certified by the Chief Executive Officer;
  - (b) a map marked “Scheme Area Map”, signed by the Chief Executive Officer, on which is delineated the area of land proposed to be included in the Scheme; and
  - (c) a statement setting forth —
    - (i) the objects and intentions of the Scheme; and
    - (ii) the anticipated format of the Scheme.
- (6) The Commission shall examine the copy of the resolution, the map and the statement forwarded pursuant to this regulation and shall as soon as reasonably practicable notify the local government in writing of the receipt of the documents together with —
- (a) any adjustment that the Commission considers should be made to the Scheme area; and
  - (b) any comments the Commission may have on the statement forwarded pursuant to this regulation.

*[Regulation 4 amended in Gazette 15 May 1981 p. 1493; 7 Mar 1986 p. 704 and p. 708 (erratum in Gazette 14 Mar 1986 p. 751); 2 Aug 1996 p. 3632-3 and p. 3638-9.]*

**5. Advertisement of notice of resolution**

- (1) A local government shall, as soon as reasonably practicable after receiving notification from the Commission pursuant to regulation 4(6) publish once in the *Government Gazette* and also once in a newspaper circulating in the district of the local government, in Form No. 2 in Appendix A, notice of the passing by the local government of that resolution.



- (2) The local government shall thereupon forward a copy of the notice so published to the local government of every adjoining district, a licensee under the *Water Services Act 2012* likely to be affected by the scheme, the Department of Conservation and Environment<sup>3</sup>, the Department of Conservation and Land Management and every other public authority likely to be affected by the Scheme and shall request each of them to forward to the local government particulars of any matters that in the opinion of the local government of an adjoining district or the public authority, should be considered during the preparation of the Scheme.

*[Regulation 5 amended in Gazette 15 May 1981 p. 1493; 7 Mar 1986 p. 704 and p. 708; 2 Aug 1996 p. 3633 and p. 3638-9; 14 Nov 2013 p. 5077.]*

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

- (1) Where in pursuance of the powers conferred by section 19 of the Act the Commission prepares a Scheme in respect of Crown land, the provisions of these regulations shall, so far as the same are consistent and applicable, apply to the Commission as though it were a local government that had resolved to prepare a Scheme.
- (2) Where the Commission prepares a Scheme in respect of Crown land in pursuance of subregulation (1) it shall notify every local government affected by such Scheme.
- (3) The resolution of the Commission to prepare a Scheme in respect of Crown land shall be in the Form No. 1B in Appendix A.

*[Regulation 6 amended in Gazette 7 Mar 1986 p. 704 and p. 708; 2 Aug 1996 p. 3638-9.]*

#### **7. Scheme by order of Minister**

Where in pursuance of section 18 of the Act the Minister orders a local government to prepare or adopt a Scheme, the provisions

of these regulations shall, so far as the same are consistent and applicable, apply to the Scheme prepared or adopted by the local government in compliance with that order as though that local government had passed a resolution to prepare, or as the case may be, adopt a Scheme.

*[Regulation 7 amended in Gazette 2 Aug 1996 p. 3638-9.]*

**8. Preparation of Scheme**

- (1) Subject to subregulation (1a), a Scheme shall comprise a Scheme Text, a map or set of maps marked “Scheme Map” and such supporting plans, maps, diagrams, illustrations and other material as the Commission may require.
- (1a) The Commission may approve the omission of the Scheme Map referred to in subregulation (1).
- (2) The local government shall prepare a Base Map of the Scheme area, and such map shall be used in the preparation of a Scheme Map and any other information map required to be prepared relative to the Scheme. Such Base Map shall be drawn to a scale appropriate to the size and character of the Scheme area, but not smaller than 1 : 10 000 or larger than 1 : 500, except with the approval of the Commission.
- (3) Unless otherwise approved by the Commission maps shall not be on sheets larger than A.1 size.

*[Regulation 8 amended in Gazette 22 Jun 1973 p. 2378;  
15 May 1981 p. 1493; 7 Mar 1986 p. 704 and p. 708;  
2 Aug 1996 p. 3638-9.]*

*[9. Deleted in Gazette 7 Mar 1986 p. 704.]*

**10. Scheme Map**

- (1) Every Scheme Map shall be prepared in triplicate together with such additional copies as the Commission may require, and where that map comprises a number of sheets each sheet shall be numbered consecutively.

- (2) Every Scheme Map shall show such information, and shall be prepared in such manner, as the Commission may require.

*[Regulation 10 amended in Gazette 7 Mar 1986 p. 704 and p. 708.]*

**11. Scheme Text**

- (1) If a Scheme envisages the zoning or classification of land a Scheme Text shall be prepared —
- (a) in accordance with the Model Scheme Text set out in Appendix B; and
  - (b) otherwise, in such manner and form as the Minister or an authorised person may require.

- (2) In the case of Development Schemes, or Schemes that do not envisage the zoning or classification of land, a Scheme Text shall be prepared setting forth the objects and intentions of the Scheme and the methods by which it is to be administered.

*[Regulation 11 amended in Gazette 7 Mar 1986 p. 705; 22 Oct 1999 p. 5193; 27 Aug 2002 p. 4359.]*

**12. Scheme Report**

- (1) The local government shall in respect of the Scheme prepare 3 copies of a Scheme Report which shall contain an analysis of the investigations and surveys made during the preparation of the Scheme, and an explanation of the proposals.

*[(2) deleted]*

*[Regulation 12 amended in Gazette 7 Mar 1986 p. 705 (erratum in Gazette 14 Mar 1986 p. 751); 2 Aug 1996 p. 3638-9; 22 Oct 1999 p. 5194.]*

**12A. Local Planning Strategy**

- (1) If a Scheme envisages the zoning or classification of land, the local government shall —
  - (a) prepare the Scheme Report under regulation 12 in the form of a Local Planning Strategy; and
  - (b) forward the Local Planning Strategy to the Commission.
- (2) Without limiting the operation of subregulation (1), a local government may —
  - (a) prepare a Local Planning Strategy in respect of a Scheme approved by the Minister for which a Local Planning Strategy has not been prepared at any time it thinks fit; and
  - (b) forward the Local Planning Strategy to the Commission.
- (3) A Local Planning Strategy shall —
  - (a) set out the long-term planning directions for the local government;
  - (b) apply State and regional planning policies; and
  - (c) provide the rationale for the zones and other provisions of the Scheme.
- (4) If the Minister so approves, subregulation (1) does not apply in respect of a proposed town planning scheme where —
  - (a) the scheme was adopted by the local government before the coming into operation of the *Town Planning Amendment Regulations 1999*<sup>1</sup>; and
  - (b) the local government has prepared a Scheme Report containing such information, and in such manner, as the Commission requires.

*[Regulation 12A inserted in Gazette 22 Oct 1999 p. 5194-5.]*

**12B. Advertisement and endorsement of, and publication of notice of, Local Planning Strategy**

- (1) When the Commission has certified a Local Planning Strategy as being consistent with regulation 12A(3), the local government shall, in the case of a Local Planning Strategy prepared under regulation 12A(1), advertise the Local Planning Strategy as if it were part of the Scheme.
- (2) When the Commission has certified a Local Planning Strategy as being consistent with regulation 12A(3), the local government shall, in the case of a Local Planning Strategy prepared under regulation 12A(2) —
  - (a) publish a notice of the Local Planning Strategy once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area, giving details of —
    - (i) where the Local Planning Strategy may be inspected; and
    - (ii) 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) forward a copy of the Local Planning Strategy to any other person or public authority which, in the opinion of the local government, has a direct interest in the Local Planning Strategy, for consideration and advice within a period (being not less than 21 days after the day on which the Local Planning Strategy is given to the person or body) specified by the local government;
  - (c) take such other steps as the local government considers appropriate to give notice of the Local Planning Strategy; and
  - (d) carry out such other consultation as the local government considers appropriate.

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- (3) After the expiry of the period within which submissions may be made and advice given, the local government shall —
  - (a) review the Local Planning Strategy in the light of any submissions made and advice received;
  - (b) adopt the Local Planning Strategy with such modifications as it thinks fit to give effect to the submissions and advice; and
  - (c) submit a copy of the Local Planning Strategy to the Commission for its endorsement.
- (4) If the Commission endorses the Local Planning Strategy, the local government shall publish notice of the Local Planning Strategy and the endorsement of the Commission in a newspaper circulating in the Scheme area.
- (5) A copy of the Local Planning Strategy of a local government, as amended from time to time, shall be kept and made available for public inspection during business hours at the offices of the local government and the Commission.

