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PLANNING AND DEVELOPMENT ACT 2005

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**SHIRE OF  
DONNYBROOK-BALINGUP**

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**LOCAL PLANNING  
SCHEME No. 7**



**PLANNING AND DEVELOPMENT ACT 2005**

## APPROVED LOCAL PLANNING SCHEME

*Shire of Donnybrook-Balingup*

Local Planning Scheme No. 7

Ref: TPS/0856/4

It is hereby notified for public information, in accordance with section 87 of the *Planning and Development Act 2005* that the Minister for Planning approved the Shire of Donnybrook-Balingup Local Planning Scheme No. 7 on 27 August 2014, the scheme text of which is published as a schedule annexed hereto.

S. B. DILLEY, Shire President.  
J. R. ATTWOOD, Chief Executive Officer.

## SCHEDULE

*Shire of Donnybrook-Balingup***LOCAL PLANNING SCHEME NO. 7****Preamble**

This Local Planning Scheme of the Shire of Donnybrook-Balingup consists of this Scheme Text and the Scheme Maps. The Scheme Text should be read with the Local Planning Strategy for the local government.

Part 2 of the Scheme Text sets out the Local Planning Framework. At the core of this Framework is the Local Planning Strategy which establishes 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. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.

**Scheme Details**

Shire of Donnybrook-Balingup Local Planning Scheme No. 7

The Shire of Donnybrook-Balingup under the powers conferred by the *Planning and Development Act 2005* makes the following Local Planning Scheme.

Note: Advisory or explanatory notes are contained in boxes under the heading "Note" and do not form part of the Scheme, however, they assist to explain Scheme provisions.
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## PLANNING AND DEVELOPMENT ACT 2005

## SHIRE OF DONNYBROOK-BALINGUP

## LOCAL PLANNING SCHEME No. 7

## CONTENTS

**PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Responsible authority
- 1.3 Scheme area
- 1.4 Contents of Scheme
- 1.5 Vision statement
- 1.6 Purposes of Scheme
- 1.7 Aims of the Scheme
- 1.8 Definitions
- 1.9 Relationship with Local Laws
- 1.10 Relationship with other Schemes
- 1.11 Relationship to other State Planning Policy

**PART 2—LOCAL PLANNING POLICY FRAMEWORK**

- 2.1 Scheme determinations to conform with Local Planning Strategy
- 2.2 Local Planning Policies
- 2.3 Relationship of Local Planning Policies to Scheme
- 2.4 Procedure of making or amending a Local Planning Policy
- 2.5 Revocation of Local Planning Policy
- 2.6 Transitional provisions relating to Local Planning Policies

**PART 3—RESERVES**

- 3.1 Reserves
- 3.2 Regional Reserves
- 3.3 Local Reserves
- 3.4 Use and development of Local Reserves
- 3.5 Public works

**PART 4—ZONES AND THE USE OF LAND**

- 4.1 Zones
- 4.2 Residential Zone
- 4.3 Rural Residential Zone
- 4.4 Rural Smallholdings Zone
- 4.5 General Agriculture Zone
- 4.6 Priority Agriculture Zone
- 4.7 Commercial Zone
- 4.8 Light Industry Zone
- 4.9 General Industry Zone
- 4.10 Tourist Zone
- 4.11 Caravan Park Zone
- 4.12 Clubs and Institutions Zone
- 4.13 Bushland Protection Zone
- 4.14 Special Use Zone
- 4.15 Additional uses
- 4.16 Restricted uses
- 4.17 Zoning Table
- 4.18 Interpretations of the Zoning Table
- 4.19 Non-conforming uses
- 4.20 Extensions and changes to a non-conforming use
- 4.21 Discontinuance of non-conforming use
- 4.22 Termination of a non-conforming use
- 4.23 Destruction of non-conforming use buildings

**PART 5—GENERAL DEVELOPMENT REQUIREMENTS**

- 5.1 Compliance with development requirements
- 5.2 Residential Design Codes
- 5.3 Special application of Residential Design Codes
- 5.4 Restrictive covenants
- 5.5 Variation to site and development standards and requirements
- 5.6 Environmental conditions
- 5.7 Tree planting and vegetation corridors
- 5.8 Clearing native vegetation
- 5.9 Preservation of trees—urban zones
- 5.10 Preservation of trees and landscape enhancement—Rural Residential and Rural Smallholdings zones
- 5.11 Plantations
- 5.12 Natural resource management
- 5.13 Groundwater areas
- 5.14 Waterway resource management and protection
- 5.15 Stream protection areas
- 5.16 Flood risk land
- 5.17 General appearance of buildings and preservation of amenity
- 5.18 Height and appearance of buildings
- 5.19 Untidy places, derelict vehicles, machinery and objects
- 5.20 Storage of goods
- 5.21 Relocated second-hand buildings
- 5.22 Townscape plans
- 5.23 Outbuildings
- 5.24 Use of setback areas
- 5.25 Landscaping
- 5.26 Parking of heavy vehicles in Residential and Rural Residential zones
- 5.27 Car parking and vehicle access requirements
- 5.28 Construction of carparking and vehicle access areas
- 5.29 Access for loading and unloading vehicles
- 5.30 Pedestrian movement within carparking areas
- 5.31 Cash-in-lieu of car parking
- 5.32 Vehicle crossovers/entrances
- 5.33 Visual truncations
- 5.34 Development of land without constructed/dedicated road frontage or access
- 5.35 Holiday accommodation uses—short stay restrictions
- 5.36 Chalets, cabins and guesthouse uses—Rural Smallholdings and General Agriculture Zones
- 5.37 Services to all development
- 5.38 Waste disposal
- 5.39 Sewerage connection for residential development
- 5.40 Development without reticulated sewerage
- 5.41 Dwellings without reticulated mains water supply
- 5.42 Bush fire hazard and fire management plans
- 5.43 Telecommunications infrastructure
- 5.44 Provisions and contributions for services and facilities
- 5.45 Advertisements
- 5.46 Consideration of applications—advertisements
- 5.47 Existing advertisements
- 5.48 Derelict or poorly maintained signs
- 5.49 Home office, home occupation and home business
- 5.50 Building envelopes
- 5.51 Residential Zone
- 5.52 Rural Residential Zone
- 5.53 Rural Smallholdings Zone
- 5.54 General Agriculture Zone
- 5.55 Priority Agriculture Zone
- 5.56 Commercial Zone
- 5.57 Light Industry Zone
- 5.58 General Industry Zone
- 5.59 Tourist Zone
- 5.60 Caravan Park Zone
- 5.61 Clubs and Institutions Zone
- 5.62 Bushland Protection Zone
- 5.63 Special Use Zone

**PART 6—SPECIAL CONTROL AREAS, LOCAL DEVELOPMENT PLANS  
AND DEVELOPMENT INVESTIGATION AREAS**

- 6.1 Operation of Special Control Areas
- 6.2 Flood Prone Land (SCA1)
- 6.3 Public Drinking Water Source Protection (SCA2)
- 6.4 Blackwood Precinct (SCA3)
- 6.5 Established Donnybrook Stone (SCA4)
- 6.6 Wastewater Treatment Plant Buffer (SCA5)
- 6.7 Plantation Exclusion Area (SCA6)

- 6.8 Road Protection Area (SCA7)
- 6.9 Structure Plan Areas (SCA8)
- 6.10 Transitional Provisions—Structure Plans
- 6.11 Development Contribution Areas
- 6.12 Local Development Plans
- 6.13 Development Investigation Areas

#### **PART 7—HERITAGE PROTECTION**

- 7.1 Heritage List
- 7.2 Designation of a Heritage Area
- 7.3 Heritage agreements
- 7.4 Heritage assessment
- 7.5 Variations to scheme provisions for a Heritage Place or Heritage Area

#### **PART 8—DEVELOPMENT OF LAND**

- 8.1 Requirement for approval to commence development
- 8.2 Permitted development
- 8.3 Amending or revoking a planning approval
- 8.4 Unauthorised existing developments

#### **PART 9—APPLICATIONS FOR PLANNING APPROVAL**

- 9.1 Form of application
- 9.2 Application fee
- 9.3 Accompanying material
- 9.4 Additional material for heritage matters
- 9.5 Applications containing insufficient information
- 9.6 Advertising of applications

#### **PART 10—PROCEDURES FOR DEALING WITH APPLICATIONS**

- 10.1 Consultation with other authorities
- 10.2 Matters to be considered by Local Government
- 10.3 Determination of applications
- 10.4 Form and date of determination
- 10.5 Term of planning approval
- 10.6 Temporary planning approval
- 10.7 Scope of planning approval
- 10.8 Approval subject to later approval of details
- 10.9 Requests for reconsideration
- 10.10 Deemed refusal
- 10.11 Right of review

#### **PART 11—ENFORCEMENT AND ADMINISTRATION**

- 11.1 Powers of the Local Government
- 11.2 Delegation of functions
- 11.3 Person must comply with provisions of Scheme
- 11.4 Compensation
- 11.5 Purchase or taking of land
- 11.6 Directions by Local Government regarding unauthorised development

#### **SCHEDULES**

- 1 Dictionary of Defined Words and Expressions
  - General Definitions
  - Land Use Definitions
- 2 Rural Residential—Additional Requirements
- 3 Rural Smallholdings—Additional Requirements
- 4 Tourist—Additional Requirements
- 5 Special Use
- 6 Additional Uses
- 7 Restricted Uses
- 8 Environmental Conditions
- 9 Form of Application for Planning Approval
- 10 Notice of Determination on Application for Planning Approval
- 11 Notice of Public Advertisement of Planning Proposal
- 12 Exempted Advertisements
- 13 Additional Information for Advertisements
- 14 Transitional Structure Plans
- 15 Structure Plan Areas
- 16 Development Contribution Plans
- 17 Development Investigation Areas

## PLANNING AND DEVELOPMENT ACT 2005

## SHIRE OF DONNYBROOK-BALINGUP

## LOCAL PLANNING SCHEME No. 7

**PART 1: PRELIMINARY****1.1 Citation**

1.1.1 The Shire of Donnybrook-Balingup Local Planning Scheme No. 7 (“the Scheme”) comes into operation on its Gazettal date.

1.1.2 The following Scheme is revoked—

Shire of Donnybrook-Balingup Town Planning Scheme No. 4 which was gazetted on 11 March 1994.

**1.2 Responsible authority**

1.2.1 The Shire of Donnybrook-Balingup is the responsible authority for implementing the Scheme.

1.2.2 Reference to the local government in the Scheme means the Council of the authority responsible for the area in which a proposed development or use is to be located.

**1.3 Scheme area**

The Scheme applies to the Scheme area, which covers all of the local government district (the ‘district’) of the Shire of Donnybrook-Balingup as shown on the Scheme Map.

**1.4 Contents of Scheme**

The Scheme comprises of—

- (i) the Scheme Text;
- (ii) the Scheme Map (11 sheets and a legend sheet).

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

Note: The Scheme Maps comprise 11 sheets and a legend depicting the reservation of land for public purposes and the zoning and density coding of remaining land within the Scheme area.

**1.5 Vision statement**

The vision for the municipality is to support a thriving community, utilising and consolidating existing towns and services, while developing a diversified economy, which protects and enhances the rural and natural character and physical attributes of the municipality, which is integrated with a sustainable and productive agricultural and natural resource base.

**1.6 Purposes of Scheme**

The purposes of the Scheme are to—

- (i) set out the local government’s planning aims and intentions for the Scheme area;
- (ii) set aside land reserved for public purposes;
- (iii) zone land within the Scheme area for the purposes defined in the Scheme;
- (iv) show land which may be suitable for development through expansion of various settlements within the Scheme area, where special scrutiny of proposed land uses and development must occur having regard to the Scheme objectives;
- (v) control and guide land use and development;
- (vi) set out procedures for the assessment and determination of planning applications;
- (vii) make provision for the administration and enforcement of the Scheme; and
- (viii) address other matters set out in Schedule 7 of the Act.

**1.7 Aims of the Scheme**

The aims of the Scheme are to—

- (i) encourage, direct and control quality and orderly development in the Scheme area so as to promote and protect the health, safety, and general economic and social well-being of the community, and the amenity of the area;

- (ii) promote sustainable development that integrates consideration of economic, social and environmental goals for the district;
- (iii) provide a sufficient supply of serviced and suitable land for housing, rural living, commercial and industrial activities, community facilities, recreation and open space;
- (iv) assist employment and economic growth by facilitating the timely provision of suitable land for retail, commercial, industrial and tourist development, as well as providing opportunities for home-based employment;
- (v) seek to avoid future land use conflicts for current quarrying of the established Donnybrook Stone and minimise future land use conflicts for areas which are identified as being prospective for Donnybrook Stone (possible Donnybrook Stone);
- (vi) support rational decisions being made in regard to land use and that the assessment and classification of land resources is made on the basis of land capability and land suitability;
- (vii) manage the use and development of land by means of zoning and development controls to achieve compatibility between land uses, and the preservation and where possible the enhancement of amenity for urban and rural uses;
- (viii) protect and enhance the environmental values and natural resources of the district and to promote ecologically sustainable land use and development;
- (ix) appropriately take account of flooding, fire and other risks;
- (x) maintain and protect valuable areas of agricultural production and conserve its non-urban character whilst accommodating other complementary rural activities;
- (xi) establish the primacy of the Donnybrook town centre as the commercial and cultural centre of the district;
- (xii) promote appropriately located and designed tourist development;
- (xiii) encourage an efficient use of existing infrastructure and sustainable energy;
- (xiv) conserve existing local Aboriginal and historic heritage;
- (xv) preserve and enhance the amenities of the district and to manage land uses so as to minimise conflicts between incompatible uses;
- (xvi) maintain and enhance the positive aspects of a country lifestyle enjoyed by the inhabitants of the municipality through appropriate control over the layout and design of developed areas by fostering a distinctive character based on good design principles;
- (xvii) improve the management of the natural resources of the Scheme area to the extent possible under the Scheme;
- (xviii) the extent possible under the Scheme, conserve, protect and enhance the biodiversity (genetic, species and ecosystem diversity, environmental values and natural heritage) of the municipality and its environs by ensuring that land use and development is undertaken sustainably with biodiversity values at the fore-front of decision-making;
- (xix) recognise and, where possible, take account of the adverse cumulative impacts on biodiversity, and environmental and heritage values;
- (xx) improve the means of access into and around the district and to ensure the safe and convenient movement of people including pedestrians, cyclists and motorists;
- (xxi) provide for the growth of settlements in a land use pattern which reduces pressure to convert good quality agricultural land to non-agricultural uses;
- (xxii) guide the location of urban and rural-residential development in order to—
  - (a) minimise impacts on rural land;
  - (b) protect and enhance the rural landscape and environmental values;
  - (c) recognise the potential for environmental repair and ensure its enhancement and management in subdivision and development proposals;
  - (d) be appropriately serviced in a sustainable manner that does not place inappropriate demands on the local government or servicing authorities in terms of upgrading or maintaining services; and
  - (e) avoid impacting the established or possible Donnybrook Stone;
- (xxiii) provide guidance and controls for possible future residential, rural residential, rural small holding, commercial, industrial and tourist development within the municipality;
- (xxiv) assist in the effective implementation of State and region plans, strategies and policies;
- (xxv) adopt a set of Local Planning Policies which will achieve the stated objectives; and
- (xxvi) provide opportunities for planned, contained and sustainable settlements.

## 1.8 Definitions

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

- (i) in the *Planning and Development Act 2005*; or
- (ii) if they are not defined in that Act—
  - (a) in the Dictionary of defined words and expressions in Schedule 1; or
  - (b) in the Residential Design Codes.



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

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

### **1.9 Relationship with Local Laws**

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

### **1.10 Relationship with other Schemes**

There are no other Schemes of the Shire of Donnybrook-Balingup which apply to the Scheme area.

### **1.11 Relationship to other State Planning Policy**

The provisions of the Scheme shall be read in conjunction with any other relevant State Planning Policy which shall apply to the Scheme except to the extent of any inconsistency with the Scheme in which case the Scheme shall prevail.

## **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 should be consistent with the Local Planning Strategy. Where the local government makes a decision that is inconsistent with the Local Planning Strategy, it is required to provide reasons for its decision.

Note: 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—

- (i) generally or for a particular class or classes of matters; and
- (ii) 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 the provision of a Local Planning Policy is inconsistent with the Scheme, the Scheme prevails.

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

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

### **2.4 Procedure for making or amending a Local Planning Policy**

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

- (i) 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—
  - (a) where the draft Policy may be inspected;
  - (b) the subject and nature of the draft Policy; and
  - (c) in what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made; and
- (ii) 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—

- (i) review the proposed Policy in the light of any submissions made; and
- (ii) 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—

- (i) publish notice of the Policy once in a newspaper circulating in the Scheme area; and
- (ii) 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(i).

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 local government's administration centre.

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—

- (i) 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
- (ii) 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.

### **2.6 Transitional provisions relating to Local Planning Policies**

Local Planning Policies prepared and adopted by the local government under the provisions of a revoked Scheme or Schemes and/or the Local Government Act 1995 shall continue to have force and effect until such time as they are superseded or revoked or replaced by actions taken by the local government in accordance with the provisions of clause 2.5.

## **PART 3—RESERVES**

### **3.1 Reserves**

Certain lands within the Scheme area are classified as Local Reserves.

### **3.2 Regional Reserves**

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 use, commence or carry out development on a Local Reserve without first having obtained planning approval, under Part 10 of the Scheme.

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

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

3.4.3 In the case of land that is reserved for the purposes of a public authority, the local government will, subject to arrangements made under clause 3.4.4 consult with that authority before determining an application for planning approval.

3.4.4 The local government may enter into arrangements with public authorities to determine those proposals that should, and those that need not form the subject of consultation for the purpose of clause 3.4.3.

3.4.5 For the purpose of clause 3.4.1, “a person” shall include the local government which may, in applying for planning approval for works and development on Reserves under its care, control and management, seek an independent assessment of its application by a suitably qualified person and, if such action is taken, shall have due regard to the advice received when making a determination of the application concerned.

### **3.5 Public works**

Public works proposals referred to the local government for consideration pursuant to Section 6(3) of the Act should be considered in terms of—

- (i) Section 6(2) of the Act;
- (ii) the purposes of the Scheme;
- (iii) the Local Planning Strategy;
- (iv) any relevant Local Planning Policies;
- (v) any relevant endorsed Structure Plan;
- (vi) the relevant classifications, under Parts 3 and 4 of the Scheme, for the land upon which the public work is to be developed;
- (vii) any relevant requirements affecting the character or amenity of an area under Part 10 of the Scheme; and
- (viii) any relevant Special Control Area objectives under Part 6 of the Scheme.

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

### **4.1 Zones**

4.1.1 Land within the Scheme area, not set aside as Reserves under Part 3 of the Scheme, is classified into zones and depicted on the Scheme Map as listed below—

- (i) Residential

- (ii) Rural Residential
- (iii) Rural Smallholdings
- (iv) General Agriculture
- (v) Priority Agriculture
- (vi) Commercial
- (vii) Light Industry
- (viii) General Industry
- (ix) Tourist
- (x) Caravan Park
- (xi) Clubs and Institutions
- (xii) Bushland Protection
- (xiii) Special Use

## **4.2 Residential Zone**

### **4.2.1 Purpose**

The purpose of the Residential zone is to cater for the adequate provision of suitably located land in a varied urban residential environment to meet the needs of the community and to promote the amenity of residential areas. In particular, to provide for residential development at a range of densities with a variety of housing to meet the needs of different household types through the application of the Residential Design Codes.

### **4.2.2 Objectives**

The local government's objectives in managing and guiding land use, development and subdivision within the Residential zone are to—

- (i) provide for a range of housing choice with a high level of amenity in residential areas and which reflect the area's rural character;
- (ii) provide for the adequate supply of suitably located land to meet the ongoing residential needs of the community consistent with the Residential Design Codes;
- (iii) allow aged or dependent persons' dwellings and grouped dwellings if proper servicing is present and the amenity of the locality is not eroded;
- (iv) limit non-residential uses to those of which create self-employment or creative activities, provided such activities have no detrimental effect on the residential amenity;
- (v) promote and safeguard the health, safety, convenience, general welfare and the amenity of residents and the residential area;
- (vi) require development and use to be appropriately serviced;
- (vii) encourage residential development that will achieve efficient use of existing physical and social infrastructure and is economically serviced and affordable;
- (viii) require that the density of development takes account of the availability of reticulated sewerage, the effluent disposal capabilities of the land and other servicing and environmental factors; and
- (ix) identify, and where appropriate, protect areas of environmental significance including areas of native vegetation and wetlands.

## **4.3 Rural Residential Zone**

### **4.3.1 Purpose**

The purpose of the Rural Residential zone is to provide for low density residential development in a rural setting, which provides for an alternative residential lifestyle, which is consistent and compatible with adjacent land use activity, landscape and environmental attributes of the land.

### **4.3.2 Objectives**

The local government's objectives in managing and guiding land use, development and subdivision within the Rural Residential zone are to—

- (i) provide the opportunity for subdivision where identified in an endorsed Local Planning Strategy, in order to provide for a more efficient use of existing rural-residential areas in close proximity to existing townsites (where essential services are available and where the existing landscape and conservation values of the locality will not be compromised);
- (ii) direct and control the form that rural residential subdivision takes to prevent a demand for the unreasonable and uneconomic provision or extension of services and facilities;
- (iii) discourage ribbon development so as to maintain the rural ambience of major roads;
- (iv) maintain the rural character of the locality, maintain a high level of residential amenity and minimise disturbance to the landscape through appropriate construction of buildings and structures, clearing, earthworks and access roads;
- (v) encourage a variety of lot sizes and appropriate designs which accommodate environmental opportunities and constraints and landscape protection requirements;
- (vi) encourage opportunities for innovative design and clustering of houses and other structures to minimise the impact on adjacent land uses, protect landscape and remnant vegetation and to more efficiently use services;

- (vii) discourage development on hilltop ridges and skylines;
- (viii) facilitate the conservation of native vegetation, water courses and water bodies and other environmental features and, where appropriate, to provide for environmental enhancement;
- (ix) encourage and promote appropriate bush fire risk management;
- (x) provide for a range of land uses compatible with the residential occupation of the land while providing for agricultural production on smaller lots where such production does not interfere with the amenity or rural residential character of the area; and
- (xi) discourage or prohibit development not compatible with the predominantly rural nature and residential amenity of the zone.

#### **4.4 Rural Smallholdings Zone**

##### **4.4.1 Purpose**

The purpose of the Rural Smallholdings zone is to provide for rural lifestyle opportunities and associated small scale agricultural production where appropriate, in strategic locations consistent and compatible with adjacent land use activity, landscape and environmental attributes of the land.

##### **4.4.2 Objectives**

The local government's objectives in managing and guiding land use, development and subdivision within the Rural Smallholdings zone are to—

- (i) encourage the opportunity for a range of rural and semi-rural pursuits on cleared land where part-time or full time income may be generated;
- (ii) allow the opportunity for subdivision where identified in an endorsed Local Planning Strategy where the existing land use, landscape and conservation values will not be compromised;
- (iii) encourage rural smallholdings with a variety of lot sizes consistent with the physical, environmental and landscape characteristics of the land which are capable and suitable of sustaining appropriate development in the opinion of local government including the proponent suitably addressing environmental, natural resource management, servicing, fire management and visual impact considerations;
- (iv) facilitate the conservation of native vegetation;
- (v) encourage and promote appropriate bush fire risk management; and
- (vi) support in appropriate circumstances, innovative design and clustering of houses and other structures to minimise the impacts on adjacent land (including agriculture) and provide for on-going use of land for rural pursuits, whilst protecting landscape and environmental values and utilising services efficiently.

#### **4.5 General Agriculture Zone**

##### **4.5.1 Purpose**

The purpose of the General Agriculture zone is to provide for the sustainable use of rural land which primarily accommodates a broad range of rural pursuits and complementary non-agricultural uses that are compatible with the capability of the land and which retain the rural character and amenity of the locality.

##### **4.5.2 Objectives**

The local government's objectives in managing and guiding land use, development and subdivision within the General Agriculture zone are—

- (i) encourage the protection of rural infrastructure and agricultural land resources;
- (ii) encourage the use of rural land for commercial agricultural production including grazing, cropping, agro forestry, tree plantations, and intensive agriculture (where permitted);
- (iii) seek to protect the economic viability of the area;
- (iv) seek to encourage developments which will improve the Shire's population base;
- (v) recognise the aesthetic and tourism importance of the scenic landscape, realise the need to retain the rural scenic character of a site and of the district by ensuring through siting and landscaping provision that any development does not detrimentally change the scenic rural character;
- (vi) recommend support for subdivision where it provides for boundary adjustments, realignments and farm restructuring and new lot creation which promotes effective land management practices, environmental and landscape enhancement and infrastructure provision;
- (vii) support non-rural uses where they are compatible with adjacent and nearby rural and other uses, and where environmental, landscape and servicing considerations are appropriately addressed;
- (viii) support the retention and protection of portions of land within that zone that are not cleared of remnant vegetation and that are valuable to the rural and natural landscape values and ecological systems of the district; and
- (ix) encourage and promote appropriate bush fire risk management.

#### **4.6 Priority Agriculture Zone**

##### **4.6.1 Purpose**

The purpose of the Priority Agriculture zone is to provide for the sustainable use of high quality agricultural land, particularly where water resources exist, preserving existing agricultural production and allowing for new agricultural production by securing suitable land and water resources. To provide for intensive agricultural and horticultural production; including orchards, market gardens and vineyard enterprises. To also allow, where appropriate, limited forms of non-agricultural development that support, are compatible with and complement agricultural production.

##### **4.6.2 Objectives**

The local government's objectives in managing and guiding land use, development and subdivision within the Priority Agriculture zone are to—

- (i) require the protection of the rural infrastructure and agricultural land resources;
- (ii) require planning to avoid the introduction of land uses and subdivision not related to agriculture including rural residential proposals;
- (iii) support the improvement of resource and investment security for agricultural and allied industry production;
- (iv) require protection and enhancement of biodiversity;
- (v) encourage value-adding opportunities to agricultural products at source;
- (vi) support a wide variety of productive agricultural and rural activities;
- (vii) support subdivision; where it provides for boundary adjustments, realignments, farm restructuring and new lot creation which promotes effective land management practices, environmental and landscape enhancement and infrastructure provision;
- (viii) support sensible use and management of resources, and the proper direction and control of development;
- (ix) promote the existing intensive agricultural land use; and
- (x) encourage other similar or complementary activities.

#### **4.7 Commercial Zone**

##### **4.7.1 Purpose**

The purpose of the Commercial zone is to provide for retail shopping, office and commercial development together with social, recreational, community, tourist, entertainment and residential activities to service the populations of surrounding areas along with visitors to the area.

##### **4.7.2 Objectives**

The local government's objectives in managing and guiding land use, development and subdivision within the Commercial zone are to—

- (i) provide for the development or redevelopment of land within the zone for a broad range of uses which the local government considers is appropriate to town centre development;
- (ii) encourage new development within the zone to achieve a high standard in relation to the historic character of Donnybrook and Balingup to assist in promoting the town centres in terms of their own distinctive identity and attraction;
- (iii) promote commercial structures and open areas which are of high quality, achieve a unified theme (where this has been agreed) and which promote the retention of features which enhance the appearance of the town centre and/or provide a sense of identity;
- (iv) protect, maintain and enhance where possible the visual and heritage elements of the town centre;
- (v) promote townscape improvement in accordance with any adopted Townscape Plan;
- (vi) provide for consolidated, accessible, safe and vibrant town centres with a mix of compatible uses;
- (vii) encourage the establishment of a diverse range of activities and the associated infrastructure/services required to fulfil the community, commercial and administrative functions of a commercial area;
- (viii) maintain opportunities for residential, grouped dwellings, tourist accommodation, offices and where appropriate service commercial and service industry suitable in a country town and compatible with the commercial and community functions of the town;
- (ix) encourage residential accommodation within the commercial area compatible with commercial uses;
- (x) provide for a flexible response to new and innovative ideas;
- (xi) encourage the ease of pedestrian movement and sharing of infrastructure while achieving safety and efficiency in traffic circulation; and
- (xii) ensure that development conforms to any Local Planning Policy or Townscape Plan adopted by the local government.

#### **4.8 Light Industry Zone**

##### **4.8.1 Purpose**

The purpose of the Light Industry zone is to provide for a range of light industrial, service and ancillary activities where appropriate services are or can be made available and where the amenity of adjacent neighbourhoods will not be adversely affected.

#### 4.8.2 Objectives

The local government's objectives in managing and guiding land use, development and subdivision within the Light Industry zone are to—

- (i) promote sufficient land being set aside to meet demand for industrial development;
- (ii) encourage and facilitate employment generating development which will contribute to the economic and social well-being of the district;
- (iii) provide for a range of industrial and associated activities, so as to meet the needs of the wider community for industrial services and facilities;
- (iv) minimise land use conflict between industrial and other land uses and protect the amenity of zones abutting the Light Industry zone through adopting a risk management approach to design and layout;
- (v) improve the amenity and visual appearance of industrial areas through appropriate design and landscaping;
- (vi) encourage the consolidation of industrial development into areas which have been appropriately located for that purpose; and
- (vii) require appropriate servicing, accessibility and connectivity.

### 4.9 General Industry Zone

#### 4.9.1 Purpose

The purpose of the General Industry zone is to provide for manufacturing industry, the storage and distribution of goods and associated uses which by the nature of their operations, are required to be appropriately located with sufficient buffers to residential areas and other sensitive land uses.

#### 4.9.2 Objectives

The local government's objectives in managing and guiding land use, development and subdivision within the General Industry zone are to—

- (i) encourage the consolidation of industrial development into areas which have been appropriately located for that purpose;
- (ii) provide for a wide range of industrial and associated activities, which can be undertaken, so as to meet the needs of the wider community for industrial services and facilities;
- (iii) improve the amenity and visual appearance of industrial areas through appropriate design and landscaping;
- (iv) protect the amenity of zones abutting the General Industry zone;
- (v) provide for manufacturing, the storage and distribution of goods and associated uses, which by the nature of their operations should be separate from residential areas and other sensitive uses;
- (vi) adopt a risk management approach to land use, design and layout; and
- (vii) require appropriate servicing, accessibility and connectivity.

### 4.10 Tourist Zone

#### 4.10.1 Purpose

The purpose of the Tourist zone is to encourage the development of a wide range of tourist and recreation facilities, tourist accommodation and activities for visitors at appropriate locations within townsites and in the rural areas of the municipality.

The local government recognises the importance of providing high amenity townsites which provide a range of businesses that cater for the needs of tourists. The local government seeks to encourage the establishment of businesses, which attract and promote the Donnybrook and Balingup townsites as tourist destinations which are supported by businesses within the Tourist zone.

Note: The development of short stay residential is to be considered in conjunction with the local governments' overall requirements for holiday accommodation. It is not unusual for land within this zone to be subject to strata subdivision. The specific requirements of the zone will also include the need to prepare a Structure Plan in order to ensure that appropriate servicing and development issues can be appropriately addressed.

#### 4.10.2 Objectives

The local government's objectives in managing and guiding land use, development and subdivision within the Tourist zone are to—

- (i) encourage the development of the zone as one of the focal points for tourist/visitor related activities within the identified area or town while not compromising the visual and landscape qualities of the area;
- (ii) make provision for a variety of tourist related land use activities, including chalet, guesthouse, motels, lodges, caravan parks, camping areas and bed/breakfast accommodation and associated cottage industries in locations in close proximity to services and areas of tourism interest;
- (iii) encourage development which recognises the historic architectural style and scale of development present within the townsites and/or area including appropriate design in visually prominent areas;

- (iv) encourage a range of recreational activities and accommodation types within the Tourist zone in a form, style and density which is compatible with surrounding land uses, can be adequately serviced and complements the natural and built features of the locality;
- (v) have regard to the Local Planning Strategy, the local government's Policy on Tourist Development and other relevant policies when considering applications for development of self-contained tourist accommodation and/or strata titled accommodation within the Tourist zone; and
- (vi) seek to ensure development impacts are contained on the application site.

#### **4.11 Caravan Park Zone**

##### **4.11.1 Purpose**

The purpose of the Caravan Park zone is to provide for the development of caravan and camping grounds for the use of short-stay accommodation and where appropriate to provide opportunities for long-term accommodation to permanent residents.

##### **4.11.2 Objectives**

The local government's objectives in managing and guiding land use and development within the Caravan Park zone are to—

- (i) provide short-term accommodation for tourists in locations which complement existing tourist and recreation facilities;
- (ii) provide long-term accommodation for permanent residents in locations with access to services normally available to conventional residential development; and
- (iii) encourage development of caravan parks in a manner that is compatible with existing land uses, and which does not have a detrimental impact on the environment or the amenity of the locality.

#### **4.12 Clubs and Institutions Zone**

##### **4.12.1 Purpose**

The purpose of the Clubs and Institutions zone is to provide for the development or establishment of uses to satisfy the general cultural, religious, education, health, recreational and other needs of the community.

##### **4.12.2 Objective**

The local government's objective in managing and guiding land use, development and subdivision within the Clubs and Institutions zone will be to provide for the establishment and ongoing use of a diverse range of activities which are either private or publicly owned, and the associated infrastructure to fulfil community requirements.

#### **4.13 Bushland Protection Zone**

##### **4.13.1 Purpose**

The purpose of the Bushland Protection zone is to encourage the protection of bushland in perpetuity, on privately owned properties in rural localities, which have high conservation, landscape and biodiversity values. This is to be achieved by supporting land uses and development which are compatible with conserving these values, and by providing a subdivision incentive through the creation of conservation lots in exchange for the protection of these values.

##### **4.13.2 Objectives**

The local government's objectives in managing and guiding land use, development and subdivision within the Bushland Protection zone are to—

- (i) conserve areas and limit the clearing of bushland on privately owned 'rural' land so that the biodiversity, environmental, conservation and landscape values of the district are maintained and enhanced;
- (ii) give the preservation of bushland an economic value by providing a limited subdivision incentive, by the creation of conservation lots, in exchange for protecting bushland;
- (iii) encourage land owners to include areas of significant remnant vegetation within the Bushland Protection zone and have these areas protected in perpetuity via the provisions of the zone, a conservation covenant and an endorsed Structure Plan;
- (iv) encourage strategic biodiversity linkages; and
- (v) encourage and promote appropriate bush fire risk management.

#### **4.14 Special Use Zone**

##### **4.14.1 Purpose**

The purpose of the Special Use zone is to provide for those developments, which, because of their special nature or complexity, cannot be appropriately located in other Scheme zones and which may consist of multiple uses, require preparation of an endorsed Structure Plan for adoption by the local government and where development/subdivision will only be supported where it is in accordance with an adopted Structure Plan.

##### **4.14.2 Objectives**

The local government's objectives in managing and guiding land use, development and subdivision within the Special Use zone are to—

- (i) provide for development of uses and multiple use areas which, for reasons of their special nature or complexity, cannot be appropriately included in other Scheme zones;

- (ii) seek to ensure development impacts are contained on-site; and
- (iii) seek the appropriate provision of infrastructure and services.

