



**WESTERN
AUSTRALIAN
GOVERNMENT
Gazette**

ISSN 1448-949X (print)

ISSN 2204-4264 (online)

PRINT POST APPROVED PP665002/00041

4231



PERTH, WEDNESDAY, 2 AUGUST 2017 No. 155 SPECIAL

PUBLISHED BY AUTHORITY KEVIN J. McRAE, GOVERNMENT PRINTER AT 12.00 NOON

© STATE OF WESTERN AUSTRALIA

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF ESPERANCE

LOCAL PLANNING SCHEME

No. 24

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF ESPERANCE

LOCAL PLANNING SCHEME No. 24

TABLE OF CONTENTS

PART 1—PRELIMINARY

1. Citation
2. Commencement
3. Scheme revoked
4. Notes do not form part of Scheme
5. Responsibility for Scheme
6. Scheme area
7. Contents of Scheme
8. Purposes of Scheme
9. Aims of Scheme
10. Relationship with local laws
11. Relationship with other local planning schemes
12. Relationship with region planning scheme

PART 2—RESERVES

13. Regional Reserves
14. Local reserves
15. Additional uses for local reserves

PART 3—ZONES AND USE OF LAND

16. Zones
17. Zoning table
18. Interpreting zoning table
19. Additional uses
20. Restricted uses
21. Special uses
22. Non-conforming uses
23. Changes to non-conforming use
24. Register of non-conforming uses

PART 4—GENERAL DEVELOPMENT REQUIREMENTS

25. R-Codes
26. Modification of R-Codes
27. State Planning Policy 3.6 to be read as part of Scheme
28. Modification of State Planning Policy 3.6
29. Other State planning policies to be read as part of Scheme
30. Modification of State planning policies
31. Environmental conditions
32. Additional site and development requirements
33. Additional site and development requirements for areas covered by structure plan, activity centre plan or local development plan
34. Variations to site and development requirements
35. Restrictive covenants

PART 5—SPECIAL CONTROL AREAS

36. Special control areas

PART 6—TERMS REFERRED TO IN SCHEME*Division 1—General definitions used in Scheme*

37. Terms used

Division 2—Land use terms used in Scheme

38. Land use terms used

SCHEDULE A—SUPPLEMENTAL PROVISIONS TO THE DEEMED PROVISIONS

61. Development for which Development Approval Not Required

SCHEDULE 1—ADDITIONAL REQUIREMENTS THAT APPLY TO LAND IN SCHEME AREA

1. Development Requirements
2. Minimum Lot Sizes in Residential Zones
3. Building Height for the Commercial and Mixed Use Zones for Buildings with a Residential Component
4. Rural Residential and Rural Smallholding Development Provisions
5. Rural and Rural Smallholding Zone Highway and Railway Noise Notification
6. Urban Development and Industrial Development Provisions
7. Tourism Zone Provisions
8. Rural Zone Second Dwelling Provisions
9. Development of Land without Constructed/Dedicated Road Frontage or Access
10. Internal Access and Laneways
11. Site with more than One Street Frontage
12. Parking Separated from Development and Cash in Lieu
13. Reciprocal Parking and Shared Parking
14. Provisions for Parking, Access for Loading and Unloading Vehicles
15. Parking of Commercial Vehicles in Residential Areas
16. Effluent Disposal
17. Building Height
18. Potable Water Supply
19. Landscaping of Demolished Building Sites
20. Sealing of Vehicle Parking and Access
21. Bed and Breakfast and Holiday Home Requirements
22. Light overspill
23. Caretaker's Dwellings
24. Repurposed Dwelling Requirements
25. Second-hand Dwelling Requirements
26. Shipping Container Requirements
27. Serviced Apartment Requirements
28. Vegetation Protection
29. Outbuildings in the Residential and Rural Residential Zones
30. Advertisements
31. Unkempt Land
32. Amenity
33. Management of Stormwater
34. Telecommunications Infrastructure
35. Requirement for Consultation to Commence Mining

SCHEDULE 2—SPECIAL CONTROL AREAS

1. SCA 1—Port and Transport Corridor Special Control Area 1
2. SCA 2—Flinders Residential Development Special Control Area
3. SCA 3—Shark Lake Industrial Park Special Control Area 3
4. SCA 4—Public Drinking Water Source Protection Areas—Special Control Area 4
5. SCA 5—Wetlands of Significance and Lake Warden Recovery Catchment Special Control Area 5
6. SCA 6—Brazier Street Industry Special Control Area 6
7. SCA 7—Blue Haven and Second Beach Special Control Area 7
8. SCA 8—Esperance Airport Special Control Area 8
9. SCA 9—Coastal Erosion and Inundation Risk Special Control Area 9
10. SCA 10—Undeveloped Rural Area

SCHEDULE 3—ADDITIONAL USES

SCHEDULE 4—RESTRICTED USES

SCHEDULE 5—SPECIAL USES

SCHEDULE 6—DEVELOPMENT PROVISIONS BY ZONE

SCHEDULE 7—PARKING AND LANDSCAPING BY LAND USE

SCHEDULE 8—RURAL RESIDENTIAL—SPECIAL PROVISIONS

SCHEDULE 9—RURAL SMALLHOLDINGS—SPECIAL PROVISIONS

SCHEDULE 10—EXEMPTED ADVERTISEMENTS

SCHEDULE 11—DEVELOPMENT CONTRIBUTION AREAS

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF ESPERANCE

LOCAL PLANNING SCHEME No. 24**PART 1—PRELIMINARY****1. Citation**

This local planning scheme is the Shire of Esperance Scheme No. 24

2. Commencement

Under section 87(4) of the Act, this local planning scheme comes into operation on the day on which it is published in the *Gazette*.

3. Scheme revoked

The following local planning schemes are revoked—

Town Planning Scheme No. 1	Gazetted 31 July 1964
Town Planning Scheme No. 2	Gazetted 12 July 1965
Town Planning Scheme No. 3	Gazetted 3 June 1967
Town Planning Scheme No. 4	Gazetted 9 May 1969
Town Planning Scheme No. 17	Gazetted 12 August 1977
Town Planning Scheme No. 18	Gazetted 27 July 1977
Local Planning Scheme No. 23	Gazetted 19 January 2010

4. Notes do not form part of Scheme

Notes, and instructions printed in italics, do not form part of this Scheme.

Note: The *Interpretation Act 1984* section 32 makes provision in relation to whether headings form part of the written law.

5. Responsibility for Scheme

The Shire of Esperance is the local government responsible for the enforcement and implementation of this Scheme and the execution of any works required to be executed under this Scheme.

6. Scheme area

This Scheme applies to the area shown on the Scheme Map.

7. Contents of Scheme

(1) In addition to the provisions set out in this document (the *scheme text*), this Scheme includes the following—

- (a) the deemed provisions (set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2) including any supplementary provisions as outlined in Schedule A of the scheme text;
- (b) the Scheme Map; and
- (c) the supplemental provisions contained in Schedule A of the Scheme.

(2) This Scheme is to be read in conjunction with any local planning strategy for the Scheme area.

8. Purposes of Scheme

The purposes of this Scheme are to—

- (a) set out the local government's planning aims and intentions for the Scheme area; and
- (b) set aside land as local reserves for public purposes; and
- (c) zone land within the Scheme area for the purposes defined in this Scheme; and
- (d) control and guide development including processes for the preparation of structure plans, activity centre plans and local development plans; and
- (e) set out procedures for the assessment and determination of development applications; and
- (f) set out procedures for contributions to be made for the costs of providing infrastructure in connection with development through development contribution plans; and

- (g) make provision for the administration and enforcement of this Scheme; and
 (h) address other matters referred to in Schedule 7 of the Act.

9. Aims of Scheme

The aims of this Scheme are to—

- (a) ensure there is a sufficient and sustainable supply of serviced and suitable land for housing, commercial activities, community facilities, recreation, and open space;
- (b) support such expansion as is consistent with the provision and improvement of infrastructure, services and facilities;
- (c) provide for a range of accommodation choices that meets the needs and aspirations of the community;
- (d) provide for convenient, attractive and viable commercial areas and tourist facilities to serve the needs of the residents and visitors;
- (e) encourage the development of businesses that will strengthen the economic base of the central business district;
- (f) ensure the use and development of land does not result in significant adverse impacts on the physical and social environment;
- (g) promote the sustainable use of land for agriculture, forestry and aquaculture whilst accommodating other compatible rural activities;
- (h) protect the agricultural areas from inappropriate development and intrusion by urban and semi-rural uses;
 - (i) protect the amenity and enhance the quality of urban, rural and coastal environments;
 - (j) protect and enhance the environment and natural resources, including waterways and wetlands, of the local government district;
- (k) protect remnant vegetation;
- (l) protect local public drinking water supply areas from inappropriate development;
- (m) enhance the public health of the community; and
- (n) protect objects and places of outstanding natural, historic, architectural, scientific and cultural significance.

10. Relationship with local laws

Where a provision of this Scheme is inconsistent with a local law, the provision of this Scheme prevails to the extent of the inconsistency.

11. Relationship with other local planning schemes

There are no other local planning schemes of the Shire of Esperance which apply to the Scheme area.

12. Relationship with region planning scheme

There are no region planning schemes which apply to the Scheme area.

PART 2—RESERVES

13. Regional Reserves

- (1) There are no regional reserves in the Scheme area.

14. Local reserves

- (1) In this clause—

Department of Main Roads means the department principally assisting in the administration of the *Main Roads Act 1930*;

Western Australian Road Hierarchy means the document of that name available on the website maintained by the Department of Main Roads.

- (2) Local reserves are shown on the Scheme Map according to the legend on the Scheme Map.
 (3) The objectives of each local reserve are as follows—

Table No. 1— Reserve objectives

Reserve name	Objectives
Public Open Space	<ul style="list-style-type: none"> • To set aside areas for public open space, particularly those established under the <i>Planning and Development Act 2005</i> s. 152. • To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage.
Environmental Conservation	<ul style="list-style-type: none"> • To identify areas with biodiversity and conservation value, and to protect those areas from development and subdivision. • To identify and protect areas of biodiversity conservation significance within National Parks and State and other conservation reserves.

Reserve name	Objectives
Civic and Community	<ul style="list-style-type: none"> To provide for a range of community facilities which are compatible with surrounding development. To provide for public facilities such as halls, theatres, art galleries, educational, health and social care facilities, accommodation for the aged, and other services by organisations involved in activities for community benefit.
Public Purposes	<ul style="list-style-type: none"> To provide for a range of essential physical and community infrastructure.
Medical Services	<ul style="list-style-type: none"> Public Purposes which specifically provide for a range of essential medical services.
Infrastructure Services	<ul style="list-style-type: none"> Public Purposes which specifically provide for a range of essential infrastructure services.
Education	<ul style="list-style-type: none"> Public Purposes which specifically provide for a range of essential education facilities.
Emergency Services	<ul style="list-style-type: none"> Public Purposes which specifically provide for a range of essential emergency services.
Heritage	<ul style="list-style-type: none"> Public Purposes which specifically provide for a range of heritage purposes.
Government Services	<ul style="list-style-type: none"> Public Purposes which specifically provide for a range of government services.
Recreational	<ul style="list-style-type: none"> Public Purposes which specifically provide for a range of public recreational facilities.
Cemetery	<ul style="list-style-type: none"> To set aside land required for a cemetery.
Drainage / Waterway	<ul style="list-style-type: none"> To set aside land required for significant waterways and drainage.
Railways	<ul style="list-style-type: none"> To set aside land required for passenger rail and rail freight services.
Primary Distributor Road	<ul style="list-style-type: none"> To set aside land required for a primary distributor road being a road classified as a Regional Distributor or Primary Distributor under the Western Australian Road Hierarchy.
Local Distributor Road	<ul style="list-style-type: none"> To set aside land required for a local distributor road being a road classified as a Local Distributor under the Western Australian Road Hierarchy.
Local Road	<ul style="list-style-type: none"> To set aside land required for a local road being a road classified as an Access Road under the Western Australian Road Hierarchy.
Strategic infrastructure	<ul style="list-style-type: none"> To set aside land required for port or airport facilities.
Special Purpose	<ul style="list-style-type: none"> To set aside land for a special purpose. Purposes that do not comfortably fit in any other reserve classification.

15. Additional uses for local reserves

(1) The Table sets out—

- classes of use for specified land located in local reserves that are additional to classes of use determined in accordance with the objectives of the reserve; and
- the conditions that apply to that additional use.

Table No. 2—Specified additional uses for land in local reserves in Scheme area

No.	Description of land	Additional use	Conditions
AR1	Portion of Reserve 28207	Hotel Recreation—Private Restaurant/Café	1. Hotel is to be in accordance with a Restricted Tavern license under clause 41(1)(c) of the <i>Liquor Control Act 1988</i>
AR2	Reserve 39435	Recreation Tourism Purposes	1. As determined by the local government
AR3	Reserve 27318	Recreation—Private Tourism Purposes Restaurant/Café	1. As determined by the local government 2. Restaurant/Café is only permitted if it is mobile 3. Within designated lease areas only
AR4	Reserve 50765	Restaurant/Café	1. As determined by the local government 2. Restaurant/Café is only permitted if it is mobile 3. Within designated lease area only

No.	Description of land	Additional use	Conditions
AR5	Reserve 35037	Club Premises Recreation—Private Restaurant/Café Rural Pursuit	1. As determined by the local government 2. Within designated lease areas only
AR6	Reserve 48015	Club Premises Community Purpose	1. As determined by the local government 2. Within designated lease areas only
AR7	Reserve 30201 and a Portion of Reserve 30202	Club Premises Recreation—Private Restaurant/Café	1. As determined by the local government 2. Within designated lease area only
AR8	Reserve 34219	As a 'D' use Recreation—Private Community Purposes As an 'T' use Restaurant/Café	1. As determined by the local government 2. Within designated lease areas only

(2) Despite anything contained in clause 14, land that is specified in the Table to subclause (1) may be used for the additional class of use set out in respect of that land subject to the conditions that apply to that use.

(3) Despite anything contained in clause 14, a reserve may be used by the local government for the purposes of developing or maintaining public infrastructure.

PART 3—ZONES AND USE OF LAND

16. Zones

(1) Zones are shown on the Scheme Map according to the legend on the Scheme Map.

(2) The objectives of each zone are as follows—

Table No. 3—Zone objectives

Zone name	Objectives
Residential	<ul style="list-style-type: none"> To provide for a range of housing and a choice of residential densities to meet the needs of the community. To facilitate and encourage high quality design, built form and streetscapes throughout residential areas. To provide for a range of non-residential uses, which are compatible with and complementary to residential development.
Urban Development	<ul style="list-style-type: none"> To provide an intention of future land use and a basis for more detailed structure planning in accordance with the provisions of this Scheme. To provide for a range of residential densities to encourage a variety of residential accommodation. To provide for the progressive and planned development of future urban areas for residential purposes and for commercial and other uses normally associated with residential development.
Rural	<ul style="list-style-type: none"> To provide for the maintenance or enhancement of specific local rural character. To protect broad acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use. To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage. To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone. To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.

Zone name	Objectives
Rural Residential	<ul style="list-style-type: none"> • To provide for lot sizes in the range of 1 ha to 4 ha. • To prevent subdivision on lots of less than 1 ha that have a rural residential outlook and uses. • To provide opportunities for a range of limited rural and related ancillary pursuits on rural-residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land. • To set aside areas for the retention of vegetation and landform or other features which distinguish the land.
Rural Smallholdings	<ul style="list-style-type: none"> • To provide for lot sizes in the range of 4 ha to 40 ha. • To provide for a limited range of rural land uses where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land. • To set aside areas for the retention of vegetation and landform or other features which distinguish the land.
Rural Townsite	<ul style="list-style-type: none"> • To provide for a range of land uses that would typically be found in a small country town.
Light Industry	<ul style="list-style-type: none"> • To provide for a range of industrial uses and service industries generally compatible with urban areas, that cannot be located in commercial zones. • To accommodate commercial activities which, because of the nature of the business, require good vehicular access and/or large sites. • To provide for a range of wholesale sales, showrooms, trade and services which, by reason of their scale, character, operational or land requirements, are not generally appropriate in, or cannot conveniently or economically be accommodated in, the central area, shops and offices or industrial zones. • To ensure that where any development adjoins zoned or developed residential properties, the development is suitably set back, screened or otherwise treated so as not to detract from the residential amenity.
General Industry	<ul style="list-style-type: none"> • To provide for a broad range of industrial, service and storage activities which, by the nature of their operations, should be isolated from residential and other sensitive land uses. • To accommodate industry that would not otherwise comply with the performance standards of light industry. • Seek to manage impacts such as noise, dust and odour within the zone.
Industrial Development	<ul style="list-style-type: none"> • To designate land for future industrial development. • To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme.
Commercial	<ul style="list-style-type: none"> • To provide for a range of shops, offices, restaurants and other commercial outlets in defined townsites or activity centres. • To maintain the compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades. • To ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality.
Local Centre	<ul style="list-style-type: none"> • Provide services for the immediate neighbourhoods, that are easily accessible, which do not adversely impact on adjoining residential areas. • Provide for neighbourhood and local centres to focus on the main daily household shopping and community needs. • Encourage high quality, pedestrian-friendly, street-orientated development. • Provided a focus for medium density housing • Ensure the design and landscaping of development provides a high standard of safety, convenience and amenity and contributes towards a sense of place and community.
Mixed Use	<ul style="list-style-type: none"> • To provide for a wide variety of active uses on street level which are compatible with residential and other non-active uses on upper levels. • To allow for the development of a mix of varied but compatible land uses such as housing, offices, showrooms, amusement centres, eating establishments and appropriate industrial activities which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents.

Zone name	Objectives
Tourism	<ul style="list-style-type: none"> To promote and provide for tourism opportunities. To provide for a variety of holiday accommodation styles and associated uses, including retail and service facilities where those facilities are provided in support of the tourist accommodation and are of an appropriate scale where they will not impact detrimentally on the surrounding or wider area. To allow limited residential uses where appropriate. To encourage the location of tourist facilities so that they may benefit from existing road services, physical service infrastructure, other tourist attractions, natural features and urban facilities.
Private Community Purposes	<ul style="list-style-type: none"> To provide sites for privately owned and operated recreation, institutions and places of worship. To integrate private recreation areas with public recreation areas wherever possible. To separate potentially noisy engine sports from incompatible uses. To provide for a range of privately owned community facilities, and uses that are incidental and ancillary to the provision of those facilities, which are compatible with surrounding development. To ensure that the standard of development is in keeping with surrounding development and protects the amenity of the area.
Special Use	<ul style="list-style-type: none"> To facilitate special categories of land uses which do not sit comfortably within any other zone. To enable the Council to impose specific conditions associated with the special use.
Cultural and Natural Resource Zone	<ul style="list-style-type: none"> Ensure the preservation of Aboriginal heritage and culturally significant areas. Provide for the conservation of significant landscape and environmental areas and values. Allow for low impact tourism development including low impact tourist accommodation and camping areas. Allow land uses associated with Aboriginal heritage, traditional law and culture. Allow agricultural activities where the land is already used for agricultural purposes at the gazettal date of the Scheme.

17. Zoning table

The zoning table for this Scheme is as follows—

Table No. 4—Zoning and Land Use Table

USES	ZONES											
	1	2	3	4	5	6	7	8	9	10	11	12
	Residential	Rural	Rural Residential	Rural Smallholdings	Rural Townsite	Light Industry	General Industry	Commercial	Local Centre	Mixed Use	Tourism	Private Community Purposes
Abattoir	X	A	X	X	X	X	A	X	X	X	X	X
Aged care facility	A	X	X	X	A	X	X	X	X	X	X	X
Agriculture—Extensive	X	P	X	D	X	X	X	X	X	X	X	X
Agriculture—Intensive	X	D	X	A	X	X	X	X	X	X	X	X
Amusement parlour	X	X	X	X	X	X	X	D	A	A	D	D
Ancillary dwelling	P	D	D	D	D	X	X	X	X	X	X	X
Animal establishment	X	D	A	A	A	X	X	X	X	X	X	X
Animal husbandry—intensive	X	D	X	A	X	X	X	X	X	X	X	X
Art gallery	A	D	A	X	A	X	X	D	A	A	D	D
Bed and breakfast	D	D	D	D	D	X	X	X	X	X	D	X
Betting agency	X	X	X	X	X	X	X	D	A	A	X	A
Brewery	X	D	A	A	A	D	D	X	A	A	X	X
Bulky goods showroom	X	X	X	X	X	D	X	D	D	D	X	X
Caravan park	X	A	X	A	A	X	X	X	X	X	D	X
Caretaker's dwelling	X	I	X	X	I	I	X	X	X	X	X	X

USES	ZONES											
	1	2	3	4	5	6	7	8	9	10	11	12
	Residential	Rural	Rural Residential	Rural Smallholdings	Rural Townsite	Light Industry	General Industry	Commercial	Local Centre	Mixed Use	Tourism	Private Community Purposes
Car park	X	X	X	X	D	X	X	D	D	D	D	D
Child care premises	A	X	X	X	A	X	X	D	D	D	X	D
Cinema/theatre	X	X	X	X	X	X	X	D	D	D	D	X
Civic use	A	D	D	D	A	D	D	D	D	D	D	D
Club premises	X	A	X	A	D	D	X	D	D	D	X	D
Commercial vehicle parking	D	D	A	D	D	D	D	X	X	X	X	X
Community purpose	X	X	X	X	A	D	X	D	D	D	X	D
Consulting rooms	A	X	X	X	D	X	X	D	D	D	X	X
Convenience Store	X	X	X	X	A	A	X	P	D	D	A	X
Corrective institution	X	A	X	X	X	X	A	X	X	X	X	X
Dry cleaning premises / laundromat	X	X	X	X	X	D	D	D	D	D	X	X
Educational establishment	A	A	X	A	A	X	X	A	A	A	X	A
Exhibition centre	X	D	A	A	D	X	X	D	D	D	A	D
Family day care	I	I	I	I	I	X	X	I	X	X	X	I
Fast food outlet	X	X	X	X	D	X	X	D	D	D	X	X
Fuel depot	X	D	X	X	A	D	D	X	X	X	X	X
Funeral parlour	X	X	X	X	A	A	D	A	X	X	X	X
Garden centre	X	D	X	D	X	D	D	X	A	A	X	X
Grouped dwelling	D	X	X	X	X	X	X	D	D	X	X	X
Holiday accommodation	X	A	X	X	A	X	X	D	X	X	D	X
Holiday house	A	D	A	D	A	X	X	X	X	X	P	X
Home business	A	D	D	D	D	X	X	D	X	X	D	D
Home occupation	D	P	D	D	D	X	X	P	X	X	P	D
Home office	I	I	I	I	I	X	X	I	X	X	I	I
Home store	X	D	X	A	A	X	X	X	X	X	X	X
Hospital	X	X	X	X	X	X	X	D	X	X	X	D
Hostel	A	A	X	X	X	X	X	X	X	X	A	A
Hotel	X	X	X	X	A	X	X	D	X	X	A	X
Industry	X	I	X	X	X	X	P	X	X	X	X	X
Industry—Cottage	X	D	D	D	A	X	X	X	X	X	X	X
Industry—Extractive	X	D	X	A	X	X	D	X	X	X	X	X
Industry—light	X	I	X	X	X	P	P	X	X	X	X	X
Liquor store—large	X	X	X	X	X	D	X	D	A	A	A	X
Liquor store—small	X	X	X	X	A	D	X	P	D	D	D	X
Lunch Bar	X	X	X	X	D	D	X	D	D	D	X	X
Marina	X	X	X	X	X	X	X	X	X	X	A	A
Marine filling station	X	X	X	X	D	D	D	X	X	X	X	X
Market	X	X	X	X	A	D	X	D	D	D	D	X
Medical centre	X	X	X	X	A	X	X	D	D	D	X	X
Mining Operations	X	D	X	X	X	X	X	X	X	X	X	X
Motel	X	X	X	X	A	X	X	D	A	A	D	X
Motor vehicle, boat or caravan sales	X	X	X	X	D	P	P	X	X	X	X	X
Motor vehicle repair	X	X	X	X	X	D	D	X	X	X	X	X
Motor vehicle wash	X	X	X	X	D	D	D	X	X	X	X	X
Multiple Dwelling	D	X	X	X	X	X	X	D	D	X	X	X
Nightclub	X	X	X	X	X	A	X	A	X	X	A	X