*[Regulation 12B inserted in Gazette 22 Oct 1999 p. 5195-7.]*

**12C. Amendment or revocation of Local Planning Strategy**

- (1) A Local Planning Strategy may be amended by amendment prepared by the relevant local government and approved by the Commission.
- (2) A Local Planning Strategy may be revoked —
  - (a) by a subsequent Local Planning Strategy prepared, endorsed and notified under regulation 12B that is expressed to supersede the existing Local Planning Strategy; or
  - (b) with the approval of the Commission, by the 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.

- (3) Regulation 12B, with any necessary changes, applies to the amendment of a Local Planning Strategy in the same way as it applies to a Local Planning Strategy prepared under regulation 12A(2).

*[Regulation 12C inserted in Gazette 22 Oct 1999 p. 5197.]*

**13. Adoption of Scheme by local government**

- (1) On completion of the preparation of the Scheme documents pursuant to the provisions of these regulations, the local government shall —
- (a) if it resolves to proceed with the Scheme, adopt the proposed Scheme in accordance with the Act; or
  - (b) if it resolves not to proceed with the Scheme, notify the Commission in writing of that resolution.
- (2) Two copies of the Scheme and all documents in support and forming part thereof shall if adopted be submitted to the Commission, and thereupon the Commission shall examine the Scheme and those documents and recommend to the Minister or an authorised person that he give or withhold his consent for the Scheme to be advertised for public inspection or give his consent for the Scheme to be advertised subject to such modifications to the Scheme as are specified.
- (3) The Commission shall not recommend that consent be given to the Scheme being advertised for public inspection (with or without modifications) unless —
- (a) sections 7A2 of the Act and 48C(6)(a) of the EP Act have been complied with; or
  - (b) the recommendation is conditional on those sections being complied with before the Scheme is advertised for public inspection.
- (4) If the EPA acts under section 48A(1)(c) or 48C(1)(a) of the EP Act, the Commission shall return the Scheme documents to the local government.

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- (5) If the EPA acts under section 48C(1)(a) of the EP Act and the local government wishes to proceed with the Scheme —
- (a) the local government shall return the Scheme documents to the Commission after it has complied with sections 7A2 of the Act and 48C(6)(a) of the EP Act; and
  - (b) if it has not already done so, the Commission shall make a recommendation under subregulation (2).

*[Regulation 13 amended in Gazette 15 May 1981 p. 1493; 10 Aug 1984 p. 2364; 7 Mar 1986 p. 708; 9 Feb 1996 p. 486; 2 Aug 1996 p. 3633 and p. 3638-9; 27 Aug 2002 p. 4359.]*

**14. Action by Minister or authorised person and notification**

- (1) The Minister or authorised person shall consider the proposed Scheme and the recommendation made by the Commission in relation thereto pursuant to regulation 13 and shall —
- (a) give his consent for the Scheme to be advertised for public inspection;
  - (b) withhold his consent for the Scheme to be advertised for public inspection; or
  - (c) give his consent for the Scheme to be advertised for public inspection subject to such modifications and on such conditions as he may think fit.
- (1a) If the Minister or authorised person gives his consent under subregulation (1)(a) or (c) —
- (a) before the EPA has acted under section 48A of the EP Act; or
  - (b) after the EPA has acted under section 48A(1)(a) of the EP Act,

the consent must be conditional on sections 7A2 of the Act and 48C(6)(a) of the EP Act being complied with (if compliance is required) before the Scheme is advertised for public inspection.



- (1b) If the EPA has acted under section 48A(1)(c) or 48C(1)(a) of the EP Act, the Minister or authorised person shall not give his consent under subregulation (1)(a) or (c) until —
- (a) if the EPA acted under section 48A(1)(c) of the EP Act, a direction is given under section 48A(2)(a) of the EP Act; and
  - (b) the local government, if it wishes to proceed with the Scheme, has —
    - (i) complied with sections 7A2 of the Act and 48C(6)(a) of the EP Act; and
    - (ii) returned the Scheme documents to the Commission.
- (2) The Minister or authorised person shall notify the Commission of his decision in respect to the Scheme and the Commission shall thereupon forthwith give notice in writing of that decision to the local government.
- (3) The Commission shall retain one copy of the Scheme documents for its own use and record and shall return the other copy to the local government.
- (4) Within 42 days, or any longer period approved by the Minister or authorised person, of being notified of any modifications required by the Minister or authorised person, the local government shall —
- (a) if it resolves to proceed with the Scheme —
    - (i) settle the modifications with the Commission together with any other modifications which appear to be necessary at that time;
    - (ii) request the Commission to obtain the consent of the Minister or authorised person to the further modifications; and
    - (iii) resubmit the Scheme documents with the required modifications duly carried out;
- or

- (b) if it resolves not to proceed with the Scheme, notify the Commission in writing of that resolution.

*[Regulation 14 amended in Gazette 15 May 1981 p. 1493; 10 Aug 1984 p. 2365; 7 Mar 1986 p. 708; 9 Feb 1996 p. 486; 2 Aug 1996 p. 3633-4 and p. 3638-9; 22 Oct 1999 p. 5198; 27 Aug 2002 p. 4359.]*

*[14A. Omitted under the Reprints Act 1984 s. 7(4)(g).]*

**15. Advertisement of Scheme**

- (1) Where consent has been given for the Scheme to be advertised for public inspection under regulation 14 and, if that consent was conditional, the conditions have been satisfied, the local government specified in the Scheme as such shall become the responsible authority under the Act and notice of the Scheme shall be advertised in the Form No. 3 in Appendix A in accordance with subregulation (3) and the responsible authority shall take such other steps, if any, as it considers necessary, or as it is directed by the Commission to take, to make public the details of the Scheme.
- (2) The responsible authority shall make available for inspection by the public during office hours —
  - (a) at the office of the responsible authority; and
  - (b) at the office of the Commission,

a copy of the Scheme, Scheme Report and other supporting documents, and there shall be made available at the office of any local government affected by the Scheme a copy of that part of the Scheme that relates to land within the district of that local government.

- (3) The advertisement required to be made pursuant to subregulation (1) shall be effected by publication by the Commission of the notice referred to in that subregulation once in the *Government Gazette* and the Commission shall forward to the responsible authority a copy of the notice so published and

thereupon the responsible authority shall publish the notice once in a newspaper circulating in the district where the land the subject of the Scheme is situated and shall also display a copy of the notice in a prominent place in the offices of the responsible authority for the period prescribed by subregulation (5) for the lodging of submissions.

- (4) The responsible authority shall give to each public authority and other person whom the local government is required by section 7(2aa) of the Act to consult, and in the case of a development scheme to every landowner within the area the subject of the Scheme a notice in writing in the Form No. 3 in Appendix A.
- (5) The Commission shall, in the notice advertised or given pursuant to this regulation, describe the purpose of the Scheme, state the times and places where the Scheme may be inspected, and specify a date on or before which submissions in respect of the Scheme may be made; which date shall be not less than 3 months from the date of publication of advertisement in the *Government Gazette* pursuant to this regulation, except that in the case of a Development Scheme or a Scheme that does not involve the zoning or classification of land the Commission may specify a lesser period for the lodging of submissions but subject in the case of a Town Planning Scheme Amendment to regulation 25.

*[Regulation 15 amended in Gazette 27 Feb 1976 p. 545; 15 May 1981 p. 1494; 10 Aug 1984 p. 2365; 7 Mar 1986 p. 705 and 708; 2 Aug 1996 p. 3634 and p. 3638-9; 27 Aug 2002 p. 4359.]*

## **16. Submissions on Scheme**

- (1) A person who desires to make a submission on the Scheme shall make a written submission by notice in the form of Form No. 4 in Appendix A signed by him to the responsible authority.
- (2) A person making a submission under subregulation (1) shall state in the notice whether he makes the submission as an owner

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or occupier of property within the area of the responsible authority or as the representative of a body corporate or other body, or in some other capacity.

- (3) A responsible authority shall promptly acknowledge in writing the receipt of each submission received by it.