Special Use zones are set out in Schedule 5 and are in addition to the zones in the Zoning Table. 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 5 and subject to compliance with any conditions set out in Schedule 5 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.

#### 4.15 Additional uses

Despite anything contained in the Zoning Table, the land specified in Schedule 6 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 6 with respect to that land.

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

#### 4.16 Restricted uses

Despite anything contained in the Zoning Table, the land specified in Schedule 7 may only be used for the specific use or uses that are listed and subject to the conditions set out in Schedule 7 with respect to that land.

Note: A restricted use is the only use or uses that are permitted on a specific portion of land and other uses that would otherwise be permissible in the zone are not permitted. At the time of Scheme gazettal there were no Restricted Uses applicable to the Scheme.

#### 4.17 Zoning Table

4.17.1 The Zoning Table indicates, subject to the provisions of the Scheme, 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.

4.17.2 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 9.6; and
- ‘X’ means a use that is not permitted by the Scheme.

4.17.3 A change in the use of land from one use to another is permitted if—

- (i) the local government has exercised its discretion by granting planning approval;
- (ii) 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;
- (iii) 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
- (iv) the change is to an incidental use that does not change the predominant use of the land and is a permitted use within the zone.

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 the 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.
5. The provisions of the Scheme apply in addition to the requirements of other relevant legislation, under which separate approval may be required.



**4.18 Interpretation of the Zoning Table**

4.18.1 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.

4.18.2 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—

- (i) determine that the use is consistent with the objectives of the particular zone and is therefore permitted; or
- (ii) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 9.6 in considering an application for planning approval; or
- (iii) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

**Table 1: Zoning Table**

Land Use	Residential	Rural Residential	Rural Smallholdings	General Agriculture	Priority Agriculture	Commercial	Light Industry	General Industry	Tourist	Caravan Park	Clubs and Institutions	Bushland Protection	Special Use
Abattoir	X	X	X	A	A	X	X	A	X	X	X	X	
Agriculture—extensive	X	A	P	P	P	X	X	X	X	X	X	D	
Agriculture—intensive	X	A	D	P	P	X	X	X	X	X	X	A	
Agroforestry	X	X	D	P	P	X	X	X	X	X	X	X	
Amusement parlour	X	X	X	X	X	D	A	X	A	X	X	X	
Animal establishment	X	X	A	D	A	X	X	A	X	X	X	X	
Animal husbandry—intensive	X	X	A	A	D	X	X	X	X	X	X	X	
Aquaculture	X	A	A	D	D	X	A	A	A	X	X	A	
Art and craft gallery	X	X	A	A	A	P	X	X	P	X	A	A	
Betting agency	X	X	X	X	X	P	X	X	X	X	X	X	
Brewery	X	X	A	A	X	A	A	A	D	X	X	X	
Car park	X	X	X	X	X	P	P	P	P	X	X	X	
Child care premises	A	A	X	X	X	A	X	X	A	X	A	X	
Cinema/theatre	X	X	X	X	X	D	X	X	A	X	X	X	
Civic use	A	D	D	D	D	P	D	D	D	D	D	D	
Club premises	X	X	X	A	X	D	A	X	X	X	P	X	
Community purpose	A	A	A	A	A	P	A	A	A	A	D	X	
Consulting rooms	A	X	X	X	X	P	X	X	X	X	X	X	
Convenience store	X	X	X	X	X	P	A	A	A	A	X	X	
Corrective institution	X	X	X	A	X	X	X	X	X	X	X	X	
Dwellings:													
- aged or dependent persons dwelling	D	X	X	X	X	D	X	X	X	X	X	X	
- ancillary accommodation	D	D	D	D	D	D	X	X	D	X	X	D	
- caretaker's dwelling	X	X	A	D	D	D	A	X	D	D	D	X	
- dwelling	P	P	P	P	P	D	X	X	D	X	D	P	
- grouped dwelling	D	X	X	X	X	D	X	X	X	X	X	X	
- multiple dwelling	D	X	X	X	X	D	X	X	X	X	X	X	
- residential building	A	X	X	X	X	D	X	X	X	X	X	X	
Educational establishment	X	X	A	A	X	D	X	X	X	X	D	X	
Exhibition centre	X	A	A	A	X	D	A	X	A	X	X	X	
Family day care	A	A	A	A	A	D	X	X	X	X	D	X	
Fast food outlet	X	X	X	X	X	D	X	X	A	A	X	X	
Fuel depot	X	X	X	X	X	A	A	D	X	X	X	X	
Funeral parlour	X	X	X	X	X	D	D	D	X	X	X	X	

As specified in Schedule 5

Land Use	Residential	Rural Residential	Rural Smallholdings	General Agriculture	Priority Agriculture	Commercial	Light Industry	General Industry	Tourist	Caravan Park	Clubs and Institutions	Bushland Protection	Special Use
Garden centre	X	A	A	D	X	D	D	A	X	X	X	X	
Holiday Accommodation:													
- backpacker's accommodation	X	X	A	A	X	D	X	X	P	D	X	X	
- bed & breakfast	A	A	A	A	A	D	X	X	P	D	A	A	
- cabin	X	X	A	A	X	D	X	X	P	P	X	X	
- camping area	X	X	A	A	X	D	X	X	P	P	A	X	
- caravan park	X	X	A	A	X	D	X	X	P	P	A	X	
- chalet	X	X	A	A	X	D	X	X	P	P	X	X	
- eco-tourist facility	X	X	A	A	X	D	X	X	D	D	X	A	
- guesthouse	X	X	A	A	X	D	X	X	P	D	A	A	
- holiday house	A	A	A	A	X	D	X	X	P	D	A	A	
- hotel	X	X	X	X	X	A	X	X	A	D	X	X	
- motel	X	X	X	X	X	D	X	X	D	D	X	X	
- resort	X	X	X	X	X	A	X	X	A	D	X	X	
- serviced apartment	X	X	X	X	X	D	X	X	D	D	X	X	
Home business	A	A	A	A	A	D	X	X	X	A	A	A	
Home occupation	A	P	P	P	P	P	X	X	X	P	A	P	
Home office	P	P	P	P	P	P	X	X	X	P	P	P	
Home store	X	X	X	X	X	P	X	X	A	A	X	X	
Hospital	X	X	X	X	X	D	X	X	X	X	A	X	
Industry—cottage	A	A	D	P	P	D	P	P	X	X	A	D	
Industry—extractive	X	X	X	A	A	X	X	X	X	X	X	X	
Industry—general	X	X	X	X	X	X	D	P	X	X	X	X	
Industry—light	X	X	X	X	X	X	P	P	X	X	X	X	
Industry—rural	X	X	A	A	A	X	P	D	X	X	X	X	
Industry—service	X	X	X	A	X	D	P	D	X	X	X	X	
Liquor store	X	X	X	X	X	D	X	X	A	X	X	X	
Lunch bar	X	X	X	X	X	P	P	A	X	X	X	X	
Market	X	X	A	A	A	D	A	X	A	X	A	X	
Medical centre	X	X	X	X	X	P	X	X	X	X	A	X	
Motor vehicle, boat or caravan sales	X	X	X	X	X	D	D	D	X	X	X	X	
Motor vehicle repair	X	X	X	X	X	A	D	D	X	X	X	X	
Motor vehicle wash	X	X	X	X	X	A	P	P	X	X	X	X	
Motor vehicle wrecking	X	X	X	X	X	X	A	A	X	X	X	X	
Nightclub	X	X	X	X	X	A	A	X	A	X	X	X	
Office	X	X	X	X	X	P	X	X	X	X	A	X	
Open air display	X	X	A	A	A	D	D	D	D	X	X	X	
Park home park	X	X	X	X	X	A	X	X	A	D	X	X	
Place of worship	A	X	X	A	X	P	A	A	X	X	A	X	
Plantation	X	X	A	P	D	X	X	X	X	X	X	X	
Plant nursery	X	X	A	D	D	D	D	D	D	X	X	D	
Produce store	X	X	A	A	X	P	P	D	X	X	X	X	
Reception centre	X	X	A	A	X	D	X	X	D	A	A	X	
Recreation—private	X	X	A	A	A	D	A	A	P	A	A	X	
Recreation public	D	D	D	D	D	P	D	D	P	D	D	X	

As specified in Schedule 5

Land Use	Residential	Rural Residential	Rural Smallholdings	General Agriculture	Priority Agriculture	Commercial	Light Industry	General Industry	Tourist	Caravan Park	Clubs and Institutions	Bushland Protection	Special Use
Restaurant	X	X	A	A	X	D	X	X	A	A	A	X	As specified in Schedule 5
Restricted premises	X	X	X	X	X	A	A	A	X	X	X	X	
Roadhouse	X	X	X	X	X	A	A	A	A	X	X	X	
Rural pursuit	X	D	D	P	P	X	X	X	D	D	D	X	
Salvage yard	X	X	X	X	X	X	A	A	X	X	X	X	
Sawmill	X	X	A	A	A	X	A	D	X	X	X	X	
Service station	X	X	X	X	X	D	D	D	A	A	X	X	
Sexual service business	X	X	X	X	X	X	D	D	X	X	X	X	
Shop	X	X	X	X	X	D	X	X	A	D	X	X	
Showroom	X	X	X	X	X	D	D	A	X	X	X	X	
Storage	X	X	X	A	X	D	D	P	X	X	X	X	
Small Bar	X	X	X	X	X	D	X	X	D	X	D	X	
Tavern	X	X	X	X	X	D	X	X	A	X	X	X	
Tearoom	X	X	A	A	X	P	X	X	P	X	A	A	
Telecommunications infrastructure	D	D	D	D	D	D	D	D	D	D	D	D	
Trade display	X	X	A	D	X	D	D	D	X	X	X	X	
Transport depot	X	X	A	D	A	A	D	D	X	X	X	X	
Veterinary centre	X	X	A	A	A	D	D	D	X	X	X	X	
Warehouse	X	X	X	X	X	D	P	P	X	X	X	X	
Wayside stall	X	A	D	D	D	X	X	X	X	X	X	X	
Wind farm	X	X	X	A	X	X	X	A	X	X	X	X	
Winery	X	X	A	D	D	A	A	A	D	X	X	X	

#### 4.19 Non-conforming uses

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

- (i) the continued use of any land for the purpose for which it was being lawfully used immediately prior to the Gazettal date;
- (ii) 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
- (iii) subject to clause 5.48, 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 Act, and includes houses, buildings and other works and structures.

#### 4.20 Extensions and changes to a non-conforming use

4.20.1 A person must not—

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

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

4.20.2 An application for planning approval under this clause is to be advertised in accordance with clause 9.6.

4.20.3 Where an application is for a change of use from an existing non-conforming use to another non-conforming use, or to extend a non-conforming use, the local government is not to grant it 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.

Note: The onus of proof is on the applicant demonstrating how the proposal is less detrimental.

#### 4.21 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 in conformity with the provisions of the Scheme.

#### 4.22 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 190 and 191 of the Act enables the local government to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a Local Planning Scheme, subject to Part 9 of the *Land Administration Act 1997* those sections and the Scheme.

#### 4.23 Destruction of non-conforming use buildings

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

### PART 5—GENERAL DEVELOPMENT REQUIREMENTS

#### 5.1 Compliance with development requirements

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

#### 5.2 Residential Design Codes

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

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

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

#### 5.3 Special application of Residential Design Codes

5.3.1 Notwithstanding the prescribed residential density code (R coding), for land not connected to or capable of being connected to reticulated sewerage, the development density and lot sizes will also be affected by the relevant Department of Health sewerage policy.

5.3.2 Residential development and subdivision is to meet the requirements in clause 5.39 regarding sewerage connection and effluent disposal.

#### 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 effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Design Codes which apply under the Scheme.

5.4.2 Where clause 5.4.1 operates to extinguish or vary a restrictive covenant the local government is not to grant planning approval to the development of the land which would, but for the operation of clause 5.4.1, have been prohibited unless the application has been dealt with as an 'A' use and has complied with all of the advertising requirements of clause 9.6.

Note: This will necessitate information on restrictive covenants affecting density. A copy of the title will accordingly be required to be supplied by the applicant where applications are for sites containing a restrictive covenant.

#### 5.5 Variations to site and development standards and requirements

5.5.1 Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.

5.5.2 In considering an application for planning approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjacent to the site which is the subject of consideration for the variation, the local government is to—

- (i) consult the affected parties by following one or more of the provisions for advertising under clause 9.6; and
- (ii) 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—

- (i) approval of the proposed development would be appropriate having regard to the matters to be considered set out in clause 10.2; and
- (ii) 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 8 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—

- (i) maintain a register of all relevant statements published under Sections 48F and 48G of the Environmental Protection Act 1986; and
- (ii) make 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 and may apply to any zone within the Scheme. At the time of gazettal of the Scheme there were no environmental conditions, imposed by the Minister for Environment, that apply to the Scheme.

#### **5.7 Tree planting and vegetation corridors**

5.7.1 In order to improve the environmental amenity of areas that the local government considers deficient in tree cover, the local government may require as a condition of any planning approval or recommend to the Commission a condition of subdivision, the planting of such trees and/or groups of trees and species as specified by the local government.

5.7.2 On the advice of Landcare Groups, Department of Water, Department of Agriculture and Food or the Department of Parks and Wildlife or in the opinion of the local government, the local government may also require native vegetation re-establishment and/or drainage measures in designated areas.

#### **5.8 Clearing native vegetation**

5.8.1 Notwithstanding the Zoning Table, and unless otherwise specifically stated in this Scheme, clearing native vegetation within the Rural Residential, Rural Smallholdings and Bushland Protection zones shall not be undertaken without the prior planning approval of the local government. In considering any such application, the local government will take into account amenity considerations and any arrangements for entering into covenants with the local government for the retention and protection of other remnant vegetation.

5.8.2 Where the clearing of native vegetation is necessary to develop land, the local government will, in assessing an application for planning approval, have regard to the extent of clearing to be undertaken and the quality and type of vegetation to be removed and may impose conditions or make arrangements with the proponent to retain some of the vegetation on the land.

5.8.3 Subject to the provisions of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004, clearing native vegetation does not include—

- (i) any clearing, including the provisions of firebreaks, that is authorised under the *Bush Fires Act 1954* (as amended);
- (ii) any clearing carried out in accordance with a local government approved Fire Management Plan;
- (iii) the removal of any vegetation that is—
  - (a) dead, diseased or dangerous;
  - (b) required to give effect to an approved development works of land use including the provision of an access road to the approved development; and
  - (c) within the defined/approved building envelope for the land; and
- (iv) the vegetation is not listed in the Municipal Heritage Inventory or a Local Planning Policy or does not form the subject of a Tree Preservation Order under the relevant provisions of the Scheme.

5.8.4 Where native vegetation is cleared prior to implementation of an approved development or land use, it is a requirement of the Scheme that, unless otherwise approved, an equivalent area of land be revegetated with native vegetation indigenous to the locality on the land the subject of the application or on public land managed by the local government or with the consent of the land owner(s) on other land in their ownership to ensure that there is no net loss of native vegetation.

5.8.5 Where low fuel zones are shown on an approved and implemented Structure Plan or as specified in a local government or Department of Fire and Emergency Services Authority approved fire management plan, the owners or occupiers of the affected land are required to maintain that land in a low fuel condition. In Rural Residential and Rural Smallholdings zones where a low fuel zone has not been prescribed via an approved fire management plan, a 30 metre low fuel zone is to be provided and maintained around dwellings.

### **5.9 Preservation of trees—urban zones**

5.9.1 The purpose of clause 5.9 is to preserve and/or enhance landscape amenity from the negative effects of clearing of a significant tree or trees in the Residential, Commercial, Tourist and Clubs and Institutions zones.

5.9.2 Where it appears to the local government that it is expedient for the purpose of securing or of preserving existing amenity, the local government may make an order (hereinafter referred to as a “Tree Preservation Order”) relating to specific trees or groups of trees, and may, by like resolution, rescind or vary any such order. The Order shall have effect from the date and time of the resolution.

5.9.3 A Tree Preservation Order may prohibit the ring-barking, cutting down, topping, lopping, removing, injuring or wilful destruction of any tree or trees specified in the order except with the consent of the local government and any such consent may be given subject to reasonable conditions.

5.9.4 On the local government resolving to initiate a Tree Preservation Order, the local government shall, as soon as practicable, after the resolution serve notice on all affected landowners and any other relevant parties, giving full details and particulars of the Tree Preservation Order and inviting comment on the Order within the period (not less than 21 days) specified in the notice.

5.9.5 Within a period not exceeding sixty (60) days, the justification for a Tree Preservation Order shall be reconsidered by the local government in the light of any submissions received for a decision to maintain or revoke the Tree Preservation Order. A decision to revoke an Order shall have immediate effect. On the finalisation of a Tree Preservation Order, the local government shall cause notice of the making of the Order to be published in a newspaper circulating in the area of the affected land.

5.9.6 A person who contravenes causes or permits a contravention of a Tree Preservation Order is guilty of an offence under clause 11.3 of the Scheme and section 218 of the Act.

5.9.7 It is a sufficient defence to proceedings under clause 5.9.6 to demonstrate that the action was required—

- (i) to remove an immediate threat to life or property;
- (ii) to comply with the relevant and approved fire management requirements, or where the tree is considered likely to cause damage to buildings or services; or
- (iii) where written notice about the proposed action was given to the local government and a period of not less than 14 days occurred after the notice was given (before the action was taken) and the local government did not advise the person during that period that it opposed the action being taken.

5.9.8 The term “notice” in sub-clause 5.9.7(iii) means a notice that includes the name and address of the person who gives notice and explains that a tree of a named species situated in a specified position on land described in the notice and the subject of a Tree Preservation Order, or part thereof, is intended to be ring-barked, cut down, topped, lopped, removed, injured or wilfully destroyed for a particular purpose.

5.9.9 Where the local government serves a notice under clause 5.9.4, or attaches conditions that the landowner considers unreasonable to any approval to remove, lop or top any tree to which a Tree Preservation Order relates, the landowner shall have a right to seek review under clause 10.11 of the Scheme.

5.9.10 The powers conferred on the local government in pursuance of this clause shall not apply to trees in a State forest or on land reserved as a timber reserve or to trees required to be lopped in accordance with the requirements of the government agencies acting in accordance with their legislation or adopted plan.

### **5.10 Preservation of trees and landscape enhancement—Rural Residential and Rural Smallholdings zones**

Where land in a proposed Rural Residential and Rural Smallholdings zone is considered by the local government to be deficient in tree cover and that such deficiency would upon development result in loss of landscape values, the local government may require that the planting of additional trees and associated maintenance for a period of two years. Additional planting may be required as a special provision at the time of rezoning or as a condition of subdivision or Planning Approval.

### **5.11 Plantations**

Plantations should be established in accordance with the fire protection guidelines set out in the State Government publication ‘Guidelines for Plantation Fire Protection’.

### **5.12 Natural resource management**

Notwithstanding the specific provisions of the Scheme or any Local Planning Policies detailed within the Scheme, the local government shall in considering any development proposal have regard to any systems areas designated by the Environmental Protection Authority, including EPA System 6 Recommendations for Conservation Reserves, and/or any Drainage Plan and/or Soil Conservation Plan which relates to land within the Scheme area.

### **5.13 Groundwater areas**

Where groundwater protection areas have been established by the Department of Water, landowners and developers are required to obtain a licence prior to the construction of a bore or well on any property for groundwater extraction except for stock or domestic purposes.

### **5.14 Waterway resource management and protection**

5.14.1 The local government will encourage water conservation and water sensitive design as features of all development and will require the applicant to satisfactorily demonstrate that appropriate

measures are in place to manage impacts on water sources, where deemed relevant by the local government. Applications for planning approval that may have potential to impact on the State's water resources may be referred to the Department of Water or other relevant agency for comment. Where relevant, the local government may require the applicant/operator to undertake appropriate pre-development and post development monitoring and undertake measures deemed appropriate by the local government to address water management and protection issues.

5.14.2 In considering any development which may have an impact on any waterway including rivers, creeks, streams, drainage lines, lakes, soaks, swamps and other wetlands, the local government shall have regard to—

- (i) managing water balance;
- (ii) maintaining and where possible enhancing water quality;
- (iii) encouraging water conservation;
- (iv) maintaining and where possible enhancing water related environmental values; and
- (v) maintaining and where possible enhancing recreational and cultural values.

5.14.3 The local government may require proponents to prepare a foreshore management plan, drainage strategy or other document to manage impacts of proposed development and subdivision and will require the proponent, or other agreed party, to appropriately implement the plan or strategy to the satisfaction of the local government.

### **5.15 Stream protection areas**

5.15.1 Within any Stream Protection Area identified in an endorsed Structure Plan, the following provisions are to apply—

- (i) no new dams, artificial retention of flow, pumping, diversion of water or modification of stream course, bed or banks is to occur without approval of the Department of Water;
- (ii) the activities of stock are to be controlled such that the problems of erosion, pollution and vegetation degradation does not occur; and
- (iii) no spraying (pesticide/herbicide), non-cultivation and non-nitrogenous fertiliser application is to occur within 50 metres from the water course. The no spray requirements will not preclude carrying out of noxious weed control in accordance with Department of Agriculture and Food requirements.

### **5.16 Flood risk land**

5.16.1 Notwithstanding any other provision in the Scheme, except for clause 6.2, the local government shall not grant approval to the carrying out of development on land that is identified as being within a designated floodway or in other areas at risk of flooding, in the opinion of the local government, unless an assessment has been made of—

- (i) the effect of the proposed development on the efficiency and capacity of the floodway to carry and discharge water;
- (ii) the safety of the proposed development in time of flood; and
- (iii) whether the proposed development involves any possible risk to life, human safety or private property in time of flood.

5.16.2 A person shall not carry out any development on land identified as flood fringe or in other areas at risk of flooding, in the opinion of the local government, unless—

- (i) the floor of the dwelling or other habitable building is, or will be, raised a minimum of 500mm above the 1 in 100 year flood level identified for the land;
- (ii) the base of the wastewater disposal system is a minimum of 300mm above the 1 in 100 year flood level identified for the land and fitted with appropriate devices to prevent back flow of effluent and groundwater. This requirement may be removed if an approved alternative treatment unit is installed to the satisfaction of the local government;
- (iii) the receipt of an engineering certification which ensures that the proposed building or structure can be designed to take account of the potential forces of flood waters; and
- (iv) a licensed surveyor confirms that the floor level height of the building meets the identified flood level for the relevant portion of the subject land. This survey is to be carried out and submitted for local government endorsement upon completion of the sand pad or stumping network of the proposed building. No further works on the proposed building are to be commenced until local government endorsement of the survey information has been given.

5.16.3 In considering applications for planning approval pursuant to clauses 5.16.1 and 5.16.2, the local government shall consult with and take into consideration the advice of the Department of Water in relation to the delineation of floodways and flood prone land, the effect of the development on a floodway, and any other measures to offset the effects of flooding.

### **5.17 General appearance of buildings and preservation of amenity**

Where, in the opinion of the local government, any proposed building or the erection of structures or carrying out of site works is out of harmony with existing buildings or the landscape of the locality by virtue of the design and appearance of the development, the colour or type of materials to be used on exposed surfaces, the height, bulk and massing of any building, the local government may refuse the application for planning approval. The refusal can be made notwithstanding that the application may otherwise comply with the provisions of the Scheme. The local government may place conditions on any planning approval granted for the proposed development to ensure that it will not have an adverse impact on the character of the area or the amenity and landscape quality of the locality.

In exercising its discretion under this clause, the local government shall have regard to the following when assessing any application for planning approval—

- (i) the external appearance of the building and any associated structures and landscaping;
- (ii) the dimensions and proportions of the building or structure;
- (iii) the materials used in the construction of the building taking into consideration texture, scale, shape and colour;
- (iv) the effect of the building or works on nearby properties, and on the occupants of those buildings;
- (v) the effect on the landscape and environment generally; and
- (vi) any other matter which in the opinion of the local government is relevant to the amenity of the locality.

### **5.18 Height and appearance of buildings**

5.18.1 With the exceptions of buildings the subject of a planning approval granted by the local government pursuant to the provisions of clause 10.2, and structures and equipment necessary for radio, television and communications facilities, no building in excess of three storeys and/or a height of 12 metres above natural ground level shall be erected within the Scheme area.

5.18.2 Notwithstanding the provisions of clause 5.18.1, the local government may, after following the procedures set out in clause 9.6, grant planning approval for buildings which exceed the heights specified after considering any submissions received and the information provided pursuant to clause 5.18.4.

5.18.3 Where the local government is requested to approve a building where the height exceeds those specified in clause 5.18.1, the local government may require all or part of the following information set out in clause 5.18.4.

5.18.4 Plans including sections and elevations, photographs and/or models of the proposed development, in addition to those details required for applications for planning approval, showing—

- (i) land likely to be affected by the application in terms of views, aspect and impact on townscape;
- (ii) the effect of the proposed development on neighbouring or nearby properties with regard to view, aspect and impact on the area generally; and
- (iii) the materials to be used on the external surfaces of the building and any additional external treatment.

5.18.5 In assessing an application for planning approval, the local government shall satisfy itself that the proposed building or structure—

- (i) will be in harmony with the general character of buildings in the locality;
- (ii) will not be detrimental to the amenity or, character of the locality or the quality of environment or the townscape;
- (iii) will observe the required setbacks from the boundaries of the lots on which it is to be constructed and will not prejudice the siting, design, aspect and privacy of buildings on other nearby lots;
- (iv) will not impact the potential for the realistic development in the opinion of the local government of other vacant blocks in the vicinity with particular regard to amenity, aspect and views; and
- (v) has been designed in harmony with the natural land form of the site.

5.18.6 Any planning approval issued pursuant to the provisions of clause 5.18 may only be granted by an absolute majority of the local government.

5.18.7 In relation to clause 5.18, reference to a building does not include—

- (i) an aerial
- (ii) a chimney stack;
- (iii) a mast;
- (iv) a pole;
- (v) a receiving tower;
- (vi) a silo;
- (vii) a transmission tower;
- (viii) a utility installation;
- (ix) a ventilator; and
- (x) a building within the General Industry zone.

### **5.19 Untidy places, derelict vehicles, machinery and objects**

5.19.1 No land within the Scheme area shall on a permanent or regular basis be used for the purposes of storage and/or the disposal of rubbish, refuse, car bodies, industrial waste (whether liquid or solid) or any recycled materials or buildings without the written approval of the local government.

5.19.2 The local government may, by written notice as provided for in clause 3.25 and Schedule 3.1 of the *Local Government Act 1995* require the owner, occupier or lessee of any land to undertake such works or actions for the improvement of the conditions and visual presentation of that property to a standard commensurate with those conditions prevailing in the locality.



5.19.3 The local government shall not permit the storage and/or wrecking of derelict vehicles, sea containers or machinery or the storage of any materials within any zone, except the General Industry zone, if it is visible from any road or where, in the opinion of the local government, it detracts from the amenity of the locality without the written approval of the local government.

5.19.4 Notwithstanding clause 5.19.3, should the applicant justify the proposal, commit to suitable management and address visual impact concerns following the receipt of an application for planning approval, the local government may grant approval with or without conditions.

5.19.5 Notwithstanding any other provision of the Scheme, the storage of disused vehicles and/or wrecking of any vehicle on private land other than land within the General Industrial zone is prohibited.

#### **5.20 Storage of goods**

5.20.1 Notwithstanding the provisions of the Zoning Table and the definition of 'storage' in Schedule 1, land within the Rural Residential, Rural Smallholdings, General Agriculture, Priority Agriculture or Bushland Protection zones may not be used for 'storage' purposes, other than for produce grown or reared on the property, without the prior approval of the local government. Such an approval will only be granted where the goods, produce or items to be stored are, or are associated with the production or maintenance of rural goods, produce or other items used on the subject land or other land in the vicinity of the site.

5.20.2 All storage areas shall be screened by landscaping, fencing or other means acceptable to the local government to ensure that such storage areas are not detrimentally exposed to view from nearby roads or other public places as determined appropriate by the local government.

#### **5.21 Relocated second-hand buildings**

The local government may permit the erection of a relocated building on a lot where—

- (i) in its opinion such building is in a satisfactory condition and the design and location of the building is to the satisfaction of the local government and will not adversely affect the amenity of the locality;
- (ii) the applicant for a building permit for the relocated building lodges a cash bond and enters into an agreement, to the satisfaction of the local government, to ensure the building achieves a standard of presentation acceptable to the local government within 12 months of the issue of the building permit; and
- (iii) the proposal complies with the provisions of the local government's Local Planning Policies—Relocation and Use of Second-Hand Dwellings; and Transportable Structures.

#### **5.22 Townscape plans**

The local government—

- (i) may prepare Townscape, Landscape or Urban Design Plans or Strategies for settlements or any part or parts thereof within the Scheme area either as Local Planning Policies pursuant to clause 2.4 or Structure Plans in accordance with clause 6.9.4; and
- (ii) will have due regard for the provisions of any endorsed Plan or Strategy when making determinations on any application involving land covered by such an endorsed document.

#### **5.23 Outbuildings**

5.23.1 The setback from boundaries for outbuildings will be in accordance with those applicable to dwellings under the Residential Design Codes in a Residential zone or as indicated in the Development Standards applicable to the relevant non-residential zones except as provided for in the local government's Local Planning Policy—Outbuilding Control.

5.23.2 Planning approval will not be granted for any outbuildings on Residential, Rural Residential or Rural Smallholdings zoned lot that does not contain a residence unless otherwise approved by the local government.

#### **5.24 Use of setback areas**

5.24.1 No person shall use the setback area between the building line and the street alignment for any purpose other than one or more of the following—

- (i) a means of access;
- (ii) the daily parking of vehicles;
- (iii) loading and unloading of vehicles;
- (iv) trade display only with the planning approval of the local government;
- (v) alfresco or other uses approved by the local government; and
- (vi) gardens and other landscaping.

5.24.2 Outdoor displays, industrial hire services, storage facilities, depots, lay-down areas and any other open area shall be sealed, paved or landscaped to the satisfaction of local government and maintained in good condition to the satisfaction of the local government.

#### **5.25 Landscaping**

5.25.1 Development in the Light Industry, General Industry and Tourist zones shall have a minimum of 10% of the total lot landscaped in a position determined by the local government and all other zones will be assessed on their merits.

5.25.2 Landscaping means an open area designed, developed and maintained as garden planting and areas for pedestrian use. At the discretion of the local government natural bushland, swimming pools and areas under covered ways may be included within the landscaping requirement, however garbage collection and handling spaces, and other open storage areas shall not be included.

5.25.3 In considering the landscaping requirement of any application for planning approval, the local government will have due regard to the local government's Local Planning Policy—Landscaping.

5.25.4 Access driveways between a street alignment and any buildings may be included in the landscaping requirement but other car parking areas and driveways shall not be included.

5.25.5 Landscaping required pursuant to this Scheme or pursuant to a conditional planning approval shall be carried out at the time of the development or at such other time as may be agreed in writing between the proponent and the local government and shall thereafter be permanently maintained to the satisfaction of the local government. No person shall, unless the local government otherwise approves, occupy any buildings forming part of an approved development until the required landscaping has been constructed and planted.

#### **5.26 Parking of heavy vehicles in Residential and Rural Residential zones**

5.26.1 A planning approval is not required where the proponent satisfies the following criteria—

- (i) A person shall not park, or cause to be parked, more than one heavy vehicle in the Residential or Rural Residential zones.
- (ii) A person may park one heavy vehicle in the Residential or Rural Residential zone if—
  - (a) no part of the vehicle is parked on any portion of a right-of-way or public road contiguous with the lot;
  - (b) the vehicle forms an essential part of the lawful occupation of an occupant of the dwelling and that occupation if carried on upon the lot does not contravene the Scheme;
  - (c) the vehicle is effectively screened from view the public road system or a public place;
  - (d) the vehicle does not exceed 3.0 metres in height or 8.0 metres in length;
  - (e) the vehicle is parked behind the front building line;
  - (f) any noise created by the vehicle does not contravene the *Environmental Protection (Noise) Regulations 1997*;
  - (g) major repairs to the vehicle are not undertaken on the lot;
  - (h) any minor repairs, servicing or cleaning of the vehicle are carried out in an area which is effectively screened from view from the public road system or a public place; and
  - (i) the vehicle is not brought to or taken from the lot between the hours of midnight and 6.00 am.

5.26.2 For the purpose of clause 5.26.1, 'heavy vehicle' means a vehicle exceeding an unladen tare weight of 3 tonnes or a length of 8.0metres.

#### **5.27 Car parking and vehicle access requirements**

5.27.1 Land within the Scheme area shall not be used or developed for any of the purposes requiring planning approval under the Scheme unless car parking provision, in accordance with Table 2 and Table 3, is provided on the site the subject of the application in accordance with the standards and requirements, including carparking space layouts and dimensions, as set out in the relevant Australian Standard. Additionally, the local government may require the provision of spaces for cycle racks and vehicles for the disabled as considered necessary.

5.27.2 Where land is to be developed or used for purposes not mentioned in Table 2, or where a standard or requirement is not specified in the Scheme, the local government shall determine in each case the number of spaces to be provided on the land having due regard to the—

- (i) nature of the proposed development;
- (ii) number of employees or others likely to be employed or engaged in the use of the land;
- (iii) anticipated demand for visitor parking; and
- (iv) orderly, proper and sustainable planning of the area.

5.27.3 The off street car parking requirements for particular developments and land uses are listed in Table 2 or as may be varied by the provisions of this Scheme.

5.27.4 Subject to the provisions of this clause, the car parking requirements shall be provided on the site the subject of the proposed development, or with the approval of the local government in the immediate vicinity thereof provided that arrangements for the permanent retention of that carparking can be set in place to the satisfaction of the local government.

5.27.5 All off-street carparking areas shall accord with the provisions of the local government's Local Planning Policy—Car Parking.

5.27.6 Where an applicant can demonstrate to the satisfaction of the local government that there is not the demand for the number of carparking spaces specified in Table 2, the local government can vary this standard where it considers this represents orderly and proper planning.

5.27.7 Where the maximum dimension of an open car parking area exceeds 20 metres in length or width, one carparking space in every 20 shall be used for garden and planting of plants and trees to provide visual relief and so long as the garden and planting areas are maintained in good order, those spaces shall be included in calculations as landscaping and not as car parking.

5.27.8 Where an applicant can demonstrate to the satisfaction of the local government that other off-street carparking facilities are available and that these facilities can be shared with a nearby land use, the local government may approve a development with less than the required number of on-site car bays provided—

- (i) the local government is satisfied that no conflict will occur in the operation of land uses for which the joint use of parking facilities is proposed;
- (ii) the local government is satisfied that the shared bays are in close proximity; and

- (iii) landowners who request sharing of carparking facilities enter into a legal agreement to the local government's satisfaction for reciprocal rights to carparking facilities to assure the continued access to shared parking facilities.

