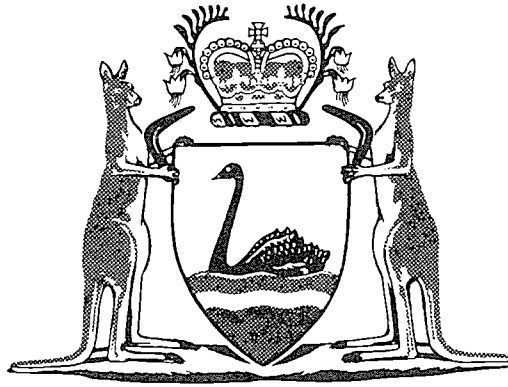


[4593]



# Government Gazette

OF

## WESTERN AUSTRALIA

(Published by Authority at 3.30 p.m.)

---

---

No. 123]

PERTH: MONDAY, 9 DECEMBER

[1985

---

---

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED)  
ADVERTISEMENT OF APPROVED TOWN PLANNING SCHEME

SHIRE OF SWAN  
TOWN PLANNING SCHEME NO 9  
DISTRICT ZONING SCHEME

T. P B. 853-2-21-10 Vol 3

It is hereby notified for public information, in accordance with Section 7 of the Town Planning and Development Act, 1928 (as amended) that the Minister for Planning approved the Shire of Swan, Town Planning Scheme No 9 on 18 November 1985 - the Scheme Text of which is published as a Schedule annexed hereto.

C M GREGORINI  
PRESIDENT

G WATTERS  
ACTING SHIRE CLERK



SCHEME TEXT FORMAT

- PART I - PRELIMINARY
- PART II - GENERAL PROVISIONS
- PART III - GENERAL BUILDINGS AND DEVELOPMENT STANDARDS AND GENERAL OFF-STREET PARKING REQUIREMENTS
- PART IV - MIDLAND SUB-REGIONAL CENTRE PROVISIONS
- PART V - COMMERCIAL DEVELOPMENT PROVISIONS - OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE
- PART VI - RESIDENTIAL DEVELOPMENT PROVISIONS
- PART VII - INDUSTRIAL DEVELOPMENT PROVISIONS - OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE
- PART VIII - RURAL DEVELOPMENT PROVISIONS
- PART IX - OTHER ZONES  
SCHEDULES  
APPENDICES

TABLE OF CONTENTS

	<u>Page</u>
<u>PART I – PRELIMINARY</u>	
1.1	CITATION 1
1.2	ARRANGEMENT OF SCHEME TEXT 1
1.3	RESPONSIBLE AUTHORITY 1
1.4	SCHEME AREA 1
1.5	RELATIONSHIP TO THE METROPOLITAN REGION SCHEME 1
1.6	REVOCATION 1
1.7	MAPS 2
1.8	GENERAL OBJECTS 2
1.9	RELATIONSHIP OF SCHEME TO BY-LAWS 2
1.10	RELATIONSHIP OF SCHEME TO STATUTES 3
1.11	SCHEDULES AND APPENDICES 3
1.12	HEADINGS 3
1.13	INTERPRETATION 3
 <u>PART II – GENERAL PROVISIONS</u>	
2.1	RESERVATIONS 4
2.1.1	Regional Reservations 4
2.1.2	Development and Use of Regional Reservations 4
2.1.3	Local Authority Reservations 5
2.1.4	Uses of Local Authority Reservations 5
2.1.5	Development of Local Authority Reservations 5
2.1.6	Right to Grant Approval or Refuse 5
2.1.7	Dealing with Applications 6
2.1.8	Regard for Ultimate Purpose 6
2.1.9	Compensation 6
2.1.10	Right of Disposal 7
2.2	ZONES – EFFECT AND PROCEDURES 7
2.2.1	Classification 7
2.2.2	Zoning Tables 9
2.2.3	Symbols 9
2.2.4	Uses Not Listed 10
2.2.5	Special Purpose Zones 10
2.3	DEVELOPMENT AND USE OF LAND 10
2.3.1	Application for Approval to Commence Development 10
2.3.2	Application for Approval of a Use 11
2.3.3	Dealing with Applications Received 11
2.3.4	Referral to Other Authorities 12
2.3.5	Deemed Approval and Deemed Refusal 12
2.3.6	Dealing with "P", "AA", "IP" and Not Permitted Uses 13
2.3.7	Applications for Development Approval 14
2.3.8	Matters to be Considered when Council Exercises Discretion 15
2.3.9	Power to Determine Applications for Development Approval 16
2.3.10	Compliance with Conditions 17
2.3.11	Agreements 17
2.3.12	Site Plan Requirements 17
2.3.13	Models 18
2.3.14	Informal Applications 18

	<u>Page</u>
2.3.15 "In Principle" Decisions	18
2.4 NON-CONFORMING USES	19
2.4.1 Existing Use Rights	19
2.4.2 Restrictions on Non-Conforming Uses	19
2.4.3 Non-Conforming Uses and Reserved Lands	20
2.4.4 Extension to Buildings	20
2.4.5 Change of Non-Conforming Uses	21
2.4.6 Discontinuance of Non-Conforming Uses	21
2.4.7 Conditions of Approval	21
2.4.8 Register of Non-Conforming Uses	21
2.5 CONSERVATION AND PRESERVATION OF PLACES OF NATURAL BEAUTY AND HISTORIC BUILDINGS AND OBJECTS OF HISTORICAL OR SCIENTIFIC INTEREST	22
2.5.1 Second Schedule Places Buildings and Objects	22
2.5.2 Applications for Development Approval	23
2.5.3 Purchase or Resumption	23
2.5.4 Agreements	23
2.5.5 Compensation for Injurious Affection	24
2.6 FINANCE AND ADMINISTRATION	25
2.6.1 General Obligations	25
2.6.1 Acquisition of Land	26
2.6.3 Disposal of Land	26
2.6.4 Entry to Premises	26
2.6.5 Notices	26
2.6.6 Agreements	26
2.6.7 Compensation	26
2.6.8 Rights of Appeal	26
2.6.9 Penalties	26
 <u>PART III – GENERAL BUILDING AND DEVELOPMENT STANDARDS AND GENERAL OFF-STREET PARKING REQUIREMENTS</u>	
3.1 GENERAL BUILDING AND DEVELOPMENT STANDARDS	28
3.1.1 Specific Application to District	28
3.1.2 Variation of Requirements and Standards	28
3.1.3 Requirements Not Readily Determined by Text	28
3.1.4 Eastern Corridor Policy Areas	28
3.1.5 Traffic Entrances	29
3.1.6 Right-of-Way Setback	29
3.1.7 Visual Truncation of Corner Lots and Vehicular Accessways	29
3.1.8 Connection to Reticulated Sewerage System	29
3.1.9 General Appearance of Building and Preservation of Amenity	30
3.1.10 Setbacks to Roads to be Widened	30
3.1.11 Guildford Design Control Area	30
3.2 GENERAL OFF-STREET PARKING REQUIREMENTS	32
3.2.1 Application of Clause	32
3.2.2 Consideration of Applications Requiring Off-Street Parking	32
3.2.3 Parking Spaces to be Off-Street	32

	<u>Page</u>	
3.2.4	General Requirements for Off-Street Parking	32
3.2.5	Joint Use of Parking Facilities	33
3.2.6	General Design Requirement for Off-Street Parking	34
3.2.7	Specific Design Requirements for Off-Street Parking	34
3.2.8	Landscaping for Off-Street Parking	35
3.2.9	Units of Measurement	35
3.2.10	Commercial Vehicle Parking	36
3.2.11	Cash Payment in Lieu of Providing Parking Spaces	36
<u>PART IV – MIDLAND SUB-REGIONAL CENTRE PROVISIONS</u>		
4.1	SPECIFIC APPLICATION OF THIS PART	47
4.2	PURPOSE AND INTENT OF ZONES	47
4.2.1	City Centre – Business Zone	47
4.2.2	City Centre – Regional Shopping Zone	48
4.2.3	City Centre – Commercial Deferred Zone	48
4.2.4	City Centre – Showroom/Warehouse Zone	49
4.2.5	City Centre – Civic and Administration Zone	49
4.2.6	City Centre – Residential and Mixed Uses Zone	50
4.2.7	City Centre Residential Zones	51
4.2.8	City Centre – Light Industrial Zone	51
4.3	SUB-REGIONAL CENTRE BUILDING AND DEVELOPMENT STANDARDS	51
4.3.1	Minimum Development Standards	51
4.3.2	Off-Street Parking	52
4.3.3	Cash Payment in Lieu of Providing Parking Spaces in the City Centre – Business Zone	52
4.3.4	Plot Ratio and Bonus Plot Ratio	53
4.3.5	Setback Requirements	54
4.3.6	Building Height and Site Coverage	55
4.3.7	Space Above Streets	55
4.3.8	Space Below Streets	56
4.3.9	Landscaping Requirements	56
4.3.10	Service Areas	57
4.3.11	Refuse and Storage Areas	58
4.3.12	Pedestrian Environment	58
<u>PART V – COMMERCIAL DEVELOPMENT PROVISIONS OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE</u>		
5.1	SPECIFIC APPLICATION OF THIS PART	64
5.2	PURPOSE AND INTENT OF ZONES	64
5.2.1	General Commercial Zone	64
5.2.2	Highway Service Zone	64
5.3	COMMERCIAL BUILDING STANDARDS	65
5.3.1	Minimum Development Standards	65
5.3.2	Off-Street Parking	65
5.3.3	Plot Ratio and Site Coverage	65
5.3.4	Setback Requirements	65
5.3.5	Landscaping Requirements	66
5.3.6	Service Areas	66

	<u>Page</u>
5.3.7 Refuse and Storage Areas	67
 <u>PART VI – RESIDENTIAL DEVELOPMENT PROVISIONS</u>	
6.1 SPECIFIC APPLICATION OF THIS PART	74
6.2 PURPOSE AND INTENT OF ZONES	74
6.2.1 Residential Development Zone	74
6.2.2 Residential 1, 2 and 3 Zones	75
6.3 RESIDENTIAL BUILDING STANDARDS	75
6.3.1 Minimum Development Standards	75
6.3.2 Residential development: Residential Planning Codes	76
6.3.3 Residential Planning Codes – Variations and Exclusions	76
6.3.4 Off-Street Parking	77
6.3.5 Parking of Commercial Vehicles in Residential Zones	77
6.3.6 Setback Requirements	77
6.3.7 Landscaping and Open Space Requirements	77
6.3.8 Display Home Centres	77
6.3.9 Two Dwelling Units Only	78
6.3.10 More than Two Dwelling Units	78
6.3.11 Residential Service Shop	78
6.3.12 Home Occupation	79
 <u>PART VII – INDUSTRIAL DEVELOPMENT PROVISIONS – OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE</u>	
7.1 SPECIFIC APPLICATION OF THIS PART	84
7.2 PURPOSE AND INTENT OF ZONES	84
7.2.1 Industrial Development Zone	84
7.3 INDUSTRIAL BUILDING STANDARDS	85
7.3.1 Minimum Development Standards	85
7.3.2 Off-Street Parking	85
7.3.3 Setback Requirements	85
7.3.4 Landscaping Requirements	86
7.3.5 Refuse and Storage Areas	87
7.3.6 Factory Tenement Buildings and Factory Units	87
7.3.7 Motor Vehicle Wrecking	89
7.3.8 Facades	89
 <u>PART VIII – RURAL DEVELOPMENT PROVISIONS</u>	
8.1 SPECIFIC APPLICATION OF THIS PART	92
8.2 PURPOSE AND INTENT OF ZONES	92
8.2.1 Special Rural Zone	92
8.2.2 Swan Valley Rural Zone	97
8.2.3 Rural Living Zone	99
8.3 RURAL BUILDING STANDARDS	99
8.3.1 Minimum Development Standards	99

	<u>Page</u>
8.3.2 Off-Street Parking	99
8.3.3 Setback Requirements	99
8.3.4 Home Occupations	100
8.3.5 Rural Pursuit	100
<u>PART XI – OTHER ZONES</u>	
9.1 SPECIFIC APPLICATION OF THIS PART	103
9.2 PURPOSE AND INTENT OF ZONES	103
9.2.1 Special Purpose Zone	103
9.3 BUILDING STANDARDS FOR OTHER ZONES	104
9.3.1 Minimum Development Standards	104
9.3.2 Off-Street Parking	104
9.3.3 Setback Requirements	104
9.3.4 Landscaping Requirements	105
9.3.5 Caravan Parks	105
SCHEDULE 1 – DEFINITIONS	111
SCHEDULE 2 – PLACES OF NATURAL BEAUTY AND HISTORIC BUILDINGS AND OBJECTS OF HISTORICAL OR SCIENTIFIC INTEREST	126
APPENDIX 1 – THE MIDLAND SUB-REGIONAL CENTRE	127
APPENDIX 2 – EASTERN CORRIDOR POLICY AREAS	128
Appendix 2A – Policy Area No. 1 – Caversham	128
Appendix 2B – Policy Area No. 2 – Hazelmere	128
Appendix 2C – Policy Area No. 3 – Eastern Corridor – Toodyay Road, South	129
APPENDIX 3A – VISUAL TRUNCATION – CORNER LOTS	130
APPENDIX 3B – VISUAL TRUNCATION – VEHICULAR ACCESS WAY	130
APPENDIX 4A – PARKING FACILITY DESIGN REQUIREMENTS	131
APPENDIX 4B – PARKING FACILITY PROJECTION & MINIMUM DIMENSION	132
APPENDIX 5 – GUILDFORD – DESIGN CONTROL AREA	133
APPENDIX 6 – SPECIAL PURPOSE ZONES	134
APPENDIX 7 – SPECIAL RURAL ZONES – PROVISIONS RELATING TO SPECIFIED AREA	135



TABLES

TABLE 1A - REGIONAL RESERVATIONS	4
TABLE 1B - LOCAL AUTHORITY RESERVATIONS	4
TABLE 2A - MIDLAND SUB-REGIONAL CENTRE ZONES	8
TABLE 2B - DISTRICT ZONES	8
TABLE 3A - MIDLAND SUB-REGIONAL CENTRE ZONES	37
TABLE 3B - DISTRICT ZONES - OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE	42
TABLE 4A - MIDLAND SUB-REGIONAL CENTRE - LANDUSE PARKING REQUIREMENTS	59
TABLE 4B - MIDLAND SUB-REGIONAL CENTRE - SITE REQUIREMENTS	61
TABLE 5A - COMMERCIAL LANDUSE PARKING REQUIREMENTS - OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE	68
TABLE 5B - COMMERCIAL SITE REQUIREMENTS - OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE	71
TABLE 6A - RESIDENTIAL LANDUSE PARKING REQUIREMENTS - OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE	80
TABLE 6B - RESIDENTIAL SITE REQUIREMENTS - OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE	82
TABLE 7 - INDUSTRIAL SITE AND PARKING REQUIREMENTS - OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE	91
TABLE 8A - RURAL LANDUSE PARKING REQUIREMENTS	101
TABLE 8B - RURAL SITE REQUIREMENTS	102
TABLE 9A - OTHER ZONES - LANDUSE PARKING REQUIREMENTS	107
TABLE 9B - OTHER ZONES - SITE REQUIREMENTS	109



## PART I - PRELIMINARY

### 1.1 CITATION

This Town Planning Scheme may be cited as the Shire of Swan Town Planning Scheme No. 9 - District Zoning Scheme, (hereinafter called "the Scheme") and shall come into operation on the publication of the Scheme and notice of the Minister's final approval thereof in the Government Gazette.

### 1.2 ARRANGEMENT OF SCHEME TEXT

The Scheme Text is divided into Parts as follows:

PART I - PRELIMINARY

PART II - GENERAL PROVISIONS

PART III - GENERAL BUILDING AND DEVELOPMENT STANDARDS AND GENERAL OFF-STREET PARKING REQUIREMENTS

PART IV - MIDLAND SUB-REGIONAL CENTRE PROVISIONS

PART V - COMMERCIAL DEVELOPMENT PROVISIONS - OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE

PART VI - RESIDENTIAL DEVELOPMENT PROVISIONS

PART VII - INDUSTRIAL DEVELOPMENT PROVISIONS - OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE

PART VIII - RURAL DEVELOPMENT PROVISIONS

PART IX - OTHER ZONES

### 1.3 RESPONSIBLE AUTHORITY

The Authority responsible for enforcing the observance of the Scheme is the Council of the Shire of Swan (hereinafter called "the Council").

### 1.4 SCHEME AREA

The Scheme shall apply to the whole of the municipal district of the Council as identified and contained within the inner edge of a broken black line on the Land Use Map and Scheme Map (hereinafter called "the District").

### 1.5 RELATIONSHIP TO THE METROPOLITAN REGION SCHEME

The Scheme is complementary to, and is not a substitute for the Metropolitan Region Scheme, and the provisions of the Metropolitan Region Scheme, as amended from time to time, shall continue to have effect within the District. The Authority responsible for implementing the Metropolitan Region Scheme is the Metropolitan Region Planning Authority (hereinafter called "the Authority").

### 1.6 REVOCATION

The Shire of Swan Town Planning Scheme No. 1, published in the Government Gazette of 19th June, 1974, and all amendments thereto are hereby revoked.

## 1.7 MAPS

The following maps form part of the Scheme, but are not published in the Government Gazette. The maps are available for inspection at the municipal offices of the Council.

### Maps

Land Use Map: Sheets 1 to 41

Scheme Map: Sheets 1 to 41

Supplementary Map: Special Rural Zone Subdivisional Guide Plans

## 1.8 GENERAL OBJECTS

The general objects of the Scheme are:

- (a) to zone the District for the purposes described in the Scheme so as to strategically promote the orderly and proper development of land by making suitable provisions for the use of land within the District;
- (b) to secure the amenity, health and convenience of the District and the inhabitants thereof;
- (c) to set aside land used or to be secured and used as reserves for public purposes;
- (d) to make provisions as to the nature and location of buildings and the size of lots when used for certain purposes;
- (e) to make provisions for the conservation and preservation of places of natural beauty, and of historic buildings and objects of historical or scientific interest;
- (f) to encourage the use of modern land planning and design techniques so as to realise the economic, social and aesthetic advantage of combining different types of land uses in a co-ordinated community design;
- (g) to promote aesthetic control and design guidelines at all levels of land use and development;
- (h) to promote co-ordinated development proposals and vehicular circulation systems;
- (i) to protect co-ordinated development proposals from ad hoc and inconsistent development proposals;
- (j) to create a pedestrian, traffic and landscape environment which complements the wide range of activities carried on or proposed within the District;
- (k) to make provision for other matters incidental to town planning and land use.

## 1.9 RELATIONSHIP OF SCHEME TO BY-LAWS

The provisions of the Scheme shall have effect notwithstanding any by-law for the time being in force in the District including the Uniform Building By-laws; and where the provisions of the Scheme are inconsistent with the provisions of any by-law including the Uniform Building By-laws, the provisions of the Scheme shall prevail.

**1.10** RELATIONSHIP OF SCHEME TO STATUTES

Unless the context otherwise requires a reference to an Act of Parliament or to a section thereof includes a reference to any Act by which it is amended, re-enacted or replaced for the time being in force and also includes all by-laws, regulations and orders made thereunder for the time being in force.

**1.11** SCHEDULES AND APPENDICES

The Schedules and Appendices form part of the Scheme.

**1.12** HEADINGS

The headings of Parts form part of the Scheme, but the Table of Contents and headings of clauses, subclauses and paragraphs are intended for references purposes only and do not form part of nor affect the construction of the Scheme.

**1.13** INTERPRETATION

- a) Words and expressions used in the Scheme and defined in Schedule 1 have the meanings assigned to them in Schedule 1.
- b) Words and expressions used in the Scheme but not defined in Schedule 1 have the meanings assigned to them in and for the purposes of the Act or in Appendix "D" to the Regulations or the Residential Planning Codes, unless the context otherwise requires or unless it is otherwise provided herein.
- c) In the case of any inconsistency between the definition of any word or expression in Appendix "D" to the Regulations, and in Schedule 1 hereto to the extent of the inconsistency the definition in Schedule 1 hereto shall be deemed to vary or exclude the definition in Appendix "D" of the Regulations.

PART II - GENERAL PROVISIONS2.1 RESERVATIONS

Subject to subclause 2.1.3, the reservations within the District shall be as set out in the Tables in this clause.

TABLE 1A  
REGIONAL RESERVATIONS

Parks and Recreation
Controlled Access Highways
Other Major Highways
Important Regional Roads
Railways
State Forests
Waterways
Public Purposes

TABLE 1B  
LOCAL AUTHORITY RESERVATIONS

Recreation
Important Local Road
Local Road
Public Purposes
Civic and Cultural Areas
Proposed Road Widening and New Street Alignment
Road to be Closed
Public Parking

2.1.1 Regional Reservations

Any land shown as "Metropolitan Region Scheme Reservation" or "Regional Reservation" on the Scheme Map is land reserved by the Authority pursuant to the Metropolitan Region Scheme and is shown on the Scheme Maps in order to comply with the Metropolitan Region Town Planning Scheme Act 1959 (as amended). Unless specifically indicated to the contrary the said land is not reserved by this Scheme and compensation for injurious affection shall not be payable by the Council in respect of a Regional Reservation.

2.1.2 Development and Use of Regional Reservations2.1.2.1

The Council may not approve the commencement or carrying on of any use or development on a Regional Reservation within the District but shall refer any application for such approval to the Authority for determination.

2.1.2.2

The only approval required to commence or carry out a development on a Regional Reservation is that required by the Metropolitan Region Scheme. Any such application shall be submitted to the Council in duplicate on the form prescribed by the Metropolitan Region Scheme for such applications together with such plans and other information as the

Council reasonably requires, or as the Authority from time to time prescribes.

### **2.1.3** Local Authority Reservations

The lands shown as Local Authority Reservations on the Scheme Maps (hereinafter called "Local Authority Reservations") are lands reserved by this Scheme for Local Authority purposes or for the purposes shown on the said Maps.

### **2.1.4** Uses of Local Authority Reservations

Any Local Authority Reservation until vested in the Council or other public authority may be used:

- a) for the purpose for which the land is reserved under this Scheme;
- b) where such land is vested in a public authority, for any purpose for which such land may be lawfully used by that authority;
- c) for the purpose for which it was used at the date upon which the Scheme came into operation, unless the land in the meantime has become vested in a public authority, or unless such use has been changed with the approval of the Council; or
- d) for any purpose approved by the Council but in accordance with any conditions imposed by the Council;

but shall not be used otherwise for any other purpose.

### **2.1.5** Development of Local Authority Reservations

Except as otherwise provided in this Part a person shall not on any land comprising or forming part of any Local Authority Reservation without first applying for and obtaining approval of the Council:

- a) demolish or damage any building or works;
- b) remove or damage any tree;
- c) excavate, spoil, or waste the land so as to destroy, affect or impair its usefulness for the purpose for which it is reserved; or
- d) construct, extend or alter any building or structure, except a boundary fence of a kind defined or accepted by the Council as a sufficient fence in the relevant locality.

The provisions of this subclause shall not in any way limit or affect the interpretation of the general provisions of the Scheme relating to developments and applications for development approval insofar as they affect land zoned under the Scheme.

### **2.1.6** Right to Grant Approval or Refuse

The Council may on written application by the owner of any land comprising or forming part of a Local Authority Reservation, either

grant its approval to the carrying out of any of the works mentioned in the clause immediately preceding or refuse its approval or grant its approval upon such conditions as it thinks fit.

**2.1.7** Dealing with Applications

The general provisions in clause 2.3 and elsewhere in the Scheme relating to developments and applications for development approval shall insofar as they are not inconsistent with the provisions of this clause, apply to Local Authority Reservations.

**2.1.8** Regard for Ultimate Purpose

In considering whether or not to give its approval to the use or development of any land comprising or forming part of a Local Authority Reservation, the Council shall have regard to the ultimate purpose intended for the Reservation and shall in the case of land reserved for the purpose of a public authority confer with that authority before giving its approval.

**2.1.9** Compensation

**2.1.9.1**

If the Council refuses to give its approval for the commencement or carrying out of any development on a Local Authority Reservation and the fact of the land being reserved is the reason or one of the reasons for such refusal, or if the Council grants approval subject to conditions unacceptable to the applicant including a condition imposed only by reason of the land being reserved, and the applicant having exhausted all rights of appeal in respect of the refusal or imposition of the unacceptable condition and subject to the next succeeding paragraph of this subclause, the owner of the land may claim compensation from the Council for injurious affection. The amount of compensation payable by the Council shall not exceed the difference between:

- a) the value of the land as affected by the refusal of approval, or by the imposition of the unacceptable condition as the case may be; and
- b) the value of the land as not so affected.

Each of the values referred to in items a) and b) of this paragraph shall be market values and shall be assessed as at the date of the claim for compensation.

If the claimant and the Council cannot agree upon the amount of compensation payable, it shall be determined by arbitration in accordance with the Arbitration Act 1895.

**2.1.9.2**

No claim shall be made for compensation for injurious affection pursuant to the provisions of the preceding paragraph of this subclause unless and until the applicant first has pursued all avenues for appeal against the Council's decision, and unless on such appeal the Council's refusal is upheld for the reason that, or for the reasons including the fact that the land is reserved under the Scheme, and no claim for compensation for injurious affection in respect of the imposition of an unacceptable condition shall be made unless upon appeal a condition unacceptable to the applicant is upheld which relates to the land the



subject of the appeal being reserved under the Scheme.

### 2.1.9.3

A claim for compensation pursuant to the provisions of this subclause shall be made within six months of the decision by the Council refusing approval or imposing an unacceptable condition, or within six months of the determination of an appeal against the refusal or imposition of the unacceptable condition, whichever is the later.

### 2.1.9.4

- a) Where compensation for injurious affection is claimed as a result of the operation of this subclause, the Council may at its option elect to acquire the land so affected instead of paying compensation;
- b) Where the Council elects to acquire the land in respect of which the claim for compensation for injurious affection is made, the Council shall give notice of that election to the claimant by notice in writing within three months of the claim for compensation being made;
- c) Where the Council elects to acquire land as provided in this paragraph, if the Council and the owner of the land are unable to agree as to the price to be paid for the land by the Council, the price at which the land may be acquired by the Council shall be the value of the land as determined in accordance with item d) of this paragraph;
- d) the value of the land referred to in the preceding item of this paragraph shall be the value thereof on the date that the Council elects to acquire the land under this paragraph and that value shall be determined -
  - (i) by arbitration in accordance with the Arbitration Act 1895; or
  - (ii) by some other method agreed upon by the Council and the owner of the land,

and the value shall be determined without regard to any increase or decrease, if any, in value attributable wholly or in part to this Scheme.

## 2.1.10 Right of Disposal

The Council may deal with or dispose of land acquired for a Local Authority Reservation or pursuant to the preceding subclause upon such terms and conditions as it thinks fit provided the land is used for, or preserved for, a use compatible with the use for which it was reserved.

## 2.2 ZONES - EFFECT AND PROCEDURES

### 2.2.1 Classification

Land, other than land reserved under clause 2.1 is classified into zones as set out hereunder:

- a) The zones within the Sub-Regional Centre shall be those set out hereunder and shall be distributed as shown on the Scheme Map.

TABLE 2A  
MIDLAND SUB-REGIONAL CENTRE ZONES

City Centre - Business
City Centre - Regional Shopping
City Centre - Commercial Deferred
City Centre - Showroom/Warehouse
City Centre - Civic and Administration
City Centre - Residential and Mixed Uses
City Centre - Residential 1
City Centre - Residential 2
City Centre - Light Industrial

- b) The zones within the remainder of the District shall be those set out hereunder and shall be distributed as shown in the Scheme Map.

TABLE 2B  
DISTRICT ZONES

<u>Commercial Zones</u>
General Commercial
Highway Service
Service Station
Hotel
Motel
Tavern
<u>Residential Zones</u>
Residential Development
Residential 1
Residential 2
Residential 3
<u>Industrial Zones</u>
Industrial Development
General Industrial
Light Industrial
Noxious Industrial
<u>Rural Zones</u>
General Rural
Special Rural
Swan Valley Rural
Rural Living
<u>Other Zones</u>
Private Clubs and Institutions
Place of Public Assembly
Caravan Park
Special Purpose

- c) The said zones are delineated and coloured on the Scheme Map according to the reference appended thereto.

### 2.2.2 Zoning Tables

The Zoning Tables (Table 3A - Midland Sub-Regional Centre Zones and Table 3B - District Zones Other than the Midland Sub-Regional Centre) indicate, subject to the provisions of the Scheme, the permissibility of uses in the various zones.

The symbol indicating the permissibility of any use is determined by cross reference between the list of use classes on the left hand side of the Zoning Tables and the list of zones on the top of the Zoning Tables.

### 2.2.3 Symbols

- a) The symbols used in the cross reference in the Zoning Tables appended to this clause have the following meanings:

"P" means that the use is permitted by the Scheme;

"AA" means that the use is not permitted unless special approval is granted by the Council;

"SA" means that the use is not permitted unless special approval is granted by the Council and:

- (i) the Council has advertised in a newspaper circulating in the District notice of the application for planning approval stating in the advertisement particulars of the proposed use and that submissions may be lodged with the Council by a specified date being not fewer than three weeks after the date of the last publication of the notice in that newspaper;
- (ii) the Council has in addition to the foregoing, advertised, in such other manner as the Council considers necessary, particulars of the proposed use and the statement that submissions may be lodged with the Council by a specified date;
- (iii) the Council has given notice in writing to the owners and occupiers of any land the Council considers is likely to be affected if approval is granted;
- (iv) the Council has considered all submissions made with respect to the proposed use and is satisfied that the use, the activities to be carried on which are connected with or incidental to that use and any building to be erected on the land will not have any adverse or detrimental effect on the residents or of the amenity of or the properties in the locality.
- (v) where applicable, Council has had regard to the provisions of subclauses 4.2.3, 6.2.1 or 7.2.1.

"IP" means that the use is not permitted unless it is determined by the Council to be incidental to a use determined by the Council to be the predominant use and is approved as such by the Council.

- b) Where no symbol appears in the cross reference of a use class against a zone in either of the Zoning Tables, a use of the class shall be not permitted in that zone.
- c) Where in the Zoning Tables a particular use is mentioned, it is deemed to be excluded from any use

class which by its more general terms would otherwise include such particular use.

#### 2.2.4 Uses Not Listed

If a particular use is not mentioned in the list of use classes in one of the Zoning Tables or is not included by reference in the definition of any of the use classes in that Zoning Table, such use shall, for the purpose of that Zoning Table be deemed to be a use that is not permitted unless special approval is granted by the Council (an "AA" use) and shall be dealt with by the Council as an "AA" use.

#### 2.2.5 Special Purpose Zones

No person shall use any land or any building or structure in a Special Purpose Zone, except for the purpose specified against the description of such land in Appendix 6 to the Scheme, together with such ancillary or incidental uses as may be permitted by the Council.

### 2.3 DEVELOPMENT AND USE OF LAND

#### 2.3.1 Application for Approval to Commence Development

##### 2.3.1.1

In addition to a Building Licence, the Council's approval to commence development, carry on development or change the use of land (in this Scheme, referred to as "Development Approval") is required for any development on or partly on any land zoned or reserved under the Scheme except those referred to in paragraph 2.3.1.3, and with those exceptions no person shall commence or carry out any development unless the Council's approval has first been obtained.

##### 2.3.1.2

Any application for approval to commence development shall be made in the form prescribed by the Metropolitan Region Scheme for such application. The application shall be submitted to the Council in duplicate together with such plans and other information as the Council reasonably requires.

##### 2.3.1.3

Subject to the provisions of paragraph 3.1.11.3 and item 8.2.1.9 (r), the Council's prior approval to commence development on land zoned by the Scheme is not required if the development consists of:

- a) the erection on a lot of a single dwelling house which will be the only building on that lot and where a single dwelling house is a

permitted ("P") use in the zone in which that lot is situated; or

- b) the carrying out of any works on, in, or under a street or road by a public authority acting pursuant to the provisions of any statute.

#### **2.3.1.4**

Notwithstanding that any development by reason of the preceding paragraph does not require the approval of the Council, an application must nevertheless be submitted to the Council for referral to the Authority for determination in accordance with the Metropolitan Region Scheme or the Metropolitan Region Town Planning Scheme Act 1959 (as amended) if the land the subject of the application is wholly or partly:

- a) affected by a gazetted notice of a resolution by the Authority under clause 32 of the Metropolitan Region Scheme; or
- b) within an area duly declared by the Authority to be a planning control area.

### **2.3.2**      Application for Approval of a Use

#### **2.3.2.1**

For the purpose of this Scheme the commencement, carrying out or change of a use on land shall be a development notwithstanding that it does not involve the carrying out of any building or other works.

#### **2.3.2.2**

If an application for approval to commence development involves the carrying out of building or other work on land, the approval by the Council of the application shall unless the Council stipulates otherwise in its approval, be an approval also of the commencement and carrying out of any use of the land -

- a) which is specifically proposed and referred to in the application, or
- b) which is normally associated with or follows as a normal consequence of the carrying out or completion of the building or other work.

### **2.3.3**      Dealing with Applications Received

#### **2.3.3.1**

An application for approval to commence development on land which is wholly within a Regional Reservation shall be referred by the Council to the Authority for determination and no separate determination of the application shall be made by the Council.

#### **2.3.3.2**

Subject to the provisions of the next succeeding paragraph, an application for approval to commence development on land which is wholly zoned or reserved by the Scheme shall be determined by the Council in accordance with the provisions of the Scheme and the Metropolitan Region Scheme.

#### **2.3.3.3**

An application for approval to commence development on land which is wholly zoned or reserved by the Scheme but which is -

- a) affected by a gazetted notice of a resolution made by the Authority under clause 32 of the Metropolitan Region Scheme, or
- b) within or partly within a planning control area duly declared by the Authority

shall be dealt with by the Council as follows:

- (i) one copy of the application and supporting papers submitted by the applicant shall be forwarded by the Council to the Authority as soon as is reasonably possible, for determination by the Authority pursuant to the provisions of the Metropolitan Region Scheme or the Metropolitan Region Town Planning Scheme Act 1959 (as amended); and
- (ii) the Council shall retain the other copy of the application and supporting papers and determine the application in accordance with the provisions of the Scheme.
- (iii) the Council shall, as soon as practicable, forward to the Authority its recommendation as to the manner in which the matter should be determined.

#### **2.3.3.4**

If the Council receives an application for approval to commence development on land which is partly within a Regional Reservation and partly zoned or reserved by the Scheme then:

- a) the Council shall retain one copy of the application and refer the other copy to the Authority for determination of the application pursuant to the Metropolitan Region Scheme;
- b) if it is reasonable in the circumstances for the Council to make a determination as to the part of the proposed development which is on the land zoned or reserved by the Scheme, then the Council shall deal with that part of the application in accordance with paragraphs 2.3.3.2 and 2.3.3.3 but where appropriate the Council may express any approval it gives to be subject to the approval of the Authority;
- c) if it is not reasonable in the circumstances for the Council to make a determination as to the part of the development which is on the land zoned or reserved by the Scheme the Council may delay its determination of the application as to that part until the determination of the Authority is made known to it.

#### **2.3.4**      Referral to Other Authorities

The Council may if it so desires, before determining any application consult with any other statutory, public or planning authority and with any other party it deems fit.

#### **2.3.5**      Deemed Approval and Deemed Refusal

##### **2.3.5.1**

If the Council has not conveyed its decision to the applicant within sixty days of the receipt by it of an application which by the terms of the Scheme it is required to determine, the application shall be deemed

to have been refused.

#### 2.3.5.2

Subject to the provisions of the Metropolitan Region Scheme, if in respect of any proposal to commence or carry out development the Council is required to deal with an application under this Scheme and also an application under the Metropolitan Region Scheme by virtue of an authority delegated to it under the provisions of the Metropolitan Region Town Planning Scheme Act 1959 (as amended), unless it stipulates a contrary intention, the decision conveyed to the applicant shall be its decision both under the Metropolitan Region Scheme and under this Scheme.

### 2.3.6 Dealing with "P", "AA", "IP" and Not Permitted Uses

#### 2.3.6.1

"P" Uses - If an application under this Scheme for approval to commence or carry out any development involves a "P" use, the Council shall not refuse the application by reason of the unsuitability of that use, but notwithstanding that the Council may in its discretion impose conditions upon the approval to commence or carry out the use, and if the application proposes or necessarily involves any building or other work the Council upon considering that building or other work may exercise its discretion as to the approval or refusal and the conditions to be attached to the proposed development.

#### 2.3.6.2

"AA" Uses - The Council in exercising its discretion as to the approval or refusal of an application for development approval, shall have regard to the provisions of subclause 2.3.8.

Where in any particular case Council considers that it would be appropriate to consult with the public generally or with the owners or occupiers of properties adjoining or in the vicinity of a site the subject of an application for approval to commence an 'AA' use, nothing shall prevent the Council from following some or all of procedures relevant to dealing with applications for 'SA' uses.

#### 2.3.6.3

"IP" Uses - The decision of the Council:

- a) identifying the predominant use of any land; and
- b) as to whether any use is incidental to the predominant use

is a factual decision to be made upon the Council's assessment of the circumstances of any case. Having determined that the use involved in an application to commence or carry out development is properly an "IP" use,

the Council shall deal with the application in accordance with the provisions of paragraph 2.3.6.1 as if the use involved was a "P" use.