*[Regulation 16 inserted in Gazette 27 Feb 1976 p. 545; amended in Gazette 7 Mar 1986 p. 705; 2 Aug 1996 p. 3634.]*

**17. Consideration of submissions**

- (1) Subject to subregulation (1a) the responsible authority shall, within —

- (a) 6 months of the expiry of the period specified under regulation 15(5) for making submissions;
- (b) 42 days of receiving a statement delivered under section 48F(2)(a) of the EP Act; or
- (c) if the responsible authority makes a request under section 48G(1) of the EP Act within the longer of the periods referred to in paragraphs (a) and (b) and a statement is delivered under section 48G(3) of the EP Act, 42 days of receiving that latter statement,

(whichever is the longer period), or such further period as is approved by the Commission, consider all submissions to the Scheme and in respect of each submission shall consider whether the Scheme should be modified accordingly or whether that submission should be rejected.

- (2) After considering the submissions made pursuant to regulation 16(1) or if no submissions have been lodged within the period specified under regulation 15(5) for making submissions, the responsible authority shall pass a resolution either —
- (a) that the Scheme be adopted with or without modification; or
  - (b) that it does not wish to proceed with the Scheme.

*[Regulation 17 inserted in Gazette 27 Feb 1976 p. 545; amended in Gazette 7 Mar 1986 p. 705; 9 Feb 1996 p. 486; 2 Aug 1996 p. 3634-5; 27 Aug 2002 p. 4359.]*

**17A. Incorporation of environmental conditions**

If a responsible authority has —

- (a) passed a resolution under regulation 17(2)(a); and
- (b) received a statement delivered under section 48F(2) of the EP Act,

the responsible authority shall, before complying with regulation 18, amend the Scheme documents to incorporate the conditions —

- (c) set out in that statement; or
- (d) if the responsible authority has received a statement delivered under section 48G(3) of the EP Act, set out in that latter statement.

*[Regulation 17A inserted in Gazette 2 Aug 1996 p. 3635.]*

**18. Scheme to be forwarded to the Commission**

- (1) Within 28 days of passing a resolution under regulation 17(2) the responsible authority shall forward the Scheme documents to the Commission together with —
  - (a) a schedule of submissions made on the Scheme;
  - (b) its recommendations made in respect of those submissions;
  - (c) particulars of the modifications (if any) to the Scheme recommended by the responsible authority;
  - (d) a copy of the resolution passed under regulation 17(2); and
  - (e) if that resolution was a resolution under regulation 17(2)(b), a summary of the reasons why the responsible authority does not wish to proceed with the Scheme.

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- (2) The schedule of submissions referred to in subregulation (1)(a) shall contain —
- (a) the name and address of the person making the submission;
  - (b) where it is relevant, a description of the affected property; and
  - (c) the submission or a summary thereof,

and shall be accompanied by such relevant maps, plans, specifications and particulars as may be necessary or as are required by the Commission.

*[Regulation 18 inserted in Gazette 27 Feb 1976 p. 545-6; amended in Gazette 15 May 1981 p. 1494; 7 Mar 1986 p. 705 and 708; 9 Feb 1996 p. 486-7; 2 Aug 1996 p. 3635.]*

**19. Commission to submit Scheme to Minister or an authorised person**

The Commission shall after having examined the Scheme and the submissions made thereon and the comments, recommendations and modifications made by the responsible authority submit its recommendations to the Minister or an authorised person.

*[Regulation 19 inserted in Gazette 27 Feb 1976 p. 546; amended in Gazette 7 Mar 1986 p. 709; 27 Aug 2002 p. 4359.]*

**20. Consideration of Scheme by Minister or authorised person**

- (1) Where the Minister or authorised person is of the opinion that a modification to the Scheme is substantial whether the modification is recommended by the responsible authority or any other modification he shall direct the responsible authority to advertise the modification in the form of Form No. 3A in Appendix A once in a newspaper circulating in the district where the land the subject of the Scheme is situated and to display a copy of the notice in a prominent place in the offices of the responsible authority for the period set forth in the

direction and may direct the responsible authority to take such other steps as he considers necessary to make public the modification and the responsible authority shall give effect to the direction.

- (2) A person who desires to make a submission on a modification to the Scheme that has been advertised pursuant to subregulation (1) shall make a written submission by notice in the form of Form No. 4 in Appendix A within the period specified in the direction given under subregulation (1).
- (3) The responsible authority shall, within 3 months of the expiry of the period specified under subregulation (1) for making submissions on the modifications or within such further period as is approved by the Minister or an authorised person —
  - (a) consider all submissions on the modifications to the Scheme;
  - (b) make a recommendation in respect of each submission to the Commission; and
  - (c) forward the submissions on the modifications to the Scheme and its recommendations thereon to the Commission.
- (4) The Commission shall examine the submissions on the modifications to the Scheme and the recommendations of the responsible authority and make its recommendations thereon to the Minister.
- (5) The Minister shall consider the submissions on the modifications to the Scheme made under this regulation together with the recommendations made thereon by the responsible authority and the recommendations of the Commission, and shall pursuant to section 7(2a) of the Act approve the Scheme, refuse to approve the Scheme or require the responsible authority to modify the Scheme in such manner as he may specify before approval is given.

*[Regulation 20 inserted in Gazette 27 Feb 1976 p. 546; amended in Gazette 15 May 1981 p. 1494; 7 Mar 1986 p. 705 and 709; 2 Aug 1996 p. 3635; 27 Aug 2002 p. 4359-60.]*

**21. Approval of Scheme by Minister**

- (1) Where pursuant to section 7(2a) of the Act the Minister has —
- (a) approved of a Scheme;
  - (b) refused to approve of a Scheme; or
  - (c) required the responsible authority to modify the Scheme in such manner as he has specified before approval will be given,

the Commission shall notify the responsible authority of the approval, refusal or the requirement that the responsible authority modify the Scheme in such manner as the Minister may specify before approval is given.

- (1a) If the responsible authority is notified that the Minister has refused to approve of the Scheme, the responsible authority shall forthwith notify each person who made a submission in relation to the Scheme of that refusal.

- (2) Within 42 days of being notified that the Minister —
- (a) has approved the Scheme; or
  - (b) has required the responsible authority to modify the Scheme in such manner as the Minister may specify before approval is given,

the responsible authority shall —

- (c) comply with any modifications required by the Minister; and
- [(d) deleted]*
- (e) forward 3 copies of the Scheme to the Commission for final approval,



and in the case of joint planning Schemes shall forward such additional copies as the Commission may require.

- (3) Where a Scheme has been approved without modification requiring amendment of the Scheme Map, those copies may comprise the copies originally prepared by the local government, duly marked in accordance with these regulations.

*[Regulation 21 inserted in Gazette 27 Feb 1976 p. 546-7; amended in Gazette 15 May 1981 p. 1494; 7 Mar 1986 p. 706 and 709; 9 Feb 1996 p. 487; 2 Aug 1996 p. 3635 and p. 3638-9.]*

## **22. Endorsement of Scheme**

- (1) The 3 copies of the Scheme for final approval shall be executed by the responsible authority by the affixing of its seal to the documents comprising the Scheme, and be lodged with the Commission.
- (2) The Commission shall further endorse one of the copies of the Scheme and submit that copy to the Minister for endorsement by him of his final approval.
- (3) A person authorised in writing in that behalf by the Commission may certify that a copy of the Scheme is a true copy of that Scheme as approved by the Minister.

*[Regulation 22 amended in Gazette 7 Mar 1986 p. 706 and 709; 2 Aug 1996 p. 3635.]*

## **23. Advertisement of approved Scheme**

- (1) After endorsement by the Minister of final approval of the Scheme, the Commission shall publish once in the *Government Gazette* a notice substantially in the Form No. 6 in Appendix A of the Minister's approval and the Scheme Text and shall also forward a copy of such notice to the responsible authority.

**r. 24**

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- (2) The responsible authority shall forthwith publish once in a newspaper circulating in the district where the land the subject of the Scheme is situated, a copy of such notice.
- (2a) The responsible authority shall forthwith notify each person who made a submission in relation to the Scheme —
  - (a) that the Scheme has been approved; and
  - (b) whether, and if so how, the Scheme was modified in response to their submission.
- (3) The responsible authority shall pay the costs incurred in the publication of the notice and Scheme Text by the Commission pursuant to subregulation (1).