Note: The local government may require the agreement to be prepared by a solicitor at the expense of the applicant or undertake other arrangements to the satisfaction of the local government.

**Table 2: Car parking requirements**

Use	Minimum Number of Parking Spaces to be Provided
Caravan Park	1.25 per unit, bay or tent site
Cabin	1 per cabin + 1 space for each staff member
Chalet	1 per chalet + 1 space for each staff member
Civic Use	1 per 30m <sup>2</sup> Gross Floor Area (GFA)
Club Premises	1 per 50m <sup>2</sup> GFA
Club (Licensed)	1 per 5m <sup>2</sup> bar and other activity area
Consulting Rooms	4 per practitioner for the first practitioner and 2 bays for each practitioner thereafter
Factory Units	1 per 50m <sup>2</sup> GFA or 2 for every factory unit whichever produces the greatest number of car parking spaces.
Family Day Care Centre	1 per staff member + 2 extra spaces for the picking up and setting down of persons
Dry Cleaning/Laundry	1 per 30m <sup>2</sup> GFA
Fast Food Outlet	1 per 4 seated patrons
Health Centre	1 per 30m <sup>2</sup> GFA
Hotel	1 per 5m <sup>2</sup> public area + 1 per bedroom
General Industry	1 per 100m <sup>2</sup> GFA
Guesthouse	1 per room + 1 space for each staff member
Light & Service Industry	1 per 50m <sup>2</sup> GFA
Liquor Store	1 per 25m <sup>2</sup> GFA
Motel	1 per unit + 1 per 25m <sup>2</sup> service area
Office	1 per 40m <sup>2</sup> GFA
Public Amusement	1 per 4 seats provided
Public Worship	1 per 4 seats provided
Residential	As per the Residential Design Codes
Restaurant	1 per 4 patrons
Restricted Premises	1 per 25m <sup>2</sup> GFA
Service Station	1 per 200m <sup>2</sup> gross site area
Shop	1 per 20m <sup>2</sup> GFA
Showroom	1 per 50m <sup>2</sup> GFA
Tavern	1 per 5m <sup>2</sup> public area
Veterinary Consulting	4 per practitioner
Warehouse	1 per 100m <sup>2</sup> GFA
Other Uses Not Listed	Determined by the local government after consideration of the parking need generated by the use and/or outlined in a Local Planning Policy.

**Table 3: Carparking dimensions**

Parking Angle	Width of Bay (m)	Length of Bay (m)	Depth of Bay (m)	Minimum Manoeuvring Depth (m)	Minimum Total Depth (m)
(a) One-Way Access					
90°	2.6	5.5	5.5	5.9	11.4
75°	2.6	5.5	6.0	5.3	11.3
60°	2.6	5.5	6.1	5.0	11.1
45°	2.6	5.5	6.1	3.6	9.7
30°	2.6	5.5	4.8	3.3	8.1
00°	3.0	6.7	3.0	3.0	6.0
(parallel parking)					

Parking Angle	Width of Bay (m)	Length of Bay (m)	Depth of Bay (m)	Minimum Manoeuvring Depth (m)	Minimum Total Depth (m)
(b) Two-Way Access					
90°	2.6	5.5	5.5	6.0	11.5
75°	2.6	5.5	6.0	6.0	12.0
60°	2.6	5.5	6.1	6.0	12.1
45°	2.6	5.5	6.1	6.0	12.1
30°	2.6	5.5	4.4	6.0	10.4
00°	3.0	6.7	3.0	6.0	9.0
(parallel parking)					

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

- (i) the proportion of car parking spaces to be roofed or covered;
- (ii) the proportion of car parking spaces to be below natural ground level;
- (iii) the means of access to each car parking space and the adequacy of any vehicular manoeuvring area;
- (iv) the location of the car parking spaces on the site and their effect on the amenity of adjacent development, including the potential effect if those spaces should later be roofed or covered;
- (v) the extent to which car parking spaces are located within required building set back areas; and
- (vi) the location of proposed public footpaths, vehicular crossings of private footpaths within the lot, and the effect on both pedestrian and vehicular traffic movement and safety.

### 5.28 Construction of carparking and vehicle access areas

5.28.1 Except as may otherwise be approved by the local government in urban areas as set out in Local Planning Policy—Car Parking, all carparking areas, loading areas and accessways shall be constructed with a sealed surface comprising bitumen seal, concrete, brick paving or pea-gravel seal on a compacted gravel base with satisfactory—

- (i) drainage to a sump and connected to the local government's stormwater system;
- (ii) surface line-marking and signage being provided to show the manner in which the carparking, loading and access areas are to be used;
- (iii) design to allow turning and manoeuvring of vehicles on-site; and
- (iv) landscaping where large carparking areas are involved to effectively screen the paved areas from view from the street or other public places and around and within the carparking area to provide shade, as determined by the local government.

5.28.2 All carparking, loading and access areas shall be provided in accordance with clause 5.28.1 and shall be constructed prior to occupation of the development or at such time as may be agreed in writing between the local government and the proponent. Such areas shall be maintained by the landowner to the satisfaction of the local government.

### 5.29 Access for loading and unloading vehicles

In non-residential zones—

- (i) no land or buildings shall be developed unless provision is made for an area clear of the street for the purpose of loading or unloading goods or materials;
- (ii) the local government will seek to ensure that servicing vehicles will be able to leave and enter the street in a forward direction; and
- (iii) it is expected that any accessway shall be not less than 4.5 metres wide but in exceptional circumstances the local government may permit an accessway of lesser width but not less than 3.0 metres and then only when a one-way system can be established.

### 5.30 Pedestrian movement within carparking areas

In instances where large areas of land are developed for carparking purposes, provision shall be made to the satisfaction of the local government for pedestrian paths through the carparking area which, where available, connect with other pedestrian paths adjoining or near the application site.

### 5.31 Cash-in-lieu of car parking

Where an applicant for planning approval can satisfy the local government that the minimum car parking requirements cannot be provided on the site, the local government may accept a cash payment in lieu of the provision of car parking spaces, but subject to the requirements of this clause:

- (i) A cash-in-lieu payment shall not be less than the estimated cost to the owner of providing and constructing the carparking spaces and associated manoeuvring areas required by the Scheme, plus the value as estimated by the Valuer General, or by an appropriate professional appointed by the local government or by a valuer appointed by the owner/proponent of that

area of land which would have been occupied by the shortfall of car parking spaces. Alternatively, payments of cash-in-lieu of parking spaces shall be in accordance with a rate per space calculated for the Commercial zone concerned by the local government having regard to the average value of properties in that district at the time the development is approved for construction along with the costs associated with car parking construction, marking of car bays, manoeuvring areas and drainage.

- (ii) Before the local government agrees to accept a cash payment in lieu of the provision of parking spaces, the local government must have—
  - (a) purchased land for a car park; or
  - (b) provided a public car park in the Commercial zone or in the vicinity or have a firm commitment to do so; or
  - (c) have an endorsed car parking strategy with agreed works to be implemented.
- (iii) Payments made under this clause shall be paid into a special fund to be used for the provision of public car parking facilities and the local government may use this fund to provide public car parks anywhere in the vicinity of the land in respect of which the parking requirement arose.
- (iv) The local government may accept the transfer of land within the Commercial zone in lieu of or in part of the provision of car parking spaces subject to such conditions as the local government deems necessary.

### **5.32 Vehicle crossovers/entrances**

5.32.1 The local government may limit access to a lot to a single entry/exit point or may require separate entrances and exits, or may require that entrances and exits be placed in positions nominated by it, if it considers such provision necessary to avoid or to reduce traffic hazards.

5.32.2 Access to a lot for vehicles shall not be permitted directly to or from major roads where suitable access is available from side or rear streets unless the applicant suitably demonstrates traffic safety and need.

5.32.3 Where access to a lot abutting a major road outside of the Commercial zone is available only from that road, parking, servicing, and circulation areas within the lot shall be designed and constructed so as to allow unhindered movement within the lot and to enable vehicles to enter and leave the site in forward gear.

5.32.4 In the case of access to any road which is the responsibility of Main Roads Western Australia, that agency is to be consulted prior to the construction/modification or closure of any vehicular access to such road.

### **5.33 Visual truncations**

5.33.1 Except with the approval of the local government, no building, or fence or other form of visual obstruction greater than 0.75 metre in height, measured from the natural ground level at the boundary, shall be constructed or placed on a lot within a 15 metre truncation of a street corner or within a 1.5 metre by 1.5 metre truncation of a vehicular accessway.

5.33.2 Notwithstanding any policy adopted by the Commission dealing with the ceding of site truncations from corner lots, the local government may, having due regard to amenity, safety or any other matter relevant to orderly and proper planning, determine that a visual truncation shall be provided on a corner lot where either road verge width is less than 5 metres or the roads intersect other than at right angles.

### **5.34 Development of land without constructed/dedicated road frontage or access**

Notwithstanding any other provision of the Scheme, planning approval is required for any development on land abutting an unconstructed road or a lot or location which does not have frontage to a dedicated road. In considering such an application, the local government may—

- (i) refuse the application until the road has been constructed and/or access by means of a dedicated and constructed road is provided; or
- (ii) require other legal arrangements to be made for permanent legal access to the satisfaction of the local government; or
- (iii) where dedicated road access is available, grant approval to the application subject to a condition requiring the applicant to pay a sum of money for the cost of constructing the road or part thereof or construct the road to the local government's road construction standards.

### **5.35 Holiday accommodation uses—short stay restrictions**

5.35.1 No person shall occupy any holiday accommodation use, as specified in the Zoning Table for more than a total of 3 months in any 12 month period unless approved by the local government for management purposes and staff accommodation.

5.35.2 Notwithstanding the provisions of clause 5.35.1, the local government may permit the permanent occupancy of not more than 15% of caravan sites within a caravan park, where the applicant can demonstrate, to the satisfaction of the local government, that the primary tourist accommodation purpose of the park will not be compromised and that adequate services and facilities exist to service the permanent population.

**5.36 Chalets, cabins and guesthouse uses—Rural Smallholdings and General Agriculture Zones**

The following provisions shall apply to Chalets, Cabins and Guesthouse uses in the Rural Smallholdings and General Agriculture Zones—

- (i) Notwithstanding the provisions of the Zoning Table, Chalets, Cabins or Guesthouses are not permitted on lots having an area of less than 5 hectares.
- (ii) The number of Chalets, Cabins or Guesthouse accommodation permitted on lots having areas between 5 hectares and 20 hectares shall not exceed 2 Chalets or Cabins or 4 guest bedrooms.
- (iii) The number of Chalets, Cabins or Guesthouse accommodation permitted on lots having greater than 20 hectares shall not exceed 6 Chalets or Cabins or 12 guest bedrooms.
- (iv) No Chalets or Cabins are to be constructed over Class 1 and 2 soils for annual or perennial horticulture or where the land occupied by the Cabin or Chalets reduces the land area for agricultural uses.
- (v) Prior to any planning approval being granted for the development referred to in clause 5.36(ii) and clause 5.36(iii), the applicant will be required to demonstrate to the satisfaction of the local government that the development proposed satisfies the definition of 'low-impact development' under this scheme and that—
  - (a) it will not have any adverse effect on rural production activities on the subject land or nearby land and that the proposed development will be incidental to the principal use of the land for agricultural purposes; or
  - (b) in the case of properties covered, or substantially covered by native vegetation, the proposal will result in the retention and enhancement of existing vegetation on the land and that the visual and rural character of the property will not be adversely affected.

**5.37 Services to all development**

The local government shall not grant planning approval to the carrying out of any development on any land unless—

- (i) a water supply and facilities for the removal or disposal of sewerage and drainage are available to that land (unless the proponent can demonstrate that the use does not require these services to the satisfaction of the local government);
- (ii) appropriate legal and practical vehicular access are in place to the satisfaction of the local government; and
- (iii) satisfactory arrangements have been made for the provision of that supply and those facilities.

**5.38 Waste disposal**

No person shall, within a Townsite, without the planning approval of the local government, use privately owned land for the disposal or dumping of any rubbish or waste matter (excluding approved wastewater disposal systems), either temporarily or permanently.

**5.39 Sewerage connection for residential development**

5.39.1 All residential development in the Residential zone shall be connected to a comprehensive sewerage system. However, where no such connection is available, in the opinion of the local government and Department of Health, no residential development in the Residential zone other than the erection of a dwelling and ancillary accommodation shall be approved unless—

- (i) the Department of Health recommends to the local government that there are exceptional circumstances to warrant a variation from the requirement to connect to reticulated sewerage; or
- (ii) the lot the subject of the application has been approved for development for residential purposes in excess of a dwelling under the provisions of a previously gazetted local planning scheme, and redevelopment is only being carried out to an equivalent or lesser extent as previously approved under that Scheme.

5.39.2 Notwithstanding clause 5.39.1, subdivision and development may occur without the requirement to connect to the reticulated sewerage system. This is provided it can be established, to the satisfaction of the local government and the Department of Health (for development) and the Commission (for subdivision), that on-site forms of waste water disposal can comply with the effluent disposal requirements, including the relevant State government sewerage policy.

5.39.3 Where there is no reticulated sewerage available, and in the opinion of the local government and Department of Health, the operation of a conventional septic tank and leach drain system will not work satisfactorily, the local government and/or the Department of Health may require landowners to install appropriate alternative nutrient removing effluent disposal systems at the time of development.

**5.40 Development without reticulated sewerage**

Where development requiring effluent disposal is unable to be connected to the reticulated sewerage system, as determined by the local government and Department of Health, the relevant local government and Department of Health policies and requirements shall apply.

**5.41 Dwellings without reticulated mains water supply**

5.41.1 The local government will seek to ensure that proposed new lots which are below 1 hectare are connected to a reticulated water supply.

5.41.2 Where any dwelling is proposed to be constructed on a lot which cannot be connected to a reticulated mains water supply, that dwelling shall be provided with sufficient roof catchment or other methods acceptable to the local government and the provision of a rain water tank with a minimum capacity of 120,000 litres prior to occupation unless alternative arrangements are made to the satisfaction of the local government for a supply of potable water.

5.41.3 Where, in addition to the requirements of clause 5.41.2 for a supply of potable water for any dwelling, additional water supplies are required for fire fighting purposes, the capacity of the rainwater tank shall be a minimum of 10,000 litres in addition to the minimum tank size specified in clause 5.41.2 along with sufficient roof catchment or other methods of water capture acceptable to the local government.

Note: The local government will not accept responsibility for management of a reticulated water supply.

#### **5.42 Bush fire hazard and fire management plans**

5.42.1 The local government will need to be satisfied when assessing any request for rezoning, structure plan or application for planning approval, where in the opinion of the local government there are bush fire risks, that development will comply with any relevant State and local government policy on bushfire protection and, where applicable, any endorsed fire management plan. In particular the local government is to have regard to—

- (i) State Planning Policy 3.4 Natural Hazards and Disasters;
- (ii) Planning for Bush Fire Protection Guidelines (Edition 2) or any updates;
- (iii) any advice obtained from the Department of Fire and Emergency Services; and
- (iv) any other planning consideration the local government considers relevant.

5.42.2 Bushfire Prone Areas are those areas designated as such, by the Bushfire Prone Area Maps as endorsed by Council, which form part of the Scheme for the purposes of clause 5.42.

5.42.3 The Bushfire Prone Area Maps may be amended from time to time and are to be held at the local government office.

5.42.4 Construction and/or additions to habitable buildings throughout the municipality in areas classified as Bush Fire Prone, irrespective of whether or not a planning approval of the local government is required, will be subject to the relevant bushfire prone requirements pursuant to the Building Code of Australia and Australian Standard 3959—2009 (or any updates).

5.42.5 If an owner disputes their land's identification within a designated Bush Fire Prone Area, that owner may request in writing that the local government reconsider that identification. Supporting documentation is to be provided from a suitably qualified and/or experienced practitioner to address the requirements of the Planning for Bush Fire Protection Guidelines (Edition 2)(or any updates).

5.42.6 On receiving a request made under clause 5.42.5, the local government may determine that the land is not within a designated Bush Fire Prone area; or determine that the land's identification within a designated Bush Fire Prone Area is correct.

5.42.7 Applications for the construction and/or addition to habitable buildings within Bushfire Prone Areas are to be accompanied by a report from a suitably qualified and/or experienced practitioner, which is to identify the Bushfire Attack Level (BAL) in accordance with the requirements of the Planning for Bush Fire Protection Guidelines (Edition 2) (or any updates). The BAL level will inform the application of AS3959.

5.42.8 The landowner will be responsible for permanent hazard reduction measures to maintain the identified BAL.

5.42.9 The local government may impose conditions to reduce bush fire risk to people and/or property including—

- (i) the provision of a fire fighting water supply;
- (ii) the provision of fire services access;
- (iii) the preparation of a Fire Management Plan in accordance with the Planning for Bush Fire Protection Guidelines (Edition 2) (or any updates), and implementation of specific fire protection measures set out in the plan; and
- (iv) the implementation of measures to ensure that prospective purchasers are aware of the relevant scheme provisions, Fire Management Plan and publications addressing fire safety.

5.42.10 Where a Fire Management Plan has been endorsed by the Department of Fire and Emergency Services and/or the local government, through the planning process, the affected landowners will be responsible for the ongoing implementation of the 'landowners' responsibilities' section as specified in that Fire Management Plan.

#### **5.43 Telecommunications infrastructure**

5.43.1 An application for planning approval from the local government is required for the development of all telecommunications infrastructure (overhead cabling telecommunications towers, radio communications dishes, etc.) excluding those listed in the Telecommunications Low Impact Facilities Determination 1997 and subsequent Amendments to that Determination.

5.43.2 Applications for the planning approval for telecommunications infrastructure shall be accompanied by plans and information required for applications for planning approval under clause 9.3 and will be considered in relation to the following—

- (i) consistency with the objective and purpose of the zone or reserve;

- (ii) social and economic benefits of the proposal;
- (iii) the impact of the proposal on the landscape, heritage and environmental values of the locality;
- (iv) coordination with other services; and
- (v) any relevant Local Planning Policy adopted by the local government.

5.43.3 Applications for telecommunications infrastructure on Crown land must be accompanied by written consent from the relevant Government agency and any applicable management authority.

#### **5.44 Provisions and contributions for services and facilities**

5.44.1 Where, in the opinion of the local government and/or the Commission, there will be a demand for the provision of services or facilities as a consequence of the carrying out of development or subdivision of land, then, subject to the provisions of clause 5.44.2, the local government may impose as a condition of planning approval for that development and the Commission may impose as a condition of subdivision approval a requirement for the provision of those services and facilities or the making of a monetary contribution in lieu of such provision.

5.44.2 A condition for planning approval for development referred to in clause 5.44.1 may only be imposed where the payment of the contribution is—

- (i) provided for in a Structure Plan endorsed by the Commission;
- (ii) provided for in an adopted Commission Policy including Appendix 1 of State Planning Policy 3.6 and as relevant Council's adopted policies relating to road upgrading, drainage and associated standard development contribution;
- (iii) set out in a Development Contribution Plan (clause 6.9 and Schedule 16 of the Scheme).

5.44.3 Any contributions received as a result of a condition imposed pursuant to clause 5.44.1 shall be held in trust by, the local government until utilised for the specified purpose and the specified time.

5.44.4 A register of contributions, identifying the date of receipt, from whom received, the specified purpose and general time of provision shall be prepared by the local government and made available to any person wishing to view same.

#### **5.45 Advertisements**

5.45.1 For the purpose of this Scheme, the erection, placement and display of advertisements and the use of land and buildings for that purpose is development within the definition of the Act and requires the planning approval of the local government in accordance with the provisions of Part 9 of the Scheme, unless it is an exempted advertisement as listed in Schedule 12.

5.45.2 Applications for planning approval pursuant to this Part shall be submitted in accordance with the provisions of clause 9.1 of the Scheme and shall be accompanied by a completed Additional Information Sheet in the form set out at Schedule 13 giving details of the advertisement(s) to be erected placed or displayed on the land.

#### **5.46 Consideration of applications—advertisements**

Without limiting the generality of the matters which may be taken into account when making a decision upon an application for planning approval to erect, place or display an advertisement, the local government shall examine each such application in the light of the objectives of the Scheme and with particular reference to the character and amenity of the locality within which it is to be displayed, including its historic or landscape significance and traffic safety, and the amenity of adjacent areas which may be affected.

#### **5.47 Existing advertisements**

Advertisements which—

- (i) were lawfully erected, placed or displayed prior to the approval of this Scheme; or
- (ii) were erected, placed or displayed pursuant to a licence or other approval granted by the local government prior to the approval of this Scheme.

Hereinafter in this clause are referred to as 'existing advertisements' which may, except as otherwise provided, continue to be displayed or to be erected and displayed in accordance with the licence or approval as appropriate.

#### **5.48 Derelict or poorly maintained signs**

5.48.1 Where, in the opinion of the local government, an advertisement has been permitted to deteriorate to a point where it conflicts with the objectives of the Scheme, or it ceases to be effective for the purpose for which it was erected or displayed, the local government may by notice in writing require the advertiser to—

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

5.48.2 'The advertiser' shall be interpreted as any one person or any group comprised of the landowner, occupier, licensee or other person having an interest in, or drawing benefit from, the display of an advertisement concerned.

5.48.3 Any notice served in pursuant to clause 5.48.1 shall be served upon the advertiser and shall specify—

- (i) the advertisement(s) the subject of the notice;



- (ii) full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice;
- (iii) the period, not being less than 60 days, within which the action specified shall be completed by the advertiser.

5.48.4 A person on whom notice is served under this clause may apply for a review to the State Administrative Tribunal under Part 14 of the Act against the determination of the local government.

#### **5.49 Home office, home occupation and home business**

5.49.1 Planning approval is not required to conduct a home office as defined in the Scheme.

5.49.2 Where the local government issues a planning approval to conduct a home occupation or a home business, the approval relates to a specific occupier of a particular parcel of land. It shall not be transferred or assigned to any other person, and shall not be transferred from the land in respect of which it was granted.

5.49.3 If in the opinion of the local government, a home occupation or home business is causing a nuisance or annoyance to owners or occupiers of land in the locality, the local government may rescind the approval.

5.49.4 A planning approval to conduct a home occupation or home business may be issued subject to an annual permit which may be renewed by application to the local government for planning approval.

#### **5.50 Building envelopes**

5.50.1 Where the local government requires building envelopes in a Structure Plan or as a condition of subdivision approval, these shall be defined to attain the maximum flexibility for the location of buildings, but subject to—

- (i) avoidance of significant landscape and environmental elements;
- (ii) avoidance of areas where ground or soil conditions may prejudice the structural integrity of buildings or result in potential for pollution, erosion or flooding;
- (iii) conforming to the building setback requirements of the Scheme; and
- (iv) where possible, position the building envelope to maximise the separation distance to adjoining agricultural land.

5.50.2 Where no building envelope is prescribed for a lot in the Rural Residential and Rural Smallholdings zones, the building envelope, where one or more buildings has been constructed on the land, is deemed to be a square with a 50 metre x 50 metre dimension.

5.50.3 Notwithstanding clause 5.50.1, no part of a building envelope may be closer to the respective boundaries than the setbacks specified for the zone within which the lot is situated or within any endorsed building exclusion area, unless appropriately justified by the applicant and approved by the local government. Where land is undeveloped, the local government may require a building envelope to be defined on a plan submitted with the appropriate application for approval to construct the building.

5.50.4 The local government may at its discretion approve the relocation of a building envelope if it is satisfied that the amenity of the area, the privacy of adjacent properties and the landscape or environment of the area will not be detrimentally affected.

#### **5.51 Residential Zone**

##### **5.51.1 Policies**

The local government's policies in controlling development and influencing subdivision within the Residential zone are to—

- (i) ensure that subdivision and development comply with a Structure Plan where applicable, the Local Planning Strategy and the principles of any Local Planning Policy adopted by the local government;
- (ii) apply the Residential Design Codes to all residential development provided for in this Scheme; and
- (iii) require connection to reticulated sewerage for subdivision where set out in the relevant State government sewerage policy.

##### **5.51.2 Subdivision standards**

5.51.2.1 In assessing subdivision applications in the Residential zone, the local government will have due regard to the Residential Design Codes, relevant Commission guidelines and in particular the principles relating to climate and site responsive design (Element 3) and water sensitive urban water management practices (Element 5) of Liveable Neighbourhoods, Local Planning Policies relating to subdivision and the Local Planning Strategy.

5.51.2.2 The local government may require a proponent to prepare a Local Development Plan in accordance with clause 6.12, to the satisfaction of the local government, to guide future development.

##### **5.51.3 Development standards**

5.51.3.1 Development within the Residential zone shall conform to the following standards—

Uses	Max Plot Ratio	Minimum Setbacks		
		Front	Side	Rear
Residential Uses	*	*	*	*

Uses	Max Plot Ratio	Minimum Setbacks		
		Front	Side	Rear
Other Uses	0.50	6 metres	Nil one side (Average 3 metres)	5
Combined Residential and Other Uses	0.50	6 metres	Nil one side (Average 3 metres)	5

\* All requirements in accordance with provisions of the Residential Design Codes.

5.51.3.2 Where a lot has frontage to more than one street, the local government will determine to which street the front setback requirement will apply and will permit a reduction of setback on other frontages to not less than the setback for a side boundary.

## 5.52 Rural Residential Zone

### 5.52.1 Policies

The local government's policies in controlling development and influencing subdivision within the Rural Residential zone are to—

- (i) consider approving low-key development where the applicant suitably demonstrates the development/use is consistent with the objectives for the zone;
- (ii) ensure that subdivision and development comply with an endorsed Structure Plan, the Local Planning Strategy and the principles of any relevant Local Planning Policy adopted by the local government; and
- (iii) not support additional rural residential areas unless outlined in an endorsed Local Planning Strategy.

### 5.52.2 Zoning requirements

5.52.2.1 Should an owner of land within the district or a proponent request the rezoning of a site to "Rural Residential" zone, the local government shall require that owner or proponent to provide to the local government a submission supporting the rezoning, and such submission shall include the following—

- (i) a clear statement of the objectives of the proposal;
- (ii) a statement indicating the relationship of the proposal to the endorsed Local Planning Strategy, and any other approved planning study adopted by the local government and specific to the area in which the subject land is located;
- (iii) a full description of the site characteristics of the subject land including an analysis of the geology and soil types of the area, existing land forms and land uses;
- (iv) a landscape assessment including an analysis of slopes, vegetation cover, skylines, vistas, stream environs and identifiable natural features;
- (v) information regarding the availability of potable and non-potable or secondary water, and the methods whereby it is proposed to supply potable water to service each proposed subdivisional lot;
- (vi) a brief outline of the planning structure, including the proposed areas to be subdivided, areas to be set aside for public open space (if considered relevant), pedestrian accessways, trails, community facilities, those physical features including places, things, buildings and structures intended to be conserved or preserved;
- (vii) identification of any special development controls considered necessary or desirable;
- (viii) a plan or plans showing contours at such intervals as to adequately depict the land form of the area and physical features such as existing buildings, rocky outcrops, trees or groups of trees, lakes, river, creeks, swamps, orchards, wells and significant improvements;
- (ix) detailed flora and fauna assessments;
- (x) fire risk assessment and associated fire management plan;
- (xi) such other particular information details or documents as the local government reasonably requires to decide upon the merits of the rezoning;
- (xii) the proposed staging of the subdivision and development and the criteria to be met before successive stages are implemented; and
- (xiii) a structure plan showing—
  - (a) the proposed ultimate subdivision including road design, lot sizes and dimensions;
  - (b) areas to be set aside for public purposes including public open space, pedestrian access ways, horse trails, community facilities as may be considered appropriate;
  - (c) those physical features it is intended to conserve;
  - (d) building envelopes and/or building exclusion areas; and
  - (e) stream and vegetation protection areas, as applicable.

5.52.2.2 Where the local government is of the opinion that the total area of the land to be subdivided and the number of lots that the subdivision will yield are not of such magnitude that strict adherence to all of the criteria outlined in clause 5.52.2.1 is required to enable the local government to

adequately assess the proposal, then the local government may permit a relaxation of the requirements in clause 5.52.2.1.

5.52.2.3 Where the local government is of the opinion that the site's characteristics or the nature of the proposal do not require strict adherence to the criteria in clause 5.52.2.1, the local government may permit a relaxation of the requirements in clause 5.52.2.1.

5.52.2.4 If the local government upon receiving a submission referred to in clause 5.52.2.1 considers the proposal to be acceptable in principle, it shall require the owner of the subject land to submit documents necessary to effect a rezoning prepared in accordance with the requirements of clause 5.52.2.1 and the Town Planning Regulations 1967, and if the local government is prepared to adopt a Scheme Amendment accordingly it may resolve to do so with or without modifications and thereafter shall proceed in accordance with the provisions of the Town Planning Regulations 1967.

#### 5.52.3 Structure plan requirements

5.52.3.1 The local government will require the following to be addressed when preparing Structure Plans in the Rural Residential zone—

- (i) all lots should be suitable and capable of sustaining appropriate development in the opinion of the local government including the proponent suitably addressing environmental, natural resource management, servicing, fire management and visual impact issues and any other matter as determined by the local government;
- (ii) each Rural Residential lot shall be provided with frontage to a fully constructed and sealed road connected to the fully constructed and sealed road system in the district;
- (iii) except as may be provided in Schedule 2, no Rural Residential lot is to be created pursuant to the Scheme, with an area of less than 1 hectare; and
- (iv) notwithstanding clause 5.52.3.1(iii), a reduced lot size below 1 hectare but no less than 5,000m<sup>2</sup> may be considered where the requirements of clause 5.52.3.1(i) and clause 5.52.3.1(ii) are satisfied to the satisfaction of the local government and the Commission pertaining to the reduced lot size.

#### 5.52.4 Subdivision and development standards—general

5.52.4.1 Subdivision and development shall generally be in accordance with an endorsed Structure Plan that has been prepared and endorsed in accordance with clause 6.9 or are subject to clause 6.10 and are identified in Schedule 14.

5.52.4.2 In addition to any provisions which are more generally applicable to land zoned Rural Residential, Schedule 2 sets out specific provisions for controlling land use and development within particular Rural Residential areas. Where there is any inconsistency between Schedule 2 and clause 5.52, Schedule 2 applies. No person shall use or develop land zoned Rural Residential except in accordance with the provisions set out in Schedule 2 for that specific area.

#### 5.52.5 Subdivision standards

5.52.5.1 In making a recommendation to the Commission on an application for approval to subdivide, the local government is to take into account the provision of appropriate buffer zones to existing or agricultural pursuits and other existing/approved non-agricultural uses.

5.52.5.2 No further subdivision of land within the zone, contrary to that shown on the approved Structure Plan, shall be supported.

5.52.5.3 Notwithstanding the provisions of the Scheme and what may be shown, on an approved Structure Plan—

- (i) the Commission may approve a minor variation to the approved structure plan; and
- (ii) for the purpose of consolidation, support the subdivision of existing rural residential lots to a minimum 1 hectare, where the provisions of clauses 5.52.3.1(i) and (ii) have been met.

#### 5.52.6 Development standards

5.52.6.1 In addition to any other general Scheme provision, land included in a Rural Residential zone will be subject to any provision set out in an endorsed Structure Plan.

5.52.6.2 Only one dwelling will be permitted on any lot in the Rural Residential zone unless otherwise provided for in the Scheme.

5.52.6.3 Development for non-residential purposes will not be granted planning approval on any lot within the Rural Residential zone, unless a single dwelling exists on the lot, or is to be constructed as the first stage of the development proposal unless appropriately justified by the applicant and agreed to by the local government.

5.52.6.4 Unless otherwise provided for by a building envelope or setbacks provided in an endorsed structure plan or by the special provisions contained in Schedule 2, the building setbacks from lot boundaries shall be a minimum of—

- (i) 15 metres from a road boundary;
- (ii) 10 metres from other boundaries;
- (iii) 100 metres from a boundary with State Forest, National Park, Nature Reserve, Reserve for Conservation or local government managed land; and
- (iv) all development shall be contained within a maximum 50 metre by 50 metre square building envelope. Notwithstanding the building setbacks above, the local government may prescribe the location of the building envelope having regard to the requirements specified in clause 5.50.1.

5.52.6.5 In the case where a lot has more than one street frontage, the local government may at its discretion permit the construction of buildings nearer to the secondary street frontage nominated by the local government, but not nearer than 10 metres to that street or streets where there is no endorsed building envelope or building exclusion area.

5.52.6.6 In addition to a building permit, planning approval is required for development, including dwellings and outbuildings, all other discretionary land uses, development located outside of an endorsed building envelope or in a development exclusion area, or for any variation to setback requirements that apply to the zone.

5.52.6.7 No building, outbuilding, water tank or fence shall be constructed of materials and be of a colour which in the opinion of the local government is detrimental to the character or natural landscape of the locality.

5.52.6.8 No soil, rock or gravel reasonably suspected of being affected by plant disease and no declared plant or animal shall be introduced in the Rural Residential zone.

5.52.6.9 The local government may take any action which it considers necessary to reduce or eliminate any adverse effects on the environment caused solely or partly by the stocking of animals or by any other use or development on a lot.

5.52.6.10 All applications for planning approval shall embody the premise that development and the provision of associated services are secondary to the protection and retention of natural features of the site and therefore shall show the extent of any earthworks and/or clearing.

5.52.6.11 The siting and erection of any building, outbuilding, water tank or fence shall not be approved by local government unless or until it is satisfied that the design and construction will be in harmony with the rural character of the land within the zone and the area generally.

5.52.6.12 Boundary fencing within the zone shall be post and minimum four strand wire, 1.0 to 1.3 metres high, or post and ring lock or similar approved by the local government. Solid fencing such as super six or pickets shall not be permitted on boundaries and shall only be permitted in proximity to buildings where the local government determines that it will not adversely affect the amenity of the area.

#### 5.52.7 Other specific controls

5.52.7.1 Dams may not be constructed, nor the flow of water artificially retarded unless with the prior approval of the Department of Water.

5.52.7.2 Where dams are proposed, they must not pond outside the respective property boundary. All dams should have some mechanism for by-passing all flow (summer flow) in the watercourse, to meet downstream environmental requirements and that of riparian users.

5.52.7.3 Where considered necessary by the local government and/or the Department of Fire and Emergency Services, a Fire Management Plan is to be prepared and implemented by the proponent to the satisfaction of the relevant authority.

### 5.53 Rural Smallholdings Zone

#### 5.53.1 Policies

The local government's policies in controlling land use development and influencing subdivision within the Rural Smallholdings zone are to—

- (i) consider approving low-key development where the applicant suitably demonstrates the development/use is consistent with the objectives for the zone;
- (ii) ensure that subdivision and development comply with an endorsed Structure Plan, the Local Planning Strategy and the principles of any relevant Local Planning Policy adopted by the local government; and
- (iii) not support additional rural small holding areas unless outlined in an endorsed Local Planning Strategy.