USES	ZONES											
	1	2	3	4	5	6	7	8	9	10	11	12
	Residential	Rural	Rural Residential	Rural Smallholdings	Rural Townsite	Light Industry	General Industry	Commercial	Local Centre	Mixed Use	Tourism	Private Community Purposes
Office	X	X	X	X	D	I	I	P	D	D	X	I
Park home park	X	X	X	X	X	X	X	X	X	X	D	X
Place of worship	A	A	X	X	A	A	X	A	A	A	X	D
Reception centre	X	A	X	A	D	X	X	D	D	D	D	A
Renewable energy facility	X	D	A	D	A	D	D	D	A	A	X	X
Recreation—private	X	D	A	A	X	D	D	D	X	X	X	D
Repurposed dwelling	X	D	A	D	X	X	X	X	X	X	X	X
Residential building	D	D	D	D	D	X	X	X	X	X	X	X
Resource recovery centre	X	A	X	X	X	X	A	X	X	X	X	X
Restaurant/café	X	A	X	A	D	X	X	P	D	D	A	D
Restricted premises	X	X	X	X	X	A	D	A	X	X	X	X
Road house	X	X	X	X	A	D	D	A	X	X	X	X
Rural produce store	X	I	X	X	X	X	X	X	X	X	X	X
Rural home business	X	D	A	D	A	X	X	X	X	X	X	X
Rural pursuit/hobby farm	X	P	D	P	X	X	X	X	X	X	X	X
Second-hand dwelling	D	D	D	D	D	X	X	X	X	X	X	X
Serviced apartment	A	X	X	X	X	X	X	A	A	A	A	X
Service station	X	X	X	X	D	D	D	D	D	D	A	X
Shop	X	X	X	X	X	X	X	P	D	D	I	X
Single house	P	P	D	P	D	X	X	X	X	X	I	D
Small bar	A	X	X	X	A	X	X	D	D	D	D	A
Special Purpose Dwelling	D	X	X	X	D	X	X	A	X	X	X	X
Supermarket	X	X	X	X	X	X	X	D	A	A	X	X
Tavern	X	X	X	X	A	X	X	A	A	A	A	A
Telecommunications infrastructure	A	P	A	D	A	P	P	P	P	P	X	P
Tourist development	X	X	X	X	X	X	X	A	X	X	A	X
Trade display	X	X	X	X	X	D	P	X	X	X	X	X
Trade supplies	X	X	X	X	X	D	P	X	X	X	X	X
Transport depot	X	D	X	A	A	D	P	X	X	X	X	X
Tree farm	X	D	X	A	X	X	X	X	X	X	X	X
Veterinary centre	X	A	X	X	A	D	D	X	X	X	X	X
Warehouse/storage	X	X	X	X	D	D	P	X	X	X	X	X
Waste disposal facility	X	X	X	X	X	X	X	X	X	X	X	X
Winery	X	D	D	D	X	X	X	X	X	X	X	X
Workforce accommodation	X	D	X	X	A	X	X	X	X	X	X	X

18. Interpreting zoning table

(1) The permissibility of uses of land in the various zones in the Scheme area 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.

(2) The symbols used in the zoning table have the following meanings—

P means that the use is permitted if it complies with all relevant development standards and requirements of this Scheme;

I means that the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with any relevant development standards and requirements of this Scheme;

D means that the use is not permitted unless the local government has exercised its discretion by granting development approval;

- A means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions;
- X means that the use is not permitted by this Scheme.
- Note: 1. The development approval of the local government may be required to carry out works on land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the carrying out of works on, and the use of, land. For development on land that does not require development approval see clause 61 of the deemed provisions.
2. In considering an application for development approval, the local government will have regard to clause 67 of the deemed provisions.
- (3) A specific use class referred to in the zoning table is excluded from any other use class described in more general terms.
- (4) The local government may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table—
- (a) determine that the use is consistent with the objectives of a particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the local government; or
 - (b) determine that the use may be consistent with the objectives of a particular zone and give notice under clause 64 of the deemed provisions before considering an application for development approval for the use of the land; or
 - (c) determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted in the zone.
- (5) If a use of land is identified in a zone as being a class P or class I use, the local government may not refuse an application for development approval for that use in that zone but may require works that are to be undertaken in connection with that use to have development approval.
- (6) If a use of land is identified in a zone as being a class X use, the local government must refuse an application for development approval for that use in that zone unless—
- (a) the development approval application relates to land that is being used for a non-conforming use; and
 - (b) the local government considers that the proposed use of the land would be less detrimental than the non-conforming use.
- (7) If the zoning table does not identify any permissible uses for land in a zone the local government may, in considering an application for development approval for land within the zone, have due regard to any of the following that apply to the land—
- (a) a structure plan;
 - (b) an activity centre plan;
 - (c) a local development plan;
 - (d) the objectives of the zone.

19. Additional uses

- (1) Schedule 3 sets out—
- (a) classes of use for specified land that are additional to the classes of use that are permissible in the zone in which the land is located; and
 - (b) the conditions that apply to that additional use.
- (2) Despite anything contained in the zoning table, land that is specified in the Table to subclause (1) may be used for the additional class of use set out in respect of that land subject to the conditions that apply to that use.

20. Restricted uses

- (1) Schedule 4 sets out—
- (a) restricted classes of use for specified land that apply instead of the classes of use that are permissible in the zone in which the land is located; and
 - (b) the conditions that apply to that restricted use.
- (2) Despite anything contained in the zoning table, land that is specified in the Table to subclause (1) may be used only for the restricted class of use set out in respect of that land subject to the conditions that apply to that use.

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

21. Special uses

- (1) Schedule 5 sets out—
- (a) special uses for specified land that are in addition to the zones in the zoning table; and
 - (b) the classes of special use that are permissible in that zone; and
 - (c) the conditions that apply in respect of the special uses.

(2) A person must not use any land, or any structure or buildings on land, in a special use zone except for a class of use that is permissible in that zone and subject to the conditions that apply to that use.

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

22. Non-conforming uses

(1) Unless specifically provided, this Scheme does not prevent—

- (a) the continued use of any land, or any structure or building on land, for the purpose for which it was being lawfully used immediately before the commencement of this Scheme; or
- (b) the carrying out of development on land if—
 - (i) before the commencement of this Scheme, the development was lawfully approved; and
 - (ii) the approval has not expired or been cancelled.

(2) Subclause (1) does not apply if—

- (a) the non-conforming use of the land is discontinued; and
- (b) a period of 6 months, or a longer period approved by the local government, has elapsed since the discontinuance of the non-conforming use.

(3) Subclause (1) does not apply in respect of a non-conforming use of land if, under Part 11 of the Act, the local government—

- (a) purchases the land; or
- (b) pays compensation to the owner of the land in relation to the non-conforming use.

23. Changes to non-conforming use

(1) A person must not, without development approval—

- (a) alter or extend a non-conforming use of land; or
- (b) erect, alter or extend a building used for, or in conjunction with, a non-conforming use; or
- (c) repair, rebuild, alter or extend a building used for a non-conforming use that is destroyed to the extent of 75% or more of its value; or
- (d) change the use of land from a non-conforming use to another use that is not permitted by the Scheme.

(2) An application for development approval for the purposes of this clause must be advertised in accordance with clause 64 of the deemed provisions.

(3) A local government may only grant development approval for a change of use of land referred to in subclause (1)(d) if, in the opinion of the local government, the proposed use—

- (a) is less detrimental to the amenity of the locality than the existing non-conforming use; and
- (b) is closer to the intended purpose of the zone in which the land is situated.

24. Register of non-conforming uses

(1) The local government may prepare a register of land within the Scheme area that is being used for a non-conforming use.

(2) A register prepared by the local government must set out the following—

- (a) a description of each area of land that is being used for a non-conforming use;
- (b) a description of any building on the land;
- (c) a description of the non-conforming use;
- (d) the date on which any discontinuance of the non-conforming use is noted.

(3) If the local government prepares a register under subclause (1) the local government—

- (a) must ensure that the register is kept up-to-date; and
- (b) must make a copy of the register available for public inspection during business hours at the offices of the local government; and
- (c) may publish a copy of the register on the website of the local government.

(4) An entry in the register in relation to land that is being used for a non-conforming use is evidence of the matters set out in the entry, unless the contrary is proved.

PART 4—GENERAL DEVELOPMENT REQUIREMENTS

25. R-Codes

(1) The R-Codes, modified as set out in clause 26, are to be read as part of this Scheme.

(2) The local government—

- (a) must make a copy of the R-Codes available for public inspection during business hours at the offices of the local government; and
- (b) may publish a copy of the R-Codes on the website of the local government.

(3) The coding of land for the purposes of the R-Codes is shown by the coding number superimposed on a particular area contained within the boundaries of the area shown on the Scheme Map.

(4) The R-Codes apply to an area if the area has a coding number superimposed on it in accordance with subclause (3) or in a provision of the Scheme that applies the R-Codes.

26. Modification of R-Codes

(1) Within areas with split coding the local government may permit development above the lower Code to the higher Code specified on the Scheme Map, provided that the development is consistent with the Scheme and complies with the following requirements—

- (a) Existing and proposed dwellings shall be connected to reticulated sewerage system prior to occupation of new development.
- (b) The difference in natural ground levels within the site and adjacent land will not result in excessive bulk, visual privacy or overlooking problems and will not require excessively high retaining walls.

(2) To encourage amalgamation of sites and use of a central access, within areas coded R20 or R25 a bonus to R30 may be granted by the local government if the site is no less than 2000m² and the site satisfies the objectives of the Scheme and the conditions of subclause (1)(a-b).

(3) Where no Code is stipulated in the 'Residential' zone development is to comply with the standards provided in Schedule 6 unless located within Special Control Area No. 7 where the standards of Schedule 2 clause 7. will apply.

(4) In the established 'Residential' zone along Castletown Quays and Twilight Beach Road the minimum front setback shall be 7.5 metres unless otherwise provided by Special Control Area provisions of this Scheme.

(5) Within areas coded R15 the other/rear setback shall be as per the R20 code.

(6) Building Height in Residential Zones—

- (a) For Lots 306 to 311 Wollamai Place, West Beach, the local government shall not grant approval for any part of the roof or any architectural feature of a building to be higher than five (5) metres above the ground level established by the initial subdivision.
- (b) Dwelling height on sites zoned or used for residential purposes shall generally be limited to a maximum height in accordance with Table 3—Category B (commonly referred to as 'two storey') of the Residential Design Codes.
- (c) The height limit in subclause (6)(b) above shall not exceed a maximum height of nine (9) metres above natural ground level unless considered in accordance with clause 64 of the deemed provisions.
- (d) The limitation as outlined in subclauses (b) and (c) may be varied to Category C building height as per Table 3 of the R-Codes if compliant with any applicable Local Planning Policy.

27. State Planning Policy 3.6 to be read as part of Scheme

(1) State Planning Policy 3.6—Development Contributions for Infrastructure, modified as set out in clause 28, is to be read as part of this Scheme.

(2) The local government—

- (a) must make a copy of State Planning Policy 3.6 available for public inspection during business hours at the offices of the local government; and
- (b) may publish a copy of State Planning Policy 3.6 on the website of the local government.

28. Modification of State Planning Policy 3.6

(1) There are no modifications to State Planning Policy 3.6.

29. Other State planning policies to be read as part of Scheme

(1) The State planning policies set out in the Table, modified as set out in clause 30, are to be read as part of this Scheme.

Table No. 5

State planning policies to be read as part of Scheme

State Planning Policy 2.6—State Coastal Planning Policy

State Planning Policy 3.7—Planning in Bushfire Prone Areas

(2) The local government—

- (a) must make a copy of each State planning policy referred to in subclause (1) available for public inspection during business hours at the offices of the local government; and
- (b) may publish a copy of each of those State planning policies on the website of the local government.

30. Modification of State planning policies

(1) There are no modifications to a State planning policy that, under clause 29 is to be read as part of the Scheme.

31. Environmental conditions

(1) There are no environmental conditions imposed under the *Environmental Protection Act 1986* that apply to this Scheme.

32. Additional site and development requirements

(1) Schedule 1 sets out requirements relating to development that are additional to those set out in the R-Codes, activity centre plans, local development plans or State or local planning policies.

(2) To the extent that a requirement referred to in subclause (1) is inconsistent with a requirement in the R-Codes, an activity centre plan, a local development plan or a State or local planning policy the requirement referred to in subclause (1) prevails.

33. Additional site and development requirements for areas covered by structure plan, activity centre plan or local development plan

(1) There are no additional requirements that apply to this Scheme.

34. Variations to site and development requirements

(1) In this clause—

additional site and development requirements means requirements set out in clauses 32 and 33.

(2) Except for development in respect of which the R-Codes apply, the local government may approve an application for a development approval that does not comply with an additional site and development requirements.

(3) An approval under subclause (2) may be unconditional or subject to any conditions the local government considers appropriate.

(4) If the local government is of the opinion that the non-compliance with an additional site and development requirement will mean that the development is likely to adversely affect any owners or occupiers in the general locality or in an area adjoining the site of the development the local government must—

- (a) consult the affected owners or occupiers by following one or more of the provisions for advertising applications for development approval under clause 64 of the deemed provisions; and
- (b) have regard to any expressed views prior to making its determination to grant development approval under this clause.

(5) The local government may only approve an application for development approval under this clause if the local government is satisfied that—

- (a) approval of the proposed development would be appropriate having regard to the matters that the local government is to have regard to in considering an application for development approval as set out in clause 67 of the deemed provisions; and
- (b) the non-compliance with the additional site and development requirement will not have a significant adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

35. Restrictive covenants

(1) A restrictive covenant affecting land in the Scheme area that would have the effect of limiting the number of residential dwellings which may be constructed on the land is extinguished or varied to the extent that the number of residential dwellings that may be constructed is less than the number that could be constructed on the land under this Scheme.

(2) If subclause (1) operates to extinguish or vary a restrictive covenant—

- (a) development approval is required to construct a residential dwelling that would result in the number of residential dwellings on the land exceeding the number that would have been allowed under the restrictive covenant; and
- (b) the local government must not grant development approval for the construction of the residential dwelling unless it gives notice of the application for development approval in accordance with clause 64 of the deemed provisions.

PART 5—SPECIAL CONTROL AREAS

36. Special control areas

(1) Special control areas are marked on the Scheme Map according to the legend on the Scheme Map.

(2) The purpose, objectives and additional provisions that apply to each special control area is set out in Schedule 2.

PART 6—TERMS REFERRED TO IN SCHEME

Division 1—General definitions used in Scheme

37. Terms used

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

building envelope means the area of land within which all buildings and effluent disposal facilities on a lot must be contained;

building height, in relation to a building—

- (a) if the building is used for residential purposes, has the meaning given in the R-Codes; or
- (b) if the building is used for purposes other than residential purposes, means the maximum vertical distance between the natural ground level and the finished roof height directly above, excluding minor projections as that term is defined in the R-Codes;

- cabin** means a dwelling forming part of a tourist development or caravan park that is—
- (a) an individual unit other than a chalet; and
 - (b) designed to provide short-term accommodation for guests;
- chalet** means a dwelling forming part of a tourist development or caravan park that is—
- (a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and
 - (b) designed to provide short-term accommodation for guests;
- commencement day** means the day this Scheme comes into effect under section 87(4) of the Act;
- commercial vehicle** means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including—
- (a) a utility, van, truck, tractor, bus or earthmoving equipment;
 - and
 - (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a);
- floor area** has meaning given in the Building Code;
- frontage**, in relation to a building—
- (a) if the building is used for residential purposes, has the meaning given in the R-Codes; or
 - (b) if the building is used for purposes other than residential purposes, means the line where a road reserve and the front of a lot meet and, if a lot abuts 2 or more road reserves, the one to which the building or proposed building faces;
- incidental use** means a use of premises which is consequent on, or naturally attaching, appertaining or relating to, the predominant use;
- minerals** has the meaning given in the *Mining Act 1978* section 8(1);
- net lettable area** or **nla** means the area of all floors within the internal finished surfaces of permanent walls but does not include the following areas—
- (a) stairs, toilets, cleaner's cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
 - (b) lobbies between lifts facing other lifts serving the same floor;
 - (c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
 - (d) areas set aside for the provision of facilities or services to the floor or building where those facilities are not for the exclusive use of occupiers of the floor or building;
- non-conforming use** has the meaning given in the *Planning and Development Act 2005* section 172;
- plot ratio** means the ratio of the floor area of a building to an area of land within the boundaries of the lot or lots on which the building is located;
- precinct** means a definable area where particular planning policies, guidelines or standards apply;
- predominant use** means the primary use of premises to which all other uses carried out on the premises are incidental;
- retail** means the sale or hire of goods or services to the public;
- short-term accommodation** means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12 month period;
- wall height**, in relation to a wall of a building—
- (a) if the building is used for residential purposes, has the meaning given in the R-Codes; or
 - (b) if the building is used for purposes other than residential purposes, means the vertical distance from the natural ground level of the boundary of the property that is closest to the wall to the point where the wall meets the roof or parapet;
- wholesale** means the sale of goods or materials to be sold by others.
- (2) A word or expression that is not defined in this Scheme—
- (a) has the meaning it has in the *Planning and Development Act 2005*; or
 - (b) if it is not defined in that Act—has the same meaning as it has in the R-Codes.

Division 2—Land use terms used in Scheme

38. Land use terms used

If this Scheme refers to a category of land use that is listed in this provision, the meaning of that land use is as follows—

- abattoir** means premises used commercially for the slaughtering of animals for the purposes of consumption as food products;

aged care facility -means a building or group of buildings consisting of either—

- (a) an aged persons' home; or
- (b) an aged persons' home and aged persons' dwellings,

and which includes buildings or parts of buildings used for communal facilities, food preparation, dining, recreation, laundry or medical care;

agriculture—extensive means premises used for the raising of stock or crops including outbuildings and earthworks, but does not include agriculture—intensive or animal husbandry—intensive;

agriculture—intensive means premises used for commercial production purposes, including outbuildings and earthworks, associated with any of the following—

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

airfield means any premises used for purposes relating to aircraft landing, take-off and maintenance and does not include a private airstrip incidental to farming operations;

amusement parlour means premises—

- (a) that are open to the public; and
- (b) that are used predominantly for amusement by means of amusement machines including computers; and
- (c) where there are 2 or more amusement machines;

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

animal husbandry—intensive means premises used for keeping, rearing or fattening of alpacas, beef and dairy cattle, goats, pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) or other livestock in feedlots, sheds or rotational pens;

art gallery means premises—

- (a) that are open to the public; and
- (b) where artworks are displayed for viewing or sale;

bed and breakfast means a dwelling—

- (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and
- (b) containing not more than 2 guest bedrooms;

betting agency means an office or totalisator agency established under the *Racing and Wagering Western Australia Act 2003*;

brewery means premises the subject of a producer's licence authorising the production of beer, cider or spirits granted under the *Liquor Control Act 1988*;

bulky goods showroom means premises—

- (a) used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes—
 - (i) automotive parts and accessories;
 - (ii) camping, outdoor and recreation goods;
 - (iii) electric light fittings;
 - (iv) animal supplies including equestrian and pet goods;
 - (v) floor and window coverings;
 - (vi) furniture, bedding, furnishings, fabrics, manchester and homewares;
 - (vii) household appliances, electrical goods and home entertainment goods;
 - (viii) party supplies;
 - (ix) office equipment and supplies;
 - (x) babies' and childrens' goods, including play equipment and accessories;
 - (xi) sporting, cycling, leisure, fitness goods and accessories;
 - (xii) swimming pools;and
- (b) used to sell by retail goods and accessories by retail if—
 - (i) a large area is required for the handling, display or storage of the goods; or
 - (ii) vehicular access is required to the premises for the purpose of collection of purchased goods;
- (c) the list of products in subclause (a) is not exhaustive;

caravan park means premises that are a caravan park as defined in the *Caravan Parks and Camping Grounds Act 1995* section 5(1);

- caretaker's dwelling** means a dwelling on the same site as a building, operation or plant used for industry, and occupied by a supervisor of that building, operation or plant;
- car park** means premises used primarily for parking vehicles whether open to the public or not but does not include—
- (a) any part of a public road used for parking or for a taxi rank;
 - or
 - (b) any premises in which cars are displayed for sale;
- child care premises** means premises where—
- (a) an education and care service as defined in the *Education and Care Services National Law (Western Australia)* section 5(1), other than a family day care service as defined in that section, is provided; or
 - (b) a child care service as defined in the *Child Care Services Act 2007* section 4 is provided;
- cinema/theatre** means premises where the public may view a motion picture or theatrical production;
- civic use** means premises used by a government department, an instrumentality of the State or the local government for administrative, recreational or other purposes;
- club premises** means premises used by a legally constituted club or association or other body of persons united by a common interest;
- commercial vehicle parking** means premises used for parking of one or 2 commercial vehicles but does not include—
- (a) any part of a public road used for parking or for a taxi rank;
 - or
 - (b) parking of commercial vehicles incidental to the predominant use of the land;
- community purpose** means premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit;
- consulting rooms** means premises used by no more than 2 health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care;
- convenience store** means premises—
- (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents; and
 - (b) operated during hours which include, but may extend beyond, normal trading hours; and
 - (c) the floor area of which does not exceed 300 m² 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;
- dry cleaning premises / laundromat** means premises used for the commercial cleaning of clothes and laundry either in a self-service or serviced manner.
- earthmoving equipment—depot for** means premises used for the parking, storage or maintenance of earthmoving equipment and/or vehicles.
- educational establishment** means premises used for the purposes of providing education including premises used for a school, higher education institution, business college, academy or other educational institution;
- exhibition centre** means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature including a museum;
- family day care** means premises where a family day care service as defined in the *Education and Care Services National Law (Western Australia)* is provided;
- fast food outlet** means premises, including premises with a facility for drive-through service, used for the preparation, sale and serving of food to customers in a form ready to be eaten—
- (a) without further preparation; and
 - (b) primarily off the premises;
- freeway service centre** means premises that has direct access to a freeway and which provides all the following services or facilities and may provide other associated facilities or services but does not provide bulk fuel services—
- (a) service station facilities;
 - (b) emergency breakdown repair for vehicles;
 - (c) charging points for electric vehicles;
 - (d) facilities for cyclists;
 - (e) restaurant, cafe or fast food services, excluding the sale or consumption of alcohol under the liquor licensing Act 1998;
 - (f) take-away food retailing, without a drive-through facility;
 - (g) public ablution facilities, including provision for disabled access and infant changing rooms;