#### 2.3.6.4 Not Permitted Uses

The Council shall refuse development approval or so much of any development which involves a use which is not permitted.

### 2.3.7 Applications for Development Approval

#### 2.3.7.1 Formalities of Application

Where an application under the preceding provisions of this clause involves a proposal to use land for, or to change the use of land to an "SA" or "AA" use in addition to any other requirements applying to applications for development approval generally, the application shall include or be accompanied by the following:

- a) the full name and address of the applicant;
- b) a description of the land, including street name, lot number and house number, sufficient to enable the land to be clearly identified;
- c) the nature of the applicant's interest in the land (if any);
- d) a full and complete description of the purpose or each purpose for which the applicant desires to use the land;
- e) the nature of all existing improvements to the land and other improvements the applicant desires to make to the land; and
- f) if the applicant wishes to supply it, a brief statement of the planning principles or reasons which the applicant considers justify or support approval of the application.

#### 2.3.7.2 Dealing with "SA" Uses

Before approving a development involving an "SA" use, the Council shall subject to the next following paragraph, ensure that a notice of sufficient size to be visible and readable from the street, has been erected in a prominent position on the land, explaining the proposed use. The notice shall be exhibited for a period of not less than three weeks and shall state that submissions may be lodged with the Council before a specified date, being not less than three weeks after the erection of the notice.

The Council may in any case additionally or alternatively to the notice provided for in the preceding paragraph do any one or more of the following:

- a) cause to be advertised one or more times in a newspaper circulating in the District notice of the Council's intention to consider the application for the proposed use and any such advertisement shall state that objections may be lodged with the Council before a specified date, being not less than three weeks after the first publication of the notice;
- b) use any other methods or media to ensure widespread notice of the proposal; or
- c) give notice to ratepayers and/or occupiers likely to be affected by the granting of the approval. Such notice shall be in writing supplying at least the information referred to in item a) of this paragraph, and allowing a like time after receipt of the notice for objections to be lodged with the Council.



**2.3.7.3** Consideration of Submissions on "SA" Uses

Council shall not make a decision to approve or refuse approval of the development involving the use until after the latest date for submissions stated in the notice, and until after it has considered the submissions lodged in accordance with the notice.

**2.3.7.4** Expenses

All expenses incurred by the Council in advertising and otherwise giving notice pursuant to the provisions of paragraph 2.3.7.2 shall be reimbursed by the applicant whether or not the application is approved.

**2.3.8** Matters to be Considered when Council Exercises Discretion

**2.3.8.1**

The Council when exercising a discretion on an application for development approval shall have due regard to the following:

- a) any principle of law applicable to the circumstances;
- b) any relevant statute or subordinate legislation;
- c) the provisions of this Scheme and any other relevant town planning scheme operating within the district and including the Metropolitan Region Scheme;
- d) any statement of approved planning policy by the Town Planning Board (hereinafter called "the Board") or the Authority;
- e) any planning study approved by the Council and published by means additional to its inclusion in the Council's Minutes prior to the receipt by the Council of the application under consideration;
- f) any planning policy adopted by the Council and published or otherwise made available to the public by means additional to its inclusion in the Council's Minutes prior to receipt by the Council of the application under consideration;
- g) interests of orderly and proper planning and the preservation of the amenity of the relevant locality;
- h) any other relevant planning principles; and
- i) any relevant submissions by the applicant.

**2.3.8.2**

The Council when exercising a discretion on an application for development approval may have due regard to the following:

- a) any policy adopted by the Council but not published or otherwise made available to the public by means additional to its inclusion in the Council's Minutes prior to the receipt by the Council of the application under consideration;
- b) any policy of the Board or the Authority or any planning policy adopted by the Government of the State of Western Australia;
- c) any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar

- as they can be regarded as seriously entertained planning proposals;
- d) the comments or wishes of any public or municipal authority;
  - e) the comments or wishes of any objectors to or supporters of the application;
  - f) any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and
  - g) any other matter which in the opinion of the Council is relevant.

### **2.3.8.3**

In addition to the matters referred to in the preceding paragraphs of this subclause, the Council when considering whether or not to approve an "AA" use application shall have due regard to the following (whether or not by implication or otherwise they might have required consideration under the preceding paragraphs of this subclause):

- a) the nature of the proposed use and its relationship to the use of other land within the locality;
- b) the size, shape and character of the parcel of land to which the application relates and the nature and siting of any proposed building, the view from the building and any possible interruption of the existing view from other buildings or land in the locality;
- c) the nature of the roads giving access to the subject land;
- d) the parking facilities available or proposed and the likely requirements for parking, arising from the proposed development;
- e) any relevant submissions or objections received by the Council; and
- f) such other matters as the Council considers relevant, whether of the same nature as the foregoing or otherwise.

## **2.3.9** Power to Determine Applications for Development Approval

### **2.3.9.1**

The Council having regard to the appropriateness of any proposed development may:

- a) grant its approval with or without conditions and limit the time for which the approval remains valid prior to completion or substantial commencement of the development; or
- b) refuse to grant its approval.

### **2.3.9.2**

The Council shall convey its decision to the applicant by way of the form prescribed under the Metropolitan Region Scheme for such purpose or by a similar form prescribed by the Council for the purpose.

### **2.3.9.3**

If the Council in exercising any discretion is required by the Scheme or

by a provision in any statute to have due regard to any matter or thing, it shall be deemed to have had due regard to such matter or thing unless the contrary is expressly stated in the Minutes of the relevant Council meeting or the document communicating the determination for decision to the applicant, or is otherwise proved.

### **2.3.10** Compliance with Conditions

#### **2.3.10.1**

If the Council grants its approval of any development subject to conditions, no person shall use any land or building affected by the conditions or suffer or permit them to be used, or otherwise commence or carry out or suffer or permit the commencement or carrying out of any development on land otherwise than in accordance with the conditions.

#### **2.3.10.2**

If the Council grants its approval subject to conditions, and any of the conditions is not fulfilled or complied with within the time (if any) stipulated by the Council in its approval, or stipulated subsequently on reasonable notice to the applicant, the Council may in addition to any other remedies available to it, revoke its approval.

#### **2.3.10.3**

In any case where the Council revokes its approval of a development, it shall not issue a notice pursuant to section 10 subsection (1) of the Act until after the expiration of 60 days from the date of the revocation, or until after the determination of any appeal against the revocation, commenced within the 60 day period.

### **2.3.11** Agreements

The Council may enter into agreements with an applicant or if it is more appropriate, with the owner and/or occupier of any land or building involved in the application. In such agreement the applicant or otherwise the owner or occupier may covenant for himself, his transferees, assignees and successors, to carry out and observe all or any of the conditions (if any) imposed by the Council, and the agreement may deal with any other matter relevant to town planning and development of the land.

### **2.3.12** Site Plan Requirements

Unless otherwise waived by the Council, site plans lodged together with any application for approval to commence development involving any building or other work shall contain the following information:

- a) title block (containing name and date drawn);
- b) scale and north arrow;
- c) property lines of building site, dimensioned and contours shown
- d) existing and proposed categories of uses (e.g. industrial service, commercial);
- e) buildings; existing and proposed, location and size;
- f) streets; location and name;

- g) a copy of the Certificate of Title of the lots involved in the application and details of any easement or restrictive covenant affecting the land;
- h) access (driveways, etc.) existing and proposed;
- i) parking areas, designed according to Council's standards as required in this Scheme;
- j) signs; location, height, dimensions and copy if available or required;
- k) fencing (walls); type, location and height;
- l) landscaping and screening areas designed in accordance with Council's standards;
- m) existing structures on abutting properties, location, height, uses; and
- n) elevations if required, of all structures including signs, including but not limited to all exterior materials and finishes.

The Council may refuse to deal with any application for approval to commence development where the information contained on the site plans submitted is considered to be of insufficient detail.

### **2.3.13 Models**

The Council may require that an application for approval to commence development involving any building or other work be accompanied by a model of the proposed development containing:

- a) the design features of the building or buildings including the colour and tones of external walls;
- b) the location of the building or buildings proposed to be erected on the site;
- c) the location of the vehicle parking areas and accessways and the landscaped areas; and
- d) a baseboard cut accurately to scale conforming to the dimensions and shape of the site and indicating clearly the configuration of the finished ground surface.

### **2.3.14 Informal Applications**

An application for approval to commence development shall, for the purpose of computing time limits, be deemed not to have been received by the Council until such time as all requirements of the Council as to formalities have been complied with or have been waived by the Council.

### **2.3.15 "In Principle" Decisions**

#### **2.3.15.1**

- a) If an applicant stipulates that his application for development approval is made "in principle", or using other words indicates that

intention and the Council makes a determination thereon; or

- b) if the Council upon receiving an informal application for development approval makes a determination thereon, but issues its decision otherwise than by a form referred to in paragraph 2.3.9.2;

then in either case the determination of the Council shall for all intents and purposes be an "in principle" decision, and shall not in any way be taken as an approval of or to commence any development.

#### **2.3.15.2**

An "in principle" decision by the Council shall not in any way bind the Council or fetter its discretion when dealing substantively with an application concerning the same development.

### **2.4 NON-CONFORMING USES**

#### **2.4.1 Existing Use Rights**

##### **2.4.1.1**

No provision of the Scheme shall prevent -

- a) the continued use of any land or building for the purpose for which it was being used at the time of the coming into force of the Scheme if that use was lawful under the provisions of an earlier Scheme and/or enjoyed non-conforming use rights under that Scheme; or
- b) the carrying out on any land of a development in respect of which there was in existence at the time of the coming into operation of this Scheme, an approval to commence that development issued under a town planning scheme revoked by this Scheme.

##### **2.4.1.2**

Any development carried out pursuant to item 2.4.1.1(b) shall be substantially commenced or completed as the case may be within the time stipulated in the approval or such extended time as the Council permits, and provided further that any conditions stipulated in the approval shall be complied with and those conditions shall be enforced by the Council as if they had been imposed under this Scheme.

#### **2.4.2 Restrictions on Non-Conforming Uses**

##### **2.4.2.1**

If at the gazettal date the use of any land or building is a non-conforming use, that use may continue, subject to the following restrictions:

- a) the non-conforming use shall not be extended beyond the boundaries of the lot or lots upon which it was carried on at the gazettal date;
- b) if after the gazettal date a lot or lots upon which a non-conforming use was carried on prior to the gazettal date is or are subdivided, then after the gazettal date the non-conforming use shall not be extended to any subdivisional lot comprising land on which the non-conforming use was not previously carried on;

- c) if the buildings in which the non-conforming use is carried on are wholly within one lot only, then such buildings shall not be extended beyond the limits of that lot: and
- d) if the building or buildings in which the non-conforming use is carried on are on more than one lot, such non-conforming use shall be restricted to the land on which the building stands or the buildings stand and such land which is adjacent to the building or buildings and not being used for any other purpose authorised by the Scheme as is reasonably required for the purpose for which the building or buildings is or are being used.

#### **2.4.2.2**

Nothing in this subclause shall be taken to excuse any person from complying with the provisions in other clauses of this Part relating to applications for and approvals of uses and proposals to commence development of any land.

### **2.4.3** Non-Conforming Uses and Reserved Lands

Notwithstanding that a non-conforming use exists on land reserved by this Scheme, nevertheless any person wishing to extend vary or add to the existing use or seeking to commence or carry out any development on the land shall comply with the provisions of this Part relating to use of and development on Local Authority Reservations.

### **2.4.4** Extension to Buildings

#### **2.4.4.1**

Where on land zoned by the Scheme a non-conforming use exists or was authorised as mentioned in subclause 2.4.1, and provided that all necessary development approvals and a building licence are first obtained, buildings may be extended to the limits prescribed by the Uniform Building By-laws made under the Local Government Act 1960 (as amended), or by any other by-laws made under that Act or the Town Planning and Development Act or by the Scheme, for the purpose of limiting the size, location and distance from boundaries and any other matter required by law for that class of use within the boundary of the lot or lots on which the use was carried on immediately prior to the coming into force of the Scheme.

#### **2.4.4.2**

In dealing with an application for approval of or to commence a development involving a building extension authorised under the preceding paragraph, the Council shall apply the provisions of subclause 2.3.8. The Council shall not be liable to pay compensation for injurious affection by reason of the fact that it refuses an application for reasons related to orderly and proper planning and preservation of amenity.

#### **2.4.4.3**

Nothing in this subclause shall be taken to excuse any person from complying with the provisions in other clauses of this Part relating to applications for and approvals of uses and proposals to commence development of any land.

#### 2.4.5 Change of Non-Conforming Uses

##### 2.4.5.1

The Council may grant its approval to the change of the use of any land from one non-conforming use to another non-conforming use if the proposed use is, in the opinion of the Council, less detrimental to the amenity of the neighbourhood than the existing use and is, in the opinion of the Council, closer to the intended uses of the zone.

##### 2.4.5.2

The decisions of the Council as to:

- a) whether a proposed non-conforming use is less detrimental to the amenity of the neighbourhood than the existing use; and
- b) whether the proposed non-conforming use is closer to the intended uses of the zone than the existing use

are factual decisions to be made upon the Council's assessment of the circumstances of the case.

#### 2.4.6 Discontinuance of Non-Conforming Uses

##### 2.4.6.1

Notwithstanding the preceding provisions of this clause except where a change of non-conforming use has been permitted by the Council under subclause 2.4.5, when a non-conforming use of any land or building has been discontinued for a period exceeding six months such land or building shall not thereafter be used other than in conformity with the provisions of the Scheme.

##### 2.4.6.2

Notwithstanding the provisions of subclause 2.4.1, should any building in or on which a non-conforming use has been carried on, be so damaged or destroyed that the cost of restoration or replacement is greater than 75 per cent of the value of such building immediately prior to the damage to or destruction thereof, then the land shall be used only in conformity with the provisions of the Scheme.

##### 2.4.6.3

The Council may, for the purpose of discontinuing any particular non-conforming use, subject to the Act acquire the lot and buildings (if any) on or in which the use is, or is permitted to be carried on, or make agreements relating to the payment of compensation or moneys to persons willing to discontinue a non-conforming use.

#### 2.4.7 Conditions of Approval

When the Council grants its approval to change the use of any land from one non-conforming use to another it may grant such approval with or without conditions and may limit the time for which the approval remains valid prior to completion or substantial commencement of the development.

#### 2.4.8 Register of Non-Conforming Uses

##### 2.4.8.1

Any person carrying on a non-conforming use who wishes to establish his

non-conforming use right shall within six calendar months of the gazettal date, or within such extended time as the Council may allow, give to the Council in writing full information of the nature, extent and duration of the non-conforming use.

#### **2.4.8.2**

The Council shall establish and maintain a Register of such non-conforming uses. If a particular non-conforming use is not entered in the Register within 6 months of the gazettal of the Scheme, the Council may at a later time enter that use in the Register upon application being made to it and upon the applicant demonstrating to the satisfaction of the Council that;

- a) the use was a lawful conforming or non-conforming use under the Council's Town Planning Scheme No. 1 immediately prior to the revocation of that Scheme; and
- b) there is a reasonable explanation for the failure to record the non-conforming use in the Register within 6 months of the gazettal of the Scheme.

#### **2.4.8.3**

The Council shall note in the Register any change to or discontinuance of a non-conforming use.

#### **2.4.8.4**

For the purpose of the registration of a non-conforming use in the Register the Council shall determine the nature of the use and the appropriate use class as a factual decision based upon the Council's assessment of the evidence before it at the time of making the determination.

## **2.5 CONSERVATION AND PRESERVATION OF PLACES OF NATURAL BEAUTY AND HISTORIC BUILDINGS AND OBJECTS OF HISTORICAL OR SCIENTIFIC INTEREST**

### **2.5.1 Second Schedule Places Buildings and Objects**

#### **2.5.1.1**

Places of natural beauty and historic buildings and objects of historical or scientific interest contained in Schedule 2 hereto ("Second Schedule places", "Second Schedule buildings" and "Second Schedule objects" respectively) shall be conserved and preserved.

#### **2.5.1.2**

If the Council resolves that any place of natural beauty or any historic building or object of historical or scientific interest should be protected by the conservation and preservation provisions of this clause the Council may initiate an amendment to the Scheme to add the place, building or object to Schedule 2.

#### **2.5.1.3**

If the Council at any time considers that any Second Schedule place, building or object should no longer be protected by the conservation and preservation provisions of this clause the Council may initiate an amendment to the Scheme for the deletion of the place, building or object from Schedule 2.



## 2.5.2 Applications for Development Approval

### 2.5.2.1

Notwithstanding any provisions of this Scheme exempting certain classes of development from the requirements of obtaining Council's development approval, any development affecting or within or around any Second Schedule place, building or object requires the prior approval of the Council pursuant to the provisions of Clause 2.3 and, without limiting the generality of the foregoing, development for the purpose of this clause shall include -

- a) the clearing, excavation or filling of any land;
- b) the felling, removal, irreparable damage or killing of any trees;
- c) the erection of any fence;
- d) the commencement or carrying out of any renovation, modification, re-fitting or decoration of any building whether internal or external in its effect;
- e) the demolition of any building;
- f) the alteration or removal of any building or object or part thereof.

### 2.5.2.2

If the Council decides to give its approval to the commencement or carrying out of any development or other work referred to in paragraph 2.5.2.1, the Council may give that approval notwithstanding that the development or work involved does not comply with the Uniform Building Bylaws or Residential Planning Codes or with any requirement or standard specified in or arising out of this Text.

## 2.5.3 Purchase or Resumption

The Council may purchase or subject to the Act resume the parcel of land on or in which any Second Schedule place, building or object is situated, or so much or such interest in that parcel of land as in the opinion of the Council is necessary for the preservation of the Second Schedule place, building or object.

## 2.5.4 Agreements

The Council may -

- a) enter into agreements with the owners or occupiers of land on or in which any Second Schedule place building or object is situated, for the purpose of ensuring the preservation or conservation of such place building or object;
- b) enter into agreements with the National Trust of Australia (W.A.), the Royal Western Australian Historical Society (Inc.), or any Government Department, Authority, or other body in Western Australia responsible for tourism or with any other Authority, body or person, for the preservation or conservation of any Second Schedule place, building or object; and
- c) enter into agreements relating to the determination and settling of

claims for compensation arising out of the provisions of this Scheme relating to Second Schedule places, buildings and objects.

## **2.5.5** Compensation for Injurious Affection

### **2.5.5.1**

If the Council refuses to give its consent in writing for the commencement or carrying out of any development or other work as provided in this clause or refuses to give its approval for the commencement and carrying out of any development as provided in clause 2.3 and the inclusion in Schedule 2 of a place, building or object involved in the application is the reason or one of the reasons for such refusal, or if the Council in giving its written consent or in giving its approval to commence or carry out development imposes a condition unacceptable to the applicant and which is imposed only by reason of the inclusion in Schedule 2 of a place building or object involved in the application, and the applicant having exhausted all rights of appeal in respect of the refusal or imposition of the unacceptable condition and subject to the next succeeding paragraph of this subclause, the owner of the land may claim compensation from the Council for injurious affection. The amount of compensation payable by the Council shall not exceed the difference between:

- a) the value of the land as affected by the refusal of written consent or of approval to commence or carry out development, or by the imposition of the unacceptable condition as the case may be; and
- b) the value of the land as not so affected.

Each of the values referred to in Items a) and b) of this paragraph shall be market values and shall be assessed as at the date of the claim for compensation.

If the claimant and the Council cannot agree upon the amount of compensation payable, it shall be determined by arbitration in accordance with the Arbitration Act 1895.

### **2.5.5.2**

No claim shall be made for compensation for injurious affection pursuant to the provisions of the preceding paragraph unless and until the applicant first has pursued all avenues for appeal against the Council's decision, and unless on such appeal the Council's refusal is upheld for the reason that, or for reasons including a reason that a place, building or object involved in the application is included in the Second Schedule, and no claim for compensation for injurious affection in respect of the imposition of an unacceptable condition shall be made unless upon appeal a condition unacceptable to the applicant is upheld which relates to the inclusion in the Second Schedule of a place, building or object involved in the application.

### **2.5.5.3**

A claim for compensation pursuant to the provisions of this subclause shall be made within six months of the decision by the Council refusing approval or imposing an unacceptable condition, or within six months of the determination of an appeal against the refusal or imposition of the unacceptable condition.

**2.5.5.4**

- a) Where compensation for injurious affection is claimed as a result of the operation of the provisions of this clause, the Council may at its option elect to acquire the land so affected instead of paying compensation provided that where the claim for compensation is in relation to the imposition of a condition, the Council shall not acquire the land except with the consent of the owner.
- b) Where the Council elects to acquire the land in respect of which the claim for compensation for injurious affection is made, the Council shall give notice of that election to the claimant by notice in writing within three months of the claim for compensation being made.
- c) Where the Council elects to acquire land as provided in this paragraph, if the Council and the owner of the land are unable to agree as to the price to be paid for the land by the Council, the price at which the land may be acquired by the Council shall be the value of the land as determined in accordance with Item (d) of this paragraph.
- d) The value of the land referred to in the preceding item of this paragraph shall be the value thereof on the date the Council elects to acquire the land under this paragraph, and that value shall be determined -
- (i) by arbitration in accordance with the Arbitration Act, 1895;  
or
- (ii) by some other method agreed upon by the Council and the owner of the land,

and that value shall be determined without regard to any increase or decrease, if any, in value attributable wholly or in part to this Scheme.

**2.6 FINANCE AND ADMINISTRATION****2.6.1 General Obligations**

Subject to the provisions of the Act and all regulations made thereunder and to clause 2.4 of the Scheme, no person shall depart from or permit or suffer any departure from the requirements and provisions of the Scheme, nor shall any person use or permit the use of any land or building or commence or permit the commencement of any other development which -

- a) does not conform with the Scheme; or
- b) being a use or other development which requires the approval of the Council or the Authority or both, does not have such approval or approvals; or
- c) does not comply with the terms of any approval or any condition attached thereto.

**2.6.2** Acquisition of Land

The Council may acquire by purchase or resumption any land or buildings within the Scheme Area and for such purpose may enter into agreements and arrangements with any owners of land within the Scheme Area and the Council may at any time exercise its powers conferred upon it by Section 13 of the Act.

**2.6.3** Disposal of Land

The Council may deal with or dispose of any land which it owns or which it has acquired pursuant to the provisions of the Scheme, in accordance with the Act and in conformity with the provisions of the Scheme, upon such terms and conditions as it shall think fit, and for such purpose may make such agreements with other owners and parties as it deems fit.

**2.6.4** Entry to Premises

The Council, by an authorised officer, may enter at all reasonable times any building or land within the Scheme Area for the purpose of ascertaining whether the provisions of the Scheme are being observed.

**2.6.5** Notices

Twenty-eight (28) days written notice is hereby prescribed as the notice to be given pursuant to Section 10 of the Act. Any expenses incurred by the Council under the said Section may be recovered from the person in default as a simple contract debt in such Court of civil jurisdiction as is competent to deal with the amount of the claim.

**2.6.6** Agreements

The Council may enter into agreements with the owners of land within the Scheme Area or with any other person in respect of any matter pertaining to the Scheme.

**2.6.7** Compensation

Unless otherwise provided in the Scheme claims pursuant to Section 11 of the Act for compensation for injurious affection by reason of the Scheme shall be made not later than six months from the date on which notice of approval of the Scheme is published in the Government Gazette.

**2.6.8** Rights of Appeal

Should an applicant or an owner of land the subject of an application be aggrieved by a decision of the Council exercising a discretionary power under the Scheme he may appeal in accordance with Part V of the Act and the rules and regulations made pursuant to the Act.

**2.6.9** Penalties

Subject to the Act and to any Regulations made thereunder and to the provisions of the Scheme a person who:

- a) uses for a purpose a building which does not conform with a standard or requirement of the Scheme relating to buildings used for such purpose;

- b) erects, alters or adds to any building or carries out any other development or uses any land contrary to the provisions of the Scheme or contrary to the terms of any approval by the Council or conditions attached to such approval;
- c) does or omits to do any act and in so doing contravenes the Scheme;  
or
- d) permits or causes any such erection, alteration, addition, development, use, act or omission to be made or done;

shall be considered to have contravened or failed to comply with the provisions of the Scheme for the purpose of the proceedings for an offence under Section 10(4) of the Act, or any other proceedings in respect of that contravention or failure to comply.

**PART III – GENERAL BUILDING AND DEVELOPMENT STANDARDS**  
**AND GENERAL OFF-STREET PARKING REQUIREMENTS**

**3.1 GENERAL BUILDING AND DEVELOPMENT STANDARDS**

**3.1.1 Specific Application to District**

Subject to the provisions of this Scheme, no person shall develop any land or use any building for any purpose within the District unless such development or building is in accordance with the provisions of the Scheme and the requirements and standards set out in this Text.

**3.1.2 Variation of Requirements and Standards**

**3.1.2.1**

If the Council is satisfied that a requirement or standard specified in or arising out of this or any succeeding clause of this Text is unreasonable or undesirable in the circumstances of a particular case, the Council may at its discretion having regard to those matters referred to in subclause 2.3.8 insofar as they are relevant, permit a variation from that requirement or standard for the purpose of that case subject to such conditions as it thinks fit.

**3.1.2.2**

Before permitting a variation from any requirement or standard in accordance with paragraph 3.1.2.1 the Council may require that the owner and/or developer enter into an agreement with the Council to use or develop the building or land in a particular manner, and in case of a breach of the agreement or of any conditions imposed by the Council, in addition to any other remedies open to the Council in respect of such breach, the Council may enforce the requirements of the Scheme as to any requirement or standard varied.

**3.1.2.3**

The Council shall not in any event vary a requirement or standard in accordance with paragraph 3.1.2.1 unless it has been requested to do so by an applicant in connection with a proposal to commence or carry out development.

**3.1.3 Requirements Not Readily Determined by Text**

Where in the circumstances of a particular case a requirement or standard cannot readily be determined from a consideration of this Text and there is no applicable requirement or standard in the Uniform Building By-laws or any other by-laws, such requirement or standard shall be determined by the Council. In making such a determination the Council shall have regard to any study or policy relevant to the area or the development in question and may have regard to any other matter relevant to amenity and orderly and proper planning.

**3.1.4 Eastern Corridor Policy Areas**

Notwithstanding anything to the contrary in the Scheme, where a policy area has been defined on the Scheme Map and a preferred development strategy has been prepared for the area and adopted by the Council and approved by the Board, then in considering the application for approval to commence or carry out development within that policy area involving

any building or other work the Council shall have due regard to the extent such development would adversely affect the implementation of the preferred development strategy. In this regard, for the purpose of clarity and easy reference in regard to the affected land the boundaries of each policy area have been delineated in Appendices 2A, 2B and 2C of the Scheme according to the reference appended thereto as set out hereunder:

- a) Appendix 2A – Policy Area No. 1 – Caversham;
- b) Appendix 2B – Policy Area No. 2 – Hazelmere;
- c) Appendix 2C – Policy Area No. 3 – Eastern Corridor – Toodyay Road, South.

### **3.1.5** Traffic Entrances

The Council may refuse to permit more than one vehicular entrance or exit to or from any lot, may require separate entrances and exits, and may require that entrances and exits be placed in positions nominated by the Council, if it considers such provision necessary or desirable to avoid or to reduce traffic hazards, or otherwise to assist in planning for vehicular traffic.

### **3.1.6** Right-of-Way Setback

All buildings constructed on a lot adjoining a right-of-way shall be set back so that no part of or projection from the building is closer than 3 metres from the right-of-way unless the development is within the Sub-Regional Centre and the Council is satisfied that such a requirement would not be in the interest of the amenity and the orderly and proper planning for redevelopment of the Sub-Regional Centre.

### **3.1.7** Visual Truncation of Corner Lots and Vehicular Accessways

Notwithstanding any policy adopted by the Board dealing with the ceding of site truncations from corner lots, Council may, having due regard to amenity, safety or any other matter relevant to orderly and proper planning, determine that:

- a) No building, wall, fence or landscaping greater than 0.75 metres in height, measured from the natural ground level at the boundary, shall be constructed or planted on a corner lot within a 14 metres visual truncation of the corner as depicted in Appendix 3A.
- b) No wall, fence or landscaping greater than 0.75 metres in height measured from the natural ground level at the boundary, shall be constructed within 3 metres of a vehicular accessway unless such wall or fence is constructed with a 3 metre truncation as depicted in Appendix 3B.

### **3.1.8** Connection to Reticulated Sewerage System

- a) The Council may refuse to permit the erection of any attached, grouped or multiple dwelling unit in any zone unless such dwelling units are connected to a reticulated sewerage system.
- b) Where no connection to a reticulated sewerage system is available,

no residential development other than the erection of a single dwelling house shall be approved unless the Public Health Department recommends to the Council that there are exceptional circumstances which warrant a variation to this requirement.

### **3.1.9** General Appearance of Building and Preservation of Amenity

The Council may refuse to approve the commencement or carrying out of any development involving any building or other work if, in its opinion, the proposed building or other work would have an adverse effect on the amenity of the locality. In exercising its discretion under this Clause, the Council shall apply the provisions of subclause 2.3.8 insofar as they are applicable, and in addition shall have regard to:

- a) the external appearance of the building and any associated structures and landscaping;
- b) the design of all sides of the building where applicable particularly those visible from a public road;
- c) the dimensions and proportions of the building or structure;
- d) the use of compatible building and landscape materials, taking into consideration tone, texture, scale, shape and colour;
- e) the effect on existing or future buildings on nearby properties, and on the occupants of these buildings;
- f) the environment resulting from the building itself and the effect of that environment on the occupants of the building and the Council's intentions for the development of the surrounding locality;
- g) the effect of the building on existing and future services and community facilities. In particular, drainage, sewerage, water reticulation and existing or proposed community facilities such as schools, parks, civic buildings, malls and pedestrian links;
- h) the effect on the landscape and environment generally; and
- i) any other matter which in the opinion of the Council is relevant to the amenity of the locality.

### **3.1.10** Setbacks to Roads to be Widened

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

### **3.1.11** Guildford Design Control Area

#### **3.1.11.1**

The purpose and intent of the Guildford Design Control Area is to ensure that all new development or redevelopment within the area accords where appropriate with the general principles pursued by the Council in the area prior to this Scheme coming into effect. Any new development or



redevelopment in the area shall reflect in its design and finishes the character and style of construction of those surrounding existing developments which demonstrate historical and architectural integrity consistent with the predominant character and the history of the area.

#### **3.1.11.2**

The Guildford Design Control Area shall include the land enclosed by the dotted line on the plan in Appendix 5 hereto.

#### **3.1.11.3**

Notwithstanding any provision in paragraph 2.3.1.3 to the contrary within the Guildford Design Control Area, the Council's prior approval to commence development on land zoned by the Scheme is required for any development including the erection on a lot of a single dwelling house whether or not it will be the only building on that lot, but shall not be required for the carrying out of any works on, in, or under a street or road by a public authority acting pursuant to the provisions of any statute. In the case of development which consists of no more than an outbuilding or appurtenance associated with an existing building or a boundary fence or wall, an approval to commence development shall not be required unless the Council indicates to the contrary at the time of issuing a Building Licence or otherwise.

#### **3.1.11.4**

In addition to the application formalities prescribed in paragraph 2.3.1.2 and any formalities or requirements associated with development applications contained in any other provision of the Scheme, Council may determine that an application for approval to commence or carry out any development within the Guildford Design Control Area shall be accompanied by the following:

- a) street elevations drawn to a scale not smaller than 1:200 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application and drawn as one continuous elevation;
- b) side and rear elevations of the proposed development, drawn to a scale of not smaller than 1:200;
- c) in addition to a site plan, a plan of the proposed development site showing existing and proposed ground levels over the whole of the land the subject of the application, and showing the location, type and height of all existing structures and of all existing vegetation exceeding 2 metres in height. Such plan shall be drawn to the same scale as the site plan;
- d) a detailed schedule of all finishes, including materials and colour, of the proposed development and the existing developments on each lot immediately adjoining the land the subject of the application.

#### **3.1.11.5**

Without affecting the generality of any other provision of the Scheme specifying the manner in which the Council is obliged or permitted to deal with an application for approval to commence or carry out development, the Council in dealing with any application for approval to commence or carry out development in the Guildford Design Control Area may:

- a) refuse to grant its approval to commence development if it is of the opinion that the proposed development does not reflect, in its design and finishes, the character and style of construction of those surrounding existing developments which demonstrate historical or architectural integrity consistent with the predominant character and the history of the area;
- b) specify alterations to be made to the design of the proposed development, calculated to make the proposed development more effectively reflect the matters referred to in the preceding item of this paragraph; and
- c) notwithstanding the schedule of finishes submitted, specify for use in the proposed development an alternative schedule of finishes which more effectively reflects the purpose and intent of the Guildford Design Control Area referred to in paragraph 3.1.11.1.

### **3.2 GENERAL OFF-STREET PARKING REQUIREMENTS**

#### **3.2.1 Application of Clause**

This clause shall apply to all developments within the Scheme Area with the exception of:

- a) developments to which the Residential Planning Codes apply, and
- b) developments involving a rural use, other than Rural Industry and Extractive Industry.

#### **3.2.2 Consideration of Applications Requiring Off-Street Parking**

In considering any application for approval to commence development to which this clause applies, the Council shall ensure that the standards and requirements set out in the ensuing subclauses of this clause are complied with and where there is any variation from those standards and requirements subject to subclause 3.1.2 the Council shall either refuse to approve the development or shall impose conditions on its approval requiring compliance with the standards and requirements.

#### **3.2.3 Parking Spaces to be Off-Street**

For the purposes of this clause and subject to the provisions of subclause 3.2.11 parking spaces required by the Scheme to be provided in relation to any development shall be off-street and subject further to the provisions of subclause 3.2.5 shall be provided on the land on which the development is proposed.

#### **3.2.4 General Requirements for Off-Street Parking**

The following general requirements shall apply when off-street parking is required.

- a) no building or land the subject of an application for approval to commence development shall be occupied until all required parking and loading facilities have been provided to the satisfaction of the Council;

- b) when the use of any land or building is changed to a use which under the Scheme requires a greater number of parking spaces, additional parking spaces shall, unless otherwise approved by Council, be provided to meet the new requirements;
- c) when a development on any land is enlarged, additional parking spaces to meet the requirements of this clause shall be provided in respect of the enlarged portion only;
- d) any off-street parking or loading facility which is permitted but not required by this Scheme, shall comply with the standards herein governing the location, design, improvement and operation of such facilities;
- e) all permitted or required parking and loading facilities shall be provided on the same site as the building or use served, except where Council considers off-site location to be appropriate due to varying physical and economic conditions;;
- f) parking facilities shall not be used for the storage of:
  - (i) vehicles for sale;
  - (ii) recreational vehicles;
  - (iii) commercial vehicles, trucks or trailers (unless the parking facilities used to store such commercial vehicles trucks or trailers are in excess of the minimum requirement);

nor shall parking facilities be used for the repair of vehicles.
- g) If the Scheme does not specify the number of parking spaces required in respect of any particular use, then the number of parking spaces to be provided shall be fixed by the Council having regard to other relevant uses, if any.

### **3.2.5** Joint Use of Parking Facilities

#### **3.2.5.1**

Parking facilities may be provided jointly by two or more owners or users of land or by one owner or user in respect of separate buildings or uses, subject to the satisfaction of the standards and requirements hereinafter set out in this subclause.

#### **3.2.5.2**

If there is a deficiency in the number of parking spaces provided to serve any building or use, the Council may permit the parking spaces for that building or use to be provided jointly with any one or more other buildings or uses whether or not those others separately have the prescribed number of parking spaces provided that the peak hours of operation of the buildings or uses so sharing are different and do not substantially overlap.

#### **3.2.5.3**

The Council may require that reciprocal access and circulation arrangements are provided for any buildings or uses affected by this subclause when, in the opinion of the Council, such arrangements are deemed necessary to improve design or amenity.

**3.2.5.4**

The following requirements shall be complied with by any person seeking to take advantage of the provisions of this subclause:

- a) evidence shall be provided sufficient to satisfy the Council that no substantial conflict will exist in the peak hours of operation of the buildings or uses for which the joint use of parking spaces or the reciprocal access and circulation arrangements is proposed;
- b) the number of parking spaces which may be credited from one building or use to another building or use shall not exceed the number of spaces reasonably anticipated to be in excess of the requirement of the first building or use during its off-peak hours of operation;
- c) the Council may require an agreement to be prepared by a solicitor at the expense of the person seeking to take advantage of the provisions of this subclause, detailing the relevant issues of the joint usage, and executed by all parties concerned. Any such agreement shall be capable of operating as a restrictive covenant against any land providing parking spaces, reciprocal access or circulation arrangements and shall ensure that the restraint cannot be removed without the consent of the Council upon the Council being satisfied that the joint use of parking facilities is no longer required.