#### 5.53.2 Zoning requirements

5.53.2.1 Should an owner of land within the district or a proponent request the rezoning of a site to "Rural Smallholdings" zone, the local government shall require that owner or proponent to provide to the local government a submission supporting the rezoning as set out in clause 5.52.2.1. In addition, the local government will seek—

- (i) an identifiable rural lifestyle theme (e.g. conservation lots, bush blocks, equestrian parks or permaculture estate); and
- (ii) opportunities for home business, industry-cottage, tourist and rural pursuits where part time or full time income may be derived from specialty agricultural production and value adding activities, arts, crafts and hobbies, small scale home manufacturing, home occupation, home based medical, health and similar activities.

5.53.2.2 The provisions of clauses 5.52.2.2 to 5.52.2.4 shall also apply to the 'Rural Smallholdings' zone, except that reference to 'Rural Residential' shall be deemed to be a reference to 'Rural Smallholdings'.

#### 5.53.3 Structure plan requirements

A Structure Plan is required prior to subdivision to address land suitability and capability assessment to the satisfaction of the local government and the Commission.

#### 5.53.4 Subdivision and development standards—general

5.53.4.1 Subdivision and development shall generally be in accordance with an endorsed Structure Plan that has been prepared and endorsed in accordance with clause 6.9 or adopted as part of a Scheme Amendment.

5.53.4.2 Subdivision and development shall also comply with the provisions applicable to each relevant area as set out in Schedule 3.

5.53.4.3 A second dwelling or caretaker's dwelling on a lot will not be considered by the local government as justification for the subdivision of the lot under the Act or Strata Titles Act 1985.

5.53.5 Subdivision standards

5.53.5.1 In making a recommendation to the Commission on an application for approval to subdivide, the local government will assess land suitability and land capability and will generally require lot sizes to be between 4 and 20 hectares or in accordance with an endorsed Structure Plan.

5.53.5.2 No further subdivision of land within the zone, contrary to that shown on the approved Structure Plan, shall be supported.

5.53.6 Development standards

5.53.6.1 Only one dwelling will be permitted on any lot unless provided for in Schedule 3 or an endorsed Structure Plan.

5.53.6.2 The local government may permit a caretaker dwelling or ancillary accommodation if appropriately justified by the applicant and which addresses relevant planning considerations.

5.53.6.3 In relation to clause 5.53.6.2, approval is not considered to be justification for subdivision of the land under the Act or the *Strata Title Act 1985*.

5.53.6.4 In relation to clause 5.53.6.2, the caretaker dwelling or ancillary accommodation should be located within the same building envelope or building clearance area as the first or primary dwelling, or otherwise comply with the local government's Local Planning Policy.

5.53.6.5 Development for non-residential uses will not be granted planning approval on any lot within the Rural Smallholdings zone, unless a single dwelling exists on the lot, or is to be constructed as the first stage of the development proposal unless appropriately justified by the applicant and agreed to by the local government.

5.53.6.6 In the case where a lot has more than one street frontage, the local government may at its discretion permit the construction of buildings nearer to the secondary street frontage nominated by the local government, but not nearer than 10 metres to that street or streets where there is no endorsed building envelope or building exclusion area.

5.53.6.7 Unless otherwise provided for by a building envelope or setbacks provided in an endorsed structure plan or by the special provisions contained in Schedule 3, the building setbacks from lot boundaries shall be a minimum of—

- (i) from a road boundary: 20 metres;
- (ii) from other boundaries: 10 metres;
- (iii) from a boundary with State Forest, National Park, Nature Reserve, Reserve for Conservation or local government managed land: 100 metres; and
- (iv) Notwithstanding the building setbacks above, the local government may prescribe the location of the building envelope having regard to the requirements specified in clause 5.50.1.

5.53.6.8 In addition to a building permit, local government planning approval is required for development, including dwellings and outbuildings, all other discretionary land uses and development, development located outside of an endorsed building envelope or in a development exclusion area, or for any variation to the setbacks set out in clause 5.53.6.7.

5.53.6.9 All development shall be contained within a maximum 50 metre by 50 metre square building envelope unless agreed to by the local government.

5.53.6.10 No building, outbuilding, water tank or fence shall be constructed of materials or be of a colour which in the opinion of the local government is detrimental to the character or natural landscape of the locality.

5.53.6.11 No soil, rock or gravel reasonably suspected of being affected by plant disease and no declared plant or animal shall be introduced in the Rural Smallholdings zone.

5.53.6.12 The local government may take any action which it considers necessary to reduce or eliminate any adverse effects on the environment caused solely or partly by the stocking of animals or by any other use or development on a lot.

5.53.6.13 The keeping of livestock is permitted on cleared land subject to the applicant demonstrating to the local government that the animals are adequately fenced and managed to ensure that the soil and vegetation are not denuded. In considering any application for planning approval to keep animals, the local government may refer the application to the Department of Agriculture and Food.

## 5.54 General Agriculture Zone

### 5.54.1 Policies

The local government's policies in controlling development and influencing subdivision within the General Agriculture zone are to—

- (i) encourage a diversity of well managed and sustainable rural and agricultural activities where landowners and operators contain impacts on their own properties and where they adopt 'good neighbour' practices;
- (ii) confirm that rural residential or rural smallholdings subdivisions will not be supported unless and until the land is identified in an endorsed Local Planning Strategy for Rural Residential or Rural Smallholdings and has been rezoned for that purpose; and
- (iii) require proposals for non-agricultural uses to be supported and justified by an Agricultural Impact Assessment unless otherwise varied by the local government.

#### 5.54.2 Subdivision and development standards—general

5.54.2.1 In assessing subdivision applications and applications for planning approval in the General Agricultural zone, the local government will have due regard to State Planning Policy 2.5.

5.54.2.2 A second dwelling or caretaker's dwelling on a lot will not be considered by the local government as justification for the subdivision of the lot under the Act or *Strata Titles Act 1985*.

#### 5.54.3 Subdivision standards—general

5.54.3.1 In the General Agriculture zone, there shall be a presumption against the subdivision of land unless the local government is satisfied—

- (i) the lots have already been divided by significant natural or manmade features and an undesirable precedent would not be set;
- (ii) the lots are for farm adjustment and the erection of dwellings is restricted through a “tied lot” in accordance with the Act and the *Strata Title Act 1985*;
- (iii) the adjustment of lot boundaries, if approved, will not result in the creation of additional lots;
- (iv) the lots are for specific uses such as public recreation facilities or public utilities;
- (v) the lots are required for the establishment of uses ancillary to the rural use of the land (e.g. abattoir, canning works) and there is approved and substantial on-the-ground development in the opinion of the local government;
- (vi) of the need to excise a conservation lot;
- (vii) that the subdivision is necessary to enable the carrying out of an intensive agricultural pursuit and is in accordance with clause 5.54.4.2;
- (viii) the balance of title also meets agreed objectives, standards and development controls; or
- (ix) as set out in Commission policy.

5.54.3.2 The local government will not support subdivision in the General Agriculture zone, which, in its opinion, will have the potential to adversely affect the rural landscape or be prejudicial to the agricultural use of the land or the locality.

5.54.3.3 The local government shall not recognise the surrounding historic pattern of subdivision alone as justification to support a subdivision.

5.54.3.4 Where land is to be used for grazing, cropping and other general agricultural practices, subdivision should be based on a minimum lot size of 80 hectares.

#### 5.54.4 Subdivision for agricultural purposes

5.54.4.1 In order to protect the productive capacity of agricultural land and the basis of State, regional and local economies, there is a general presumption against the further subdivision of land in the General Agriculture zone, except where it can be clearly demonstrated that the subdivision will be beneficial to viable and sustainable agricultural production and land management on the subject land and will not be prejudicial to similar production and management on adjacent lands. Subdivision supported by the local government under this criteria shall have a minimum lot size of 80 hectares.

5.54.4.2 In addition, in the case of subdivisions creating new or additional potential for intensive agricultural production in the General Agriculture zone, new lots of less than 80 hectares will not be supported, except where the lot is a minimum of 40 hectares and all of the following criteria are met—

- (i) an agronomist's report or similar demonstrates that each new lot will contain a minimum of 30 hectares of land with a high-capability rating (class 1 or 2) for annual or perennial horticultural production;
- (ii) a hydrologist's report or similar demonstrates that each new lot has the capacity to capture and store water of a sufficient quantity and quality as applicable to the potential agricultural production on that lot and the State water management agency is prepared to agree that the capture of that water is within the limits of an endorsed Water Allocation Management Plan or is within the sustainable yield for that sub-catchment;
- (iii) the total lot area incorporates the minimum area of 30 hectares of high capability land, plus the water capture and storage area, plus an area for farm infrastructure and buildings with sufficient setback from adjacent properties so as not to restrict potential agricultural productivity on those properties, setbacks from watercourses and wetlands, plus the retention of any remnant vegetation that should be protected from clearing; and
- (iv) that the remaining rural holding is a minimum of 40 hectares and complies with the requirements of clause 5.54.3, considered suitable for continued agricultural production based on lot size, land capability, land suitability, water availability, has appropriate fire protection measures in place, lot configuration and advice from any relevant government agency.

#### 5.54.5 Farm restructuring

5.54.5.1 In the case of farm restructuring or boundary adjustment in the General Agriculture zone, where no additional lots are created, the principal issue of consideration in assessment will be improving the sustainability and viability of the farming operation and observing the primary principle of protecting and enhancing the productive capacity of agricultural land. Where a farm consists of multiple titles and the proposed subdivision seeks to consolidate the main operation into a single title, consideration will be given to the creation of lots smaller than the outlined criteria or in other parts of the Scheme, provided that—

- (i) the smaller lots have sufficient size to allow for the construction of a dwelling and other small farm infrastructure and buildings with sufficient setbacks from adjacent properties so as not to restrict potential agricultural productivity on those properties;
- (ii) the smaller lots are located so as to have minimal adverse impact on the viability and sustainability of the main farming property;

- (iii) the total number of resulting lots is not greater than the original number of lots;
- (iv) the local government being satisfied with the proposed method of access; and
- (v) in the case of lifestyle lots, the land is generally located within 10 kilometres of the Donnybrook or Balingup town centre.

5.54.5.2 Variations to this theme may be considered on their individual merits in line with these basic principles.

5.54.5.3 In the case of farm rationalisations, where boundaries are realigned along existing fence lines, contours, creek lines, ridge lines, other topographic features or similar, rather than along rigid survey alignments, subdivision is and will be supported where it can be clearly demonstrated that the changes will be beneficial to viable and sustainable agricultural production and land management on the subject land and will not be prejudicial to similar production and management on adjacent lands.

5.54.5.4 Special variations to these criteria may be stated for each planning precinct as listed in the Local Planning Strategy according to the specific circumstances that apply within that planning precinct.

#### 5.54.6 Agricultural trade lots

In providing for farm build up, the creation of an Agricultural Trade Lot will be supported in the General Agriculture zone where—

- (i) the lot is a minimum of 40 hectares;
- (ii) there is a statutory restriction imposed that prohibits the development of a dwelling on the lot and the lot does not contain an existing dwelling; and the lot is “tied” by title as an Agricultural Trade Lot;
- (iii) all lots have legal access to the public road system; and
- (iv) that the remaining rural holding is a minimum of 40 hectares is considered suitable for continued agricultural production based on lot size, land capability, land suitability, water availability, has appropriate fire protection measures in place, lot configuration and advice from any relevant government agency.

#### 5.54.7 Reasons not to support a subdivision

The local government will not support the subdivision of land within the General Agriculture zone where the subdivision does not comply with the provisions of this Scheme, including those in clause 5.54, and the following—

- (i) Commission Policy DC 3.4—Subdivision of Rural Land;
- (ii) the local government’s Local Planning Strategy; and
- (iii) State Planning Policy 2.5—Land Use Planning in Rural Areas.

#### 5.54.8 Development standards

5.54.8.1 Development in the General Agriculture zone shall conform to the following standards—

- (i) Minimum Front Setback—30 metres;
- (ii) Minimum Side Setback—10 metres;
- (iii) Minimum Rear Setback—30 metres; and
- (iv) Where the land adjoins State Forest, National Park, Conservation Reserve or other timbered Crown or local government controlled land, in the opinion of the local government the setback from the common boundary shall be 100 metres.

5.54.8.2 A reduction of the setbacks required in clauses 5.54.8.1 may be permitted where, in the opinion of the local government, the topography, soil conditions, location or shape of the lot are such as to make adherence to the setback impractical. In determining any such reduction, the local government will consider—

- (i) any alternative development sites on the property;
- (ii) possible bush fire hazards;
- (iii) environmental impacts;
- (iv) effluent disposal;
- (v) visual impact; and
- (vi) servicing/infrastructure implications.

5.54.8.3 With the exception of a single dwelling, where the proposed development is for a non-agricultural purpose, the local government shall require a minimum setback of 100 metres from existing intensive agricultural activities on any adjacent lot, whether owned by the applicant or a third party.

5.54.8.4 Notwithstanding the above, the local government may approve a lesser setback where the applicant can demonstrate to the satisfaction of the local government that land use conflicts may be ameliorated by appropriate management design or buffer planting.

5.54.8.5 In relation to clauses 5.54.8.1 and 5.54.8.3, the local government may require greater setbacks to effectively manage buffers, environmental impacts, and any other potential land use conflict which could arise in the opinion of the local government.

5.54.8.6 When establishing setbacks, all development and changes in land use shall have regard to potential impacts on rivers, wetlands and groundwater aquifers and the local government may require details of measures to manage the application of fertilisers or the methods proposed for the disposal of effluent as required.

5.54.8.7 In assessing applications for planning approval for the establishment of plantations, industry—extractive and other development on land within the General Agriculture zone, the local government shall seek to ensure that the setbacks assist in maintaining environmental and landscape qualities of the locality so they are not detrimentally affected.

5.54.8.8 In assessing applications for planning approval within the General Agriculture zone, the local government will consider the following—

- (i) the availability of services required to support the proposed development and the economic impact of the provision of, extension or upgrading of those services that may be required;
- (ii) the adequacy of the roads, existing or proposed in the area which may be needed to support the amount of road traffic expected to be generated by the development; and
- (iii) the need to enforce such conditions as the local government deems appropriate, in order to minimise any adverse effect the development may have on the general environment of the area.

#### 5.54.9 Second dwellings

5.54.9.1 The local government may grant planning approval for up to two dwellings including a Caretaker's Dwelling in the total, on any lot, provided the lot exceeds 40 hectares in area, where the land is managed for agricultural production, tourism, or education purposes and where the occupants are engaged in those specified predominant land uses or activities.

5.54.9.2 When considering an application for planning approval for a second dwelling, the local government will have regard to—

- (i) whether the subject land has legal and suitably constructed road frontage;
- (ii) the size of the subject land and its capacity to operate as a farm; and
- (iii) the landscape values of the area and any impact of the proposal upon these values.

5.54.9.3 The local government may grant temporary planning approval for a second dwelling on a property less than 40 hectares in area subject to any conditions considered necessary to maintain the agricultural land use and where compatible with surrounding land use.

5.54.9.4 Regardless of other provisions in this Scheme (including the Zoning Table), the local government will not support 3 or more dwellings on any title/lot regardless of the dwelling type (e.g. dwelling, ancillary accommodation, caretaker's dwelling).

5.54.9.5 The only exception to clause 5.54.9.4 is that the local government will consider, if appropriately justified by the applicant, up to 3 dwellings on any title/lot where a dwelling is included on the local government's adopted Municipal Heritage Inventory and/or on the Heritage Council's State Heritage Register and where there is a suitable agreement, to the satisfaction of the local government (in consultation, if appropriate, with the Heritage Council), to conserve and appropriately maintain the heritage significance of the dwelling.

5.54.9.6 The applicant is required to appropriately justify the need for more than one dwelling on any title/lot.

#### 5.54.10 Reasons for refusal

The local government shall refuse an application for planning approval where in its opinion the proposed development will—

- (i) adversely affect the rural landscape;
- (ii) adversely impact upon the agricultural use of the land and adjacent/nearby areas;
- (iii) cause detrimental environmental impacts;
- (iv) result in unacceptable fire management risk;
- (v) place unacceptable servicing requirements which have not been appropriately addressed by the applicant;
- (vi) result in the impacts of the proposed use/development not being adequately contained on the application site;
- (vii) in the opinion of the local government, result in an undesirable planning outcome.

#### 5.54.11 Bushfire management

The local government will need to be satisfied that development will comply with the relevant Commission policy on bushfire protection and that an acceptable fire management plan, where required, will be appropriately implemented.

### 5.55 Priority Agriculture Zone

#### 5.55.1 Policies

The local government's policies in controlling development and influencing subdivision within the Priority Agriculture zone are to—

- (i) seek to protect the economic viability of land for rural use given its importance to the economy of the district;
- (ii) seek to protect the area from uses which will reduce the amount of land available for rural purposes; and
- (iii) recognise the aesthetic and tourism importance of the scenic landscape, realise the need to retain the rural scenic character of a site and of the district and by ensuring, through siting and landscaping provisions, that any development does not detrimentally change the scenic rural character.



5.55.2 Subdivision and development standards, agricultural trade lots and farm restructuring, second dwellings and bushfire management

The provisions of clause 5.54 shall apply to the Priority Agriculture zone except that reference to the 'General Agriculture' zone shall be deemed to be a reference to the 'Priority Agriculture' zone.

### **5.56 Commercial Zone**

#### **5.56.1 Policies**

The local government's policies in controlling development and influencing subdivision within the Commercial zone are to—

- (i) permit a range of uses to achieve the objectives of the zone; and
- (ii) seek effective planning outcomes and a high standard of design through its approach to development standards, car parking, accessibility, landscaping and streetscape.

#### **5.56.2 Subdivision and development standards**

In assessing subdivision applications and applications for planning approval in the Commercial zone, the local government will have regard to relevant State Planning Policies, adopted town centre strategy, adopted Local Planning Policies, endorsed Structure Plans and other relevant adopted design guidelines.

#### **5.56.3 Subdivision standards**

5.56.3.1 The local government's guidelines for assessing referrals from the Commission for the subdivision of land within the Commercial zone shall be a minimum lot size of 500m<sup>2</sup>.

5.56.3.2 The local government will need to be satisfied that the size of the proposed lots can be used and developed for their intended purpose, including the provision of parking on all proposed lots.

#### **5.56.4 Development standards**

5.56.4.1 In considering applications for planning approval under this zone, the local government shall—

- (i) encourage a high standard of development in the Commercial zone;
- (ii) promote areas for warehouse/showrooms, shops, offices and other commercial businesses which are safe, convenient and attractive for people and traders alike; and
- (iii) encourage the use of building materials and architectural styles which harmonise visually with nearby buildings.

5.56.4.2 All development shall provide for the separation of vehicles and pedestrians and for off-street car parking, loading facilities and traffic management devices where required by the local government.

5.56.4.3 In considering an application for planning approval for a proposed development (including additions and alterations to existing development) in the Commercial zone, the local government will have regard to the effect of the proposed development and use on local residential amenity along with other relevant sections of the Scheme, associated Local Planning Policy and the adopted Townscape Plan.

5.56.4.4 Development in the Commercial zone shall accord with the following standards—

- (i) maximum Plot Ratio is 2.0;
- (ii) a minimum of 10% of the site shall be set aside for landscaping;
- (iii) car parking shall be provided in accordance with clauses 5.27—5.31; and
- (iv) a minimum nil setback to all boundaries.

5.56.4.5 Notwithstanding clause 5.56.4.4(iv), the local government may require greater side and rear boundary setbacks after taking into account the need for landscaping, private open space, pedestrian linkages, car parking, servicing, loading and unloading and open storage of goods and materials.

5.56.4.6 Provision shall be made for loading and unloading vehicles in an appropriate location on the application site as considered necessary by the local government.

5.56.4.7 The use of external space for storage is prohibited unless approved by the local government.

5.56.4.8 The primary street frontage of all non-residential buildings must have a facade predominantly constructed of brick, concrete, glass, steel or timber or a combination of these materials or other materials acceptable to the local government.

5.56.4.9 It is the local government's intention that fencing within the front setback area should be kept to a minimum. In circumstances where security cannot be provided by any other means, the local government may allow fencing within the front setback provided it is of a high quality and constructed of wrought iron, masonry or similar materials to the satisfaction of the local government.

#### **5.56.5 Plot ratio and site coverage**

Notwithstanding clause 5.56.4.4(i), where an applicant proposes a plot ratio greater than 1.0, the local government will require that the following matters are suitably addressed—

- (i) the proposed development incorporates a high standard of streetscape amenity and urban design outcomes; and
- (ii) the proposed development can adequately accommodate accessways (vehicle and pedestrian), car parking, traffic manoeuvrability, servicing, loading and unloading areas, stormwater drainage, effluent disposal and any other matter which the local government deems necessary.

#### 5.56.6 Mixed use and residential development

5.56.6.1 For mixed use development comprising a combination of residential and non-residential uses, or residential development only subject to clause 5.56.6.3, a residential density of R60 shall apply in accordance with the provisions of the Residential Design Codes where the development can be connected to the reticulated sewerage system. Where residential development is not connected to the reticulated sewerage system, the maximum density is R10 subject to the requirements of clause 5.40. The relevant provisions of this Scheme shall apply to the non-residential component of the development.

5.56.6.2 Any proposal for residential development shall be considered by the local government in terms of its compatibility or otherwise with adjacent development.

5.56.6.3 Unless justified to the satisfaction of the local government, in the Commercial zone, residential development is only permitted in conjunction with commercial activities and is not permitted on the commercial street frontage at ground floor level.

Note: The objective is to encourage mixed uses and residential development above existing commercial businesses. Residential development (at ground floor level) may be considered at the rear of the building or the secondary street frontage of a corner lot as determined by the local government.

5.56.6.4 Where an application for planning approval is proposed under clause 5.56.6.1 and a variation to the setbacks, plot ratio and/or height are sought, a Local Development Plan in accordance with clause 6.12 or design guidelines will need to be prepared to the satisfaction of the local government.

#### 5.56.7 Change of use to existing premises

When considering a change of use to existing premises within the Commercial zone, the local government at its discretion may vary the application of the relevant development standards in respect of any development involving a change of land use of an existing building where no additions to floorspace are proposed and the local government considers that the development impact of the new development is no greater than previous approved land uses.

### 5.57 Light Industry Zone

#### 5.57.1 Policies

The local government's policies in controlling development and influencing subdivision within the Light Industry zone are to—

- (i) promote the establishment of uses which can be shown to achieve the objectives of contributing to the economy of the district and provide conveniently located services to the district;
- (ii) control retail uses to generally be incidental to the predominant industrial or approved use and support the sale of goods manufactured from the site;
- (iii) require that standards of development and maintenance of industrial uses are consistent with the overall amenity of the district, including to contain any possible adverse impacts from a proposed development within the Light Industrial zone;
- (iv) encourage pleasant and efficient industrial facilities;
- (v) encourage consolidation and improvement of appropriately located industrial areas;
- (vi) enable industrial areas to expand where the need for such expansion can be appropriately justified; and
- (vii) promote safe movement of vehicular, pedestrian and cyclist traffic.

#### 5.57.2 Subdivision and development standards

In assessing subdivision applications and applications for planning approval in the Light Industry zone, the local government will have regard to relevant State Planning Policies and adopted Local Planning Policies.

#### 5.57.3 Subdivision standards

The local government's guidelines for assessing referrals from the Commission for the subdivision of land within the Light Industry zone shall be—

- (i) minimum lot size of 2,000m<sup>2</sup>;
- (ii) the subdivision, where it involves the creation of a significant number of lots, should generally provide for a variety in lot size; and
- (iii) that where the land has been previously subdivided in accordance with a structure plan, subdivision plan or similar plan, there shall be a general presumption against the further subdivision of the site. Further subdivision of existing lots may be supported where the subdivider can demonstrate to the satisfaction of the local government and Commission—
  - (a) compliance with clauses 5.57.2, 5.57.3 (i) and 5.57.3(ii); and
  - (b) the original intent of any structure plan and associated provisions are maintained.

## 5.57.4 Development standards

5.57.4.1 Development in the Light Industry zone shall conform to the following standards—

Min Lot Area (m <sup>2</sup> )	Max Plot Ratio	Min Frontage metres	Minimum Setbacks metres		
			Front	Side	Rear
2000	0.9	25	10	5 or nil on one side	Nil

5.57.4.2 Where a lot has frontage to more than one street, the local government will determine to which street frontage the setback requirements of clause 5.57.4.1 will apply.

5.57.4.3 In considering applications for planning approval within the Light Industry zone, the local government shall have regard to—

- (i) compatibility of the proposed uses with adjoining and surrounding uses;
- (ii) the potential impact of the proposal on the efficient and effective operations of existing and planned industry and infrastructure;
- (iii) risks, hazards, health and amenity associated with the proposed use being located in proximity to existing and approved adjoining and surrounding uses;
- (iv) the availability of services;
- (v) the potential environmental impact on the use and enjoyment of adjacent land or property, having regard to—
  - (a) the concentration of any pollutants (including gaseous emissions, odour and noise) or the level of risk, at the location of impact;
  - (b) the frequency and duration of events associated with the environmental impact;
  - (c) the practicability and effectiveness of any amelioration measures which form part of the proposed development; and
  - (d) the zoning, use and likely future development or occupancy of the adjacent land or property upon which the environmental impacts will impinge; and
- (vi) the appropriateness of development as viewed from the street.

5.57.4.4 In considering an application for planning approval in the Light Industry zone, the local government, in order to achieve satisfactory standards of amenity and appearance, may impose conditions amongst matters relating to—

- (i) building materials;
- (ii) appearance of buildings;
- (iii) landscaping;
- (iv) fencing;
- (v) location of storage areas;
- (vi) signage;
- (vii) on-site traffic circulation;
- (viii) car parking and vehicular access; and
- (ix) other matters considered appropriate by the local government.

5.57.4.5 Where a proposed development is likely to give rise to any significant off-site environmental impacts including pollution (e.g. gaseous emissions, odours or noise) or risk, which is likely to result in nuisance or adverse impacts on adjacent areas, the local government may—

- (i) refuse the application; or
- (ii) approve the application subject to conditions designed to ameliorate any impact.

## 5.57.5 Use of setback area

5.57.5.1 The front setback area of a lot and the side setback of corner lots shall be used only for the following purposes—

- (i) car parking;
- (ii) access;
- (iii) landscaping; and
- (iv) trade displays.

5.57.5.2 Storage of materials, other than for temporary periods approved by the local government, will not be permitted in the front setback area or in the side setback of corner lots.

## 5.57.6 Landscaping

Landscaping, to the satisfaction of the local government, will be a requirement of planning approval and shall generally be established and maintained in the front setback area of a lot and the side setback of corner lots—

- (i) where a car parking area is provided, for a depth of one metre between the car park and the street alignment, except for access driveways;

- (ii) on areas not occupied by access driveways or car parking for a minimum depth of 3 metres from the street alignment and
- (iii) other landscaping may be required when associated with conserving an important feature, where a large car parking area is proposed and other situations as determined by the local government.

#### 5.57.7 Factory units

Land in the Light Industry zone may be used for factory units provided that—

- (i) there is no more than one occupancy for each factory unit unless it can achieve a suitable fire rating in accordance with the Building Code of Australia to the satisfaction of the local government;
- (ii) factory units are separated from each other by an internal wall or walls constructed of brick, stone or concrete in accordance with the Building Code of Australia which shall not be altered, moved or removed without the approval of the local government; and
- (iii) no industrial unit is used for machinery or automotive wrecking or for the sale of motor vehicles or caravans.

#### 5.57.8 Wastewater disposal

5.57.8.1 Where a proposed industry involves the discharge of effluent, other than that associated with staff toilet facilities, then either—

- (i) the premises must be connected to a reticulated sewerage system; or
- (ii) where a connection to reticulated sewerage is not available, the premises are to be serviced by an on-site disposal and/or collection system of such capacity and design as to prevent pollution (including nutrient discharge) of any ground or surface water systems in the vicinity of the site to the satisfaction of the Department of Health and the local government.

5.57.8.2 Where, either because of the nature or quantity of effluent to be discharged, or the characteristics of the site and its environment, the requirements for effluent disposal referred to in clause 5.57.8.1 cannot be met to the satisfaction of the local government and the Department of Health, the application may be refused notwithstanding that the use of the site may be designated 'P' in the Zoning Table.

### 5.58 General Industry Zone

The provisions of clause 5.57 shall apply to the General Industry zone except as varied by clause 5.58. References to 'Light Industry' in clause 5.57 shall be deemed to be a reference to 'General Industry'.

#### 5.58.1 Policies

The local government policies in controlling development and influencing subdivision within the General Industry zone are to—

- (i) permit establishment of uses which can be shown to achieve the objectives of contributing to the economy of the district and provide conveniently located services to the district;
- (ii) control retail uses to be incidental to the predominant industrial or approved use and support the sale of goods manufacturing from the site; and
- (iii) require that standards of development and maintenance of industrial uses are consistent with the overall amenity of the district, including to contain any possible impacts from any proposed development within the General Industrial zone.

#### 5.58.2 Subdivision and development standards

In assessing subdivision applications and applications for planning approval in the General Industry zone, the local government will have regard to relevant State Planning Policies and adopted Local Planning Policies.

#### 5.58.3 Site requirements

5.58.3.1 Development and subdivision in the General Industry zone shall conform to the following standards—

Min Lot Area (m <sup>2</sup> )	Max Plot Ratio	Min Frontage (metres)	Minimum Setbacks (metres)		
			Front	Side	Rear
4000	0.6	30	10	5 or nil on one side	Nil

5.58.3.2 Where a use in the General Industry zone is defined as a 'Prescribed Premises' in the Regulations to the *Environmental Protection Act 1987* (as amended) or an Offensive Trade under the *Health Act 1911* (as amended), the local government shall advertise the application for planning approval as set out in clause 9.6 and may notify the Environmental Protection Authority, Department of Environment Regulation and/or the Department of Health and seek comment or advice before considering the matter in the light of such comment or advice.

## 5.59 Tourist Zone

### 5.59.1 Policies

The local government's policies in controlling development and influencing subdivision within the Tourist zone are to—

- (i) seek to facilitate tourism focused commercial development within the district;
- (ii) seek to facilitate an urban fabric that consists of a pedestrian orientated movement system and which complements parks, gardens, art, cultural, entertainment and heritage village style architecture within the townsites of the district;
- (iii) seek to facilitate building design elements which create a “rural heritage village” theme in townsites within the district;
- (iv) require proponents of large scale tourist developments to be responsible for the cost of upgrading roads and other infrastructure to maintain public safety and amenity and to ensure existing land uses are not detrimentally impacted in respect to access and safety;
- (v) ensure large scale developments are generally located in close proximity to existing towns in strategically identified locations; and
- (vi) maintain a presumption against permanent residents (except for the owner/manager/ caretaker) in rural areas and non-urban locations.

### 5.59.2 Structure plan requirements

Prior to development or subdivision occurring in a Tourist zone, a Structure Plan (as deemed appropriate by the local government) shall be prepared in accordance with clause 6.9.

### 5.59.3 Subdivision and development standards

In assessing subdivision and development applications in the Tourist zone, the local government will have regard to relevant State Planning Policies and adopted Local Planning Policies.

### 5.59.4 Subdivision standards

There is a general presumption against the subdivision of vacant land.

### 5.59.5 Development standards

5.59.5.1 Despite anything contained within the Zoning Table, the land specified in Schedule 4 may only be used for the specific use or uses listed and subject to the conditions set out in Schedule 4 with respect to that land.

5.59.5.2 No development will be permitted to use the land between the street front boundary and the building for any purpose other than the following—

- (i) a means of vehicle access and egress;
- (ii) vehicle car parking;
- (iii) the loading and unloading of vehicles;
- (iv) open air display where approved by the local government; and
- (v) landscaping.

5.59.5.3 Provision should be made in any development for area(s) for the storage of any matter including refuse, and shall be—

- (i) screened from view to the satisfaction of the local government;
- (ii) located not less than 10 metres from any holiday accommodation or residential building unless the area is fully enclosed;
- (iii) accessible to service vehicles; and
- (iv) an internal floor area that is in accordance with the *Health Act 1911*.

5.59.5.4 Development within the Tourist zone should reflect, and be compatible with the predominant colours, materials and finish of existing development in the locality or as required by an adopted Townscape Plan or generally to the satisfaction of the local government.

5.59.5.5 Applications for planning approval are required to appropriately address such matters as servicing, environmental impact, land use compatibility, visual assessment and other relevant matters as determined by the local government.

5.59.5.6 Development within the Tourist zone, shall comply with the following standards—

- (i) car parking shall be calculated in accordance with Table 2 or where a use is not specified in Table 2 as determined by the local government;
- (ii) all development criteria shall be in accordance with the provisions of the Scheme for a proposed use or as determined by the local government;
- (iii) building design and construction should be sympathetic with the locality's character, climate, site features and attributes in the opinion of the local government;
- (iv) for sites within townsites, as determined by the local government, the facade of developments fronting any street within the Tourist zone should reflect, and be compatible with, the predominant existing streetscape and architectural style;
- (v) for sites outside townsites, as determined by the local government, the following shall apply—
  - (a) access roads to the proposed site are, in the opinion of the local government, satisfactory for traffic, which may be anticipated as a result of that development or use;
  - (b) adequate water supply, effluent disposal and drainage systems can be provided and managed by the proponent to the satisfaction of the local government;

- (c) the site contains adequate tree cover so as to ensure screening and privacy, or in the absence of adequate tree cover, that a planting and maintenance programme of approved tree types is undertaken;
- (d) the development is adequately setback from any water course or wetland to ensure that no pollution or detrimental effect occurs to these resources;
- (e) the proponent demonstrates to the satisfaction of the local government that the proposed development is suitably located upon the site, having regard to the development's setbacks and the site's vegetation and topography, so as to not impact upon, or be impacted by, any agricultural or other potentially non-compatible land use in the locality;
- (f) the development is sited and managed to ensure that it does not cause nuisance or pollution or adversely affects any adjacent State forest, national park, nature reserve or other conservation value areas;
- (g) a Fire Management Plan shall be prepared and implemented to the local government's specifications and satisfaction; and
- (h) development shall be 'low-impact development' in nature, maintain the rural landscape and character of the locality and have minimal visual impact from roads and tourist lookouts.

5.59.5.7 The local government will generally require that a minimum 30% of the site is landscaped and that it enhances the streetscape. The local government will determine the location of and standard of landscaping together with those measures to be adopted to ensure that the landscaping is maintained to an appropriate standard.

## **5.60 Caravan Park Zone**

### **5.60.1 Policies**

5.60.1.1 The local government's policies in controlling development and influencing subdivision within the Caravan Park zone are to—

- (i) ensure minimal impact upon adjacent land uses;
- (ii) promote good access to key tourist attractions within the district and region;
- (iii) encourage Caravan Parks and associated tourist development to be located close to major roads and defined tourist roads; and
- (iv) ensure the landscape character of the area is not impacted upon.