*[Regulation 23 amended in Gazette 10 Sep 1982 p. 3655; 7 Mar 1986 p. 705 and 709; 2 Aug 1996 p. 3636.]*

**24. Deposit of Scheme**

Upon the Commission forwarding to the responsible authority under the Scheme the copy of the notice under regulation 23 the copy of the Scheme endorsed by the Minister under regulation 22 shall be deposited with the Minister and a copy of the Scheme as certified under regulation 22(3) shall be deposited with the Commission and the responsible authority.

*[Regulation 24 inserted in Gazette 7 Mar 1986 p. 706.]*

**25. Town Planning Scheme Amendment**

- (1) Subject to subregulation (2), a Town Planning Scheme Amendment shall be in conformity with these regulations as though it were a Scheme except that —
  - (a) it shall comprise only such of the documents comprising a Scheme as are, in the opinion of the Commission, necessary to convey the intent and reasons for the Amendment;
  - (b) regulations 4, 5 and 12A(1) shall not apply;

- (c) the resolution of the responsible authority to amend a Scheme shall be in the Form No. 1C in Appendix A and shall be forwarded to the Commission separate from but with the Amendment;
- (d) the Commission shall not make a recommendation under regulation 13(2);
- (e) regulations 13(4) and (5) and 14 shall not apply but regulation 25AA shall apply to the giving or withholding of consent to the advertising of the Amendment for public inspection;
- (f) in regulation 15(1) a reference to the giving of consent for the Scheme to be advertised for public inspection under regulation 14 shall be read and construed as a reference to the Commission giving its consent for the Amendment to be advertised for public inspection under regulation 25AA;
- (fa) regulation 15(3) shall not apply but —
  - (i) the Commission shall send to the responsible authority a copy of the notice referred to in regulation 15(1); and
  - (ii) the advertisement required to be made under regulation 15(1) shall be effected by the responsible authority publishing the notice once in a newspaper circulating in the district where the land the subject of the Amendment is situated and also displaying a copy of the notice in a prominent place in the offices of the responsible authority until the date specified as the date on or before which submissions in respect of the Amendment may be made;
- (faa) in regulation 15(5) —
  - (i) the reference to the notice advertised or given pursuant to this regulation shall be read and construed as a reference to the copy of the notice

- sent by the Commission to the responsible authority; and
- (ii) the reference to the date of publication of the advertisement in the *Gazette* pursuant to this regulation shall be read and construed as a reference to the date of publication of the advertisement by the responsible authority in a newspaper circulating in the district where the land the subject of the Amendment is situated;
- (fb) in regulation 17(1)(a) a reference to a period within 6 months of the expiry of the period specified under regulation 15(5) for making submissions shall be read and construed as a reference to a period within 42 days from the date of publication of the advertisement in a newspaper circulating in the district where the land the subject of the Amendment is situated or any other date specified as the date on or before which submissions in respect of the Amendment may be made;
  - (fba) in regulation 17(2) a reference to no submissions having been lodged within the period specified under regulation 15(5) for making submissions shall be read and construed as a reference to no submissions having been lodged by the date specified on or before which submissions in respect of the Amendment may be made;
  - (g) where no submissions are made a local government may, if it resolves to adopt an amendment without modification and has complied with regulation 17A, proceed to execute the documents in the manner prescribed in regulation 22.
- (2) If a Town Planning Scheme Amendment —
- (a) is consistent with section 6(1) of the Act or is for a purpose or work or contains a provision or power that is set out in the First Schedule of the Act;
  - (b) is consistent with any regulations made under the Act;

- (c) is consistent with the Metropolitan Region Scheme made under section 30 of the *Metropolitan Region Town Planning Scheme Act 1959*, a town planning scheme or amendments to a town planning scheme prepared under section 18(1)(ba) of the *Western Australian Planning Commission Act 1985* or any gazetted notice of the Commission relating to the Metropolitan Region Scheme or to a town planning scheme or amendment of a town planning scheme made under section 18(1)(ba) of the *Western Australian Planning Commission Act 1985*; and
- (d) is consistent with any statement of planning policy prepared by the Commission with the approval of the Minister under section 5AA of the Act or any variation or amplification of the policy prepared by the Commission and approved by the Minister under the section,

the Town Planning Scheme Amendment shall be in conformity with these regulations as though it were a Scheme except that —

- (e) it shall comprise only such of the documents comprising a Scheme as are necessary to convey the intent and reasons for the amendment;
- (f) regulations 4, 5 and 12A(1) shall not apply;
- (g) the resolution of the responsible authority to amend a Scheme shall be in the Form No. 1C in Appendix A and shall be forwarded to the Commission separate from but with the Amendment;
- (h) the Commission shall not be under a duty to examine the Amendment and shall not make a recommendation under regulation 13(2);
- (i) regulations 13(4) and (5) and 14 shall not apply but —
  - (i) the Amendment shall not be advertised for public inspection unless section 7A1 of the Act has been complied with;

- (ii) the Amendment shall not be advertised for public inspection if the EPA acts under section 48A(1)(c) of the EP Act unless a direction is given under section 48A(2)(a) of the EP Act and there has been compliance with section 48C(6)(a) of the EP Act (if compliance is required);
- (iii) the Amendment shall not be advertised for public inspection if the EPA acts under section 48C(1)(a) of the EP Act unless the local government has complied with sections 7A2 of the Act and 48C(6)(a) of the EP Act;
- (j) regulation 15 shall not apply but —
  - (i) the local government specified in the Town Planning Scheme Amendment as such shall become the responsible authority under the Act and —
    - (I) notice of the Amendment shall be advertised in the Form No. 3 in Appendix A in accordance with paragraph (iii);
    - (II) the responsible authority shall take such other steps, if any, as it considers necessary to make public the details of the Amendment;
    - (III) the responsible authority may give any owner of land that the authority considers is affected by the Amendment a copy of the notice of the Amendment referred to in Item (I); and
    - (IV) the responsible authority may take all reasonable steps to ensure that a notice of the Amendment is conspicuously displayed on or adjacent to any land affected by the Amendment;

- (ii) the responsible authority shall make available for inspection by the public during office hours at the office of the responsible authority a copy of the Amendment, Amendment Report and other supporting documents, and there shall be made available at the office of any local government affected by the Amendment a copy of that part of the Amendment that relates to land within the district of that local government;
- (iii) the advertisement required to be made under paragraph (j)(i) shall be effected by publication by the responsible authority of the notice referred to in that paragraph once in a newspaper circulating in the district where the land the subject of the Amendment is situated and the responsible authority shall also display a copy of the notice in a prominent place in the offices of the responsible authority until the date on or before which submissions in respect of the Amendment may be made as determined or fixed under paragraph (v);
- (iv) the responsible authority shall give to each public authority or person whom the local government is required by section 7(2aa) of the Act to consult, and in the case of a development scheme to every landowner within the area the subject of the Amendment a notice in writing in the Form No. 3 in Appendix A;
- (v) the responsible authority shall, in the notice advertised pursuant to paragraph (iii), describe the purpose of the Amendment, state the times and places where the Amendment may be inspected, and specify a date on or before which submissions in respect of the Amendment may be made; which date shall be a date not less than 42 days from the date of publication of the

advertisement in a newspaper circulating in the district where the land the subject of the Amendment is situated pursuant to paragraph (iii) unless, at the request of the responsible authority, the Commission decides that another date, being not less than 21 days from the date of such publication, is appropriate to the Amendment;

- (k) in regulation 17(1)(a) a reference to a period within 6 months of the expiry of the period specified under regulation 15(5) for making submissions shall be read and construed as a reference to a period within 42 days from the date of publication of the advertisement in a newspaper circulating in the district where the land the subject of the Amendment is situated or any other date that the Commission has specified as the date on or before which submissions in respect of the Amendment may be made;
- (l) in regulation 17(2) a reference to no submissions having been lodged within the period specified under regulation 15(5) for making submissions shall be read and construed as a reference to no submissions having been lodged by the date specified on or before which submissions in respect of the Amendment may be made;
- (m) regulation 18(1) shall apply but the responsible authority shall also forward to the Commission particulars of the steps taken to advertise the Amendment;
- (n) where no submissions are made a local government may, if it resolves to adopt an Amendment without modification and has complied with regulation 17A, proceed to execute the documents in the manner prescribed in regulation 22;
- (o) regulation 21(1) shall apply but, before making a decision under section 7(2a), if the Minister or an authorised person is not satisfied that the steps taken to advertise the Amendment are adequate, the Minister or



that person may in writing direct the responsible authority to take such steps as the Minister or that person considers necessary to make public the Amendment and the responsible authority shall give effect to the direction; and

- (p) if the Minister or an authorised person gives a direction under paragraph (o), the Minister or the authorised person is also to give directions in writing as to —
  - (i) the manner in which the responsible authority is to publicize the Amendment;
  - (ii) the manner in which a person who desires to make a submission on the Amendment is to make the submission;
  - (iii) the manner in which the responsible authority is to consider, make recommendations on and forward any submission on the Amendment to the Commission; and
  - (iv) the manner in which the Commission is to examine any submission on the Amendment and the recommendations of the responsible authority and make its recommendations to the Minister.