- (h) parking for passenger and freight vehicles;
- (i) outdoor rest stop facilities such as picnic tables and shade areas; and
- (j) dump points for the disposal of black and/or grey water from recreational vehicles.

fuel depot means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel but does not include premises used—

- (a) as a service station; or
- (b) for the sale of fuel by retail into a vehicle for use by the vehicle;

funeral parlour means premises used—

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

garden centre means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens;

holiday accommodation means 2 or more dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot;

holiday house means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast;

home business means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession—

- (a) does not involve employing more than 2 people who are not members of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 50 m²; and
- (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
- (f) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
- (g) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;

home occupation means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation that—

- (a) does not involve employing a person who is not a member of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 20 m²; and
- (d) does not involve the display on the premises of a sign with an area exceeding 0.2 m²; and
- (e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (f) does not—
 - (i) require a greater number of parking spaces than normally required for a single dwelling; or
 - (ii) result in an increase in traffic volume in the neighbourhood;and
- (g) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
 - (i) does not include provision for the fuelling, repair or maintenance of motor vehicles; and
 - (ii) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;

home office means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation—

- (a) is solely within the dwelling; and
- (b) does not entail clients or customers travelling to and from the dwelling; and
- (c) does not involve the display of a sign on the premises; and
- (d) does not require any change to the external appearance of the dwelling;

home store means a shop attached to a dwelling that—

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

hospital means premises used as a hospital as defined in the *Hospitals and Health Services Act 1927* section 2(1);

hostel means lodging house which is not open to the public generally, but is reserved for use solely by students and staff of educational establishments, members of societies, institutes or associations;

hotel means premises the subject of a hotel licence other than a small bar or tavern licence granted under the *Liquor Control Act 1988* including **any** betting agency on the premises;

industry means premises used for the manufacture, dismantling, **processing**, assembly, treating, testing, servicing, maintenance or repairing **of** goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes—

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

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

- (a) does not cause injury to or adversely affect the amenity of the neighbourhood;
- (b) where operated in a residential zone, does not employ any person other than a member of the occupier's household;
- (c) is conducted in an out-building which is compatible with the principal uses to which land in the zone in which it is located may be put;
- (d) does not occupy an area in excess of 50 m²; and
- (e) does not display a sign exceeding 0.2 m² in area;

industry—extractive means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any of the following purposes—

- (a) the processing of raw materials including crushing, screening, washing, blending or grading;
- (b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration;

industry—light means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed;

industry—primary production means premises used—

- (a) to carry out a primary production business as that term is defined in the *Income Tax Assessment Act 1997* (Commonwealth) section 995-1; or
- (b) for a workshop servicing plant or equipment used in primary production businesses;

liquor store—large means premises the subject of a liquor store licence granted under the *Liquor Control Act 1988* with a net lettable area of more than 300 m²;

liquor store—small means premises the subject of a liquor store licence granted under the *Liquor Control Act 1988* with a net lettable area of not more than 300 m²;

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

marina means—

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

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

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

medical centre means premises other than a hospital used by 3 or more health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care;

mining operations means premises where mining operations, as that term is defined in the *Mining Act 1978* section 8(1) is carried out;

motel means premises, which may be licensed under the *Liquor Control Act 1988*—

- (a) used to accommodate guests in a manner similar to a hotel; and
- (b) with specific provision for the accommodation of guests with motor vehicles;

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

motor vehicle repair means premises used for or in connection with—

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

- motor vehicle wash** means premises primarily used to wash motor vehicles;
- nightclub** means premises the subject of a nightclub licence granted under the *Liquor Control Act 1988*;
- office** means premises used for administration, clerical, technical, professional or similar business activities;
- park home park** means premises used as a park home park as defined in the *Caravan Parks and Camping Grounds Regulations 1997* Schedule 8;
- place of worship** means premises used for religious activities such as a chapel, church, mosque, synagogue or temple;
- reception centre** means premises used for hosted functions on formal or ceremonial occasions;
- recreation—private** means premises that are—
- used for indoor or outdoor leisure, recreation or sport; and
 - not usually open to the public without charge;
- renewable energy facility** means premises used to generate energy from a renewable energy source and includes any building or other structure used in, or in connection with, the generation of energy by a renewable resource. It does not include solar panels or a wind turbine located on a lot with a single house where the energy produced only supplies that house or private rural use or anemometers.
- repurposed dwelling** means a building or structure not previously used as a single house, which has been repurposed for use as a dwelling.
- resource recovery centre** means premises other than a waste disposal facility used for the recovery of resources from waste;
- restaurant/cafe** means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the *Liquor Control Act 1988*;
- restricted premises** means premises used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of—
- publications that are classified as restricted under the *Classification (Publications, Films and Computer Games) Act 1995* (Commonwealth); or
 - materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity; or
 - smoking-related implements;
- roadhouse** means premises that has direct access to a State road other than a freeway and which provides the services or facilities provided by a freeway service centre and may provide any of the following facilities or services—
- a full range of automotive repair services;
 - wrecking, panel beating and spray painting services;
 - transport depot facilities;
 - short-term accommodation for guests;
 - facilities for being a muster point in response to accidents, natural disasters and other emergencies;
 - dump points for the disposal of black and/or grey water from recreational vehicles.
- rural produce store** means a premise used by the occupier of the premise for carrying out a business where—
- It does not occupy an area greater than 25m²;
 - it is used for sale of produce associated with farming operations, but may include local souvenir products; and
 - Will not adversely affect the amenity of the neighbourhood;
- rural home business** means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or occupation if the carrying out of the business, service or occupation—
- does not involve employing more than 2 people who are not members of the occupier's household; and
 - will not cause injury to or adversely affect the amenity of the neighbourhood; and
 - does not occupy an area greater than 200 m²; and
 - does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
 - 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 more than 3 vehicles at any one time or of a vehicle of more than 30 tonnes gross weight;
- rural pursuit/hobby farm** means any premises, other than premises used for agriculture—extensive or agriculture—intensive, that are used by an occupier of the premises to carry out any of the following activities if carrying out of the activity does not involve permanently employing a person who is not a member of the occupier's household—
- the rearing, agistment, stabling or training of animals;

- (b) the keeping of bees;
- (c) the sale of produce grown solely on the premises;

second-hand dwelling means a dwelling that has been in a different location, and has been dismantled and transported to another location, but does not include a new modular or transportable dwelling;

serviced apartment means a group of units or apartments providing—

- (a) self-contained short stay accommodation for guests; and
- (b) any associated reception or recreational facilities;

service station means premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for—

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

shop means premises other than a supermarket, bulky goods showroom, a liquor store—large or a liquor store—small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services;

small bar means premises the subject of a small bar licence granted under the *Liquor Control Act 1988*;

supermarket means a business for the retail sale of household goods where the customer collects the proposed purchase from open shelves, payment being made at a central check point but does not include a convenience store, shop or a bulky goods showroom;

tavern means premises the subject of a tavern licence granted under the *Liquor Control Act 1988*;

telecommunications infrastructure means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network;

tourist development means a building, or a group of buildings forming a complex, other than a bed and breakfast, a caravan park or holiday accommodation, used to provide—

- (a) short-term accommodation for guests; and
- (b) onsite facilities for the use of guests; and
- (c) facilities for the management of the development;

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

trade supplies means premises used to sell by wholesale or retail, or to hire, assemble or manufacture any materials, tools, equipment, machinery or other goods used for the following purposes including goods which may be assembled or manufactured off the premises—

- (a) automotive repairs and servicing;
- (b) building including repair and maintenance;
- (c) industry;
- (d) landscape gardening;
- (e) provision of medical services;
- (f) primary production;
- (g) use by government departments or agencies, including local government;

transport depot means premises used primarily for the parking or garaging of 3 or more commercial vehicles including—

- (a) any ancillary maintenance or refuelling of those vehicles; and
- (b) any ancillary storage of goods brought to the premises by those vehicles; and
- (c) the transfer of goods or persons from one vehicle to another;

tree farm means land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the *Carbon Rights Act 2003* section 5;

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

warehouse/storage means premises including indoor or outdoor facilities used for—

- (a) the storage of goods, equipment, plant or materials; or
- (b) the display or sale by wholesale of goods;

waste disposal facility means premises used—

- (a) for the disposal of waste by landfill; or
- (b) the incineration of hazardous, clinical or biomedical waste;

waste storage facility means premises used to collect, consolidate, temporarily store or sort waste before transfer to a waste disposal facility or a resource recovery facility on a commercial scale;

wind farm means premises used to generate electricity by wind force and any associated turbine, building or other structure but does not include anemometers or turbines used primarily to supply electricity for a domestic property or for private rural use;

winery means premises used for the production of viticultural produce and associated sale of the produce;

workforce accommodation means premises, which may include modular or relocatable buildings, used—

- (a) primarily for the accommodation of workers engaged in construction, resource, agricultural or other industries on a temporary basis; and
- (b) for any associated catering, sporting and recreation facilities for the occupants and authorised visitors.

SCHEDULE A—SUPPLEMENTAL PROVISIONS TO THE DEEMED PROVISIONS

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

61. Development for which Development Approval Not Required

(1) Development approval of the local government is not required for the following works unless located in a Special Control Area—

- (k) Development Approval is required for the placement of a shipping container on a lot except where it is—
 - (i) Fully enclosed within a building;
 - (ii) To be used for the storage of plant, machinery or building equipment where a building permit is current and construction is taking place, provided that the Shipping Container shall be removed within 14 days of completion of construction; or
 - (iii) A component of an otherwise approved commercial or industrial land use.
- (l) The use of land for Agriculture—Extensive purposes, the erection of windmills and the construction of water tanks, dams and soaks in the Rural zone in compliance with the setback standards contained in Schedule 6.
- (m) Farm buildings in the Rural Smallholdings and Rural Zones setback no less than 20 metres from any boundary and 100 metres from any highway or railway;
- (n) Keeping of horses and stables on lots zoned Rural Residential, Rural Smallholdings or Rural and located outside of any Special Control Area or groundwater reserve protection area in accordance with Department of Primary Industries and Regional Development stocking rate guidelines;
- (o) Rainwater tanks or pergolas not exceeding 10m² and 2.1 metres in height located behind the front of a dwelling, screened from public view, with setbacks and cumulative total floor area in accordance with Scheme requirements;
- (p) One satellite dish with a diameter of less than 1.2 metres;
- (q) Street trading and outdoor eating facilities on public places in accordance with the local laws on trading in thoroughfares and public places;
- (r) One flagpole not exceeding 6 metres in height with the flags not used for commercial advertising;
- (s) Rainwater tanks in the Rural Residential zone and the Rural Smallholdings zone which are located within an approved building envelope, or where no building envelope exists, are set back no less than 20 metres from any lot boundary;
- (t) Residential outbuildings not exceeding 10% of site area or 100m² whichever is less with a maximum wall height of 3.0m and a ridge height of no more than 4.2m, provided that they meet the setback and cumulative total floor area in accordance with Scheme requirements;
- (u) Any retaining wall less than 500mm high constructed of masonry materials located to the rear of a building associated with the primary use of the site;
- (v) The signage and advertisements contained in Schedule 10 of this Scheme do not require development approval.
- (w) The erection of a boundary fence in a zone where the R Codes do not apply.
- (x) The replacement of an existing retaining wall less than 900mm with new masonry materials provided that there is no alteration of ground levels; and
- (y) The replacement of existing doors and windows within the Commercial and General Industry zones with doors and windows of the same dimension and nature.
- (z) The carrying out of works urgently necessary to ensure public safety, for the safety or security of plant or equipment or for the maintenance of essential services.
- (aa) A renewable energy facility that is incidental in nature to the use of the land.
- (bb) A solar hot water system.

Schedule 1**ADDITIONAL REQUIREMENTS THAT APPLY TO LAND IN SCHEME AREA**

[cl. 32]

1. Development Requirements

- (a) Unless otherwise provided by the Scheme, all development is required to comply with the requirements of Schedule 6—Development Provisions by Zone.
- (b) Unless otherwise provided by the Scheme, all development is required to comply with the requirements of Schedule 7—Parking and Landscaping by Land Use.

2. Minimum Lot Sizes in Residential Zones

- (a) The minimum lot or development site sizes shall be as designated by the R-Code on the Scheme Maps or on an approved Structure Plan or Detailed Area Plan where a sewerage connection is available.
- (b) For non-sewered lots a minimum lot size not less than outlined in subclause (a) is to be consistent with on-site effluent disposal requirements.
- (c) Where no R-Code is designated in a Residential or Urban Development zone, unless a Code has been designated on an approved Structure Plan or Detailed Area Plan, the local government shall deem the site to have been subdivided to its full potential and shall not support further subdivision.

3. Building Height for the Commercial and Mixed Use Zones for Buildings with a Residential Component

- (a) Building Heights for Buildings with a Residential Component—
 - (i) Building height for buildings with a residential component shall generally be limited to a maximum height of twelve (12) metres above natural ground level within the Commercial and Mixed Use Zones.
 - (ii) The height limit in subclause 3(a)(i) shall not be exceeded for commercial buildings with a residential component or by mixed use buildings with a residential component unless advertised in accordance with clause 64 of the deemed provisions.

4. Rural Residential and Rural Smallholding Development Provisions

- (a) Within this zone the minimum setback from any highway or railway shall be 100 metres unless advertised in accordance with clause 64 of the deemed provisions and clause 5(a) is complied with. Setbacks from any other boundary shall be as specified in Schedule 6.
- (b) The local government may require exposed areas to be replanted extensively to provide concealment, shelter or assist with improving land quality, reducing the water table or preventing erosion.
- (c) The construction of dams and soaks shall not be permitted within a building and clearing exclusion area or where it is considered that the appearance and amenity of the area would be adversely affected.
- (d) Water supplies may be supplemented with bore water for human consumption and mixed with other water collected on site provided that it meets guidelines for potable water to the satisfaction of the local government and any license that is required has been obtained from the responsible authority for groundwater licensing.
- (e) A permanent water supply of no less than 10,000 litres is to be maintained for bush fire fighting purposes outside of urban areas. This water supply is in addition to the requirements under clause 18 of Schedule 1.
- (f) Where lots contain steeply sloping land that, in the opinion of the local government, requires preservation of the natural vegetation to prevent erosion, the local government may require such areas to be fenced or treated in such other fashion as to ensure that such land is not degraded by grazing, browsing or the movement of stock or by any other causes.
- (g) Where a landscaping, revegetation or fire management plan has been adopted by the local government or was included with rezoning or subdivision documentation, affected lots shall be managed in accordance with the plan.
- (h) Development, which would conflict with or impede the implementation of the plan, shall not be permitted or undertaken unless variations have been approved following consultation between the affected landowners, the local government and the District Manager of the Department of Fire and Emergency Services where appropriate.
- (i) The provisions for controlling subdivision, land uses and development relating to specific Rural Residential Areas are set out in a Schedule of Special Provisions in Schedule 8—Rural Residential—Special Provisions.
- (j) The provisions for controlling subdivision, land uses and development relating to specific Rural Residential Areas are set out in a Schedule of Special Provisions in Schedule 9—Rural Smallholdings—Special Provisions.

5. Rural and Rural Smallholding Zone Highway and Railway Noise Notification

- (a) Where the setback from any highway or railway is less than 100 metres the Local Government will impose a condition on its planning consent for a single house or other noise sensitive premises requiring a Section 70A notification being placed on the title advising of the potential to be affected by transportation noise levels and proximity to highway and/or

railway. The notification will need to be in place before a building permit is issued. Setbacks shall not be less than as specified in Schedule 6.

- (b) New property titles (including strata titles) should warn of the proximity of the access corridor and the potential to be affected by transportation noise levels. This notification pursuant to Section 165 of the *Planning and Development Act 2005* is to state "This lot may experience high levels of transportation noise."

6. Urban Development and Industrial Development Provisions

- (a) All subdivision is to be in accordance with a structure plan prepared in accordance with clause 16 of Schedule 2—Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- (b) Notwithstanding subclause (a) the local government may approve the development of land within the Urban Development and Industrial Development zones prior a structure plan prepared in accordance with clause 16 of Schedule 2—Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* coming into effect in relation to that land, if the local government is satisfied that this will not prejudice future structure planning in the area.

7. Tourism Zone Provisions

- (a) All subdivision and development is to be in accordance with a structure plan prepared in accordance with clause 16 of Schedule 2—Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- (b) Notwithstanding subclause (a) the local government may approve the development of land within the Tourism zones prior a structure plan prepared in accordance with clause 16 of Schedule 2—Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* coming into effect in relation to that land, if the local government is satisfied that this will not prejudice future structure planning in the area.

8. Rural Zone Second Dwelling Provisions

- (a) Within this zone planning approval is required for the erection of two single houses on any lot of more than 40 hectares. No more than two single houses are permitted on a Rural zoned lot.

9. Development of Land without Constructed/Dedicated Road Frontage or Access

- (a) 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 constructed/dedicated road. In considering such an application, the Local Government may:—
 - (i) refuse the application until the road has been constructed or access by means of a constructed/dedicated road is provided; or
 - (ii) grant approval to the application subject to a condition requiring the applicant to pay a sum of money in or towards the cost of construction the road or part thereof and any other condition it considers fit to impose; or
 - (iii) require other legal arrangements are made for permanent legal access, to the satisfaction of the Local Government.

10. Internal Access and Laneways

- (a) Except for development to which the Residential Design Codes apply, it is expected that any access laneway within a development site shall be not less than 4.5 metres wide but in exceptional circumstances the local government may permit an access way of lesser width but not less than 3.0 metres and then only when a one-way system can be established.
- (b) The local government shall require laneways in the Commercial Zone to be widened in accordance with the following—
 - (i) Where access to a laneway is available, prior to commencement of development arrangements shall be put in place for any land needed to widen the laneway to six (6) metres to be granted to the local government free of cost.
 - (ii) In any case the maximum amount of land to be ceded from one side of the laneway will be one (1) metre.
 - (iii) Subdivision of lots abutting a laneway that is less than six (6) metres wide will not be permitted where the laneway is the only access.

11. Site with more than One Street Frontage

- (a) Where a development site has frontage to more than one street (except in the 'Residential' zone or 'Urban Development' zone with an adopted Structure Plan), the local government may—
 - (i) Designate one of the streets to be a primary street for the purpose of determining front setbacks;
 - (ii) Require that the specified front setbacks shall apply to each road;
 - (iii) Permit the setback on a secondary street to be reduced to half of the specified front setback or averaged unless the site is adjacent to a State Highway, Limited Access Road, Primary Distributor Road or Local Distributor Road unless other more specific provisions in the Scheme apply; or
 - (iv) Refuse vehicular access to one of the roads.

12. Parking Separated from Development and Cash in Lieu

(a) Parking/Servicing Facilities Separated from Development—

- (i) Where parking or loading and unloading is provided on a lot or lots separated from the lot upon which the development or redevelopment is to occur, the local government will need to be satisfied that the land so allocated to parking or loading and unloading will be permanently retained for such purpose by either requiring an amalgamation of the lots set aside for parking and/or loading and unloading with the lots being developed or, by a right of carriageway being registered on the respective titles.

(b) Cash in lieu of Parking Spaces—

- (i) In the Commercial, Mixed Use, Tourism Zones and the area subject to Additional Use A6, the local government may accept a cash payment in lieu of all or part of the carparking provisions subject to the following—
- (ii) The cash-in-lieu payment shall not be less than the estimated cost to the owner or developer of providing and constructing the parking spaces required by the Scheme, plus the value, as ascertained in accordance with subclause (b)(iii) of that area of the land which would have been occupied by the parking spaces.
- (iii) The value of land referred to in subclause (b)(ii) may be determined by either the Valuer-General or by a licensed valuer appointed by the local government.
- (iv) Before the local government agrees to accept a cash payment in lieu of the provision of parking spaces, the local government must either have purchased land and/or provided a public carpark nearby or have an adopted parking strategy to provide such a public carpark within five years of agreeing to accept the cash payment.
- (v) Each parking space shall consist of one standard bay of 2.5m x 5.5m plus half the width of the standard access aisle, i.e. a total of 2.5m x 8.5m in the case of 90 degree bays.
- (vi) Payments made under this clause shall be paid into a special purpose fund to be used for the provision of public carparking facilities and the local government may use this fund to provide or maintain public parking facilities anywhere within the Commercial, Mixed Use, Tourism Zones and the area subject to, or adjacent to, Additional Use A6.
- (vii) If an owner or developer shall object to the amount of the costs and values determined by the local government pursuant to subclause (b)(ii), the matter may be referred to arbitration in accordance with the provisions of the *Commercial Arbitration Act 1985*.

13. Reciprocal Parking and Shared Parking

- (a) Subject to the Scheme, and the provisions of any relevant Local Planning Policy, the Local Government may exercise its discretion in granting planning approval to permit a proportion of the total number of car parking bays required under the Scheme to be provided jointly with any one or more other premises within a location, where it is demonstrated to the satisfaction of the Local Government that reciprocal and/or shared car parking would result in the same number of car parking bays required under the Scheme. Under this clause, “reciprocal” parking relates to land that is privately owned and “shared” parking relates to land which is owned by the Local Government or is vested with the Local Government for public parking.
- (b) Subject to the Scheme, and the provisions of any relevant Local Planning Policy, reciprocal and/or shared car parking shall only be permitted in locations where the following has been demonstrated to the satisfaction of the Local Government—
 - (i) reciprocal or shared off-street parking facilities are available in the location that sufficiently accommodates the deficit in car parking required under the Scheme for the development/use;
 - (ii) the peak hours of operation of developments/uses so sharing are different and do not substantially overlap, whether or not the premises providing shared car parking separately have the prescribed number of parking bays; and
 - (iii) that a legally binding agreement has been made to enable those reciprocal or shared off-street parking facilities to be used for that purpose. Where a reciprocal or shared parking arrangement is proposed as part of an application for planning approval, the written consent of the property owner of the reciprocal or shared parking facility must be in the form of a legally binding agreement between both parties that is prepared to the satisfaction of the Local Government, and at the applicant’s own cost.
- (c) Where an application proposes reciprocal and/or shared car parking in accordance with this clause, the Local Government shall require a supporting development impact statement (with respect to traffic management and parking demand), to be prepared at the applicant’s cost and to the satisfaction of the Local Government as part of any application for planning approval.
- (d) The Local Government may require that reciprocal access and circulation arrangements are provided for any use/development of premises affected by this clause 12, where such arrangements are deemed necessary to improve traffic management, road safety or amenity.

14. Provisions for Parking, Access for Loading and Unloading Vehicles

(a) In the Commercial, Mixed Use, Tourism, Light Industry and General Industry 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 the majority of servicing vehicles will be able to leave and enter the street in a forward direction.

- (iii) Parking, loading and unloading and access, complete with necessary drainage, signs and marking as required by the local government, shall be provided prior to any occupation of the development or at such time as may be agreed in writing between the local government and the developer.
- (iv) External servicing areas shall be established and maintained to the satisfaction of the local government.

15. Parking of Commercial Vehicles in Residential Areas

- (a) No person shall park within the Residential zone a commercial vehicle without the planning approval of the local government. Where the commercial vehicle parking use is proposed in the Residential zone it shall comply with the following—
 - (i) not more than one such vehicle is to be parked on a lot;
 - (ii) the vehicle is to form 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;
 - (iii) the vehicle is to be parked behind the front building line and effectively screened from view from outside the lot;
 - (iv) no part of the vehicle is to be parked on any portion of a right-of-way or public road contiguous with the lot;
 - (v) the vehicle is not to exceed 3.0 metres in height or 8.0 metres in length;
 - (vi) no major/minor servicing of vehicles shall be undertaken on the lot; and
 - (vii) the vehicle is not brought to or taken from the lot between the hours of midnight and 6.00 am.