5.60.1.2 Rezoning proposals and applications for subdivision and development are to include details of the proposed mix of short and long-term accommodation for such parks to assist the Commission and the local government in assessing Caravan Park proposals.

### **5.60.2 Subdivision standards**

The strata titling of Caravan Parks is not permitted under the *Caravan Parks and Camping Grounds Act 1995* and the *Strata Titles Act 1985*. Freehold subdivision of caravan parks is inconsistent with the objectives of this zone and will not be supported.

### **5.60.3 Development standards**

5.60.3.1 In considering an application for a Caravan Park, the local government shall have regard to—

- (i) any Local Planning Policy adopted by the local government pursuant to Part 2;
- (ii) the physical characteristics of the site including slope, land capability and drainage and its suitability for development;
- (iii) the availability of services to the site; and
- (iv) the development standards and any other matter that local government considers appropriate.

5.60.3.2 Development of Caravan Parks must also comply with the provisions of the *Caravan Parks and Camping Grounds Act 1995* and the *Caravan Parks and Camping Grounds Regulations 1997* (or any updates).

5.60.3.3 The local government shall not give planning approval to a Caravan Park unless it is satisfied that the location of the Caravan Park will not adversely affect the amenity of the surrounding locality, and that the development proposal includes sufficient facilities both within the Caravan Park and within the general locality to adequately serve the needs of the users of the Caravan Park.

5.60.3.4 The design and configuration of the development including building design, materials, height and scale of buildings and their setbacks from boundaries is to be such that the visual impact of the development is minimised and conflict with adjacent uses is avoided.

5.60.3.5 The local government may require that landscape buffers be provided within a Caravan Park zone to any adjacent land and the local government may specify the landscaping to be provided therein. Any such landscaped buffer shall be sited on the land upon which the Caravan Park is to be developed and shall be maintained to the satisfaction of the local government.

5.60.3.6 The local government will require that the applicant provide a detailed landscape strategy to demonstrate that adequate buffers will be provided to adjacent land uses prior to issuing a planning approval.

5.60.3.7 The use of land for 'storage' associated with the Caravan Park use is to be carried out in such a way as to—

- (i) be screened from public view; and
- (ii) maintain the amenity and streetscape of the immediate locality.

The local government may impose conditions on any development approval to ensure these objectives are satisfied.

5.60.3.8 Connection to the reticulated sewerage service is preferable. Should reticulated sewerage not be available, the local government may consider on site effluent disposal provided that evidence is provided to confirm that the site is capable of handling on site effluent disposal.

5.60.3.9 An application for a Caravan Park shall be accompanied by an assessment of the fire hazard and measures proposed to address the hazard.

5.60.3.10 The extent of remnant vegetation required to be cleared to provide for a Caravan Park is to be minimised.

5.60.3.11 The local government will assess the suitability of the access road for the likely level of usage and may require that upgrading of the access road be undertaken by the developer.

5.60.3.12 In considering an application for a Caravan Park in a rural area, the local government may request the preparation of an Agricultural Impact Statement in accordance with State Planning Policy 2.5.

5.60.3.13 When considering an application for planning approval for park homes or permanent occupancy caravan sites, the proponent will be required to provide evidence that any residents will have reasonable access to services, these services are generally to include, but not be limited to, access to employment, shops, schools, public transport, and community and recreation facilities.

## **5.61 Clubs and Institutions Zone**

### **5.61.1 Policies**

The local government will assess applications for planning approval in accordance with the objectives of the zone, the Zoning Table and subject to the application for planning approval addressing issues including servicing, environmental impact, land use compatibility, visual impact and other relevant matters identified by the local government.

### **5.61.2 Subdivision standards**

Unless suitably justified and addressed through an endorsed Structure Plan, the local government will not support subdivision in the Clubs and Institutions zone.

### **5.61.3 Development standards**

5.61.3.1 Development standards regarding lot sizes, setback and other on-site standards will be assessed on a case-by-case basis.

5.61.3.2 Buildings must comply with the relevant standards and provisions for public buildings where applicable.

5.61.3.3 In considering development applications within this zone, the local government shall be guided by the height and boundary setback of buildings in the adjacent areas and the amenity provisions of clauses 5.17 and 5.18 and the parking provisions of clauses 5.27 to 5.31 of the Scheme.

## **5.62 Bushland Protection Zone**

### **5.62.1 Policies**

Prior to the local government considering the inclusion of land within the Bushland Protection zone, the proponent shall provide the following to the satisfaction of the local government—

- (i) A Structure Plan accompanying the rezoning document that addresses the following—
  - (a) for lots less than 80 hectares, with at least 30 hectares of remnant vegetation, which is protected in perpetuity by a covenant with either the Natural Trust of WA or the Department of Parks and Wildlife (DPaW) subdivision to create one additional lot;
  - (b) for lots 80 hectares and greater, subdivision based on a ratio of one additional lot per 20 hectares of remnant vegetation protected in perpetuity by a conservation covenant with either the National Trust of WA or DPaW to a maximum of 3 lots in total;
  - (c) the minimum area of a bushland protection lot shall be sufficient to accommodate a dwelling and associated outbuildings, land required for onsite fire protection, and a suitable area of remnant vegetation to which the appropriate agency, is prepared to apply a covenant;
  - (d) subdivision design is to include the maximum amount of remnant vegetation within the proposed bushland protection lots;
  - (e) some cleared areas should be included in the subdivision design for a dwelling, associated outbuildings and fire protection, where possible within the bushland protection lot;
  - (f) where a balance agriculture lot is proposed it shall meet the subdivision criteria applicable to the land's current zoning. This agricultural lot does not need to be considered a lot for the purpose of calculating the lot yield under (b) above;
  - (g) building envelopes shall be—
    - (1) clustered, where possible, to reduce the overall development and fire management footprint on the bushland;

- (2) located so as not to have a detrimental impact on the landscape value of the locality;
  - (3) a maximum of 2000m<sup>2</sup> or, at the discretion of the local government, may be larger to accommodate an existing dwelling and associated outbuilding(s) or where it can be demonstrated that a larger building envelope would have no greater impact on the bushland;
  - (4) located in cleared areas or where this is not possible, located so as to maximise remnant vegetation preservation and ensure that there is no impact on any poorly represented vegetation and rare flora or fauna; and
  - (5) located to ensure no adverse impact on watercourses, wetlands, estuaries or any other area or feature of environmental significance on the subject land or adjacent land.
- (h) the extent, type and quality of remnant vegetation and any rare flora based on a comprehensive flora survey and any rare fauna habitats based on a fauna survey;
  - (i) the extent of any watercourses and wetlands;
  - (j) the extent of vehicular accessways, fire breaks, fire hazard separation and building protection zones and any other required fire management measure; and
  - (k) the need for adequate fencing to protect areas of significant vegetation and/or to separate bushland and any cleared agricultural land.
- (ii) Demonstrate to the satisfaction of the local government that the proposed bushland protection lots suitably address the following—
    - (a) have appropriate legal and practical road access;
    - (b) the quantity and quality of bushland to be protected is of the highest significance;
    - (c) protection of the bushland cannot be achieved through any other reasonable mechanism;
    - (d) will result in a significant and long term environmental benefit; and
    - (e) will not adversely prejudice any other planning considerations.
  - (iii) A comprehensive threatened flora and fauna survey (if clearing is to occur).
  - (iv) A fire management plan prepared in accordance with the relevant state and local government fire protection policies to the satisfaction of the local government and the Department of Fire and Emergency Services. Consultation will also be required with DPaW where the subject land abuts a State Forest or National Park or other land managed by DPaW or if the conservation covenant is to be administered by DPaW.
  - (v) Written confirmation from a recognised conservation covenanting agency, such as DPaW or National Trust, that—
    - (a) the comprehensive vegetation survey (according to EPA Guidance Statement 51 and 56 or any updates) has been prepared and assessed to its satisfaction and if any clearing is to occur, a comprehensive flora and fauna survey to be undertaken and submitted to the covenant agency's satisfaction;
    - (b) a fire management plan has been prepared and is to the covenant agency's satisfaction;
    - (c) the bushland has sufficient conservation, biodiversity and landscape values to warrant its inclusion in the Bushland Protection zone through a vegetation condition assessment and they would be prepared to accept the proposed bushland protection lots into their covenanting programme; and
    - (d) the proposed Structure Plan is supported.

#### 5.62.2 Subdivision standards

Subdivision will only be supported where—

- (i) the land has been included in the Bushland Protection zone;
- (ii) the application is generally consistent with a Structure Plan that has been endorsed by the local government and the Commission;
- (iii) no further subdivision of existing bushland protection lots are proposed; and
- (iv) the local government recommends subdivision conditions to the Commission including, but not limited to—
  - (a) all bushland protection lots being subject to a conservation covenant with the covenanting agency that previously agreed to covenant the lots at the rezoning stage;
  - (b) preparation and implementation of the fire management plan; and
  - (c) preparation and implementation of weed and pest management plans, where the vegetation and fauna surveys have identified infestations of declared plants and animals.

#### 5.62.3 Development standards

5.62.3.1 Only one dwelling will be permitted per lot in the Bushland Protection zone.

5.62.3.2 Notwithstanding any other provision of the Scheme, an application for planning approval is required for a dwelling in the Bushland Protection zone.

5.62.3.3 All development shall be contained within the designated building envelope on the endorsed Structure Plan.



5.62.3.4 “Agriculture—extensive” and “agriculture—intensive” uses may be undertaken, on cleared areas of a lot with the approval of the local government, and subject to the local government being satisfied that adequate buffers and protections are established to ensure that there will be no adverse impacts on the bushland resulting from the agricultural activity.

5.62.3.5 No remnant vegetation shall be felled, removed, damaged or grazed except for clearing done—

- (i) in accordance with a subdivision approval given by the responsible authority under the Act, and/or outside of environmentally sensitive areas for the construction of a lawful building or structure;
- (ii) in accordance with the local government’s written notice given under section 33 of the Bush Fires Act 1954, and/or in accordance with a permit to burn during restricted times, and/or outside of environmentally sensitive areas for maintenance of existing cleared areas around a building or structure;
- (iii) in accordance with a subdivision approval given by the responsible authority under the Act, and/or outside of environmentally sensitive areas for vehicle tracks; and/or
- (iv) outside of environmentally sensitive areas to reduce danger.

5.62.3.6 No wetland shall be cleared, drained, filled or grazed.

### **5.63 Special Use Zone**

#### **5.63.1 Policies**

The local government policies in controlling development and influencing subdivision within the Special Use zone are—

- (i) zone land to provide for special uses that do not fall readily within the zone categories of the Scheme;
- (ii) require preparation of a Structure Plan for adoption by the local government for developments which consist of multiple uses; and
- (iii) ensure that large scale developments are located in close proximity to existing towns in strategically identified locations.

#### **5.63.2 Subdivision and development standards**

Land uses, subdivision and development shall be in accordance with Schedule 5 of the Scheme and any associated endorsed Structure Plan.

#### **5.63.3 Subdivision standards**

There is a general presumption against subdivision unless it is in accordance with an endorsed Structure Plan.

#### **5.63.4 Development standards**

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 5 and subject to compliance with any conditions set out in Schedule 5 with respect to that land.

## **PART 6—SPECIAL CONTROL AREAS, LOCAL DEVELOPMENT PLANS AND DEVELOPMENT INVESTIGATION AREAS**

### **6.1 Operation of Special Control Areas**

6.1.1 The following Special Control Areas are shown on the Scheme Maps—

#### **Special Control Areas—Development Control**

- (i) Flood Prone Land (SCA 1)
- (ii) Public Drinking Water Source Protection (SCA 2)
- (iii) Blackwood Precinct (SCA 3)
- (iv) Established Donnybrook Stone (SCA 4)
- (v) Wastewater Treatment Buffer (SCA 5)
- (vi) Plantation Exclusion Area (SCA 6)
- (vii) Road Protection Area (SCA 7)

#### **Special Control Areas—Structure Plan**

- (viii) Structure Plan Area—(SCA 8) (refer to Schedule 15)

#### **Special Control Areas—Development Contribution Areas**

- (ix) Development Contribution Areas—(SCA 9) (refer to Schedule 16)

6.1.2 The Special Control Area Scheme provisions apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme.

6.1.3 The local government may prepare a Local Planning Policy and/or Plan for all or part of each Special Control Area—Development Control and development shall also be in accordance with this Policy.

6.1.4 Notwithstanding any other provisions of the Scheme, and in particular the provisions of clause 8.2—Permitted Development; development is prohibited on land within any of the Special Control Areas referred to in clause 6.1 and shown on the Scheme map without the prior planning approval of the local government.

6.1.5 Prior to considering an application for planning approval in Special Control Areas—Development Control, the local government may require the preparation and approval of a Structure Plan for any use or development.

6.1.6 An application for planning approval may be referred to the servicing agencies to establish the need for, or adequacy of infrastructure to satisfactorily service the development.

6.1.7 Prior to considering an application for planning approval in a Special Control Area—Structure Plan, the local government will require the preparation, adoption and approval of a structure plan in accordance with clause 6.9 unless in its opinion, a waiver of the requirement is justified in accordance with the provisions of clause 6.9.3.3.

Note: The designation of particular parts of the district within a Special Control Area should not be interpreted to imply that areas outside those designated areas have none of the risks, hazards or values specifically ascribed to land within the designated areas.

### **Division A: Special Control Areas—Development Control**

#### **6.2 Flood Prone Land (SCA1)**

6.2.1 Notwithstanding any other provision of the Scheme, the local government shall not grant planning approval to the carrying out of any development on land (or portion(s) thereof) that is shown on the Scheme Map as being flood prone land unless it has made an assessment of—

- (i) the effect of the proposed development on the efficiency and capacity of the floodway to carry and discharge flood water;
- (ii) the safety of the proposed development in time of flood; and
- (iii) whether the proposed development involves any possible risk to life, human safety or private property in time of flood.

The local government may require this assessment to be undertaken at the proponent's cost.

6.2.2 A person shall not carry out any development on land (or portion(s) thereof) identified as flood prone land on the Scheme Map, unless—

- (i) where no works have been carried out to protect the land from flooding, the floor of any dwelling or other habitable building is, or will be, raised a minimum of 500 millimetres above the 1 in 100 flood level; or
- (ii) in any other case, the local government is satisfied that adequate measures have been taken to offset the likely effects of flooding on the development concerned.

6.2.3 For the purposes of sub-clause 6.2.2, the local government shall consult with, and take into consideration, the advice of the Department of Water, in relation to the delineation of floodways and flood prone land, the effect of the development on a floodway, and any other measures to offset the effects of flooding.

6.2.4 For the purposes of this clause, 'habitable building' means a building designed primarily for housing and/or overnight accommodation for persons.

6.2.5 Where land which is identified as being Flood Prone Land is proposed to be subdivided, the local government shall recommend to the Commission that memorials be placed on newly created titles to ensure prospective purchasers are aware that the land may be prone to flooding.

#### **6.3 Public Drinking Water Source Protection (SCA2)**

##### **6.3.1 Purpose**

The objective of the Public Drinking Water Source Protection Special Control Area is to ensure that land use and development within the Special Control Area is compatible with the protection and long-term management of water resources for public water supply and water catchment areas designated under the *Country Areas Water Supply Act 1947*.

##### **6.3.2 Referral of applications**

The local government is required to refer any applications for planning approval which involves the following activities to the Department of Water for advice prior to determination of the application—

- (i) potential for increased nutrient loading, in particular point of source for nutrients, e.g. poultry farm, piggery;
- (ii) application of fertilisers and pesticides;
- (iii) storage of chemicals, fuels and other potentially polluting substances;
- (iv) substantial increase in run-off; and
- (v) any other impact which the local government considers could have an impact on the quality of public drinking water.

##### **6.3.3 Relevant considerations**

6.3.3.1 In determining applications for planning approval within the Public Drinking Water Source Protection Special Control Areas, the local government will have due regard to relevant State Government policies and current Department of Water Land Use Compatibility Tables for Public Drinking Water Source Areas.

6.3.3.2 Notwithstanding, the permissibility of land uses in the Zoning Table, the following uses are not permitted within the Special Control Area—

- (i) abattoir;
- (ii) piggery;

- (iii) power station;
- (iv) fish processing;
- (v) tannery; and
- (vi) wool scouring.

6.3.3.3 In determining applications for planning approval, the local government is to have due regard to any comments or recommendations from the Department of Water, and may impose relevant conditions to prevent or minimise the potential risk of groundwater contamination. The local government shall also have regard to the management direction provided by the priority classification of certain areas, noting that—

- (i) Priority 2 (P2) areas are defined to ensure there is no increased risk of pollution to the water source; and
- (ii) Priority 3 (P3) areas are defined to manage the risk of pollution to the water source.

#### **6.4 Blackwood Precinct (SCA3)**

##### **6.4.1 Purpose**

The objective of the Blackwood Precinct Special Control Area is to ensure that land use and development with the Special Control Area is consistent with the precinct's physical characteristics, land capability and land suitability.

##### **6.4.2 Referral of applications**

The local government is required to refer any applications for planning approval to the Department of Agriculture and Food and the Department of Fire and Emergency Services for advice prior to determination of the application.

##### **6.4.3 Relevant considerations**

6.4.3.1 Notwithstanding clause 5.54, the local government in considering subdivision, land use and applications for planning approval within the Special Control Area, shall—

- (i) in relation to any application for planning approval, the local government will consult the Department of Agriculture and Food and the Department of Fire and Emergency Services and have due regard to their advice and recommendations, except where the Departments have agreed that particular types of development in specific areas do not require referral;
- (ii) generally oppose any reduction in the size of existing agricultural landholdings to prevent the fragmentation of rural land;
- (iii) notwithstanding clause 6.4.3.1(ii), recommend that subdivision applications seeking to create additional lots for agricultural purposes have a minimum lot size of 100 hectares subject to the applicant suitably addressing land capability and demonstrating that the application will benefit sustainable agricultural land use within the precinct, and issues associated with fire management and vehicular access are suitably addressed; and
- (iv) enforce strict controls over any building construction and require detailed assessment in respect to steepness of slopes and the susceptibility for landslips or land degradation.

6.4.3.2 Notwithstanding sub-clause 6.4.3.1(iii), the local government may recommend that on land zoned Bushland Protection in the Blackwood Precinct, that subdivision applications seeking to create lots less than 100 hectares be considered subject to addressing clause 5.62.

#### **6.5 Established Donnybrook Stone (SCA4)**

##### **6.5.1 Purpose**

The objective of the Established Donnybrook Stone Special Control Area is to ensure that land use and development with the Special Control Area is compatible with the protection and long-term management of established Donnybrook Stone.

##### **6.5.2 Referral of applications**

The local government is required to refer any application for planning approval proposing habitable buildings to the Department of Mines and Petroleum for advice prior to determination of the application.

##### **6.5.3 Relevant considerations**

6.5.3.1 In considering subdivision, land use and applications for planning approval within the Special Control Area, the local government shall—

- (i) consult the Department of Mines and Petroleum and have due regard to its advice and recommendations, except where the Department has agreed that particular types of development in specific areas do not require referral; and
- (ii) consider if the scale and form of development will adversely impact upon future access to the underlying established Donnybrook Stone resource.

6.5.3.2 The local government will support subdivision where—

- (i) the application complies with the relevant subdivision provisions pertaining to the zoning of the land and where, for each proposed lot, a building envelope (pursuant to clause 5.50) can be identified on land outside of SCA 4; or
- (ii) for rural residential zoned land within SCA 4, the application is generally in accordance with a previously approved structure plan pursuant to clause 6.10 and, for each proposed lot, a

building envelope (pursuant to clause 5.50) is identified which maximises the separation distance to the established Donnybrook Stone.

6.5.3.3 The local government will request that the Commission impose a condition requiring a section 70A notification for any new title in SCA4. The 70A Notification to remain until removed at the discretion of the local government following advice from the Department of Mines and Petroleum, to ensure that prospective purchasers are aware of the possibility of quarrying on adjacent properties and the potential for impact upon the amenity of the land.

6.5.3.4 The local government may impose a condition on planning approvals requiring a section 70A Notification on the title, within the Established Donnybrook Stone Special Control Area, for new habitable buildings (e.g. dwellings and holiday accommodation), to ensure that prospective purchasers are aware of the possibility of quarrying on adjacent properties and the potential for impact upon the amenity of the land. However, the local government will not impose a condition requiring a 70A Notification for outbuildings, rural uses, home business and industry-cottage.

6.5.3.5 For applications proposing habitable buildings beyond a single dwelling, the applicant shall demonstrate to the satisfaction of the local government that the proposed development will neither significantly impact upon nor be significantly impacted upon by quarrying operations which may occur on adjacent properties.

6.5.3.6 In determining applications for planning approval, the local government may impose relevant conditions to prevent or minimise potential land use conflict between established Donnybrook Stone extraction and other land uses.

6.5.3.7 The local government may impose a condition on planning approvals requiring a section 70A Notification on the title, within the possible Donnybrook Stone area as identified in the Local Planning Strategy, for large scale sensitive land uses as determined by the local government (e.g. education establishment, restaurant). However, the local government will not impose a condition requiring a 70A Notification for dwellings within the possible Donnybrook Stone area.

## **6.6 Wastewater Treatment Plant Buffer (SCA5)**

### **6.6.1 Purpose**

The objective of the Wastewater Treatment Plant Buffer Special Control Area is to ensure that land use and development within the Special Control Area is compatible with the protection and long-term management of waste water to support the functioning and development of the Donnybrook townsite.

### **6.6.2 Referral of applications**

The local government, prior to determining applications for planning approval on land within the Special Control Area, shall consult with the Water Corporation and the Department of Environment Regulation and have due regard to their advice and recommendations, except where they have agreed that particular types of development do not require referral.

### **6.6.3 Relevant considerations**

6.6.3.1 The applicant shall demonstrate to the satisfaction of the local government that the proposed development will neither significantly impact upon nor be significantly impacted upon by the wastewater treatment plant, particularly in relation to the use, scale and form of the proposed development.

6.6.3.2 In determining land uses and applications for planning approval within this Special Control Area, the local government may impose relevant conditions to prevent or minimise the potential land use conflict between the Treatment Area and other land uses.

6.6.3.3 Notwithstanding the permissibility of land uses in the Zoning Table, land indicated on the Scheme Map as being within SCA5 shall not be used for purposes other than agriculture, open space, community purpose and industry—rural.

## **6.7 Plantation Exclusion Area (SCA6)**

6.7.1 Notwithstanding that a plantation may be considered in the General Agriculture, Priority Agriculture and Rural Smallholdings zones, plantations shall not be permitted within the area delineated within the Plantation Exclusion Area Special Control Area as set out on the Scheme maps.

6.7.2 While noting clause 6.7.1 where there is approved existing plantations, a second or multiple rotation is permitted to be planted. Additionally, the replacement of an existing plantation may be applied for via an application for planning approval provided the area of planting is no greater than an existing plantation.

## **6.8 Road Protection Area (SCA7)**

6.8.1 The purpose of the Road Protection Area Special Control Area is to protect the function of the key travel routes within the Scheme area and the amenity and visual character of adjacent land and to apply special land use and development controls to meet this objective.

6.8.2 For lots that are affected by the Road Protection Area, the following conditions shall apply in addition to any other relevant provisions of this Scheme—

- (i) no public sign, advertisement, hoarding or notice shall be erected unless written approval is granted by the local government;
- (ii) the local government shall not approve the erection of any advertisement for a service or commodity, which is not produced, offered or sold on the lot on which the advertisement is erected;
- (iii) the local government will not approve the erection of an advertisement for the sale of land other than on the lot which is offered for sale;

- (iv) the local government may remove any public sign, advertisement, hoarding or notice which has been erected contrary to the Scheme;
- (v) access points to these roads are limited to those approved by local government and the Main Roads Western Australia;
- (vi) a building setback of 30 metres from the edge of the road reserve shall apply unless approval is granted by local government to vary the setback. Service roads may be constructed within this setback; and
- (vii) notwithstanding the provisions of sub-clause (vi) all other setbacks shall be in accordance with any endorsed building envelope or setback provisions prescribed for the particular zone.

### **Division B: Special Control Area—Structure Plan Areas**

#### **6.9 Structure Plan Areas (SCA8)**

##### 6.9.1 Map designation and interpretation

6.9.1.1 Structure Plan Areas are shown on the Scheme Map as SCA8/SPA with a number. A Schedule of these areas is set out in Schedule 15.

6.9.1.2 For the purpose of clause 6.9, unless the context otherwise requires;

**“Proponent”** means any owner or owners of land to which the Proposed Structure Plan relates that has or have submitted that Proposed Structure Plan.

**“Proposed Structure Plan”** means a Structure Plan which may apply to either a local area or a district that has been prepared in accordance with clause 6.9.4.

**“Structure Plan”** means a proposed Structure Plan that has been approved by the Commission and adopted by the local government under clause 6.9.5.19.

##### 6.9.2 Purpose

6.9.2.1 To identify areas requiring comprehensive structure planning prior to subdivision and development.

6.9.2.2 To coordinate subdivision, land use and development in areas requiring comprehensive planning.

##### 6.9.3 Planning requirements

6.9.3.1 The local government requires a Structure Plan for a Structure Plan Area, or for any part or parts of a Structure Plan Area, before recommending subdivision or approving development of land within the Structure Plan Area.

6.9.3.2 The local government may require a Structure Plan to be prepared for any land not within a Structure Plan Area where it can be demonstrated that the land requires substantial pre-planning before decisions are made with respect to its use, subdivision or development and the provisions of the foregoing clauses shall apply as relevant to the preparation of any such plan.

6.9.3.3 Notwithstanding clause 6.9.3.1, the local government may approve a development or support a subdivision of the land in a manner that is consistent with the objectives of the underlying zone without requiring such a Structure Plan where, in its opinion, the proposal is of a minor nature, will not adversely affect the future subdivision or development of the land and where it can be demonstrated that it does not conflict with the future land use expectation of the Structure Plan Area.

6.9.3.4 Where a Structure Plan exists, the subdivision and development of land is to generally be in accordance with the Structure Plan and any associated provisions contained in Schedule 15.

6.9.3.5 The local government or the Commission may, as a condition of adopting or approving a Proposed Structure Plan, require a more detailed Structure Plan in future if the local government or the Commission considers that it will be necessary to provide additional detail to the proposals contained in the Proposed Structure Plans.

6.9.3.6 Schedule 15 describes the Structure Plan Area in more detail and sets out the land use expectations, matters to be addressed and associated provisions for Structure Plans.

##### 6.9.4 Preparation of Structure Plans

6.9.4.1 A Structure Plan may include plans and other documents.

6.9.4.2 A Structure Plan may with the agreement of the local government, be prepared and implemented in stages

6.9.4.3 A Structure Plan may relate to only part of a Structure Plan Area.

6.9.4.4 A Proposed Structure Plan shall contain information required by the local government to satisfy the planning requirements of the Structure Plan Area, including the requirements specified in Schedule 15, and without limiting the generality of the foregoing, may include the following details—

- (i) the area to which the Proposed Structure Plan applies;
- (ii) a statement of the vision for the land;
- (iii) a concise history and present use of the land and all current approvals applicable to the land but not substantially commenced or implemented;
- (iv) identification of any known sites of indigenous or non-indigenous areas of historical significance and how these sites are to be managed;
- (v) the planning context for the Structure Plan Area including the regional and neighbourhood structure, relevant strategies, Scheme provisions and policies and where appropriate, indicating how the Proposed Structure Plan is to be integrated into the surrounding area;

- (vi) identification of the key opportunities and constraints of the Structure Plan Area including current condition of the land, landforms, topography, hydrology, landscape, vegetation, soil type and quality, conservation and heritage values, ownership, existing land uses, roads and public transport and services;
- (vii) an environmental assessment of the land and any impacts the proposals shown on the Proposed Structure Plan will have on the environmental values of the land, and the ways in which those impacts will be managed;
- (viii) how the Proposed Structure Plan will satisfy the relevant State and local strategic and statutory planning instruments applicable to the Structure Plan Area including, but not limited to, State Planning Strategy, State Planning Policies, regional planning strategies and Local Planning policies (as amended from time to time);
- (ix) the proposed major land uses including, where relevant, residential areas and their densities, public open space, school sites, civic and community uses, commercial uses (including location and hierarchy of commercial centres) and industrial uses and mixed business uses;
- (x) provision for major infrastructure, including main drainage, storm water management (quantity and quality), waste water disposal, water supply, electricity provision and other key infrastructure services;
- (xi) where significant physical features, such as watercourses, require conservation or enhancement and the manner in which that is to be achieved;
- (xii) any land or waters likely to be contaminated and measures to be taken to ensure remediation of these sites;
- (xiii) the proposed indicative lot pattern and general location of any major buildings;
- (xiv) estimates of future lots, dwellings, population, employment and retail floor space;
- (xv) the proposed road network and hierarchy, estimated traffic volumes, traffic management measures, vehicular access and parking, public transport services (where relevant), and bicycle and pedestrian networks;
- (xvi) the timeframe and staging of subdivision and development, and the method of implementation, including any proposed developer contributions;
- (xvii) such other information as may be required by the local government; and
- (xviii) meet the requirements of the Commission's Structure Plan Guidelines.

#### 6.9.5 Adoption and approval of Structure Plans

6.9.5.1 A Proposed Structure Plan may be prepared by a Proponent or the local government. Where prepared by a Proponent, the Proposed Structure Plan shall be submitted to the local government.

6.9.5.2 Upon receiving a Proposed Structure Plan, the local government shall either—

- (i) determine that the Proposed Structure Plan is satisfactory for advertising;
- (ii) determine that the Proposed Structure Plan should not be advertised until further details have been provided or modifications undertaken; or
- (iii) determine that the Proposed Structure Plan is not satisfactory for advertising, giving reasons to the Proponent.

6.9.5.3 If within 60 days of receiving a Proposed Structure Plan for approval for advertising, or such longer period as may be agreed in writing between the Proponent and the local government, the local government has not made one of the determinations referred to in clause 6.9.5.2, the local government is deemed to have determined that the Proposed Structure Plan is not satisfactory for advertising.

6.9.5.4 Where the Proponent is aggrieved by determination of the local government made or deemed to have been made under clauses 6.9.5.2 (ii) or (iii) or 6.9.5.3 the Proponent may request the local government, by notice in writing, to forward the Proposed Structure Plan to the Commission.

6.9.5.5 Within 21 days of receiving notice from the Proponent under clause 6.9.5.4 the local government shall forward to the Commission—

- (i) a copy of the Proposed Structure Plan;
- (ii) details of the local government's determination including any modifications to the Proposed Structure Plan required by the local government; and
- (iii) any other information the local government considers relevant to the Commission's considerations of the Proposed Structure Plan for advertising.

6.9.5.6 Upon receiving a Proposed Structure Plan in accordance with clause 6.9.5.5, the Commission is to make one of the determinations referred to in clause 6.9.5.2 and advise the local government and the Proponent accordingly.

6.9.5.7 If the Commission requires modifications to the Proposed Structure Plan, the Commission shall consult with the local government prior to making its determination under clause 6.9.5.6.

6.9.5.8 If within 60 days of receiving a Proposed Structure Plan under clause 6.9.5.5, or such longer period as may be agreed in writing between the Proponent and the Commission, the Commission has not made one of the determinations referred to in clause 6.9.5.2, the Commission shall be deemed to have determined that the Proposed Structure Plan is not satisfactory for advertising.

6.9.5.9 Where the local government, or the Commission, has determined that the Proposed Structure Plan may be advertised, the local government shall—

- (i) advertise, or require the Proponent to advertise, the Proposed Structure Plan for public inspection by one or more of the methods of advertising proposals for development as set out in clause 9.6 of the scheme; and
- (ii) give notice, or require the Proponent to give notice in writing to—
  - (a) all landowners affected by the Proposed Structure Plan; and
  - (b) such public authorities and other persons as the local government nominates,

and such advertisements and notices are to explain the scope and purpose of the Proposed Structure Plan, when and where it may be inspected, and inviting submissions to the local government by a specified date being not less than 21 days from the date of the notice with advertising costs to be borne by the Proponent.

6.9.5.10 Within 7 days of determining that a Proposed Structure Plan is satisfactory for advertising, the local government shall forward a copy of the Proposed Structure Plan to the Commission.

6.9.5.11 The local government shall consider all submissions received and within 60 days of the latest date specified in the notice under clause 6.9.5.9 shall either—

- (i) adopt the Proposed Structure Plan with or without modifications; or
- (ii) refuse to adopt the Proposed Structure Plan giving reasons to the Proponent.

6.9.5.12 If within the 60 day period, or such further time as may be agreed in writing between the Proponent and the local government, one of the determinations referred to in clause 6.9.5.11 has not been made, the local government is deemed to have refused to adopt the Proposed Structure Plan.

6.9.5.13 Within 21 days of a determination being made, or deemed to have been made under clauses 6.9.5.11 or 6.9.5.12, the local government shall forward to the Commission—

- (i) a summary of all submissions and comments received within the advertised period in respect of the Proposed Structure Plan, and the local government's decisions or comments in relation to the submissions;
- (ii) the local government's recommendation to the Commission that the Proposed Structure Plan either be approved, approved with modifications or refused; and
- (iii) any other information the local government considers relevant to the Commission's consideration of the Proposed Structure Plan.

6.9.5.14 On the receipt of the information described in clause 6.9.5.13, the Commission shall either—

- (i) approve the Proposed Structure Plan with or without modifications; or
- (ii) refuse to approve the Proposed Structure Plan and give reasons for its decision to the Proponent and the local government.

6.9.5.15 If within 60 days of receiving the information referred to in clause 6.9.5.13, or such further time as may be agreed in writing between the Proponent and the Commission, the Commission has not made one of the determinations under clause 6.9.5.14, the Commission is deemed to have refused to approve the Proposed Structure Plan.

6.9.5.16 If the Commission approves the Proposed Structure Plan, it is to notify the local government and the Proponent of its decision within 14 days of the date of the Commission's decision.

6.9.5.17 If the Commission requires modifications to the Proposed Structure Plan, the Commission shall consult the local government prior to approval of the Proposed Structure Plan under clause 6.9.5.14.

6.9.5.18 If, following consultation with the Commission, the local government forms the opinion that any modification to the Proposed Structure Plan is substantial, the local government may—

- (i) re-advertise the Proposed Structure Plan; or
- (ii) require the Proponent to re-advertise the Proposed Structure Plan, and thereafter, the procedures set out in clause 6.9.5.9 onwards apply.

6.9.5.19 As soon as practicable after receiving notice of the approval of the Proposed Structure Plan by the Commission, the local government shall adopt the Proposed Structure Plan and forward a copy of the adopted Structure Plan to—

- (i) the Proponent;
- (ii) the Commission; and
- (iii) any other appropriate person or public authority the local government thinks is likely to be affected or have an interest.