**3.2.6**      General Design Requirement for Off-Street Parking

The general design requirements for off-street parking areas shall be as follows:

- a) all parking spaces shall be provided with adequate access by means of manoeuvring lanes or otherwise with spaces designed so that it is not necessary to reverse directly into a public street to enter or to leave the parking area;
- b) adequate means of access and egress to and from the parking area shall be provided for all vehicles;
- c) circulation within a parking area shall be such that all parking spaces, including any garage or carport shall be accessible and usable for the full number of parking spaces required whenever the building or use which they serve is in operation;
- d) the entire parking area, including parking spaces and manoeuvring lanes required under the Scheme shall be paved with either asphalt, concrete or brick paving or other surfacing acceptable to the Council. The standard of paving shall be in accordance with specifications approved by the Council.

**3.2.7**      Specific Design Requirements for Off-Street Parking

Plans for the layout and marking of off-street parking facilities shall be in accordance with Appendices 4A and 4B of this Scheme. The following provisions shall also apply:

- a) in all parking facilities containing 21 or more spaces, aisles, approach lanes, and manoeuvring areas shall be clearly marked with

directional arrows and lines to expedite traffic movements. Once a parking facility has been marked in accordance with the approved site plan, the marking shall be permanently maintained;

- b) spaces designated for small cars shall be provided only for parking angles of 30 degrees or greater. Such small car spaces shall be a minimum of 2.4m in width;
- c) for parking angles of 60 degrees or greater, up to 0.6m of the space depth may be provided in overhang beyond the front kerb;
- d) if parallel parking spaces are paired, with at least 2.4m of no parking between the pairs, the space depth may be a minimum of 5.5m. Otherwise the minimum space depth for parallel parking spaces shall be 7.0m; and
- e) where car parking stalls are covered, the minimum width of the car stalls is to be increased to 3 metres.

### **3.2.8** Landscaping for Off-Street Parking

Boundary landscaping shall be provided for parking facilities visible from any public street and with more than five parking spaces, and interior landscaping shall be provided for open parking facilities with 21 or more parking spaces. Landscaping shall comply with the following requirements:

- a) all areas between parking facilities and adjoining streets shall have a minimum of 3m wide permanent landscape area. In addition, the Council may also require permanent landscaping between the parking facilities and all other side and rear property lines;
- b) for open parking facilities, with 2 $\frac{1}{2}$  or more parking spaces, there shall be provided a minimum of 1m $\frac{2}{2}$  of permanent landscaping for every 10m $\frac{2}{2}$  of parking stall area. Such landscaping shall not be in addition to any other landscaping required by this Scheme.

### **3.2.9** Units of Measurement

The units of measurement for calculating the number of required parking spaces shall be interpreted as follows:

- a) when the unit of measurement is based on the number of employees, the shift or employment period during which the greatest number of employees are present at the building or use shall be used in the computation;
- b) when the unit of measurement results in the requirement of a fractional space, any fraction up to but not including one half shall be disregarded, and fractions equal to or greater than one half shall require one parking space;
- c) when the unit of measurement is based on gross leasable area the definition for gross leasable area contained in Schedule 1 to this Scheme shall apply for determining the required number of car spaces;
- d) when the unit of measurement is based upon the number of fixed seats

in a building or use, each 600mm of pew, bench or other seating space shall count as one seat.

### **3.2.10** Commercial Vehicle Parking

In addition to the parking spaces required for owners, occupants, employees, customers or visitors of buildings, structures or uses, one parking space shall be provided for each commercial vehicle used in conjunction with the operation of any building, structure or use. Parking spaces for such accessory vehicles shall be within the parking facility on the same lot or adjacent to the building.

### **3.2.11** Cash Payment in Lieu of Providing Parking Spaces

#### **3.2.11.1**

Save and except as provided in subclauses 4.3.2 and 4.3.3 , the Council may agree with an applicant for approval to commence development to accept a cash payment in lieu of the provision of paved car parking spaces, but subject to the requirements of this subclause:

- a) a cash-in-lieu payment shall be not less than the estimated cost to the owner of providing and constructing the parking spaces required by this Scheme, plus the value, as estimated by a licensed valuer appointed by the Council, of that area of his land which would have been occupied by the parking spaces and manoeuvring area;
- b) before the Council agrees to accept a cash payment in lieu of the provision of parking spaces, the Council must either have provided a public parking station nearby, or must have firm proposals for providing a public station nearby within a period of not more than twenty four months from the time of agreeing to accept the cash payment;
- c) payments under this Clause shall be paid into a special fund to be used to provide public parking stations anywhere in the District;
- d) all costs incurred in obtaining the valuation shall be borne by the applicant for approval to commence development.

**TABLE 3A**  
**MIDLAND SUB-REGIONAL CENTRE ZONES**

USE CLASSES	ZONES								
	CITY CENTRE - BUSINESS	CITY CENTRE - REGIONAL SHOPPING	CITY CENTRE - COMMERCIAL DEFERRED *	CITY CENTRE - SHOWROOM/WAREHOUSE	CITY CENTRE - CIVIC AND ADMINISTRATION	CITY CENTRE - RESIDENTIAL & MIXED USES	CITY CENTRE - RESIDENTIAL 1	CITY CENTRE - RESIDENTIAL 2	CITY CENTRE - LIGHT INDUSTRIAL
AMUSEMENT PARLOUR	AA	AA	SA	AA		AA			
AUCTION MART			SA	AA					P
BETTING AGENCY	P	P	SA			AA			AA
BOARDING HOUSE			AA			AA	SA	SA	
CABIN OR CHALET									
CAMPING AREA									
CARAVAN OR TRAILER YARD				P					AA
CARAVAN PARK									
CARETAKER'S DWELLING	IP	IP	AA	IP	IP	IP	P	P	IP
CAR PARK	AA	IP	AA	IP	IP	IP	IP	IP	IP
CAR SALES LOT				AA					AA
CAR SALES SHOWROOM	P	P	SA	P					IP
CAR WASH STATION				P					P
CHILD DAY CARE CENTRE	IP	IP	AA		P	AA	IP	IP	
CINEMA/THEATRE	P	P	SA		AA	AA			
CIVIC BUILDING	P	AA	AA		P		AA	AA	
CLUB PREMISES	AA		SA		AA	AA		AA	
CONSTRUCTION YARD									AA
CONSULTING ROOMS	P	AA	AA				AA	AA	
CONSULTING ROOMS: GROUP	P	AA	AA						
CONVENIENCE STORE	AA	AA	SA	AA		AA			
CULTURAL USE	P	AA	AA		P				
DRIVE-IN THEATRE									
DWELLING: AGED OR DEPENDENT PERSONS			AA			AA	P	P	
DWELLING: ATTACHED HOUSE, GROUPED (2 ONLY) OR MULTIPLE			SA			AA	P	P	

\* Also see Clause 4.2.3.1

**TABLE 3A**  
**MIDLAND SUB-REGIONAL CENTRE ZONES**

USE CLASSES	ZONES								
	CITY CENTRE - BUSINESS	CITY CENTRE - REGIONAL SHOPPING	CITY CENTRE - COMMERCIAL DEFERRED *	CITY CENTRE - SHOWROOM/WAREHOUSE	CITY CENTRE - CIVIC AND ADMINISTRATION	CITY CENTRE - RESIDENTIAL & MIXED USES	CITY CENTRE - RESIDENTIAL 1	CITY CENTRE - RESIDENTIAL 2	CITY CENTRE - LIGHT INDUSTRIAL
DWELLING: ATTACHED HOUSE (MORE THAN 2)			SA			AA	P	P	
DWELLING: GROUPED (MORE THAN 2)			SA			AA	P	P	
DWELLING: MULTIPLE			SA			P	P	P	
DWELLING: SINGLE HOUSE			AA				P	P	
EDUCATION ESTABLISHMENT	AA	AA	SA		AA		SA	AA	
FACTORY TENEMENT BUILDING									P
FAST FOOD OUTLET	P	P	SA	AA					AA
FUEL DEPOT									
FUNERAL PARLOUR				AA					AA
HEALTH CENTRE	P	AA	SA			AA	AA	AA	
HEALTH STUDIO	P	AA	SA	AA	AA	AA	AA	AA	AA
HIRE SERVICE: INDUSTRIAL				AA					P
HIRE SERVICE: NON-INDUSTRIAL				P					AA
HOLIDAY COTTAGES									
HOME OCCUPATION			AA			IP	IP	IP	
HORTICULTURAL PURSUIT									
HOSPITAL									
HOSPITAL: PRIVATE									
HOSPITAL: SPECIAL PURPOSES									
HOSTEL	AA					AA	SA	SA	
HOTEL	P		SA			P			
HOTEL: PRIVATE	P		SA			P			
HOTEL-MOTEL	P					P			
INDUSTRY: COTTAGE				AA					P
INDUSTRY: EXTRACTIVE									

\*Also see Clause 4.2.3.1



TABLE 3A  
MIDLAND SUB-REGIONAL CENTRE ZONES

USE CLASSES	ZONES								
	CITY CENTRE - BUSINESS	CITY CENTRE - REGIONAL SHOPPING	CITY CENTRE - COMMERCIAL DEFERRED *	CITY CENTRE - SHOWROOM/WAREHOUSE	CITY CENTRE - CIVIC AND ADMINISTRATION	CITY CENTRE - RESIDENTIAL AND MIXED USES	CITY CENTRE - RESIDENTIAL 1	CITY CENTRE - RESIDENTIAL 2	CITY CENTRE - LIGHT INDUSTRIAL
INDUSTRY: GENERAL									
INDUSTRY: HAZARDOUS									
INDUSTRY: LIGHT				AA					P
INDUSTRY: NOXIOUS									
INDUSTRY: RURAL									
INDUSTRY: SERVICE	AA	AA		AA					P
INFANT HEALTH CENTRE	AA	AA	AA		AA	AA			
INSTITUTIONAL BUILDING	AA		SA		AA	AA			
INSTITUTIONAL HOME						AA	SA	SA	
KENNEL									
LUNCH BAR	P	P	AA			AA			AA
MARINE FILLING STATION									
MARKET	AA	AA	SA						
MEDICAL CENTRE	P	AA	SA			AA			
MILK DEPOT									
MOTEL	AA					P			
MOTOR REPAIR STATION									AA
MOTOR VEHICLE ASSEMBLY									
MUSEUM	AA		SA		P			AA	
NIGHT CLUB	P		SA		P	SA			
NURSERY	AA	AA	AA	P		AA			AA
OFFICE: GENERAL	P	P	AA	IP	AA	IP			IP
OFFICE: PROFESSIONAL	P	AA	AA		AA	IP	IP	IP	AA
OFFICE: SERVICE	P	P	AA		AA	AA			IP
PIGGERY									

\*Also see Clause 4.2.3.1

**TABLE 3A**  
**MIDLAND SUB-REGIONAL CENTRE ZONES**

USE CLASSES	ZONES									
	CITY CENTRE - BUSINESS	CITY CENTRE - REGIONAL SHOPPING	CITY CENTRE - COMMERCIAL DEFERRED *	CITY CENTRE - SHOWROOM/WAREHOUSE	CITY CENTRE - CIVIC AND ADMINISTRATION	CITY CENTRE - RESIDENTIAL & MIXED USES	CITY CENTRE - RESIDENTIAL 1	CITY CENTRE - RESIDENTIAL 2	CITY CENTRE - LIGHT INDUSTRIAL	
POULTRY FARMING										
PRISON										
PRODUCE STORE				AA						P
PUBLIC AMUSEMENT	P	AA	SA		IP	AA				
PUBLIC ASSEMBLY - PLACE OF	AA		SA		AA	AA	SA	SA	AA	
PUBLIC UTILITY	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA
PUBLIC WORSHIP - PLACE OF	AA	AA	SA		AA	AA	SA	SA	AA	
RADIO EQUIPMENT	IP	IP	IP	IP	IP	IP	IP	IP	IP	
RADIO & TV INSTALLATIONS										IP
RECEPTION LODGE	AA	AA				P				
RECREATION: PRIVATE	AA	AA	AA	AA	AA	AA	IP	IP		
RECREATION: PUBLIC			AA		AA					
REFORMATORY										
RESTAURANT	P	P	SA		AA	P	IP	IP		
ROADHOUSE										
RURAL PURSUIT										
SALVAGE YARD										
SAWMILL										
SERVICE STATION	AA	P	SA	AA						AA
SHOP	P	P	SA	AA						
SHOPPING CENTRE	AA	P	SA							
SHOP: SERVICE			SA			AA	IP	IP		
SHOWROOM	P	P	SA	P						IP
SOLID FUEL DEPOT										
SPRAY PAINTING: NON AUTOMOTIVE										AA

\*Also see Clause 4.2.3.1

TABLE 3A  
MIDLAND SUB-REGIONAL CENTRE ZONES

USE CLASSES	ZONES								
	CITY CENTRE - BUSINESS	CITY CENTRE - REGIONAL SHOPPING	CITY CENTRE - COMMERCIAL DEFERRED *	CITY CENTRE - SHOWROOM/WAREHOUSE	CITY CENTRE - CIVIC AND ADMINISTRATION	CITY CENTRE - RESIDENTIAL & MIXED USES	CITY CENTRE - RESIDENTIAL 1	CITY CENTRE - RESIDENTIAL 2	CITY CENTRE - LIGHT INDUSTRIAL
SQUASH COURTS	AA	AA	SA	AA	AA	AA	IP	IP	
STABLE									
STOCKYARDS									
STORAGE YARD				IP					IP
STREET SIDE STALL									
TAVERN: LESS THAN 200m <sup>2</sup> GLA	P	AA	SA	AA	AA	AA			
TAVERN: GREATER THAN 200m <sup>2</sup> GLA	AA	AA	SA	AA	SA	SA			
TRADE DISPLAY	AA			AA					AA
TRANSPORT DEPOT									
VEHICLE SALES AND SERVICE				AA					AA
VEHICLE WRECKING									
VETERINARY CONSULTING ROOMS	AA		SA	AA					AA
VETERINARY HOSPITAL	AA			AA					AA
WAREHOUSE				P					P
WEIGHBRIDGE				AA					P
WET FISH SHOP	AA	AA	SA	AA					
WINE HOUSE	P	P	SA		AA	AA			
WOODYARD									
WORKROOM	IP	IP	IP	IP		IP			IP
ZOOLOGICAL GARDENS									
ANY OTHER USE NOT INCLUDED ABOVE	AA	AA	SA	AA	AA	AA	AA	AA	AA

\*Also see Clause 4.2.3.1

**TABLE 3B**  
**DISTRICT ZONES - OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE**

ZONES  USE CLASSES	COMMERCIAL						RESIDENTIAL			INDUSTRIAL				RURAL		OTHER							
	GENERAL COMMERCIAL	HIGHWAY SERVICE	SERVICE STATION	HOTEL	MOTEL	TAVERN	RESIDENTIAL DEVELOPMENT	RESIDENTIAL 1	RESIDENTIAL 2	RESIDENTIAL 3	INDUSTRIAL DEVELOPMENT	GENERAL INDUSTRIAL	LIGHT INDUSTRIAL	NOXIOUS INDUSTRIAL	GENERAL RURAL	SPECIAL RURAL	SWAN VALLEY RURAL	RURAL LIVING	PRIVATE CLUBS & INSTITUTIONS	PLACE OF PUBLIC ASSEMBLY	CARAVAN PARK	SPECIAL PURPOSE	
AMUSEMENT PARLOUR	AA			IP	IP	IP	SA												IP		IP		
AUCTION MART	P	AA					SA				SA	AA	AA	AA							AA		
BETTING AGENCY	P			AA		IP	SA				SA	AA	AA										
BOARDING HOUSE							SA		SA	SA								AA					
CABIN OR CHALET															AA		AA	AA	IP			IP	
CAMPING AREA															AA		AA		IP			IP	
CARAVAN OR TRAILER YARD	P	P									SA	AA	AA										
CARAVAN PARK																						P	
CARETAKER'S DWELLING	IP	IP		IP	IP	IP	IP	IP	IP	IP	IP	IP	IP	IP	IP		IP	IP	IP	IP	IP	P	
CAR PARK	P	AA	IP	AA	AA	AA	AA	IP	IP	IP	AA	AA	AA	AA	AA		IP	AA	AA	IP	IP		
CAR SALES LOT	P	P																					
CAR SALES SHOWROOM	P	P									SA	AA	AA										
CAR WASH STATION	P	P	P	IP	IP		SA				SA	AA	AA										
CHILD DAY CARE CENTRE	AA						AA	AA	AA	AA									AA	AA	IP		
CINEMA/THEATRE	AA			IP			SA												IP	IP	IP		
CIVIC BUILDING	P						SA	AA	AA	AA					AA		AA	AA					
CLUB PREMISES	P						SA								AA		AA	AA					
CONSTRUCTION YARD											SA	P	AA	AA									
CONSULTING ROOMS	P	AA					SA	AA	AA	AA													
CONSULTING ROOMS: GROUP	P	AA					SA																
CONVENIENCE STORE	AA		AA				SA	AA			SA											IP	
CULTURAL USE	P	AA					SA	AA	AA	AA					AA		AA	AA	AA	AA			
DRIVE-IN THEATRE																							
DWELLING: AGED OR DEPENDENT PERSONS							AA	AA	P	P									AA				

AS PER APPENDIX NO. 7

AS PER APPENDIX NO. 6

**TABLE 3B**  
**DISTRICT ZONES - OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE**

ZONES  USE CLASSES	COMMERCIAL					RESIDENTIAL				INDUSTRIAL			RURAL			OTHER							
	GENERAL COMMERCIAL	HIGHWAY SERVICE	SERVICE STATION	HOTEL	MOTEL	TAVERN	RESIDENTIAL DEVELOPMENT	RESIDENTIAL 1	RESIDENTIAL 2	RESIDENTIAL 3	INDUSTRIAL DEVELOPMENT	GENERAL INDUSTRIAL	LIGHT INDUSTRIAL	NOXIOUS INDUSTRIAL	GENERAL RURAL	SPECIAL RURAL	SWAN VALLEY RURAL	RURAL LIVING	PRIVATE CLUBS & INSTITUTIONS	PLACE OF PUBLIC ASSEMBLY	CARAVAN PARK	SPECIAL PURPOSE	
DWELLING: ATTACHED HOUSE, GROUPED (2 ONLY) OR MULTIPLE							AA	AA	P	P					AA		AA	AA	AA				
DWELLING: ATTACHED HOUSE (MORE THAN 2)							AA	AA	P	P									AA				
DWELLING: GROUPED (MORE THAN 2)							AA	AA	P	P									AA				
DWELLING: MULTIPLE							AA	AA	P										AA				
DWELLING: SINGLE HOUSE							P	P	P	P					P	P	P	P	P	P	P		
EDUCATION ESTABLISHMENT	AA	AA					SA	AA	AA	AA	SA	AA	AA	AA	AA			AA	AA	AA	AA	IP	
FACTORY TENEMENT BUILDING											SA	P	P										
FAST FOOD OUTLET	P	AA					SA																
FUEL DEPOT											SA	P	AA	P	IP								
FUNERAL PARLOUR	P	P									SA	P	AA										
HEALTH CENTRE	P	AA					SA																
HEALTH STUDIO	P	AA					SA				SA	AA	AA							IP			
HIRE SERVICE: INDUSTRIAL		AA									SA	P	P										
HIRE SERVICE: NON-INDUSTRIAL	P	AA	AA				SA				SA	AA	AA		AA								
HOLIDAY COTTAGES															AA				AA	IP	IP		
HOME OCCUPATION							AA	AA	AA	AA	AA				AA	AA	AA						
HORTICULTURAL PURSUIT															P	P	P						
HOSPITAL							SA																
HOSPITAL: PRIVATE							SA								AA				AA				
HOSPITAL: SPECIAL PURPOSES															AA				AA				
HOSTEL							SA	SA	SA	SA					SA				SA				
HOTEL	SA				P																		

AS PER APPENDIX NO. 7

AS PER APPENDIX NO. 6

TABLE 3B  
DISTRICT ZONES - OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE

ZONES USE CLASSES	COMMERCIAL					RESIDENTIAL				INDUSTRIAL				RURAL			OTHER						
	GENERAL COMMERCIAL	HIGHWAY SERVICE	SERVICE STATION	HOTEL	MOTEL	TAVERN	RESIDENTIAL DEVELOPMENT	RESIDENTIAL 1	RESIDENTIAL 2	RESIDENTIAL 3	INDUSTRIAL DEVELOPMENT	GENERAL INDUSTRIAL	LIGHT INDUSTRIAL	NOXIOUS INDUSTRIAL	GENERAL RURAL	SPECIAL RURAL	SWAN VALLEY RURAL	RURAL LIVING	PRIVATE CLUBS & INSTITUTIONS	PLACE OF PUBLIC ASSEMBLY	CARAVAN PARK	SPECIAL PURPOSE	
HOTEL: PRIVATE	AA			P																			
HOTEL-MOTEL				AA	AA																		
INDUSTRY: COTTAGE		P								SA	AA	P		AA		AA							
INDUSTRY: EXTRACTIVE										IP	IP		AA	AA		SA	SA						
INDUSTRY: GENERAL										SA	P		AA										
INDUSTRY: HAZARDOUS										SA			AA										
INDUSTRY: LIGHT		AA								SA	AA	P											
INDUSTRY: NOXIOUS													P										
INDUSTRY: RURAL										SA	IP	IP		P		AA							
INDUSTRY: SERVICE		P								SA	AA	P											
INFANT HEALTH CENTRE	AA						AA	P	AA	AA				AA			AA	AA	IP	IP			
INSTITUTIONAL BUILDING							SA			SA	AA							P					
INSTITUTIONAL HOME							SA		AA	AA				AA				AA					
KENNEL										SA	P	AA	AA	AA									
LUNCH BAR	P									SA	AA	AA											
MARINE FILLING STATION										SA	AA	AA	P										
MARKET	AA															SA		IP	IP				
MEDICAL CENTRE	P						SA																
MILK DEPOT	AA									SA	P	AA	P										
MOTEL					P											SA							
MOTOR REPAIR STATION										SA	P	AA											
MOTOR VEHICLE ASSEMBLY										SA	P	AA											
MUSEUM	P						SA							AA		AA	AA	AA	AA	IP			
NIGHT CLUB	P			IP	IP														IP	IP			
NURSERY	P	P					SA			SA	AA	AA	AA	AA		AA	AA						

AS PER APPENDIX NO. 7

AS PER APPENDIX NO. 6

TABLE 3B  
DISTRICT ZONES - OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRES

ZONES USE CLASSES	COMMERCIAL					RESIDENTIAL			INDUSTRIAL				RURAL		OTHER									
	GENERAL COMMERCIAL	HIGHWAY SERVICE	SERVICE STATION	HOTEL	MOTEL	TAVERN	RESIDENTIAL DEVELOPMENT	RESIDENTIAL 1	RESIDENTIAL 2	RESIDENTIAL 3	INDUSTRIAL DEVELOPMENT	GENERAL INDUSTRIAL	LIGHT INDUSTRIAL	NOXIOUS INDUSTRIAL	GENERAL RURAL	SPECIAL RURAL	SWAN VALLEY RURAL	RURAL LIVING	PRIVATE CLUBS & INSTITUTIONS	PLACE OF PUBLIC ASSEMBLY	CARAVAN PARK	SPECIAL PURPOSE		
OFFICE: GENERAL	P	IP	IP	IP	IP		SA	IP	IP	IP	AA	IP	IP	IP	IP		IP	IP	IP	IP	IP			
OFFICE: PROFESSIONAL	P						SA	IP	IP	IP	IP	IP	IP	IP					AA					
OFFICE: SERVICE	P						SA														IP			
PIGGERY																AA								
POULTRY FARMING																AA								
PRISON											SA	AA				AA								
PRODUCE STORE	P	AA											AA			AA	AA	AA						
PUBLIC AMUSEMENT	AA						SA														P			
PUBLIC ASSEMBLY - PLACE OF																AA					P			
PUBLIC UTILITY	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA
PUBLIC WORSHIP - PLACE OF							SA	SA	SA	SA						AA					P			
RADIO EQUIPMENT	AA	AA					SA				SA	P	P	AA	AA		IP	AA	AA	AA	AA	IP		
RADIO & TV INSTALLATIONS	AA										SA	AA	AA	AA	AA			AA						
RECEPTION LODGE	P			IP	IP		SA										SA		IP	IP				
RECREATION: PRIVATE	AA	AA					SA				SA	AA	AA	IP	AA		AA	AA	AA	IP	IP			
RECREATION: PUBLIC	P	P	IP	IP	IP	IP	SA	AA	AA	AA	SA	P	P		P		AA	P	P	P	IP			
REFORMATORY											SA	AA				AA								
RESTAURANT	P			IP	IP	IP	SA									AA	AA		IP	IP				
ROADHOUSE			AA													AA	SA							
RURAL PURSUIT															P		AA	P						
SALVAGE YARD											SA	P		AA										
SAWMILL											SA	P			AA									
SERVICE STATION			P				SA			SA														
SHOP	AA			IP			SA															IP		
SHOPPING CENTRE	AA						SA																	

AS PER APPENDIX NO. 7

AS PER APPENDIX NO. 6

TABLE 3B  
DISTRICT ZONES - OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE

ZONES USE CLASSES	COMMERCIAL						RESIDENTIAL				INDUSTRIAL				RURAL			OTHER					
	GENERAL COMMERCIAL	HIGHWAY SERVICE	SERVICE STATION	HOTEL	MOTEL	TAVERN	RESIDENTIAL DEVELOPMENT	RESIDENTIAL 1	RESIDENTIAL 2	RESIDENTIAL 3	INDUSTRIAL DEVELOPMENT	GENERAL INDUSTRIAL	LIGHT INDUSTRIAL	NOXIOUS INDUSTRIAL	GENERAL RURAL	SPECIAL RURAL	SWAN VALLEY RURAL	RURAL LIVING	PRIVATE CLUBS & INSTITUTIONS	PLACE OF PUBLIC ASSEMBLY	CARAVAN PARK	SPECIAL PURPOSE	
SHOP: SERVICE				AA			SA		AA													IP	
SHOWROOM	P	IP					SA			IP	IP	IP											
SOLID FUEL DEPOT										SA	AA	AA	P	AA									
SPRAY PAINTING: NON AUTOMOTIVE										SA	P	AA	AA										
SQUASH COURTS	P	AA		IP			SA			SA	IP	IP							IP	IP			
STABLE														P		AA	P						
STOCKYARDS										SA	AA			P		IP	AA						
STORAGE YARD	AA	AA					SA			SA	P	P											
STREET SIDE STALL														AA		AA	AA						
TAVERN: LESS THAN 200m <sup>2</sup> GLA	AA	AA			P	SA				SA	AA	AA							IP				
TAVERN: GREATER THAN 200m <sup>2</sup> GLA					p	SA																	
TRADE DISPLAY	AA	P				SA				SA	AA	AA	AA	AA									
TRANSPORT DEPOT	AA	AA								SA	P		AA	AA									
VEHICLE SALES & SERVICE	P	P				SA				SA	AA	AA											
VEHICLE WRECKING										SA	AA		P										
VETERINARY CONSULTING ROOMS	P	AA				SA				SA	P	AA	AA	AA			AA						
VETERINARY HOSPITAL	AA	AA								SA	AA	AA	AA	AA			AA						
WAREHOUSE	P	P								SA	P	P	P										
WEIGHBRIDGE	IP	P								SA	P	P	P	AA		AA	AA						
WET FISH SHOP	P					SA																	
WINE HOUSE	P			IP	IP	SA										IP		IP					
WOODYARD										SA	P		P	AA									
WORKROOM	IP	IP								SA	P	P	P										
ZOOLOGICAL GARDENS										SA	AA	AA	AA	AA				AA	AA				
ANY OTHER USE NOT INCLUDED ABOVE	AA	AA	AA	AA	AA	AA	SA	AA	AA	AA	SA	AA	AA	AA	AA		AA	AA	AA	AA			

AS PER APPENDIX NO. 7

AS PER APPENDIX NO. 6



**PART IV – MIDLAND SUB-REGIONAL CENTRE PROVISIONS**

**4.1 SPECIFIC APPLICATION OF THIS PART**

The provisions of this Part apply to the zones within the Sub-Regional Centre listed in item a) of subclause 2.2.1. Without affecting the generality of the provisions in Part III of the Scheme, in the case of conflict with any such provisions, the provisions of this Part shall prevail as to the zones within the Sub-Regional Centre.

**4.2 PURPOSE AND INTENT OF ZONES**

**4.2.1 City Centre – Business Zone**

**4.2.1.1**

The purpose and intent of the City Centre-Business Zone is to develop the land within the Zone to the maximum public benefit and amenity, and to promote the comprehensive redevelopment of the area and the commercial predominance of the Zone within the District through such activities as professional and general offices, shopping and entertainment.

**4.2.1.2**

Having regard to the purpose and intent of the Zone, the Council shall apply the following guidelines when dealing with development applications and otherwise planning for development within the Zone:

- a) The Council shall encourage the widest possible range of commercial activities within the Zone subject to the provisions of the Scheme;
- b) The Council shall apply the development controls, in particular plot ratios and parking requirements, so as generally to direct the more intensive commercial development of the District into the Zone and to establish the Zone as the focus of an important land use hierarchy within the District;
- c) The Council shall encourage general offices to be located above ground floor level so as to promote an unbroken pedestrian movement through continuous shopping and other intensive customer orientated land uses at ground level;
- d) The Council shall promote the establishment of co-ordinated public parking reserve areas throughout the Zone;
- e) the Council shall promote the establishment of pedestrian malls and minimise vehicular/pedestrian conflict within the City Centre – Business Zone through road closures, design and development control.

**4.2.1.3**

Notwithstanding any general requirement or standard in the Scheme, within the City Centre – Business Zone the Council may permit multiple dwellings in accordance with the Residential Planning Codes to the minimum density of R60 provided that:

- a) such development is considered by the Council to be in the interest of orderly and proper planning and the preservation of the amenity of the locality;

- b) the residential use is considered by the Council to be compatible with other uses included in the development;
- c) the major part of the development comprises commercial uses and no residential uses are located within the ground or first floors; and
- d) the ground floor building area comprises not less than 3000m<sup>2</sup>.

#### **4.2.2** City Centre - Regional Shopping Zone

##### **4.2.2.1**

Having regard to the objective of developing land within the Sub-Regional Centre to the maximum public benefit and amenity, the City Centre - Regional Shopping Zone has been defined in order to secure pedestrian cross-flow between the City Centre - Business Zone and the shopping magnets at the eastern end of the Sub-Regional Centre and to discourage ribbon development along Great Eastern Highway by promoting major retail shopping north of Great Eastern Highway.

##### **4.2.2.2**

Having regard to the design objective referred to in paragraph 4.2.2.1 the Council shall not approve any development within the City Centre Regional Shopping Zone unless it is satisfied that:

- a) the development proposed would encourage a pedestrian cross-flow from the City Centre - Business Zone to any new shopping centre in the City Centre - Regional Shopping Zone via continuous malls and pedestrian accessways;
- b) the development proposed is not piecemeal, and represents a comprehensive development or redevelopment approach which is consistent with the Council's intentions for the development of the Sub-Regional Centre and ensures the maximum possible benefits for design and servicing;
- c) the development proposed would not adversely affect the implementation of other development or redevelopment proposals for the Sub-Regional Centre by the provision of ancillary uses or facilities which would be more appropriately located in other zones within the Sub-Regional Centre.

#### **4.2.3** City Centre - Commercial Deferred Zone

##### **4.2.3.1**

It is intended that development or redevelopment of land within the City Centre - Commercial Deferred Zone should take place only after comprehensive planning has ensured that the Sub-Regional Centre will derive the maximum possible benefit from the design and layout of buildings and other works, and the provision of services. Having regard to that intention the Council before supporting or approving any proposal for subdivision (including amalgamation of lots) or development of land within the Zone shall require the preparation of an outline development plan for that land and such other related land as it specifies within the Zone.

Notwithstanding the foregoing or the provisions of Table 3A, the Council may, at its discretion, approve any development involving only a change of use of land or existing buildings or approve minor extensions to any

such existing buildings without the prerequisite of an outline development plan.

Any such outline development plan shall show -

- a) the proposed traffic circulation and parking system;
- b) the proposed provision of shopping, office and other land uses which are appropriate within the zone;
- c) adequate supporting data to establish the nature and level of demand for the proposed facilities;
- d) no less than 1.2 ha area being set aside for passive recreation where the proposed development includes the Midland Oval;
- e) such other particular matter relevant to orderly and proper planning and amenity as the Council considers appropriate.

#### **4.2.3.2**

The Council may adopt an outline development plan with or without modification as the basis for the preparation of a Town Planning Scheme or as a basis for a Scheme Amendment lifting the "deferment" of the Commercial zoning over any land included in the outline development plan.

#### **4.2.3.3**

In respect of any application for approval to commence development within the City Centre - Commercial Deferred Zone, the Council in addition to anything done or required pursuant to paragraphs 4.2.3.1 and 4.2.3.2 shall in exercising its discretion apply the provisions of subclauses 2.3.8 and 3.1.9 and in particular may before determining the application advertise in such manner as the Council considers appropriate notice of the fact that the application has been received and will be considered by the Council.

### **4.2.4** City Centre - Showroom/Warehouse Zone

#### **4.2.4.1**

The purpose and intent of the City Centre - Showroom/Warehouse Zone is to secure the development of low intensity commercial uses which can benefit from the high exposure offered by Great Eastern Highway whilst acting as a visual facade to the industrial uses to the immediate south, a buffer to the residential zone to the north of Great Eastern Highway and emphasising the predominance of the Sub-Regional Centre through its commercial contrast.

#### **4.2.4.2**

The Council having regard to the purpose and intent referred to in paragraph 4.2.4.1 shall encourage development with well landscaped setbacks consistent with the purpose and intent, and shall discourage uses and buildings not in keeping with the said single storey and landscaping standard and the said purpose and intent.

### **4.2.5** City Centre - Civic and Administration Zone

#### **4.2.5.1**

The purpose and intent of the City Centre - Civic and Administration

Zone is to foster and encourage the role of the Sub-Regional Centre as a centre of local and regional government through the location of administrative uses in an area of high exposure which will provide a nucleus around which other administrative offices can develop, in particular government and municipal administrative offices.

#### 4.2.5.2

The Council shall apply the provisions of subclauses 2.3.8 and 3.1.9 and in particular shall apply the following guidelines when dealing with development applications and otherwise planning for development within the Zone:

- a) the Council shall discourage unco-ordinated developments and uses and buildings not in keeping with the purpose and intent of the Zone;
- b) the Council shall encourage the co-ordinated development of land in various ownerships and act wherever appropriate to facilitate the construction of administrative buildings of a high standard and quality;
- c) the Council shall refuse to grant its approval to commence development if it is of the opinion that the proposed development does not reflect the intention of the City Centre - Civic and Administration Zone in its location, use design and finishes.

#### 4.2.6 City Centre - Residential and Mixed Uses Zone

##### 4.2.6.1

The purpose and intent of the City Centre - Residential and Mixed Uses Zone is to promote a mixture of compatible residential and commercial activities within the zone such as high density accommodation, entertainment and associated uses.

##### 4.2.6.2

Notwithstanding any general requirement or standard in the Scheme, within the City Centre - Residential and Mixed Uses Zone:

- a) the Council may permit dwelling units to be developed in accordance with the Residential Planning Codes to the maximum density of "R160A";
- b) the Council may:
  - (i) require applications to include a detailed schedule of finishes, including type and colour, of the proposed development, and of the existing developments on each lot immediately adjoining the lot the subject of the application;
  - (ii) refuse to grant its approval to commence or carry out development if it is of the opinion that the proposed development does not reflect, in its design and finishes, the character and style of construction of the surrounding residential developments.
  - (iii) require all residential developments to be set back a minimum distance of 12 metres from Important Regional Roads and limit the height of residential buildings to 6 storeys in

accordance with the provisions of Table 4B.

#### **4.2.7** City Centre Residential Zones

##### **4.2.7.1**

The City Centre Residential Zones within the Sub-Regional Centre shall be developed in accordance with the Residential Planning Codes and to the maximum density of R80B and R100B in accordance with the designation of those areas on the Scheme Map No. 3.

##### **4.2.7.2**

Within a City Centre Residential Zone if the development of a Service Shop is approved by the Council, the gross leasable area of the shop shall not exceed 100 square metres and shall be for the purpose of the sale of foodstuffs generally.

##### **4.2.7.3**

The Council shall require that all buildings within a City Centre Residential Zone are set back a minimum distance of 12 metres from any Important Regional Road.

##### **4.2.7.4**

The provisions of this subclause shall apply notwithstanding any general requirement or standard elsewhere in the Scheme or in the Residential Planning Codes.

#### **4.2.8** City Centre - Light Industrial Zone

##### **4.2.8.1**

The purpose and intent of the City Centre - Light Industrial Zone is to promote a high standard of industrial buildings which can be viewed as an integral part of the town environment rather than an industrial environment and where industrial operations are encouraged to be performed within the buildings.

##### **4.2.8.2**

Notwithstanding any general requirement or standard in the Scheme to the contrary, within the City Centre - Light Industrial Zone:

- a) the car parking provision required under Table 4A shall occupy not more than 50% of the land between the building line and the street alignment of any lot or lots and the balance of the land between such building line and the street alignment shall be laid out and maintained as lawns, gardens or approved plantation strips or with the approval of the Council, trade displays or advertisements;
- b) trade displays or advertisements shall not occupy more than 10% of the land between the building line and the street alignment; and
- c) trade displays or advertisements shall not be permitted within 3.0 metres of any road reserve.