16. Effluent Disposal

- (a) Where existing and proposed lots within the Scheme Area are not connected to a reticulated sewerage system, on-site effluent disposal systems shall be to the specifications and satisfaction of the local government. The use of 'non-standard' effluent disposal systems may be required at the discretion of the local government and in any event the following requirements shall be satisfied—
 - (i) a 2 metre separation between the base of the leach drain and the highest recorded groundwater level or bedrock;
 - (ii) at least 100 metres horizontal separation between the effluent disposal system and existing drains, water courses and water bodies;
 - (iii) the area around each effluent disposal system shall be planted with indigenous trees and shrubs shall be maintained;
 - (iv) prevention of direct movement of wastewater and nutrients from the locality of each effluent disposal system.

The above requirements may be altered where soil amending techniques are introduced or alternatively the use of modified effluent disposal systems may be permitted in accordance with management guidelines prepared by the Local Government.

- (b) Where on site effluent disposal systems are used, the system shall be located within the prescribed building envelope or in another appropriate location specified by the Local Government.

17. Building Height

- (a) The height limit of any building that is not industrial in nature or in the Residential, Commercial or Mixed Use zones shall be limited to 9 metres.
- (b) The height limit of any building that is industrial in nature shall be limited to 15 metres.
- (c) The height limit of any building that is in the Commercial or Mixed Use zones shall only be limited by plot ratio.
- (d) The height limit in subclauses (a), (b) or (c) shall not be exceeded unless considered in accordance with clause 64 of the deemed provisions.

18. Potable Water Supply

- (a) All buildings intended for residential use shall be connected to a reticulated water supply provided by a licensed water provider. Where a reticulated supply is not available buildings intended for residential use must include provision for the storage of water tanks of not less than 120,000 litres of capacity.

Where rainfall is to be used as the predominant source for a water storage tank, the minimum collection area, in terms of rain surface runoff, to service the tank, is to be provided. The collection area will normally comprise of the roof area of structures on the lot and may include the dwelling, outbuildings and any other structure capable of collecting and directing water into the tank.

The size of the collection area is to be based on the following calculation—

Collection area (m²) = Average Household Water Consumption (L) divided by (0.85 multiplied by (local rainfall in mm -24mm)."

- Collection area (m²) is the minimum area for rain surface runoff that is required to service the water tank.

- Unless the Shire has determined otherwise the average household water consumption will be 147,800L
- 0.85 is the efficiency of the collection meaning a minimum of 85% of the water will be collected (the Local Government may accept a greater efficiency rate if it can be demonstrated through design).
- Local rainfall is the average annual mean rainfall measured in millimetres (mm) guided by the nearest collection point provided by the bureau of Meteorology.
- 24mm is the anticipated loss through absorption and wetting of materials based on 2mm a month.

Potable water is of the quality specified under the Australian Drinking Water Quality Guidelines 2004 (as amended).

19. Landscaping of Demolished Building Sites

- (a) Where buildings are demolished within the Commercial or Mixed Use zones and, for whatever reason, redevelopment of the site is delayed for more than six months; the following works are required to be carried out by the applicant—
 - (i) The premises are to be cleared of all rubble, debris and demolition materials;
 - (ii) The site is to be levelled to the same level as the adjoining footpath and/or road and turfed so it can be mowed unless topography is such that an alternative solution is required and that the solution is to the satisfaction of the Local Government;
 - (iii) The site is to be landscaped with perimeter plantings (consisting of advanced specimens of fast growing species as determined by the Local Government); and
 - (iv) The site is to be maintained to ensure no sediment runoff from the site occurs.

20. Sealing of Vehicle Parking and Access

- (a) All areas utilised for vehicle parking, manoeuvring, access, egress and storage in the Commercial, Mixed Use and Light Industry zones are to be sealed, marked and formalised as per Australian Standard 2890.1-2004 as amended.
- (b) All areas utilised for vehicle parking, manoeuvring, access and egress in the General Industry zone are to be sealed, marked and formalised as per Australian Standard 2890.1-2004 as amended.
- (c) All areas utilised for storage in the General Industry zone may be constructed to a suitable unsealed standard that permits all-weather access by two-wheel drive vehicles and that does not result in gravel, sand or other forms of earth leaving the site.

21. Bed and Breakfast and Holiday Home Requirements

- (a) Where Bed and Breakfast and Holiday Home uses are proposed, the site is to be connected to reticulated sewerage or the effluent disposal systems are to be of suitable quality and size.

22. Light overspill

- (a) Floodlights, spotlights and all other forms of lighting shall be constructed, oriented and controlled so as not to—
 - (i) adversely impact on the amenity of any adjacent residents; or
 - (ii) Cause a traffic hazard in the adjacent road network.

23. Caretaker's Dwellings

- (a) Where a caretaker's dwelling use is proposed it shall comply with the following—
 - (i) A caretaker's dwelling must be incidental to the predominant use of the site.
 - (ii) Only one caretaker's dwelling is permitted on each lot.
 - (iii) The total plot ratio area of a caretaker's dwelling is 80m², measured from the external face of walls excluding verandahs and carports.
 - (iv) Verandahs and carports may be permitted, but if enclosed will form part of the total calculated floor area.
 - (v) The Local Government may consider the use of notifications on title to advise prospective purchasers of potential impacts from noise, dust, odour or amenity that may arise from the location of a caretaker's dwelling within the zone.
 - (vi) The Local Government will not consider applications for caretakers' dwellings prior to the primary site activity being either approved or constructed.
 - (vii) Where simultaneous approval has been granted by the Local Government for both a caretaker's dwelling and the main activity on the same lot, the main activity must be developed and operational prior to occupation of the dwelling.
 - (viii) Caretaker's dwellings should be carefully sited and constructed so the potential site (or estate) impacts from noise, dust, odour or amenity are minimised.
 - (ix) A caretaker's dwelling may only be occupied by the owner, manager, lessee or employee (and immediate family thereof) of the lawfully established or approved land use.
 - (x) Where the primary site activity has ceased the occupation of the caretaker's dwelling is to cease.

24. Repurposed Dwelling Requirements

- (a) Where a Repurposed dwelling use is proposed it shall comply with the following—
 - (i) Within the Rural Residential zone only one Repurposed dwelling may be approved on a lot.
 - (ii) The Repurposed dwelling should be carefully sited and constructed so the potential impacts from noise, dust, odour or amenity are minimised.
 - (iii) For the purposes of establishing whether a grouped dwelling is proposed a Repurposed dwelling will count as one dwelling.
 - (iv) Regardless of external wall materials, all roofs over the main portion of the Repurposed dwelling are to have a pitch of 10° or greater.

25. Second-hand Dwelling Requirements

- (a) Notwithstanding any other requirement of the Scheme, all Second-hand dwellings require the planning approval of the local government.
- (b) Where a Second-hand dwelling use is proposed it shall comply with the following in addition to any other relevant provision of the Scheme—
 - (i) A building that has a roof or wall sheeting or any other material such as sound proofing or insulation, that contains asbestos, is not permitted to be relocated until those materials containing asbestos are removed and disposed of in the appropriate manner, prior to transportation.
 - (ii) The void area between the floor and natural ground levels is to be enclosed with brickwork, battens or other suitable materials as approved by the local government.
- (c) When considering an application for planning approval for a second-hand dwelling, the local government may impose conditions concerning—
 - (i) The external appearance and material finishes, the screening of sub-floor spaces, the addition to or modification to the existing dwelling and the time frame imposed to complete specified work and connect the dwelling or building to lot services;
 - (ii) The provision of landscaping and/or screening of the building and/or site; and
 - (iii) The provision of a bond or bank guarantee in favour of the Local Government as surety for the completion of the building to a standard of presentation acceptable to the Local Government within a specified time.
- (d) Where the provision of a bond or bank guarantee is required, the Local Government shall refund the payment upon satisfactory completion of the necessary works.

26. Shipping Container Requirements

- (a) In considering an application for a shipping container, the Shire shall take into account whether the appearance of the structure would be compatible with the character and visual amenity of the locality to which it is proposed to be sited. The Shire may refuse an application for such a structure if, in its opinion, the appearance of the structure would be incompatible with the character and visual amenity of the locality to which it is proposed to be relocated, notwithstanding any other provision of the Scheme.
- (b) No shipping container shall be placed on any lot zoned Residential or Urban Development other than in accordance with clause 61 (k).
- (c) Any approval granted for the placement of a shipping container on a lot zoned Rural Residential shall be limited to a specific period of time, such time not exceeding 12 months.
- (d) Notwithstanding subclauses (c) and (d) where a shipping container is clad and has the addition of a pitched roof or is permanently screened from public view it may receive planning approval subject to subclause (b).
- (e) A shipping container shall not be used for any form of accommodation.
- (f) A shipping container shall be adequately screened from the street and shall not be stacked vertically unless otherwise approved.
- (g) Where a shipping container has fallen into disrepair or become unsightly at the discretion of the local government, they shall be removed from the lot or suitably upgraded.

27. Serviced Apartment Requirements

- (a) Where a Serviced apartment use is proposed it shall comply with the following—
 - (i) Within the Residential zone a Serviced apartment is only permitted where a residential density is equal to or greater than R40.
 - (ii) A Serviced apartment shall be designed, in the opinion of the local government, to satisfactorily limit conflict with, or disturbance of the occupants of any dwelling.

28. Vegetation Protection

- (a) Approval is required from the local government for the removal of vegetation within the rural townsite, rural residential and rural smallholdings zones unless—
 - (i) It is within the agreed building envelope; or
 - (ii) It is associated with the construction of an approved building; or
 - (iii) It is the subject of an approved clearing permit; or

- (iv) Such vegetation is diseased or dangerous; or
 - (v) It is the removal of exotic species and/or declared weeds; or
 - (vi) It is general fire management or any other requirement of an approved fire management plan; or
 - (vii) It is necessary for an approved access way.
- (b) In areas that are identified as containing the Proteaceae Dominated Kwongkan Shrubland listed in the Australian Government *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC) as a threatened ecological community the removal of vegetation will not be supported prior to the proponent satisfying the requirements of the Department of the Environment and Energy.

29. Outbuildings in the Residential and Rural Residential Zones

- (a) Erection of an outbuilding on a Residential or Rural Residential zoned lot is not permitted unless development approval has already been issued for the erection of a single house, grouped dwelling or multiple dwelling on the lot.

30. Advertisements

- (a) Existing Advertising Signs which—
- (i) Were lawfully erected, placed or displayed prior to the approval of this Scheme; or
 - (ii) May be erected, placed or displayed pursuant to a licence granted by the local government prior to the approval of this Scheme; or
 - (iii) Were erected, placed or displayed pursuant to previous Schemes or by-laws which did not require the approval of the local government or Main Roads WA prior to the approval of this Scheme;
- may continue to be displayed or be erected and displayed unless the condition of the advertisement warrants removal or repair in accordance with clause 80 of the deemed provisions.

31. Unkempt Land

- (a) On any land within the Scheme area, any undergrowth, refuse, rubbish or disused material which in the opinion of the local government is likely to adversely affect the health, comfort or convenience of the inhabitants thereof, the local government may cause a notice to be served on the owner or occupier of such land requiring that the land is cleared of trees, scrub, undergrowth, refuse or rubbish, or such refuse, rubbish or disused material is removed from such land within a specified period.
- (b) Where the owner or occupier does not clear the land or remove the refuse, rubbish or disused material as required by the notice, the local government may without payment or any compensation in respect thereof, clear or remove it and dispose of it at the expense of the owner or occupier to whom notice is given.
- (c) A person to whom a notice under this clause is given may apply for a review of the requirement to the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. Where such an appeal is lodged, the effect of the notice and subsequent actions under subclause (b) shall be suspended until a decision of the State Administrative Tribunal has been handed down.
- (d) Failure to comply with a notice under this clause shall be a breach of the provisions of this Scheme.

32. Amenity

- (a) Where, in the opinion of the local government, any proposed building, structure, site work and/or use, would not be in harmony with the existing buildings or the amenity of the locality in which the proposed development is to be located by virtue of the use and/or design and appearances of the development, the colour or type of materials to be used on exposed surfaces, the height, bulk and mass of any building, the local government may—
- (i) Require development approval for the proposal;
 - (ii) Refuse the proposal notwithstanding that it otherwise complies with the provisions of the Scheme; or
 - (iii) 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 which the proposed development is to be located
- (b) No building shall be so constructed, finished or left unfinished that its external appearance would significantly detract from the amenity of the locality. All land and buildings shall be so used and maintained as to preserve the local amenity.
- (c) If the local government forms the opinion that there has been a breach of the requirements of subclauses (a) and (b) it may, in writing, require the owner to make good the breach in the manner and within the time stated in the notice. The notice may be served on the owner personally or by posting it to the last address of the owner known by the local government, and if served by post, shall be deemed to have been served three (3) clear days after the date of posting.

- (d) A person to whom a notice under this clause is given may apply for a review of the requirement to the State Administrative Tribunal in accordance with *the Planning and Development Act 2005* Part 14.
- (e) Failure to comply with a notice under this clause shall be a breach of the provisions of this Scheme.

33. Management of Stormwater

- (a) Management of stormwater on all developments should be in accordance with current best practice as per the Stormwater Management Manual for Western Australia (DoW, 2007). The Local Government may require the preparation of water management plans as a condition of development approval as per the Better Urban Water Management framework.'

34. Telecommunications Infrastructure

- (a) The height limit for the land use of Telecommunications Infrastructure is only limited by the provisions of Schedule 2—Special Control Area No. 8.
- (b) Within the Rural zone Telecommunications Infrastructure is exempt from the setbacks assigned in Schedule 6.

35. Requirement for Consultation to Commence Mining

- (a) In considering proposals to commercially extract minerals, the Local Government may exercise its discretion to inform the Minister for Mines and the Minister for Planning in writing that the granting of a mining lease or general purpose lease is contrary to the provisions of the Scheme and the Local Planning Strategy.

Schedule 2

SPECIAL CONTROL AREAS

[cl. 36]

1. SCA 1—Port and Transport Corridor Special Control Area 1

(a) Purpose

The purpose of Special Control Area 1 is to provide guidance for land use and development within the area shown on the Scheme Maps as SCA 1.

(b) Objectives

The objectives for SCA 1 are to—

- identify land which may be adversely affected by the Esperance Port and the services and transport corridor;
- ensure that the use and development of affected land is compatible with the existing and proposed future use and development of the Esperance Port and associated transport and services corridor;
- minimise impacts of emissions—particularly dust and noise from heavy freight haulage by road and rail—on existing residential and other sensitive uses;
- implement Scheme controls designed to mitigate adverse environmental effects;
- ensure that no new development on land within SCA 1 is permitted unless arrangements are made for noise or other mitigation measures to be put in place;
- maximise the distance of new residential and noise sensitive development from the Esperance port, transport and services corridor and ensure that any that are permitted incorporate noise mitigation measures;
- restrict vehicle and pedestrian access points to the service corridor; and
- seek to improve the safety and efficiency of existing infrastructure.

(c) Application Requirements—

- (i) Despite any other provisions in the Scheme, planning approval is required for all residential and noise sensitive development proposed within Special Control Area 1;

(d) Relevant Considerations—

In addition to provisions of the Scheme, the local government in considering applications for rezoning, subdivision or planning approval in SCA 1 is to have due regard to—

- (i) *Esperance Port Access Corridor Review: Stage 2—Noise Assessment* by Lloyd Acoustics;
Note: The report referenced in subclause (d)(i) can be found in OLD TRIM—Ref: CR07-3211
- (ii) *The Esperance Service Corridor Town Planning Scheme and Industrial Park Location Study* by ERM Mitchell McCotter;
Note: The report referenced in (d)(ii) can be found in OLD TRIM—Ref: CR12-4939
- (iii) *Environmental Noise Assessment Esperance Port* by Lloyd George Acoustics Pty Ltd;
Note: The report referenced in (d)(iii) can be found in TRIM—Ref: D15/25610
- (iv) Statement of Planning Policy No. 4.1 *State Industrial Buffer Policy*;

- (v) the *Environmental Protection (Noise) Regulations 1997* and use of noise mitigation measures for noise-sensitive premises; and
- (vi) the potential for adverse environmental impacts and the management of such potential impacts;

and shall determine applications for planning approval accordingly.

(e) Referral of Applications

The local government may refer applications for planning approval to the Department of Planning, Lands and Heritage and/or the Department of Water and Environmental Regulation and the local government is to have due regard to advice received when determining applications.

(f) Development Requirements—

- (i) All residential and noise sensitive development shall comply with the noise management requirements specified in clause 1 of Schedule 2 of the Scheme. The Local Government may be willing to approve an alternate solution in relation to subclauses (g) Exposure Level 1 and (h) Exposure Level 2, subject to the submission and consideration of a satisfactory alternate solution.
- (ii) The local government may impose a condition on its planning consent for a single house or other noise sensitive premise that does not comply with these conditions requiring an appropriate mechanism to be placed on the title addressing and/or advising of the deficiencies associated with ameliorating transportation noise levels.
- (iii) Within SCA 1, all new subdivisions shall be designed to maximize the distance of noise-sensitive premises from the Esperance Port and the transport and services corridor and local government may request the Commission to impose conditions of approval requiring portions of the parent lot to be excluded from development of noise sensitive premises, limit access points to the transport corridor, install earth bunds or noise barrier fencing, establish landscaping along the service corridor frontages and significant entry points to the subdivision, require notification on certificates of title advising of the potential for nuisance impacts associated with operation of the port and heavy freight transport on road and rail.

All residential and noise sensitive development shall comply with the noise management guidelines unless discretion to vary them is expressed or implied in the following provisions.

(g) Exposure Level 1 (Condition 1 Area)—

- (i) Standard double brick, brick veneer or reverse brick veneer on slab construction built in accordance with the energy efficiency provisions of the Building Code of Australia will be deemed to comply for residential and other noise sensitive development. Providing that the predicted noise thresholds are not exceeded there will be no requirement for additional noise attenuation measures.
- (ii) Lightweight building construction material on timber or steel framing with compressed fibre cement, timber or corrugated sheet metal cladding, will not be acceptable unless the proponent demonstrates that the structure achieves an internal noise level complying with Australian Standard 2107—*Recommended Design Sound Levels and Reverberation Times for Building Interiors*.
- (iii) The local government will impose a condition on its planning consent for a single house or other noise sensitive premise that does not comply with these conditions requiring a Section 70A notification under the *Transfer of Land Act 1893* being placed on the title advising of the potential to be affected by transportation noise levels and the deficiencies in meeting those conditions. The notification will need to be in place before a building permit is issued. The notification is to state—
 - a. *“This lot is located in close proximity to the Esperance Port Access Corridor and may experience high levels of transportation noise.”*
 - b. *“Noise attenuation measures, as referenced in Schedule 2 (1)(g)(i)(ii) of the Shire of Esperance’s Local Planning Scheme No. 24, have not been incorporated into the design of the development on-site on the basis that the Section 70A Notification is advising all owners and future owners of such.”*
- (iv) New property titles (including strata titles) should warn of the proximity of the access corridor and the potential to be affected by transportation noise levels. This notification pursuant to Section 165 of the *Planning and Development Act 2005* is to state *“This lot is located in close proximity to the Esperance Port Access Corridor and may experience high levels of transportation noise.”*

(h) Exposure Level 2 (Condition 2 Area)—

- (i) Noise sensitive development will require double brick masonry, brick veneer or reverse brick veneer on slab construction, including a tiled roof or corrugated metal roof with sarking and fibrous insulation between joists in the roof space together with enclosed eaves, unless a report is prepared by a suitably qualified person or organisation and endorsed by the Local Government which demonstrates alternative construction methods achieve the same level of noise reduction.
- (ii) Windows facing the port access corridor should non-opening with at least 8.38mm thick glazing; other may be 6.38mm. Mechanical ventilation or air conditioning would be required and acoustically treated. Careful consideration to building layout should be made including the placement of noise sensitive rooms, in particular the bedrooms,

- away from the façade facing the port access corridor and limiting the maximum size of openings, unless a report is prepared by a suitably qualified person or organisation and endorsed by the Local Government which demonstrates alternative construction methods achieve the same level of noise reduction.
- (iii) Lightweight building construction material on timber or steel framing with compressed fibre cement, timber or corrugated sheet metal cladding, will not be acceptable unless the proponent demonstrates that the structure achieves an internal noise level complying with Australian Standard 2107—*Recommended Design Sound Levels and Reverberation Times for Building Interiors* and with Australian Standard 3671-1989—*Acoustics—Road Traffic Noise Intrusion—Building Siting and Construction*.
 - (iv) Masonry fencing or bunding may be required for all new subdivisions in this area.
 - (v) The local government will impose a condition on its planning consent for a single house or other noise sensitive premise that does not comply with these conditions requiring a Section 70A notification under the *Transfer of Land Act 1893* being placed on the title advising of the potential to be affected by transportation noise levels and the deficiencies in meeting those conditions. The notification will need to be in place before a building permit is issued. The notification is to state—
 - a. *“This lot is located in close proximity to the Esperance Port Access Corridor and may experience high levels of transportation noise.”*
 - b. *“Noise attenuation measures, as referenced in Schedule 2 (1)(h)(i)(ii) and/or (iii) of the Shire of Esperance’s Local Planning Scheme No. 24, have not been incorporated into the design of the development on-site on the basis that the Section 70A Notification is advising all owners and future owners of such.”*
 - (vi) New property titles (including strata titles) should warn of the proximity of the access corridor and the potential to be affected by transportation noise levels. This notification pursuant to Section 165 of the *Planning and Development Act 2005* is to state *“This lot is located in close proximity to the Esperance Port Access Corridor and may experience high levels of transportation noise.”*
- (i) Exposure Level 3A and 3B (Condition 3A and 3B Area)—
- (i) Residential development should generally not be permitted without specific acoustic specialist advice considering and estimating internal noise levels. Internal noise level should meet the requirements of Australian Standard 2107—*Recommended Design Sound Levels and Reverberation Times for Building Interiors*. Outdoor areas should be restricted to the opposite side of the corridor. Specialist acoustic advice should also be sought for other noise sensitive uses, in particular, schools, holiday and short term accommodation and offices within this area.
 - (ii) Noise sensitive development shall be double brick masonry, brick veneer or reverse brick veneer on slab construction, including tiled roof with insulated roof space and enclosed eaves. Ceilings should be double thick plasterboards or a layer of compressed fibre cement sheeting placed under the tiles. Windows facing the port access corridor should be non-opening and their size kept to a practical minimum. If windows are required they should be at least 10mm thick single laminate sheet glass, or sealed double glass panels. Mechanical ventilation in all rooms is required. Noise sensitive rooms, in particular bedrooms should be shielded by other purpose areas, which would be facing the port access corridor. Outdoor areas should be well shielded from the corridor using the house as a barrier, unless a report is prepared by a suitably qualified person or organisation and endorsed by the Local Government, demonstrates that alternative construction methods achieve the same level of noise reduction.
 - (iii) Lightweight building construction materials on timber or steel framing with compressed cellulose fibre cement, timber or corrugated sheet metal cladding, will not be acceptable within areas of Exposure Level 3A unless for non-habitable extensions to existing dwellings.
 - (iv) Within Condition Area 3A the local government will impose a condition on its planning consent for a single house or other noise sensitive premise that does not comply with these conditions requiring a Section 70A notification under the *Transfer of Land Act 1893* being placed on the title advising of the potential to be affected by transportation noise levels and the deficiencies in meeting those conditions. The notification will need to be in place before a building permit is issued. The notification is to state—
 - a. *“This lot is located in close proximity to the Esperance Port Access Corridor and may experience high levels of transportation noise.”*
 - b. *“Noise attenuation measures, as referenced in Schedule 2 (1)(i)(i)(ii) and/or (iii) of the Shire of Esperance’s Local Planning Scheme No. 24, have not been incorporated into the design of the development on-site on the basis that the Section 70A Notification is advising all owners and future owners of such.”*
 - (v) Residential densities shall not be increased in this area unless located within the Additional Use A6 zone. Any such buildings are to be purpose built and an acoustic specialist is to certify that interior and exterior living areas comply with Australian Standard 2107—*Recommended Design Sound Levels and Reverberation Times for Building Interiors* and with Australian Standard 3671-1989—*Acoustics—Road Traffic Noise Intrusion—Building Siting and Construction*.