*[Regulation 25 amended in Gazette 27 Feb 1976 p. 547; 15 May 1981 p. 1494; 7 Mar 1986 p. 706 and 709; 9 Feb 1996 p. 487; 2 Aug 1996 p. 3636 and p. 3638-9; 11 Dec 1998 p. 6637-42; 22 Oct 1999 p. 5198; 21 Dec 1999 p. 6418-19 (disallowance in Gazette 9 May 2000 p. 2242); 27 Aug 2002 p. 4360.]*

**25AA. Consent for advertisement of Amendment and notification**

- (1) The Commission shall consider the proposed Town Planning Scheme Amendment and shall —
  - (a) give its consent for the Amendment to be advertised for public inspection;

**r. 25AA**

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- (b) give its consent for the Amendment to be advertised for public inspection subject to such modifications and on such conditions as it may think fit; or
  - (c) recommend to the Minister or an authorised person that consent for the Amendment to be advertised for public inspection be withheld.
- (1a) If the Commission gives its consent under subregulation (1)(a) or (b) —
  - (a) before the EPA has acted under section 48A of the EP Act; or
  - (b) after the EPA has acted under section 48A(1)(a) of the EP Act,

the consent must be conditional on sections 7A2 of the Act and 48C(6)(a) of the EP Act being complied with (if compliance is required) before the Amendment is advertised for public inspection.
- (1b) If the EPA has acted under section 48A(1)(c) or 48C(1)(a) of the EP Act, the Commission shall return the Amendment documents to the local government and shall not give its consent under subregulation (1)(a) or (b) until —
  - (a) if the EPA acted under section 48A(1)(c) of the EP Act, a direction is given under section 48A(2)(a) of the EP Act; and
  - (b) the local government, if it wishes to proceed with the Amendment, has —
    - (i) complied with sections 7A2 of the Act and 48C(6)(a) of the EP Act; and
    - (ii) returned the Amendment documents to the Commission.
- (2) Where the Commission makes a decision under subregulation (1)(a) or (b) it shall forthwith give notice in writing of that decision to the local government.

- (3) Where the Commission makes a recommendation under subregulation (1)(c) the Minister or the authorised person shall consider the proposed Amendment and the recommendation made by the Commission and shall —
- (a) withhold his consent for the Amendment to be advertised for public inspection; or
  - (b) direct the Commission —
    - (i) to give its consent for the Amendment to be advertised for public inspection; or
    - (ii) to give its consent for the Amendment to be advertised for public inspection subject to such modifications and on such conditions as are contained in that direction,
- and the Commission shall, subject to subregulations (1a) and (1b), give effect to the direction.
- (4) The Commission shall forthwith give notice in writing to the local government of —
- (a) the decision under subregulation (3)(a); or
  - (b) the decision of the Commission pursuant to the direction under subregulation (3)(b).
- (5) The Commission shall retain one copy of the Amendment for its own use and record and shall return the other copy to the local government.
- (6) Within 42 days, or any longer period approved by the Minister or an authorised person, of being notified of any modifications required by the Commission, the local government shall —
- (a) if it resolves to proceed with the Amendment —
    - (i) settle the modifications with the Commission together with any other modifications which appear to be necessary at that time; and
    - (ii) resubmit the Amendment documents with the required modifications duly carried out;

**r. 25AB**

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or

- (b) if it resolves not to proceed with the Amendment, notify the Commission in writing of that resolution.

*[Regulation 25AA inserted in Gazette 7 Mar 1986 p. 707; amended in Gazette 9 Feb 1996 p. 487; 2 Aug 1996 p. 3636-7 and p. 3638-9; 27 Aug 2002 p. 4361.]*

**25AB. Consolidated schemes**

For the purposes of the application of these regulations to a consolidated scheme pursuant to section 7AA(3a) of the Act —

- (a) in regulation 15(2) a reference to the Scheme Report shall be read and construed as a reference to the report by the local government under section 7AA(2)(a) of the Act; and
- (b) regulation 17(2)(b) shall not apply.

*[Regulation 25AB inserted in Gazette 7 Mar 1986 p. 707; amended in Gazette 9 Feb 1996 p. 488; 2 Aug 1996 p. 3638-9.]*

**25A. Land owner may be required to pay costs of publication**

Where an owner of land requests that an amendment be made to a Scheme with respect to land owned by him, the local government may require him to pay the costs of the publication of any notice under these regulations.

*[Regulation 25A inserted in Gazette 27 Feb 1976 p. 547; 2 Aug 1996 p. 3638-9.]*

**25B. Expenses of environmental review**

- (1) If a local government wishes to be able to recover review expenses under section 7A2(5) of the Act, the local government shall —
  - (a) before the Scheme or Amendment is advertised for public inspection —
    - (i) select one of the bases set out in subregulation (4) as the basis on which the

review expenses will be recoverable from owners of affected land; and

- (ii) include a statement setting out that selection in the Scheme or Amendment documents;

and

- (b) keep separate records setting out details of review expenses incurred and recovered, affected land and any agreements of the type referred to in subregulation (3).
- (2) A local government may recover from each owner of affected land, as a debt due by that owner to the local government, the proportion of the review expenses recoverable from that owner in accordance with the basis selected under subregulation (1)(a)(i) and the local government may recover that debt in any court of competent jurisdiction.
- (3) Unless the local government and the owner of affected land have agreed in writing that the review expenses may be recovered at an earlier time, review expenses shall not be recovered from that owner under section 7A2(5) of the Act until the Scheme or Amendment has come into force and —
- (a) that affected land is sold or subdivided; or
  - (b) in the case of an Amendment that changed the zoning of affected land, the local government grants approval for the development of affected land owned by that person that could not have been granted under the Scheme prior to the Amendment coming into force.
- (4) The bases on which review expenses may be recovered are —
- (a) proportional land area, in accordance with which the local government may recover from a person the same proportion of the review expenses as the area of affected land owned by that person bears to the area of all of the affected land;
  - (b) proportional land value, in accordance with which the local government may recover from a person the same

proportion of the review expenses as the value of the affected land owned by that person bears to the value of all of the affected land; and

- (c) any other equitable basis approved by the Minister or an authorised person.

- (5) In this regulation —

***affected land*** means land to which the Scheme or Amendment relates;

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

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

*[Regulation 25B inserted in Gazette 2 Aug 1996 p. 3637-8; amended in Gazette 27 Aug 2002 p. 4361.]*

**26. Compensation**

Where pursuant to the provisions of the Act a claim is made for compensation thereunder, such claim may be in the Form No. 7 in Appendix A.

*[Regulation 26 amended in Gazette 7 Mar 1986 p. 707.]*

**27. Model Scheme Text**

The Model Scheme Text set out in Appendix B is prescribed under section 8 as a set of general provisions for carrying out the general objects of town planning schemes that envisage the zoning or classification of land.

*[Regulation 27 inserted in Gazette 22 Oct 1999 p. 5198.]*

**Appendix A**

**Forms**

Form No. 1

*Town Planning and Development Act 1928 (as amended)*

**RESOLUTION DECIDING TO PREPARE  
A TOWN PLANNING SCHEME**

Lands Wholly within the District of the Local Government  
Preparing the Scheme

(Name or Number of Town Planning Scheme.)