#### **4.3** SUB-REGIONAL CENTRE BUILDING AND DEVELOPMENT STANDARDS

##### **4.3.1** Minimum Development Standards

Subject to the provisions of the Scheme, the requirements and standards set out in this clause including those set against land uses in Table 4A

and those set against Zones in Table 4B shall apply to every development in the Sub-Regional Centre.

#### **4.3.2** Off-Street Parking

In any application for approval to commence or carry out any development in the Sub-Regional Centre, provision shall be made for the off-street parking of motor vehicles in accordance with the provisions of Table 4A except that in the case of developments within the City Centre - Business Zone the Council may require cash payment in lieu of some or all of the total number of parking spaces required to be provided in accordance with the provisions of subclause 4.3.3.

#### **4.3.3** Cash Payment in Lieu of Providing Parking Spaces in the City Centre - Business Zone

##### **4.3.3.1**

The purpose and intent of providing for cash payment in lieu of providing parking spaces is to encourage the re-arrangement of land within the City Centre - Business Zone where appropriate into large lots or otherwise consolidated landholdings, and promoting co-ordinated developments together with the establishment of common parking reserves. Having regard to that purpose and intent the Council may require cash payment in lieu of the provision of on-site paved parking spaces within the City Centre - Business Zone subject to the provisions of the succeeding paragraphs of this subclause.

##### **4.3.3.2**

Subject to paragraph 4.3.3.3, the cash payment in lieu shall be not less than the estimated cost to the Council of providing and constructing the number of car parking spaces which would normally have been required by Table 4A, plus the value as estimated by the Council of the area of land which would have been required for the parking spaces.

##### **4.3.3.3**

In the case of any particular development, the required number of paved parking spaces as prescribed by Table 4A shall be reduced by 10% for every additional 0.4 plot ratio granted to a development above a plot ratio of 1.0.

##### **4.3.3.4**

In estimating the value of the area of land for the purpose of paragraph 4.3.3.2, the Council shall take into consideration all costs associated with the purchase of an equal area of land within any one of the parking reserves designated as such on Scheme Map Sheet 3.

##### **4.3.3.5**

Where a lot is partly zoned City Centre - Business and partly reserved for public parking purposes by the Scheme, then the Council may permit the area reserved for public parking purposes to be developed for that purpose only for which it is reserved, and off-set the value of the land estimated by the Council and the reasonable cost of constructing the parking area, as estimated by the Council, against the cash in lieu contribution which would otherwise have been payable, provided that:

- a) the Council is satisfied that the development proposed has regard for the ultimate purpose intended for the adjoining area and will not adversely affect the co-ordinated development of adjoining land

which has been reserved for public parking purposes;

- b) the owner and/or developer of the land enters into an appropriate legal agreement with the Council and does such further or other things as the Council requires to ensure that the parking area is made available for public parking;
- c) the parking area is designed and orientated to give access to the public without affecting the ultimate design of the adjoining area which is reserved for public parking purposes;
- d) all sides of the building are designed with regard to the ultimate purpose intended for the City Centre - Business Zone and the public parking reserve.

#### **4.3.3.6**

Cash payment in lieu of providing parking spaces under this subclause shall be paid into a special fund to be used to provide public parking stations and the Council may use that fund to provide public parking stations anywhere within the Sub-Regional Centre.

#### **4.3.3.7**

The Council may in the exercise of its discretion under subclause 3.1.2 within the City Centre - Business Zone approve of the provision of on-site parking for service vehicles and employee vehicles to the extent that the Council considers appropriate and in any such case shall make an appropriate adjustment to the cash in lieu contribution which would otherwise have been payable.

### **4.3.4** Plot Ratio and Bonus Plot Ratio

#### **4.3.4.1**

The plot ratio for all zones within the Sub-Regional Centre shall be in accordance with the provisions of Table 4B and in order to encourage larger co-ordinated developments, a bonus plot ratio shall apply to the City Centre - Business Zone calculated in accordance with the succeeding paragraphs of this subclause.

#### **4.3.4.2**

For the City Centre - Business Zone north of The Crescent alignment, the plot ratio may be increased:

- a) to a plot ratio of 1:1 if the site is a minimum area of 1,000 square metres plus:
  - (i) an additional plot ratio of 0.25:1 for every additional 500 square metres of site area above 1,000 square metres and up to 4,000 square metres;
  - (ii) an additional plot ratio of 0.167:1 to a maximum additional plot ratio of 0.5:1 for every 20% that the area of each upper floor (above ground floor) is less than the ground floor area, provided that the facades of the upper floors are in juxtaposition or in "neighbourly" relationship

with other existing buildings. This additional plot ratio shall be dependent upon the building being considered by the Council to be of architectural merit; but

b) in no case to a plot ratio in excess of 3:1.

#### **4.3.4.3**

In the City Centre – Business Zone south of The Crescent alignment, the plot ratio may be increased to 1:1 if the site is a minimum area of 1,000 square metres plus an additional plot ratio of 0.25:1 for every additional 500 square metres of site area above 1,000 square metres to a maximum plot ratio of 2:1.

#### **4.3.4.4**

In the City Centre – Residential and Mixed Uses Zone in the case of all developments except dwellings which shall conform with the provisions of the Residential Planning Codes as to plot ratio, the plot ratio may be increased:

a) to a plot ratio of 1:1 if the site is a minimum area of 2,000 square metres plus an additional plot ratio of 0.25:1 for every 500 square metres of extra site area to a maximum of 4,000 square metres; but

b) in no case to a plot ratio in excess of 2:1.

#### **4.3.4.5**

Nothing in Table 4B relating to plot ratios shall be deemed to negate the requirements regarding minimum lot size in the Uniform Building By-laws and the Residential Planning Codes. For the purposes of the Scheme the minimum lot size for residential developments shall be governed by the Residential Planning Codes.

#### **4.3.4.6**

For the purpose of the plot ratio calculations in paragraphs 4.3.4.2 and 4.3.4.3, where a lot is partially zoned City Centre – Business and partially reserved for public parking purposes, then the whole lot area shall be taken into consideration in the calculation of the plot ratio and where the owner of land transfers to the Council free of cost, in fee simple, any portion of land reserved for public parking purposes by this Scheme, then the site area used to calculate plot ratio shall be increased by that area of land which has been transferred to the Council.

### **4.3.5**      Setback Requirements

The setback requirements for all zones within the Sub-Regional Centre shall be in accordance with the provisions of Table 4B.

#### **4.3.5.1**    Side and Rear Setbacks

Notwithstanding any other provision of this Scheme having general application, where a commercial development is proposed to be located on a lot having a common boundary with a Residential zoned lot the side and rear setbacks shall be not less than the distances set out hereunder:

a) 3 metres for buildings of one storey;

b) 6 metres for buildings of two storeys;



- c) where a building exceeds two storeys in height it shall be set back a distance equal to the height of the building subject to the discretion of the Council to vary that standard pursuant to the provisions of subclause 3.1.2, but in any event the distance shall not be less than 6 metres.

#### **4.3.5.2 Use of Setbacks**

No person shall within the Sub-Regional Centre, use the area of land between a building setback line and a street alignment for any purpose other than one or more of the following:

- a) a means of access;
- b) the loading and unloading of vehicles;
- c) landscaping;
- d) trade display, but so that in no case shall more than 10% of the area be used for trade display purposes, and any such trade display shall not be situated within 3 metres of any street alignment;
- e) the daily parking of vehicles used by employees and customers or clients but subject to the requirements of the Scheme as to off-street parking.

No such area shall be used for the parking of vehicles displayed for sale or which are being wrecked or repaired, or for the stacking or storage of fuel, raw materials, products or by-products or wastes of manufacture.

#### **4.3.6 Building Height and Site Coverage**

The maximum allowable building height and site coverage for all zones within the Sub-Regional Centre shall be in accordance with the provisions of Table 4B.

#### **4.3.7 Space Above Streets**

Subject to and without prejudice to the provisions of the Land Act 1933 (as amended) and the Local Government Act 1960 (as amended) but notwithstanding any provision to the contrary in any by-laws made under the provisions of the latter Act, the Council may permit the construction of buildings in the air space above streets, rights-of-way, pedestrian accessways and footpaths vested in it, or under its control, subject to the following provisions:

- a) there shall be not less than 5.5 metres of open air space between any part of the building or structure and the existing or proposed pavement of a street or right-of-way;
- b) there shall be not less than 3 metres of open air space between any part of the building or structure and the existing or proposed pavement of a pedestrian accessway or footpath;
- c) where the street is divided into two or more carriageways separated by raised medians, the building or structure may be supported by columns or similar structures standing in those medians, provided that the proposal is consistent with structural and traffic safety

requirements.

#### **4.3.8** Space Below Streets

Subject to and without prejudice to the provisions of the Land Act 1933 (as amended) and the Local Government Act 1960 (as amended), but notwithstanding any provision to the contrary in any by-laws made under the provisions of the latter Act, the Council may permit the use of space beneath streets, rights-of-way, pedestrian accessways and footpaths vested in it or under its control, subject to the following conditions:

- a) provision shall be made for the protection of underground services;
- b) car parking, plot ratio and other standards and requirements dealt with in Part III and Part IV of the Scheme shall be assessed by the Council as if the building or structure was to be erected at ground level provided that the Council should consider the desirability of applying the general discretion under subclause 3.1.2 in any particular case having regard to the fact that the building or structure being underground may involve special considerations;
- c) in considering an application under this clause, the Council shall have particular regard to the need for, and if necessary impose conditions in respect of ventilation, safety, the flow and convenience of vehicular and pedestrian traffic, and shall further have regard to any relevant proposals for redevelopment, rehabilitation or conservation;
- d) before determining an application involving development of space below a street, the Council shall consult with any relevant servicing authority and may enter into legal agreements with the developer and/or the owners of land adjoining the street having an interest in the development.

#### **4.3.9** Landscaping Requirements

##### **4.3.9.1**

Where in the interest of amenity or orderly and proper planning it seems to the Council appropriate to do so, the Council shall require in connection with any application for approval to commence or carry out development that such landscaping as to the Council seems fit be provided within any commercial, industrial or civic development within the Sub-Regional Centre.

##### **4.3.9.2**

Any landscaping required by the Council to be provided under paragraph 4.3.9.1 shall be provided in accordance with the provisions set out hereunder:

- a) the required landscaping in the form approved by the Council shall cover a percentage of the total site area as follows:
  - (i) City Centre - Business Zone - a percentage fixed by the Council in its discretion but in any event not more than 5%;
  - (ii) City Centre - Showroom/Warehouse Zone and City Centre - Civic and Administration Zone - 5%;

- (iii) City Centre Residential Zones - the percentage stipulated for those zones in the Residential Planning Codes;
  - (iv) all other Zones within the Sub-Regional Centre - 10%.
- b) The area to be landscaped shall include the area required by other provisions of the Scheme to be provided as boundary landscaping and open parking facilities landscaping where off-street parking is required in accordance with Table 4A and subclause 3.2.6;
  - c) any landscaped area shall be separated from an adjacent vehicular area by a wall or kerb at least 150mm higher than the adjacent vehicular area or in some other manner be protected from vehicular damage;
  - d) the area of the site required to be provided as landscaping shall not include area which would normally be set aside for pedestrian movement;
  - e) landscaped areas provided under this subclause shall be planted in accordance with an approved landscape plan, and within 30 days of practical completion of the development, or any relevant part thereof, as determined by the Council or at such later time as may be agreed in writing by the Council.

#### **4.3.10**      Service Areas

##### **4.3.10.1**

Provision shall be made for service access to the rear of a tavern, hotel, motel, shop, showroom, warehouse, restaurant or other commercial use for the purpose of loading and unloading of goods unless, in the opinion of the Council, the interests of amenity and orderly and proper planning do not warrant the provision of such access.

##### **4.3.10.2**

Any service area provided pursuant to paragraph 4.3.10.1 shall be provided in accordance with the following requirements:

- a) the accessway shall be so constructed that vehicles using it may return to a street in forward gear;
- b) if there exists a right-of-way to the rear or side of the subject lot or lots, an area shall be paved on the lot or lots so that vehicles when loading or unloading do not need to remain in the right-of-way. Such paved area shall be of such a size that if no alternative route exists, vehicles may turn so as to return to a street in forward gear;
- c) except as hereinafter mentioned in this paragraph, the accessway shall be not less than 6 metres in width, but if the size of the subject lot or lots makes the provision of a 6 metre wide accessway impracticable or unreasonable, the Council may permit an accessway of a lesser width, but in no case less than 3 metres;
- d) the accessway shall be designed so as to segregate service vehicles, both moving and stationary from parking areas and accessways provided for customer parking;

- e) where alternative access is provided and such access is considered acceptable by the Council, the Council may waive the requirements hereinbefore set out in this paragraph.

#### **4.3.11** Refuse and Storage Areas

##### **4.3.11.1**

Provision shall be made for one or more areas for the storage of cartons, containers, or refuse in any commercial, industrial or civic development within the Sub-Regional Centre.

##### **4.3.11.2**

A refuse or storage area provided pursuant to paragraph 4.3.11.1 shall be:

- a) screened from view from any public street or from within the site, and enclosed by a wall of masonry or other approved building material of not less than 1.8 metres in height;
- b) located not less than 15 metres from any residential building on an adjoining lot having a common property boundary unless it is fully enclosed;
- c) accessible to service vehicles; and
- d) not less than 9 square metres of floor area.

#### **4.3.12** Pedestrian Environment

##### **4.3.12.1**

The purpose and intent of this subclause is to ensure that any proposed building or structure in the Sub-Regional Centre does not adversely affect existing or future pedestrian systems.

##### **4.3.12.2**

Having regard to the purpose and intent referred to in the preceding paragraph, the Council may refuse to approve the development of any building or other work if in the opinion of the Council the proposed building or other work would have an adverse effect on existing or future public footpaths, walkways and pedestrian malls in the Sub-Regional Centre.

##### **4.3.12.3**

In exercising its discretion under this sub-clause, in addition to the matters referred to in subclauses 2.3.8 and 3.1.9 the Council shall have regard to:

- a) the means of access to existing or future public footpaths, walkways and pedestrian malls with a view to maximising vehicular/pedestrian separation and minimising vehicular/pedestrian conflict and maximising pedestrian movement;
- b) the extent to which pedestrian areas are located within the vehicular movement area; and
- c) the purpose and intent of roads reserved or shown as roads to be closed on Scheme Map Sheet 3.

**TABLE 4A**  
**MIDLAND SUB-REGIONAL CENTRE - LANDUSE PARKING REQUIREMENTS**

LANDUSE	MINIMUM PARKING PROVISION (RATIO)
Boarding House	1 space per bed and for dormitories 1 space per 9 square metres of floor area.
Car Wash Station (Automatic)	5 spaces for every 2 wash stalls. (A wash stall shall be counted as a parking space.)
Car Wash Station (Non-Automatic)	1 space per employee, plus line up parking to 5 times the capacity of the car wash. In determining capacity, each 6 linear metres of wash line shall equal 1 car length.
Consulting Rooms	6 spaces for 1 general practitioner 10 spaces for 2 general practitioners All other allowable practitioners:- 4 spaces for 1 practitioner 6 spaces for 2 practitioners
Consulting Rooms - Group/ Medical Centre	1 space per 18 square metres of gross floor area including pharmacies or other retail uses but excluding corridors and lobby areas, plus 1 space for each separate medical or dental office or laboratory.
Convenience Store	6 spaces per 100 square metres G.L.A. for any shop, plus 1 space per petrol pump.
Dwelling - Aged or Dependent Persons	0.3 spaces per dwelling unit.
Dwelling - Attached House - Grouped - Multiple - Single House	As per the Residential Planning Codes.
Education Establishment (Private Primary School)	1 space per classroom.
Education Establishment (Private Secondary School)	1 space per classroom, plus 1 space for every 25 students the school is designed to accommodate for the final year of secondary education.
Education Establishment (Private Tertiary)	1 space for every 6 students the building is designed to accommodate, plus 1 for each faculty staff member, or employee, plus additional requirements for auditoriums or stadiums.
Funeral Parlour	6 spaces.
Health Centre	1 space per 14 square metres of gross floor area available to the public. For the purpose of this use, indoor swimming pools shall be calculated as part of the gross floor area.

**TABLE 4A**  
**MIDLAND SUB-REGIONAL CENTRE - LANDUSE PARKING REQUIREMENTS**

LANDUSE	MINIMUM PARKING PROVISION (RATIO)
Hospital - Private	1 space for every 4 beds provided plus 4 spaces for every 100 square metres of out-patient treatment area including waiting rooms, plus 1 space for every 3 members of medical and service staff including consulting medical practitioners.
Industry - Light	2 spaces per 100 square metres G.L.A.
Industry - Service	4 spaces per 100 square metres of shop area and 2 spaces per 100 square metres industrial G.L.A.
Lunch Bar	6 spaces per 100 square metres G.L.A.
Nursery	1 space per 50 square metres of display and sales area - both indoor and outdoor - excluding areas used exclusively for the storage or propagation of plants, but not less than 5 per each such use.
Office - General - Professional	2 spaces per 100 square metres G.L.A.
Office - Service	3 spaces per 100 square metres G.L.A.
Service Station	1 space per 230 square metres of gross site area but not less than 8 spaces.
Shopping Centre	6 spaces per 100 square metres G.L.A.
Shop	6 spaces per 100 square metres G.L.A.
Showroom	2 spaces per 100 square metres storage area, plus 4 spaces per 100 square metres of display or sales area to which the public has access.
Veterinary Consulting Rooms/ Veterinary Hospital	1 space for each 23 square metres of gross floor area, plus 1 space per separate office or laboratory.
Warehouse	2 spaces per 100 square metres G.L.A.
All Other Uses	To be negotiated with the Council at the time of an application for approval to commence development.

**TABLE 4B**  
**MIDLAND SUB-REGIONAL CENTRE - SITE REQUIREMENTS**

Zone	Minimum Effective Frontage In Metres	Minimum Boundary Setback for Developments Along Important Regional Roads/OMH in Metres			Minimum Boundary Setback for Developments Along Local Roads in Metres			Maximum Plot Ratio	Maximum Site Coverage	Maximum Building Height in Storeys	Other Requirements and/or Variations
		Front	Side	Rear	Front	Side	Rear				
City Centre - Business	10							0.6:1 but for bonus plot ratio see Subclause 4.3.4	0.6 where there is no bonus plot ratio	Unlimited to accommodate all allowable floor area	Where a bonus plot ratio applies, site coverage may be increased to 1.0. See Subclauses 4.2.1, 4.3.3 and 4.3.4.
City Centre -Regional Shopping	30	15	3 From side streets (cnr. lots only)	6	9	3 From side streets (cnr. lots only)	6	Determined by the required car parking, landscaping and other development requirements for the floor area proposed.	Determined by the required car parking, landscaping and other development requirements for the floor area proposed.	2	*See Subclause 4.2.2. The side and rear setback requirements may be reduced where it is considered that the building may be more functional in so doing and provided that it does not abut residential zoned land as described in Para. 4.3.5.1.
City Centre - Commercial Deferred	50	15	3 From side streets (cnr. lots only)	6	3	6 From side streets (cnr. lots only)	6	As for City Centre - Regional Shopping Zone	As for City Centre- Regional Shopping Zone	Unlimited to accommodate all allowable floor area.	See Subclause 4.2.3 and Para. 4.3.5.1. Minimum lot size for development shall be 4000 square metres in area.
City Centre - Showroom/ Warehouse	15	15	3 From side streets (cnr. lots only)	3	3	3 From side streets (cnr. lots only)	3	0.6:1	0.6	2	See Subclause 4.2.4 and Para. 4.3.5.1.

OMH = Other Major Highways

**TABLE 4B**  
**MIDLAND SUB-REGIONAL CENTRE - SITE REQUIREMENTS**

Zone	Minimum Effective Frontage In Metres	Minimum Boundary Setback for Developments Along Important Regional Roads/OMH in Metres			Minimum Boundary Setback for Developments Along Local Roads in Metres			Maximum Plot Ratio	Maximum Site Coverage	Maximum Building Height in Storeys	Other Requirements and/or Variations
		Front	Side	Rear	Front	Side	Rear				
City Centre - Civic and Administration	10	To be negotiated with Council*			7.5			2.0:1 Subject to negotiation with Council	1.0 Subject to negotiation with Council	3	See Subclause 4.2.5 and Para. 4.3.5.1. *If Council is satisfied that the architectural style and character of any development in this zone along Great Eastern Highway reflects the style and character of the Midland Town Hall, Post Office or Courthouse, it may allow development up to the front boundary of the lot, otherwise the setback shall be 15 metres.
City Centre - Residential and Mixed Uses	As per the R Codes for all dwellings, otherwise 10 metres for all other allowable uses.	12	As per the R Codes for all dwellings, otherwise no minimum setback for all other allowable uses.	As per the R Codes for all dwellings, otherwise 7.5 metres for all other allowable uses.	As per the R Codes for all dwellings, otherwise no minimum setback for all other allowable uses.	As per the R Codes for all dwellings, otherwise 0.6:1 for all other allowable uses. Also see Clause 4.3.4 for bonus plot ratio.	As per the R Codes for all dwellings, otherwise 0.6 for all other uses.			6	See Subclauses 4.2.6, 4.3.4 and Para 4.3.5.1 insofar as these clauses apply to all developments except dwellings.

R Codes = Residential Planning Codes  
OMH = Other Major Highways



**TABLE 4B**  
**MIDLAND SUB-REGIONAL CENTRE - SITE REQUIREMENTS**

Zone	Minimum Effective Frontage In Metres	Minimum Boundary Setback for Developments Along Important Regional Roads/OMH in Metres			Minimum Boundary Setback for Developments Along Local Roads in Metres			Maximum Plot Ratio	Maximum Site Coverage	Maximum Building Height in Storeys	Other Requirements and/or Variations	
		Front	Side	Rear	Front	Side	Rear					
City Centre - Residential Zones 1 & 2	As per the R Codes for all allowable dwellings	12	As per the Residential Planning Codes for all allowable dwellings									See Subclause 4.2.7. The Residential Planning Codes shall apply for all allowable dwellings except along Important Regional Roads/Other Major Highways as specified in this table.
City Centre - Light Industrial	20	15	3 From side streets (cnr. lots only)	3	9	3 From side streets (cnr. lots only)	3	0.6:1	0.6	2	See Subclause 4.2.8 and Para. 4.3.5.1. No development shall take place on lots of less than 1000 square metres.	

R Codes = Residential Planning Codes  
OMH = Other Major Highways

NOTE: Where no standard is prescribed, Council may specify the standard to be observed.

**PART V – COMMERCIAL DEVELOPMENT PROVISIONS**  
**OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE**

**5.1 SPECIFIC APPLICATION OF THIS PART**

The provisions of this Part apply to the commercial zones outside the Sub-Regional Centre, being those listed as Commercial Zones in item b) of subclause 2.2.1. Without affecting the generality of the provisions in Part III of the Scheme, in the case of conflict with any such provisions, the provisions of this Part shall prevail as to the commercial zones outside the Sub-Regional Centre.

**5.2 PURPOSE AND INTENT OF ZONES**

**5.2.1 General Commercial Zone**

**5.2.1.1**

The purpose and intent of the General Commercial Zone is to encourage those uses necessary to provide convenience shopping of the lower order outside the Sub-Regional Centre to the maximum public benefit and amenity, emphasising the predominance of the Sub-Regional Centre particularly in respect of retail and office developments.

**5.2.1.2**

Having regard to the purpose and intent of the Zone, the Council shall not permit any retail or office development in the Zone which has a gross leasable floor area in excess of 5,000m<sup>2</sup> within three kilometres of any part of the Sub-Regional Centre, and shall not permit any retail or office development in the Zone which has a gross leasable area in excess of 9,500m<sup>2</sup> within five kilometres of any part of the Sub-Regional Centre.

**5.2.2 Highway Service Zone**

**5.2.2.1**

The purpose and intent of the Highway Service Zone is to secure the development of low intensity commercial uses along Great Eastern Highway outside the Sub-Regional Centre to the maximum public benefit and amenity, and to emphasise the predominance of the Sub-Regional Centre by ensuring that land uses which are more applicable to it are not developed in ribbon form along Great Eastern Highway, but are located within the Sub-Regional Centre.

**5.2.2.2**

Having regard to the purpose and intent of the Zone, the Council shall apply the following guidelines when dealing with development applications and otherwise planning for development within the Zone:

- a) the Council shall require all developments to be set back a minimum distance of 15 metres from Great Eastern Highway;
- b) the Council shall not permit any development within a lot or lots having a total area less than 1,000 square metres area or having a frontage of less than 20 metres;
- c) the Council shall not permit the development of any building greater in height than one storey.

### 5.3 COMMERCIAL BUILDING STANDARDS

#### 5.3.1 Minimum Development Standards

Subject to the provisions of the Scheme, the requirements and standards set out in this clause including those set against land uses in Tables 5A and 5B shall apply to every use or other development in a Commercial Zone outside the Sub-Regional Centre.

#### 5.3.2 Off-Street Parking

In any application for approval to commence development in a commercial zone outside the Sub-Regional Centre, provision shall be made for the off-street parking of motor vehicles in accordance with the provisions of Table 5A.

#### 5.3.3 Plot Ratio and Site Coverage

The maximum plot ratio and site coverage for all developments in a Commercial Zone outside the Sub-Regional Centre shall be in accordance with the provisions of Table 5B.

#### 5.3.4 Setback Requirements

The setback requirements for all developments in a Commercial Zone outside the Sub-Regional Centre shall be in accordance with the provisions of Table 5B.

##### 5.3.4.1 Two-Street Frontages

Subject to the provisions of subclause 3.1.7, where a lot has a frontage to two streets, the Council shall determine which of the two streets is the secondary street, and the setback to the secondary street may be reduced to 3 metres.

##### 5.3.4.2 Side and Rear Setbacks

Notwithstanding any other provision of this Scheme having general application, where a commercial development outside the Sub-Regional Centre is proposed to be located on a lot having a common boundary with a Residential zoned lot, the side and rear setbacks shall be not less than the distances set out hereunder:

- a) 3 metres for buildings of one storey;
- b) 6 metres for buildings of two storeys.

This provision shall be interpreted and applied so as to allow the progressive setting back of the building.

##### 5.3.4.3 Use of Setbacks

No person shall within a Commercial Zone outside the Sub-Regional Centre, use the area of land between a building setback line and a street alignment for any purpose other than one or more of the following:

- a) a means of access;
- b) the loading and unloading of vehicles;
- c) landscaping;

- d) trade display, but in no case shall more than 10% of the area be used for trade display purposes, and any such trade display shall not be situated within 3 metres of any street alignment;
- e) the daily parking of vehicles used by employees and customers or clients but subject to the requirements of the Scheme as to off-street parking.

No such area shall be used for the parking of vehicles displayed for sale or which are being wrecked or repaired, or for the stacking or storage of fuel, raw materials, products, or by-products or wastes of manufacture.

### **5.3.5** Landscaping Requirements

#### **5.3.5.1**

In connection with any application for approval to commence development in a Commercial Zone outside the Sub-Regional Centre, the Council shall require that such landscaping be provided as to the Council seems fit in the interest of amenity and orderly and proper planning, applying the principles and standards set out in paragraph 5.3.5.2.

#### **5.3.5.2**

Any landscaping provided pursuant to the provisions of paragraph 5.3.5.1 shall be provided in accordance with the provisions set out hereunder:

- a) the required landscaping shall cover a minimum of 10% of the total site area in the forms approved by the Council. The area shall include any area required as boundary landscaping and open parking facilities landscaping where off-street parking is required in accordance with Table 5A and subclause 3.2.8;
- b) any landscaped area shall be separated from an adjacent vehicular area by a wall or kerb at least 150mm higher than the adjacent vehicular area or in some other manner be protected from vehicular damage;
- c) landscaped areas shall not average in width less than 1.5 metres, and shall not be continuous for more than 10 metres without a properly designed pedestrian crossing point, except where such landscaped area is adjacent to a permanent fence, or a wall of a building;
- d) the part of the area of the site required to be provided as landscaping shall not include areas which would normally be set aside for pedestrian movement;
- e) landscaped areas provided under this subclause shall be planted in accordance with an approved landscape plan, and within 30 days of practical completion of the development, or any relevant part thereof, as determined by the Council or at such later time as may be agreed in writing by the Council.

### **5.3.6** Service Areas

#### **5.3.6.1**

Provision shall be made for service access to the rear of a tavern, hotel, motel, shop, showroom, warehouse, restaurant or other commercial

use in any Commercial Zone outside the Sub-Regional Centre, for the purpose of loading and unloading of goods unless, in the opinion of the Council, the interests of amenity and orderly and proper planning do not warrant the provision of such access.

#### **5.3.6.2**

Any service area provided pursuant to paragraph 5.3.6.1 shall be provided in accordance with the following requirements:

- a) the accessway shall be so constructed that vehicles using it may return to a street in forward gear;
- b) if there exists a right-of-way to the rear or side of the subject lot or lots, an area shall be paved on the lot or lots so that vehicles when loading or unloading do not need to remain in the right-of-way. Such paved area shall be of such a size that if no alternative route exists, vehicles may turn so as to return to the street in forward gear;
- c) except as hereinafter mentioned in this paragraph, the accessway shall be not less than 6 metres in width, but if the size of the subject lot or lots makes the provision of a 6 metre wide accessway impracticable or unreasonable, the Council may permit an accessway of a lesser width, but in no case less than 3 metres;
- d) the accessway shall be designed so as to segregate service vehicles, both moving and stationary from parking areas and accessways provided for customer parking;
- e) where alternative access is provided and such access is considered acceptable by the Council, the Council may waive the requirements hereinbefore set out in this paragraph.

### **5.3.7** Refuse and Storage Areas

#### **5.3.7.1**

Provision shall be made for one or more areas for the storage of cartons, containers, or refuse in any commercial development outside the Sub-Regional Centre.

#### **5.3.7.2**

A refuse or storage area provided pursuant to paragraph 5.3.7.1 shall be:

- a) screened from view from any public street or from within the site, and enclosed by a wall of masonry or other approved building material of not less than 1.8 metres in height;
- b) located not less than 15 metres from any residential building on an adjoining lot having a common property boundary unless it is fully enclosed;
- c) accessible to service vehicles; and
- d) not less than 9 square metres of floor area.

**TABLE 5A**  
**COMMERCIAL LANDUSE PARKING REQUIREMENTS -**  
**OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE**

LANDUSE	MINIMUM PARKING PROVISION (RATIO)
Car Wash Station (Automatic)	5 spaces for every 2 wash stalls. (A wash stall shall be counted as a parking space.)
Car Wash Station (Non Automatic)	1 space per employee, plus line up parking up to 5 times the capacity of the car wash. In determining capacity, each 6 linear metres of wash line shall equal 1 car length.
Child Day Care Centre	1 space per employee or staff member, plus 1 per every 8 children allowed under maximum occupancy.
Cinema/Theatre, Auditoriums, Arenas and Stadiums	1 space per employee or staff member, plus 1 per every 2.5 square metres of seating area where there are no fixed seats.
Club Premises	2 spaces per 100 square metres of total floor area.
Consulting Rooms	6 spaces for 1 general practitioner 10 spaces for 2 general practitioners All other allowable practitioners:- 4 spaces for 1 practitioner 6 spaces for 2 practitioners
Consulting Rooms - Group/ Medical Centre	1 space per 18 square metres of gross floor area including pharmacies or other retail uses but excluding corridors and lobby areas, plus 1 space for each separate medical or dental office or laboratory.
Convenience Store	6 spaces per 100 square metres G.L.A. for any shop, plus 1 space per petrol pump.
Fast Food Outlet	10 spaces per 100 square metres total floor area with a minimum of 6 spaces.
Funeral Parlour	6 spaces
Health Centre	1 space per 14 square metres of gross floor area available to the public. For the purpose of this use, indoor swimming pools shall be calculated as part of the gross floor area.
Hotel	1 space per bedroom, plus 1 space per 10 square metres of gross floor area of bar rooms, plus 6 spaces per 100 square metres of gross floor area of cocktail lounges, restaurants and other areas open to the general public not resident in the hotel.

**TABLE 5A**  
**COMMERCIAL LANDUSE PARKING REQUIREMENTS -**  
**OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE**

LANDUSE	MINIMUM PARKING PROVISION (RATIO)
Industry - Cottage	1 space per 100 square metres of G.L.A. or 1 space per person employed whichever is the greater.
Industry - Light - Service	3 spaces per 100 square metres of G.L.A. or 1 space per person employed, whichever is the greater.
Lunch bar	8 spaces per 100 square metres G.L.A.
Motel	1 space per unit or residential suite.
Nursery	1 space per 50 square metres of display and sales area - both indoor and outdoor - excluding areas uses exclusively for the storage or propagation of plants, but not less than 5 per each such use.
Office - General	2 spaces per 100 square metres total floor area with a minimum of 6 spaces.
Office - Professional	2 spaces per 100 square metres G.L.A.
Office - Service	4 spaces per 100 square metres G.L.A.
Public Amusement (Bowling Alley/Pool/Billiard Halls)	5 spaces per bowling alley. 2 spaces per pool or billiard table plus spaces required for additional uses on site.
Public Amusement (Skating/Roller Rink)	1 space per 15 square metres of gross floor area plus the spaces required for additional uses.
Recreation - Private	1 space for every 4 persons, based on the maximum capacity of all facilities when used simultaneously.
Restaurant	1 space for every 4 persons the building is designed to accommodate.
Service Station	1 space per 230 square metres of gross site area but not less than 8 spaces.
Shopping Centre	6 spaces per 100 square metres G.L.A.
Shop	8 spaces per 100 square metres G.L.A.
Showroom	2 spaces per 100 square metres storage area, plus 4 spaces per 100 square metres of display or sales area to which the public has access.
Squash Court	2.5 spaces per court, plus the spaces required for additional uses on site.

**TABLE 5A**  
**COMMERCIAL LANDUSE PARKING REQUIREMENTS -**  
**OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE**

LANDUSE	MINIMUM PARKING PROVISION (RATIO)
Tavern	1 space per 2 square metres of gross bar and lounge floor area with further provision for a relaxation of this standard where the tavern forms part of an integrated shopping centre and car park or other commercial complex.
Veterinary Consulting Rooms/ Veterinary Hospital	1 space for each 23 square metres of gross floor area, plus 1 space per separate office or laboratory.
Warehouse	2 spaces per 100 square metres G.L.A.
All Other Uses	To be negotiated with the Council provided that the parking requirements for the use proposed are not found in any other landuse parking requirement table in the Scheme. Where the parking requirements for any other use not listed in this table are described in any other table in the Scheme, then the Council shall impose the requirements of that table.



TABLE 5B  
COMMERCIAL SITE REQUIREMENTS  
OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE

Landuse	Minimum Effective Frontage In Metres	Minimum Setback from Boundaries in Metres			Maximum Plot Ratio	Maximum Site Coverage	Other Requirements and/or Variations
		Front	Side	Rear			
Cinema/Theatre, Auditoriums, Arenas and Stadiums	15	15	6 From side streets. See Para. 5.3.4.1	6*	1.0:1	0.6	*As per Restaurant.
Consulting Rooms/ Consulting Rooms - Group	20	7.5	3 From side streets (cnr lots only)	7.5*	0.5:1	0.5	*Shall be determined as the average setback. Also see Subclause 5.2.2 for Highway Service Zone requirements.
Convenience Store	30	10	6 From side streets See Para. 5.3.4.1	6*	0.6:1	0.6	*As per Restaurant.
Fast Food Outlet	20	9	6 From side streets See Para. 5.3.4.1.	6*	0.5:1	0.5	*See Subclause 5.2.2 for Highway Service Zone requirements.
Health Centre	15	9	3 From side streets (cnr lots only)	3			Not to exceed two storeys unless Council approves otherwise.

TABLE 5B  
COMMERCIAL SITE REQUIREMENTS  
OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE

Landuse	Minimum Effective Frontage In Metres	Minimum Setback from Boundaries in Metres			Maximum Plot Ratio	Maximum Site Coverage	Other Requirements and/or Variations
		Front	Side	Rear			
Hotels (with accommodation - does not include separate licensed bars or taverns)	50	9	Subject to satisfactory design	Subject to satisfactory design			The minimum lot area shall be 12,000m <sup>2</sup> .
Hotel - Private/Motel	30	9	6 See Para. 5.3.4.1	3			Not to exceed 2 storeys in height unless Council approves otherwise with appropriate conditions designed to protect the environment and amenity of the surrounding locality.
Office: - General - Professional - Service	10	9	3 From side streets (cnr lots only)	6*	1.0:1	0.6	*As per Restaurant.
Public Amusement	15	9	3 From side streets (cnr lots only)	6*			*As per Restaurant.
Restaurant	10	9	3 From side streets (cnr lots only)	6*			*To provide for rear service access. May be varied in special circumstances with Council approval where acceptable alternative is provided. Also see Subclauses 5.3.4 and 5.3.6.
Service Station	30	9	3	6			
Shop	20	9	3 From side streets (cnr lots only)	6*			*As per Restaurant.