- (vi) Masonry fencing or bunding shall be required for all new subdivisions.
- (vii) Within Condition Area 3A new property titles (including strata titles) should warn of the proximity of the access corridor and the potential to be affected by transportation noise levels. This notification pursuant to Section 165 of the *Planning and Development Act 2005* is to state “*This lot is located in close proximity to the Esperance Port Access Corridor and may experience high levels of transportation noise.*”
- (viii) Within Condition Area 3B the local government will impose a condition on its planning consent for a single house or other noise sensitive premise that does not comply with these conditions requiring a Section 70A notification under the *Transfer of Land Act 1893* being placed on the title advising of the potential to be affected by port noise levels and the deficiencies in meeting those conditions. The notification will need to be in place before a building permit is issued. The notification is to state “*This lot is located in close proximity to the Esperance Port and may experience high levels of port noise.*”
- (ix) Within Condition Area 3B new property titles (including strata titles) should warn of the proximity of port and the potential to be affected by port noise levels. This notification pursuant to Section 165 of the *Planning and Development Act 2005* is to state “*This lot is located in close proximity to the Esperance Port and may experience high levels of port noise.*”
- (x) Where a lot is affected by Exposure Level 3B and any other exposure level within Special Control Area 1 the provisions of Exposure Level 3B will have precedence on that area to which Exposure Level 3B applies.

2. SCA 2—Flinders Residential Development Special Control Area

2.1 Special Control Area 2A

(a) Purpose

The purpose of Special Control Area 2A is to provide development control and guidance for land zoned for single residential R12.5 development within the Flinders subdivision.

(b) Objectives

The objectives of the SCA 2A are to—

- (i) provide a high level of amenity;
- (ii) create an attractive, desirable and responsive environment;
- (iii) create a safe and interesting streetscape and ensure that development enhances rather than detracts from it;
- (iv) provide for and protect a unique suburban residential character for the area;
- (v) promote and encourage climate sensitive and passive energy efficient design;
- (vi) promote retention of stormwater on site; and
- (vii) promote waterwise gardening.

(c) Application Requirements—

- (i) Despite any other provision of the Scheme planning approval is required for all development.

(d) Development Requirements—

- (i) All residential development shall comply with the development standards unless discretion to vary them is expressed or implied in the following provisions.

(e) Development and Subdivision of Lots—

- (i) All lots are to be single residential R12.5.
- (ii) The local government shall not support further subdivision or amalgamation of single residential lots that would have the effect of increasing residential density.

(f) Setbacks—

- (i) All buildings shall be setback a minimum of five (5) metres from the primary street boundary with secondary street boundaries being setback in accordance with the Residential Design Codes.
- (ii) No garages, carports, sheds, balconies, verandahs or the like shall extend into the street setback area.

(g) Building Form—

- (i) All single houses shall have eaves.
- (ii) The street frontage entrance to single houses shall be clearly defined.
- (iii) Balconies shall be constructed on street and rear facades only and should be designed to protect the privacy of adjacent properties.

(h) Building Height—

- (i) The vertical distance at any point from natural ground level to the uppermost part of the building above that point (roof ridge, parapet, or wall) shall be no higher than eight (8) metres.
- (ii) Natural ground level shall be deemed to be the finished ground level established as part of the subdivision of the land preceding development.

- (i) Fencing—
- (i) Front fencing is not required. Where a front fence is to be constructed forward of the building or the street setback, the following provisions shall apply—
 - i. Solid fencing shall be no higher than 750 millimetres; or
 - ii. Fences may be up to 1.8 metres, where the section of the fence higher than 750 millimetres has a minimum of 60% visual permeability with the exception of piers and posts that may be constructed up to 200 millimetres higher than the infill panels.
 - (ii) All front and side fences forward of the building or street setback, whichever is the greater, or adjacent to public open space, should be constructed in the same materials as, or be aesthetically compatible with, the residence on that lot.
 - (iii) All fencing for rear and side boundaries with the exception of fencing forward of the building or street setback area, whichever is the greater, shall be 1.8 metres in height from ground level as set down in subclause 2.1(h)(ii).
 - (iv) No fibre cement fencing shall be permitted.
 - (v) No fences shall be constructed of reflective materials.
 - (vi) No fences shall be constructed of second hand materials, except where the use of such materials has been specifically proposed because of its aesthetic qualities and where the use of such materials integrates with the character or architecture of the building, and the local government approves such use.
- (j) Retaining Walls, Excavation and Fill—
- (i) No retaining walls shall be permitted forward of the building or front setback, whichever is the greater, unless required as part of an architectural theme or garden feature unless it has been designed and constructed of the same materials or approved similar materials as those provided by the developer and approved by the local government.
 - (ii) Unless required for a garden feature, undercroft parking or approved swimming pool, no lot shall be excavated or filled forward of the building or front setback, whichever is the greater, from finished ground level as set down in subclause 2.1(h)(ii).
- (k) Standard of Construction—
- (i) No Repurposed, Second-hand or transportable dwellings are permitted.
 - (ii) No second hand materials shall be permitted in the construction of any external walls or roofing of any residence or outbuilding constructed on any lot, except where the use of such materials has been specifically proposed because of its aesthetic qualities and where the use of such materials integrates with the character or architecture of the building, and such use is approved by the local government.
 - (iii) No reflective materials shall be permitted in the construction of any external walls or roofing of any residence or outbuilding constructed on any lot without due regard to the local government policy, except where the use of such materials has been specifically proposed because of its aesthetic qualities and where the use of such materials integrates with the character or architecture of the building and is approved by the local government.
 - (iv) All dwellings are to be predominantly masonry construction or an acceptable exterior combination of masonry and/or composite materials approved by the local government. Predominantly shall be defined as 50% or greater of the wall area, and does not include roofing materials or windows.

2.2 Special Control Area 2B

- (a) Purpose
- The purpose of Special Control Area 2B is to provide development control and guidance for land zoned for a mixture of residential densities within the Flinders subdivision.
- (b) Objectives
- The objectives of the SCA 2B are to—
- (i) provide for a mixture of residential densities;
 - (ii) provide a high level of amenity;
 - (iii) create an attractive, desirable and responsive environment;
 - (iv) create a safe and interesting streetscape;
 - (v) provide for and protect a unique suburban residential character for the area;
 - (vi) promote and encourage climate sensitive and passive energy efficient design;
 - (vii) promote retention of stormwater on site;
 - (viii) promote waterwise gardening; and
 - (ix) provide a means of implementing a development contribution area.
- (c) Application Requirements—
- (i) Despite any other provision of the Scheme planning approval is required for all development.

- (d) Development Requirements—
- (i) All residential development shall comply with the development standards unless discretion to vary them is expressed or implied in the following provisions.
 - (ii) All portions of restrictive covenants relating to single dwellings, setbacks, building height, construction materials, transportable dwellings, air conditioners, storage of refuse containers and retaining walls on lots within SCA 2B are hereby varied to the extent of their removal.
- (e) Development and Subdivision of Lots—
- (i) The local government shall not support further subdivision or amalgamation of single residential lots that would have the effect of increasing residential density.
 - (ii) Lots may be developed to the maximum density as prescribed by the density coding as indicated on the Scheme map.
 - (iii) The local government may implement a development contribution area.
- (f) Setbacks—
- (i) On lots designated as single residential with a density less than or equal to R20 on the Scheme Map, all buildings shall be setback a minimum of five (5) metres from the primary street boundary with secondary street boundaries being setback in accordance with the Residential Design Codes.
 - (ii) On lots designated with a density greater than R20 all buildings shall be set back from the street boundary in accordance with setbacks prescribed for the specific density as set out in the Residential Design Codes.
 - (iii) No garages, carports, sheds, balconies, verandahs or the like shall extend into the street setback area.
- (g) Building Form—
- (i) All single houses are encouraged to have eaves.
 - (ii) The street frontage entrance to single houses shall be clearly defined.
 - (iii) Balconies shall be designed and constructed so as to protect the privacy of adjacent properties in accordance with the R Codes.
- (h) Building Height—
- (i) The vertical distance at any point from natural ground level to the uppermost part of the building above that point (roof ridge, parapet, or wall) shall be no higher than eight (8) metres.
 - (ii) Natural ground level shall be deemed to be the finished ground level established as part of the subdivision of the land preceding development.
- (i) Fencing—
- (i) Front fencing is not required. Where a front fence is to be constructed forward of the building or the street setback, the following provisions shall apply—
 - i. Solid fencing shall be no higher than 750 millimetres; or
 - ii. Fences may be up to 1.8 metres, where the section of the fence higher than 750 millimetres has a minimum of 60% visual permeability with the exception of piers and posts that may be constructed up to 200 millimetres higher than the infill panels.
 - (ii) All front and side fences forward of the building or street setback, whichever is the greater, or adjacent to public open space, should be constructed in the same materials as, or be aesthetically compatible with, the residence on that lot.
 - (iii) All fencing for rear and side boundaries with the exception of fencing forward of the building or street setback area, whichever is the greater, shall be 1.8 metres in height from ground level as set down in subclause 2.2(h)(ii).
 - (iv) No fibre cement fencing shall be permitted.
 - (v) No fences shall be constructed of reflective materials.
 - (vi) No fences shall be constructed of second hand materials, except where the use of such materials has been specifically proposed because of its aesthetic qualities and where the use of such materials integrates with the character or architecture of the building, and the local government approves such use.
- (j) Retaining Walls, Excavation and Fill—
- (i) No retaining walls shall be permitted forward of the building or front setback, whichever is the greater, unless required as part of an architectural theme or garden feature unless it has been designed and constructed of the same materials or approved similar materials as those provided by the developer and approved by the local government.
 - (ii) Unless required for a garden feature, undercroft parking or approved swimming pool, no lot shall be excavated or filled forward of the building or front setback, whichever is the greater, from finished ground level as set down in subclause 2.2(h)(ii).
- (k) Standard of Construction—
- (i) No Repurposed, Second-hand or transportable dwellings are permitted.

- (ii) No second hand materials shall be permitted in the construction of any external walls or roofing of any residence or outbuilding constructed on any lot, except where the use of such materials has been specifically proposed because of its aesthetic qualities and where the use of such materials integrates with the character or architecture of the building, and such use is approved by the local government.
- (iii) All dwellings are to be predominantly of masonry construction or an acceptable exterior combination of masonry and/or composite materials approved by the local government. Predominantly shall be defined as 50% or greater of the wall area, and does not include roofing materials or windows.

3. SCA 3—Shark Lake Industrial Park Special Control Area 3

3.1 Special Control Area 3A

(a) Purpose

The purpose of SCA 3A is to provide guidance for land use and development within proximity to the Shark Lake Industrial Park.

(b) Objectives

The objectives of SCA 3A are to—

- (i) identify land which may be affected by emissions such as odour, noise, vibration and light from the Shark Lake Industrial Park;
- (ii) ensure that the use and development of land is compatible with the proposed future use and development within the Shark Lake Industrial Park;
- (iii) minimise impacts on residential and other sensitive uses from emissions such as odour, noise, vibration and light from the Shark Lake Industrial Park; and
- (iv) minimise the risk of adverse impact on the RAMSAR listed Lake Warden wetland system and the Shark Lake Nature Reserve.

(c) Application Requirements

Despite any other provision of the Scheme planning approval is required for all development.

(d) Relevant Considerations

In addition to provisions of the Scheme the local government in considering applications for planning approval is to have due regard to—

- (i) Statement of Planning Policy No. 4.1 *State Industrial Buffer Policy*;
- (ii) guidelines of the Environmental Protection Authority for protection of the environment including but not limited to emissions to the atmosphere, and maintenance of water quality;
- (iii) guidelines of the Department of Water and Environmental Regulation for protection of the environment including but not limited to maintenance of water quality;
- (iv) guidelines for the assessment of risk;
- (v) the *Environmental Protection (Noise) Regulations 1997*;
- (vi) the potential for adverse environmental impacts and the management of such potential impacts; and
- (vii) a general presumption against construction of single houses and other sensitive uses in SCA 3A;
- (viii) the Commonwealth's *Environmental Biodiversity Conservation Act 1999* for reference to the Lake Warden wetland system and RAMSAR lakes;

and shall determine applications for planning approval accordingly.

(e) Referral of Applications

The local government may refer applications for planning approval to the Department of Biodiversity Conservation and Attractions and the local government is to have due regard to recommendations and advice received from the Department of Biodiversity Conservation and Attractions when determining applications.

3.2 Special Control Area 3B

(a) Purpose

The purpose of SCA 3B is to provide guidance for land use and development within proximity to the Shark Lake Industrial Park.

(b) Objectives

The objectives of SCA 3B are to—

- (i) identify land which may be affected by emissions such as odour, noise, vibration and light from the Shark Lake Industrial Park;
- (ii) ensure that the use and development of land is compatible with the proposed future use and development within the Shark Lake Industrial Park;
- (iii) minimise impacts on residential and other sensitive uses from emissions such as odour, noise, vibration and light from the Shark Lake Industrial Park; and
- (iv) provide for “home business—rural” and “industry—rural” uses subject to the provisions of the Scheme.

(c) Application Requirements—

- (i) Despite any other provision of the Scheme planning approval is required for all development.
- (ii) Despite any other provision of the Scheme, “rural home business” may be permitted with the approval of the local government on a lot any part of which is within Special Control Area 3B as shown on the Scheme Map.

(d) Relevant Considerations

In addition to provisions of the Scheme the local government in considering applications for planning approval is to have due regard to—

- (i) Statement of Planning Policy No. 4.1 *State Industrial Buffer Policy*;
- (ii) guidelines of the Environmental Protection Authority for protection of the environment including but not limited to emissions to the atmosphere, and maintenance of water quality;
- (iii) guidelines for the assessment of risk;
- (iv) the *Environmental Protection (Noise) Regulations 1997* and use of noise insulation within single houses; and
- (v) the potential for adverse environmental impacts and the management of such potential impacts;

and shall determine applications for planning approval accordingly.

(e) Referral of Applications

The local government may refer applications for planning approval to the Department of Biodiversity Conservation and Attractions and the local government is to have due regard to recommendations / advice received from the Department of Biodiversity Conservation and Attractions when determining applications.

3.3 Special Control Area 3C

(a) Purpose

The purpose of SCA 3C is to provide guidance for land use and development within proximity to the Shark Lake Industrial Park.

(b) Objectives

The objectives of SCA 3C are to—

- (i) identify land which may be affected by emissions such as odour, noise, vibration and light from the Shark Lake Industrial Park;
- (ii) ensure that the use and development of land is compatible with the proposed future use and development within the Shark Lake Industrial Park;
- (iii) minimise impacts on residential and other sensitive uses from emissions such as odour, noise, vibration and light from the Shark Lake Industrial Park; and
- (iv) encourage conservation of environmental values and protection of water quality in Shark Lake.

(c) Application Requirements

Despite any other provision of the Scheme planning approval is required for all development.

(d) Relevant Considerations

In addition to provisions of the Scheme the local government in considering applications for planning approval is to have due regard to—

- (i) Statement of Planning Policy No. 4.1 *State Industrial Buffer Policy*;
- (ii) guidelines of the Environmental Protection Authority for protection of the environment including but not limited to emissions to the atmosphere, and maintenance of water quality;
- (iii) guidelines for the assessment of risk;
- (iv) the *Environmental Protection (Noise) Regulations 1997* and use of noise insulation within single houses;
- (v) the potential for adverse environmental impacts and the management of such potential impacts; and
- (vi) a general presumption against construction of dwellings and other sensitive uses in SCA 3C;

and shall determine applications for planning approval accordingly.

(e) Referral of Applications

The local government may refer applications for planning approval to the Department of Biodiversity Conservation and Attractions and the local government is to have due regard to recommendations / advice received from the Department of Biodiversity Conservation and Attractions when determining applications.

4. SCA 4—Public Drinking Water Source Protection Areas—Special Control Area 4

(a) Purpose

The purpose of SCA 4 is to provide guidance for land use or development for the protection of public drinking water source areas.

Note: Public Drinking Water Source Protection Areas are defined on the Scheme Map in accordance with information provided by the Department of Water and Environmental Regulation.

(b) Objectives

The objectives of SCA 4 are to—

- (i) provide a basis for the protection of public drinking water resources (PDWSA) through the control of land use or development, which has the potential to prejudice the quality of water supplies for public use;
- (ii) identify land that has been designated as groundwater reserves and surface catchment areas that supply public drinking water;
- (iii) ensure that any land use does not detrimentally impact on a public drinking water source;
- (iv) implement Scheme controls that are designed to mitigate any adverse effects on a public drinking water source.

(c) Application Requirements

Despite any other provision of the Scheme planning approval is required for all development including a single house, removal of vegetation, earthworks or the use of land for the keeping of or grazing animals. Outbuildings with an area of 10m² or less and a height of 2.4m or less do not require approval unless otherwise specified in the Scheme (other than in this clause).

(d) Development Requirements

The local government may refuse any application for planning approval or impose conditions on any planning approval so as to—

- (i) protect the resource; and
- (ii) require the registration of a notification under section 70A of the *Transfer of Land Act 1893* on the title to the land giving notice of any limitations or constraints associated with the protection of resources at the applicant's cost.

(e) Minimum Lot Sizes for Rural Residential and Rural Townsite

- (i) Where subdivision of land zoned Rural Residential or Rural Townsite is proposed within Special Control Area 4, the minimum lot sizes for shall be as follows—

Priority Area 1	— No Permitted Subdivision
Priority Area 2	— 2 Hectares
Priority Area 3	— 1 Hectare

- (ii) Irrespective of subclause (i) subdivision will not be supported unless the proposal complies with the provisions of Water Quality Protection Note 25 Land Use Compatibility in Public Drinking Water Source Areas.

Note: There will be a general presumption against development or use of land, which is not compatible with Public Drinking Water Source Areas or which involves a significant risk to the resource. The onus will be on the proponent of development to demonstrate that the proposed activity will not prejudice the resource.

- (iii) Despite any other provision of the Scheme planning approval cannot be issued unless the proposal complies with the provisions of Water Quality Protection Note 25 Land Use Compatibility in Public Drinking Water Source Areas unless it is satisfactory to the Department of Water and Environmental Regulation.

(f) Relevant Considerations

In addition to other provisions of the Scheme, in considering any application for rezoning, subdivision or planning approval in SCA 4, the local government is to have particular regard to—

- (i) the Department of Water and Environmental Regulation Water Quality Protection Note: *Land Use Compatibility in Public Drinking Water Source Areas*, and any advice received from the Department of Water and Environmental Regulation;
- (ii) Esperance Water Reserve Drinking Water Source Protection Plan and other plans associated with outlying Country Towns;
- (iii) the requirements of Statement of Planning Policy No. 2.7, *Public Drinking Water Source Policy*;
- (iv) The potential impact of the proposal on the quality of the water resource;
- (v) The practicability and cost of any ameliorative measures proposed for the protection of the resource;
- (vi) The existing level of protection of the resource provided, with reference to management of land and location of development;
- (vii) The nature, location and performance of any existing or proposed effluent disposal system;
- (viii) The drainage characteristics of the land, including surface and groundwater flow, and the adequacy of proposed measures to manage run-off and drainage.

- (ix) For the purposes of this Scheme the groundwater reserves will be deemed to be as per the relevant Drinking Water Source Protection Plan and a wellhead protection zone of with a 500 metres radius around each production bore in a Priority 1 area and a 300 metres radius around each production bore in Priority 2 and Priority 3 will apply unless the Department of Water and Environmental Regulation indicates otherwise.
- (g) Referral of Applications
The local government may refer applications for planning approval to the Department of Water and Environmental Regulation or any other agency or organisation it deems necessary and shall have due regard to any advice received.
- (h) Modification of Boundary
Upon finalisation of any Public Drinking Source Area within the Scheme Area by the Department of Water and Environmental Regulation, any realignment of the SCA 4 boundary will trigger a Basic Amendment.

5. SCA 5—Wetlands of Significance and Lake Warden Recovery Catchment Special Control Area 5

- (a) Purpose
The purpose of SCA 5 is to provide guidance for land use and development within the catchments of wetlands of significance (RAMSAR Wetlands).
- (b) Objectives
The objectives of SCA 5 are to—
 - (i) ensure that the use and development of affected land is compatible with and does not detrimentally affect the SCA 5 wetlands;
 - (ii) encourage retention and planting of native vegetation and properly managed perennial pasture;
 - (iii) encourage fencing and rehabilitation of creek lines; and
 - (iv) discourage subdivision and intensification of development within the Priority 1 area of the Lake Warden catchment due to the risks posed by the shallow water table, flooding, nutrient pollution, domestic animal impact and risks to public health.
- (c) Application Requirements
Despite any other provision of the Scheme planning approval is required for all development.
- (d) Relevant Considerations
In addition to provisions of the Scheme, the local government in considering applications for rezoning, subdivision or planning approval in SCA 5 is to have due regard to—
 - (i) results of scientific research conducted by Department of Biodiversity Conservation and Attractions regarding groundwater and surface water interactions within the Lake Warden Wetland System and recommendations for management of the priority areas;
 - (ii) guidelines of the Environmental Protection Authority for protection of the environment including but not limited to maintenance of water quality;
 - (iii) guidelines of the Department of Water and Environmental Regulation for protection of wetlands and waterways including but not limited to maintenance of water quality;
 - (iv) the potential for adverse environmental impacts and the management of such potential impacts; and
 - (v) There is a general presumption against subdivision within the Priority 1 area of the Lake Warden catchment except where a structure plan applies;
 and shall determine applications for planning approval accordingly.
- (e) Referral of Applications—
 - (i) Except within the Priority 1 area of the Lake Warden catchment the Local Government will refer applications for planning approval (except for Agriculture—Extensive, Single House and other related incidental uses) to the Department of Biodiversity Conservation and Attractions and the Department of Water and Environmental Regulation and the Local Government is to have due regard to recommendations and advice received from those authorities when determining applications.
 - (ii) Within the Priority 1 area of the Lake Warden catchment the Local Government will refer applications for planning approval (except for Single House and other related incidental uses) to the Department of Biodiversity Conservation and Attractions and the Department of Water and Environmental Regulation and the Local Government is to have due regard to recommendations and advice received from those authorities when determining applications.
 - (iii) The keeping of horses on lots of less than 4ha (or equivalent stocking rates of other animals) within SCA 5 will be refused or referred to the Department of Biodiversity Conservation and Attractions for comment and subsequent determination by the Local Government.