6.9.5.20 An adopted Structure Plan shall be kept at the local government's administrative offices, and shall be made available for inspection by any member of the public during normal office hours.

#### 6.9.6 Change to, or departure from Structure Plans

6.9.6.1 The local government may adopt a minor change to, or departure from, an adopted Structure Plan if, in the opinion of the local government, the change or departure does not materially alter the intent of the Structure Plan.

6.9.6.2 The local government shall forward a copy of the minor change or departure to the Commission within 14 days of the date of adopting the minor change or departure.

6.9.6.3 If the Commission considers that the change or departure adopted by the local government under clause 6.9.6.1 materially alters the intent of the Structure Plan, then the Commission—

- (i) may require the local government to follow the procedures set out in clause 6.9.5.9 onwards in relation to the change or departure; and
- (ii) shall notify the local government of this requirement within 14 days.

6.9.6.4 Any change to, or departure from a Structure Plan that is not within clause 6.9.6.1 is to follow the procedures set out in clause 6.9.5.9 onwards.

#### 6.9.7 Operation of Structure Plan

6.9.7.1 A Structure Plan commences operation on the date it is adopted by the local government pursuant to clause 6.9.5.19.

6.9.7.2 If a Structure Plan imposes a classification on the land included in it by reference to reserves, zones or Residential Design Codes, then—

- (i) the provisions of the Structure Plan apply to the land as if its provisions were incorporated into the Scheme and it is binding and enforceable in the same way as corresponding provisions incorporated in the Scheme; and
- (ii) provisions in the Scheme applicable to land in those classifications under the Scheme apply to the Structure Plan Area.

6.9.7.3 Without limiting the generality of clause 6.9.7.2, under a Structure Plan—

- (i) in the areas designated as zones, the permissibility of uses is to be the same as set out in the Zoning Table as if those areas were zones under the Scheme having the same designations;
- (ii) the standards and requirements applicable to the zones and Residential Design Codes under the Scheme apply to the areas having corresponding designations under the Structure Plan;
- (iii) the planning approval procedures including the procedures for the approval of uses and developments under the Scheme are to apply as if the land were correspondingly zoned or reserved under the Scheme; and
- (iv) any other provision, standard or requirement in the Structure Plan is to be given the same force and effect as if it were a provision, standard or requirement of the Scheme.

6.9.7.4 A Structure Plan may distinguish between the provisions, requirements or standards which are intended to have affect as if included in the scheme, and any provisions, requirements which are only for guidance or such other purposes as stipulated in the Structure Plan.

#### 6.9.8 Right of review

6.9.8.1 The Proponent may seek a review, in accordance with Part 14 of the Act; any—

- (i) determination or decision made by the Commission;
- (ii) requirement imposed by or modification sought by the Commission; or
- (iii) determinations deemed to have been made by the Commission under clause 6.9.5.8 or 6.9.5.15,

in the exercise of the Commission's power under clause 6.9.

6.9.8.2 The Proponent may seek a review, in accordance with Part 14 of the Act, any decision made by the local government under clause 6.9.6.1.

### 6.10 Transitional Provisions—Structure Plans

6.10.1 Structure Plans prepared, adopted and in operation under the previous revoked Shire of Donnybrook-Balingup Town Planning Scheme No.3 and the Shire of Donnybrook-Balingup Town Planning Scheme No. 4 and identified within Schedule 14, shall continue in operation under the Scheme and shall be applied to the relevant land as if they were prepared, adopted and approved pursuant to the provisions of the Scheme. All other Structure Plans shall lapse once the scheme is operative.

6.10.2 Structure Plans referred to in clause 6.10.1 may be amended, adopted and approved as set out in clause 6.9.

Note: Structure Plans include Outline Development Plans, Subdivision Guide Plans and Development Guide Plans.

### Division C: Special Control Area—Development Contribution Areas

#### 6.11 Development Contribution Areas (DCA)

6.11.1 Development Contribution Plans are shown on the Scheme map as SCA9/DCA with a number and with the associated plans included in Schedule 16.



## 6.11.2 Interpretation

In clause 6.11, unless the context otherwise requires—

“**Administrative Costs**” means such costs as are reasonably incurred for the preparation and (with respect to standard infrastructure items) implementation of the development contribution plan.

“**Administrative Items**” means the administrative matters required to be carried out by or on behalf of the local government in order to prepare and (with respect to standard infrastructure items) implement the development contribution plan including legal, accounting, planning engineering, and other professional advice.

“**Cost Apportionment Schedule**” means a schedule prepared and distributed in accordance with clause 6.11.11.

“**Cost Contribution**” means the contribution to the cost of infrastructure and administrative costs.

“**Development Contribution area**” means shown on the scheme map as DCA with a number and included in Schedule 16.

“**Development Contribution Plan**” means a development contribution plan prepared in accordance with the provisions of State Planning Policy 3.6 Development Contributions for Infrastructure and provisions of this Clause 6 of the Scheme (as incorporated in Schedule 16 to this Scheme).

“**Development Contribution Plan Report**” means a report prepared and distributed in accordance with clause 6.11.11.

“**Infrastructure**” means the standard infrastructure items and community infrastructure, including recreational facilities; community centres; child care and after school centres; libraries and cultural facilities and such other services and facilities for which development contributions may reasonably be requested having regard to the objectives, scope and provisions of this policy.

“**Infrastructure Costs**” means such costs as are reasonably incurred for the acquisition and construction of infrastructure.

“**Local Government**” means the local government or local governments in which the development contribution area is located or through which services and facilities are provided.

“**Owner**” means an owner of land that is located within a development contribution area.

## 6.11.3 Purpose

The purpose of having development contribution areas is to—

- (i) provide for the equitable sharing of the costs of infrastructure and administrative costs between owners;
- (ii) ensure that cost contributions are reasonably required as a result of the subdivision and development of land in the development contribution area; and
- (iii) coordinate the timely provision of infrastructure.

## 6.11.4 Development contribution plan required

A development contribution plan is required to be prepared for each development contribution area.

## 6.11.5 Development contribution plan part of scheme

The development contribution plan does not have effect until it has been incorporated in Schedule 16 as part of the scheme.

## 6.11.6 Subdivision, strata subdivision and development

The local government shall not withhold its support for subdivision, strata subdivision or refuse to approve development solely for the reason that a development contribution plan is not in effect, there is no approval to advertise a development contribution plan, or that there is no other arrangement with respect to an owner's contribution towards the provision of community infrastructure.

## 6.11.7 Guiding principles for development contribution plans

The development contribution plan for any development contribution area is to be prepared in accordance with the following principles—

- (i) Need and nexus  
The need for the infrastructure included in the plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).
- (ii) Transparency  
Both the method for calculating the development contribution and manner in which it is applied should be clear, transparent and simple to understand and administer.
- (iii) Equity  
Development contributions should be levied from all developments in a development contribution area, based on their relative contribution to need.
- (iv) Certainty  
All development contributions should be clearly identified and methods of accounting for costs adjustments determined at the commencement of a development.

## (v) Efficiency

Development contributions should be justified on a whole-of-life capital cost basis consistent with maintaining financial discipline on service providers by precluding over-recovery of costs.

## (vi) Consistency

Development contributions should be applied uniformly across a development contribution area and the methodology for applying contributions should be consistent.

## (vii) Right of consultation and review

Owners have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the calculation of costs of the contributions is not reasonable.

## (viii) Accountable

There must be accountability in the manner in which development contributions are determined and expended.

## 6.11.8 Recommended content of development contribution plans

## 6.11.8.1 The development contribution plan is to specify—

- (i) the development contribution area to which the development contribution applies;
- (ii) the infrastructure and administrative items to be funded through the development contribution plan;
- (iii) the method of determining the cost contribution of each owner; and
- (iv) the priority and timing for the provision of infrastructure.

## 6.11.9 Period of development contribution plan

A development contribution plan shall specify the period during which it is to operate.

## 6.11.10 Land excluded

In calculating both the area of an owner's land and the total area of land in a development contribution area, the area of land provided in that development contribution area for—

- (i) existing public open space;
- (ii) existing government primary and secondary schools; and
- (iii) such other land as is set out in the development contribution plan,

is to be excluded.

## 6.11.11 Development contribution plan report and cost of apportionment schedule

6.11.11.1 Within 90 days of the development contribution plan coming into effect, the local government is to adopt and make available a development contribution plan report and cost apportionment schedule to all owners in the development contribution area.

6.11.11.2 The development contribution plan report and the cost apportionment schedule shall set out in detail the calculation of the cost contribution for each owner in the development contribution area based on the methodology provided in the development contribution plan and shall take into account any proposed staging of the development.

6.11.11.3 The development contribution plan report and the cost apportionment schedule do not form part of the scheme but once adopted by the local government they are subject to review as provided under clause 6.11.11.

## 6.11.12 Cost contributions based on estimates

6.11.12.1 The determination of infrastructure costs and administrative costs is to be based on amounts expended, but when expenditure has not occurred, it is to be based on the best and latest estimated costs available to the local government and adjusted accordingly, if necessary.

6.11.12.2 Where a cost apportionment schedule contains estimated costs, such estimated costs are to be reviewed at least annually by the local government—

- (i) in the case of land to be acquired, in accordance with clause 6.11.13; and
- (ii) in all other cases, in accordance with the best and latest information available to the local government,

until the expenditure on the relevant item of infrastructure or administrative costs has occurred.

6.11.12.3 The local government is to have such estimated costs independently certified by appropriately qualified persons and must provide such independent certification to an owner where requested to do so.

6.11.12.4 Where any cost contribution has been calculated on the basis of an estimated cost, the local government—

- (i) is to adjust the cost contribution of any owner in accordance with the revised estimated costs; and
- (ii) may accept a cost contribution, based on estimated costs, as a final cost contribution and enter into an agreement with the owner accordingly.

6.11.12.5 Where an owner's cost contribution is adjusted under clause 6.11.12.4, the local government, on receiving a request in writing from the owner, is to provide the owner with a copy of estimated costs and the calculation of adjustments.

6.11.12.6 If an owner objects to the amount of a cost contribution, the owner may give notice to the local government requesting a review of the amount of the cost contribution by an appropriate qualified person (“independent expert”) agreed by the local government and the owner at the owner’s expense, within 28 days after being informed of the cost contribution.

6.11.12.7 If the independent expert does not change the cost contribution to a figure acceptable to the owner, the cost contribution is to be determined—

- (i) By any method agreed between the local government and the owner; or
- (ii) If the local government and owner cannot agree on a method pursuant to (a) or on an independent expert, by arbitration in accordance with the *Commercial Arbitration Act 1985*.

#### 6.11.13 Valuation

6.11.13.1 Clause 6.11.13 applies in order to determine the value of land to be acquired for the purpose of providing infrastructure.

6.11.13.2 In clause 6.11.13—

“**Value**” means the fair market value of land, at a specified date, which is defined as the capital sum that would be negotiated in an arm’s length transaction in an open and unrestricted market, assuming the highest and best use of the land with all its potential and limitations (other than the limitation arising from the transaction for which the land is being valued), wherein the parties act knowledgeably, prudently and without compulsion to buy or sell. The net land value is to be determined by a static feasibility valuation model, using the model contained within State Planning Policy 3.6 Developer Contributions for Infrastructure (as amended). As part of that feasibility an appropriate profit and risk factor is to be determined from which 10% profit factor is to be excluded from the calculation.

“**Valuer**” means a licensed valuer agreed by the local government and the owner, or where the local government and the owner are unable to reach agreement, a valuer appointed by the President of the Western Australian Division of the Australian Property Institute.

6.11.13.3 If an owner objects to a valuation made by the valuer, the owner may give notice to the local government requesting a review of the amount of the value, at the owner’s expense, within 28 days after being informed of the value.

6.11.13.4 If the valuer does not change the value of the land to a figure acceptable to the owner, the value is to be determined—

- (i) by any method agreed between the local government and the owner; or
- (ii) if the local government and the owner cannot agree, the owner may apply to the State Administrative Tribunal for a review of the matter under part 14 of the Act.

#### 6.11.14 Liability for cost contribution

6.11.14.1 An owner must make a cost contribution in accordance with the applicable development contribution plan and the provisions of clause 6.11.

6.11.14.2 An owner’s liability to pay the owner’s cost contribution to the local government arises on the earlier of—

- (i) the Commission endorsing its approval on the deposited plan or survey strata plan of subdivision of the owner’s land within the development contribution area;
- (ii) the commencement of any development on the owner’s land within the development contribution area;
- (iii) the approval of any strata plan by the local government or Commission on the owner’s land within the development contribution area; or
- (iv) the approval of a change or extension of use by the local government on the owner’s land within the development contribution area.

The liability arises only once upon the earliest of the above listed events.

6.11.14.3 Notwithstanding clause 6.11.14.2, an owner’s liability to pay the owner’s cost contribution does not arise if the owner commences development of the first single house or outbuildings associated with that first single house on an existing lot which has not been subdivided or strata subdivided since the coming into effect of the development contribution plan.

6.11.14.4 Where a development contribution plan expires in accordance with clause 6.11.8, an owner’s liability to pay the owner’s cost contribution under that development contribution plan shall be deemed to continue in effect and carried over into any subsequent development contribution plan which includes the owner’s land, subject to such liability.

#### 6.11.15 Payment of cost contribution

6.11.15.1 The owner, with the agreement of the local government, is to pay the owner’s cost contribution by—

- (i) cheque or cash;
- (ii) transferring to the local government or a public authority land in satisfaction of the cost contribution;
- (iii) the provision of physical infrastructure;
- (iv) some other method acceptable to the local government; or
- (v) any combination of these methods.

6.11.15.2 The owner, with agreement of the local government, may pay the owner’s cost contribution in lump sum, by instalments or such other manner acceptable to the local government.

6.11.15.3 Payment by an owner of the cost contribution, including a cost contribution based on estimated costs in a manner acceptable to the local government, constitutes full and final discharge of the owner's liability under the development contribution plan and the local government shall provide certification in writing to the owner of such discharge if requested by the owner.

#### 6.11.16 Charge on the land

6.11.16.1 The amount of any cost contribution for which an owner is liable under clause 6.11.14, but has not paid, is a charge on the owner's land to which the cost contribution relates, and the local government may lodge a caveat, at the owner's expense, against the owner's certificate of title to that land.

6.11.16.2 The local government, at the owner's expense and subject to such other conditions as the local government thinks fit, can withdraw a caveat lodged under clause 6.11.16.1. to permit a dealing and may then re-lodge the caveat to prevent further dealings.

6.11.16.3 If the cost contribution is paid in full, and if requested to do so by the owner, the local government, at the expense of the owner, is to withdraw any caveat lodged under clause 6.11.16.

#### 6.11.17 Administration of funds

6.11.17.1 The local government is to establish and maintain a reserve account in accordance with the *Local Government Act 1995* for each development contribution area into which cost contributions for that development contribution area will be credited and from which all payments for the cost of infrastructure and administrative costs within that development contribution area will be paid. The purpose of such a reserve account or the use of money in such a reserve account is limited to the application of funds for that development contribution area.

6.11.17.2 Interest earned on cost contributions credited to a reserve account in accordance with clause 6.11.17.1 is to be applied in the development contribution area to which the reserve account relates.

6.11.17.3 The local government is to publish an audited annual statement of accounts for that development contribution area as soon as practicable after the audited annual statement of accounts becomes available.

#### 6.11.18 Shortfall or excess in cost contributions

6.11.18.1 If there is a shortfall in the total of cost contributions when all cost contributions have been made or accounted for in a particular development contribution area, the local government may—

- (i) make good the shortfall;
- (ii) enter into agreements with owners to fund the shortfall; or
- (iii) raise loans or borrow from a financial institution,

but nothing in clause 6.11.18.1 restricts the right or power of the local government to impose a differential rate to a specified development contribution area in that regard.

6.11.18.2 If there is an excess in funds available to the development contribution area when all cost contributions have been made or accounted for in a particular development contribution area, the local government is to refund to contributing owners for that development contribution area. To the extent, if any, that it is not reasonably practicable to identify owners and/or their entitled amount of refund, any excess in funds shall be applied, to the provision of additional facilities or improvements in that development contribution area.

#### 6.11.19 Powers of the local government

The local government in implementing the development contribution plan has the power to—

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

#### 6.11.20 Arbitration

Subject to clause 6.11.11.3 and 6.11.13.4, any dispute between an owner and the local government in connection with the cost contribution required to be made by an owner is to be resolved by arbitration in accordance with the *Commercial Arbitration Act 1985*.

### **Division D: Local Development Plans**

#### **6.12 Local Development plans**

6.12.1 The local government or the Commission may, by notice in writing, require a person to prepare and submit to the local government a local development plan within the time specified in the notice—

6.12.2 A person may prepare and submit to the local government a local development plan.

6.12.3 A local development plan is to relate to a particular lot or lots and may be prepared and submitted—

- (i) to enhance, elaborate or expand on the details or provisions contained in a Proposed Structure Plan or a Structure Plan;
- (ii) in place of a development approval required to comply with clause 2.3 of the Residential Design Codes; or
- (iii) for any other planning purpose.

6.12.4 The local government is to—

- (i) approve with or without conditions; or
- (ii) refuse to approve the local development plan.

6.12.5 If within 60 days of receiving a local development plan under clause 6.12.1, or such longer period as may be agreed in writing between the person and the local government, the local government has not made one of the determinations referred to in clause 6.12.4 the local government is deemed to have refused to approve the local development plan.

6.12.6 The local government is to forward a copy of the local development plan to the Commission within 10 days of approving the local development plan.

6.12.7 The local government's refusal to approve a local development plan under clause 6.12 is not a valid reason for the local government to refuse to adopt or the Commission to refuse to approve a Proposed Structure Plan under clause 6.9.

6.12.8 Unless clause 6.12.3(ii) applies, once approved by the local government, the local development plan is to be used as the basis for—

- (i) making recommendations to the Commission on subdivision applications; and
- (ii) determining development applications with respect to the land subject to the local development plan.

6.12.9 A local development plan may include details as to—

- (i) building envelopes;
- (ii) distribution of land uses within a lot;
- (iii) private open space;
- (iv) services;
- (v) vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;
- (vi) the location, orientation and design of buildings and the space between buildings;
- (vii) advertising signs, lighting and fencing;
- (viii) landscaping, finished site levels and drainage;
- (ix) protection of sites of heritage, conservation or environmental significance;
- (x) special development controls and guidelines; and
- (xi) such other information considered relevant by the local government.

6.12.10 An approved local development plan may be modified or varied with the approval of the local government in accordance with the procedures set out in clause 6.12.4, but where there is a related Structure Plan, such modifications or variations are to conform with the intent of any related Structure Plan.

6.12.11 The local government is to forward a copy of the modification or variation to the local development plan to the Commission within 10 days of approving the modification or variation.

6.12.12 An owner who has submitted a local development plan in accordance with clause 6.12 may appeal, in accordance with Part 14 of the Act, any discretionary decision made by the local government under clause 6.12.

## **Division E: Development Investigation Areas**

### **6.13 Development Investigation Areas**

#### **6.13.1 Map designation**

Development Investigation Areas are shown on the Scheme Map as DIA with a corresponding number.

#### **6.13.2 Purpose**

6.13.2.1 To identify areas for further investigation to determine their suitability for development and/or subdivision for an envisaged land use. These areas require comprehensive land use suitability, environmental, planning and servicing assessment, the formulation of a structure plan and rezoning prior to subdivision and development.

6.13.2.2 To coordinate subdivision, land use and development in areas requiring comprehensive planning.

#### **6.13.3 Rezoning and structure planning requirements**

6.13.3.1 Development Investigation Areas require gazettal of a scheme amendment prior to approval of a Structure Plan. The rezoning proposal is to include a full evaluation and assessment, including any necessary environmental assessment. This evaluation and assessment is required to determine if the areas are suitable and capable of supporting the land use expectations and matters to be addressed as set out in Schedule 17.

6.13.3.2 Inclusion of any land within a Development Investigation Area should not be interpreted to imply that the land is suitable for development, a determination of which will only be made following full evaluation and assessment of the land by means of amendment to the Scheme and the preparation and adoption of a Structure Plan.

6.13.3.3 Prior to any subdivision or development within a Development Investigation Area, a proposed Structure Plan shall be prepared and adopted in accordance with the structure planning requirements of clause 6.9.

6.13.3.4 The provisions of clause 6.9 apply to land in a Development Investigation Area, in addition to the provisions applying to any underlying zone or reserve or any general provisions of the Scheme.

6.13.3.5 Notwithstanding clauses 6.13.3.1 and 6.13.3.3, the local government may approve a development or support a subdivision of the land in a manner that is consistent with the objectives of the underlying zone without requiring such a scheme amendment and/or Structure Plan where, in its opinion, the proposal is of a minor nature, will not adversely affect the future subdivision or development of the land and where it can be demonstrated that it does not conflict with the future land use expectation of the Development Investigation Area.

## PART 7—HERITAGE PROTECTION

### 7.1 Heritage List

7.1.1 The local government is to establish and maintain a Heritage List to identify those places within the Scheme area which are of cultural heritage significance and worthy of conservation under the provisions of the Scheme, together with a description of each place and the reasons for its entry.

7.1.2 In the preparation of the Heritage List the local government is to—

- (i) have regard to the municipal heritage inventory prepared by the local government under section 45 of the *Heritage of Western Australia Act 1990*; and
- (ii) include on the Heritage List such entries on the municipal heritage 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—

- (i) 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;
- (ii) invite submission on the proposal from the owner and occupier of the place within 21 days of the day the notice is served;
- (iii) carry out such other consultation as it thinks fit; and
- (iv) 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 provision 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—

- (i) adopt for each Heritage Area a Local Planning Policy which is to comprise—
  - (a) map showing the boundaries of the Heritage Area;
  - (b) a record of places of heritage significance; and
  - (c) objectives and guidelines for the conservation of the Heritage Area; and
- (ii) 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—

- (i) 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;
- (ii) advertise the proposal by—
  - (a) publishing a notice of the proposed designation once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area;
  - (b) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
  - (c) such other methods as the local government considers appropriate to ensure widespread notice of the proposal;
- (iii) carry out such other consultation as the local government considers appropriate.

7.2.4 Notice of the proposal under clause 7.2.3(ii) is to specify—

- (i) the area subject of the proposed designation;
- (ii) where the proposed Local Planning Policy which will apply to the proposed Heritage Area may be inspected; and
- (iii) 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 the submissions may be made, the local government is to—

- (i) review the proposed designation in the light of any submissions made; and
- (ii) 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 as if it were a local Planning Policy in accordance with clause 2.5.

7.2.8 Clause 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

7.5.1 Where desirable to—

- (i) 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
- (ii) enhance or preserve heritage values in a heritage area designated under clause 7.2.1

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

Note: The local government cannot however vary the Zoning Table and any proposed changes required by a Scheme Amendment.

## 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 development without first having applied for and obtained a planning approval of the local government under Part 10.

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 the land (subject of Part 4), although it is typical that one application can address development and land use.
2. Development includes erection, placement and display of any advertisements.

### 8.2 Permitted development

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

- (i) 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—
  - (a) located in a place that has been entered in the register of Heritage Places under the *Heritage of Western Australia Act 1990*;

- (b) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*;
  - (c) included on the Heritage List under clause 7.1 of the Scheme; and
  - (d) located in a Heritage Area or an area covered by a Local Planning Policy relating to heritage development control.
- (ii) the demolition of any building or structure except where the building or structure is—
- (a) located in a place that has been entered in the Register of Places under the *Heritage of Western Australia Act 1990*;
  - (b) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*;
  - (c) included on the Heritage List under clause 7.1 of the Scheme; or
  - (d) located within a heritage area designated under the Scheme;
- (iii) the erection on a lot of a dwelling including in the opinion of the local government any extension, ancillary outbuildings, domestic tennis courts and domestic swimming pools, except where—
- (a) the proposal requires the exercise of a discretion by the local government under the Scheme to vary the provisions of the Residential Design Codes;
  - (b) the development is located in a Heritage Area, Rural Residential Zone, Bushland Protection zone or Special Control Areas 1, 2, 4, 5, 7 and 8 designated under the Scheme;
  - (c) involves development within a flood prone area;
  - (d) the proposed development comprises transportable buildings;
  - (e) the proposed development comprises a relocated second hand building or part thereof;
  - (f) the proposed development is outside an approved building envelope or Scheme setbacks or within a building exclusion area;
  - (g) the proposed development requires an application for planning approval in a Local Planning Policy adopted by the local government under the provisions of Part 2 of the Scheme or requires an application for planning approval under an adopted Structure Plan;
  - (h) the proposed development abuts a major road reserve in the Scheme;
  - (i) the proposed development is on a lot or location which does not have access to a dedicated and constructed road;
  - (j) the construction of a tennis court which involves the use of lighting for night games;
  - (k) the proposed dwelling, extension or outbuilding is to be developed on a lot of less than 350m<sup>2</sup>; and
  - (l) the development is located on a hilltop ridge as determined by the local government.

Note: While a dwelling (single house on a lot) may not require the planning approval of the local government, other types of dwellings (e.g. grouped dwelling, caretaker's dwelling) and habitable structures (e.g. ancillary accommodation) do require the planning approval of the local government.

- (iv) structures including sheds, outbuildings and carports in the Residential, Rural Residential, Rural Smallholdings, General Agriculture and Priority Agriculture zones which—
- (a) comply with setback requirements of the Scheme, the Residential Design Codes (as appropriate) and/or the Building Code of Australia;
  - (b) meet other Scheme requirements;
  - (c) are exempt from the requirement for planning approval as set out in an adopted Local Planning Policy on outbuildings;
  - (d) are outside of flood prone land; and
  - (e) will not be inhabited overnight.
- (v) incidental structures and uses which include—
- (a) a dog house, domestic animal enclosure, bird enclosure or a cubby house which—
    - (1) does not exceed 3.0 metres in height above natural ground level; and
    - (2) does not have any part of its structure located within 1.0 metre of the boundary with an adjacent lot;
  - (b) a tree house which—
    - (1) as a structure, does not exceed 3.0 metres in height;
    - (2) does not have a floor area greater than 4.0m<sup>2</sup>; and
    - (3) is constructed in a tree on a lot used solely for residential purposes;
  - (c) a flag pole which does not exceed 6.0 metres in height above natural ground level;
  - (d) any pole, tower or device used solely for the purpose of providing outdoor lighting which is—
    - (1) constructed on a lot used solely for residential purposes; and
    - (2) no more than 6.0 metres in height above natural ground level;



- (e) landscaping;
- (f) letter boxes;
- (g) clothes lines;
- (h) the installation of solar panels where such structures do not protrude above the surface of the roof by more than 500mm or above the ridge of the roof of any building unless the building is included within the Heritage List of the Scheme;
- (vi) a home office;
- (vii) any works which are temporary and in existence for less than 48 hours or such longer time as the local government agrees;
- (viii) any exempted classes of advertisements listed in Schedule 12 except in respect of a place included in the heritage list or in a heritage area;
- (ix) agriculture—extensive, agriculture—intensive and rural pursuit in the General Agriculture zone and the Priority Agriculture zone;
- (x) agriculture—extensive in the Rural Smallholdings zone;
- (xi) the erection of a boundary fence except where otherwise required by the Scheme;
- (xii) the carrying out of any works on, in, over or under a street or road by a public authority acting in pursuant of its statutory obligations;
- (xiii) the carrying out of works urgently required for public safety or for the safety or security of plant or equipment used in the provision of maintaining or for essential services;
- (xiv) the use of land in a reserve, where such land is vested in the local government or vested in a Public Authority—
  - (a) for the purpose for which the land is reserved under the Scheme; or
  - (b) in the case of land vested in a public authority, for any purpose for which such land may be lawfully used by that authority;
- (xv) except for development to which the Residential Design Codes apply, the minor filling, excavation or re-contouring of land, provided there is no more than 0.9 metres change to the natural ground level and it is not within flood prone land as determined by the local government;
- (xvi) except for development to which the Residential Design Codes apply, retaining walls less than 0.9 metres in height unless the site is located in a Local Planning Policy which specifically addresses requirements for retaining walls or the site is located within a Heritage Area;
- (xvii) rainwater tanks, unless proposed to be located outside a building envelope or within a building exclusion area or where it does not comply with setback requirements;
- (xviii) aquaculture proposals involving the use of existing dams where no structural works are proposed;
- (xix) the clearing of vegetation subject to the requirements of clause 5.8 where—
  - (a) the clearing is exempt under the Environmental Protection (Clearing of Native Vegetation) Regulations to gain a clearing permit, unless there is a specific requirement to gain local government approval;
  - (b) vegetation is non-native;
  - (c) vegetation is commercial in nature such as an orchard; and
  - (d) the trees are not listed or protected in the Municipal Heritage Inventory, a Local Planning Policy or Heritage Area or covered by a ‘Tree Preservation Order’ or a specific scheme provision.

Note: Where the proposal to clear vegetation is part of an application for planning approval for a new building or structure there is no requirement for a separate application for planning approval for the proposed clearing.

- (xx) effluent disposal systems where they comply with Scheme requirements and relevant legislation, air conditioning systems and LPG gas tanks for domestic purposes where they comply with relevant legislation;
- (xxi) satellite dishes and other domestic telecommunication installations unless they do not comply with any relevant adopted standards outlined in a Local Planning Policy or is located within a Heritage Area;
- (xxii) a change of use where—
  - (a) the general use class category remains the same and no additional floorspace is proposed (e.g. shop to shop);
  - (b) the proposed use will have a reduced car parking requirements and no additional car parking spaces are required (e.g. from shop to office);
  - (c) envisaged traffic generation results in no adverse offsite traffic management and environmental impacts;
  - (d) where no additional floor space is proposed;

Note: Premises where food and drinks are sold may be exempt from a planning approval but will require environmental health approval.

- (e) where a material change in the appearance of the building, in the opinion of the local government, is not proposed;
- (f) satisfies health and safety requirements; and
- (g) there is no need to significantly improve public services and infrastructure;
- (xxiii) annual or short term (less than 12 months) horticultural crops in the Priority Agriculture, General Agriculture and Rural Smallholdings zones;
- (xxiv) dams where the dam—
  - (a) has been approved or does not require approval from any State Government agency or authority; and
  - (b) the external foot of the dam wall, and any other part of the dam including the stored water is further than 20 metres from boundaries of the subject lot.

Note: Any landowner/proponent proposing to build a dam in any zone must determine the current requirements for licensing the dam by the Department of Water and must satisfy these requirements. The landowner/proponent should seek advice from but not be limited to—

- (i) Department of Agriculture and Food for advice on whether the proposal is consistent with Department of Agriculture and Food recommendations for farming practices, water supply and dam construction; and the
- (ii) Department of Parks and Wildlife and the Department of Water for advice on potential environmental impacts on watercourses, wetlands and the riparian zone and must advise them in relation to its impacts on water resource management and if it requires approval in relation to the taking of water and any other potential environmental impacts.

- (xxv) activities and work which lie within the definition of development but which are associated with and/or necessary for the continuation of a use of land lawfully existing pursuant to the provisions of this Scheme;

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

### 8.3 Amending or revoking a planning approval

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

### 8.4 Unauthorised existing developments

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

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

Note—

1. Applications for planning 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 planning approval is required for one or more of the following—

- (i) a use or commencement of development on a local Reserve under clause 3.4;
- (ii) commencement of a 'P' use which does not comply with all relevant development standards and requirements of the Scheme as referred to in clause 4.17.2;
- (iii) commencement of a 'D' use or an 'A' use as referred to in clause 4.17.2;
- (iv) commencement of a use not listed in the Zoning Table under clause 4.18.2;
- (v) alteration or extension of a non-conforming use under clause 4.20;
- (vi) a change of a non-conforming use under clause 4.20;
- (vii) continuation of a non-conforming use under clause 4.23;

- (viii) variation of a site or development requirement as provided by clause 5.5;
- (ix) commencement of development under clause 8.1;
- (x) continuation of development already commenced or carried out under clause 8.4;
- (xi) a subsequent planning approval pursuant to an approval under clause 10.8;
- (xii) the erection, placement or display of an advertisement and is subject to clause 5.45;

to be made in the form prescribed in Schedule 9 and then signed by the owner, 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 13.

## 9.2 Application fee

9.2.1 A planning application shall not be valid, or be processed by the local government, until the fee as adopted by the local government in accordance with the *Planning and Development (Local Government Planning Fees) Regulations 2000* has been paid.

9.2.2 Notwithstanding the provisions of clause 9.2.1 the local government may, in exceptional circumstances, grant a waiver to the application fee, or part thereof.

## 9.3 Accompanying material

Unless the local government waives any particular requirement, every application for planning approval is to be accompanied by a plan or plans to 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) both 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 park 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;
- (viii) the nature and extent of any open space and landscaping proposed for the site;
- (ix) plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain;
- (x) 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
- (xi) any other plan or information that the local government may require to enable the application to be determined.

## 9.4 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—

- (i) street elevations drawn to scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjacent to the land the subject of the application, and drawn as one continuous elevation; and
- (ii) 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 adjacent to the subject lot.

## 9.5 Applications containing insufficient information

9.5.1 Where, in respect of any application for planning approval, the information provided is, in the opinion of the local government, insufficient for a proper planning evaluation to be made for the purposes of this Scheme, the local government shall, within a period of 21 days of receiving the application, notify the applicant in writing that additional information is required, specifying the type and form of the information to be submitted.

9.5.2 Where notice has been served pursuant to clause 9.5.1, the unexpired portions of the periods for calculating whether or not an application may be deemed to have been refused, for the purpose of clause 10.10 shall be stayed from running until such time as the additional information has been received by the local government.

9.5.3 On the receipt of the requested information, or upon the applicant requesting in writing that the application for planning approval be determined, the local government shall proceed to determine the application in accordance with the requirements of the Scheme.

## 9.6 Advertising of applications

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

- (i) an 'A' use as referred to in clause 4.17.2; or
- (ii) 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 9.6.3.

9.6.2 Despite clause 9.6.1, where application is made for a purpose other than a purpose referred to in that clause, the local government may require notice be given in accordance with clause 9.6.3.

9.6.3 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—

- (i) notice of the proposed use or development served on adjacent and nearby owners 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;
- (ii) 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;
- (iii) 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.

9.6.4 The notice referred to in sub-clauses 9.6.3(i) and (ii) is to be in the form prescribed in Schedule 11 with such modifications as are considered appropriate by the local government.

9.6.5 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.