**TABLE 5B**  
**COMMERCIAL SITE REQUIREMENTS**  
**OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE**

Landuse	Minimum Effective Frontage In Metres	Minimum Setback from Boundaries in Metres			Maximum Plot Ratio	Maximum Site Coverage	Other Requirements and/or Variations
		Front	Side	Rear			
Shopping Centre	60	20	6 See Para. 5.3.4.1.	15	0.5:1	0.5	Not to exceed two storeys in height unless Council approves otherwise and subject to Subclause 5.2.1.
Showroom	15	9	3 From side streets (cnr lots only)	6*			*As per Restaurant. Also see Subclause 5.2.2 for Highway Service Zone requirements.
Squash Court	30	9	3	6			See Subclause 5.2.2 for Highway Service Zone requirements.
Tavern	30	9	3 From side streets (cnr lots only)	Subject to satisfactory design			See Subclause 5.2.2 for Highway Service Zone requirements.
Warehouse	15	9	3 From side streets (cnr lots only)	6*			*As per Restaurant.
All other commercial uses	To be negotiated with Council provided that the development requirements for the use as proposed are not located in any other table in the Scheme. Where the development requirements for the same use as that proposed are not specified in this table, but located in a different table of the Scheme, then the Council may impose the requirements as specified in that table.						

**PART VI – RESIDENTIAL DEVELOPMENT PROVISIONS**

**6.1** SPECIFIC APPLICATION OF THIS PART

The provisions of this Part apply to all Residential Zones including those within the Sub-Regional Centre. Without affecting the generality of the provisions in Part III of the Scheme, in the case of conflict, with any such provisions, the provisions of this Part shall prevail.

**6.2** PURPOSE AND INTENT OF ZONES

**6.2.1** Residential Development Zone

**6.2.1.1**

It is intended that development of land within the Residential Development Zone should take place only after comprehensive planning has ensured that the locality will derive the maximum possible benefit from the design and layout of buildings and other works, and the provision of services. Having regard to that intention the Council before supporting or approving any proposal for subdivision or development of land within the Zone shall require the preparation of an outline development plan for that land and such other related land as it specifies within the Zone.

Notwithstanding the foregoing or the provisions of Table 3B, the Council may, at its discretion, approve any development involving only a change of use of land or existing buildings or approve minor extensions to any such existing buildings without the prerequisite of an outline development plan.

Any such outline development plan shall show:

- a) the proposed major road system;
- b) the proposed provision of shopping, civic and recreational facilities;
- c) adequate supporting data to establish relevant population densities;
- d) proposals for sewerage, drainage and housing standards if required;
- e) the proposed staging of the development; and
- f) such other information as the Council requires.

**6.2.1.2**

The Council may adopt an outline development plan with or without modifications as the basis for the preparation of a Town Planning Scheme or for supporting the subdivision and development of the land.

**6.2.1.3**

If the Council adopts an outline development plan as the basis for supporting the subdivision and development of the land but not as the basis for the preparation of a Town Planning Scheme, then the following provisions shall apply:

- a) the Council shall notify in writing each owner of the land affected by the plan of the existence of the plan and invite each owner to

make a submission to the Council regarding any aspect of the plan of interest to or affecting that owner;

- b) the Council shall specify a time within which submissions will be received, but that time shall not be less than 28 days from the date of the notification referred to in subparagraph a) above;
- c) the Council shall consider any submission made under subparagraphs a) and b) hereof and may amend the outline development plan after consideration of such submission;
- d) the Council shall following the procedures hereinbefore contained forward the outline development plan to the Board together with a precis of, and the Council's decision in relation to, each submission received in respect of the plan, and shall request the Board to adopt the plan submitted as the basis for approval of subdivision applications within the area covered by the plan;
- e) any departures from or alterations to the outline development plan may, subject to the approval of the Board, be permitted if the Council considers that the proposed departure or alteration will not prejudice the progressive development of the area the subject of the plan.

#### **6.2.1.4**

In respect of any application for approval to commence development within the Residential Development Zone, the Council shall in exercising its discretion apply the provisions of subclauses 2.3.8 and 3.1.9 and may before determining the application advertise in such a manner as the Council considers appropriate notice of the fact that the application has been received and will be considered by the Council.

### **6.2.2** Residential 1, 2 and 3 Zones

#### **6.2.2.1**

The purpose and intent of the Residential 1, 2 and 3 Zones is to provide for a wide range of land uses compatible respectively with low, medium and high density residential development and to promote a residential environment in any particular locality compatible with the maximum residential density permissible in that locality.

#### **6.2.2.2**

Having regard to the purpose and intent of the Zones, the Council when dealing with development applications and otherwise planning for development within the Zones shall in any particular locality only permit uses buildings and other works whose scale and intensity are compatible with the maximum residential density permitted in that locality.

### **6.3** RESIDENTIAL BUILDING STANDARDS

#### **6.3.1** Minimum Development Standards

Subject to the provisions of the Scheme, the requirements and standards set out in this clause including those set against land uses in Tables 6A and 6B shall apply to every use or other development in a Residential Zone.

### 6.3.2 Residential Development: Residential Planning Codes

#### 6.3.2.1

For the purpose of this Scheme "Residential Planning Codes" means the Residential Planning Codes set out in Appendices 2 and 3 to the Town Planning Board's Statement of Planning Policy No. 1, together with any amendments thereto.

#### 6.3.2.2

A copy of the Residential Planning Codes, as amended, shall be kept and made available for public inspection at the offices of the Council.

#### 6.3.2.3

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

### 6.3.3 Residential Planning Codes - Variations and Exclusions

The following variations to the provisions of the Residential Planning Codes shall apply:

- a) within the City Centre - Residential and Mixed Uses Zone the minimum boundary setback for all dwelling types along an Important Regional Road shall be 12 metres in accordance with the provisions of Table 4B;
- b) within unsewered areas in a Residential Zone, the minimum<sub>2</sub> area of land per dwelling for all dwelling types shall be 1000m<sup>2</sup> with a minimum lot frontage of 15 metres unless the Council is satisfied that the soil has the capacity to absorb septic tank effluent then the minimum<sub>2</sub> area of land per dwelling for all dwelling types shall be 850m<sup>2</sup>;
- c) within unsewered areas in a Residential Zone no subdivision shall be approved unless the Town Planning Board determines that there are exceptional circumstances and the Board and the Public Health Department are satisfied that:
  - (i) soil conditions allow for efficient on-site disposal of effluent on a long term basis;
  - (ii) no detriment to the environment will result;
  - (iii) underground water supplies will not be affected;
  - (iv) the granting of the subdivision will not prejudice the ability to provide services to adjoining areas; and
  - (v) lot sizes within such subdivisions are appropriate to requirements as determined by the Board;
- d) within the area to which the Ballajura Planning and Development Code (as amended) applies (as defined in Part 2 of the Code), where there is any inconsistency between the Residential Planning Codes and the Ballajura Planning and Development Code (as amended), the provisions of the latter shall apply.

#### 6.3.4 Off-Street Parking

In any application for approval to commence any development in a Residential Zone, provision shall be made for the off-street parking of motor vehicles in accordance with the parking requirements stipulated in the Residential Planning Codes for all residential developments, and in accordance with the requirements of Table 6A for all developments other than residential developments.

#### 6.3.5 Parking of Commercial Vehicles in Residential Zones

An owner of land within any Residential Zone to which this Part applies shall ensure that no more than one commercial vehicle is parked or allowed to remain stationary on any residential lot owned by him. An owner of land within a Residential Zone shall further ensure that:

- a) any commercial vehicle is housed in a domestic garage or other domestic outbuilding or effectively screened from view from outside the boundaries of the subject land;
- b) any commercial vehicle which exceeds 8 metres in length or, due to size or load, is not capable of being completely housed within a domestic garage or other domestic outbuilding having a maximum floor area of 50 square metres, is effectively screened from view from outside the boundaries of the subject land;
- c) no commercial vehicle exceeding 2.7 metres in height or 16 metres in length is so parked or allowed to remain stationary;
- d) no commercial vehicle is brought to or taken from the subject land between the hours of midnight and 6.00 a.m. on any day;
- e) no commercial vehicle is so parked or allowed to remain stationary unless its use is essential to the occupation or business of an occupier of a dwelling on the subject land; and
- f) the subject land is not used for carrying out repairs, servicing or cleaning of any commercial vehicle other than minor repairs, servicing or cleaning which in any event may only be carried out while the vehicle is housed in a domestic garage or other domestic outbuilding, or otherwise completely screened from view from outside the boundaries of the subject land.

#### 6.3.6 Setback Requirements

The setback requirements for all developments in a Residential Zone shall be in accordance with the provisions of Tables 4B and 6B.

#### 6.3.7 Landscaping and Open Space Requirements

The landscaping requirements for all developments in a Residential Zone shall be in accordance with the provisions of the Residential Planning Codes for all dwellings.

#### 6.3.8 Display Home Centres

The Council may approve the development of a Display Home Centre in any Residential Zone provided that:

- a) any application for the approval of Council for the development of a Display Home Centre shall be dealt with in every way under the provisions of the Scheme as an application for approval to commence development.
- b) the Council may refuse to grant its approval or may grant its approval with or without conditions and such approval shall be limited to a period of twelve (12) months from the date of the Council's approval;
- c) any floodlights associated with a Display Home Centre shall not be illuminated after 9.00 p.m.

**6.3.9** Two Dwelling Units Only

Notwithstanding any provision to the contrary in the Scheme, the Council shall not approve of any development which comprises two self-contained attached, grouped or multiple dwelling units on any land in a Residential Zone unless:

- a) the two dwelling units are designed so as to give the external appearance of being a single dwelling house;
- b) each dwelling unit contains no less than two bedrooms; and
- c) the dwelling units do not exceed two storeys in height;
- d) the dwelling units are connected to a reticulated sewerage system where such connection is available and where no such connection is available, the provisions of sub-clause 3.1.8 shall apply.

**6.3.10** More than Two Dwelling Units

Notwithstanding any provision to the contrary in the Scheme, the Council shall not approve a development comprising more than two self-contained single, attached, grouped or multiple dwelling units on any land in a Residential Zone unless:

- a) crossovers from any street adjoining the subject land are located not less than 6 metres apart and no crossover is located closer than 6 metres from the point of intersection of the two street alignments; and
- b) the Council is satisfied that suitable provision has been made in the design of the development for efficient vehicular circulation within the lot and such that vehicles may manoeuvre efficiently into garages or carports and return from there to an adjoining street; and
- c) each grouped, attached or multiple dwelling is connected to a reticulated sewerage system where such connection is available, and where no such connection is available, the provisions of subclause 3.1.8 b) shall apply.

**6.3.11** Residential Service Shop

Notwithstanding any other provision of the Scheme to the contrary, the Council shall not approve a development involving the construction of a



Service Shop within a Residential 3 Zone unless:

- a) the shop is an integral part of a grouped or multiple dwelling unit development;
- b) the gross leasable area of the shop does not exceed 100 square metres; and
- c) off-street parking for the shop is provided in accordance with the requirements of Table 6A.

**6.3.12** Home Occupation

Subject to the provisions of the Scheme, where the Council grants approval to carry on a home occupation, the following provisions shall apply:

- a) the approval shall be personal to the applicant and shall not be transferred or assigned to any other person;
- b) the approval shall not run with the land in respect of which it was granted;
- c) the person to whom approval is given by the Council to carry on a home occupation shall not before or after the granting of that approval carry on that home occupation at any premises other than the land in respect of which the Council's approval was granted; and
- d) if a home occupation has been carried on with the approval of the Council and if in the opinion of the Council such home occupation is causing a nuisance or annoyance to neighbours or to owners or occupiers of land in the neighbourhood, the Council may rescind the approval granted by it and after such rescission, no person shall upon the subject land carry on a home occupation unless a further approval to do so is granted by the Council.

**TABLE 6A**  
**RESIDENTIAL LANDUSE PARKING REQUIREMENTS -**  
**OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE**

LANDUSE	MINIMUM PARKING PROVISION (RATIO)
Boarding House	1 space per bed and for dormitories 1 space per 9 square metres of floor area.
Child Day Care Centre	1 space per employee or staff member, plus 1 per every 8 children allowed under maximum occupancy.
Consulting Rooms	6 spaces for 1 general practitioner 10 spaces for 2 general practitioners All other allowable practitioners:- 4 spaces for 1 practitioner 6 spaces for 2 practitioners
Consulting Rooms - Group/ Medical Centre	1 space per 18 square metres of gross floor area including pharmacies or other retail uses but excluding corridors and lobby areas, plus 1 space for each separate medical or dental office or laboratory.
Display Home Centre	5 spaces per display home.
Dwelling - Aged or Dependent Persons	0.3 spaces per dwelling unit.
Dwelling - Attached House - Grouped - Multiple - Single House	As per the Residential Planning Codes
Education Establishment (Private Primary School)	1 space per classroom.
Education Establishment (Private Secondary School)	1 space for every classroom, plus 1 space for every 25 students the school is designed to accommodate for the final year of secondary education.
Hostel	1 space per bed and for dormitories 1 space per 9 square metres of floor area.
Infant Health Centre	1 space per employee or staff member, plus one space for every infant or child capable of receiving medical treatment at any one time.
Shop - Service	6 spaces per 100 square metres of G.L.A.

TABLE 6A  
RESIDENTIAL LANDUSE PARKING REQUIREMENTS -  
OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE

LANDUSE	MINIMUM PARKING PROVISION (RATIO)
All Other Uses	To be negotiated with the Council provided that the parking requirements for the use proposed are not found in any other landuse parking requirement table in the Scheme. Where the parking requirements for any other use not listed in this table are described in any other table in the Scheme, then the Council shall impose the requirement of that table.

NOTE: Residential landuse parking requirements for the Midland Sub-Regional Centre shall be as set out in Table 4A.

**TABLE 6B**  
**RESIDENTIAL SITE REQUIREMENTS**  
**OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE**

Landuse	Minimum Effective Frontage In Metres	Minimum Setback from Boundaries in Metres			Maximum Plot Ratio	Maximum Site Coverage	Maximum Building Height In Storeys	Other Requirements and/or Variations
		Front	Side	Rear				
Boarding House	20	7.5	3	7.5	0.5:1	0.3	2	A minimum of 50% of the site shall be required for open space and no boarding house or part thereof shall be subdivided under the provisions of the Strata Titles Act 1985 (as amended).
Child Day Care Centre	30	7.5	3.	7.5			2	A minimum of 50% of the site shall be required for open space.
Consulting Rooms/ Consulting Rooms - Group	20	7.5	3	7.5	0.3:1	0.3	2	A minimum of 50% of the site shall be required for open space and no more than 50% of the area of the front setback for parking.
Display Home Centre	As per the Residential Planning Codes for all allowable dwellings						2	See Subclauses 3.1.11, 6.3.3, 6.3.8 6.3.9 and 6.3.10.
Dwellings - Aged or Dependent Persons - Attached House - Grouped - Multiple - Single House	As per the Residential Planning Codes for all allowable dwellings						2	See Subclauses 3.1.11, 6.3.3, 6.3.9 and 6.3.10.
Educational Establishment	30	9	9	9			2	A minimum of 50% of the site shall be required as open space.
Hostel	20	7.5	3	7.5	0.5:1	0.3	2	A minimum of 50% of the site shall be required for open space and no Hostel or part thereof shall be subdivided under the provisions of the Strata Titles Act 1985 (as amended).

**TABLE 6B**  
**RESIDENTIAL SITE REQUIREMENTS**  
**OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE**

Landuse	Minimum Effective Frontage In Metres	Minimum Setback from Boundaries in Metres			Maximum Plot Ratio	Maximum Site Coverage	Maximum Building Height In Storeys	Other Requirements and/or Variations
		Front	Side	Rear				
Institutional Home	30	9	4.5	7.5	0.5:1	0.3	2	Subject to the Health Act 1979 (as amended)
All other residential uses	To be negotiated with the Council provided that the development requirements for the use as proposed are not located in any other table in the Scheme. Where the development requirements for the same use as that proposed are not specified in this table, but located in a different table of the Scheme, then Council may impose the requirements as specified in that table.							

**PART VII - INDUSTRIAL DEVELOPMENT PROVISIONS**  
**- OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE**

**7.1 SPECIFIC APPLICATION OF THIS PART**

The provisions of this Part apply to the Industrial Zones outside the Sub-Regional Centre, being those listed as Industrial Zones in item b) of subclause 2.2.1. Without affecting the generality of the provisions in Part III of the Scheme, in the case of conflict with any such provisions, the provisions of this Part shall prevail as to the Industrial Zones outside the Sub-Regional Centre.

**7.2 PURPOSE AND INTENT OF ZONES**

**7.2.1 Industrial Development Zone**

**7.2.1.1**

It is intended that development of land within the Industrial Development Zone should take place only after comprehensive planning has ensured that the locality will derive the maximum possible benefit from the design of buildings and other works, and the provision of services. Having regard to that intention the Council before supporting or approving any proposal for subdivision or development of land within the Zone shall require the preparation of an outline development plan for that land and such other related land as it specifies within the Zone.

Notwithstanding the foregoing or the provisions of Table 3B, the Council may, at its discretion, approve any development involving only a change of use of land or existing buildings or approve minor extensions to any such existing buildings without the prerequisite of an outline development plan.

Any such outline development plan shall show:

- a) the proposed major road system;
- b) the proposed provision of service shops, civic and recreational facilities if appropriate;
- c) adequate supporting data on employment and population densities, and type of industries proposed to be provided;
- d) the proposals for sewerage, drainage and building standards if required;
- e) the proposed staging of the development; and
- f) such other information as the Council requires.

**7.2.1.2**

The Council may adopt an outline development plan with or without modification as the basis for the preparation of a Town Planning Scheme or for supporting the subdivision and development of the land.

**7.2.1.3**

If the Council adopts an outline development plan as the basis for supporting the subdivision and development of the land but not as the basis for the preparation of a Town Planning Scheme, then the following

provisions shall apply:

- a) the Council shall notify in writing each owner of land affected by the plan of the existence of the plan and invite each owner to make a submission to the Council regarding any aspect of the plan of interest to or affecting that owner;
- b) the Council shall specify a time within which submissions will be received, but that time shall not be less than 28 days from the date of the notification referred to in subparagraph a) above;
- c) the Council shall consider any submission made under subparagraphs a) and b) hereof and may amend the outline development plan after consideration of such submissions;
- d) the Council shall following the procedures hereinbefore contained forward the outline development plan to the Board together with a precis of, and the Council's decision in relation to, each submission received in respect of the plan, and shall request the Board to adopt the plan submitted as the basis for approval of subdivision applications within the area covered by the plan;
- e) any departures from or alterations to the outline development plan may, subject to the approval of the Board, be permitted if the Council considers that the proposed departure or alteration will not prejudice the progressive development of the area the subject of the plan;

#### **7.2.1.4**

In respect of any application for approval to commence development within the Industrial Development Zone, the Council shall in exercising its discretion apply the provisions of subclauses 2.3.8 and 3.1.9 and may before determining the application advertise in such a manner as the Council considers appropriate notice of the fact that the application has been received and will be considered by the Council.

### **7.3 INDUSTRIAL BUILDING STANDARDS**

#### **7.3.1 Minimum Development Standards**

Subject to the provisions of the Scheme, the requirements and standards set out in this clause including those set against zones in Table 7 shall apply to every use or other development in an Industrial Zone to which this Part applies.

#### **7.3.2 Off-Street Parking**

In any application for approval to commence any development in an Industrial Zone to which this Part applies, provision shall be made for the off-street parking of motor vehicles in accordance with the provisions of Table 7.

#### **7.3.3 Setback Requirements**

The setback requirements for all developments in an Industrial Zone to which this Part applies shall be in accordance with the provisions of Table 7.

**7.3.3.1 Two-Street Frontages**

Subject to the provisions of subclause 3.1.7, where a lot has a frontage to two streets, the Council shall determine which of the two streets is the secondary street, and the setback to the secondary street may be reduced to 3 metres.

**7.3.3.2 Use of Setbacks**

No person shall within an Industrial Zone to which this Part applies, use the area of land between a building setback line and a street alignment for any purpose other than one or more of the following:

- a) a means of access;
- b) landscaping;
- c) trade display, but in no case shall more than 20% of the area be used for trade display purposes, and furthermore any such trade display shall not be situated within 1.5 metres of the street alignment except that in an Industrial Zone to which this Part applies, on land fronting Great Eastern Highway, the trade display setback shall be not less than 8 metres;
- d) the daily parking of vehicles used by employees and customers or clients but subject to the requirements of the Scheme as to off-street parking.

No such area shall be used for the parking of vehicles displayed for sale or which are being wrecked or repaired, or for the stacking or storage of fuel, raw materials, products, or by-products or wastes of manufacture.

**7.3.4 Landscaping Requirements****7.3.4.1**

In connection with any application for approval to commence development in an Industrial Zone to which this Part applies, the Council may, if it appears to be in the interest of amenity and orderly and proper planning to do so, require that such landscaping be provided as to the Council seems fit, applying the principles and standards set out in paragraph 7.3.4.2.

**7.3.4.2**

The Council when prescribing landscaping requirements pursuant to the provisions of paragraph 7.3.4.1 shall apply the following guidelines;

- a) the required landscaping should cover a minimum of 10% of the total site area in the forms approved by the Council. Such landscaping should include a landscaped area of not less than 3 metres wide adjoining all street boundaries;
- b) any landscaped area shall be separated from an adjacent vehicular area by a wall or kerb at least 150mm higher than the adjacent vehicular area or in some other manner be protected from vehicular damage;
- c) landscaped areas provided under this subclause shall be planted in accordance with an approved plan, and within 30 days of practical completion of the development, or any relevant part thereof, as



determined by the Council or at such later time as may be agreed in writing by the Council.

### **7.3.5** Refuse and Storage Areas

#### **7.3.5.1**

Notwithstanding the provisions of subclause 7.3.6, the Council may require the provision of one or more areas for the storage of refuse in any industrial development outside the Sub-Regional Centre.

#### **7.3.5.2**

A refuse or storage area provided pursuant to paragraph 7.3.5.1 shall be:

- a) screened from view from any public street, and enclosed by a wall of masonry or other approved building material, and being of not less than 1.8 metres in height;
- b) accessible to service vehicles.

### **7.3.6** Factory Tenement Buildings and Factory units

The owner of land within an Industrial Zone to which this Part applies shall ensure that no factory tenement building or any part thereof is occupied or used unless the requirements set out in the following paragraphs of this subclause are complied with.

#### **7.3.6.1**

No factory unit shall have a floor area of less than 100 square metres, nor shall it be so constructed that either its width or its length is less than 8 metres.

#### **7.3.6.2**

The number of factory units on the land shall be not more than the equivalent of 15 units per hectare, but in any case shall not exceed 30 units on any lot.

#### **7.3.6.3**

There shall be an open yard appurtenant to each factory unit being not smaller than one third of the gross leasable area of the factory unit and such open yard shall be used for storage and service purposes and shall contain facilities for storm water and for effluent drainage where no reticulated deep sewerage service is provided.

#### **7.3.6.4**

Each open yard appurtenant to a factory unit shall be screened from view from any public street and from adjoining factory units by a closed fence or wall of not less than 1.8 metres in height.

#### **7.3.6.5**

There shall be situated in the open yard of every factory unit a refuse area for depositing rubbish and refuse. The refuse area shall be of not less than 10 square metres in area and shall be in such a position that vehicles have direct access to it by a paved internal service road.

#### **7.3.6.6**

Paved parking spaces shall be provided on the scale provided in this Scheme for industrial uses, but in any case not less than 4 spaces per

factory unit.

#### **7.3.6.7**

Each factory unit and each open yard appurtenant thereto shall have direct access on to a paved service road and there shall be connecting access between each factory unit and its open yard. If the service road is situated between buildings or between a building and a boundary of the lot on which the building is situated, it shall be not less than 5.5 metres in width, and if the service road is situated between open yards, or between an open yard and a building or a boundary of the lot on which the building is situated, it shall be not less than 5 metres in width.

Where a service road changes direction, the width of the service road at the point where it changes direction shall be of such a width as the Council requires to ensure free and adequate access.

All internal service roads shall be so constructed that motor vehicles may return to a street without reversing.

#### **7.3.6.8**

Adequate provision shall be made for the disposal of all trade waste from every factory unit, such provision to be in accordance with the requirements of the Scheme.

#### **7.3.6.9**

A factory unit shall be separated from each other factory unit in the same development by an internal wall or walls constructed of brick, stone or concrete or other material of equal or greater fire rating approved by the Council.

#### **7.3.6.10**

Without affecting the generality of the provisions of this Scheme relating to the approval of developments, no internal partition within a factory tenement building shall be altered or removed without the approval of the Council.

#### **7.3.6.11**

Notwithstanding any provision in this clause to the contrary, where a factory owned and occupied by one person or company is established on a lot exceeding 8,000 square metres in area, and 4,000 square metres of that area is vacant and is not being used or is not required for the provision of parking areas in accordance with the Scheme requirements for the established factory, if by reason of the position of the established factory subdivision of the lot is not feasible, the Council may permit the owner to use the vacant area for the development of factory units without requiring that the provisions of the Scheme relating to factory units are complied with in respect of the established factory, provided that:

- a) an unrestricted accessway of not less than 10 metres in width or two unrestricted accessways totalling 10 metres in width with one not less than 5 metres in width can be set aside leading from a public street to the area to be developed with factory units;
- b) the accessway or ways and the area to be used for factory unit development is clearly marked on a site plan as such; and

- c) the factory unit development meets the requirements of the Scheme in all other respects as if the land used as such was in fact a separate lot.

**7.3.6.12**

All vehicle and service access roads shall be paved and maintained in good condition.

**7.3.6.13**

The Council may approve the conversion of an existing factory into factory units provided that the changes proposed to be made to the premises render the premises in all respects in compliance with the requirements of the Scheme for factory tenement buildings and factory units, and provided the provisions of this Scheme for development approval have been complied with in respect of the proposed changes.

**7.3.6.14**

For the purpose of this clause, the owner of the parcel of land upon which a factory tenement building is situated shall be deemed to be the occupier thereof.

**7.3.7** Motor Vehicle Wrecking

On any land where motor vehicle wrecking is a permitted use, the owner of that land shall ensure that no disused motor vehicles, old motor vehicles or old machinery or any part thereof is stored on or allowed to remain on the land unless:

- a) the Council has expressly given its approval thereto;
- b) the area of the land exceeds 2000 square metres, and
- c) the vehicles are stacked in neat rows and screened from view from any public street by an opaque wall or screen of not less than 1.8 metres in height.

**7.3.8** Facades

**7.3.8.1**

Any building erected within an Industrial Zone to which this Part applies shall comply with the following requirements as to facades:

- a) each facade of the building shall be constructed of brick, stone, concrete or glass or a combination of one or more of those materials or similar material as approved by the Council;
- b) other materials of a type and to a design approved by the Council may be permitted on a facade no part of which is less than 3.6 metres from the ground floor level of the building, provided that no part of the facade extends more than 6.6 metres above the ground level.

**7.3.8.2**

The Council may:

- a) in cases where the facade of a building is set back not less than 20 metres from the street alignment which it faces or otherwise which is nearest to it, permit the walls in the facade to be constructed

of materials other than those required by paragraph 7.3.8.1, provided that the materials proposed to be used are structurally and aesthetically acceptable to the Council;

- b) in the case of a corner lot with an area not less than 1 hectare and with a frontage of not less than 20 metres to each of the abutting streets, permit the walls in the facade of a building erected on that lot to be constructed of a material other than that required by paragraph 7.3.8.1 provided that the material proposed to be used is structurally and aesthetically acceptable to the Council.

**TABLE 7**  
**INDUSTRIAL SITE AND PARKING REQUIREMENTS**  
**OTHER THAN FOR THE MIDLAND SUB-REGIONAL CENTRE**

Zone	Minimum Effective Frontage In Metres	Minimum Setback from Boundaries in Metres			Minimum On-Site Parking Requirements	Maximum Plot Ratio	Maximum Site Coverage	Other Requirements and/or Variations
		Front	Side	Rear				
Industrial Development	As determined by Council in accordance with the requirements of Subclause 7.2.1 of the Scheme, otherwise the requirements of the General Industrial Zone shall apply.							
General Industrial	20	9 Except for Gt. Eastern Highway, Sth Guildford where the setback shall be 30 metres.	6 From side streets (cnr lots only). Refer to Para. 7.3.3.1 As per the Uniform Building Bylaws	3*	Factories, showrooms, warehouses and other industrial uses shall provide: a) 3 spaces per 100 square metres of G.L.A. for all industrial uses except factory tenement buildings. b) 4 spaces per factory unit for factory tenement buildings. c) 1 space for every person employed, whichever is the greater.	0.6:1		*Where the lot is less than 2000m <sup>2</sup> the Uniform Building Bylaws shall prevail for rear setbacks. See also Subclause 7.3.6 for factory tenement buildings. In any case a factory tenement building shall not be permitted on a lot less than 2000m <sup>2</sup> in area and no industrial development shall be permitted on a lot of less than 1000m <sup>2</sup> in area.
Light Industrial	20	9 Except for Gt. Eastern Highway, Sth Guildford where the setback shall be 30 metres.	6 From side streets (cnr lots only). Refer to Para. 7.3.3.1 As per the Uniform Building Bylaws.	6*		0.5:1	0.5	*To provide for rear service access. May be varied in special circumstances with Council approval where an acceptable alternative can be provided. Also no development shall be permitted on a lot of less than 1000m <sup>2</sup> .
Noxious Industrial	50	30	20	20		0.4:1	0.4	No Noxious Industry shall be permitted on a lot of less than 10,000m <sup>2</sup> in area.

**PART VIII – RURAL DEVELOPMENT PROVISIONS****8.1 SPECIFIC APPLICATION OF THIS PART**

The provisions of this Part apply to the rural zones within the District, being those listed as Rural Zones in item b) of subclause 2.2.1. Without affecting the generality of the provisions in Part III of the Scheme, in the case of conflict with any such provisions the provisions of this Part shall prevail as to the rural zones within the District.

**8.2 PURPOSE AND INTENT OF ZONES****8.2.1 Special Rural Zone****8.2.1.1**

The purpose and intent of the Special Rural Zone is to select areas within the rural areas generally including the Eastern Corridor area south of Toodyay Road, wherein closer subdivision may be permitted to provide for such uses a hobby farms, horse breeding and training, rural-residential retreats and intensive horticulture, and also to make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of the selected areas.

**8.2.1.2**

If the Council in response to a request by an owner of land within the District considers the rezoning of that land to "Special Rural Zone", the Council shall require that owner to provide to the Council a submission supporting the rezoning, and such submission shall include the following:

- a) a clear statement of the objectives of the proposal;
- b) a statement indicating the relationship of the proposal to the Council's adopted Rural Strategy study, and any other approved planning study adopted by the Council and specific to the area in which the subject land is located;
- c) a full description of the site characteristics of the subject land including an analysis of the geology and soil types of the area, existing land forms and land uses;
- d) a landscape assessment including an analysis of slopes, vegetation cover, skylines, vistas, stream environs and identifiable natural features;
- e) information regarding the availability of potable water, and the methods whereby it is proposed to supply potable water to service each proposed subdivisional lot;
- f) details of the planning structure, including the proposed ultimate subdivision, areas to be set aside for public open space, pedestrian accessways, horse trails, community facilities, those physical features including places, things, buildings and structures intended to be conserved or preserved, proposed areas for tree planting and tree preservation and the proposed staging of the subdivision and development;

- g) any special development controls considered necessary or desirable; and
- h) such other particular information details or documents as the Council reasonably requires to decide upon the merits of the rezoning.

#### **8.2.1.3**

Where the Council is of the opinion that the total area of the land to be subdivided and the number of lots that the subdivision will yield are not of such magnitude that strict adherence to all of the criteria outlined in paragraph 8.2.1.2 is required to enable the Council adequately to assess the proposal, then the Council may permit a relaxation of the requirements in paragraph 8.2.1.2.

#### **8.2.1.4**

If the Council upon receiving a submission referred to in paragraph 8.2.1.2 is prepared to approve the proposal in principle, it shall require the owner of the subject land to submit the documents necessary to effect a rezoning, which documents shall be prepared in accordance with the requirements of paragraphs 8.2.1.7 and 8.2.1.8 and the Regulations, and if the Council is prepared to adopt a Scheme Amendment accordingly it may resolve to do so with or without modifications and thereafter shall proceed in accordance with the provisions of the Regulations.

#### **8.2.1.5**

The Council as a condition of giving approval in principle to a proposed rezoning of land to "Special Rural" may require the owner of the subject land to enter into an agreement with the Council to comply with such terms and conditions relevant to amenity and orderly and proper planning as the Council considers appropriate to ensure that the subject land is developed in an acceptable manner, particularly, but without limiting the generality of the foregoing, in relation to the provision of an adequate potable water supply.

The Council shall not initiate a rezoning of the subject land, or continue the procedures for rezoning if the owner refuses or fails to enter into or comply with such agreement.

#### **8.2.1.6** Provision for Specific Special Rural Zones

In addition to the general provisions set out in paragraph 8.2.1.9, the provisions set out in Appendix 7 shall apply to the control of land uses and development in the specific areas referred to therein. The Subdivisional Guide Plan for any specific area referred to in Appendix 7 shall form part of the Scheme, and future subdivision within any such specific area shall be in accordance with such Subdivisional Guide Plan.

#### **8.2.1.7**

The Scheme Amendment documents provided in accordance with paragraph 8.2.1.4 shall include a Subdivisional Guide Plan showing:

- a) the proposed ultimate subdivision including approximate lot sizes and dimensions;
- b) areas to be set aside for public open space, pedestrian accessways, horse trails, community facilities and such other matters relevant to the amenity and orderly and proper planning of the area as the

Council considers appropriate;

- c) those physical features including places, things, buildings and structures which it is intended to conserve or preserve; and
- d) the proposed staging of the subdivision where relevant.

#### **8.2.1.8**

In addition to the Subdivisional Guide Plan, the matters to be incorporated in Scheme Amendment documents for inclusion in Appendix 7 shall specify:

- a) any facilities the purchasers of the subdivisional lots will be required to provide, being facilities which are not specified in paragraph 8.2.1.9;
- b) proposals for the control of land uses and development which are not set out in paragraph 8.2.1.9 and which are calculated to promote the purpose and intent of the Zone and more generally are calculated to ensure that the rural environment and amenity of the area are not impaired; and
- c) such other matters relevant to orderly and proper planning which the Council considers appropriate to secure the purpose and intent of the Zone.

#### **8.2.1.9 General Development Conditions Applicable to all Special Rural Zones**

Subject to the provisions in Appendix 7 applicable to any specific Special Rural Zone, the following provisions shall be applicable to all land included in Special Rural Zones:

- a) existing public roads within or abutting the area which shall be required for vehicle access purposes after the subdivision shall be constructed to the specification and satisfaction of the Council free of cost to the Council by the developer and new roads within the Special Rural Zone shall be constructed to the Council's rural road standards with bitumen sealed pavement and gravel shoulders where necessary. The Council may from time to time modify its specifications if it is of the opinion that such a modification will contribute to the achievement of the objectives or the purpose and intent of the Zone, and will be in accordance with sound engineering practice;
- b) where public open space associated with a Special Rural Zone is shown on the Subdivisional Guide Plan it shall either be transferred to the Council free of cost in fee simple, or vested in the Crown free of cost under s.20A of the Act. In the case of any land shown on a Subdivisional Guide Plan as public open space set aside for the land requirements of the Hills Link Road that land shall be set aside on a separate Diagram or Plan of Survey and shall be transferred to the Council in fee simple free of cost to the Council;
- c) where reticulated water supply is not provided as a condition of subdivision, no dwelling unit shall be constructed or approved for construction unless a roof water tank having a minimum capacity of 90,000 litres, or some other suitable domestic water supply of no



less capacity is incorporated in the plan submitted for development approval. No dwelling house will be considered fit for human habitation unless a system for the supply of potable water has been installed and is operating to the satisfaction of the Council. The requirements of this item may be satisfied where the developer produces to the Council evidence from some competent professional person or authority which satisfies the Council that an adequate potable on-site water supply is available, particularly where ground water is to be used as a source of potable water, provided that such evidence must prove to the satisfaction of the Council that potable water is available to each proposed subdivisional lot;

- d) before the Council gives to the Board any clearance or other approval required from the Council prior to the Board endorsing its approval upon a Diagram or Plan of Survey, the Council may require the subdivider to demonstrate to the satisfaction of the Council the availability of a second class water supply to all lots for other than domestic household purposes. In any case where the Council has stipulated that it requires such a supply the supply of second class water shall be provided by either an earthen dam, a soak, a bore or reticulated from a dam or dams of sufficient capacity to adequately serve each proposed subdivisional lots, or by a combination of such means;
- e) notwithstanding any provision in the Uniform Building By-laws to the contrary, not more than one dwelling house shall be erected upon any subdivisional lot;
- f) the coverage of each individual lot by buildings shall not exceed 3% of the area of that lot;
- g) no building shall be constructed within the Zone of materials, the nature and colour or texture of which in the opinion of the Council is undesirable for the locality;
- h) except with the approval of the Council, no boundary fence within a Special Rural Zone shall be constructed of the following materials:
  - (i) asbestos;
  - (ii) metal sheeting;
  - (iii) wooden pickets.