6. SCA 6—Brazier Street Industry Special Control Area 6

- (a) Purpose
The purpose of SCA 6 is to provide guidance for land use and development within the area affected by proximity to the bulk fuel tank storage facilities, grain handling facilities, fertiliser plant, the Water Corporation wastewater treatment plant, railway line and the Shire depot.

(b) Objectives

The objectives for SCA 6 are to—

- (i) avoid increasing residential densities and other sensitive uses within the SCA until industrial uses that might affect the site have been relocated;
- (ii) recommend that any new subdivision or development include notification on title of the proximity of the industrial uses which might adversely affect them; and

(c) Application Requirements

Despite any other provisions in this Scheme, planning approval is required for development within Special Control Area 6.

(d) Relevant considerations

In addition to provisions of the Scheme, the local government in considering applications for rezoning, subdivision or planning approval in SCA 6 is to have due regard to—

- (i) Statement of Planning Policy No. 4.1 *State Industrial Buffer Policy*;
- (ii) guidelines of the Environmental Protection Authority for protection of the environment including but not limited to emissions to the atmosphere and maintenance of water quality;
- (iii) guidelines for the assessment of risk;
- (iv) the *Environmental Protection (Noise) Regulations 1997* and use of noise mitigation measures within noise sensitive premises;
- (v) the potential for adverse environmental impacts and the management of such potential impacts;
- (vi) a general presumption against subdivision that would increase the construction of dwellings and other sensitive uses in SCA 6 until the industrial uses have been removed from the site or otherwise decommissioned;
- (vii) a requirement for a notification on title for any new subdivision or development advising of the proximity of the industrial activities and the wastewater treatment plant; and

and shall determine applications for planning approval accordingly.

(e) Referral of Applications—

- (i) The local government may refer applications for planning approval to the Department of Water and Environmental Regulation or other applicable statutory agencies or authorities and the local government is to have due regard to advice received from the responsible authorities when determining applications.
- (ii) The local government may require the design and construction of any sensitive land use facilities in SCA 6 to include noise attenuation measures and mechanical ventilation to minimize the impacts from the industrial development and wastewater treatment plant upon the amenity of the premises.

7. SCA 7—Blue Haven and Second Beach Special Control Area 7

(a) Purpose

The purpose of Special Control Area 7 is to provide development control within the area shown on the scheme maps as SCA 7.

(b) Objective

The objectives of SCA 7 are to—

- (i) provide a high level of amenity in this visually sensitive coastal area;
- (ii) maintain suitable street setbacks to minimise impact on Twilight Beach Road;
- (iii) protect the vegetation corridor fronting Twilight Beach Road; and
- (iv) maintain the land for purely residential purposes.

(c) Application Requirements

Despite any other provisions of the Scheme planning approval is required for all development.

(d) General Development Requirements

In addition to other provisions of the Scheme, the local government in considering applications for rezoning, subdivision or planning approval in SCA 7 is to have due regard to—

- (i) Generally within this area, no development will be permitted which, in the opinion of the local government, will be likely to endanger the visual amenity of Twilight Beach Road and the coastal views as seen from any lot or public place, and the ocean.
- (ii) No land shall be cleared, (other than for construction of buildings), filled or excavated without the prior permission of the local government in accordance with Part 7 of Planning and Development (Local Planning Schemes) Regulations 2015. An application for such permission shall include a statement as to the measures that will be taken to prevent wind and water erosion and a plan showing the proposed landscaping, including the design and location of pathways and driveways.
- (iii) The local government will encourage rear access to properties instead of direct access onto Twilight Beach Road. In no case shall permission be given for vehicular access across public open space or a PAW.

- (iv) The local government may also determine a landscape protection area within the setback to Twilight Beach Road.
- (v) No fencing shall be erected without the prior permission of the local government, in accordance with Part 7 of *Planning and Development (Local Planning Schemes) Regulations 2015*. The local government will consider the use of materials, colour and height of the fence in an attempt to ensure that such structures blend into the landscape.
- (vi) The local government will not permit the erection of sheds or other buildings between a house erected on the lot and any road except in the case of a corner lot or a lot with dual street frontages where the local government may permit such a building to be built between the residence and any road other than Twilight Beach Road.
- (vii) The local government will expect any residential development, sheds or outbuildings to be constructed of materials that will not be intrusive or draw attention, with the use of light colours or shiny surfaces to be avoided.
- (viii) Where setbacks under these provisions can be varied, the local government when exercising its discretion, shall give consideration to the following—
 - i. existing vegetation and its retention;
 - ii. views from outlooks and Twilight Beach Road;
 - iii. difficult topography;
 - iv. if the lot has a street frontage and/or the site area is less than is specified in the Codes;
 - v. if the reduced setbacks will result in an improvement to the visual amenity of the area from Twilight Beach Road or adjoining properties; and
 - vi. any other relevant matters.
- (ix) Where the subject lot is affected by Clause 4 of Schedule 2—Public Drinking Water Source Protection Areas—Special Control Area 4 and Clause 7 of Schedule 2—Blue Haven and Second Beach Special Control Area 7, the following minimum lot sizes for subdivision shall apply—
 - i. In accordance with the Drinking Water Source Protection Areas, a minimum lot size of 1 hectare where the development is not proposed for connection to reticulated sewer.
 - ii. Otherwise a minimum lot size in accordance with the *Residential Design Codes* will apply subject to an Structure Plan being prepared and reticulated sewer being provided.

7.1 Special Control Area 7A

In addition to the general development requirements in clause 7(d) of Schedule 2, the following apply specifically to lots as indicated on the Scheme Map as SCA 7A—

- (i) Setbacks on these lots will be in accordance with requirements of R10 as specified in the Residential Design Codes.

7.2 Special Control Area 7B

In addition to the general development requirements in clause 7(d) of Schedule 2, the following apply specifically to lots as indicated on the Scheme Map as SCA7B—

- (i) Front Setback
Minimum 20 metres, which may be averaged to an absolute minimum of 15 metres to the Twilight Beach Road boundary of the lot. Averaging will be in accordance with the methodology outlined in the Residential Design Codes.
- (ii) Side Setbacks
Minimum of 10 metres. May be reduced to 3 metres at the local government's discretion.
- (iii) Rear / Secondary Street Setback
Minimum of 10 metres from the boundary. May be reduced to 5 metres at the local government's discretion.

7.3 Special Control Area 7C

In addition to the general development requirements in clause 7(d) of Schedule 2, the following apply specifically to lots as indicated on the Scheme Map as SCA 7C—

- (i) Front Setback
20 metres to 40 metres from the Twilight Beach Road boundary, at the discretion of the local government.
- (ii) Side and Rear Setbacks
Minimum of 10 metres. May be reduced to 5 metres at the local government's discretion.

7.4 Special Control Area 7D

In addition to the general development requirements in clause 7(d) of Schedule 2, the following apply specifically to lots as indicated on the Scheme Map as SCA 7D—

- (i) Front Setback
Minimum of 10 metres.

(ii) Side and Rear Setbacks

Minimum of 10 metres. May be reduced to 5 metres at the local government's discretion.

7.5 Special Control Area 7E

In addition to the general development requirements in clause 7(d) of Schedule 2, the following apply specifically to lots as indicated on the Scheme Map as SCA 7E—

(i) Front Setback

Minimum of 10 metres.

(ii) Side and Rear Setbacks

In accordance with requirements of R10 as specified in the Residential Design Codes.

8. SCA8—Esperance Airport Special Control Area 8

(a) Purpose—

(i) The purpose of Special Control Area 8 is to provide guidance for land use and development control within the area shown on the Scheme Map as SCA 8.

(ii) For the purpose of SCA 8, “development” shall include planting of trees and shrubs, a flagpole, antenna, aerial, tower, electricity transmission line, satellite dish, chimney, flue, smokestack or other similar structures.

(b) Objectives—

The objectives for SCA 8 are to—

(i) protect the continued operations of the Esperance Airport near Gibson and its existing and potential future flight paths;

(ii) ensure that development and vegetation on and around the airport does not compromise the current and future operations of the airport;

(iii) control the height of all vegetation and development to prevent obstacles from being constructed within areas that are subject to airport height restrictions;

(iv) ensure that new development within the airport SCA is designed and constructed to mitigate any impact by noise;

(v) generally discourage subdivision and development to minimise the potential for sensitive land uses to be undertaken within the airport SCA and allow for future airport expansion; and

(vi) ensure that development is in accordance with and does not compromise the objectives of the Esperance Airport Master Plan.

(c) Application Requirements

Despite any other provisions in the Scheme—

(i) planning approval is required for all land use and development within SCA 8A including the construction, extension or alteration of a single house or any other building or structure; and

(ii) within SCA 8B planning approval is required for any proposed structure which will exceed 15 metres in height.

(iii) within SCA 8C planning approval is required for all development (except Agriculture—Extensive).

(d) Development Requirements—

(i) Any new dwelling, including the extension or alteration of an existing dwelling, shall be constructed so as to comply with design and construction—

i. noise attenuation measures contained in *Australian Standards AS2021-1994 Acoustics—Aircraft Noise Intrusion—Building Siting and Construction* in accordance with the best available advice regarding existing and future Australian Noise Exposure Forecast criteria; and

ii. the height limitations associated with the Obstacle Limitation Surfaces.

(ii) The local government may restrict the development of residential uses and occupation of other buildings that may be adversely affected by aircraft noise in accordance with the Australian Noise Exposure Forecast criteria as follows—

i. less than 20 ANEF is Acceptable for Development;

ii. 20 to 25 ANEF may be Conditionally Acceptable for Development; and

iii. greater than 25 ANEF is Unacceptable for Development.

(iii) The local government may require any owner or occupier to remove any structure or vegetation which in the opinion of the airport manager or Civil Aviation Safety Authority exceeds the Obstacle Limitation Surface height.

(e) Relevant Considerations—

(i) The local government shall not grant approval to any development that compromises the purpose of the Esperance Airport Special Control Area.

(ii) The local government shall not approve a dwelling including any alteration or extension on land contained within the greater than 25 ANEF contour line.

- (iii) The local government shall not approve any development that infringes upon the Esperance Airport Obstacle Limitation Surfaces (OLS).
- (iv) In considering any application for planning approval, subdivision or scheme amendment, the local government shall have regard to—
 - i. objectives of the Esperance Airport Special Control Area 8;
 - ii. advice from the Department of Transport and Civil Aviation Safety Authority;
 - iii. potential impacts of the proposal on the current and future operations of the airport;
 - iv. relevant ANEF contour information;
 - v. *Australian Standards AS2021-1994 Acoustics—Aircraft Noise Intrusion—Building Siting and Construction*;
 - vi. the Esperance Airport Obstacle Limitation Surfaces (OLS);
 - vii. the Esperance Airport PANS-OPS protection surface; and
 - viii. the Esperance Airport Master Plan.

9. SCA9—Coastal Erosion and Inundation Risk Special Control Area 9

(a) Purpose

The purpose of SCA9 is to provide guidance for land use and development within the potential coastal erosion and inundation risk area.

(b) Objective

The objective of SCA9 is to—

- (i) Ensure that development and use are made aware of potential coastal erosion and inundation risk.

(c) Application Requirements—

- (i) Despite any other provision of the Scheme planning approval is required for all development.

(d) Relevant Considerations

In addition to the provisions of the Scheme, the local government in considering applications for rezoning, subdivision or planning approval in SCA 9 is to have regard to—

- (i) Esperance Coastal Hazard and Vulnerability Assessment by BMT JFA Consultants; and
- (ii) Statement of Planning Policy 2.6 State Coastal Planning Policy, and shall determine applications for planning approval accordingly.

(e) Development Requirements—

- (i) A notification is to be placed on the Certificate of Title as a condition on its planning consent stating '*VULNERABLE COASTAL AREA—This lot is located in an area likely to be subject to coastal erosion and/or inundation over the next 100 years*'.
- (ii) New property titles (including strata titles) should warn of potential coastal erosion and inundation risk. This notification pursuant to Section 165 of the Planning and Development Act is to state '*VULNERABLE COASTAL AREA—This lot is located in an area likely to be subject to coastal erosion and/or inundation over the next 100 years*'

10. SCA 10—Undeveloped Rural Area

(a) Purpose

The purpose of SCA 10 is to provide guidance for land use and development within the undeveloped rural zoned areas of the Shire.

(b) Objectives

The objectives of SCA 10 is to—

- (i) provide for mining activity, low key eco-tourism uses, environmental conservation and agricultural land uses.

(c) Application Requirements

Despite any other provision of the Scheme planning approval is required for all development. Land uses are to be assessed as follows—

- (i) As P uses
 - Telecommunications infrastructure
- (ii) As D uses
 - Mining Operations
 - Agriculture—Extensive
 - Agriculture—Intensive
 - Animal Husbandry—intensive
 - Holiday House
 - Repurposed dwelling
 - Single House

- Second-hand dwelling
 Winery
 Workforce accommodation
- (iii) As I uses
 Industry
- (iv) All other uses are to be read as X uses in Table No. 4
- (d) Relevant Considerations
 In addition to provisions of the Scheme, the local government in considering applications for rezoning, subdivision or planning approval in SCA 10 is to have due regard to—
- (i) results of scientific research conducted by Department of Biodiversity Conservation and Attractions or other relevant authority;
- (ii) guidelines of the Environmental Protection Authority for protection of the environment including but not limited to maintenance of water quality;
- (iii) guidelines of the Department of Water and Environmental Regulation for protection of wetlands and waterways including but not limited to maintenance of water quality; and
- (iv) the potential for adverse environmental impacts and the management of such potential impacts.
- and shall determine applications for planning approval accordingly.
- (e) Development Requirements—
- (i) Minimum lot sizes will be as per the Local Planning Strategy.
- (ii) Minimum setbacks to development will be 20m to all boundaries.
- (iii) The disposal of liquid and/or solid wastes shall be carried out with an effluent disposal system approved by the Local Government and the Health Department of Western Australia.
- (iv) A potable water supply shall be provided to the satisfaction of the Local Government and in accordance with Clause 18 of Schedule 1 of the Scheme.
- (v) Power will be generated on site as there is no external service.
- (f) Referral of Applications—
- (i) Development application that require the clearing of native vegetation will be referred to the Department of Biodiversity Conservation and Attractions and the Department of Water and Environmental Regulation and the Local Government is to have due regard to recommendations and advice received from those authorities when determining applications.

Schedule 3
 ADDITIONAL USES

[cl. 19]

No.	Location	Base Zone	Additional Use(s)	Development Standards/Conditions
A1	Esperance Loc East 22, Lot 20, Daw Drive to Kent Place, Bandy Creek	Rural Residential	As a 'D' use— <ul style="list-style-type: none"> • Restaurant/Cafe 	Trade access via Kent Place is denied.
A2	Lots 247 and 248 Daphne Street and Lot 336 Nugent Street, Castletown	Residential	As a 'D' use— <ul style="list-style-type: none"> • Tourist Development 	As determined by the local government.
A3	Lot 83 cnr Fisheries Road, Windabout Way and Lalor Drive, Windabout	Rural Residential	As a 'D' use— <ul style="list-style-type: none"> • Place of Worship 	<ol style="list-style-type: none"> 1. Maximum gross floor area of chapel—180m². 2. Maximum number of worshippers—75. 3. The Chapel is to be located to the satisfaction of the local government. 4. Minimum on-site parking requirement—20 spaces. 5. No access to Fisheries Road.

No.	Location	Base Zone	Additional Use(s)	Development Standards/Conditions
				6. The base of any septic/leach drain system is to be installed a minimum of 2 metres above the highest known ground water level. If this cannot be achieved the provision of a high performance phosphorus retaining effluent disposal system shall be mandatory.
A4	Lot 82 Coolgardie-Esperance Highway, Grass Patch	Rural Townsite	As an 'A' use— <ul style="list-style-type: none"> • Motor Vehicle Repair 	<ol style="list-style-type: none"> 1. The local government may approve a reduction in the front setback to zero where it is consistent with the setback for building/s fronting the Coolgardie-Esperance Highway. 2. Mechanical repair of vehicles, plant, and equipment does not permit the recapping or retreading of tyres, panel beating, spray painting, or chassis reshaping.
A5	Hellfire Art Gallery Lot 2 Tyrrell Rd, Merivale	Rural	As a 'D' use— <ul style="list-style-type: none"> • Art Gallery • Restaurant/Cafe • Exhibition Centre • Shop 	<ol style="list-style-type: none"> 1. No additional development shall be permitted or undertaken unless planning approval has been granted by the local government having regard for site limitations pertaining to parking and on-site effluent disposal. 2. The Shop is not to have a net Floor Area in excess of 50m²
A6	Lots 1-8, 5-8, 50, 104 and 502 Emily Street, Lots 11, 12, 105, 16, 31 - 35, 2, 154, 155, 38, 39, 3, 41, 1, 2, 95-102, 544, 545, SL1-4, 125-129, 1, 222, 223 Dempster Street, Lots 1, 3-7, 157, 156, 50, 52, 53 Taylor Street, Lots 1-5, 23, 24, 9, 3, 2, 16, 537, 536, 153, 152, 12, 12, 20, SL 1-8, 5, 217, 530, 922, 85-88, 92, 1, 5, 4 114-120 The Esplanade, Lot 21 William Street, Lots 3, 885, 886 Kemp Street, Lot 2 Brazier Street, Strata Lots 1-3 Balfour Street	Residential	As a 'D' use— <ul style="list-style-type: none"> • Cabin • Car Park • Chalet • Convenience Store • Exhibition Centre • Holiday Accommodation • Medical Centre • Restaurant/ Café • Small Bar As an 'A' use— <ul style="list-style-type: none"> • Amusement Parlour • Caravan Park • Club Premises • Fast Food Outlet • Hotel • Lunch Bar • Nightclub • Reception Centre • Serviced Apartment • Shop • Tavern • Tourist Development 	<ol style="list-style-type: none"> 1. Where access to a laneway is available, prior to commencement of development arrangements shall be put in place for any land needed to widen the laneway to six (6) metres to be granted to the local government free of cost. 2. In any case the maximum amount of land to be ceded from one side of the laneway will be one (1) metre. 3. Subdivision of lots abutting a laneway that is less than six (6) metres wide will not be permitted where the laneway is the only access. 4. The local government may approve a combination of tourist accommodation and permanent residential accommodation on the same site. 5. Where Strata Titling is proposed, appropriate management arrangements are in place, via a management statement, including a maximum length of stay provision of three months in any twelve month period applied to the

No.	Location	Base Zone	Additional Use(s)	Development Standards/Conditions
			As an 'T' use— <ul style="list-style-type: none"> • Caretakers Dwelling 	tourism accommodation component on all developments. 6. The residential density may be increased from R40 to R50 for residential development and from R40 to R60 for tourism development subject to— <ol style="list-style-type: none"> (a) a minimum lot size of 2000m²; and (b) compliance with clause 27 of Schedule 1. 7. Setbacks, subject to subclause 1 will be— <ol style="list-style-type: none"> (a) side setback of 0 metres; (b) rear setback of 0 metres; (c) front setback of 4 metres for the residential development; and (d) front setback of 0 metres for non-residential development.
A7	Lots 118-120, 156-163 Ralston Street, Lot 150 Overheu Street, Lots 93-99 Sutcliffe Street, Condingup	Rural Residential	As an 'A' use— <ul style="list-style-type: none"> • Educational Establishment • Home Store • Place of Worship • Restaurant/Cafe 	As determined by the local government.
A8	Lot 5 Downes Street, Pink Lake	Rural Residential	As an 'A' use— <ul style="list-style-type: none"> • Reception Centre 	Planning approval cannot be issued unless the proposal complies with the provisions of Water Quality Protection Note 25 Land Use Compatibility in Public Drinking Water Source Areas unless it is satisfactory to the Department of Water and Environmental Regulation.
A9	Lot 11 Sims Street, Chadwick	General Industry	As a 'P' use— <ul style="list-style-type: none"> • Office 	As determined by the local government.
A10	Lot 32 Orana Drive, Myrup	Rural Residential	As a 'D' use— <ul style="list-style-type: none"> • Educational Establishment As an 'A' use— <ul style="list-style-type: none"> • Reception Centre 	As determined by the local government.
A11	Lot 290 Mills Place, West Beach	Mixed Use	As a 'D' use— <ul style="list-style-type: none"> • Holiday Accommodation • Holiday House • Single House 	Holiday Accommodation is to comply with the density of R20.
A12	Lot 408 Yallambee Road, Myrup	Rural	As a 'D' use— <ul style="list-style-type: none"> • Shop 	The shop is not to have a net Floor Area in excess of 36m ² .
A13	Lot 808 Corry Street, Esperance	Residential	As a 'D' use— <ul style="list-style-type: none"> • Medical Centre 	The number of health practitioners is not to exceed 3.
A14	Lot 1 Fisheries Road, Myrup	Rural	As a 'D' use— <ul style="list-style-type: none"> • Shop 	The shop is not to have a net Floor Area in excess of 45m ² .

No.	Location	Base Zone	Additional Use(s)	Development Standards/Conditions
A15	Portion Lot 35 Fisheries Road, Myrup	Rural	As a 'D' use— • Shop	The shop is not to have a net Floor Area in excess of 150m ² .
A16	Portion Lot 9002 Eleven Mile Beach Road, Pink Lake	Rural Residential	As a 'D' use— • Shop • Restaurant/cafe	The shop is not to have a net Floor Area in excess of 150m ² .
A17	Portion Lot 105 Pink Lake Road, Nulsen	Tourism	As a 'D' use— • Grouped Dwelling • Special Purpose Dwelling As an 'A' use— • Aged Care Facility	1. A density of R40 applies to the development of a grouped dwelling or special purpose dwelling. 2. The aged care facility is not to have a plot ratio exceeding 1.0.
A18	Lots 421 and 422 Pink Lake Road, Nulsen	Local Centre	As a 'D' use— • Single House	Setbacks are to be in accordance with the R-Codes
A19	Lots 15, 53 and portion of Lot 20 Daw Drive, Bandy Creek	Residential	As a 'D' use— • Caravan park As an 'A' use— • Holiday accommodation • Tourist development	1. Development is restricted to lots of 2000m ² or greater 2. Development is subject to the controls of the Tourism zone

Schedule 4
RESTRICTED USES

[cl. 20]

No.	Description of land	Restricted use	Conditions
R1	Lot 37 Fisheries Road, Castletown	As a 'D' use— • Earthmoving Equipment—Depot for • Industry—Light • Transport Depot • Warehouse/storage	1. Development is to be in accordance with the approved Local Development Plan Ref: 16067-3. 2. No development contrary to point 1. will be permitted until such time as a new Local Development Plan has been prepared and approved in accordance with the relevant provisions of Part 6—Local Development Plans in Schedule 2—Deemed provisions for local planning schemes of the Planning and Development (Local Planning Schemes) Regulations 2015. 3. In addition to the requirements set out under clause 48(1)(c) in Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, any new Local Development Plan should set out the following information— i. a storage unit facility in the eastern portion of the Lot to Act as a noise buffer prior to operating the site as a depot, with a requirement that it is to be registered as a restrictive covenant on the title of the lot, pursuant to section 129BA of the <i>Transfer of Land Act 1893</i> ; ii. marking of setbacks required for each type of vehicle and machine.