9.6.6 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—PROCEDURES 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—

- (i) the aims and provisions of the Scheme and any other relevant Local Planning Scheme operating within the Scheme area;
- (ii) the requirements of orderly and proper planning including any relevant proposed new Local Planning Scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;
- (iii) any approved State Planning Policies of the Commission;
- (iv) any approved Environmental Protection Policy under the Environmental Protection Act 1986;
- (v) any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State;
- (vi) the local government's adopted Local Planning Strategy, 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;
- (vii) building and/or landscaping guidelines endorsed by the local government;
- (viii) in the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;
- (ix) 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;
- (x) the compatibility of a use or development with its setting including the potential impact on the use and enjoyment of adjacent and nearby land;
- (xi) any social issues that have an effect on the amenity of the locality;
- (xii) the cultural significance of any place or area affected by the development;
- (xiii) 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;
- (xiv) 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, subsidence, landslip, bush fire or any other risk;

- (xv) the preservation of the amenity of the locality;
- (xvi) the relationship of the proposal to development on adjacent 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;
- (xvii) whether the proposed means of vehicular 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;
- (xviii) 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;
- (xix) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
- (xx) whether public utility services are available and adequate for the proposal;
- (xxi) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (xxii) whether adequate provision has been made for access by disabled persons;
- (xxiii) 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;
- (xxiv) whether the proposal is likely to cause soil erosion or land degradation;
- (xxv) the potential loss of any community service or benefit resulting from the planning approval;
- (xxvi) any relevant submissions received on the application;
- (xxvii) the comments or submissions received from any authority consulted under clause 10.1; and
- (xxviii) any other planning consideration the local government considers relevant.

### 10.3 Determination of applications

10.3.1 In determining an application for planning approval the local government may—

- (i) grant its approval with or without conditions; or
- (ii) refuse to grant its approval.

10.3.2 Subject to the agreement of the applicant, the local government may defer determination of the application to allow the applicant to provide additional information requested by the local government.

### 10.4 Form and date of determination

10.4.1 As soon as practicable after making the determination in relation to the application, the local government is to convey its determination to the applicant in the form prescribed in Schedule 10 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—

- (i) the development approved is to be substantially commenced in the opinion of the local government within 2 years, or such other period as specified in the approval, after the date of the determination; and
- (ii) the planning approval lapses if the development has not substantially commenced in the opinion of the local government 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 planning approval which is the period within which the development must commence.

### 10.7 Scope of planning approval

Planning approval may be granted for—

- (i) the use or development for which the approval is sought;
- (ii) that use or development, except for a specified part or aspect of that use or development; or
- (iii) 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 no 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 Requests for reconsideration**

10.9.1 Where the local government refuses to grant, or imposes conditions on a planning approval and the applicant is dissatisfied with the refusal or conditional approval, the applicant may, subject to the provisions of clause 10.9.2, request the local government in writing to reconsider its decision.

10.9.2 Any request for reconsideration—

- (i) shall be lodged with the local government within 28 days of the decision of the local government;
- (ii) will only be valid if there is additional new information provided with the request that was not available to the applicant or the local government when making its original decision;
- (iii) shall be accompanied by 50% of the application fee or such lesser amount as determined by the local government; and
- (iv) payment of the reconsideration fee referred to in clause 10.9.2(iii) will be waived where it can be demonstrated, to the satisfaction of the local government, that the request for reconsideration is being made to correct an error made by the local government when determining the application for planning approval.

10.9.3 The local government shall, within 60 days of the date of its receipt consider the reconsideration request and may—

- (i) refuse the request and re-affirm its original decision in the matter;
- (ii) revoke its original decision and issue a new determination in the matter; or
- (iii) delete, amend or replace the condition or conditions the subject of the request or add, amend or delete other conditions related to the request.

### **10.10 Deemed refusal**

10.10.1 Subject to clause 10.10.2, 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.

10.10.2 An application for planning approval which is the subject of a notice under clauses 9.5 and 9.6 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.

10.10.3 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 clauses 10.10.1 or 10.10.2, 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.

### **10.11 Right of review**

10.11.1 An applicant aggrieved by a determination of the local government in respect of the exercise of a discretionary power under the Scheme may apply to the State Administrative Tribunal for a review of the determination under Part 14 of the Act.

10.11.2 A right of review also exists under clause 6.9.8 pertaining to structure plans, clause 6.11.19 pertaining to developer contribution plans and clause 5.48.4 pertaining to the removal or repair of advertisements.

## **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—

- (i) enter into an agreement with an 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;
- (ii) acquire any land or buildings within the Scheme area under the provisions of the Scheme or the Act; and
- (iii) deal with or dispose of any land which it has acquired under the provisions of the Scheme or the Act in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.

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 Delegation of functions

11.2.1 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.

11.2.2 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 the clause 11.2.1.

11.2.3 The exercise of the power of delegation under clause 11.2.1 requires a decision of an absolute majority as if the power had been exercised under the *Local Government Act 1995*.

11.2.4 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 delegation were a delegation under Division 4 of Part 5 of that Act.

## 11.3 Person must comply with provisions of Scheme

A person must not—

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

Note: Section 218 of the Act provides that a person who—

- (a) contravenes the provisions of a planning scheme; or
- (b) commences, continues or carries out any such development which is required to comply with a planning scheme otherwise than in accordance with any condition imposed under this Act or the scheme with respect to the development, or otherwise fails to comply with any such condition, commits an offence.

## 11.4 Compensation

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

- (i) 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
- (ii) where the land has been reserved for a public purpose and—
  - (a) an application made under the Scheme for the approval to carry out development on the land is refused; or
  - (b) 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,

no later than 6 months after the application is refused or the permission granted.

11.4.2 A person whose land or property is injuriously affected by the making of a Scheme may not claim compensation for that injurious affection more than once under clause 11.4.1.

## 11.5 Purchase or taking of land

11.5.1 If, where compensation for injurious affection is claimed under the 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.

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

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

## 11.6 Directions by Local Government regarding unauthorised development

11.6.1 Under section 214 of the Act, 60 days written notice is prescribed as the notice to be given to stop and not recommence any use or development of land which is unauthorised by the Scheme or to remove, pull down, take up or alter a development undertaken in contravention of the Scheme as set out in that Section.

11.6.2 The local government may recover expenses under Section 215(2) of the Act in a court of competent jurisdiction.

**SHIRE OF DONNYBROOK-BALINGUP LOCAL PLANNING SCHEME No. 7**  
**SCHEDULES 1—17**

Schedule 1	Dictionary of Defined Words and Expressions
	1. General Definitions
	2. Land Use Definitions
Schedule 2	Rural Residential—Additional Requirements
Schedule 3	Rural Smallholdings—Additional Requirements
Schedule 4	Tourist—Additional Requirements
Schedule 5	Special Use Zone
Schedule 6	Additional Uses
Schedule 7	Restricted Uses
Schedule 8	Environmental Conditions
Schedule 9	Form of Application for Planning Approval
Schedule 10	Notice of Determination on Application for Planning Approval
Schedule 11	Notice of Public Advertisement of Planning Proposal
Schedule 12	Exempted Advertisements
Schedule 13	Additional Information for Advertisements
Schedule 14	Transitional Structure Plans
Schedule 15	Structure Plan Areas
Schedule 16	Development Contribution Plans
Schedule 17	Development Investigation Areas

*Schedule 1*

**DICTIONARY OF DEFINED WORDS AND EXPRESSIONS**

**1. General definitions**

In the Scheme—

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

“adjacent” means any lot(s) enjoying a common boundary, even when only at one point e.g. corner, and including lots opposing each other across a gazetted road or rail reserve;

“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” means any structure or an appurtenance whether fixed or movable, temporary or permanent, placed or erected upon land, and the term shall include dwellings and buildings appurtenant to dwellings such as carports, garages, verandas and retaining walls, but shall exclude a boundary fence, pergolas, garden sheds and the like, and swimming pools where no part is more than 600mm above surrounding ground level;

“building envelope” means an area of land within a lot marked on a plan approved by the responsible authority within which all proposed development, including any associated outbuildings, effluent disposal systems and associated site works, must be contained;

“building exclusion area” means an area of land within a lot defined on a plan approved by the responsible authority within which no buildings, water tanks or other structures, site works, batters, retaining walls and effluent disposal facilities must not occur;

“building setback” means the shortest horizontal distance between a boundary or other specified point and the position at which a building may be erected;

“Commission” means the Western Australian Planning Commission constituted under the Act;

“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*;

“dam construction” means any works involving construction of flow associated with a water course, but excludes any drainage works undertaken as part of an approved subdivision of land, or public works undertaken by the authority responsible for the management or maintenance of the particular water course;

“district” means the local government district of Shire of Donnybrook-Balingup as shown on the Scheme Map;



- “existing use” means use of any land or building for the purpose for which it was lawfully used immediately prior to the gazettal date of the Scheme, in accordance with the conditions set out in the Scheme;
- “floor area” has the same meaning as in the Building Code of Australia published by the Australian Building Codes Board;
- “frontage” when used in relation to a building that is used for—
- (a) residential purposes, has the same meaning as in the Residential Design Codes; and
  - (b) purposes other than residential purposes, means the road alignment at the front of a lot and, if a lot abuts 2 or more roads, the one to which the building or proposed building faces;
- “gazettal date” in relation to a Scheme, means the date on which the Scheme is published in the Gazette under section 87 of the Act;
- “gross floor area (GFA)” in relation to a building means the aggregate of the total floor area of each level of the building including the thickness of external walls but excluding the space set aside for car parking or access thereto;
- “height” when used in relation to a building that is used for—
- (a) residential purposes, has the same meaning as in the Residential Design Codes; or
  - (b) purposes other than residential purposes, means the maximum vertical distance between the natural 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 Shire of Donnybrook-Balingup;
- “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 Act but does not include a strata or survey strata lot;
- “net lettable area (NLA)” means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas—
- (a) all stairs, toilets, cleaner’s cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
  - (b) lobbies between lifts facing other lifts serving the same floor;
  - (c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
  - (d) areas set aside for the provision of facilities or services to the floor or building where such facilities are not for the exclusive use of occupiers of the floor or building;
- “non-conforming use” has the same meaning as it has in section 172 of the 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 Design Codes;
- “potable water” means water fit for human consumption as determined by the National Water Quality Management Strategy Australian Drinking Water Guidelines 6 (2011) or any updates;
- “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;
- “public authority” shall have the same meaning given to it in, and for the purposes of, the Act;
- “public utility” means any work or undertaking constructed or maintained by a public authority or the local government as may be required to provide water, sewerage, electricity, gas, drainage, communications or other similar services;
- “Residential Design Codes” means State Planning Policy No. 3.1 Residential Design Codes, 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 begun by the performance of some substantial part of that work or development;

“sustainable development” means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and safeguarding the life-supporting capacity of air, water, soil and ecosystems; and avoiding, remedying or mitigating any adverse effects of activities on the environment;

“wholesale” means the sale of good 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—

“abattoir” means land and buildings for the slaughter of animals and the treatment of carcasses, offal and by-products;

“agriculture—extensive” means premises used for the raising of stock (including domestic scale pigs, poultry and rabbits) 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, or
- (c) the development of land for irrigated fodder production or irrigated pasture (including turf farms);

“agroforestry” means land used commercially for tree production and agriculture;

- (a) where trees are planted in blocks of more than one hectare; and
- (b) the proposed tree crop does not cover more than 10% of the total useable farm land of the lot or lots in which the application is proposed. Where more than one lot is proposed to be planted as part of an application for planning approval, the local government will seek confirmation that these lots are farmed as an integrated unit; and
- (c) where the land not used for tree cropping is used for other forms of commercial agriculture;

“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 commercial 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 feedlots;

“aquaculture” means any fish farming operation for which a Aquaculture license issued pursuant to the provisions of the *Fish Resources Management Act 1994* (as amended), is required;

“art and craft gallery” means any land or building used to manufacture, display and sell works of art or craft;

“backpacker’s accommodation” means premises used for the short term accommodation of persons either in separate bedrooms or communal dormitories, and includes the provision of communal kitchen and living facilities;

“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 accommodating a maximum of 6 guests;

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

“brewery” means land and buildings used for the brewing of alcoholic and non-alcoholic beverages and the associated bottling, packaging and distribution of the goods produced;

“cabin” means an individual self-contained unit similar to chalet but may lack ensuite facilities and may comprise only one room and is designed for short-stay guests, forming part of a tourism facility;

“camping area” means land set aside for the erection of tents and other similar structure for temporary accommodation, and “camping” has a compatible meaning;

“caravan” means a wheeled unit, whether currently equipped with wheels or not, capable of being used for residential accommodation or other purposes and includes self-propelled units of a similar nature;

“caravan or trailer yard” means any land or building used for—

- (a) the hire and/or sale of caravans, car trailers, non-motorised horse floats and mobile homes; and
- (b) the hire and/or sale of tents, camping gear and other items of a similar nature, where such use is incidental to the use falling within (a) above;

“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;

“car park” 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;

“chalet” means an individual self-contained unit usually comprising cooking facilities, ensuite, living area and one or more bedrooms designed to accommodate short-stay guests, forming part of a tourism facility;

“child care premises” means premises used to provide a ‘child care service’ as defined in the *Child Care Services Act 2007*;

“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 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) and 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;

“dam” means any man-made structure or excavation designed and constructed to intercept, accumulate and impound water flowing across, through or under any land and includes an off-stream dam, an on-stream dam, a gully-wall dam, a turkey-nest dam, an excavated soak and any structure, excavation or other device designed to act either solely or partly as a nutrient stripping basin but does not include ornamental ponds or other water feature associated with landscaping and gardens;

“eco-tourist facility” means a form of tourist accommodation that is designed, constructed, operated and of a scale so as not to destroy the natural resources and qualities that attract tourists to the location. The development should utilise sustainable power, have a low energy demand through incorporation of passive solar design, provide for low water consumption, ecologically sensitive waste processing and disposal with no pollutant product;

“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;

“factory units” means a group of buildings or structures on one lot, in which are carried on two or more separate industries or storage areas not owned or managed by the same person;

“family day care” means premises used to provide a ‘family day care service’ as defined in the *Child Care Services Act 2007*;

“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;

“garden centre” means land and buildings used for the sale and display of garden products, including garden ornaments, plants, seeds, domestic garden implements and motorised implements and the display but not manufacture of prefabricated garden buildings;

“guesthouse” means integrated premises for short stay guests comprising serviced accommodation units and on site tourism facilities such as reception, centralised dining and management;

“holiday accommodation” means all of the tourist accommodation uses listed in the Zoning Table (Table 1);

“holiday house” means a dwelling together with its associated outbuildings—

- (a) designed primarily as a dwelling for permanent residential purposes whether or not occupied periodically as such; and
- (b) used, whether or not for commercial gain or reward, from time to time for unsupervised, short-stay tourist accommodation purposes excluding people that are members of the owner’s family but including all people where the owner is a company; but does not include a “bed and breakfast” facility;

“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 license under the *Liquor Control 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 principle 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 in accordance with the *Mining Act 1978*;
- “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;
- “liquor store” means any land or building(s) the subject of a Store Licence granted under the provisions of the *Liquor Control Act 1988* (as amended);
- “low-impact development” means that the use and development of land in such a manner that does not detract from the rural and natural amenity of the locality, and includes the following criteria—
- (a) Development being located so as to avoid ridge line, escarpments or visually exposed sites and situated where screening vegetation or land form can be utilised;
  - (b) Use and development being sensitively located and designed to minimise impact on vegetation, water courses, soils quality and existing land uses;
  - (c) Development being of a scale and nature so as to be self-sustaining on the lot, or demonstrating the ability to provide servicing without significant modifications to existing infrastructure;
  - (d) Development that by the nature of its scale, design, colours, materials, landscaping and use, has minimal impact on its site and surrounding areas; and
  - (e) Where the land use and any development had minimal offsite consequence.
- “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 an industrial or commercial area;
- “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 Control 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;
- “motor vehicle wrecking” means any land or building(s) used for the storage, breaking up or dismantling of motor vehicles and includes the sale of second-hand motor vehicle accessories and spare parts;
- “night club” means premises—
- (a) used for entertainment with or without eating facilities; and
  - (b) licensed under the *Liquor Control Act 1988*;
- “office” means premises used for administration, clerical, technical, professional or other like business activities;
- “open air display” means the use of land as a site for the display and/or sale of goods and equipment;

- “outbuildings” are enclosed non-habitable Class 10a buildings, under the Building Code of Australia, that are detached from a dwelling and which are not used for commercial or industrial purposes;
- “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 as amended from time to time;
- “plant nursery” means land and buildings used for the propagation, rearing and sale of products associated with horticultural and garden décor;
- “produce store” means any land or building wherein fodders, fertilisers, and grain are displayed and offered for sale;
- “reception centre” means premises used for functions on formal or ceremonial occasions but not for un-hosted use for general entertainment purposes;
- “recreation—private” or “private recreation” means the use of land for parks, gardens, playgrounds, sports arenas or other grounds for recreation which are not normally open to the public without charge;
- “recreation—public” or “public recreation” means the use of land for a public park, public gardens, playground or grounds for recreation which are normally open to the public without charge;
- “resort” means integrated, purpose-built luxury or experiential premises for short stay guest comprising accommodation units and on-site tourism facilities such as reception, restaurant and leisure facilities like swimming pool, gymnasium, tennis courts;
- “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 Control Act 1988*;
- “restricted premises” means premises used for the sale by retail or wholesale, or the offer by hire, loan or exchange, or the exhibition, display or delivery of—
- (a) publications that are classified as restricted under the *Classification (Publications, Films & Computer Games) Enforcement 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;
- “roadhouse” means land and buildings used for the predominant purpose of a service station but incidentally including a tearoom or restaurant and/or a shop;
- “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;
- “salvage yard” means any land or buildings used for the storage and sale of materials salvaged from the erection, demolition, dismantling or renovating of, or fire or flood damage to, structures including (but without limiting the generality of the foregoing) buildings, machinery, vehicles and boats;
- “sawmill” means a mill or premises where logs or large pieces of timber are sawn but does not include a joinery works unless logs or large piece of timber are sawn therein;
- “serviced apartment” means a complex where all units or apartments provide for self-contained accommodation for short stay guests, where integrated reception and recreation facilities may be provided;
- “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;
- “sexual service business” means premises used for the business of providing, or arranging, the provision of a commercial sexual act;
- “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;
- “short stay” means a period of stay in holiday accommodation being not more than a total of three months within any twelve month period;
- “short stay accommodation” means a building or group of buildings, designed for the accommodation of short stay guests and which provides onsite facilities for the convenience of guests and for management of the development;

- “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;
- “small bar” means premises licensed as a small bar under the *Liquor Control Act 1988* and used to sell liquor for consumption on the premises, but not including the sale of packaged liquor; and with the number of persons who may be on the licensed premises limited to a maximum of 120;
- “storage” means premises used for the storage of goods, equipment, plant or materials;
- “tavern” means premises licensed as a tavern under the *Liquor Control Act 1988* and used to sell liquor for consumption on the premises;
- “tearoom” means premises similar to those of a restaurant but from which only snacks and light refreshments are served during normal working hours and the term includes premises referred to as café;
- “telecommunications infrastructure” means land used to accommodate any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use in or in connection with, a telecommunications network;
- “trade display” means premises used for the display of trade goods and equipment for the purpose of advertisement;
- “transport depot” means a building or place used for the principal purpose of the bulk handling of goods for transport by road, including facilities for the loading and unloading of vehicles used to transport those goods and for the parking, servicing and repair of those vehicles;
- “veterinary centre” means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders;
- “warehouse” means premises used to store or display goods and may include sale by wholesale;
- “wayside stall” means a building situated on private land which offers for sale to the general public produce or any commodity which is produced on the land upon which the buildings are located;
- “wind farm” means premises used to generate electricity by wind force and includes any turbine, building or other structure used in, or in conjunction with, the generation of electricity by wind force but does not include turbines used principally to supply electricity for a domestic property, rural use of land or anemometers;
- “winery” means premises used for the production of viticulture produce and may include sale of the produce.

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*Schedule 2*

**RURAL RESIDENTIAL—ADDITIONAL REQUIREMENTS**

Schedule 2 contains additional requirements for specific Rural Residential zone areas. In addition to provisions elsewhere in the Scheme, the following provisions apply. Where there is any inconsistency, the provisions below shall prevail.

(Clause 5.52)

Zone Identification	Special Provisions

**Schedule 3****RURAL SMALLHOLDINGS—ADDITIONAL REQUIREMENTS**

Schedule 3 contains additional requirements for specific Rural Smallholdings zone areas. In addition to provisions elsewhere in the Scheme, the following provisions apply. Where there is any inconsistency, the provisions below shall prevail.

(Clause 5.53)

Zone Identification	Special Provisions

**Schedule 4****TOURIST—ADDITIONAL REQUIREMENTS**

Schedule 4 contains additional requirements for specific Tourist zone areas. In addition to provisions elsewhere in the Scheme, the following provisions apply. Where there is any inconsistency, the provisions below shall prevail.

(Clause 5.59)

Zone Identification	Permitted Uses	Conditions of Use
T1  Lot 1922 on P127403 Anderson Road, Kirup	<ul style="list-style-type: none"> <li>• Chalets</li> <li>• Restaurant</li> <li>• Residential Building (Backpacker's accommodation)</li> <li>• Function Centre</li> <li>• Aquaculture</li> <li>• Dwelling</li> </ul>	<ol style="list-style-type: none"> <li>1. Development shall be generally in accordance with the Development Guide Plan No. 801.061 (AMD 51—TPS 4) or an alternative Structure Plan endorsed by the local government and the Commission. The local government may approve planning applications that vary from the Development Guide Plan providing that such variations do not have a detrimental impact on the amenity of the area. Prior to approving a variation, any such application for planning approval shall be advertised in accordance with clause 9.6 of the Scheme.</li> <li>2. Development of the land shall be subject to compliance with an approved Fire Management Plan, as endorsed by the local government and to the satisfaction of the Department of Parks and Wildlife and the Department of Fire and Emergency Services.</li> <li>3. Buildings shall be constructed of materials complementary to the landscape attributes and values of the site.</li> </ol>
T2  Lot 1 on Plan 12867 Jayes Road, Balingup	Tourist Development whereby the permitted uses are— <ul style="list-style-type: none"> <li>• Chalets</li> <li>• Shop</li> <li>• Dwelling</li> <li>• Winery</li> </ul> Associated uses determined by local government to be complementary to the principle use of the lot for tourist related uses.	<ol style="list-style-type: none"> <li>1. Development shall be generally in accordance with the Development Guide Plan No. 04350P-09 endorsed by the local government or an alternative Structure Plan endorsed by the local government and the Commission.</li> <li>2. The local government may approve planning applications that vary from the Development Guide Plan providing such variations in the opinion of local government, do not affect the amenity of the area. In respect of such applications, the local government shall advertise and such variation for public comment in accordance with clause 9.6 of the Scheme.</li> <li>3. No buildings are to be established within 10 metres of any boundary.</li> <li>4. That the proponent provide a Fire Management Plan to the satisfaction of the Department of Fire and Emergency Services and the local government as a condition of development approval to the proposed tourist uses on the site which is appropriately implemented.</li> </ol>



Zone Identification	Permitted Uses	Conditions of Use
<p>T3</p> <p>Lot 4 on Plan 39780 Eastman Road, Thomson Brook</p>	<ul style="list-style-type: none"> <li>• Chalets (6)</li> <li>• Reception centre (function centre)—maximum gross floor area of 850m<sup>2</sup></li> <li>• Caretaker's dwelling</li> <li>• Dwelling</li> <li>• Recreation—Private</li> </ul>	<p>1. Development shall be generally in accordance with the Development Guide Plan (Figure 3 of the Scheme Amendment No. 90 report for TPS 4) or an alternative Structure Plan endorsed by the local government and the Commission. The local government may approve planning applications that vary from the Development Guide Plan providing that such variations do not have a detrimental impact on the amenity of the area. Prior to approving a variation, any such application for planning approval shall be advertised in accordance with clause 9.6 of the Scheme.</p> <p>2. The proponent is to prepare and implement a Fire Management Plan to the satisfaction of the Department of Fire and Emergency Services and the local government as a condition of development approval which is appropriately implemented.</p> <p>3. Buildings shall be constructed of materials complementary to the landscape attributes and values of the site.</p> <p>4. Prior to commencement of operations, a s.70A Notification shall be registered upon the title of Lot 4 Eastman Road (at full cost to the landowners) advising prospective purchasers—</p> <ul style="list-style-type: none"> <li>• the owners of adjoining Lot 21 have a gravel deposit on their land and may continue to exploit that deposit through the extraction and transportation of raw gravel. Accordingly during any extraction there may be clay dust generated, some of which may depending on the wind prevail upon Lot 4; and</li> <li>• the owners of adjoining Lot 21 have an airstrip capable of taking light aircraft for take off and landing. Whilst presently inactive, the owners of adjoining Lot 21 may recommission this light aircraft airstrip for use by light aircraft and crop dusters.</li> </ul>

**Schedule 5**  
**SPECIAL USE ZONE**

(Clause 5.63)

Zone Identification	Permitted Uses	Conditions of Use
<p>SU1</p> <p>Lots 8123, 8124 &amp; 8125 Airstrip Road, Balingup</p>	<p>Residential Building, Agriculture—Intensive Dwellings and Ancillary Uses</p>	<p>As determined by the local government.</p>
<p>SU2</p> <p>Lot 2 Jayes Road, Balingup</p>	<p>Aged Persons Accommodation</p>	<p>1. The objective of this Special Use is to allow for residential land use that will provide practical accommodation for older people seeking a rural lifestyle. The accommodation is restricted to people over 55 years of age.</p> <p>2. Subdivision and development of the land shall generally be in accordance with the endorsed Development Guide Plan or an alternative Structure Plan endorsed by the local government and the Commission.</p> <p>3. The local government may approve planning applications that vary from the Development Guide Plan providing such variations do not affect the amenity of the area. The local government shall advertise any such variation for public comment in accordance with clause 9.6 of the Scheme.</p>

Zone Identification	Permitted Uses	Conditions of Use
		<p>4. Buildings shall be sympathetic in design, materials and colour to complement the surrounding landscape with the development generally being of a high standard and in keeping with the character of the locality.</p>
<p>SU3</p> <p>Lot 11 Brookhampton Road, Brookhampton</p>	<p>As per the General Farming Zone with following land uses being permitted (P use)—</p> <ul style="list-style-type: none"> <li>• Chalets (4 maximum);</li> <li>• Single House (1); and</li> <li>• Caretaker's Dwelling (1).</li> </ul>	<p>1. <u>Land Use</u> A Development Application shall be submitted to the local government for the chalets, caretaker's dwelling and ancillary development/uses. All other uses are not permitted.</p> <p>2. <u>Structure Plan</u> Development of the site shall be generally in accordance with an approved Structure Plan prepared to the satisfaction of the local government.</p> <p>3. <u>Specific Provisions</u> A maximum of four chalets will be permitted with each chalet up to a maximum gross floor area of 100m<sup>2</sup> only. A minimum of one car bay per chalet shall be provided on-site adjacent to the chalets. Chalets shall not be occupied by any person more than a total of 3 months in any one 12 month period.</p> <p>4. <u>Fire Management Plan</u> The landowner is to prepare and implement a fire management plan to the satisfaction of the Fire and Emergency Services Authority of Western Australia. Details to be submitted to and approved by the local government prior to issue of Planning Consent for any development.</p> <p>5. <u>Services, Roads, Drainage Management</u> Disposal of onsite effluent is to be provided to the requirements and satisfaction of the local government and the Department of Health prior to commencement of operations. The development is to be supplied with an adequate potable water supply sufficient to supply the development continuously without failure to the satisfaction of the local government and the Department of Health prior to commencement of operations. Upgrading of connections to the external road network and internal access shall be to the satisfaction of the local government. Details to be submitted to the local government prior to commencement of works. A Drainage Management Plan shall be submitted to the local government for approval prior to commencement of works.</p> <p>6. <u>Landscape Management Plan</u> The landowner is to prepare a Landscape Management Plan showing proposed landscaping of all chalets, to the satisfaction of the local government.</p> <p>7. <u>Building and Design Particulars</u> The design, colour, materials and scale of all buildings related to tourism shall be consistent and reflect the character of the area, to the satisfaction of the local government.</p>

Zone Identification	Permitted Uses	Conditions of Use
SU4  Lot 193 Yabberup Road, Yabberup	As per the General Farming Zone with following uses being permitted (P use)— <ul style="list-style-type: none"> <li>• Restaurant;</li> <li>• Tea Room;</li> <li>• Shop;</li> <li>• Art and Craft Gallery; and</li> <li>• Chalets (6).</li> </ul> The following use is permitted at the discretion of the local government (A use)— Rural Pursuit	<p>1. <u>Land Uses</u>            A Development Application shall be submitted to the local government for each individual chalet and ancillary development/uses.</p> <p>2. <u>Structure Plan</u>            Development of the site shall be generally in accordance with the Structure Plan adopted by the local government and the Western Australian Planning Commission for this site.            The Local government may with the approval of the Commission, approve a minor change to or departure from the Structure Plan, if in the opinion of Local government, the change or departure does not materially alter the intent of the Structure Plan.</p> <p>3. <u>Specific Provisions</u>  <i>Licensed Restaurant, Eating House, Shop and Art Gallery</i>            A restaurant/eating house, shop and art gallery will be permitted, co-located in a building of up to a gross floor area of 300m<sup>2</sup>. This building will include a dining area, art gallery and shop indoors, and if necessary, an outdoor deck and an undercroft style alfresco dining area.            Landscaping of this are will be to the requirements of the local government.            Car parking will be provided on-site at a ratio of 1 bay per staff member plus 1 bay per 4 patrons excluding those resident on-site. Adequate space is to be provided for coach and caravan turning.  <i>Chalet Development</i>            A maximum of six chalets will be permitted with each chalet up to a maximum gross floor area of 100m<sup>2</sup>.            Chalets will be sufficiently remote from the main building housing the licensed restaurant, eating house, shop and art gallery for noise amelioration purposes.            A minimum of one car bay per chalet shall be provided on-site adjacent to the chalets.            Chalets shall not be occupied by any person more than a total of 3 months in any one 12 month period.</p> <p>4. <u>Fire Management Plan</u>            The landowner is to prepare and implement a fire management plan to the satisfaction of the Department of Parks and Wildlife and the Department of Fire and Emergency Services.            Details to be submitted to and approved by the local government prior to the issue of Planning Consent for any development.</p> <p>5. <u>Services, Roads and Drainage Management</u>            The disposal of on-site effluent is to be provided to the requirements of and satisfaction of the local government and Department of Health prior to commencement of operations.            The development is to be supplied with an adequate potable water supply sufficient to supply the development continuously without failure to the satisfaction of the local government and the Department of Health prior to commencement of operations.            Upgrading of connections to the external road network and internal access shall be to the satisfaction of the local government. Details to be submitted to the local government prior to the commencement of works.</p>

Zone Identification	Permitted Uses	Conditions of Use
		<p>A Drainage Management Plan shall be submitted to the local government for approval prior to the commencement of works.</p> <p>6. <u>Landscape Management Plan</u> The landowner is to prepare and implement a landscape management plan showing proposed landscaping of chalets and co-located licensed restaurant, eating house, shop and art gallery, common property, rehabilitation of watercourses and buffers to adjoining lots to the satisfaction of the local government.</p> <p>7. <u>Building and Design Particulars</u> The design, colour, materials and scale of all buildings related to tourism shall be consistent and reflect the character of the area, to the satisfaction of the local government.</p> <p>8. <u>Buffer Requirements</u> A 40 metre vegetated buffer is to be created between the tourist developments and the boundary with adjoining land. This buffer is to be established to the satisfaction of the local government.</p>

*Schedule 6*  
**ADDITIONAL USES**

(Clause 4.15)

No.	Description of Land	Additional Use(s) Permitted	Conditions of Use
A1	Lot 22, Gemmell Road, Argyle	Short Stay Accommodation Caretaker's Dwelling	<p>Landscaping to satisfaction of the local government.</p> <p>Access and egress route within the lot to be provided (i.e. a road with two entry points) to the local government's satisfaction.</p> <p>No poultry, pigeons or bird aviaries are permitted.</p> <p>No more than one dog per unit (with the approval of the owners).</p> <p>No structure, temporary or otherwise to be erected without the planning approval of the local government.</p> <p>Formal rubbish disposal and clothes drying areas are to be provided to the satisfaction of local government.</p> <p>Water supply for drinking purposes to the five units to be provided to the local government's satisfaction.</p> <p>The septic tank leach drain system to be a minimum of 100m from any watercourse and have a minimum vertical separation of 2 metres from the highest ground water level.</p> <p>Parking spaces to be provided to the satisfaction of the local government.</p>
A2	Lot 44, Gemmell Road, Argyle	Restaurant Caretaker's Dwelling	As determined by the local government.
A3	Lot 1 of Wellington Location 1264 1913 Preston-Collie Road, Mumballup	Restaurant Shop Art and Craft Gallery Chalets Caravan Park	<p>Land uses already permitted under the Priority Agriculture zone will be permitted to continue in that part of the land which is unaffected by the proposed development as a secondary activity.</p> <p>Development of the site shall be generally in accordance with the Structure Plan adopted by the local government and the Commission for this site or an alternative Structure Plan endorsed by the local government and the Commission.</p>

No.	Description of Land	Additional Use(s) Permitted	Conditions of Use
			<p>In accordance with clause 6.9.3.3, the local government may, with the approval of the Commission, approve a minor change to or departure from the Structure Plan, if in the opinion of local government, the change or departure does not materially alter the intent of the Structure Plan.</p> <p>A restaurant, shop and art gallery will be permitted, co-located in a building of up to a maximum gross floor area of 300m<sup>2</sup>. This building will include a dining area, art gallery and shop indoors, with an outdoor deck, and undercroft style alfresco dining area.</p> <p>A maximum of eight chalets will be permitted with each chalet having a maximum gross floor area of 100m<sup>2</sup>. Chalets will be built using materials and finishes designed to be unobtrusive in the landscape, complemented by tree planting as appropriate.</p> <p>The landowner shall prepare and implement a fire management plan to the satisfaction of the local government and Department of Fire and Emergency Services.</p> <p>The disposal of on-site effluent is to be provided to the requirements and satisfaction of the local government and Health Department of Western Australia.</p> <p>The appearance and form of buildings will be consistent with existing buildings (specifically a craft workshop) in the immediate vicinity. Landscaping of this area will be to the requirements and satisfaction of the local government.</p> <p>Chalets will be sufficiently remote from the main building housing the restaurant, shop and art gallery for noise amelioration purposes.</p> <p>Caravan Park</p> <p>A maximum number of six caravan bays may be provided for short stay accommodation in caravans brought to the site by their occupiers.</p> <p>Each caravan bay will be of a minimum 80m<sup>2</sup> in area and adequately serviced in respect of power, water and drainage. A separate ablution block comprising laundry, showers and toilets is to be provided for caravan occupiers adjacent to the caravan sites; laundry facilities will also service the chalets.</p> <p>Caravan sites will be located and screened as necessary so as to be unobtrusive in the landscape.</p>

*Schedule 7*  
**RESTRICTED USES**

(Clause 4.16)

No.	Description of Land	Restricted Use(s) Permitted	Conditions of Use

*Schedule 8*  
ENVIRONMENTAL CONDITIONS

(Clause 5.6)

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

**Schedule 9**  
**FORM OF APPLICATION FOR PLANNING APPROVAL**  
*Shire of Donnybrook-Balingup*  
 Local Planning Scheme No. 7  
**Application for Planning Approval**

(Clause 9.1.1)

<b>Owner details:</b>		
Name:		
Address:		
Postcode:		
Phone:		FAX:
Home:	Work:	Email:
Mobile:		
Contact Person:		
Signature:		Date:
Signature:		Date:
The signature of the owner(s) is required on all applications. This application will not proceed without that signature.		