RESOLVED that the local government, in pursuance of section 7 of the *Town Planning and Development Act 1928* (as amended), prepare the above Town Planning Scheme with reference to an area situate wholly within the City/Town/Shire of.....and enclosed within the inner edge of \*.....border on a plan now produced to the Council of the local government and marked and certified by † .....under his hand dated the..... as "Scheme Area Map".

Dated this.....day of.....20.....

.....  
(Chief Executive Officer.)

\* Insert colour used on plan.

† i.e., Chief Executive Officer.

Appendix A

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Form No. 1A

*Town Planning and Development Act 1928* (as amended)

**RESOLUTION DECIDING TO PREPARE  
A TOWN PLANNING SCHEME**

Lands extending outside the District of the Local Government  
Preparing the Scheme.

(Name or Number of Town Planning Scheme.)

RESOLVED that the local government, in pursuance of section 7 of the *Town Planning and Development Act 1928* (as amended), prepare the above Town Planning Scheme with reference to an area situate partly within the City/Town/Shire of .....and partly within the City/Town/Shire of.....and enclosed within the inner edge of a \*.....border on a plan now produced to the Council of the local government and marked and certified by † .....under his hand dated the..... as "Scheme Area Map".

Dated this.....day of.....20.....

.....  
(Chief Executive Officer.)

\* Insert colour used on plan.

† i.e., Chief Executive Officer.



Form No. 1B

*Town Planning and Development Act 1928* (as amended)

**RESOLUTION DECIDING TO PREPARE  
A TOWN PLANNING SCHEME**

Lands within the District/s of the Local Government/s

(Name or Number of Town Planning Scheme.)

RESOLVED that the Commission, in pursuance, of section 19 of the *Town Planning and Development Act 1928* (as amended), prepare the above Town Planning Scheme with reference to an area situate within the City/s Town/s Shire/s of.....and enclosed within the inner edge of \*.....border on a plan now produced to the Commission and marked and certified by † .....under his hand dated the.....as "Scheme Area Map".

Dated this.....day of.....20.....

.....  
(Commission Secretary.)

\* Insert colour used on plan.  
† Commission Secretary.

**Appendix A**

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Form No. 1C

*Town Planning and Development Act 1928 (as amended)*

**RESOLUTION DECIDING TO AMEND  
A TOWN PLANNING SCHEME**

(Name and Number of Town Planning Scheme.)

RESOLVED that the local government, in pursuance of section 7 of the *Town Planning and Development Act 1928* (as amended), amend the above Town Planning Scheme by.....(Here insert the purpose of the amendment).....

Dated this.....day of.....20.....

.....  
(Chief Executive Officer.)

Form No. 2

*Town Planning and Development Act 1928 (as amended)*

**ADVERTISEMENT OF RESOLUTION DECIDING TO PREPARE  
A TOWN PLANNING SCHEME**

(Name or Number of Town Planning Scheme.)

NOTICE is hereby given that the.....Council of the local government of.....on.....20..... passed the following Resolution: —

(Here Insert Resolution 1, or 1A.)

Dated this.....day of.....20.....

.....  
(Chief Executive Officer.)

Form No. 3  
[Regs. 15 and 25.]

*Town Planning and Development Act 1928*

**TOWN PLANNING SCHEME/SCHEME AMENDMENT\*  
AVAILABLE FOR INSPECTION**

(Name or Number of Town Planning Scheme/Scheme Amendment\*.)

Notice is hereby given that the local government of the City/Town/Shire  
of.....has prepared the abovementioned  
town planning scheme/scheme amendment\* for the purpose of (1).....  
.....

Plans and documents setting out and explaining the town planning scheme/  
scheme amendment\* have been deposited at (2).....  
and at the State Planning Commission, Perth, and will be open for inspection  
during office hours up to and including (3).....

Submissions on the town planning scheme/scheme amendment\* may be made  
in writing on Form No. 4 and lodged with the undersigned on or before (4).....  
.....

.....  
Commission Executive Secretary\*

.....  
Chief Executive Officer\*

(1) Briefly describe purpose of town planning scheme/scheme amendment.

(2) Insert address of place(s) where town planning scheme/scheme  
amendment may be inspected.

(3) and (4) Insert appropriate date.

\* Delete where necessary.

Appendix A

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Form No. 3A  
[Regs. 20(1) and (25).]

*Town Planning and Development Act 1928*

**MODIFICATION TO TOWN PLANNING SCHEME/SCHEME  
AMENDMENT\* AVAILABLE FOR INSPECTION**

(Name or Number of Town Planning Scheme/Scheme Amendment\*.)

Notice is hereby given that the following modification(s) has (have) been made to the abovementioned town planning scheme/scheme amendment\* (1).....  
.....

Plans and documents setting out and explaining the town planning scheme/ scheme amendment\* and modification(s) thereto have been deposited at (2).....  
.....

and at the State Planning Commission, Perth, and will be open for inspection during office hours up to and including (3).....  
.....

Submissions on the modification(s) may be made in writing on Form No. 4 and lodged with the undersigned on or before (4) .....  
.....

.....  
Commission Executive Secretary\*                                          Chief Executive Officer\*

- (1) Describe modification(s) to town planning scheme/scheme amendment.
- (2) Insert address of place(s) where town planning scheme/scheme amendment may be inspected.
- (3) and (4) Insert appropriate date.

\* Delete where necessary.

Form No. 4  
[Regs. 16(1) and 20(2).]

*Town Planning and Development Act 1928*

TO: The Chief Executive Officer of the City\*/Town\*/Shire\* of.....

SUBMISSION ON  
PLANNING SCHEME\*/SCHEME AMENDMENT\* No.....

OR

MODIFICATION TO SCHEME\*/MODIFICATION TO SCHEME  
AMENDMENT\*

No.....  
Name ..... Phone.....  
Address.....

SUBJECT OF SUBMISSION

(State how your interests are affected, whether as a private citizen, on behalf of  
a company or other organisation, or as an owner or occupier of property.)  
.....

ADDRESS OF PROPERTY AFFECTED BY SCHEME (if applicable).  
(Include lot number and nearest street intersection).  
.....

SUBMISSION (Give in full your comments and any arguments supporting your  
comments — continue on additional sheets if necessary).  
.....  
.....  
.....  
.....

Date.....Signature.....

\* Delete whichever is inapplicable.

*[Form No. 5 deleted in Gazette 7 Mar 1986 p. 709.]*

Appendix A

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Form No. 6

*Town Planning and Development Act 1928* (as amended)

**ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME**

(Name and Number of Town Planning Scheme.)

T.P.B. File No .....

IT is hereby notified for public information, in accordance with section 7 of the *Town Planning and Development Act 1928* (as amended) that the Hon. Minister for Planning approved the (Name and Number of Town Planning Scheme) on the.....day of ..... 20.....

(“.....”)

(2).....  
Executive Secretary, State Planning Commission

(2).....  
President/Mayor of Local Government

(2).....  
Chief Executive Officer

(1) The Scheme Text will be published only in the *Government Gazette* in accordance with Regulation 23.

(2) *Delete where not applicable.*

Form No. 6A

*Town Planning and Development Act 1928* (as amended)

**ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME  
AMENDMENT**

(Name and Number of Town Planning Scheme Amendment.)

T.P.B. File No.....

IT is hereby notified for public information, in accordance with section 7 of the *Town Planning and Development Act 1928* (as amended), that the Hon. Minister for Planning approved the City/Town/Shire of..... Town Planning Scheme Amendment on the.....day of .....20.....

(“.....”)

(2).....  
Executive Secretary, State Planning Commission

(2).....  
President/Mayor of Local Government

(2).....  
Chief Executive Officer

- (1) The Text of the Amendment (if any) will be published only in the *Government Gazette* in accordance with Regulation 23.
- (2) *Delete where not applicable.*

Appendix A

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Form No. 7

Town Planning and Development Act 1928 (as amended)

**CLAIM FOR COMPENSATION**

To the Chief Executive Officer

City/Town/Shire of.....

I/WE.....of.....  
hereby claim compensation in the amount of.....  
(state amount claimed) in respect of the land described hereunder and affected  
by.....Planning Scheme made in.....

Description of land affected by the Planning Scheme:

City/Town/Shire of.....

Lot No .....Street.....

Plan No.....Location No.....