Any approval of Council to use any of the materials referred to in this item for a boundary fence shall not be regarded as satisfying the requirements of this item unless the approval refers in express terms to the request for the use of those materials.

The Council may require that any fencing of whatsoever kind be constructed and the cost of the fencing be borne by the subdivider.

- i) All buildings upon lots which abut public open space shall present an appearance to the public open space which in the Council's opinion is complementary to the public open space area;
- j) the Council may in the interest of landscape preservation require building envelopes to be shown on one or more lots on the

Subdivisional Guide Plan lodged with the Council under the provisions of this Scheme. Where a building envelope is defined for a lot in the Subdivisional Guide Plan, no building shall be constructed on that lot unless it is within a defined building envelope, except where it is shown to the satisfaction of the Council at the time of the application for development approval or for a building permit, that the proposed location will be less detrimental to the preservation of the landscape or to the environment than if it was sited within the building envelope;

- k) the Council may require that each lot within the area proposed to be subdivided shall be supplied with a boundary firebreak no less than 3 metres wide constructed to the satisfaction of the Council;
- l) no lot shall display a sign, hoarding or bill-board without the prior consent of the Council, and in any event the Council shall not give approval to the display on any lot of a sign, hoarding or bill-board other than a single sign advertising<sup>2</sup> activities conducted on site and any such sign shall not exceed 0.2m<sup>2</sup> in area;
- m) with the intention of preventing overstocking or other practices detrimental to the amenity of the Zone, the approval of the Council is required prior to the commencement of any intensive agricultural pursuit or the breeding or keeping of animals for commercial gain. In giving approval for the purpose of this item, the Council may impose limits of stocking or such other conditions as to the Council seem fit, and may modify or vary such conditions to take account of seasonal changes;
- n) where trees are proposed to be removed, the Council as a condition of development approval may require suitable mature trees to be planted to replace them and the cost of replacement to be borne by the developer;
- o) any area for tree preservation shown in a submission lodged with the Council pursuant to paragraph 8.2.1.2, and indigenous trees which are:
  - (i) contiguous to a creek or water course;
  - (ii) critical landscape elements such as view corridors and skylines; or
  - (iii) any area of trees or shrubs which, in the opinion of the Council, are worthy of preservation,

shall not be felled except where such indigenous trees are dead, diseased or dangerous or where the felling is for the purpose of a firebreak required by the preceding provisions of this paragraph or by any rule, regulation or by-law.

Notwithstanding the preceding provisions in this item, the Council may at its discretion vary the position of any required firebreak to avoid destruction of vegetation or otherwise to take account of the physical features of the subject land;

- p) the Council may, by notice served upon individual landowners or upon a subdivider of land within a Special Rural Zone, require the preservation of groups of trees and thereafter no landowner shall cut, remove or otherwise destroy any tree or vegetation unless the Council rescinds the notice or order;
- q) the Council may require the developer or owner of land within a Special Rural Zone to advise future landholders of the restrictions in relation to the clearing of the land;
- r) notwithstanding any provision in paragraph 2.3.1.3 to the contrary, within a Special Rural Zone, the Council's prior approval to commence development on land zoned or reserved by the Scheme is required for any development including the erection on a lot of a single dwelling house whether or not it will be near any building on that lot, but shall not be required for the carrying out of any works on, in, or under a street or road by public authority acting pursuant to the provisions of any statute.

#### **8.2.1.10** Subdivision Variation

Notwithstanding any general provision of the Scheme to the contrary the Council may recommend that the Board approve a minor variation to the subdivision design in any Subdivisional Guide Plan specified in the Supplementary Map, but other than such minor variation, there shall be no further subdivision of the lots provided in such Subdivisional Guide Plan.

### **8.2.2** Swan Valley Rural Zone

#### **8.2.2.1**

The purpose and intent of the Swan Valley Rural Zone is to promote the area primarily as a horticultural, recreational, tourism and landscape resource, with areas containing high quality horticultural soils and scarce plastic clays receiving special protection.

#### **8.2.2.2**

Having regard to the purpose and intent of the zone, the Council shall apply the following guidelines when dealing with applications for approval to commence development or otherwise planning for development within the zone:

- a) The Council shall not approve of any development where, in its opinion, such development would:
  - (i) jeopardise the high quality horticultural soils;
  - (ii) jeopardise scarce plastic clays;
  - (iii) detract from the rural character and amenity of the area, or
  - (iv) cause a nuisance by the production of noise, dust, smell or other pollutants;
- b) The Council may approve the rearing or agistment of horses, sheep, cattle, goats or beasts of burden on land not considered suitable for horticultural use, provided that neither the use nor potential use of adjacent high quality soils for horticultural purposes, nor the rural character and amenity of the area, is adversely affected;

- c) The Council may approve the establishment of tourist orientated, recreational and cottage industry uses where, in the opinion of the Council, such uses have the potential to enhance the purpose and intent of the zone provided that such development is:
  - (i) compatible with item a) above; and
  - (ii) designed, sited and landscaped to complement and enhance the rural character of the locality.;
- d) the Council shall not approve of any development which, in the opinion of the Council, is considered incompatible with its location in areas subject to high aircraft noise levels.
- e) The Council shall support a carefully controlled and limited experimental excavation and rehabilitation programme to determine whether or not excavated land can be rehabilitated and replanted to permit successful horticultural production, and particularly the cultivation of vines.

In the meantime, and in the absence of detailed knowledge of the effects of excavation on the production potential of land with high quality horticultural soils, the Council shall adopt the principle that there be a presumption against the excavation of clay, other than for farm dams required for agricultural purposes, from such land.

This policy is to be regarded as an interim measure pending consideration of findings of the abovementioned experimental excavation;

- f) The Council shall not approve the removal of high quality horticultural soils to areas outside the zone;
- g) The Council shall ensure that development on land adjoining the Swan River, Great Northern Highway and West Swan Road is designed, sited and landscaped in a manner which enhances the role of such routes as attractive entrances to and thoroughfares through the Swan Valley;
- h) The Council, when considering applications for development of dwellings and other structures shall have regard to the following development control principles:
  - (i) all structures shall be designed having regard to suitable materials and colours to accord with the rural character of the locality;
  - (ii) landscaping about structures shall, where necessary, be required for screening purposes and to enhance the rural character of the locality;
  - (iii) all structures shall be sited unobtrusively.
- i) The Council shall only approve a maximum of one dwelling and one domestic outbuilding on lots of 4 ha or less unless, in its opinion, special circumstances warrant exemption from this provision;
- j) The Council shall ensure, where possible, that signs associated with

development are:

- (i) limited to the promotion of horticultural produce, recreational and tourist facilities, and
- (ii) sited to complement and enhance the rural character of the locality.

### **8.2.3** Rural Living Zone

#### **8.2.3.1**

The purpose and intent of the Rural Living Zone is to select areas abutting the Swan Valley and in close proximity to the Sub-Regional Centre wherein development may be permitted to provide for uses compatible with rural-residential living and other land uses directly associated with rural-residential living.

#### **8.2.3.2**

Having regard to the purposes and intent of the Zone, the Council shall apply the following guidelines when dealing with development within the Zone:

- a) the Council shall not approve of any development which in the opinion of the Council might encourage land uses considered incompatible with rural-residential living, including but without affecting the generality of the foregoing, such uses as pig farming, poultry farming or other rural industries or related activities;
- b) in considering whether or not to approve the use of land within the Zone for any purpose which in the opinion of the Council is incompatible with the purpose and intent of the Zone, the Council shall grant approval of such use only where it is established to the satisfaction of the Council that the use proposed would assist in the promotion of the locality as a rural-residential area.

### **8.3** RURAL BUILDING STANDARDS

#### **8.3.1** Minimum Development Standards

Subject to the provisions of the Scheme, the requirements and standards set out in this clause including those set against land uses in Tables 8A and 8B shall apply to every use or other development in a zone to which this Part applies.

#### **8.3.2** Off-Street Parking

Provision shall be made for off-street parking of motor vehicles in the case of all developments in a zone to which this Part applies in accordance with the requirements of Table 8A.

#### **8.3.3** Setback Requirements

The setback requirements for all developments in a zone to which this Part applies shall be in accordance with the provisions of Table 8B, except in a Special Rural Zone in respect of which special setback requirements have been specified in Appendix 7 in which case the provisions of Appendix 7 shall apply.

**8.3.4** Home Occupations

Where a home occupation is a permitted use in a zone to which this Part applies, the provisions relating to home occupation set out in subclause 6.3.12 shall apply to the commencement or carrying on of a home occupation in a zone to which this Part applies.

**8.3.5** Rural Pursuit

Where in any prosecution by the Council for a breach of this Scheme or in any other proceedings in any Court involving the enforcement of the provisions of this Scheme the sale of produce from land within a zone to which this Part applies, or otherwise from land used for rural purposes is an issue, any produce which the Council asserts was not grown on the land from which it was sold shall be deemed not to have been grown on that land unless the person challenging, opposing or in any way questioning that assertion proves affirmatively that on the balance of probabilities the produce was grown on that land:

TABLE 8A  
RURAL LANDUSE PARKING REQUIREMENTS

LANDUSE	MINIMUM PARKING PROVISION (RATIO)
Dwellings - Attached House (2 only) - Grouped (2 only) - Single House	As per the Residential Planning Codes.
Rural Industry	1 space per 100 square metres G.L.A. or 1 space for every person employed who is not a member of the family residing on the property - whichever is the greater.
All Other Uses	To be negotiated with the Council provided that the parking requirements for the use proposed are not found in any other landuse parking requirement table in the Scheme. Where the parking requirements for any other use not listed in this table are described in any other table in the Scheme, then the Council shall impose the requirements of that table.

TABLE 8B  
RURAL SITE REQUIREMENTS

Landuse	Minimum Effective Frontage In Metres	Minimum Setback from Boundaries in Metres			Maximum Plot Ratio	Maximum Site Coverage	Other Requirements and/or Variations
		Front	Side	Rear			
Dwellings - Attached House (2 only) - Grouped (2 only) - Single House	30	20*	20*	10*		0.03	*Where the lot is less than 5000 square metres in area, the minimum setbacks shall be in accordance with the requirements of the Residential Planning Codes for the land area involved.  Where the development is proposed in a Special Rural Zone where other setbacks and site requirements have been specified as applicable to that lot, then the requirements of that Special Rural Zone shall apply.
Rural Pursuit	50	30	20	30			
All other rural uses	To be negotiated with the Council provided that the development requirements for the use as proposed are not located in any other table in the Scheme. Where the development requirements for the same use as that proposed are not specified in this table, but located in a different table of the Scheme, then the Council may impose the requirements as specified in that table.						



**PART IX – OTHER ZONES****9.1 SPECIFIC APPLICATION OF THIS PART**

The provisions of this Part apply to the zones referred to as Other Zones in item b) of subclause 2.2.1 and being the zones other than those referred to in Parts IV to VIII of the Scheme. Without affecting the generality of the provisions in Part III of the Scheme, in the case of conflict with any such provisions, the provisions of this Part shall prevail as to the Zones to which this Part applies.

**9.2 PURPOSE AND INTENT OF ZONES****9.2.1 Special Purpose Zone****9.2.1.1**

The purpose and intent of the Special Purpose Zone is to permit the use of land for any specific use not considered appropriate or desirable in any other zone, and being a use which the Council considers may satisfy a specific need in a locality where the use is proposed to be established and within which locality the proposed use would be in the interest of amenity and orderly and proper planning.

**9.2.1.2**

If the Council in response to a request by owners of land within the District considers the rezoning of that land to "Special Purpose Zone", the Council shall require those owners to provide to the Council a submission supporting the rezoning, and such submission shall include the following:

- a) a statement of any particular purpose or intent for which the zone is to be created;
- b) the reasons for selecting the land concerned for rezoning, with particular reference to its relationship to the Metropolitan Region Scheme, this Scheme, and any approved planning study or policy adopted by the Council which is applicable to the land;
- c) details so far as possible of each use, and of the building and other works proposed to be carried out, including the nature of the operations and the building forms;
- d) adequate supporting data establishing the need for the rezoning and the development proposed;
- e) information regarding the availability of reticulated water and/or other potable water supplies and the methods whereby it is proposed to provide for effluent disposal and drainage; and
- f) such other particular information details or documents as the Council reasonably requires to decide upon the merits of the rezoning.

**9.2.1.3**

Where the Council is of the opinion that a proposed development giving rise to a requirement for rezoning of land to Special Purpose Zone is not of sufficient magnitude to justify the requirement of strict adherence to all of the requirements outlined in paragraph 9.2.1.2 for

the purpose of assessing the proposal, the Council may modify or otherwise relax those requirements in the manner and to the extent that the Council considers reasonable.

#### **9.2.1.4**

The Council prior to resolving to adopt a Scheme Amendment to give effect to a rezoning of land to Special Purpose Zone may require any owner of land requesting the rezoning and/or any interested developer to enter into agreement with the Council for the purpose of ensuring that the land is used and/or otherwise developed in a manner consistent with the preservation or enhancement of the amenity and the orderly and proper planning of the locality.

### **9.3 BUILDING STANDARDS FOR OTHER ZONES**

#### **9.3.1 Minimum Development Standards**

Subject to the provisions of the Scheme, the requirements and standards set out in this clause including those set against land uses in Tables 9A and 9B shall apply to every use or other development in a Zone to which this Part applies.

#### **9.3.2 Off-Street Parking**

In any application for approval to commence any development in a zone to which this Part applies, provision shall be made for the off-street parking of motor vehicles in accordance with the provisions of Table 9A.

#### **9.3.3 Setback Requirements**

The setback requirements for all developments in a Zone to which this Part applies shall be in accordance with the provisions of Table 9B.

##### **9.3.3.1 Two-Street Frontages**

Subject to the provisions of subclause 3.1.7 where a lot has a frontage to two streets, the Council shall determine which of the two streets is the secondary street, and the setback to the secondary street may be reduced to 3 metres.

##### **9.3.3.2 Use of Setbacks**

No person shall within a Zone to which this Part applies, use the area of land between a building setback line and a street alignment for any purpose other than one or more of the following:

- a) a means of access;
- b) landscaping;
- c) the loading and unloading of vehicles;
- d) the daily parking of vehicles used by employees and customers or clients but subject to the requirements of the Scheme as to off-street parking.

No such area shall be used for the parking of vehicles displayed for sale or which are being wrecked or repaired, or for the stacking or storage of fuel, raw materials, products, or by-products, or wastes of manufacture.

### **9.3.4**      Landscaping Requirements

#### **9.3.4.1**

In connection with any application for approval to commence development in a Zone to which this Part applies, the Council shall require that such landscaping be provided as to the Council seems fit in the interest of amenity and orderly and proper planning, applying the principles and standards set out in paragraph 9.3.4.2.

#### **9.3.4.2**

Any landscaping provided pursuant to the provisions of paragraph 9.3.4.1 shall be provided in accordance with the provisions set out hereunder:

- a) the required landscaping shall cover a minimum of 10% of the total site area in the forms approved by the Council. The area shall include any area required as boundary landscaping and open parking facilities landscaping where off-street parking is required in accordance with Table 9A and subclause 3.2.8;
- b) any landscaped area shall be separated from an adjacent vehicular area by a wall or kerb at least 150mm higher than the adjacent vehicular area or in some manner be protected from vehicular damage;
- c) landscaped areas shall not average in width less than 1.5 metres, and shall not be continuous for more than 10 metres without a properly designed pedestrian crossing point, except where such landscaped area is adjacent to a permanent fence, or a wall of a building;
- d) the part of the area of the site required to be provided as landscaping shall not include areas which would normally be set aside for pedestrian movement; and
- e) landscaped areas provided under this subclause shall be planted in accordance with an approved landscape plan, and within 30 days of practical completion of the development, or any relevant part thereof, as determined by the Council or at such later time as may be agreed in writing by the Council.

### **9.3.5**      Caravan Parks

The following provisions shall apply to all caravan park developments within the District:

#### **9.3.5.1**

The Council shall not approve a development involving the construction of a service shop in any caravan park unless the service shop use is incidental to the predominant use and the trading area of the shop is limited to the caravan park only.

No service shop shall be sited so as to abut or open directly on to the steet frontage of the lot upon which it is constructed.

#### **9.3.5.2**

No provision in the Scheme shall be taken to prohibit the erection of a caretaker's residence or dwelling house, but not both on the land comprising a caravan park.

**9.3.5.3**

Provision may be made within a caravan park for the sale of motor spirits and other petroleum products, subject to the developer first obtaining the approval of the Council, the Mines Department and any other public authority required to be notified of the proposal to carry on such sales from the land. Any such facility shall not include motor repair facilities nor provide for sale of motor accessories.

**9.3.5.4**

The Council when considering whether or not to approve the development of a caravan park shall give particular consideration to arrangements provided for the treatment and disposal of sewerage and other liquid waste and shall not approve the development unless in its opinion satisfactory arrangements have been made. Satisfactory arrangements for the treatment and disposal of sewerage and other liquid waste for the purpose of this paragraph shall mean connection to a comprehensive reticulated sewerage scheme unless the applicant can demonstrate to the satisfaction of the Council that an alternative arrangement will function satisfactorily and will involve no more risk of causing any nuisance or offence whatsoever or injury or danger to health than would be involved in a comprehensive reticulated sewerage scheme.

**9.3.5.5**

The Council may require that landscape buffers be provided between land within a Caravan Park Zone and any adjoining land and the Council may specify the landscaping to be provided therein. Any such landscaped buffer shall be sited on the land upon which the caravan park is to be developed and shall be maintained to the satisfaction of the Council.

**9.3.5.6**

The Council shall not give approval to commence the development of a caravan park unless it is satisfied that the location of the caravan park will not adversely affect the amenity of the surrounding locality, and that the development proposal includes sufficient facilities both within the caravan park and within the general locality adequately to serve the needs of the users of the caravan park.

**9.3.5.7**

The Council shall not permit more than one caravan park within the area regarded by Council as the catchment area of a particular primary school.

**TABLE 9A**  
**OTHER ZONES - LANDUSE PARKING REQUIREMENTS**

LANDUSE	MINIMUM PARKING PROVISION (RATIO)
Caravan Park	1 space per caravan bay plus: Service shop - 5 spaces per 100 square metres of G.L.A. Fuel station - 2 spaces per pump but not less than 4 spaces. Caretaker's residence - 2 spaces Service office - 4 spaces per 100 square metres of G.L.A.
Child Day Care Centre	1 space per employee or staff member, plus 1 per every 8 children allowed under maximum occupancy.
Club Premises	2 spaces per 100 square metres of total floor area.
Dwelling - Aged or Dependent Persons	0.3 spaces per dwelling unit.
Dwelling - Attached House - Grouped - Multiple - Single House	As per the Residential Planning Codes
Educational Establishment (Private Primary School)	1 space per classroom.
Educational Establishment (Private Secondary School)	1 space for every classroom, plus 1 space for every 25 students the school is designed to accommodate for the final year of secondary education.
Hostel	1 space per bed and for dormitories 1 space per 9 square metres of floor area.
Infant Health Centre	1 space per employee or staff member, plus 1 space for every infant or child capable of receiving medical treatment at any one time.
Institutional Building	1 space for every 3 beds, plus 1 space for every 3 members of the medical and/or service staff.
Institutional Home	1 space per employee or staff member plus 1 space for every 3 beds.
Public Assembly/Place of Public Worship	1 space for every 4 persons the building is designed to accommodate.
Recreation - Private	1 space for every 4 persons, based on the maximum capacity of all facilities when used simultaneously.

TABLE 9A  
OTHER ZONES - LANDUSE PARKING REQUIREMENTS

LANDUSE	MINIMUM PARKING PROVISION (RATIO
All Other Uses	To be negotiated with the Council provided that the parking requirements for the use proposed are not found in any other landuse parking requirement table in the Scheme. Where the parking requirements for any other use not listed in this table are described in any other table in the Scheme, then Council shall impose the requirements of that table.

TABLE 9B  
OTHER ZONES - SITE REQUIREMENTS

Landuse	Minimum Effective Frontage In Metres	Minimum Setback from Boundaries in Metres			Maximum Plot Ratio	Maximum Site Coverage	Maximum Building Height In Storeys	Other Requirements and/or Variations
		Front	Side	Rear				
Caravan Park	100	20	20	10				Subject to the Caravan Parks and Camping Grounds Regulations 1978 a minimum of 20% of the site shall be set aside, developed and maintained for recreation. See also Subclause 9.3.5. The minimum lot size for any caravan park development shall be 30,000m <sup>2</sup> .
Club Premises	30	9	3	9	0.4:1	0.3	2	
Dwelling - Attached House - Grouped - Multiple - Single House	As per the Residential Planning Codes for all allowable dwellings						2	
Education Establishment	60	20	9	20	0.3:1	0.3	3	A minimum of 50% of the site shall be required for open space.
Hospital - Private	50	20	9	20	0.5:1	0.4	3	No private hospital shall be allowed on a lot of less than 4,000m <sup>2</sup> in area.
Hostel	30	7.5	3	7.5	0.5:1	0.3	3	A minimum of 50% of the site shall be required for open space and no Hostel or part thereof shall be subdivided under the provisions of the Strata Titles Act 1966 (as amended).
Institutional Building	40	12	9	12	0.5:1	0.4	3	

TABLE 9B  
OTHER ZONES - SITE REQUIREMENTS

Landuse	Minimum Effective Frontage In Metres	Minimum Setback from Boundaries in Metres			Maximum Plot Ratio	Maximum Site Coverage	Maximum Building Height In Storeys	Other Requirements and/or Variations
		Front	Side	Rear				
Institutional Home	40	12	6	12	0.5:1	0.3	2	A minimum of 50% of the site shall be required for open space and no Institutional Home or part thereof shall be subdivided under the provisions of the Strata Titles Act 1966 (as amended).
Public Assembly/Place of Public Worship	30	9	3	7.5	0.4:1	0.3	2	
All other uses	To be negotiated with the Council provided that the development requirements for the use as proposed are not located in any other table in the Scheme. Where the development requirements for the same use as that proposed are not specified in this table, but located in a different table of the Scheme, then the Council may impose the requirements as specified in that table.							



SCHEDULE 1 – DEFINITIONS

In the Scheme, unless the context otherwise requires, the following terms shall have the meanings assigned to them hereunder:

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

"**Amusement Machine**" means any game or device whether mechanical or electronic or a combination of both;

"**Amusement Parlour**" means any land or building used or provided for use by the public where the predominant use is for indoor games and includes the use of amusement machines and other like equipment where there are more than two amusement machines operating within the premises;

"**Appendix**" means an Appendix to the Scheme;

"**Auction Mart**" means any land or building on or in which goods are exposed or offered for sale by auction, but does not include a place used for the sale by auction of fresh food, fruit vegetables or livestock;

"**Authority**" means the Metropolitan Region Planning Authority;

"**Betting Agency**" means a building operated in accordance with the Totalisator Board Act 1960 (as amended);

"**Board**" means the Town Planning Board constituted under the Town Planning and Development Act 1928 (as amended);

"**Boarding House**" means any building or structure, permanent or otherwise, and any part thereof, in which provision is made for lodging or boarding more than four persons, exclusive of the family of the keeper, for hire or reward, but does not include:

- a) premises the subject of a Hotel, Limited Hotel or Tavern Licence granted under the provisions of the Liquor Act 1970 (as amended);
- b) premises used as a boarding school approved under the Education Act 1928 (as amended);
- c) a single, attached, grouped or multiple dwelling unit;
- d) any building that is the subject of a strata title issued under the provisions of the Strata Titles Act 1966 (as amended);

"**Building**" has the same meaning as is given to that term in the Residential Planning Codes;

"**Building Envelope**" means an area of land within a lot defined on a plan approved by the Council or by other means related by measurement to the boundaries of the lot and within which all buildings on the lot must be contained;

"**Cabin**" means an attached, semi-detached or detached residential type building that is used or provided for holiday purposes and is available to the public at large or to a part of the public defined by a common class, trade, employment, religion or association;

**"Camping Area"** means land set aside for the erection of tents and other similar structures for temporary accommodation, and "camping" has a compatible meaning;

**"Caravan"** means a wheeled unit, whether currently equipped with wheels or not, capable of being used for residential accommodation or other purposes and includes self-propelled units of a similar nature;

**"Caravan or trailer yard"** means any land or building used for:

- a) the hire and/or sale of caravans, car trailers, non motorised horsefloats and mobile homes; and
- b) the hire and/or sale of tents, camping gear and other items of a similar nature, where such use is incidental to the use falling within a) above;

**"Caravan Park"** means an area set aside for the parking of caravans under the By-laws of the Council or the Health Act (Caravan Parks and Camping Grounds) Regulations 1974, made pursuant to the provisions of the Health Act 1911 (as amended), or any amendment thereto, or any regulation or by-laws from time to time standing in place of them;

**"Caretaker's Dwelling"** means a building, used as a residence by the proprietor or manager of an industry, business, office building or recreation area carried on or existing on the same site, or by a person having the care of the building plant, equipment or grounds thereof;

**"Car Park"** means any land or building used primarily for the parking of private vehicles or taxis whether open to the public or not but does not include any part of a public road which is used for the through movement of traffic or any land or building on or in which vehicles are displayed for sale;

**"Car Sales Lot"** means any land or building used for the display and sale of motor vehicles whether new or secondhand but does not include a workshop or a Car Sales Showroom;

**"Car Sales Showroom"** means a building used for the display and sale of motor vehicles provided that all vehicles are kept in the building and does not include a workshop or a Car Sales Lot;

**"Car Wash Station"** means any land or building used for mechanical vehicle washing. Such uses may or may not be associated with a service station and may include such other uses considered by Council to be ancillary to the predominant use of the land;

**"Chalet"** has the same meaning as the term "Cabin";

**"Child Day Care Centre"** means any land or building used for the daily or occasional care of children in accordance with the Child Care Regulations 1968 (as amended) but does not include an Institutional Home;

**"Cinema/Theatre"** means any land or building where the public may view a motion picture or theatrical production;

**"City Centre"** means the Midland Sub-Regional Centre;

**"Civic Building"** means a building designed, used, or intended to be used by Government Departments, statutory bodies representing the Crown, or the Council alone or in combination with other bodies, as offices or for administrative or other like purposes;

**"Club Premises"** means any land or building used by a club or association or other body approved by the Council as a meeting place for formal and/or informal activity, including entertainment within limitations approved by the Council, and includes any land appurtenant thereto used for recreation and includes a residential club;

**"Communal Open Space"** has the same meaning as is given to that term in the Residential Planning Codes;

**"Construction Yard"** means any land or buildings used for the storage of building material, pipes or other similar items related to any trade, and may include manufacture, assembly or dismantling processes where incidental to such use;

**"Consulting Rooms"** means a building (other than a hospital or medical centre) used in the practice of their profession by no more than two practitioners who are legally qualified medical practitioners, dentists, physiotherapists, chiropractors, masseurs, or persons ordinarily associated with a medical practitioner in the prevention investigation or treatment of physical or mental injuries or ailments and the two practitioners may be of one profession or practice or any combination of professions or practices;

**"Consulting Rooms - Group"** means a building (other than a hospital) used in the practice of the profession of more than two practitioners who are legally qualified medical practitioners or dentists, physiotherapists, chiropractors, masseurs, or persons ordinarily associated with a medical practitioner in the prevention investigation or treatment of physical or mental injuries or ailments, and the practitioners may be of the one profession or any combination of professions or practices;

**"Convenience Store"** means land and buildings used for the retail sale of convenience goods being those goods commonly sold in supermarkets, delicatessens and newsagencies but including the sale of petrol and operated during hours which include but which may extend beyond normal trading hours for a shop and providing associated parking. The buildings associated with a convenience store shall not exceed 300m<sup>2</sup> gross leasable area;

**"Cultural Use"** means any use aimed at the improvement or refinement of people by entertainment and/or education but shall not include an education establishment;

**"Defined Site"** has the same meaning as given to that term in the Residential Planning Codes;

**"Development"** has the same meaning as is given to that term in the Residential Planning Codes;

**"Display Home Centre"** means a group of two or more dwelling units, but not exceeding six, which are intended to be open for public inspection;

**"District"** means the municipal district of the Shire of Swan;

**"Drive-in Theatre"** means land and buildings used to make provision for an audience or group of spectators to view a motion picture while seated in motor vehicles;

**"Dwelling":**

**"Aged or Dependent Persons Dwelling"** has the same meaning as is given to that term in the Residential Planning Codes;

**"Attached House"** has the same meaning as is given to that term in the Residential Planning Codes;

**"Dwelling House"** has the same meaning as is given to that term in the Residential Planning Codes;

**"Grouped Dwelling"** has the same meaning as is given to that term in the Residential Planning Codes;

**"Multiple Dwelling"** has the same meaning as is given to that term in the Residential Planning Codes;

**"Single House"** has the same meaning as is given to that term in the Residential Planning Codes;

**"Dwelling Unit"** or **"Dwelling"** has the same meaning as is given to those terms in the Residential Planning Codes;

**"Educational Establishment"** means a school, college, university, technical institute, academy or other educational centre, or a lecture hall, but does not include a Reformatory or an Institutional Home;

**"Effective Frontage"** means the width of the lot at the minimum distance from the street alignment at which buildings may be constructed and shall be calculated as follows:

- a) where the side boundaries of a lot are parallel to one another, the length of a line drawn at right angles to such boundaries;
- b) where the side boundaries of a lot are not parallel to one another, the length of a line drawn parallel to the street frontage and intersecting the side boundaries at the minimum distance from the street alignment at which buildings may be constructed;
- c) where the lot is part of a special subdivision layout (such as a Radburn Concept design) or is of such irregular proportions or on such a steep grade that neither of the foregoing methods can reasonably be applied, such length as determined by the Council;

**"Facade"** means the exposed faces of a building toward roads or open space or the frontal outward appearance of the building;

**"Factory Tenement Building"** means a building or structure, or a group of buildings or structures on one lot, in which are carried on two or more separate industries not owned or managed by the same person, or in which provision is made for the carrying on of two or more separate industries not owned or managed by the same person;

**"Factory Unit"** means a portion of a factory tenement building which is the subject of a separate occupancy;

**"Fast Food Outlet"** means land and buildings used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation primarily off the premises but does not include a wet fish shop;

**"Fuel Depot"** means any land or building used for the storage of, or bulk sale of solid or liquid or gaseous fuel, but does not include a service station;

**"Funeral Parlour"** means land and buildings occupied by an undertaker where bodies are stored and prepared for burial or cremation;

**"Gazettal Date"** means the date on which notice of the Minister's approval of the Scheme is published in the Government Gazette;

**"Gross Leasable Area (G.L.A.)"** means the area in square metres derived from measuring all floors occupied by a tenant for exclusive use from the centre line of inter-tenancy walls or partitions and from the outside faces of external walls of the building alignment including shop fronts;

**"Habitable Room"** has the same meaning as is given to that term in the Residential Planning Codes;

**"Health Centre"** means any building used as a maternal or x-ray centre, a district clinic, a masseur's establishment, or a medical clinic;

**"Health Studio"** means any land and building designed and equipped for physical exercises, recreation and sporting activities including outdoor recreation;

**"Height"** has the same meaning as is given to that term in the Uniform Building By-laws except for residential developments where it shall have the same meaning as given to it in the Residential Planning Codes;

**"Hire Service (Industrial)"** means any land or building used for the offering for hire or rent of bulky items including machines and mechanical equipment;

**"Hire Service (Non Industrial)"** means any land or building used for the offering for hire or rent of goods of a non-bulky nature which do not include large mechanical devices or equipment;

**"Holiday Cottages"** means two or more detached dwellings on one lot or on adjoining lots in one ownership let for holiday purposes, none of which is occupied by the tenant for a period of more than four calendar months in any year;

**"Home Occupation"** means a business or trade carried on with the permission of the Council within a house or curtilage of a house that:

- a) entails the conduct of a business, office or workshop only, but does not entail the retail sale or display of goods of any nature;
- b) does not create injury or prejudicially affect the amenity of the neighbourhood, including (but without limiting the generality of the foregoing) injury or prejudicial affection due to the emission of light, noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, grit, oil, waste-water, or other waste products, whether solid, liquid or gaseous;
- c) does not entail the employment of any person not a member of the occupier's family, normally resident in the house;
- d) does not require the provision of any essential service of a greater capacity than normally required in the zone in which it is located;
- e) does not occupy an area greater than 25 square metres, including office accommodation, which in the case of the workshop or trade, shall not be less than 6 metres from the nearest part of a habitable room within an adjacent or adjoining residence other than that within the curtilage of the lot upon which the workshop is erected. The 25 square metres shall not be additional to any limitation set out in the Uniform Building By-laws;
- f) for which there is not more than one advertisement sign and that sign not exceeding 0.2 square metres in area;
- g) will not result in the requirement of a greater number of vehicle parking facilities

than normally required for a single dwelling and will not result in a substantial increase in the amount of vehicular traffic in the vicinity; and

- h) does not entail the presence, parking or garaging of vehicles of more than four (4) tonnes tare weight;

**"Horticultural Pursuit"** means the use of land for any purpose set out hereunder and the use of buildings normally associated therewith:

- a) the intensive growing of vegetables, fruit, cereals or food crops for commercial purposes;
- b) the growing of trees, shrubs, plants or flowers for replanting;
- c) the sale of produce grown solely on the lot or on any adjoining or nearby lot forming part of the same landholding used for horticultural pursuits;

**"Hospital"** means any building, whether permanent or otherwise, in which persons are received and lodged for medical treatment or care and (without limiting the generality of the foregoing) includes "C" class hospitals and convalescent homes;

**"Hospital - Private"** or **"Private Hospital"** means any hospital registered under the Private Hospital Regulations under the Health Act 1911 (as amended);

**"Hospital - Special Purposes"** means a building used or designed for use wholly or principally for the purposes of a hospital or sanatorium for the treatment of infectious or contagious diseases, or hospital for the treatment or care of the mentally ill or similar use;

**"Hostel"** means a public or private residential type development providing board and lodging on a temporary basis to students and staff of educational establishments and members of societies, institutes or associations and common or distinct community groups;

**"Hotel"** means land and buildings providing accommodation for the public, the subject of an Hotel Licence granted under the provisions of the Liquor Act 1970 (as amended), but does not include a motel, tavern, or a boarding house the subject of a Limited Hotel Licence granted under that Act;

**"Hotel - Private"** or a **"Private Hotel"** means land and buildings used for residential purposes in respect of which have been granted a Limited Hotel Licence under the provisions of the Liquor Act 1970 (as amended) but does not include a motel, or boarding house;

**"Hotel-Motel"** means a building, group of buildings or place used or intended to be used to accommodate persons in a manner similar to a hotel or boarding house, but in which special provision is made for the accommodation of patrons with motor vehicles and to which an Hotel Licence under the provisions of the Liquor Act, 1970 (as amended) has been granted;

**"Industry":**

**"Industry - Cottage"** or **"Cottage Industry"** means a business, professional service, trade or light industry which in the opinion of the Council:

- a) provides a needed amenity or service to the local community;
- b) does not cause injury to, or prejudicially affect the amenity of the neighbourhood, including any nearby residential areas;

- c) does not require the provision of any essential service of a greater capacity than normally required to service a similar area of land in the zone in which it is or is proposed to be carried on.

Such an industry shall not display on the land or building more than one sign advertising the business and such sign shall not be larger than 1.2m x 0.6m in dimension.