No.	Description of land	Restricted use	Conditions
R2	Lot 2 Cascade Road, Lot 3 River Road, Cascade, Lot 1691 Grass Patch Road, Lort River Lot 1 Willis Street, Grass Patch, Lot 15 Harbour Road, Chadwick	As a 'D' use— <ul style="list-style-type: none"> • Warehouse/storage • Workforce Accommodation As a 'T' use— <ul style="list-style-type: none"> • Office 	<ol style="list-style-type: none"> 1. Development is to be in accordance with Schedule 6 with the exception of Minimum Car Spaces (Space/ Sq. Metre). 2. Development is to be in accordance with Schedule 7.
R3	Mardabilla Location 2 Point Malcolm Road, Israelite Bay	As an 'A' use— <ul style="list-style-type: none"> • Agriculture—Intensive • Caretaker's dwelling • Dwelling • Holiday accommodation • Tourist development 	<ol style="list-style-type: none"> 1. All tourist related development (Holiday accommodation or Tourist development) is to be of a scale and design commensurate to eco—tourism. 2. Agriculture—Intensive uses will be limited to the area of the site east of the historic homestead. 3. The disposal of liquid and/or solid wastes shall be carried out with an effluent disposal system approved by the Local Government and the Health Department of Western Australia. 4. A potable water supply shall be provided to the satisfaction of the Local Government and in accordance with Clause 18 of Schedule 1 of the Scheme. 5. Power will be generated on site as there is no external service to the lot. 6. All applications for planning approval will be forwarded to the Department of Biodiversity Conservation and Attractions for comment.

Schedule 5
SPECIAL USES

[cl. 21]

No.	Description of land	Special use	Conditions
SU1	Historic Wireless Hill OTC Site PART former Wireless Station Site being Lot 1 on Deposited Plan 40225	As a 'D' use— <ul style="list-style-type: none"> • Art Gallery • Bed and Breakfast • Single House • Holiday House As an 'A' use— <ul style="list-style-type: none"> • Restaurant/cafe 	<ol style="list-style-type: none"> (a) The 3000m² site to be maintained to protect its cultural heritage significance as a former OTC site. (b) Future use of the site is to demonstrate due regard to its heritage significance and the restrictive covenant on its title. (c) Restrictive covenant to be retained on title to ensure that there is no erection, demolition or alteration of any part of the existing buildings nor any clearing of land or advertising signs placed on Lot 1 without prior written approval of the Shire of Esperance. This does not preclude a new restrictive covenant being prepared to reflect more appropriate arrangements for development.
SU2	Shark Lake Abattoirs Lot 21 Coolgardie—Esperance Highway, Myrup	As a 'D' use— <ul style="list-style-type: none"> • Abattoir (and incidental uses) 	<ol style="list-style-type: none"> (a) Site may continue to be used as an abattoir and may include associated stockholding yards subject to continuing approvals as required by the Department of Water and Environmental Regulation and the local government.

No.	Description of land	Special use	Conditions
SU3	Portion Lot 322 Orleans Bay Road, Condingup	As a 'D' use— <ul style="list-style-type: none"> • Holiday House • Residential Building • Restaurant/Cafe • Single House (Managers Residence) • Private Recreation 	<p>(a) The objectives of the zone are—</p> <ul style="list-style-type: none"> (i) To provide for high quality holiday accommodation to complement the Duke of Orleans Bay Caravan Park (ii) To ensure all development within the landscape blends in with the landscape and complements the Condingup townsite. <p>(b) (i) Development shall generally be in accordance with the concept plan dated April 2006, or any variation to that plan approved by Council and shall incorporate the following—</p> <ul style="list-style-type: none"> • All Fire breaks between the tourist development and adjoining uses; • Any buffers required from the adjoining blue gum plantation; • If the development is to be staged, the identification of the lots to be developed in each stage. <ul style="list-style-type: none"> (i) All development shall be subject to Planning Approval/Consent. (ii) Only one dwelling may be permitted on the site. This dwelling is for the exclusive occupation of the manager of the tourist accommodation, their partner and dependents. <p>(c) Provision of Infrastructure—</p> <ul style="list-style-type: none"> (i) The disposal of liquid and/or solid wastes shall be carried out with an effluent disposal system approved by the Local Government and the Health Department of Western Australia. (ii) A potable water supply shall be provided to the satisfaction of the Local Government and in accordance with Clause 18 of Schedule 1 of the Scheme. (iii) Appropriate arrangements to be made with the electricity supplier to upgrade electricity supply to three phase power. <p>(d) Location of Buildings and Infrastructure—</p> <ul style="list-style-type: none"> (i) All buildings shall be set back a minimum of 20 metres from Orleans bay Road and Wharton Bay Townsite Reserve unless otherwise determined by the Local Government, in order to reflect current guidelines and codes of practice in relation to bush fire management and buffer setbacks from rural land uses.

No.	Description of land	Special use	Conditions
			<p>(e) Building Designs, Materials and Colour—</p> <p>(i) Dwellings, outbuildings and structures associated with the use of the land shall be designed and constructed of materials which allow them to blend into the landscape of the site</p> <p>(ii) No boundary fencing shall be constructed of fibre cement, metal sheeting or wooden picket unless otherwise determined by the Local Government. Preferred fencing shall be of rural construction (post and strand).</p> <p>(iii) An overall landscape plan for the site shall be prepared to the Local Government's satisfaction and implemented as a condition of planning approval/consent.</p> <p>(f) Bush Fire Management Control—</p> <p>(i) Subdivision and development are to be in accordance with the Fire Management Plan for the land, as endorsed by FESA and the Shire of Esperance and accords with the plan dated April 2007</p> <p>(g) Notification of Prospective Owners—</p> <p>(i) Provision shall be made to the Local Government's satisfaction to ensure prospective purchasers of land within Special Use SU3 are given a copy of these conditions prior to entering into an agreement to acquire any property.</p> <p>(ii) Memorials to be incorporated onto all titles advising land owners and their successors of the existing blue gum plantation on the adjoining land and that in future there may be other agricultural uses developed in the surrounding area and that the plantation or other uses may impact on the amenity of the tourist development.</p> <p>(h) Strata Titling—</p> <p>(i) Strata titling of the development shall be subject to a centralised management structure including the preparation of a management statement to the satisfaction of the Local Government, which includes, but is not limited to the following requirements—</p> <ul style="list-style-type: none"> • Provision for a full time manager residing on site; • On going management of common property, the fire management plan and potable water supply;

No.	Description of land	Special use	Conditions
			<ul style="list-style-type: none"> • Implementation of the design guidelines; • Ongoing management of joint effluent disposal systems; • Staging of development to be coordinated with harvesting and lease arrangements relating to the blue gum plantation. • Binding of successive owners of tourism units and the tourism manager/operator; • Occupation of units is controlled by the resort operator and units can only be held out of the rental pool for the period required for maintenance; and • Strata plans are to be specified with a Section 6 restriction of use limiting occupation of tourism units to Tourism purposes with an occupation restriction of a maximum of three months in any twelve month period. <p>(ii) Survey Strata subdivision will not be considered by the Western Australian Planning Commission until such time as the management statement is suitably prepared.</p>
SU4	Myrup Fly-in Estate Lot 900 corner of Fisheries and Merivale Roads, Myrup	As a 'D' use— <ul style="list-style-type: none"> • Airfield • Club Premises • Educational Establishment • Fuel Depot • Holiday Home • Holiday Accommodation • Home Occupation • Recreation—Private • Telecommunications Infrastructure • Single House 	<p>1.0 Subdivision and Development Guide Plan</p> <p>1.1 Subdivision shall be generally in accordance with the Subdivision and Development Guide Plan adopted by Council and signed by the Chief Executive Officer.</p> <p>1.2 Minor variations to the subdivision design may be approved by Council and the Western Australian Planning Commission but further subdivision of the lots created shall not be permitted.</p> <p>1.3 Development shall generally be in accordance with the Subdivision and Development Guide Plan adopted by Council and signed by the Chief Executive Officer.</p> <p>2.0 Objective of the Zone</p> <p>2.1 To provide for an Airfield and aircraft related operations including a “Fly-in Estate” to provide for all aspects of flying including residential development alongside aircraft storage, student flying training, charter flying, scenic tour flying, flying for sport, gliding, ultra-lights, short term accommodation for flying patrons and small aircraft maintenance and repair associated with the land use and environmental management controls to protect the</p>

No.	Description of land	Special use	Conditions
			<p>subject land and adjoining Mullet Lake Nature Reserve.</p> <p>3.0 Land Use</p> <p>3.1 Incidental activities which are consistent with the objective of this Special Use may be considered by the Local Government.</p> <p>3.2 Any proposals which may have an impact on groundwater quality will be referred to the Department of Water and Environmental Regulation for comment, prior to determination by the Local Government.</p> <p>4.0 Location of Buildings and Structures</p> <p>4.1 Setbacks for buildings and structures on residential lots shall be as determined by the R5 Code of the Residential Design Codes of Western Australia.</p> <p>4.2 All other setbacks shall be determined by the Local Government in accordance with the Subdivision and Development Guide Plan.</p> <p>4.3 Notwithstanding the above, aircraft hangars may be approved with a nil setback on all lots adjacent to taxiways subject to compliance with the Building Code of Australia.</p> <p>4.4 No development is permitted on land north east of Runway 32 – 14.</p> <p>5.0 Building Design, Materials and Colour</p> <p>5.1 Dwellings and outbuildings shall be designed and constructed of materials which complement the character of the area.</p> <p>6.0 Vegetation Protection and Revegetation</p> <p>6.1 No clearing of vegetation shall occur except for—</p> <ul style="list-style-type: none"> • Clearing to comply with the requirements of the <i>Bush Fires Act 1954</i> (as amended) and Fire Management Plan; • Clearing as may reasonable be required to construct an approved structure; • Trees which are dead, diseased or dangerous; • Clearing to gain vehicular access to an approved structure or any other clearing which may be approved by the Local Government; and • Clearing to give effect to the adopted Subdivision and Development Guide Plan. <p>6.2 Revegetation of the Fly-in Estate including residential lots with native species is encouraged subject to fire management requirements.</p> <p>7.0 Water Supply</p> <p>7.1 Each dwelling and any holiday accommodation shall be provided with a</p>

No.	Description of land	Special use	Conditions
			<p>water tank with a minimum capacity of 120,000 litres.</p> <p>8.0 Effluent Disposal</p> <p>8.1 On site effluent disposal shall be the responsibility of the individual landowners.</p> <p>8.2 The Local Government shall require the use of approved Alternative Aerobic Treatment Unit Systems (ATU's).</p> <p>9.0 Bush Fire Management</p> <p>9.1 A Fire Management Plan shall be prepared, prior to development or subdivision into survey strata lots, in consultation with and to the satisfaction of the Shire of Esperance, Quarry Road Local Bush Fire Brigade and Fire and Emergency Services Authority and other relevant bodies, as considered by the Local Government or Statutory Authorities. The Fire Management Plan shall be reviewed on an annual basis in consultation with the Shire of Esperance and Quarry Road Local Bush Fire Brigade. The Fire Management Plan shall include fire fighting measures to be implemented on site including the provision of fire fighting equipment including water supply, fire breaks and annual fire fighting training with the local Bush Fire Brigade. The Shire of Esperance and Quarry Road Local Bushfire Brigade shall be provided with an up-to-date Fire Management Plan annually.</p> <p>9.2 The subdivision shall be designed in accordance with State Planning Policy 3.7 Planning for Bushfire Risk Management.</p> <p>9.3 The Local Government will require the Western Australian Planning Commission to impose conditions at the time of subdivision of the land into survey strata lots requiring the preparation and implementation of a Fire management Plan for the subject land, including but not limited to the provision of a reliable water supply for fire fighting purposes.</p> <p>10.0 Conditions of Subdivision</p> <p>10.1 Provision shall be made to the Local Government's satisfaction to ensure that prospective purchasers and occupiers of land within SU4 are provided with a copy of these Special Use SU4 Provisions prior to entering into an agreement to acquire any property.</p> <p>11.0 Application for Development Approval</p> <p>11.1 All development within SU4 shall require Planning Approval.</p> <p>11.2 Where development involves the maintenance and repair of aircraft, the</p>

No.	Description of land	Special use	Conditions
			<p>Local Government may require as a condition of Planning Approval, the provision of appropriate grease and oil traps for the storage and offsite disposal of oils.</p> <p>12.0 Mosquito Nuisance</p> <p>12.1 Notification in the form of a memorial shall be registered against the Certificate of Title of all residential lots created within SU4 advising of the existence of a hazard or other factor affecting the use or enjoyment of the land. The memorial is to state as follows—</p> <p style="padding-left: 40px;">This lot is in close proximity to mosquito breeding areas. The mosquito species is known to carry Ross River Virus and other diseases.</p> <p>13.0 Aboriginal Heritage</p> <p>13.1 Consultation with responsible Aboriginal representative organisations, including the Goldfields Land and Sea Council shall be undertaken prior to development or subdivision into survey strata lots.</p> <p>14.0 Aviation</p> <p>14.1 The airfield facility and activities shall comply with all relevant regulations and guidelines of any Statutory Authority with regard to aviation operations and safety procedures.</p> <p>15.0 Environmental Conditions</p> <p>15.1 Vegetation</p> <p>15.1.1 The proponent will develop a Vegetation Management Plan prior to development or subdivision into survey strata lots which will include—</p> <ul style="list-style-type: none"> • No clearing of land to the north-east of runway 32-14; • Weed control; • Fire Management; • Exclusion of stock; and <p style="padding-left: 40px;">Any other factors considered relevant by the Local Government.</p> <p>15.1.2 The Vegetation Management Plan shall be prepared prior to development or subdivision into survey strata lots, in consultation with and to the satisfaction of the Shire of Esperance and Department of Biodiversity Conservation and Attractions and other relevant bodies, as considered appropriate by the Local Government or Statutory Authorities. The Vegetation Management Plan shall be reviewed on a bi-annual basis in consultation with the Shire of Esperance and Department of Biodiversity Conservation and Attractions.</p> <p>15.2 Local Water Management Strategy</p> <p>15.2.1 The proponent shall develop a Local Water Management Strategy prior to development or subdivision into survey strata lots.</p>

No.	Description of land	Special use	Conditions
			<p>15.2.2 The Local Water Management Strategy shall be prepared in consultation with and to the satisfaction of the Shire of Esperance, the Department of Water and Environmental Regulation and other relevant bodies, as considered by the Local Government or Statutory Authorities. The Local Water Management Strategy shall be reviewed on a bi-annual basis in consultation with the Shire of Esperance and Department of Water and Environmental Regulation.</p> <p>15.2.3 The Local Water Management Strategy shall address potential impacts, monitoring and management issues relating to wetlands and waterways, flood risk, groundwater and surface water quality, drainage and nutrient management, landscaping and revegetation, effluent disposal and storm water management and any other factors considered relevant by Local Government or Statutory Authorities.</p> <p>15.2.4 The proponent will develop a Fuel Spill Action Plan prior to development or subdivision into survey strata lots to minimise the occurrence of fuel spills and to ensure that if there is a fuel spill, clean up is immediate and there will be no resulting environmental impact on the site or on the adjacent wetlands.</p> <p>15.2.5 The proponent will develop Waste Oil Disposal Plan prior to development or subdivision into survey strata lots to ensure all workshop waste oil is disposed of appropriately off site.</p> <p>15.3 Noise</p> <p>15.3.1 The proponent will develop a Noise Management Plan prior to development or subdivision into survey strata lots. The Noise Management Plan shall address measures for the monitoring and management of noise including number of flight take-offs and landings, special procedures for airfield operation, flight circuits, special events, recording and monitoring of noise related complaints and monitoring, management and minimising impact on birds and nearby residences and any other factors considered relevant by the Local Government or Statutory Authorities.</p> <p>15.3.2 The Noise Management Plan shall be prepared in consultation with and to the satisfaction of the Shire of Esperance, Department of Water and Environmental Regulation, Air Services Australia and other relevant bodies, as considered by the Local Government or Statutory Authorities. The Noise Management Plan shall be reviewed on a bi-</p>

No.	Description of land	Special use	Conditions
			<p>annual basis in consultation with the Shire of Esperance, Department of Water and Environmental Regulation and Air Services Australia.</p> <p>15.3.3 No aircraft larger than 5700kg shall operate from the Myrup Fly-in Estate.</p> <p>15.3.4 Runway 04 shall maintain special procedures for right hand circuits. Additional measures may be implemented as part of the Noise Management Plan to avoid flights over residential areas.</p> <p>15.3.5 The annual number of flights (take-offs and landings of all types) shall be recorded by the operators of the Myrup Fly-In Estate and submitted to the Local Government annually. The annual average weekly number of flights shall not exceed 100 flights. The number of flights in any seven day period shall not exceed 150 flights</p> <p>15.3.6 The number of daily flights shall not exceed 40 flights unless where part of a 'Special Event' as approved by the Local Government or for emergency purposes.</p> <p>15.3.7 Written permission from the the Local Government shall be sought a minimum of 21 days prior to any 'Special Event' (such as Air Rally or as deemed a Special Event by the Local Government). The Local Government may request details of the 'Special Event' as it sees fit including but not limited to management plans and hours of operation. The Local Government may require the Myrup Fly-In Estate notify the local community of any 'Special Event'.</p> <p>15.4 Environmental Management</p> <p>15.4.1 The proponent and future occupiers/owners of Myrup Fly-In Estate and/or of survey strata lots are responsible for environmental management on the site.</p>
SU5	Duke of Orleans Caravan Park Lot 1 and Pt Lot 5 Orleans Bay Road, Condingup	As a 'D' use— <ul style="list-style-type: none"> • Caravan Park • Single House (Managers Residence) • Shop 	<p>(a) Not to develop on the land—</p> <p>(i) Less than sixty six (66) “long stay sites” as defined under the <i>Caravan Parks and Camping Grounds Regulations 1997 (WA)</i> as amended.</p> <p>(ii) Less than fifty nine (59) “short stay sites” as defined under the <i>Caravan Parks and Camping Grounds Regulations 1997 (WA)</i> as amended.</p> <p>(iii) Less than twenty one (21) “sites” as defined under the <i>Caravan Parks and Camping Grounds Regulations 1997 (WA)</i> as amended which is to be used for one ‘camp’ as defined under the <i>Caravan Parks and Camping Grounds Act 1995 (WA)</i> as amended.</p>

No.	Description of land	Special use	Conditions
			<p>(iv) Less than twenty one (21) “overflow areas” as defined under the <i>Caravan Parks and Camping Grounds Regulations 1997 (WA)</i> as amended.</p> <p>(b) No new development of a “long stay site” as defined under the <i>Caravan Parks and Camping Grounds Regulations 1997 (WA)</i> as amended is to be located within 150 metres from the horizontal shoreline datum, a term defined under State Planning Policy No 2.6, as amended.</p> <p>(c) Only one dwelling may be permitted on the site. This dwelling is for the exclusive occupation of the manager of the tourist accommodation, their partner and dependents</p> <p>(d) The Shop is not to have a Net Floor Area in excess of 160m².</p>
SU6	Lot 686 (32048 and Portion Lot 992 (R27318) The Esplanade, Esperance	<p>As a ‘D’ use—</p> <ul style="list-style-type: none"> • Grouped Dwelling • Holiday House • Small bar <p>As an ‘A’ use—</p> <ul style="list-style-type: none"> • Holiday Accommodation • Multiple Dwelling • Restaurant/café • Serviced Apartment • Tourist Development <p>As an ‘T’ use—</p> <ul style="list-style-type: none"> • Home Business • Home Occupation • Office 	<p>(a) No development will be permitted until such time as a Local Development Plan has been prepared and approved in accordance with the relevant provisions of Part 6—Local Development Plans in Schedule 2—Deemed provisions for local planning schemes of the Planning and Development (Local Planning Schemes) Regulations 2015.</p> <p>(b) In addition to the requirements set out under clause 48(1)(c) in Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, any new Local Development Plan should set out the following information—</p> <ol style="list-style-type: none"> i. Plot ratio not exceeding 1.5. ii. Building height not to exceed 9.0m. iii. Pedestrian access between The Esplanade and Foreshore is to be maintained through the site.

Schedule 6
DEVELOPMENT PROVISIONS BY ZONE

[Schedule 1 cl. 1.(a)]

Zones and Land Use	Minimum Lot Area Sq. m	Minimum Effective Frontage m	Max Plot Ratio	Minimum Setbacks m			Minimum Landscaping	Minimum Car Spaces (Space/Sq. Metre)
				Front	Rear	Side		
ZONES								
Residential								
In accordance with the Residential Design Codes								
Where no R-Code is stipulated								
Rural	As per Local Planning Strategy	200		7.5	6	2	As required by the local government.	As per Schedule 7—Parking and Landscaping by Land Use
	(i) As per Clause 6(a) of Schedule 1 if adjacent any highway or railway.			20(i)	20	20		
Rural Residential	As per Local Planning Strategy(i)	30		20	10	10	As required by the local government.	As per Schedule 7—Parking and Landscaping by Land Use
	(i) Minimum Lot Size subject to subclause 4(e)(i) of Schedule 2							
	(ii) In accordance with Schedule 8 Rural Residential—Special Provision							
Rural Smallholdings	As per Local Planning Strategy	200		20(i)	20	20	As required by the local government.	As per Schedule 7—Parking and Landscaping by Land Use
	(i) As per Clause 6(a) of Schedule 1 if adjacent any highway or railway.							
	(ii) In accordance with Schedule 9 Rural Smallholdings—Special Provision							
Rural Townsite	2000(i)	20		7.5	6	6(ii)	As required by the local government.	As per Schedule 7—Parking and Landscaping by Land Use
	(i) Minimum lot size subject to clause 4(e)(i) of Schedule 2							
	(ii) At the discretion of the local government, may be reduced to a minimum of 1.5m on a Lot under 2000m ² .							
Light Industry	1000	20	0.8	20 (i) and (ii)	Nil (iii)	Nil (iii)	25% of area within 12 metres of the front boundary	1 per 100 gross floor area plus 1/20 gross office floor area. Minimum 3 spaces Where a land use is listed in Schedule 7—Parking and Landscaping by Land Use parking is to be in accordance with that Schedule.
	(i) At the discretion of the local government, may be reduced to a minimum of 12m where the front and side walls within 20m of the frontage are to be constructed of a hard, durable material but not including metal cladding (less than 50% metal cladding is allowed) and may incorporate glazing as approved by the local government.							
	(ii) Where the development adjoins a road not a Highway, proposed Highway or an Important Local Road, the local government may reduce the front setback distance to a minimum of 12 metres which can be reduced to 6m by the Local Government after giving notice in accordance with clause 64 of the deemed provisions.							
	(iii) Where the development adjoins a Residential Zone, the minimum distance shall be 7.5m							

Zones and Land Use	Minimum Lot Area Sq. m	Minimum Effective Frontage m	Max Plot Ratio	Minimum Setbacks m			Minimum Landscaping	Minimum Car Spaces (Space/Sq. Metre)
				Front	Rear	Side		
General Industry	2000	25	0.8	20m (i), (ii) and (iii)	Nil (iv)	Nil (iv)	25% of area within 12 metres of the front boundary	Gross floor area up to and including 400 <ul style="list-style-type: none"> • 1 per 100 gross floor area Gross floor area up to and including 1000 <ul style="list-style-type: none"> • 4 bays plus 1 bay per 150 gross floor area over 400 Gross floor area over 1000 <ul style="list-style-type: none"> • 8 bays plus 1 bay per 200 gross floor area over 1000 plus 1 per 40 gross office floor area Minimum 3 Spaces
	(i) At the discretion of the local government, where the front and side walls within 20m of the frontage are to be constructed of hard, durable material but not including metal cladding (less than 50% metal cladding is allowed) and may incorporate glazing as approved by the local government.							
	(ii) Where the development adjoins a road, not a Highway or an Important Local Road the front setback is to be a minimum of 12 metres which can be reduced to 6m by the Local Government after giving notice in accordance with clause 64 of the deemed provisions.							
	(iii) In the Town of Esperance on each side of the South Coast Highway between Elysium Road and Harbour Road, a minimum setback of 40m shall apply to provide for future service roads and landscaping.							
Commercial	200	5	2.5	Nil	Nil	Nil	50% of front setback area if a front setback applies	1 per 25 of gross floor area. Office— 1 per 40 gross floor area <i>NB</i> Where the office area is at ground floor level and capable of being converted to a higher use (i.e. A shop) then the parking requirement for a higher use shall prevail. Where a land use is listed in Schedule 7—Parking and Landscaping by Land Use parking is to be in accordance with that Schedule. Where a development exceeds 5000 sq. metres in gross floor area, the parking requirement over the minimum requirement shall be subject to the discretion of the Local Government

ZONES

Zones and Land Use	Minimum Lot Area Sq. m	Minimum Effective Frontage m	Max Plot Ratio	Minimum Setbacks m			Minimum Landscaping	Minimum Car Spaces (Space/Sq. Metre)
				Front	Rear	Side		
ZONES								
Local Centre	500	10	1.0	Nil	Nil	Nil	50% of front setback area if a front setback applies	Retail— 1 per 25 gross floor area Office— 1 per 40 gross floor area <i>NB</i> Where the office area is at ground floor level and capable of being converted to a higher use (i.e. A shop) then the parking requirement for a higher use shall prevail. Where a land use is listed in Schedule 7—Parking and Landscaping by Land Use parking is to be in accordance with that Schedule.
Mixed Use	500	10	1.5	Nil	Nil	Nil	50% of front setback area if a front setback applies	Retail— 1 per 25 gross floor area Office— 1 per 40 gross floor area <i>NB</i> Where the office area is at ground floor level and capable of being converted to a higher use (i.e. A shop) then the parking requirement for a higher use shall prevail. Where a land use is listed in Schedule 7—Parking and Landscaping by Land Use parking is to be in accordance with that Schedule.
Tourism	1000 (i) Where development adjoins a Residential Zone the minimum distance shall be at the discretion of the local government.	20	2.0	5	Nil (i)	Nil (i)	As per Schedule 7—Parking and Landscaping by Land Use	As per Schedule 7—Parking and Landscaping by Land Use

Zones and Land Use	Minimum Lot Area Sq. m	Minimum Effective Frontage m	Max Plot Ratio	Minimum Setbacks m			Minimum Landscaping	Minimum Car Spaces (Space/Sq. Metre)
				Front	Rear	Side		
ZONES Private Community Purposes	1000	20	0.5	12	7.5	2 per story	50% of minimum front setback area	1 per 40 gross floor area Where a land use is listed in Schedule 7—Parking and Landscaping by Land Use parking is to be in accordance with that Schedule.