Certificate of Title: Volume .....Folio.....

situated in the City/Town/Shire of.....

.....

.....

.....

the nature of my interest being (registered proprietor, lessee, mortgagor, etc.) on

the following grounds:

.....

.....

.....

.....

(Signature of Claimant).....

(Date).....

*[Appendix A formerly Appendix "E" amended in Gazette 27 Feb 1976  
p. 547-52; 15 May 1981 p. 1494-5. Redesignated Appendix A and amended in  
Gazette 7 Mar 1986 p. 707-8; 2 Aug 1996 p. 3638.]*



## Appendix B — Model Scheme Text

[Regs 11(1)(a), 27]

### Preamble

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

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 City/Town/Shire of .....

Town Planning Scheme No. ....

*(The title of the Town Planning Scheme should indicate its general purpose e.g. City/Town/Shire of .....Town Planning Scheme No.... and may also include the scope of the Scheme, e.g., District Zoning Scheme, for descriptive purposes.)*

The City/Town/Shire of ..... under the powers conferred by the *Town Planning and Development Act 1928* makes the following Town Planning Scheme.

### **Table of Contents**

- 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**

## Part 1 — Preliminary

### 1.1. Citation

1.1.1. The City/Town/Shire of ..... Scheme No. .... (*the Scheme*) comes into operation on its Gazettal date.

1.1.2. The following Scheme(s) is (are) revoked —

Name	Gazettal date
------	---------------

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

### 1.2. Responsible authority

The City/Town/Shire of ..... is the responsible authority for implementing the Scheme.

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

### 1.3. Scheme area

The Scheme applies to the Scheme area which covers (all *or* that part) of the local government district of the City/Town/Shire as shown on the Scheme Map.

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

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

### 1.4. Contents of Scheme

The Scheme comprises —

(a) the Scheme Text;

- (b) the Scheme Map (sheets 1 – x).

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

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

Note: The Scheme Map comprises .....

*(Insert description of Scheme Maps in note.)*

### **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 First Schedule to the Town Planning Act.

### **1.6. The aims of the Scheme**

The aims of the Scheme are —

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

### **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 Town Planning 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 Planning 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 Planning Codes —

- (a) in the case of a residential development, the definition in the Residential Planning 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 City/Town/Shire of ..... are, at the Gazettal date of the Scheme, complementary to the Scheme —

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

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

**1.10. Relationship with the ..... Region Scheme**

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

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

*(This clause and note only apply where a region scheme is in force.)*

## **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.

*(A Local Planning Strategy has been prepared and endorsed under the Town Planning Regulations 1967.)*

### **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 Planning 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.

*(If there is no region scheme in force, insert the words “Certain lands within the Scheme area are classified as Local Reserves.”.)*

**3.2.    Regional Reserves**

3.2.1.    The lands shown as “Regional Reserves” on the Scheme Map are lands reserved under the ..... Region Scheme and are shown on the Scheme Map for the purposes of the *Metropolitan Region Town Planning Scheme Act 1959/Western Australian Planning Commission Act 1985*. 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 ..... Region Scheme continue to apply to such Reserves and approval is required under the ..... 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.

*(This clause and margin note only apply where a region scheme is in force. If there is no region scheme in force, insert the words “There are no regional reserves in the Scheme area”.)*



**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 —

*(List the objectives of the various zones contained in the Scheme.)*

**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.

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

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 ‘P’ 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.

#### **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.

*(If the Scheme does not include additional uses, insert the words "There are no additional uses which apply to the Scheme.".)*

#### **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.

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.

*(If the Scheme does not include restricted uses, insert the words "There are no restricted uses which apply to the Scheme.")*

**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.

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

*(If the Scheme does not include special use zones, insert the words "There are no special use zones which apply to 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 Town Planning 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 non-conforming 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: Section 13 of the Town Planning 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**

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

*The site and development requirements should be inserted after clause 5.6.*

*Development requirements applying to particular zones may alternatively be incorporated with the zoning provisions in Part 4. Development requirements applying to special control areas should be included in Part 6.)*

**5.1. Compliance with development standards and requirements**

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

**5.2. Residential Planning Codes**

- 5.2.1. A copy of the Residential Planning 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 Planning Codes is to conform with the provisions of those Codes.
- 5.2.3. The Residential Planning Codes density applicable to land within the Scheme area is to be determined by reference to the Residential Planning 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 Planning Codes**

*(To be inserted if exclusions and variations to the Codes apply. If no exclusions or variations apply, insert the words “There are no exclusions or variations to the Residential Planning Codes which apply to the Scheme.”.)*

### **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 Planning 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 Planning 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. 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.

5.6.2. Where appropriate, the environmental conditions are indicated on the Scheme Map by the symbol EC to indicate that environmental conditions apply to the land.

5.6.3. 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*.

*(If no environmental conditions apply, insert the words “There are no environmental conditions imposed by the Minister for Environment which apply to the Scheme.”.)*

**Part 6 — Special control areas**

*(This Part is included in the Scheme to identify areas which are significant for a particular reason and where special provisions in the Scheme may need to apply. These provisions would typically target a single issue or related set of issues often overlapping zone and reserve boundaries. The special control areas should be shown on Scheme*



*Maps as additional to the zones and reserves. If a special control area is shown on a Scheme Map, special provisions related to the particular issue would apply in addition to the provisions of the zones and reserves. These provisions would set out the purpose and objectives of the special control area, any specific development requirements, the process for referring applications to relevant agencies and matters to be taken into account in determining development proposals.)*

### **6.1. Operation of special control areas**

- 6.1.1. The following special control areas are shown on the Scheme Maps .....

*(List the special control areas which apply in the Scheme. If the Scheme does not include special control areas, insert the words “There are no special control areas which apply to the Scheme.”.)*

- 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.

## **Part 7 — Heritage protection**

*(If the Scheme does not include heritage provisions, insert the words “There are no heritage provisions which apply to the Scheme.”.)*

### **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 Planning 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 ..... Region Scheme.

*(Note 3 only applies where a region scheme is in force.)*

**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;

*(Subparagraph (iii) does not apply if the Scheme does not include heritage provisions.)*

- (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 Planning Codes; or
  - (ii) the development will be located in a heritage area designated under the Scheme;

*(Insert additional exceptions where applicable.)*

- (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;

*(Subparagraphs (iii) and (iv) do not apply if the Scheme does not include heritage provisions. Insert additional exceptions where applicable.)*

- (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 20D of the Town Planning Act.

*(Insert any additional classes of permitted development for which planning approval is not required.)*

### **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) a 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 ..... 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 ..... 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 Town Planning Scheme Act 1959* or section 37B of the *Western Australian Planning Commission Act 1985*;
    - (c) partly within the management area of the Swan River Trust or which abuts waters that are in that area; or
    - (d) 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 ..... Region Scheme and notice of delegation. Separate determinations are made by the local government under the Scheme and the Commission under the Region Scheme.

*(The notes only apply where a region scheme is in force. In respect of Schemes in the metropolitan region, the full notes apply. For Schemes outside the metropolitan region, items 2, 3(a) and 3(c) should be deleted and the items renumbered accordingly.)*

## **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 ..... Region Scheme);
- (b) the requirements of orderly and proper planning including any relevant proposed new town 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.

*(The wording in brackets in paragraph (a) only applies where a region scheme is in force.)*

**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. Appeals**

An applicant aggrieved by a determination of the local government in respect of the exercise of a discretionary power under the Scheme may apply for review to the State Administrative Tribunal in accordance with Part V of the *Town Planning and Development Act 1928*.

*[Clause 10.10 amended in Gazette 30 Dec 2004 p. 6958.]*

**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 Town Planning Act; and
  - (c) deal with or dispose of any land which it has acquired under the provisions of the Scheme or the Town Planning 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 apply for a review of the determination of the local government to the State Administrative Tribunal in accordance with Part V of the *Town Planning and Development Act 1928*.