**"Industry - Extractive"** or **"Extractive Industry"** means an industry involving the extraction of sand, gravel, clay, turf, soil, rock, stone, minerals or similar substances from land, and includes the manufacture of products from any of those materials when the manufacture is carried out on the land from which any of the materials so used is extracted or on land adjacent thereto, and the storage of such materials or products;

**"Industry - General"** or **"General Industry"** means an industry other than extractive, hazardous, noxious, rural or service for the carrying out of any process in the course of trade or business for gain, for and incidental to:

- a) the winning, processing or treatment of minerals;
- b) the making, altering, repairing or ornamentation, painting, finishing, cleaning, packing or canning or adapting for sale, or the breaking up or demolition of any article or part of an article;
- c) the generation of electricity or the production of gas;
- d) the manufacture of edible goods for human or animal consumption;

and includes, when carried out on land upon which the process is carried out and in connection with that process, the storage of goods, any work of administration or accounting, or the wholesaling of goods resulting from the process, and the use of land for the amenity of persons engaged in the process but does not include:

- (i) the carrying out of agriculture;
- (ii) site works on buildings, work or land;
- (iii) in the case of edible goods the preparation of food for retail sale from the premises;

**"Industry - Hazardous"** or **"Hazardous Industry"** means an industry which by reason of any process or method of manufacture it involves, or the nature of any materials used or produced in or by it, requires isolation from other buildings;

**"Industry - Light and City Centre Light"** or **"Light and City Centre - Light Industry"** means an industry:

- a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises, will not cause any injury to, or prejudicially affect the amenity of the locality by reason of the emission of light, noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, or other waste products whether solid, liquid or gaseous; and
- b) the establishment of which will not, or the conduct of which does not, impose an undue burden on any existing or projected service for the supply or provision of water, gas, electricity, sewerage facilities or any other like service;

but does not include vehicle wrecking, panel beating or spray painting;

**"Industry - Noxious"** or **"Noxious Industry"** means an industry in which the processes involved constitute an offensive trade within the meaning of the Health Act 1911 (as amended) but does not include wet fish shops or piggeries or a waste disposal process operation carried out by or under the direct management and supervision of the Council;

**"Industry - Rural"** or **"Rural Industry"** means an industry handling, treating, processing or packing primary products grown, reared or produced in the locality, and a workshop servicing plant or equipment used for rural purposes in the locality;

**"Industry - Service"** or **"Service Industry"** means a light industry carried out on land or in buildings which may have a retail shop front and in which goods are manufactured only for sale on the premises, or land and buildings having a retail shop front and used as a depot for receiving goods to be serviced;

**"Institutional Building:** means a building used or designed for use wholly or principally for the purpose of:

- a) a home or other institution for care of persons who are physically or mentally handicapped;
- b) a rehabilitation centre or home for alcoholics, drug addicts, persons released from penal institutions or other persons requiring treatment as provided by such a centre;

**"Institutional Home"** means a residential building or flats, for the residence of or for the care and maintenance of children, the aged or the infirm, and includes a benevolent institution, but does not include a hospital, a private hospital, a hostel, a mental institution, an institutional building or a Hospital - Special Purpose;

**"Kennel"** means any land or building used for the boarding, housing and/or breeding of domestic animals for remuneration, or offered for sale or purchase;

**"Land"** includes air stratum titles, messuages, tenements and hereditaments and any estate in the land, and houses, buildings, works and structures, in or upon the land;

**"Length"** has the same meaning as is given to that term in the Residential Planning Codes.

**"Living Room"** has the same meaning as is given to that term in the Residential Planning Codes;

**"Lot"** shall have the same meaning as is given to it in and for the purposes of the Act and "allotment" has the same meaning;

**"Lunch bar"** means premises used for the preparation and/or sale of take-away sandwiches and similar foodstuffs within industrial and commercial areas in a form ready to be consumed without further preparation off the premises;

**"Major Opening"** has the same meaning as is given to that term in the Residential Planning Codes;

**"Marine Filling Station"** means land and buildings used for the storage and supply of liquid fuels and lubricants for marine craft, but in which no industry is carried on, but does not include a service station;

**"Market"** means land and/or buildings used for a fair or a farmers' or producers' market or a swap-meet in which the business or selling carried on or the entertainment provided is by independent operators or stallholders carrying on their business or activities independently of the market operator save for the payment where appropriate of a fee or rental;



**"Medical Centre"** means a building (other than a hospital or a private hospital) that contains or is designed or intended to contain facilities for use not only by the practitioners as specified under the definition of consulting rooms but also for ancillary services such as chemists, pathologists, radiologists and paramedicals;

**"Metropolitan Region Scheme"** means the Metropolitan Region Scheme made pursuant to the Metropolitan Region Town Planning Scheme Act 1959 (as amended), published in the Government Gazette on 9th August, 1963 and as amended from time to time thereafter;

**"Milk Depot"** means land and buildings to which milk is delivered for distribution to consumers but in which milk is not processed or pasteurised;

**"Minister"** means the Minister for Planning or the Minister in the Western Australian Government responsible for town planning;

**"Hotel"** means land and buildings used or intended to be used to accommodate patrons in a manner similar to an hotel or boarding house but in which special provision is made for the accommodation of patrons with motor vehicles;

**"Motor Repair Station"** means any land or building used for or in connection with mechanical repairs and overhauls, including where incidental to such repairs and overhauls, tyre re-capping, retreading, panel beating, spray painting and chassis reshaping;

**"Motor Vehicle Assembly"** means the use of any land or building for the assembly of motor vehicle portions and parts into or toward one unit;

**"Museum"** means any land or building used for the storing and exhibiting of objects illustrative of antiquities, natural history, art, nature and curiosities;

**"Night Club"** means any land or buildings used for entertainment and/or eating facilities combined;

**"Non-Conforming Use"** means any land or building which was lawful under the provisions of an earlier town planning scheme affecting the land and/or enjoyed non-conforming use rights under that scheme;

**"Nursery"** means land and buildings used for the propagation, rearing and sale of plants and the storage and sale of products associated with horticultural and garden decor.

**"Office - General"** or **"General Office"** means a building wherein is carried on the business of administration, the carrying on of agencies, typist and secretarial services, and services of similar nature or, where not conducted on the site thereof, the administration of, or the accounting in connection with any industry or other business, the administration of commercial transactions generally, civic and public authority offices, and offices generally, but shall exclude Service Offices and Professional Offices;

**"Office - Professional"** or **"Professional Office"** means a building used for the purpose of conducting the professional work of an accountant, architect, artist, author, barrister, consular official, engineer, land surveyor, quantity surveyor, solicitor, teacher (other than a dancing teacher or a music teacher), or town planner or a person having in the opinion of the Council, an occupation of a similar nature, and professional person has a corresponding interpretation;

**"Office - Service"** or **"Service Office"** means a building wherein is carried on a predominantly administrative type of business but which is dependent on direct access to the public and without limiting the generality of the foregoing includes an estate agency, insurance office, travel agency, bank, building society, post office and any other public orientated Government agency and a public transport office, but excluding the garaging or servicing of vehicles and excluding a general office;

**"Open Air Display"** means the use of land as a site for the display and/or sale of goods and equipment;

**"Open Space"** has the same meaning as is given to that term in the Residential Planning Codes;

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

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

**"Parking Space"** means that area of a lot which is required for the parking of a stationary motor vehicle to the minimum dimensions specified by the Scheme, constructed and paved to the specifications set down by the Shire and includes an area considered appropriate by the Council for access and manoeuvring on the site but does not include crossovers, service areas and landscaping.

**"Part"** means one of the nine Parts of the Scheme;

**"Piggery"** means any land or building used for the rearing or keeping of pigs for the purpose of the sale of pigs for meat or for commercial gain;

**"Plot Ratio"** has the same meaning as is given to that term in the Uniform Building By-laws except for residential dwellings where it shall have the same meaning as that given to it in the Residential Planning Codes;

**"Potable Water"** means water in which the levels of the physical, chemical and bacteriological constituents do not exceed the maximum permissible levels set out in "International Standards for Drinking Water - Third Edition, World Health Organisation - 1971";

**"Poultry Farming"** means the use of land and buildings for hatching, rearing or keeping of poultry for the purpose of the sale of live poultry, meat or eggs for commercial gain;

**"Prison"** has the same meaning as is given to that term in the Prisons Act, 1903 (as amended);

**"Private Courtyard"** means a screened single area of open space on a lot set aside for the sole use of the occupants of the dwelling which it abuts;

**"Private Open Space"** has the same meaning as is given to that term in the Residential Planning Codes;

"**Produce Store**" means any land or building wherein fodders, fertilizers and grain are displayed and offered for sale;

"**Public Amusement**" means the use of land and buildings as a theatre, a cinema, a night club, a dance hall, a skating rink, swimming pool, or gymnasium, or for games or otherwise for the entertainment of the public with or without charge;

"**Public Assembly - Place of**" or "**Place of Public Assembly**" means any special place of assembly and without limiting the generality of the definition includes grounds for athletics, all sports grounds with spectator provision, race courses, trotting tracks, stadiums or showgrounds, but does not include club premises;

"**Public Authority**" means a Minister of the Crown acting in his official capacity, a State Government Department, State trading concern, State instrumentality, State public utility and any other person or body, whether corporate or not, who or which, under the authority of any Act, administers or carries on for the benefit of the State, a social service or public utility;

"**Public Mall**" means any public right-of-way or street designed especially for pedestrians who shall have right of way and vehicle access shall be restricted to service vehicles approved by the Council at times specified by the Council;

"**Public Worship - Place of**" or "**Place of Public Worship**" includes buildings used primarily for the religious activities of a church but does not include an institution for primary, secondary or higher education or a residential training institution;

"**Radio Equipment**" means masts, aerials, transmitting and receiving equipment and other associated equipment used for the transmission and reception of radio signals for hobby or commercial purposes;

"**Radio and T.V. Installations**" means land, buildings, devices or structures for the transmission or receiving of signals and/or pictures but does not include domestic radio and television receivers;

"**Reception Lodge**" means a building available for the use of parties on formal or ceremonial occasions, but not for unhosted use on general occasions for entertainment purposes;

"**Recreation - Private**" or "**Private Recreation**" means the use of land for parks, gardens, playgrounds, sports arenas or other grounds for recreation which are not normally open to the public without charge;

"**Recreation - Public**" or "**Public Recreation**" means the use of land for a public park, public gardens, playground or grounds for recreation which are normally open to the public without charge;

"**Reformatory**" means land and buildings used for the confinement or detention in custody of juvenile offenders against the law with a view to their reformation but shall not include a prison;

"**Redevelopment**" means revision or replacement of an existing land use or building or other work;

"**Regulations**" means the Town Planning Regulations 1967 (as amended);

"**Residential Planning Codes**" means the Residential Planning Codes adopted as a policy of the Board on July 26, 1982 together with all amendments or additions thereto, or any code, by-laws or regulations replacing them and applying or being applicable within the

district.

**"Restaurant"** means a building wherein food is prepared solely for sale and consumption within the building or portion thereof and (without limiting the generality of the foregoing) the expression includes a licensed restaurant, cafe or nightclub. The expression also includes a restaurant at which food for consumption outside the building, or portion thereof, is sold where the Council is of the opinion that the sale of food for consumption outside the building is not the principal part of the business. The expression shall also include an outdoor establishment and in that case for the purpose of this definition, the outdoor eating area shall be treated as being within the building of the restaurant;

**"Roadhouse"** means land and buildings used for the predominant purpose of a service station but incidentally including a cafe or restaurant and/or a shop;

**"Rural Pursuit"** means the use of land for any of the purposes set out hereunder and shall include such buildings normally associated therewith:

- a) the growing of vegetables, fruit, cereals or food crops;
- b) the rearing or agistment of sheep, cattle, horses, goats or beasts of burden;
- c) the stabling or training of horses;
- d) the growing of crops or pasture for grazing or seed production;
- e) the sale of produce grown solely on the said land;

but does not include the following except as approved by the Council.

- (i) the keeping of pigs;
- (ii) poultry farming;
- (iii) the processing, treatment or packing of produce;
- (iv) the breeding, rearing or boarding of domestic pets;

**"Salvage Yard"** means land used for the storage or sale of materials salvaged from the erection, demolition, dismantling or renovating of, or fire or flood damage to structures including (but without limiting the generality of the foregoing) buildings, machinery, vehicles and boats;

**"Sawmill"** means a mill or premises where logs or large pieces of timber are sawn but does not include a joinery works unless logs or large pieces of timber are sawn therein;

**"Schedule"** means a Schedule to the Scheme;

**"Service Station"** means land and buildings used for the supply of petroleum products and automotive accessories and for carrying out greasing, tyre repairs, and minor mechanical repairs to motor vehicles but does not include panel beating, spray painting, major repairs or wrecking, and may include a roadhouse in a predominantly rural area;

**"Setback Line"** has the same meaning as is given to that term in the Uniform Building By-Laws;

**"Shire"** means the Shire of Swan;

**"Shop"** means any building wherein goods are exposed or offered for sale by retail and without limiting the generality of the foregoing shall include:

shops for the sale of foodstuffs generally, clothing, drapery, furniture and furnishings, footwear, hardware, electrical goods, sporting goods, toys and secondhand goods; jewellers, chemists, stationers, newsagents, variety stores, photographic studios and supplies, florists, dry-cleaning agencies, barbers and hairdressers; cafes, restaurants, fast food outlets and liquor stores unless incorporated in an hotel or tavern;

but shall not include a service office, a general office, a professional office or a market;

**"Shopping Centre"** means a group of shops, service offices and general offices and related activities, the group being in excess of 5,000 square metres gross leasable area, developed as an integrated unit together with the required on-site parking facilities;

**"Shop - Service"** or **"Service Shop"** means a shop forming part of a residential building or flats and designed principally to serve the residents of the building;

**"Showroom"** means a building or part of a building wherein goods are displayed and offered for sale by wholesale or by retail, excluding the sale of foodstuffs, liquor or beverages; items of clothing or apparel, fabrics, footwear, magazines, newspapers, books and paper products; medicinal or pharmaceutical products; china, glassware or domestic hardware; items of personal adornment, small electrical goods of a domestic nature; toys and generally items of a cash and carry nature related to daily household and recreation needs and consumption;

**"Sign"** means a notice, message or display by means of a freestanding or fixed sign or hoarding;

**"Site Coverage"** has the same meaning as "coverage" and is synonymous with the definition contained in the Uniform Building By-laws;

**"Solid Fuel Depot"** means any land or building used for storage, preparation, sale or distribution of any solid fuel materials including (but without limiting the generality of the foregoing), coal, coke, firewood, briquettes or similar combustible materials;

**"Spray Painting - Non Automotive"** means the use of any land or building for painting or coating by spray process of items other than motor vehicles;

**"Squash Courts"** means a building or portion of a building wherein persons may participate in or view the game of squash;

**"Stable"** means any land, building or structure used for the housing, keeping and feeding of horses, asses and mules;

**"Stockyards"** means any land, building or other structure used for the holding and/or sale of animal stock;

**"Storage yard"** means any land used for the storage of goods;

**"Storey"** has the same meaning as is given to that term in the Residential Planning Codes;

**"Street Alignment"** has the same meaning as is given to that term in the Residential Planning Codes;

**"Street Side Stall"** means a building having a gross leasable area of no more than 10 square metres for use solely for the purpose of displaying and selling rural produce grown solely on the lot on which the building is situated, or grown on adjoining lots in the same ownership or occupation as the lot on which the building is situated;

"**Street Verge**" means the land contained by the edge of the formed carriageway of a road reserve and the property line abutting thereon;

"**Sub-Regional Centre**" means the area of the Midland Sub-Regional Centre which is defined in Appendix 1 of the Scheme;

"**Tavern**" means land and buildings the subject of a Tavern licence, granted under the provisions of the Liquor Act 1970 (as amended);

"**Trade**" means the practice of a skilled handicraft as distinct from a profession;

"**Trade Display**" means the use of any land or building for the moderate and controlled display of trade goods and equipment for advertisement as approved by the Council;

"**Transport Depot**" means any land or building used for the garaging of road motor vehicles used or intended to be used for carrying goods or persons for hire or reward or for any consideration, or for the transfer of goods or persons from one such motor vehicle to another of such motor vehicles, and including the maintenance and repair of such vehicles, but not other vehicles;

"**Uniform Building By-laws**" means the Uniform Building By-laws 1974 published in the Government Gazette on 19th December, 1974 as amended from time to time and if those by-laws are revoked means those by-laws from time to time in operation within the district of the Shire which replace them;

"**Vehicle Sales and Service**" means any land or building used for the sale and servicing of motor vehicles and includes showrooms and workshop;

"**Vehicle Wrecking**" means the use of any land or building for dismantling of motor vehicles and the sale of spare parts derived from such dismantling;

"**Veterinary Consulting Rooms**" means a building in which a veterinary surgeon or veterinarian treats the minor ailments of domestic animals and household pets as patients but in which no patient remains on the premises overnight;

"**Veterinary Hospital**" means any land or building used for, or in connection with the treatment of sick animals and pets and includes the accommodation of sick animals and pets. A crematorium for the disposal of animal carcasses or remains may be included with the written consent of the Council;

"**Warehouse**" means a building used for the storage and/or wholesale sale of goods and can include a bulk store or depot;

"**Weighbridge**" means a platform scale flush with the road surface for weighing vehicles and/or loads of any nature;

"**Wet Fish Shop**" means a building where the goods kept exposed or offered for sale are predominantly wet fish;

"**Wholesale**" means the sale of any goods to any person or persons other than the ultimate consumer of those goods by a person or his trustee, registered as a 'wholesale merchant' for Sales Tax purposes under the provisions of the Sales Tax Assessment Act No. 1 1930 (as amendment);

"**Wine House**" has the same meaning as is given to that term in the Liquor Act, 1970 (as amended);

"**Woodyard**" means any land on which wood is stored, sawn, or cut for use as domestic firewood and on which no wood or timber is stored, sawn or cut for any other purpose;

"**Workroom**" means a room or rooms connected to a shop where sewing, assembly or minor manufacturing processes of a like nature are carried out in conjunction with the predominant purpose of the retail business established on the site and where no more than 50% of the total floor area is used as the workroom;

"**Zone**" means a portion of the Scheme Area shown on the Scheme Map by distinctive colouring, shading, hatching or edging and classified in the Scheme Text for the purpose of indicating the restrictions imposed by the Scheme on the erection and use of buildings or the use of land, but does not include land reserved pursuant to the Scheme;

"**Zoological Gardens**" means land and buildings used for the keeping, breeding or display of native and/or imported fauna and the term includes "zoo" or any other similar terminology but does not include kennels or premises of a like nature for the keeping, breeding or showing of domestic pets.

**SCHEDULE 2**

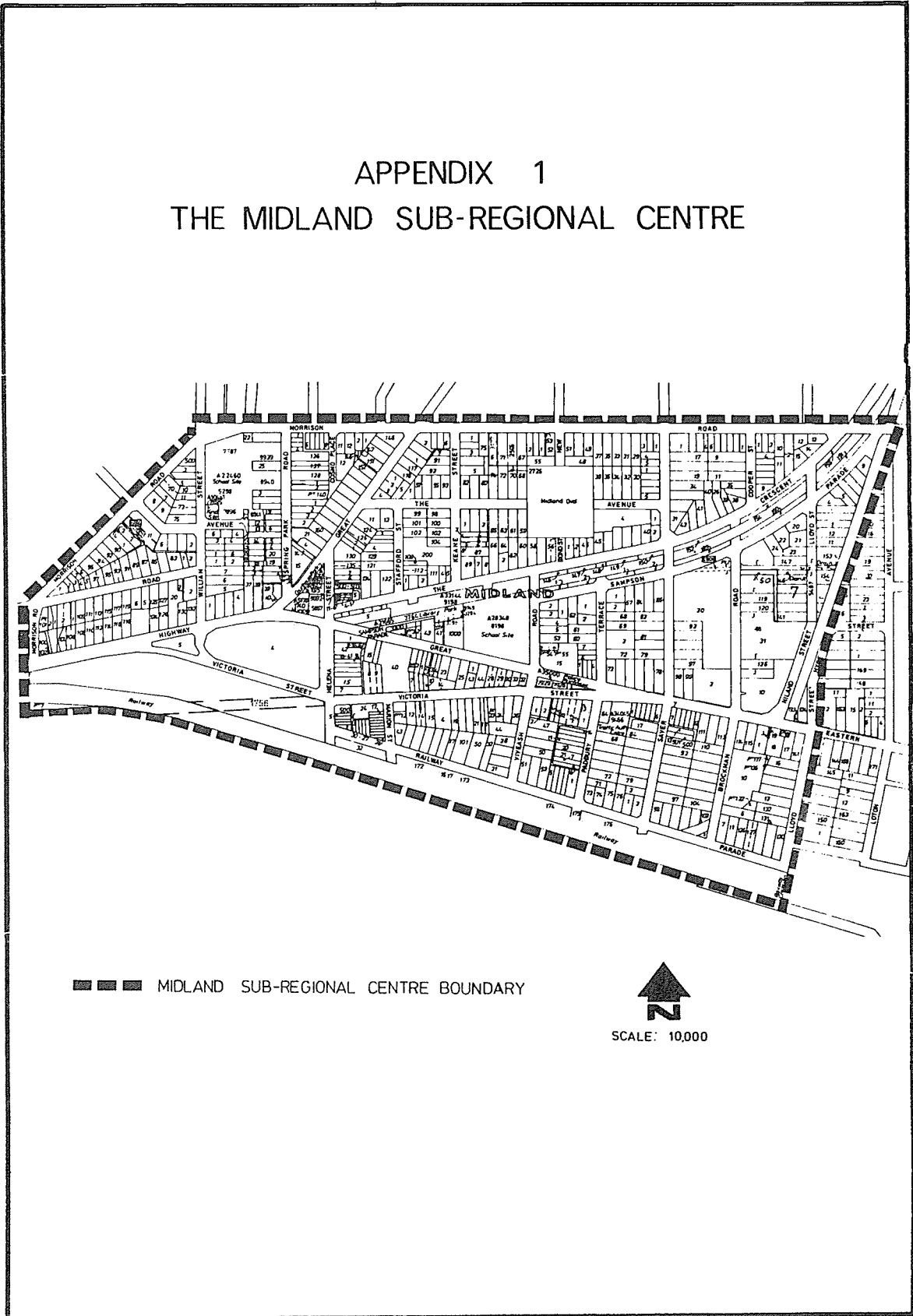
PLACES OF NATURAL BEAUTY AND  
HISTORIC BUILDINGS AND OBJECTS OF HISTORICAL OR SCIENTIFIC INTEREST

Name	Location	Description
Guildford Court House	Lot A (†7399) Meadow Street, Guildford	Brick building constructed in 1866. Classified by the National Trust
Guildford Gaol	Lot 44, Meadow Street Guildford	Brick building constructed in 1841 with additions constructed in 1866.
Stirling Square	Lot 191 (†6447) & 3812 Bounded by James, Swan Meadow & Johnson Streets, Guildford	Park and Railway Reserve
Mechanics Institute	Lot D, Meadow Street, Guildford	Brick building constructed in 1865. Classified by the National Trust.
Guildford Post Office	Lot 194, Stirling St. Guildford	Two storeyed brick building constructed in 1900 with additions constructed in 1901.
Commissariat Store and Quarters	Lot 206, Meadow St. Guildford	Brick quarters constructed in 1853 and brick store constructed in 1854
Government School	Lot E (†7400) Helena Street, Guildford	Brick building constructed in 1865 (estimated) with additions constructed in the early 1900's and in 1974.
'Fairholme'	Lots 11 & 12, Market Street, Guildford	Brick building originally constructed as servants' quarters in the 1870's plus brick house constructed in the early 1900's.
Welbourne's House	Lot 14, Market Street, Guildford	Brick building constructed in the 1840's.
Midland Town Hall	Lot 1740 (†5178) Gt. Northern Highway, Midland	Two storeyed brick and stucco building constructed in 1906 with additions constructed in 1923.
Midland Court House	†5542 Helena Street, Midland	Brick and stone building constructed in the late 1890's
Midland Post Office	Lot 5867, Gt. Eastern Highway, Midland	Two storeyed brick and stucco building constructed in 1913.
"Wood-bridge"	Lot 8254 (†29493) Ford Street, West Midland	Two storeyed brick building constructed in 1885. Classified by the National Trust.



# APPENDIX 1

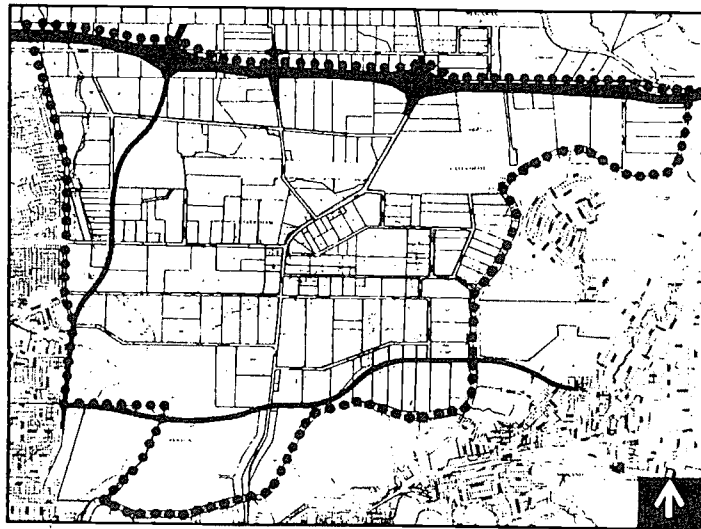
## THE MIDLAND SUB-REGIONAL CENTRE



## APPENDIX 2 EASTERN CORRIDOR POLICY AREAS

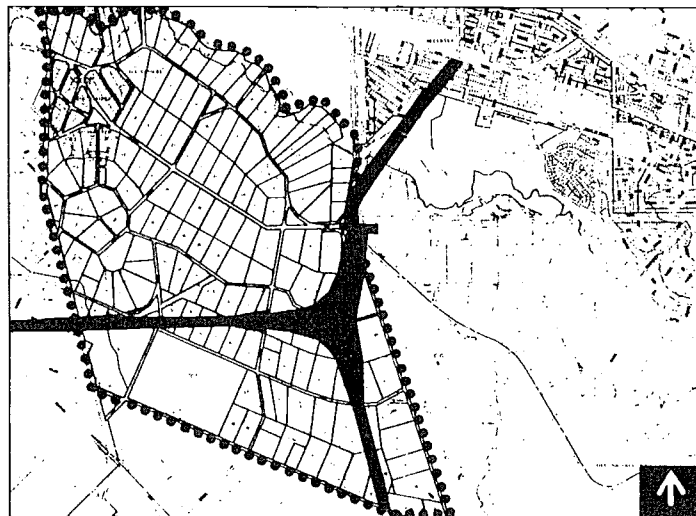
### APPENDIX 2A

POLICY AREA Nº 1 - CAVERSHAM



### APPENDIX 2B

POLICY AREA Nº 2 - HAZELMERE

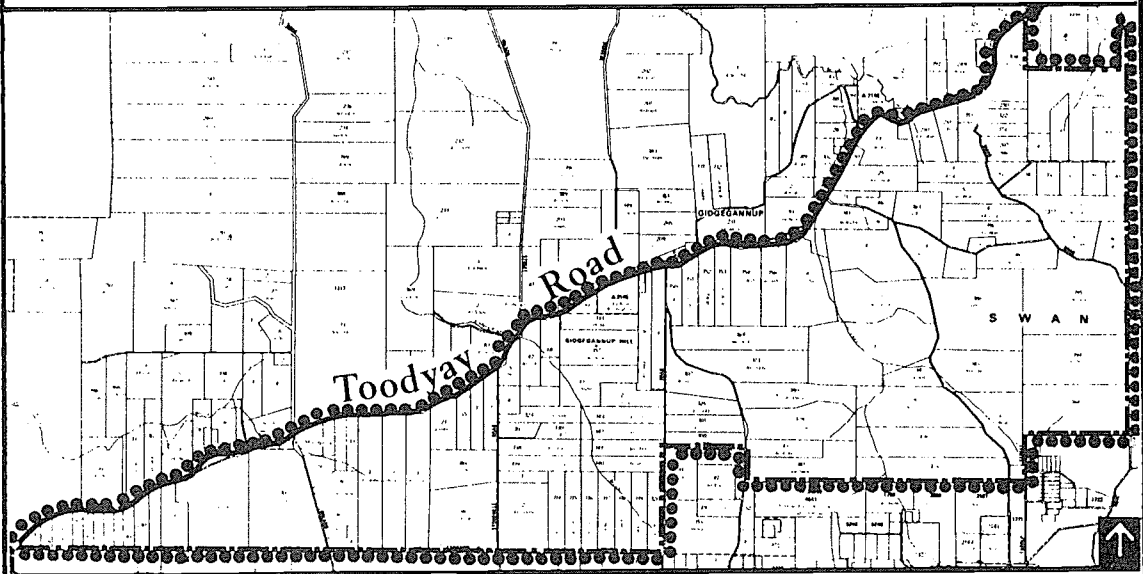


..... POLICY AREA BOUNDARY

SCALE: 1 50,000

# APPENDIX 2C EASTERN CORRIDOR POLICY AREAS

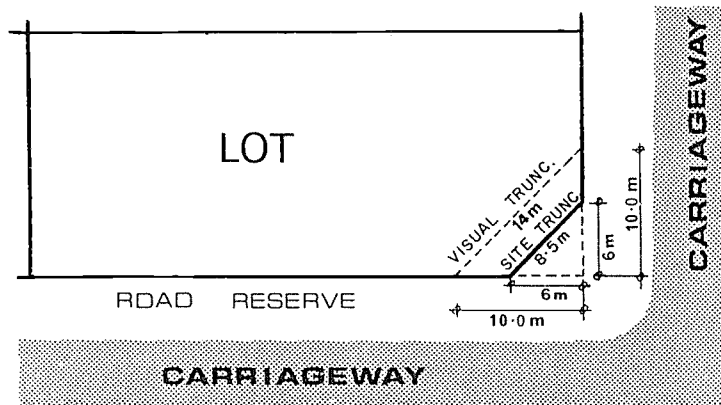
POLICY AREA Nº 3 - EASTERN CORRIDOR - TOODYAY ROAD SOUTH



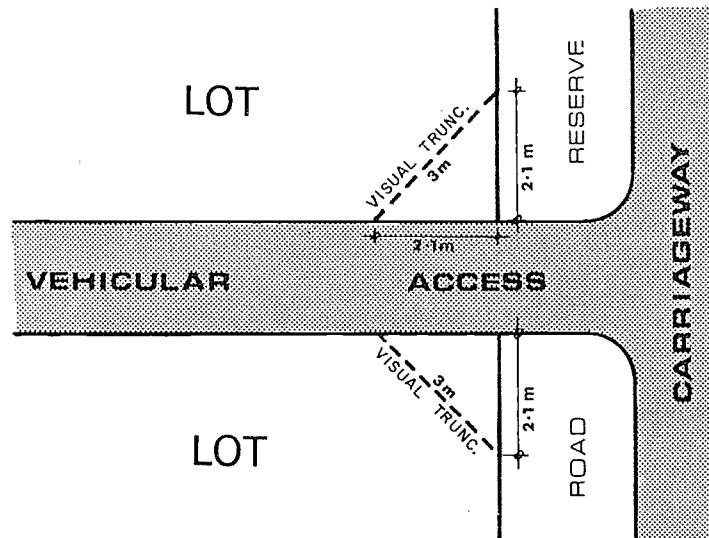
●●●●●●●● POLICY AREA BOUNDARY

SCALE: 1:50,000

### APPENDIX 3A VISUAL TRUNCATION - CORNER LOTS

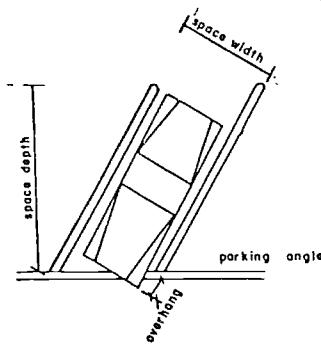
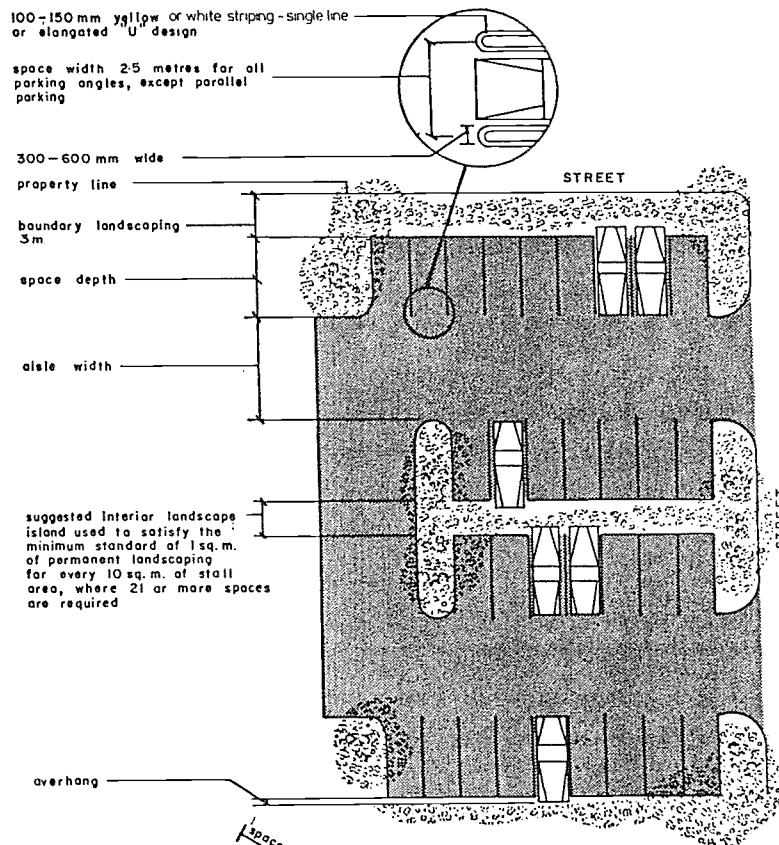


### APPENDIX 3B VISUAL TRUNCATION - VEHICULAR ACCESS WAY

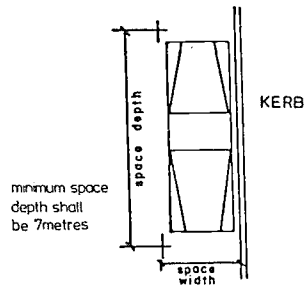


## APPENDIX 4A PARKING FACILITY DESIGN REQUIREMENTS

( SEE SUB-CLAUSES 3.2.6 , 3.2.7 , 3.2.8 )



ANGLED PARKING



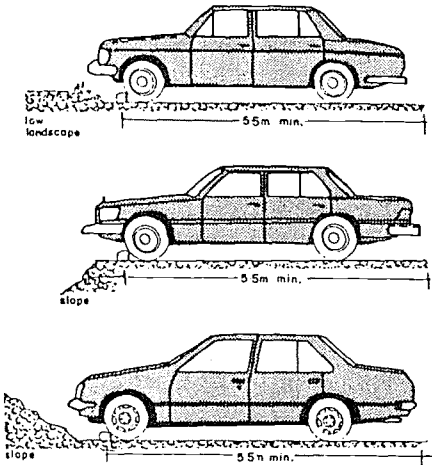
PARALLEL PARKING

SPACE DEPTH

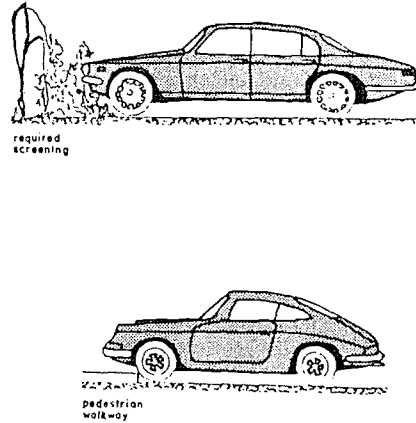
## APPENDIX 4B PARKING FACILITY PROJECTION & MINIMUM DIMENSION

In measuring the depth of paving required for uncovered parking spaces, allowance may be made to accommodate vehicular projection, beyond the bumper or tyre stop, if such projection does not interfere with screening or pedestrian use. See illustrations below for examples of permitted paving allowances.

permitted



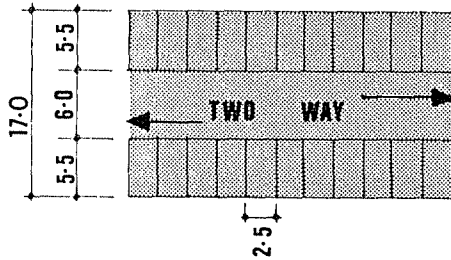
not permitted



THE MAXIMUM OVERHANG FOR PARKING ANGLES OF 60 DEGREES OR GREATER SHALL BE 0.61m

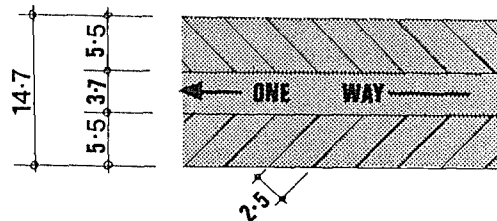
## PARKING MODULES

90° PARKING

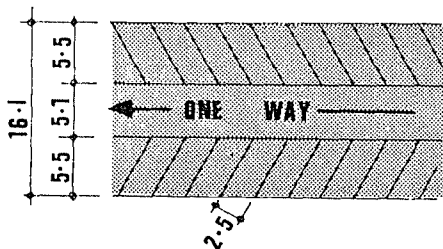


ALL DIMENSIONS IN METRES

45° PARKING



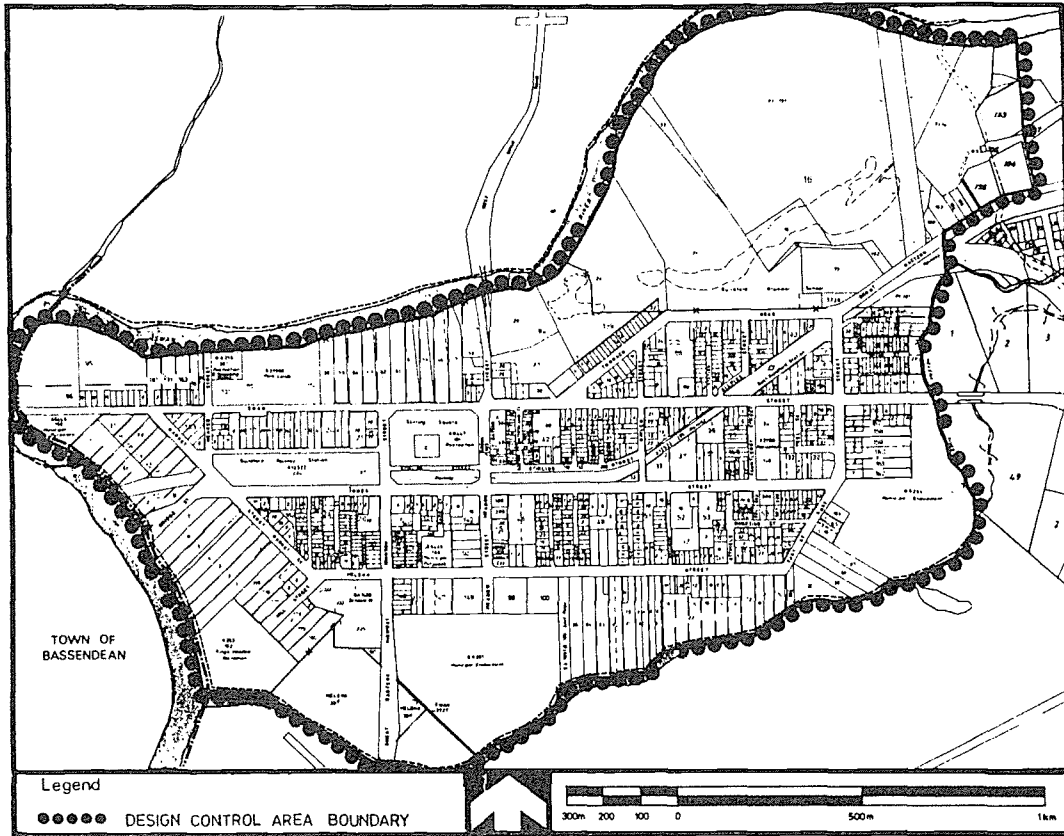
60° PARKING



NOTE: Where cars are to be covered the width of the car bay is to be increased to 3.0m.