<b>Applicant details:</b>		
Name:		
Address:		
Postcode:		
Phone:		FAX:
Home:	Work:	
Mobile:		
Email:		
Contact Person for Correspondence:		
Signature:		Date:

**Part 2**

<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:	Town/locality	
Nearest Street Intersection:		

Existing building/land use:

Description of proposed development and/or use:

Nature of any existing buildings and/or use:

Does this proposal require the clearance of native vegetation indigenous to the local area:

If so, what is the area of land that is proposed to be cleared:

Approximate cost of proposed development:

Estimated time of completion:

Office Use Only

Acceptance Officer's initials:

Date Received:

Shire Reference No:

Schedule 10

NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL

(Clause 10.4.1)

PLANNING AND DEVELOPMENT ACT 2005

Shire of Donnybrook-Balingup

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:

Granted with no conditions

Granted subject to the following conditions:

Refused for the following reason(s)

Conditions/reasons for refusal:

Note 1: If the development the subject of this approval is not substantially commenced in the opinion of the local government 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 appeal under Part 14 of the Planning and Development Act 2005. A request for review must be lodged within 28 days of the determination.



Signed:

Date:

.....  
 for and on behalf of the Shire of Donnybrook-Balingup.

**Schedule 11****NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL**

(Clause 9.6.4)

Planning and Development Act 2005

*Shire of Donnybrook-Balingup***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: \_\_\_\_\_

Locality: \_\_\_\_\_

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:

Date:

.....  
 for and on behalf of the Shire of Donnybrook-Balingup.

**Schedule 12****EXEMPTED ADVERTISEMENTS**

(Clause 8.2 (viii))

<b>Land use and/or development requiring advertisement</b>	<b>Exempted sign type and number (includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated.)</b>	<b>Maximum area of exempted sign</b>
Dwellings	One professional name-plate as appropriate.	0.2m <sup>2</sup>
Home Occupation	One advertisement describing the nature of the home occupation.	0.2m <sup>2</sup>
Places of Worship, Meeting Halls and Places of Public Assembly	One advertisement detailing the function and/or the activities of the institution concerned.	0.2m <sup>2</sup>
Cinemas, Theatres and Drive-in Theatres	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed.	Each advertisement sign not to exceed 5m <sup>2</sup>
Shops, Showrooms and other uses appropriate to a Shopping Area	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building subject to a compliance with the requirements of the Signs Hoarding and Bill Posting Bylaws.	N/A
Industrial and Warehouse Premises	A maximum of 4 advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding signs projecting from a building whether or not those signs are connected to a pole, wall or other building.	Total area of any such advertisements shall not exceed 15m <sup>2</sup> .

<b>Land use and/or development requiring advertisement</b>	<b>Exempted sign type and number (includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated.)</b>	<b>Maximum area of exempted sign</b>
	A maximum of two free-standing advertisement signs not exceeding 5m in height above ground level.	Maximum permissible total area shall not exceed 10m <sup>2</sup> and individual advertisement signs shall not exceed 6m <sup>2</sup> .
Showroom, race courses, major racing tracks, sports stadia, major sporting grounds and complexes	All signs provided that, in each case, the advertisement is not visible from outside the complex or facility concerned, either from other private land or from public places and streets.	N/A
Public Places and Reserves	a) Advertisement signs (illuminated and non-illuminated) relating to the functions of government a public authority or the local government of a municipality excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body;	N/A
	b) Advertisement signs (illuminated and non-illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a government department, public authority or the local government of a municipality; and	N/A
	c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.	N/A
Railway Property and Reserves	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon a railway station.	No sign shall exceed 2m <sup>2</sup> in area.
Advertisements within Buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	N/A
All classes of buildings other than single family dwellings	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	0.2m <sup>2</sup>
<b>Temporary Signs</b>	<b>Exempted sign type and number (all non-illuminated unless otherwise stated)</b>	<b>Maximum area of exempted sign</b>
Building Construction Sites (advertisement signs displayed only for the duration of the construction as follows):		
(i) Dwellings	One advertisement per street frontage containing details of the project and the contractors undertaking the construction work.	2m <sup>2</sup>
(ii) Multiple Dwellings, Shops, Commercial and Industrial projects.	One sign as for (i) above.	5m <sup>2</sup>

Temporary Signs	Exempted sign type and number (all non-illuminated unless otherwise stated)	Maximum area of exempted sign
(iii) Large development or redevelopment projects involving shopping centres, office or other buildings exceeding 3 storeys in height	One additional sign showing the name of the project builder	10m <sup>2</sup>
Sales of goods or livestock	One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or Livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose.	2m <sup>2</sup>
Property Transactions Advertisement signs displayed for the duration of a period over which property transactions are offered and negotiated as follows. (a) Dwellings	One sign per street frontage for each property relating to the sale, leasing or impending auction of the property at or upon which the sign is or the signs are displayed.	Each sign shall not exceed an area of 2m <sup>2</sup> .
(b) Multiple dwellings, shops, Commercial & Industrial Properties	One sign as for (a) above.	Each sign shall not exceed an area of 5m <sup>2</sup> .
Large properties comprised of shopping centres, buildings in excess of four storeys and rural properties in excess of 5 hectares	One sign as for (a) above.	Each sign shall not exceed an area of 10m <sup>2</sup> .
Display Homes Advertisement signs displayed for the period over which homes are on display for public inspection.	(i) One sign for each dwelling on display. (ii) In addition to (i) above one sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display.	2m <sup>2</sup> 5m <sup>2</sup>
Political Advertising	Advertising on freehold land during an election campaign.	2m <sup>2</sup>

**Schedule 13**

**ADDITIONAL INFORMATION FOR ADVERTISEMENTS**

(Clauses 5.42.2 and 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. free standing, 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:.....

Period of time for which advertisement is required:.....

3. Details of signs (if any) to be removed if this application is approved:  
 .....  
 .....

Note: This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed detailed in 4 above.

Signature of advertiser(s):  
 .....

(if different from landowners)  
 .....

Date:.....

#### *Schedule 14*

#### TRANSITIONAL STRUCTURE PLANS

(Clause 6.10)

Transitional Structure Plan	Description of Land Area	Land Use Expectation	Endorsed Plan
(i)	Lot 3298 and Portion of Lot 3192 Hamilton Street, Donnybrook (Irishtown)	Rural Residential	Endorsed: 12/8/2010 Plan No. 07191P-01A (AMD 72)
(ii)	Portion of Lot 2028 Irishtown Road, Donnybrook (Irishtown)	Rural Residential	Endorsed: 26/9/1997 Plan No. BY94-94-4 (AMD 19)
(iii)	Lot 377 and 738 (Meldene Estate), Donnybrook	Residential	Endorsed: 30/5/2003 Plan No. 01033P-04 February 2003 (AMD 42)
(iv)	Lot 3 and 5 Morgan Road (Westwood Estate), Donnybrook	Residential	Endorsed: 17/4/1994 Plan No. BY92-11-3 (AMD 1)
(v)	Lot 93 Marmion Street (Brookdale Rise), Donnybrook	Residential	Endorsed: 13/2/2006 Plan No. 05354P-09 (AMD 1 balance of site revised plan)
(vi)	Lot 259 Brockman Street, Balingup	Tourist	Endorsed: 24/4/2007 Plan No. 061101P-02 (AMD 68)
(vii)	Lot 176 and Portion Lot 500 South Western Highway, Donnybrook	Industrial/ Commercial	Endorsed: 28/5/2009 Plan No. 13312-02F (AMD 65)
(viii)	Lot 1, Location 1264 Preston-Collie Road, Mumballup	Tourist	Endorsed: 18/7/2007 Plan No. ODP Drawn 18-06-2007 (AMD 56)

<b>Transitional Structure Plan</b>	<b>Description of Land Area</b>	<b>Land Use Expectation</b>	<b>Endorsed Plan</b>
(ix)	Lot 1 Jayes Road, Balingup	Tourist	Endorsed: 31/7/2007 Plan No. 04350P-09 (AMD 60)
(x)	Location 8120 and 8132 Balingup-Nannup Road, Balingup	Tourist	Endorsed: 24/4/2007 Plan No. 0512-006 (AMD 63)
(xi)	Lot 2 Jayes Road, Balingup	Aged Persons Accommodation	Endorsed: 13/10/2004 Plan No. DGP Drawn 06-06-2003 (AMD 47)
(xii)	Lot 141 Sharp Street, Donnybrook	Aged Persons Accommodation	Endorsed: 14/11/2005 Plan No. 020113P (AMD 50)
(xiii)	Location 8116, 13235 and Part Lot 6 Balingup-Nannup Road, Balingup	Tourist	Endorsed: 28/2/2002 Plan No. 9325-01-P01 (AMD 39)
(xiv)	Location 445, Lot 2 Bridge Street, Donnybrook	Tourist	Endorsed: 02/9/2003 Plan No. 01220P-03 (AMD 43)
(xv)	Lot 3 Mailman Road, Kirup	Tourist	Endorsed: 22/11/2000 Plan No. ODP Drawn 25/11/1999 (AMD 37)
(xvi)	Lot 4 Eastman Road, Thomson Brook	Tourist	Endorsed 23/3/2010 Plan No. Figure 3 of Scheme Amendment Report (AMD 90)
(xvii)	Portion of Lot 106 Grimwade Road, Balingup	Rural Residential	Endorsed: 5/2/2008 Plan No. RPA 37 (AMD 75)
(xviii)	Location 1922 Anderson Road, Kirup	Tourist	Endorsed: 18/3/2008 Plan No. 801.061 (AMD 51)
(xix)	Lot 12 South Western Highway Balingup	Residential	Endorsed: 15/5/12 (AMD 92)
(xx)	Lot 72 Walter Street, Balingup	Residential	Endorsed: 26/11/2013 Plan No. 08011P-MP-05 (AMD 97)
(xxi)	Former Wellington Location 2419, Irishtown Road, Donnybrook (Irishtown)	Rural Residential	Endorsed: 6/5/1982 (AMD 3, TPS No.3)
(xxii)	Former Lots 1 and 2 of Wellington Location 1108, Irishtown Road, Donnybrook (Irishtown)	Rural Residential	Endorsed: 19/12/1986 Plan Ref No. AS6913 Plan No. 1 (AMD 10, TPS No.3)

**Schedule 15**  
**STRUCTURE PLAN AREAS**

Areas numbered in the Table below relate to Structure Plan Areas (SPA) shown on the Scheme Map.  
(Clauses 6.9.1.1, 6.9.3.6 and 6.9.4.4)

Area No (SPA)	Description of Land Area	Land Use Expectations	Matters to be addressed in Structure Plans (in addition to clause 6.9.4.4)	Associated Provisions
SPA 1	The lots bounded by South Western Highway and Preston River, and fronting Dale and Carey Streets, Donnybrook	Residential R30	Provision of safe access to and from South Western Highway. Provision of an appropriate foreshore reserve and interface between reserve and residential development. Need for road upgrading and additional roads to avoid multiple battleaxe' development.	All lots created must be connected to the reticulated water and sewerage systems.
SPA 2	The land bounded by Bentley, Ecclestone, Yelverton and Egan Streets, Donnybrook	Residential	The protection of native vegetation that has been identified as worthy of protection by the Department of Parks and Wildlife and the local government. Identification of building envelopes within the larger lots to protect native vegetation. Appropriate development setbacks from abutting Water Corporation infrastructure.	The site to be developed at an average density of R20, with the minimum lot size to accord with the R30 density code requirements.
SPA 3	Portion of Lot 2934 Bentley Road, Donnybrook	Residential R5	Pedestrian and vehicular movement systems that facilitate accessibility and integrate with existing development. Public open space provision. Areas requiring landscaping or revegetation. Effluent disposal and servicing. Development contributions. The protection of native vegetation that has been identified as worthy of protection by the Department of Parks and Wildlife and the local government. Appropriate fire management measures.	
SPA 4	The land coded R5/R20, east of the Preston River, Donnybrook	Residential R20	Visual impact assessment and landscape analysis where appropriate. Appropriate access from the existing road network. The interface between the proposed development and existing townsite including pedestrian access. Development contributions addressing— <ul style="list-style-type: none"> <li>• road and drainage; and</li> <li>• community and recreation facilities.</li> </ul>	All lots created must be connected to the reticulated water system, while all lots below 2000m <sup>2</sup> and grouped dwelling lots are required to be connected to the reticulated sewerage system.
SPA 5	Lot 300, 301 Elliott Street, Donnybrook and adjoining land bounded by Marmion Street to the north, State	Residential R20	Vegetation assessment to be prepared. Visual impact assessment and landscape analysis where appropriate. Development contributions. Appropriate access from the existing road network.	All lots created must be connected to the reticulated water system, while all lots below 2000m <sup>2</sup>

Area No (SPA)	Description of Land Area	Land Use Expectations	Matters to be addressed in Structure Plans (in addition to clause 6.9.4.4)	Associated Provisions
	Forest to the south and west and Goldfields Road to the east.		The interface between the proposed development and existing townsite including pedestrian access.	and grouped dwelling lots are required to be connected to the reticulated sewerage system.
SPA 6	Lot 130-135 Thomson Street, Donnybrook	Residential R20	Appropriate access from the existing road network. The interface between the proposed development and existing townsite including pedestrian access. Design for contemporary urban water management. Buffers to adjoining agriculture land. Development contributions.	All lots created must be connected to the reticulated water systems, while all lots below 2000m <sup>2</sup> and grouped dwelling lots are required to be connected to the reticulated sewerage system.
SPA 7	Lot 40-78 and 351 Victoria Parade, Donnybrook	Residential R20	All buildings, including a single dwelling and outbuildings, require the submission of an application for planning approval. Prior to the occupation of a dwelling or other building, the following matters are to be met to the satisfaction of the local government— <ul style="list-style-type: none"> <li>• legal and practical vehicular access;</li> <li>• wastewater disposal (unless habitation is not proposed and/or permitted);</li> <li>• stormwater management; and</li> <li>• structural integrity of building.</li> </ul> The applicant/landowner shall dedicate and construct a road reserve to ensure a public road is provided between the lot (development site) and a constructed public road, prior to the approval of a dwelling or other building. No more than one dwelling is permitted per lot.	
SPA 8	Lot 15, 57, 68, 73, 132, 133 and 250 South Western Highway, Kirup	Residential R10	Land capability assessment to confirm appropriate on-site effluent disposal. Buffers to adjoining agriculture land and railway reserve. Appropriate access to development from existing road network. The interface between the proposed development and existing townsite including pedestrian access. Fire management measures.	Design guidelines to be prepared to guide future development.

Area No (SPA)	Description of Land Area	Land Use Expectations	Matters to be addressed in Structure Plans (in addition to clause 6.9.4.4)	Associated Provisions
			Development contributions addressing— <ul style="list-style-type: none"> <li>• road and drainage; and</li> <li>• community and recreation facilities.</li> </ul>	
SPA 9	The land bounded by Castle Street, Baxter Street, Railway Road and Ravenscliffe Road, Kirup	Residential R10	Land capability assessment to confirm appropriate on-site effluent disposal. Buffers to adjoining agriculture land and railway reserve. Appropriate access to development from existing road network. Interface and connections to existing townsite including pedestrian access. Fire management measures. Development contributions addressing— <ul style="list-style-type: none"> <li>• road and drainage; and</li> <li>• community and recreation facilities.</li> </ul>	Design guidelines to be prepared to guide future development.
SPA 10	Lot 8, 9 and 74 South Western Highway, Kirup	Residential R10	Land capability assessment to confirm appropriate on-site effluent disposal. Buffers to adjoining agriculture land and railway reserve. Appropriate access to the development from existing road network. The interface between the proposed development and existing townsite including pedestrian access. Fire management measures. Development contributions addressing— <ul style="list-style-type: none"> <li>• road and drainage; and</li> <li>• community and recreation facilities.</li> </ul>	Design guidelines to be prepared to guide future development.
SPA 11	Mullalyup Residential	Residential R10	Land capability assessment to confirm appropriate on-site effluent disposal. Buffers to adjoining agriculture land. Development contributions plan. Appropriate access to the development from existing road network. The interface between the proposed development and existing townsite including pedestrian access. Fire management measures. Consideration of adjoining places of heritage significance. Retention and conservation of areas of native vegetation. Integration of the site on either side of the South Western Highway. Development contributions addressing— <ul style="list-style-type: none"> <li>• road and drainage; and</li> <li>• community and recreation facilities.</li> </ul>	Design guidelines to be prepared to guide future development.



Area No (SPA)	Description of Land Area	Land Use Expectations	Matters to be addressed in Structure Plans (in addition to clause 6.9.4.4)	Associated Provisions
SPA 12	The land bounded by Lukis Street, Walter Street and the Balingup Brook, Balingup	Rural Residential	Consolidation of land consistent with rural residential provisions. Land capability assessment to confirm appropriate on-site effluent disposal. Interface with the Balingup Brook. Appropriate access to the development from existing road network, Fire management measures.	
SPA 13	Lot 22 and 78 Forrest Street, Balingup	Residential R5	Land capability assessment to confirm appropriate on-site effluent disposal. Interface with the Balingup Brook and rail reserve. Buffers to adjoining agriculture land. Development contributions. Appropriate access to the development from existing road network, The interface between the proposed development and existing townsite including pedestrian access.	
SPA 14	Portion of Lot 8114 Blackwood River Drive, Balingup	Residential R10	Land capability assessment to confirm appropriate on-site effluent disposal. Buffers to adjoining agriculture land. Visual impact assessment and landscape analysis. Development contributions. Appropriate access to the development from existing road network, The interface between the proposed development and existing townsite including pedestrian access.	
SPA 15	The land bounded by Southampton Road Bailey Heights and Lot 2 Old Padbury Road, Balingup	Residential R10	Consolidation of the Residential zone consistent with the R10 density code requirements. Access from South Western Highway prohibited. Land capability assessment required to confirm appropriate on-site effluent disposal. Development contributions addressing— <ul style="list-style-type: none"> <li>• road and drainage; and</li> <li>• community and recreation facilities.</li> </ul>	
SPA 16	Lots 9500—9504 Kelly Road, Donnybrook	Residential, Parks and Recreation	Subdivision and development shall be in accordance with the endorsed Structure Plan.	Residential density is to be in accordance with the R Codes as indicated on the endorsed Structure Plan.
SPA 17	Lot 102 South Western Highway, Donnybrook	Residential Parks and Recreation	Survey identifying Black Cockatoo habitat and any areas, trees, tree hollows that require retention. A site contamination survey.	

Area No (SPA)	Description of Land Area	Land Use Expectations	Matters to be addressed in Structure Plans (in addition to clause 6.9.4.4)	Associated Provisions
			<p>A site contamination survey identifying any areas of contamination resulting from previous land use activity and recommendations/requirements for site remediation.</p> <p>Site survey to determine buffer width and other design solutions to sensitive land uses and existing orchard operations.</p> <p>Fire management plan.</p> <p>Road network promoting a strong north/south linkage and place a lower status access role onto Orchard Court.</p> <p>Road design and provision of pedestrian and cyclist facilities to reflect Liveable Neighbourhoods.</p> <p>Upgrading the Marginata Drive and South Western Highway intersection and construction of the existing road reserve along the southern edge of the land.</p> <p>Suitable water supply arrangements.</p> <p>Minimum lot sizes to be addressed to the satisfaction of relevant agencies.</p> <p>Public open space is suitably configured and located to best meet the needs of residents and protect natural features.</p> <p>Strategic connections to adjacent Development Investigation Areas and Structure Plan Areas.</p> <p>The need for larger lots to adjoin neighbouring land so that buffer distances to adjoin land uses can be achieved—including larger lots than those specified by the R5 Residential Design Code to meet increased setbacks to adjoining agriculture land use.</p> <p>Provision of a landscaping plan which addresses buffer planting and stormwater management.</p>	

*Schedule 16*

**DEVELOPMENT CONTRIBUTION PLANS**

(Clause 6.11)

No.	Description of Land	Infrastructure to which Cost Sharing Arrangements Relate	Cost Sharing Arrangement

**Schedule 17**  
**DEVELOPMENT INVESTIGATION AREAS**

(Clause 6.13)

Area No.	Description of Land Area	Land Use Expectation	Matters to be Addressed in Structure Plan (In Addition to Clause 6.10)
DIA1	Lot 1 Marshall Road, Argyle	Rural Residential	<p>The protection of native vegetation that has been identified as worthy of protection by the Department of Parks and Wildlife and the local government.</p> <p>Identification of building envelopes within the larger lots to protect vegetation.</p> <p>The provision of safe access to the existing local road network.</p> <p>Fire management associated with the close proximity to State Forest.</p>
DIA 2	Lot 1 Hurst Road, Argyle	Rural Residential	<p>Appropriate interface and road connections with adjoining Rural Residential development.</p> <p>The protection of native vegetation that has been identified as worthy of protection by the Department of Parks and Wildlife and the local government.</p> <p>Identification of building envelopes within the larger lots to protect vegetation.</p> <p>The provision of safe access to the existing local road network.</p> <p>Fire management associated with the close proximity to State Forest including onsite buffers.</p> <p>Provision of on-site buffer to adjoining agricultural land.</p>
DIA3	Lot 9 and 10 Hurst Road, Argyle	Rural Residential or Residential R2	<p>Appropriate interface and road connections with adjoining Rural Residential development.</p> <p>The protection of native vegetation that has been identified as worthy of protection by the Department of Parks and Wildlife and the local government.</p> <p>Identification of building envelopes within the larger lots to protect vegetation.</p> <p>The provision of safe access to the existing local road network.</p> <p>Fire management associated with the close proximity to State Forest, including on-site buffers.</p> <p>Investigate the potential for rural living at a minimum lot size of 5,000m<sup>2</sup></p> <p>Provision of on-site buffer to adjoining agricultural land.</p>
DIA 4	Lot 2643 Bendall Road, Argyle	Rural Residential	<p>Appropriate interface and road connections with adjoining Rural Residential development.</p> <p>The protection of native vegetation that has been identified as worthy of protection by the Department of Parks and Wildlife and the local government.</p> <p>Identification of building envelopes within the larger lots to protect vegetation.</p> <p>The provision of safe access to the existing local road network.</p> <p>Fire management associated with close proximity to State Forest, including onsite buffer.</p> <p>Investigate the potential for rural living at a minimum lot size of 5,000m<sup>2</sup>.</p>

Area No.	Description of Land Area	Land Use Expectation	Matters to be Addressed in Structure Plan (In Addition to Clause 6.10)
			Provision of on-site buffer to adjoining agricultural land.
DIA 5	Lot 6 and 7 Morgan Road, Lot 1, 2910 and 2934 Bentley Road, Donnybrook	Residential (R2.5 to R5)	<p>Investigate land capability and suitability for low density residential development / subdivision including—</p> <ul style="list-style-type: none"> <li>- lot sizes between 2000-4000m<sup>2</sup>;</li> <li>- pedestrian and vehicular movement systems that facilitate accessibility and integrate with existing development;</li> <li>- public open space provision;</li> <li>- landscaping and vegetation plan;</li> <li>- effluent disposal and servicing; and</li> <li>- development contributions.</li> </ul> <p>Provision of on-site buffer to adjoining agricultural land.</p> <p>The protection of native vegetation that has been identified as worthy of protection by the Department of Parks and Wildlife and the local government.</p> <p>Fire management associated with close proximity to State Forest, including on-site buffers.</p> <p>Provision of on-site buffers to agricultural land.</p>
DIA 6	Lot 102 South Western Highway and portion of Lot 2934 Bentley Road, Donnybrook	Residential (R2.5 to R5)	<p>Investigate land capability and suitability for residential subdivision/development including—</p> <ul style="list-style-type: none"> <li>- provision of on-site buffer to adjoining priority agriculture;</li> <li>- lot sizes between 2000-4000m<sup>2</sup>;</li> <li>- pedestrian and vehicular movement systems that facilitate accessibility and integrate with existing development;</li> <li>- public open space provision;</li> <li>- landscaping and vegetation plan;</li> <li>- provision of on-site buffer to adjoining agricultural land;</li> <li>- effluent disposal and servicing; and</li> <li>- development contributions.</li> </ul> <p>The protection of native vegetation that has been identified as worthy of protection by the Department of Parks and Wildlife and the local government.</p> <p>Appropriate fire management measures.</p>
DIA 7	Lot 3 and 4 Cemetery Road, Donnybrook	Rural Residential	<p>Investigate land capability and suitability for rural residential subdivision/development including—</p> <ul style="list-style-type: none"> <li>- pedestrian and vehicular movement systems that facilitate accessibility and integrate with existing development;</li> <li>- public open space provision;</li> <li>- landscaping and vegetation plan;</li> <li>- provision of on-site buffer to adjoining agricultural land;</li> <li>- effluent disposal and servicing; and</li> <li>- development contributions.</li> </ul> <p>The protection of native vegetation that has been identified as worthy of protection by the Department of Parks and Wildlife and local government.</p> <p>Appropriate fire management measures.</p>

Area No.	Description of Land Area	Land Use Expectation	Matters to be Addressed in Structure Plan (In Addition to Clause 6.10)
DIA 8	Lot 1 Cemetery Road, Donnybrook	Residential R10/R20	<p>Investigate land capability and suitability for residential development/subdivision including—</p> <ul style="list-style-type: none"> <li>- provision of on-site buffer to adjoining agriculture;</li> <li>- pedestrian and vehicular movement systems that facilitate accessibility and integrate with existing development;</li> <li>- public open space provision;</li> <li>- landscaping and vegetation plan;</li> <li>- effluent disposal and servicing;</li> <li>- urban water management; and</li> <li>- development contributions.</li> </ul> <p>Appropriate interface with adjoining residential development.</p>
DIA 9	Lot 621, 622, 623, 624 583 South Western Highway, Lot 177, 178, 430, 431 Montgomery Road, Lot 1, 102 180, 183, 184, 185, 1802 Hackett Road, Donnybrook	Industrial / Composite Industrial and Rural Smallholdings	<p>Investigate land capability and suitability for industrial or composite industrial/Rural Smallholdings development/subdivision including—</p> <ul style="list-style-type: none"> <li>- interface between existing and future industrial and residential land use, including appropriate buffer distances;</li> <li>- effluent disposal and servicing;</li> <li>- vehicular access to existing industrial area and major arterial roads;</li> <li>- landscaping and vegetation plan; and</li> <li>- drainage management.</li> </ul>
DIA 10	Lot 499 515, 520 and 525 Sandhills Road, Lot 398 Cherrydale Way, Lot 74, 297 and 447 Boyup Brook Road, Beelerup	General Industry	<p>Following gaining necessary approvals, support sand extraction prior to possible industrial development. Investigate the site's environmental assets, land suitability and land capability for General Industry including—</p> <ul style="list-style-type: none"> <li>- whether all or portion of the site should be included in a conservation reserve, or whether there is the potential for general industry subdivision and development;</li> <li>- interface with potential development to the south;</li> <li>- effluent disposal and servicing;</li> <li>- indigenous heritage;</li> <li>- vehicular access to existing industrial area and major arterial roads;</li> <li>- vegetation plan;</li> <li>- drainage management; and</li> <li>- buffer to land managed by the Department of Parks and Wildlife.</li> </ul> <p>The protection of native vegetation that has been identified as worthy of protection by the Department of Parks and Wildlife and the local government. Undertake a spring flora and vegetation survey.</p> <p>Appropriate fire management measures.</p>

Area No.	Description of Land Area	Land Use Expectation	Matters to be Addressed in Structure Plan (In Addition to Clause 6.10)
DIA 11	Lot 50 Yelverton Street, Kirup	Residential R10	<p>Investigate land capability and suitability for residential development/subdivision including—</p> <ul style="list-style-type: none"> <li>- provision of on-site buffer to adjoining agricultural land;</li> <li>- pedestrian and vehicular movement systems that facilitate accessibility and integrate with Kirup townsite;</li> <li>- landscaping and vegetation plan;</li> <li>- effluent disposal and servicing; and</li> <li>- urban water management.</li> </ul> <p>Appropriate interface with the existing vegetation in reserve land to the south-east and railway corridor to the west of the site.</p>
DIA 12	Lot 10, 52-54, 69, 94 and Lot 1146 South Western Highway, Kirup	Residential (R2.5 to R5)	<p>Investigate land capability and suitability for low density residential development / subdivision including—</p> <ul style="list-style-type: none"> <li>- provision of on-site buffer to adjoining agricultural land and State Forest;</li> <li>- lot sizes between 2000-4000m<sup>2</sup>;</li> <li>- pedestrian and vehicular movement systems that facilitate accessibility and integrate with Kirup townsite;</li> <li>- public open space provision;</li> <li>- landscaping and vegetation plan;</li> <li>- effluent disposal and servicing;</li> <li>- fire management measures; and</li> <li>- development contribution plans.</li> </ul> <p>The protection of native vegetation that has been identified as worthy of protection by the Department of Parks and Wildlife and the local government.</p>
DIA 13	Lot 72 and Lot 12 South Western Highway, Balingup	Residential (R2.5—R5) or Rural Residential	<p>Investigate land capability and suitability for low density residential development/subdivision or alternatively rural residential development/subdivision, including—</p> <ul style="list-style-type: none"> <li>- onsite effluent disposal;</li> <li>- environmental and landscape values including the provision of a buffer to the South Western Highway;</li> <li>- lot sizes that support community interaction;</li> <li>- pedestrian and vehicular movement systems that facilitate accessibility and integrate with Balingup townsite;</li> <li>- public open space provision (for residential development/subdivision);</li> <li>- landscaping and vegetation plan;</li> <li>- visual impact assessment;</li> <li>- fire management measures;</li> <li>- urban water management; and</li> <li>- development contributions.</li> </ul>
DIA 14	Lot 8117, 8143 and 11263 Brockman Street, Balingup	Residential (R2.5—R5)	<p>Investigate land capability and suitability for residential development/subdivision including—</p> <ul style="list-style-type: none"> <li>- provision of on-site buffer to adjoining agricultural land;</li> <li>- interface with the Balingup Brook;</li> </ul>

Area No.	Description of Land Area	Land Use Expectation	Matters to be Addressed in Structure Plan (In Addition to Clause 6.10)
			<ul style="list-style-type: none"> <li>- lot sizes that support community interaction;</li> <li>- pedestrian and vehicular movement systems that facilitate accessibility and integrate with the Balingup townsite;</li> <li>- public open space provision;</li> <li>- landscaping and vegetation plan;</li> <li>- visual impact assessment;</li> <li>- urban water management;</li> <li>- fire management measures; and</li> <li>- development contributions.</li> </ul>
DIA 15	Lot 50 Southampton Road and Lot 450 Old Padbury Road, Balingup	Residential (R2.5)	<p>Investigate land capability and suitability for low density residential development/subdivision including—</p> <ul style="list-style-type: none"> <li>- provision of on-site buffer to adjoining agricultural land;</li> <li>- lot sizes that support community interaction;</li> <li>- pedestrian and vehicular movement systems that facilitate accessibility and integrate with the Balingup townsite;</li> <li>- public open space provision;</li> <li>- landscaping and vegetation plan;</li> <li>- visual impact assessment;</li> <li>- fire management measures;</li> <li>- urban water management; and</li> <li>- development contributions.</li> </ul> <p>The proponent is required to undertake a view shed analysis at their cost, to the satisfaction of the local government. Any proposed subdivision/development within DIA 15 shall not negatively impact upon the values of the Golden Valley Tree Park.</p>
DIA 16	Lot 109, 182 and 451 Jayes Road, Balingup	Rural Residential	<p>Appropriate interface and road connections with adjoining Rural Residential development.</p> <p>The protection of native vegetation that has been identified as worthy of protection by the Department of Parks and Wildlife and the local government.</p> <p>Identification of building envelopes within the larger lots to protect vegetation.</p> <p>Provision of safe access to existing local road network.</p> <p>Fire management associated with the close proximity to State Forest, including onsite buffers.</p> <p>Provision of on-site buffer to adjoining agricultural land.</p> <p>Appropriate buffers to the Balingup Brook.</p>
DIA 17	Lot 6 on Plan 10273 Balinga Drive and South Western Highway, Balingup	Rural Smallholdings	<p>Investigate land capability and suitability for rural smallholdings development/subdivision including—</p> <ul style="list-style-type: none"> <li>- provision of on-site buffer to adjoining agricultural land;</li> <li>- interface with the Balingup Brook;</li> <li>- pedestrian and vehicular movement systems that facilitate accessibility and integrate with the Balingup townsite;</li> <li>- public open space provision;</li> </ul>

Area No.	Description of Land Area	Land Use Expectation	Matters to be Addressed in Structure Plan (In Addition to Clause 6.10)
			<ul style="list-style-type: none"> <li>- landscaping and vegetation plan;</li> <li>- visual impact assessment;</li> <li>- urban water management;</li> <li>- fire management measures;</li> <li>- development contributions;</li> <li>- flood risk; and</li> <li>- width and tenure of foreshore reserves.</li> </ul>
DIA 18	Lot 78 Jayes Road, Balingup	Residential	Investigate land capability and suitability for residential development/subdivision including— <ul style="list-style-type: none"> <li>- provision of on-site buffer to agricultural land;</li> <li>- interface with the Balingup Brook;</li> <li>- pedestrian and vehicular movement systems that facilitate accessibility and integrate with the Balingup townsite;</li> <li>- public open space provision;</li> <li>- landscaping and vegetation plan;</li> <li>- visual impact assessment;</li> <li>- urban water management;</li> <li>- fire management measures;</li> <li>- development contributions;</li> <li>- flood risk; and</li> <li>- width and tenure of foreshore reserves.</li> </ul>

#### ADOPTION

Adopted by resolution of the local government of the Shire of Donnybrook-Balingup at the meeting of the local government held on 27th October 2010.

S. B. DILLEY, Shire President.

Date: 11th July 2014.

J. R. ATTWOOD, Chief Executive Officer.

Date: 11th July 2014.

#### FINAL APPROVAL

Adopted for final approval by resolution of the Shire of Donnybrook-Balingup at the meeting of the local government held on the 22nd May 2013, and the Seal of the Municipality pursuant to that resolution was hereunto affixed by the authority of a resolution of the local government in the presence of—

S. B. DILLEY, Shire President.

Date: 11th July 2014.

J. R. ATTWOOD, Chief Executive Officer.

Date: 11th July 2014.

N. FRASER, Delegated under s.16 of the *Planning and Development Act 2005*.

Date: 31st July 2014.

#### FINAL APPROVAL GRANTED

JOHN DAY, Minister for Planning.

Date: 27th August 2014.