Schedule 7
PARKING AND LANDSCAPING BY LAND USE

[Schedule 1 cl. 1.(b)]

Land Use	Minimum Landscaping	Minimum Car Spaces (Space/Sq. Metre unless otherwise stated)
Amusement parlour		1 per 30 m ² gross floor area
Art gallery		1 per 30 m ² gross floor area
Bed and breakfast		2 additional bays
Betting agency		1 per 30 m ² gross floor area
Brewery		1 per 40m ² gross floor area
Bulky goods showroom	10% of site	1 bay per 50 m ² gross floor area
Caravan park	50% of all setback areas	Visitor car parking 1 bay per 10 long stay bays 1 bay per 20 short stay bays
Caretaker's dwelling		1 bay
Child care premises		1 bay per employee and 1 bay per 10 children
Car park	10% of site	N/A
Cinema/theatre		1 bay per 4 persons accommodated
Civic use		1 bay per 4 persons accommodated
Club premises		1 bay per 40 m ² gross floor area
Community purpose		1 bay per 4 persons accommodated
Consulting rooms		3 bays per consulting room plus 1 bay per staff member
Convenience Store		1 bay per 25m ² gross floor area
Educational establishment		3 bays per classroom
Exhibition centre		1 bay per 30m ² gross floor area
Fast food outlet/lunch bar	50% of front setback area	1 bay per 2.5m ² queuing area (4 bays minimum) Plus 1 bay per 5m ² of eating area Plus 4 car queuing spaces for a drive through facility
Fuel depot		1 bay per 45 m ² gross floor area
Funeral parlour		6 bays Plus 1 bay per 4 seats in the hall or auditorium(i) if chapel is included
Garden centre		1 bay per 50 m ² gross floor area of display and sales area
Holiday accommodation		1 bay per employee plus 1 bay per bedroom or 2 per unit whichever is greater
Holiday house		2 bays
Home business		2 additional bays
Home occupation		N/A
Home office		N/A
Home store		1 bay per 40m ² of gross floor area or part thereof
Hospital		1 bay per 4 beds plus 1 per employee
Hotel		1 bay per 5m ² bar and lounge areas plus 1 bay per 4m ² restaurant plus 1 bay per accommodation unit
Liquor store—large		1 bay per 40 m ² gross floor area
Liquor store—small		1 bay per 30 m ² gross floor area
Marina	10%	50% of Commercial Zone in Schedule 6
Market		3 bays per stall or 1 bay per 10m ² whichever is greater
Medical centre		4 bays per consulting room plus 1 bay per employee

Land Use	Minimum Landscaping	Minimum Car Spaces (Space/Sq. Metre unless otherwise stated)
Motel		1 bay per 10m ² bar and lounge areas plus 1 bay per 4m ² restaurant plus 1 bay per accommodation unit
Motor vehicle, boat or caravan sales	10% of site	1 bay per 200m ² gross floor area
Motor vehicle repair		4 bays per working bay Plus 1 bay per employee
Motor vehicle wash		2 bays per wash bay
Nightclub		1 bay per 10 m ² gross floor area(i)
Office		1 bay per 40m ² gross floor area
Park home park	20% of site	1 bay per accommodation unit
Place of worship	25% of site	1 bay per 4 seats in the hall or auditorium(i)
Reception centre		1 bay per 4 persons accommodated plus 1 bay per employee
Recreation—private	To be assessed by the local government with regard to the facilities required	1 bay per 2 persons accommodated
Restaurant/café		1 bay per 4m ² dining and waiting area
Restricted premises		1 bay per 40m ² gross floor area
Road house		2 bays per pump plus 1 bay per employee plus 1 per 15m ² shop
Serviced apartment		1.5 bays per accommodation unit rounded up
Service station		2 bays per pump plus 1 bay per employee plus 1 per 15m ² shop
Shop		1 bay per 25 m ² gross floor area
Small bar		1 bay per 10m ² bar and lounge areas plus 1 bay per 4m ² restaurant
Supermarket		1 bay per 15m ² gross floor area
Tavern	Generally—25% of site Centre or Mixed Use Zones—75% of front setback area	1 bay per 5m ² bar and lounge areas plus 1 bay per 4m ² restaurant
Tourist development		1.5 bays per accommodation unit rounded up plus 1 bay per employee plus 1 bay per 4m ² restaurant
Trade display		1 bay per 50 m ² gross floor area of display and sales area
Trade supplies		1 bay per 50 m ² gross floor area
Transport depot		2 bays per commercial vehicle garaged
Veterinary centre		4 bays per consulting room plus 1 bay per staff member
Warehouse/storage		1 bay per 100m ² gross floor area
Winery		1 bay per 50 m ² gross floor area of display and sales area plus 1 bay per 4m ² restaurant
Workforce accommodation		As per requirement for particular commercial/industrial use plus 1 bay per accommodation unit
	(i) the local government may take into consideration any parking areas available after normal shop and office closing hours.	

Schedule 8
RURAL RESIDENTIAL—SPECIAL PROVISIONS

[Schedule 1 cl. 4.(i)]

No.	Description of land	Special Provisions
RR1	<p>Previously comprised of Portions of Esperance East Location 17, 18 and 22, Lots 5, 1 and 2 to the north of Fisheries Road</p> <p><i>Note: Located within SCA 5.</i></p> <p><i>Note: As shown on the Scheme Map.</i></p>	<ol style="list-style-type: none"> 1. The local government, following development in accordance with any Outline Development Plan, Detailed Area Plan or preliminary subdivision approvals in place by 31 December 2005, will not support further subdivision of this land. 2. A 20 metre wide landscape protection strip is to be retained as natural bush along the Fisheries Road frontage with the exception of access roads. 3. Where land is to be cleared, the local government will not permit any lot to be cleared to more than 50 per cent of its total area (including the land covered by buildings) except where it determines that with supplementary tree planting and landscaping, parkland clearing can be done to no more than a further 25 percent of the lot area. 4. The keeping of horses on lots less than 4 ha in area is prohibited.
RR2	<p>Previously comprised of Lots 35, 367, 392, 396, 398, 400, 773, 774 and 775 Eleven Mile Beach and Barook Roads, Pink Lake</p> <p><i>Note: As shown on the Scheme Map.</i></p>	<ol style="list-style-type: none"> 1. The local government will support development in accordance with an Outline Development Plan or Detailed Area Plan adopted by 31 December 2005. Development will also be supported in accordance with a preliminary subdivision approval in place by 31 December 2005. Further subdivision of this land will not be supported. 2. Notwithstanding any other provision in the Scheme, the Shire has discretion to support further subdivision of Lot 9501 (formally part of Lot 775) Eleven Mile Beach Esperance where it is consistent with an Outline Development Plan approved by the Shire of Esperance and endorsed by the Western Australian Planning Commission. No lot sizes less than 2 hectares shall be permitted. 3. The keeping of horses on lots less than 4 ha in area is prohibited. 4. The number of horses or stock permitted on lots of 4 ha or greater is restricted to a maximum of two horses only (or equivalent). The local government will only grant approval to the keeping of horses or stock subject to submission of an application for planning approval that includes proposed measures to manage the land. 5. The siting and erection of any building, outbuilding, or fence shall not be approved by the local government unless or until it is satisfied that the design, construction, materials and position will be in harmony with the character and amenity of the land within the zone and any fire management plan applicable to the site. 6. Strategic Fire Breaks as nominated on an outline development plan, subdivision guide plan, or fire management plan, shall be provided as a condition of subdivision and constructed to a standard approved by the local government and the Fire and Emergency Services. The firebreaks should be located along contours and on level ground where possible, slashed and not cleared, to prevent wind erosion and to protect the fragile environment. 7. Unless easements for the local government to access the site have been agreed, owners are to maintain Strategic Fire Breaks that cross their lots and to ensure fire fighting appliances can access their land. 8. Owners are encouraged to obtain variations to the standard local government firebreak notices to avoid clearing of firebreaks over sloping land along fence lines (other than for approved Strategic Fire Breaks). 9. The base of leach drains must be located a minimum of two (2) metres above the highest groundwater level and a minimum of one hundred (100) metres from any drain, waterway or wetland. 10. In the absence of a supply of underground potable water, the provision of water storage tanks in accordance with clause 18 of Schedule 1 of the Scheme with the necessary accompanying roof catchment capacity of which 10,000 is to be retained for fire fighting purposes. In addition, a secondary

No.	Description of land	Special Provisions
		(i.e. may be a non-potable) water supply sufficient for toilet and garden use from underground sources or dams has been developed.
RR3	Melijinup Heights former Lot 2 Melijinup Road, Myrup <i>Note: As shown on the Scheme Map.</i>	<ol style="list-style-type: none"> 1. All trees and shrubs shall be retained unless their removal is authorised by the local government except in the cases of trees and shrubs which are proposed to be removed to make way for approved building construction, fences, firebreaks and constructed access ways. 2. The local government may require, as a condition of planning approval, tree planting on lots it considers deficient in cover and the owner is to maintain such trees thereafter. 3. Buildings shall be confined to building envelopes indicated on the adopted plan of subdivision unless the local government is satisfied that an alternative site has equal or better geological conditions for building and on-site effluent disposal and the alternative position will not unduly affect the amenity of nearby lots. 4. On-site effluent disposal systems shall be to the specifications and satisfaction of the local government and the Health Department of WA. The use of alternative effluent disposal systems may be required and in any event the following requirements shall be satisfied— <ol style="list-style-type: none"> (a) a 2 metre separation between the base of the leach drains and the highest recorded groundwater level or bedrock; (b) at least a 100m horizontal separation between the effluent disposal system and any drain, waterway or wetland; (c) the area around each effluent disposal system shall be planted with indigenous trees and shrubs by the owners and maintained to the satisfaction of the local government.
RR4	Gibson East Portion former Loc 626, now Lots 21 to 24 Gibson Road and Lots 26 to 31 Shipard Close, Gibson <i>Note: As shown on the Scheme Map.</i>	<ol style="list-style-type: none"> 1. Subdivision has been generally in accordance with the Subdivision Guide Plan as certified by the Shire Clerk on 8.9.94 and the local government will support no further subdivision of these lots. 2. On lots 3, 4 and 6-11 on the Subdivision Guide Plan, any building development is to be sited within the building envelope as depicted on the Subdivision Guide Plan. <i>Note: Affected lots are Lots 23 and 24 Gibson Road and Lots 26 to 31 Shipard Close.</i> 3. The vegetation wind breaks as established on the boundaries of the lots shall be maintained to the satisfaction of the local government and fenced if required by the local government if being adversely affected by grazing stock. 4. On-site effluent disposal systems shall be limited to high performance environmental systems approved by the local government and the Health Department of WA.
RR5	Larmour Estate PART former Esperance Location 320, Gibson <i>Note: As shown on the Scheme Map.</i>	<ol style="list-style-type: none"> 1. Subdivision and development shall generally be in accordance with the subdivision guide plan dated 28.8.2008. No further subdivision shall be permitted. 2. No residential development or effluent disposal systems are permitted within the 300 metre water bore buffer identified on the subdivision guide plan. 3. The keeping of horses is prohibited. 4. The rearing or agistment of livestock and poultry for commercial purposes and keeping of pigs is prohibited. 5. The keeping of grazing stock (other than horses or cattle) on any lot other than those affected by the wellhead protection buffer and the low lying building exclusion areas on subdivision guide plan Lots 6-12 inclusive and Lot 16 is permitted but shall be restricted to the equivalent of 10 Dry Sheep Equivalents (DSE) per hectare. 6. Rural pursuits that have the potential to pollute the Gibson Public Drinking Water Source Area are to be refused or referred to the Water Corporation and the Department of Water and Environmental Regulation for comment and the local government is to be due regard to advice received from those agencies when determining applications.

No.	Description of land	Special Provisions
		<ol style="list-style-type: none"> 7. Fertilisers, herbicides and insecticides should be applied sparingly to prevent excess chemicals or nutrients leaching into the groundwater with particular reference to protecting the Gibson Soak Reserve 3041. 8. The local government may require, as a condition of planning approval, planting of trees and/or other perennial vegetation on lots that it considers require improvement and/or on areas that are identified for strategic (future) tree planting on the subdivision guide plan for the area. 9. The local government may require, as a condition of planning approval, to take measures that adequately preserve and protect vegetation on lots where the cover of such vegetation is considered worthy of preservation and protection, and/or otherwise is located within the strategic tree planting areas identified on the subdivision guide plan for the area. Such measures may include installation of fencing, firebreaks and any other measure the local government thinks fit. 10. Vegetation that is planted, preserved and/or protected in accordance with development of the subdivision and/or planning approval shall be retained to the satisfaction of the local government.
RR6	Lots 118-120, 156-163 Ralston Street, Lot 150 Overhue Street, Lots 93-99 Sutcliffe Street, Condingup	<ol style="list-style-type: none"> 1. Further subdivision of this Rural Residential Zone is not permitted. 2. Rural pursuits that have the potential to pollute the Condingup Water Reserve Public Drinking Water Source Area are to be refused or referred to the Water Corporation and the Department of Water and Environmental Regulation for comment and the local government is to be due regard to advice received from those Agencies when determining applications. 3. Fertilisers, herbicides and insecticides should be applied sparingly to prevent excess chemicals or nutrients leaching into the groundwater with particular reference to protecting the Condingup Water Reserve.
RR7	Lots 10, 17, 18 Goldfields Road, Lot 19, 20, 22-25 Kent Place. Lots 15, 16, 21, 101, 102, 29-33, 25-37 Frank Freeman Drive, Lots 11-14, 38-43 McCarthy Road, Lot 34, 44-48 Bow Court Lots 2-5 Daw Drive, Lots 1, 6-8 Bandy Grove	<ol style="list-style-type: none"> 1. In order to assist in maintaining the existing environment all trees and shrubs shall be retained unless their removal is authorised by the Local Government except in the cases of trees and shrubs which are proposed to be removed to make way for house construction, fences, firebreaks and constructed access ways. 2. Exposed areas shall be replanted extensively to provide concealment and shelter as required by the Local Government. 3. The siting and erection of any building, outbuilding, or fence shall not be approved by the Local Government unless or until it is satisfied that the design, construction materials and position will be in harmony with the character of the land within the zone and the area generally. 4. No outbuildings shall be erected between a dwelling and a public road alignment. 5. Further subdivision of this Rural Residential Zone is not permitted.
RR8	Lots 52-58 Kiwi Close, Lot 59 Goldfields Road	<ol style="list-style-type: none"> 1. No outbuildings shall be erected between a dwelling and a public road alignment. 2. Further subdivision of this Rural Residential Zone is not permitted.

Schedule 9

RURAL SMALLHOLDINGS—SPECIAL PROVISIONS

[Schedule 1 cl. 4.(j)]

No.	Description of land	Special Provisions
RS1	Lot 1492 Paterson Road, Monjigup <i>Note: As shown on the Scheme Map.</i>	1. The local government will support development in accordance with the Outline Development Plan (Structure Plan) adopted by 31 December 2011. Further subdivision of this land will not be supported.

RS2	<p>Lots 65 and 66 Patterson Road, Lots 197-200 Coolgardie-Esperance Highway, Lots 1-3, 13 Bukenerup Road, Lots 4-8 Stearne Road, Lot 1 Old Shark Lake Road, Lot 41-44, 27-29 Monjingup, Lots 2, 101, 102, Coolgardie-Esperance Highway, Lot 103 Lake Road, Lot 24 Hill Road, Myrup</p> <p><i>Note: As shown on the Scheme Map.</i></p>	<p>1. Further subdivision of this Rural Smallholdings Zone is not permitted other than in the case of a boundary adjustment that will not result in an increase in the number of lots.</p>
RS3	<p>Lot 63 Shark Lake Road, Lots 1, 1-4, 381, 382, 9000 Paterson Road, Lot 13 Bukenerup Road, Lot 351 Stearne Road Monjingup Lot 586 Coolgardie-Esperance Highway, Myrup</p> <p><i>Note: As shown on the Scheme Map.</i></p>	<p>1. All subdivision is to be in accordance with a Structure Plan prepared in accordance with clause 16 of Schedule 2 Planning and Development (<i>Local Planning Schemes</i>) Regulations 2015</p>

Schedule 10

EXEMPTED ADVERTISEMENTS

[Schedule A cl. 61.(1)(v)]

Land Use and/or Development	Exempted Sign Type and Number (includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated)	Maximum Area of Exempted Advertisement
Dwellings	One professional name-plate as appropriate	0.2m ²
Home Occupation	One advertisement describing the nature of the home occupation.	0.2m ²
All classes of buildings other than a single house or two group dwellings	One 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 ²
Places of Worship, Meeting Halls and Places of Public Assembly	One advertisement detailing the function and/or the activities of the institution concerned.	2.0m ²
Cinemas, Theatres and Drive-In Theatres	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed.	Each sign not to exceed 5m ²
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	Not Applicable
Industrial and Warehouse Premises	A maximum of four 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 and excluding signs which are connected to a pole, wall, or other building.	Total area of such advertisements is not to exceed 15m ² or 20% of the elevation of the building whichever is the lesser.

Land Use and/or Development	Exempted Sign Type and Number (includes the change of posters on poster signs and applies to non-illuminated signs unless otherwise stated)	Maximum Area of Exempted Advertisement
	A maximum of two freestanding advertisement signs not exceeding 5 metres in height above ground level.	Maximum permissible total area is not to exceed 10m ² and individual advertisement signs are not to exceed 6m ² .
Showroom, racecourses, major racing tracks, sports stadia, major sporting grounds and complexes	All signs provided that, in each case, the advertisement is not designed to be visible from outside the complex or facility concerned either from adjacent private land or from public places and streets.	Not Applicable
Public Places and Reserves	Signs (illuminated and non-illuminated) relating to the functions of Government, a responsible authority or the local government including those of a promotional nature constructed or exhibited by, or on behalf of any such body, and	Not Applicable
	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 signs have been constructed or exhibited by or at the direction of Government, a responsible authority or the local government, and	Not Applicable
	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.	Not Applicable
Railway Property	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon the railway station.	No sign shall exceed 2m ² in area.
Advertisements within Buildings	All advertisements placed or displayed within buildings, which cannot ordinarily be seen by a person outside of those buildings.	Not Applicable
Temporary Signs	Exempted Sign Type and Number (All non-illuminated signs unless otherwise stated)	Maximum Area of Exempted Advertisement
Building Construction Sites (signs displayed only for the duration of the construction) as follows—		
Dwellings	(a) One sign per street frontage containing details of the project and the contractors undertaking the construction work.	2m ²
Multiple dwellings, shops, commercial and industrial properties	One sign as for (a) above which may also include site security information.	5m ²
Large development or redevelopment projects involving shopping centres, office or other buildings exceeding three (3) storeys in height	One sign as for (a) above One additional sign showing the name of the project builder.	10m ² 5m ²
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 ²

Temporary Signs	Exempted Sign Type and Number (All non-illuminated signs unless otherwise stated)	Maximum Area of Exempted Advertisement
Property transactions—Advertisement signs displayed for the duration of the period over which property transactions are offered and negotiated as follows:		
Dwellings	(b) 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 is not to exceed an area of 2m ²
Multiple dwellings, shops, commercial and industrial properties	One sign as for (b) above.	Each sign is not to exceed an area of 5m ²
Large properties comprised of shopping centres, buildings in excess of four (4) storeys and rural properties in excess of five (5) hectares.	One sign as for (b) above	Each sign is not to exceed an area of 10m ²
Display Homes—Advertisement signs displayed for the period over which homes are on display for public inspection—		
	One sign for each dwelling on display. In addition to (b) 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 ² 5m ²

Schedule 11

DEVELOPMENT CONTRIBUTION AREAS

[cl. 27]

No.	Description of land	Special Provisions

Council Resolution to Advertise Local Planning Scheme—

Adopted by resolution of the Council of the Shire of Esperance at the Ordinary Meeting of Council held on the 26 April 2016

M. SCOTT, Chief Executive Officer.
V. BROWN, Shire President.

Council Resolution to Support Scheme for Approval—

Council resolved to support approval of the draft Scheme of the Shire of Esperance at the Ordinary Meeting of Council held on the 24 January 2017

The Common Seal of the Shire of Esperance was hereunto affixed by authority of a resolution of the Council in the presence of—

M. SCOTT, Chief Executive Officer.
V. BROWN, Shire President.

WAPC Recommended for Approval—

J. GILDENHUYS, Delegated under S.16 of the
Planning and Development Act, 2005.

Date: 26 July 2017.

Approval Granted—

R. SAFFIOTI, Minister for Planning.

Date: 26 July 2017.