# APPENDIX 5 GUILDFORD - DESIGN CONTROL AREA

(SEE SUB-CLAUSE 3.1.11)



APPENDIX 6  
SPECIAL PURPOSE ZONES

LOCALITY	STREET	LAND PARTICULARS	PERMITTED USE
Wexcombe	Cnr. Farrall & Toodyay Roads	Pt. Lot 32, Swan Location 13	Retail Shopping and Hinterland Service Facility (1.75 ha)
Gidgegannup (Red Hill)	Toodyay Road	Lot 230, Swan Location 1317	Waste Disposal Radio Communications Station
Hazelmere	Midland Road	Pt. Lot 6, Helena Location	Rural Tavern and Restaurants
Bellevue	Cnr. Great Eastern Hwy & Horace St.	Lots 403 and 404, Swan Location 16	Drive-In Bottle Shop and Restaurant
Midland	Great Northern Hwy	Lot 38, Swan Location 15	Dry Cleaning
Malaga	Beechboro Road	Lot 10	Drive-In Cinema/Theatre
Viveash	Muriel Street	Lot 79	Drive-In Cinema/Theatre
Upper Swan	Great Northern Hwy	Lot 3	Road Train Assembly Area
Midland	Great Northern Hwy	Lot 101	Aged Persons Accommodation
Gidgegannup	Toodyay Road	Lot 228	Antique Furniture Reproduction and Residence, limited to a maximum factory floor space of 120m <sup>2</sup>
Midland	Cnr. Great Northern Hwy and North St.	Lot 23	Consulting Rooms and Pharmacy
Viveash	Great Northern Hwy	Lot 46	Restaurant
Viveash	Toodyay Road	Lots 42 & 43	Function Centre
Caversham	Harper Street	Lots 2983-2987	Manufacture & Sale of Building Products and Associated Activities including Clay Extraction.



## APPENDIX 7

## SPECIAL RURAL ZONES - PROVISIONS RELATING TO SPECIFIED AREA

SPECIAL RURAL ZONE NO. 1 - "SHADY HILLS"	
SPECIFIED AREA OF SPECIAL RURAL ZONE	SPECIAL PROVISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 8.2.1.9
<p>Lots 8 and 9 of Swan Location 1316 as delineated on Scheme Map No. 35</p> <p>The purpose and intent of this special rural zone is to create an area within which more intensive grazing may occur.</p>	<ol style="list-style-type: none"> <li>1. Subdivision of Special Rural Zone No. 1 (Shady Hills) shall be in accordance with the Subdivisional Guide Plan as endorsed by the Shire Clerk and with the following criterion:             <ol style="list-style-type: none"> <li>a) Average lot size shall be 20 ha.</li> </ol> </li> <li>2. a) The following uses are permitted - 'P':             <ul style="list-style-type: none"> <li>. Dwelling House</li> <li>. Rural Pursuit</li> <li>. Stable</li> </ul> <p>b) The following uses are not permitted unless Council gives its approval - 'AA':</p> <ul style="list-style-type: none"> <li>. Home Occupation</li> <li>. Rural Industry</li> <li>. Stockyards</li> </ul> <p>c) All other uses not mentioned under a) and b) and rural pursuits which normally require the issue of any licence and permit other than that referred to in b) above, are not permitted.</p> </li> <li>3. No building on a lot shall be constructed closer to any boundary of the lot than a distance of 40 metres except that the Council may approve a lesser distance if it can be shown to be necessary or desirable for reasons of topography or other site conditions.</li> <li>4. Each lot within the zone shall contain an earthen dam situated in a water catchment site, capable of catching and storing 2,800 cubic metres capacity of water from seasonal rainfall.             <p>The dam banks shall be of a suitable type of clay so as to effectively hold water to the satisfaction of the Department of Agriculture or alternatively lined with water holding material or materials.</p> </li> </ol>

## APPENDIX 7

## SPECIAL RURAL ZONES - PROVISIONS RELATING TO SPECIFIED AREA

SPECIAL RURAL ZONE NO. 2 - "BULLSBROOK EAST"	
SPECIFIED AREA OF SPECIAL RURAL ZONE	SPECIAL PROVISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 8.2.1.9
<p>Lot M853, M858, 2 and Part Lots 4 &amp; 1 Swan Loc. 1352 Smith Road, Bullsbrook as delineated on Scheme Map No. 34. The purpose and intent of this special rural zone is to create an area within which a pony club and associated equestrian activities can occur.</p>	<ol style="list-style-type: none"> <li>1. Subdivision of Special Rural Zone No. 2 shall be in accordance with the Subdivisional Guide Plan as endorsed by the Shire Clerk and with the following criterion: <ol style="list-style-type: none"> <li>a) Average lot size shall be 3 ha.</li> </ol> </li> <li>2. a) The following uses are permitted - 'P' within the Special Rural Zone No. 2: <ul style="list-style-type: none"> <li>. Dwelling House</li> <li>. Stables</li> </ul> <p>b) The following uses are not permitted unless Council gives its approval in writing - 'AA':</p> <ul style="list-style-type: none"> <li>. Home Occupation</li> <li>. Private Recreation</li> <li>. Public Recreation</li> <li>. Public Utility</li> <li>. Rural Pursuit</li> <li>. Veterinary Consulting Rooms</li> </ul> <p>c) All other uses not mentioned under a) and b) and rural pursuits which normally require the issue of any licence and permit other than that referred to in b) above, are not permitted.</p> </li> <li>3. No building on a lot shall be constructed closer to any boundary of the lot than 15 metres except that the Council may approve a lesser distance if it can be shown to be necessary or desirable for reasons of topography or other site conditions.</li> <li>4. Where open space is vested in the Crown for recreation purposes within Special Rural Zone No. 2 and that open space is situated along a stream or creek alignment no septic tanks shall be installed closer than 100m to the creek or stream.</li> <li>5. The Council may specify that no house shall be constructed with an internal floor area of less than 100 square metres or constructed of material other than external brick walls and tile roof.</li> <li>6. The Council may require an owner of a subdivided lot within the area, as a condition of development for any Building Permit issued in the zone, to commence a tree planting programme to its specification of Australian native trees on lots it considers require tree cover improvement and require the owner to maintain these trees.</li> <li>7. The land is to be managed in such a manner and stocking level is restricted so as to avoid the land being laid bare of vegetation resulting in loose wind erodable conditions.</li> <li>8. Prior to the Town Planning Board granting approval to the subdivision of the whole or part of the Scheme</li> </ol>

APPENDIX 7SPECIAL RURAL ZONES - PROVISIONS RELATING TO SPECIFIED AREA

SPECIAL RURAL ZONE NO. 2 - "BULLSBROOK EAST"	
SPECIFIED AREA OF SPECIAL RURAL ZONE	SPECIAL PROVISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 8.2.1.9
	area each lot being subdivided shall have a boundary fire break being no less than 3 metres wide constructed to the satisfaction of the Council.

## APPENDIX 7

## SPECIAL RURAL ZONES - PROVISIONS RELATING TO SPECIFIED AREA

SPECIAL RURAL ZONE NO. 3 - "TILDEN PARK"	
SPECIFIED AREA OF SPECIAL RURAL ZONE	SPECIAL PROVISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 8.2.1.9
<p>Lots 1, 6 &amp; 7 Swan Location 1317, off Old Coast Road and Pt. Lot 2 &amp; Lot 151 Swan Locations 1317, Toodyay Road, Gidgegannup</p> <p>Being an area north of Toodyay Road outside the Eastern Corridor, to the north and east of the Gidgegannup Townsite as delineated on Scheme Maps No's 37, 38, 39 and 40.</p> <p>The purpose and intent of this special rural zone is to create an area for equestrian uses related to the existing facilities within the Gidgegannup area and Townsite.</p>	<ol style="list-style-type: none"> <li>1. Subdivision of Special Rural Zone No. 3 shall be in accordance with the Subdivisional Guide Plan as endorsed by the Shire Clerk and with the following criterion: <ol style="list-style-type: none"> <li>a) Average lot size shall be 4 hectares with minimum lot size 2 hectares.</li> </ol> </li> <li>2. a) The following uses are permitted - 'P': <ul style="list-style-type: none"> <li>. Dwelling House</li> <li>. Stable</li> </ul> <p>b) The following uses are not permitted unless Council gives its approval in writing - 'AA':</p> <ul style="list-style-type: none"> <li>. Home Occupation</li> <li>. Private Recreation</li> <li>. Public Recreation</li> <li>. Public Utility</li> <li>. Rural Pursuit</li> <li>. Veterinary Consulting Rooms</li> </ul> <p>c) All other uses not mentioned under a) and b) and rural pursuits which normally require the issue of any licence and permit other than that referred to in b) above, are not permitted.</p> </li> <li>3. No building on a lot shall be constructed closer to any boundary of the lot than 15 metres except that the Council may approve a lesser distance if it can be shown to be necessary or desirable for reasons of topography or other site conditions.</li> <li>4. Where open space is vested in the Crown for recreation purposes and that open space is situated along a stream or creek alignment no septic tanks shall be installed closer than 100 metres to that creek or stream.</li> <li>5. The Council may specify that no house shall be constructed with an internal floor area of less than 100 square metres.</li> </ol>

## APPENDIX 7

## SPECIAL RURAL ZONES - PROVISIONS RELATING TO SPECIFIED AREA

SPECIAL RURAL ZONE NO. 4 - "HENLEY BROOK"	
SPECIFIED AREA OF SPECIAL RURAL ZONE	SPECIAL PROVISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 8.2.1.9
<p>Lot 378, Swan Loc. G, Cnr. Woollcott Avenue and West Swan Road; Lots 379 &amp; 380, Swan Location G &amp; G1, West Swan Road; Lot 4, Swan Location E, Cnr. West Swan Road and Park Street; Lots 358 &amp; 2, Swan Location 1315, Murray Road; Lot 1, Swan Location 1315 off Lawson Road; Lot 360, Swan Location 1315, Woollcott Avenue; Pt. Lot 3, Swan Location E1 &amp; 2516, Park Street; &amp; Lot 156 Swan Location 2516, Henley Street.</p> <p>Being an area south of Henley Street, generally between Murray Road and West Swan Road to Woollcott Avenue as delineated on Scheme Maps No's 16 &amp; 24.</p> <p>The purpose and intent of this special rural zone is to abate the pressure for further subdivision and the location of non-compatible uses within the Swan Valley located east of West Swan Road by providing for a multiplicity of small holding uses with the primary aim of being an equestrian and rural residential area.</p>	<ol style="list-style-type: none"> <li>1. Subdivision of Special Rural Zone No. 4 the Henley Brook Estate, shall be in accordance with the Subdivisional Guide Plan as endorsed by the Shire Clerk and with the following criteria: <ol style="list-style-type: none"> <li>a) Minimum lot size shall be 2 hectares;</li> <li>b) A bridle path system incorporated into the design connecting the Special Rural Zone Whiteman Park.</li> </ol> </li> <li>2. a) The following uses are permitted - 'P': <ul style="list-style-type: none"> <li>. Dwelling House</li> <li>. Stable</li> </ul> <p>b) The following uses are not permitted unless Council gives its approval in writing - 'AA':</p> <ul style="list-style-type: none"> <li>. Home Occupation</li> <li>. Private Recreation</li> <li>. Public Recreation</li> <li>. Public Utility</li> <li>. Rural Pursuit</li> <li>. Veterinary Consulting Rooms</li> </ul> <p>c) All other uses not mentioned under a) and b) and rural pursuits which normally require the issue of any licence and permit other than that referred to in b) above, are not permitted.</p> </li> <li>3. a) Where a lot fronts the future alignment of Lord Street no building may be constructed closer than 30 metres to that lot boundary except where, in the opinion of Council, a variation is considered necessary. <p>b) No other lots within the area may contain a building having a front setback less than 15 metres to its lot boundary except where, in the opinion of Council, a variation is considered necessary. In no instance will a building be permitted having a front setback of less than 7.5 metres.</p> </li> <li>4. Where open space is vested in the Crown for recreation purposes and that open space is situated along a stream or creek alignment, no septic tanks shall be installed closer than 30 metres to that creek or stream.</li> <li>5. The Council may specify that no house shall be constructed with an internal floor area of less than 100 square metres. No building shall be constructed within the Zone of materials, the nature, colour or texture of which, in the opinion of the Council, is undesirable for the locality.</li> <li>6. Prior to issuing any Building Licence, Council shall</li> </ol>

## APPENDIX 7

SPECIAL RURAL ZONES - PROVISIONS RELATING TO SPECIFIED AREA

SPECIAL RURAL ZONE NO. 4 - "HENLEY BROOK"	
SPECIFIED AREA OF SPECIAL RURAL ZONE	SPECIAL PROVISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 8.2.1.9
	<p>be satisfied that there is sufficient vertical separation between any proposed on-site effluent disposal and to the water table to minimise any pollution to underground water supplies.</p> <p>7. All roads within the Special Rural Zone being 20m wide with the exception of Henley Street west of the bridle path, which is to be 25m.</p>

## APPENDIX 7

## SPECIAL RURAL ZONES - PROVISIONS RELATING TO SPECIFIED AREA

SPECIAL RURAL ZONE NO. 4A - "HENLEY BROOK"	
SPECIFIED AREA OF SPECIAL RURAL ZONE	SPECIAL PROVISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 8.2.1.9
Pt. Lot 3, Locs. E1 and 2516, Loc. 501 and Loc. 1628 Pt. Loc. 722 Henley Street, Henley Brook	<ol style="list-style-type: none"> <li>1. Subdivision of this Special Rural Zone is to be in accordance with the plan of subdivision attached to this amendment and endorsed by the Shire Clerk and shall be in accordance with the following criteria:               <ol style="list-style-type: none"> <li>a) Minimum lot size shall be 2 ha.</li> <li>b) A bridle path system incorporated into the design connecting the Special Rural Zone to Whiteman Park.</li> </ol> </li> <li>2. a) The following use is permitted - 'P' - within the Special Rural Zone:               <ul style="list-style-type: none"> <li>. Dwelling House</li> </ul> </li> <li>b) The following uses are not permitted unless Council gives its approval in writing - 'AA':               <ul style="list-style-type: none"> <li>. Home Occupation</li> <li>. Public Utility</li> </ul> </li> <li>c) The following uses are not permitted unless approval is granted by Council and Council is advised by the Water Authority of Western Australia that a licence would be issued for the use of groundwater in the amounts necessary for the development:               <ul style="list-style-type: none"> <li>. Stables</li> <li>. Rural Pursuit</li> <li>. Private Recreation</li> <li>. Public Recreation</li> </ul> </li> <li>d) All other uses not mentioned under a), b) and c) above and Rural pursuits, other than those referred to in b) above, which normally require the issue of any licence and permit are not permitted - 'X'.</li> <li>3. The Council may specify that no house shall be constructed with an internal floor area of less than 100 square metres. No building shall be constructed within the Zone of materials, the nature, colour or texture of which, in the opinion of the Council, is undesirable for the locality.</li> <li>4. The Council may require an owner of a subdivided lot within the area to commence a tree planting programme to its specification, of Australian native trees on lots it considers require tree cover improvement.</li> <li>5. The subdivider shall ensure that each prospective purchaser of a subdivided lot acknowledges in writing at the time of purchase of a lot a schedule of conditions relating to the subdivision. Such schedule shall include the following provisions:</li> </ol>

## APPENDIX 7

## SPECIAL RURAL ZONES - PROVISIONS RELATING TO SPECIFIED AREA

SPECIAL RURAL ZONE NO. 4A - "HENLEY BROOK"	
SPECIFIED AREA OF SPECIAL RURAL ZONE	SPECIAL PROVISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 8.2.1.9
	<p>a) As these lots are within a public water supply and underground water pollution control area the requirements and regulations of the Water Authority of Western Australia regarding the use of the groundwater and the protection of groundwater supplies shall apply. The Water Authority of Western Australia is unlikely to issue a licence for the use of groundwater for amounts more than 1,500m<sup>3</sup> per annum. This is sufficient for house and domestic garden requirements and for the irrigation of approximately 0.1 ha of pasture or other crops.</p> <p>b) The siting of bores on each lot shall be carried out in consultation with the Water Authority of Western Australia, having regard to the position of effluent systems, the spacing of bores between neighbouring lots and the Water Authority of Western Australia's bores.</p> <p>6. Prior to Council issuing any licence to build within the zone, the Council shall be satisfied that there is sufficient vertical separation between the bottom of any proposed onsite effluent disposal system and the highest known level of the water table.</p> <p>7. Any person who keeps an animal or animals or who uses any land in the zone for the exercise or training or an animal or animals shall be responsible for appropriate measures to prevent dust pollution and soil erosion to the satisfaction of the Council. These measures may include:</p> <ul style="list-style-type: none"> <li>(i) Seeding, cultivating, top dressing and/or stocking so as to maintain vegetative cover;</li> <li>(ii) Installing sprinkler or ground water irrigation where necessary to maintain soil moisture at a level that will prevent wind blown dust;</li> <li>(iii) Constructing feed lot facilities;</li> <li>(iv) Adopting any other management system that prevents dust arising or soil erosion.</li> </ul> <p>Where in the opinion of the Council the continued presence of animals on any portion of land in the zone is likely to contribute, or is contributing to dust pollution or soil erosion, notice may be served on the owner of the said portion of land, requiring the immediate removal of those animals specified in the notice for a period specified in the notice.</p>



## APPENDIX 7

## SPECIAL RURAL ZONES - PROVISIONS RELATING TO SPECIFIED AREA

SPECIAL RURAL ZONE NO. 5 - "SUSANNAH BROOK FARMS"	
SPECIFIED AREA OF SPECIAL RURAL ZONE	SPECIAL PROVISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 8.2.1.9
<p>Lots 14, 15 &amp; 16, Swan Location 1317 Cnr. Stoneville &amp; Cameron Roads, Gidgegannup as delineated on Scheme Map No. 37.</p> <p>The purpose and intent of this zone is to create a range of lots for rural residential living in line with the proposals for Perth's Eastern Corridor Study and the Council's "Eastern Corridor Supplementary Study - Toodyay Road South".</p>	<ol style="list-style-type: none"> <li>1. Subdivision of Special Rural Zone No. 5 shall be in accordance with the Subdivisional Guide Plan as endorsed by the Shire Clerk and with the following criterion: <ol style="list-style-type: none"> <li>a) The average lot size shall be 3 ha with a minimum lot size of 2 ha.</li> </ol> </li> <li>2. a) The following uses are permitted - 'P': <ul style="list-style-type: none"> <li>. Dwelling House</li> <li>. Stable</li> </ul> <p>b) The following uses are not permitted unless Council gives its approval in writing - 'AA':</p> <ul style="list-style-type: none"> <li>. Home Occupation</li> <li>. Private Recreation</li> <li>. Public Recreation</li> <li>. Public Utility</li> <li>. Rural Pursuit</li> <li>. Veterinary Consulting Rooms</li> </ul> <p>c) All other uses not mentioned under a) and b) and rural pursuits which normally require the issue of a licence or permit referred to in b) above are not permitted.</p> </li> <li>3. No building on a lot may be constructed closer to any boundary of the lot than a distance of 20 metres except that Council may approve a lesser distance if it can be shown to be necessary or desirable for reasons of topography or other site conditions.</li> <li>4. No dwelling unit of a less area than 190m<sup>2</sup> of roof area and 100m<sup>2</sup> of internal floor area shall be constructed.</li> <li>5. A supply of second class water shall be provided by either an earthen dam, a soak, a bore or reticulated from the existing dam.</li> <li>6. The management of the open space shall be undertaken in accordance with the following: <ol style="list-style-type: none"> <li>a) An agreement between the Shire of Swan and the landowner, Bouverie Nominees Pty. Ltd. and his successors and assigns for: <ol style="list-style-type: none"> <li>(i) The maintenance of the existing dam and environs.</li> <li>(ii) The maintenance of firebreaks in the north-south open space link to the satisfaction of the Shire of Swan and as prescribed in the Bushfires Act.</li> </ol> </li> </ol> </li> </ol>

## APPENDIX 7

## SPECIAL RURAL ZONES - PROVISIONS RELATING TO SPECIFIED AREA

SPECIAL RURAL ZONE NO. 5 - "SUSANNAH BROOK FARMS"	
SPECIFIED AREA OF SPECIAL RURAL ZONE	SPECIAL PROVISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 8.2.1.9
	b) An agreement between the Shire of Swan and the landowner Bouwerie Nominees Pty. Ltd. his successors and assigns for the maintenance of delivery and reticulation lines, pumps and tanks associated with the reticulation of 2nd class water as referred to in Clause 5.

## APPENDIX 7

## SPECIAL RURAL ZONES - PROVISIONS RELATING TO SPECIFIED AREA

SPECIAL RURAL ZONE NO. 6 - "ROLAND ROAD RURAL ESTATE"	
SPECIFIED AREA OF SPECIAL RURAL ZONE	SPECIAL PROVISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 8.2.1.9
<p>Lots 3 &amp; 10 Swan Loc. 1317 Cnr. Toodyay and Roland Roads Gidgegannup as delineated on Scheme Map No. 36.</p> <p>The purpose and intent of this Special Rural Zone is to create an area for rural small holdings and to rehabilitate the land to a standard acceptable to the Department of Agriculture and the Council.</p>	<ol style="list-style-type: none"> <li>1. Subdivision of Special Rural Zone No. 7 shall be in accordance with the Subdivisional Guide Plan as endorsed by the Shire Clerk and with the following criterion: <ol style="list-style-type: none"> <li>a) Minimum lot size shall be 15 hectares.</li> </ol> </li> <li>2. a) The following uses are permitted - 'P': <ul style="list-style-type: none"> <li>. Dwelling House</li> <li>. Stable</li> </ul> <p>b) The following uses are not permitted unless Council gives its approval in writing - 'AA':</p> <ul style="list-style-type: none"> <li>. Home Occupation</li> <li>. Private Recreation</li> <li>. Public Recreation</li> <li>. Public Utility</li> <li>. Rural Pursuit</li> <li>. Veterinary Consulting Rooms</li> <li>. Veterinary Hospital</li> </ul> <p>c) All other uses not mentioned under a) and b) and rural pursuits which normally require the issue of any licence and permit other than that referred to in b) above, are not permitted.</p> </li> <li>3. All development shall conform to the intent of the Special Rural Zone as mentioned below: <ol style="list-style-type: none"> <li>a) The maintenance of a rural environment.</li> <li>b) The avoidance of deleterious visual impact.</li> <li>c) The development of water supply by individual occupiers.</li> <li>d) The freedom of occupiers to exercise a variety of use options within the framework of the specified criteria and these general conditions.</li> <li>e) A high standard of improvements.</li> <li>f) The preservation of trees.</li> <li>g) Avoidance of fire risks.</li> </ol> </li> <li>4. No dwelling may be constructed having a roof area of less than 150m<sup>2</sup>.</li> <li>5. Outbuildings and structures shall be constructed to the satisfaction of the Council. The Council may refuse permission to construct or order the removal of such buildings, should the buildings be deemed to prevent the maintenance of the intentions of the Scheme as set out in the introduction.</li> <li>6. Clearing of indigenous vegetation shall be limited to the area shown as Building Envelopes on the</li> </ol>

## APPENDIX 7

## SPECIAL RURAL ZONES - PROVISIONS RELATING TO SPECIFIED AREA

SPECIAL RURAL ZONE NO. 6 - "ROLAND ROAD RURAL ESTATE"	
SPECIFIED AREA OF SPECIAL RURAL ZONE	SPECIAL PROVISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 8.2.1.9
	<p>Subdivisional Guide Plan. Any clearing outside the Building Envelope shall require the written approval of Council and shall be such as to conform to the intent of the Scheme as expressed in Paragraph 3 of this Appendix of the Scheme Text.</p> <p>Clearing in each lot fronting the proposed scenic drive and Roland Road shall be restricted so as to leave a strip 20 metres wide along the frontage and no clearing, ploughing or harrowing etc., which would prevent re-growth, shall be permitted within these strips.</p> <p>7. No trees of a girth greater than 0.3 metres measured at 0.5 metres from the ground shall be removed without the written permission of Council.</p> <p>The Council may require an owner of a lot within the area to commence a tree planting programme to its specification of Australian native trees on lots it considers require tree cover improvement.</p> <p>8. Tracks within the lots shall be constructed of earth or gravel. Roads and tracks shall be located in such a way as to prevent scouring on adjacent land. No road or track shall be constructed without the consent of Council and such construction shall conform to the intention of the Special Rural Zone.</p> <p>9. Second class water is to be obtained from ground water sources and or surface run-off, wells or bores and dams. No well or bore shall be located closer than 30 metres from a septic tank, leach drain or dry well. The occupier shall inform the Council of the location of viable bores or wells on their completion. Prior to construction of a dam a plan showing the location, size and method of construction shall be presented to the Council. No dam shall be constructed without the written approval of the Council. The location of dams shall take into consideration the drainage from roads. An adequate spillway must be provided for dams.</p> <p>10. No septic tank or leach drain shall be located within 100 metres of any water course.</p>

## APPENDIX 7

## SPECIAL RURAL ZONES - PROVISIONS RELATING TO SPECIFIED AREA

SPECIAL RURAL ZONE NO. 7 - "BELHUS ESTATE"	
SPECIFIED AREA OF SPECIAL RURAL ZONE	SPECIAL PROVISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 8.2.1.9
<p>Portion of Part Lot 3 and portion of Lot 20, Belhus Estate, Upper Swan as delineated on Scheme Map No. 25.</p> <p>The purpose and intent of this Special Rural Zone is to create a range of lots for hobby farm activities, retain a substantial area along Ellen Brook for public open space and to conserve an area of historic interest listed by the National Trust.</p>	<ol style="list-style-type: none"> <li>1. Subdivision of Special Rural Zone No. 7 shall be in accordance with the Subdivisional Guide Plan as endorsed by the Shire Clerk and with the following criterion: <ol style="list-style-type: none"> <li>a) Minimum lot size shall be 2 hectares.</li> </ol> </li> <li>2. a) The following uses are permitted - 'P': <ul style="list-style-type: none"> <li>. Dwelling House</li> </ul> <p>b) The following uses are not permitted unless the Council gives its approval in writing - 'AA':</p> <ul style="list-style-type: none"> <li>. Home Occupation</li> <li>. Private Recreation</li> <li>. Public Recreation</li> <li>. Public Utility</li> <li>. Stable</li> <li>. Rural Pursuit</li> <li>. Veterinary Consulting Rooms</li> </ul> <p>c) All other uses not mentioned under a) and b) and rural pursuits which require the issue of any licence or permit, are not permitted.</p> </li> <li>3. The area of a lot within 20 metres of a public road shall be designated as a tree protection area and no clearing of vegetation except for the purpose of a firebreak or accessway shall be permitted except that trees which are dead, diseased or dying may be removed.</li> <li>4. The Council may require an owner of a lot to commence a tree planting programme if it considers the lot requires additional tree cover improvement. <p>Tree planting shall be undertaken on the areas shown on the Subdivisional Guide Plan of species and to a density to the approval of Council.</p> </li> <li>5. Council may specify that no house shall be constructed with an internal floor area of less than 100 square metres. All buildings shall be constructed of materials and in colours acceptable to the Council.</li> <li>6. No septic tank or disposal area shall be sited closer than 100 metres to any watercourse or stream within the zone, except in the case of a dwelling existing prior to the gazettal of the Amendment where such a requirement shall be at the discretion of the Council.</li> <li>7. The Council may enter into an agreement with the owner or owners of any land abutting the public open space for the management of the open space including the grazing of animals thereon.</li> <li>8. The easement shown on the Subdivisional Guide Plan</li> </ol>

## APPENDIX 7

## SPECIAL RURAL ZONES - PROVISIONS RELATING TO SPECIFIED AREA

SPECIAL RURAL ZONE NO. 7 - "BELHUS ESTATE"	
SPECIFIED AREA OF SPECIAL RURAL ZONE	SPECIAL PROVISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 8.2.1.9
	<p>providing access through the area designated on the Plan as "Historic Area" shall be an easement in gross in favour of the Council, or some effective alternative which will guarantee right of public pedestrian access at all times.</p> <p>9. The dam and dam wall on the lot adjacent to the Historic Area lot shall at all times be maintained in sound condition, with an adequate level of water in the dam to ensure visual amenity, and with the flow of water regulated so as to protect the adjacent lot.</p> <p>10. The owner of the lot containing the dam shall not construct a fence along that section of the lot boundary in or adjacent to the public open space adjoining the dam without the written approval of the Council.</p> <p>11. The Historic Area generally shall be maintained in a sound condition and provision made for public access on an annual or other basis to the approval of the National Trust (W.A.). The old house and grape pickers' quarters shall be restored and maintained to the approval of the National Trust (W.A.).</p> <p>12. To ensure the execution of any of the above requirements the Council may require the owner of any lot to enter into a legal agreement with the Council to that effect.</p>

## APPENDIX 7

## SPECIAL RURAL ZONES - PROVISIONS RELATING TO SPECIFIED AREA

SPECIAL RURAL ZONE NO. 8 - "SWAN VALLEY SPECIAL RURAL AND RECREATION"	
SPECIFIED AREA OF SPECIAL RURAL ZONE	SPECIAL PROVISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 8.2.1.9
<p>Portion of Swan Location 1317 and being Lot 15, portion of Swan Location 4 and Swan Location 2, Haddrill Road, Millendon and Copley Road, Upper Swan.</p> <p>The purpose and intent of this Special Rural Zone is to create a high quality rural estate with recreational facilities and to return areas of the river valley to the ownership of the Crown for management by the National Parks Authority.</p>	<ol style="list-style-type: none"> <li>1. Subdivision of Special Rural Zone No. 9 shall be in accordance with the Subdivisional Guide Plan as endorsed by the Shire Clerk and with the following criteria: <ol style="list-style-type: none"> <li>a) Average lot size shall be not less than 4 ha.</li> <li>b) No lot shall have an area of less than 1.5 ha.</li> </ol> </li> <li>2. a) The following uses are permitted within Special Rural Zone - Swan Valley Special Rural and Recreation - 'P': <ul style="list-style-type: none"> <li>. Dwelling House</li> </ul> <p>b) The following uses are not permitted unless Council gives its approval in writing 'AA':</p> <ul style="list-style-type: none"> <li>. Home Occupation</li> <li>. Private Recreation</li> <li>. Public Assembly</li> <li>. Public Recreation</li> <li>. Public Utility</li> <li>. Rural Pursuit</li> <li>. Stable</li> <li>. Veterinary Hospital</li> </ul> <p>c) All other uses not mentioned under a) and b) and rural pursuits which require the issue of any licence or permit are not permitted.</p> </li> <li>3. The Parks and Recreation Reserve in Stage 1, adjacent to the Equestrian Centre, being vested in the Crown under Section 20A of the Town Planning and Development Act for revesting in the Shire of Swan. The remainder of the Parks and Recreation Reserve, as shown on the Subdivisional Guide Plan being transferred to the National Parks Authority at the time of final approval to the rezoning.</li> <li>4. The coverage of each individual lot by buildings shall not exceed 3% of the area of that lot.</li> <li>5. The Council may require that any fencing of whatsoever kind be constructed before it gives to the Board clearance or otherwise indicates to the Board its satisfaction with the performance by the subdivider of any conditions imposed by the Board upon its approval of the subdivision. The Council where appropriate may require that the cost of fencing be borne by the subdivider.</li> <li>6. Prior to the Council giving any clearance to the Board of the conditions imposed on the Board's approval of the subdivision, each lot within the area proposed to be subdivided shall be supplied with a boundary fire break no less than 3 metres wide constructed to the satisfaction of the Council except in those instances where strategic fire breaks have been constructed by the subdivider in a manner which obviates the need for additional protection.</li> </ol>

## APPENDIX 7

## SPECIAL RURAL ZONES - PROVISIONS RELATING TO SPECIFIED AREA

SPECIAL RURAL ZONE NO. 8 - "SWAN VALLEY SPECIAL RURAL AND RECREATION"	
SPECIFIED AREA OF SPECIAL RURAL ZONE	SPECIAL PROVISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 8.2.1.9
	<p>7. Within areas identified on the Subdivisional Guide Plan as Vegetation Protection Areas, no person shall cut, remove or otherwise destroy any tree except with the approval of the Council and then only for the purposes of building construction and access thereto from a public road.</p> <p>8. No building shall be constructed closer than 15 metres to a lot boundary, except that Council may approve a lesser distance if it can be shown to be necessary or desirable for reasons of topography or other site conditions.</p> <p>9. Where a strategic fire break designated on the Subdivisional Guide Plan passes through land in public or private ownership the subdivider shall construct and the owner shall maintain a 6 metre wide space for emergency access and equestrian traffic. The fire break shall be kept open at all times in a manner suitable for access by vehicles during emergency situations.</p> <p>10. Water quick-fill facilities for bush fire fighting shall be provided at the cost of the subdivider at places designated on the Subdivisional Guide Plan. The facilities will be such that water remains permanently available in volume and speed of delivery suitable for fire fighting purposes.</p> <p>11. Where open space is vested in the Crown for recreation purposes within Special Rural Zone - Swan Valley Special Rural and Recreation and that open space is situated along a stream or creek alignment no septic tanks shall be installed closer than 100 metres to the creek or stream.</p> <p>12. It is intended that strategic fire breaks will be used by pedestrian and equestrian traffic only other than at the time of emergencies and for the purposes of maintaining such fire breaks and adjoining parkland. Vehicles shall not otherwise have thoroughfare over strategic fire breaks.</p> <p>13. The developer shall construct a water supply system within the Scheme Area to the specification of the Water Authority of Western Australia and will thereafter maintain it to the satisfaction of that Authority until such time as the Water Authority may take over the system.</p> <p>14. Development of land adjacent to the Swan River shall provide for the disposal of stormwater to the satisfaction of the Swan River Management Authority.</p> <p>15. At the time of consideration by the Town Planning Board of each stage of subdivision the developer shall mark each lot on the ground so as to enable assessment of the ability of each lot to accommodate an on-site effluent disposal system.</p>



APPENDIX 7SPECIAL RURAL ZONES - PROVISIONS RELATING TO SPECIFIED AREA

SPECIAL RURAL ZONE NO. 8 - "SWAN VALLEY SPECIAL RURAL AND RECREATION"	
SPECIFIED AREA OF SPECIAL RURAL ZONE	SPECIAL PROVISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 8.2.1.9
	<p>16. Prior to the final approval of a plan or diagram of subdivision the developer shall produce certificates from a registered engineer that each of the lots within the subdivision is geologically suitable for the construction of a dwelling house within the defined building envelope.</p> <p>17. With the approval of the Town Planning Board, the Subdivisional Guide Plan may be modified where circumstances direct, but the number of lots created through subdivision of the entire property shall not exceed 390.</p> <p>18. At the time of subdivision of the uplands area identified as Stages 2, 3, 4 5 and 6 in the Scheme Report, the developer will provide for an escape access for motor vehicles from the property to connect to either O'Brien Road or Weir Road.</p>

Adopted for final approval by resolution of the Council of the Shire of Swan at the **Ordinary** meeting of the Council held on the **twenty sixth** day of **August, 1985** and the seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of:

(Seal)

C. M. GREGORINI,  
President.

G. WATTERS,  
Acting Shire Clerk.

Recommended/  
Submitted for  
final approval

M. FEILMAN,  
Chairman of the  
Town Planning Board.

Date: 14 November 1985

Final approval

R. J. PEARCE,  
Minister for Planning.

Date: 18 November 1985