*[Clause 11.2 amended in Gazette 30 Dec 2004 p. 6958.]*

### **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 10(4) of the Town Planning 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 town 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 11(1) of the Town Planning 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 .....Region Scheme should be made under the (*Metropolitan Region Town Planning Scheme Act 1959/Western Australian Planning Commission Act 1985*).
  - 2. A claim for compensation under section 11(1) of the Town Planning 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 Town Planning 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: Section 13 of the Town Planning 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 10(1) of the Town Planning 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 10(2) of the Town Planning 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

*(If the Scheme does not include provisions requiring reference to Schedule 2, 3, 4 or 10, then insert the words "Schedule(s) ..... does/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 Planning 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 7(3) of the Town Planning Act;

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

- (a) residential purposes, has the same meaning as in the Residential Planning 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 City/ Town/ Shire of .....

**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 Town Planning 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 12(2)(a) of the Town Planning 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*;

**plot ratio**, in the case of residential dwellings has the same meaning as in the Residential Planning 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 .....region published in the *Gazette* of .....

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

**Residential Planning Codes** means the Residential Planning 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;

**Town Planning Act** means the *Town Planning and Development Act 1928*;

**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;

***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;

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

***educational establishment*** means premises used for the purposes of 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 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;

**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 Planning 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;

**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]

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

**Schedule 3 — Restricted uses**

[cl. 4.6]

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

**Schedule 4 — Special use zones**

[cl. 4.7.1]

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

**Schedule 5 — Exempted advertisements**

[cl. 8.2(f)]

<b>Land use and/or development</b>	<b>Exempted sign</b>	<b>Maximum size</b>



**Schedule 6 — Form of application for planning approval**

[cl. 9.1.1]

**Application for planning approval**

<b>Owner details</b>			
Name:			
Address:			Postcode:
Phone:	(work):	(home):	Fax:
	(mobile):		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:	(work):	(home):	Fax:
	(mobile):		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:	

**Appendix B**    Model Scheme Text

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Nearest street intersection:
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<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:

<i>OFFICE USE ONLY</i>	
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.	Details of proposed sign: (a) Type of structure on which advertisement is to be erected (i.e. freestanding, wall mounted, other): ..... ..... (b) Height: ..... Width: ..... Depth: ..... (c) Colours to be used: ..... (d) Height above ground level — • (to top of advertisement): ..... • (to underside): ..... (e) Materials to be used: ..... ..... Illuminated: Yes / No If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source: ..... .....
3.	Period of time for which advertisement is required: .....
4.	Details of signs (if any) to be removed if this application is approved: ..... ..... .....

**Appendix B**    Model Scheme Text

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<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 8 — Notice of public advertisement of planning proposal**

[cl. 9.4.4]

*Town Planning Act 1928*

City/Town/Shire of .....

**Notice of public advertisement of planning proposal**

The local government has received an application to use and/or develop land for the following purpose and public comments are invited.		
Lot No.:	Street:	Suburb:
Proposal: .....		
.....		
.....		
Details of the proposal are available for inspection at the local government office. Comments on the proposal may be submitted to the local government in writing on or before the ..... day of .....		
.....		
Signed:	Dated:	
.....	.....	
for and on behalf of the City/Town/Shire of: .....		

**Schedule 9 — Notice of determination on application for planning approval**

[cl. 10.4.1]

*Town Planning Act 1928*

City/Town/Shire of .....

**Determination on application for planning approval**

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 by the State Administrative Tribunal in accordance with Part V of the <i>Town Planning and Development Act 1928</i> . An application must be made within 28 days of the determination.

Signed: .....	Dated: .....
for and on behalf of the City/Town/Shire of: .....	

*(The content of the determination notice must conform to Schedule 9 but minor variations may be permitted to the format.)*

*[Schedule 9 amended in Gazette 30 Dec 2004 p. 6958-9.]*

**Schedule 10 — Environmental conditions**

[cl. 5.6.1]

<b>Scheme or Amendment No.</b>	<b>Gazettal Date</b>	<b>Environmental Conditions</b>

*[Appendix B inserted in Gazette 22 Oct 1999 p. 5199-275; amended in Gazette 30 Dec 2004 p. 6958-9.]*



### Notes

<sup>1</sup> This is a compilation of the *Town Planning Regulations 1967* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint <sup>1a</sup>.

### Compilation table

Citation	Gazettal	Commencement
<i>Town Planning Regulations 1967</i>	28 Nov 1967 p. 3227-53	28 Nov 1967
	22 Jun 1973 p. 2378	22 Jun 1973
<i>Town Planning Amendment Regulations 1976</i>	27 Feb 1976 p. 545-52	27 Feb 1976
<b>Reprint of the <i>Town Planning Regulations 1967</i> in <i>Gazette</i> 28 Oct 1976 p. 4067-102</b> (includes amendments listed above)		
<i>Town Planning Amendment Regulations 1981</i>	15 May 1981 p. 1493-5	15 May 1981
<i>Town Planning Amendment Regulations 1982</i>	10 Sep 1982 p. 3655	10 Sep 1982
<i>Town Planning Amendment Regulations 1984</i> <sup>4</sup>	10 Aug 1984 p. 2364-5	10 Aug 1984
<i>Town Planning Amendment Regulations 1986</i> <sup>5</sup>	7 Mar 1986 p. 703-9 (erratum 14 Mar 1986 p. 751)	10 Mar 1986 (see r. 2)
<i>Town Planning Amendment Regulations 1996</i>	9 Feb 1996 p. 485-8	9 Feb 1996
<b>Reprint of the <i>Town Planning Regulations 1967</i> as at 28 May 1996</b> (includes amendments listed above)		
<i>Town Planning Amendment Regulations (No. 2) 1996</i> <sup>6</sup>	2 Aug 1996 p. 3632-9	4 Aug 1996 (see r. 2 and <i>Gazette</i> 2 Aug 1996 p. 3615)
<i>Town Planning Amendment Regulations 1998</i>	11 Dec 1998 p. 6637-42	11 Dec 1998
<i>Town Planning Amendment Regulations 1999</i>	22 Oct 1999 p. 5191-275	22 Oct 1999

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Town Planning Amendment Regulations (No. 2) 1999</i> <sup>7</sup>	21 Dec 1999 p. 6417-18	21 Dec 1999
<b>Reprint of the <i>Town Planning Regulations 1967</i> as at 1 Mar 2002</b> (includes amendments listed above)		
<i>Town Planning Amendment Regulations 2002</i>	27 Aug 2002 p. 4357-61	27 Aug 2002
<i>Town Planning Amendment Regulations 2004</i>	30 Dec 2004 p. 6958-9	1 Jan 2005 (see r. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Town Planning Amendment Regulations 2013</i>	14 Nov 2013 p. 5077	r. 1 and 2: 14 Nov 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 18 Nov 2013 (see r. 2(b) and <i>Gazette</i> 14 Nov 2013 p. 5027)

**These regulations were repealed by the *Planning and Development (Local Planning Schemes) Regulations 2015* r. 78 as at 19 Oct 2015 (see r. 2(b))**

<sup>2</sup> Foot note no longer applicable.

<sup>3</sup> Under the *Public Sector Management Act 1994* the names of departments can be changed. At the time of this reprint the former Department of Conservation and Environment is called the Department of Environment and Heritage.

<sup>4</sup> The *Town Planning Amendment Regulations 1984* r. 7 was a transitional provision that is of no further effect.

<sup>5</sup> The *Town Planning Amendment Regulations 1986* r. 32 was a transitional provision that is of no further effect.

<sup>6</sup> The *Town Planning Amendment Regulations (No. 2) 1996* r. 23 published in the *Gazette* on 2 Aug 1996 p. 3639 reads as follows:

“

**23. Transitional**

If sections 7A1, 7A2, 7A3 and 7A4 of the Act do not apply to a Scheme or Amendment because of the operation of section 45(2) of the *Planning Legislation Amendment Act 1996*, the principal regulations apply to that Scheme or Amendment as if regulations 7 to 12 and 15 to 17 of these regulations were not in operation.

”.

<sup>7</sup> Disallowed on 3 May 2000, see *Gazette* 9 May 2000, p. 2242.

<sup>8</sup> Formerly made under s. 8 and 9 of the *Town Planning and Development Act 1928*, continued under s. 256, 258 and 259 of the *Planning and Development Act 2005*.

**Defined terms**

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
affected land.....	25B(5)
Amendment.....	3
authorised person .....	3
Chief Executive Officer .....	3
Department .....	3
Development Scheme .....	3
review expenses .....	25B(5)
Scheme.....	3
the Act.....	3
Town Planning Scheme Amendment.....	3
value.....	25B(5)