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PLANNING AND DEVELOPMENT ACT 2005

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SHIRE OF KALAMUNDA

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LOCAL PLANNING  
SCHEME No. 3



**PLANNING AND DEVELOPMENT ACT 2005**

## APPROVED LOCAL PLANNING SCHEME

*Shire of Kalamunda*

## Local Planning Scheme No. 3

Ref: 853/2/24/20

It is hereby notified for public information, in accordance with section 87 of the *Planning and Development Act 2005* that the Minister for Planning and Infrastructure approved the Shire of Kalamunda Local Planning Scheme No. 3 on 20 February 2007, the scheme text of which is published as a Schedule annexed hereto.

E. TAYLOR, Shire President.  
D. E. VAUGHAN, Chief Executive Officer.

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**PLANNING AND DEVELOPMENT ACT 2005***Shire of Kalamunda***RESOLUTION TO INITIATE A LOCAL PLANNING SCHEME****LOCAL PLANNING SCHEME No. 3**

Resolved that the Council under the power of the *Planning and Development Act 2005*, initiate the Shire of Kalamunda Local Planning Scheme No. 3.

Dated this 19th day of February 2001.

D. E. VAUGHAN, Chief Executive Officer.

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This Local Planning Scheme of the Shire of Kalamunda consists of this Scheme Text and the Scheme Maps. The Scheme Text incorporates the Local Planning Strategy for the Shire of Kalamunda and the two should be read together.

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

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

**PLANNING AND DEVELOPMENT ACT 2005**

## SHIRE OF KALAMUNDA

**LOCAL PLANNING SCHEME No. 3**

The Shire of Kalamunda, under the powers conferred by the *Planning and Development Act 2005* makes the following Local Planning Scheme.

**PART 1—PRELIMINARY****1.1 CITATION**

1.1.1 This Local Planning Scheme may be cited as the Shire of Kalamunda Local Planning Scheme No. 3 (hereinafter called “the Scheme”) and shall come into operation on the publication of the Scheme in the *Government Gazette*.

1.1.2 The following Schemes are revoked—

Scheme Description	Originally Gazetted
The Shire of Kalamunda District Planning Scheme No. 2	<i>Government Gazette</i> on 29th November 1984
The Shire of Kalamunda Town Planning Scheme No. 3	<i>Government Gazette</i> on 9th August 1968
The Shire of Kalamunda Town Planning Scheme No. 11	<i>Government Gazette</i> on 13th August 1982
The Shire of Kalamunda Town Planning Scheme No.12	<i>Government Gazette</i> on 19th February 1982

**1.2 RESPONSIBLE AUTHORITY**

The Shire of Kalamunda is the responsible authority for implementing the Scheme.

**1.3 SCHEME AREA**

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

**1.4 CONTENTS OF THE SCHEME**

The Scheme comprises—

1. The Scheme Text
2. The Scheme Maps (sheets 1-18)

The Scheme is to be read in conjunction with any local planning strategy endorsed by the Council.

**1.5 PURPOSES OF THE SCHEME**

The purposes of the Scheme are to—

- (a) set out the local government’s planning aims and intentions for the Scheme area;
- (b) set aside land as reserves for public purposes;
- (c) zone land within the Scheme area for the purposes defined in the Scheme;
- (d) control and guide land use and development;
- (e) set out procedures for the assessment and determination of planning applications;
- (f) make provisions for the administration and enforcement of the scheme; and
- (g) address other matters contained in Schedule 7 of the *Planning and Development Act 2005* (herein after called “the Act”).

**1.6 THE AIMS OF THE SCHEME**

The aims of the Scheme are—

- (i) to zone the Scheme area 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 Scheme area;
- (ii) to secure the amenity, health and convenience of the Scheme area and the residents thereof;

- (iii) to assist in the protection of regional forest, water catchment, recreational and other resources;
- (iv) to make provisions for the conservation of objects and places of natural, historic, scientific and cultural significance;
- (v) to preserve and enhance the natural environment whilst managing further development;
- (vi) to encourage the continued use of land for rural pursuits in appropriate areas within the District.
- (vii) to make provision for other matters related to town planning and land use.

## 1.7 DEFINITIONS

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

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

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

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

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

## 1.8 RELATIONSHIP WITH LOCAL LAWS

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

## 1.9 RELATIONSHIP WITH THE METROPOLITAN REGION SCHEME

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

*Note: The Authority responsible for implementing the Metropolitan Region Scheme is the Western Australian Planning Commission (hereinafter called "the Commission").*

## PART 2—LOCAL PLANNING POLICY FRAMEWORK

### 2.1 SCHEME DETERMINATIONS TO CONFORM WITH LOCAL PLANNING STRATEGIES

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

### 2.2 LOCAL PLANNING POLICIES

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

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

and may amend or add to or rescind the Policy.

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

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

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

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

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

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

- (a) is to publish a notice of the proposed Policy once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area, giving details of—
  - (i) where the draft Policy may be inspected;
  - (ii) the subject and nature of the draft Policy; and
  - (iii) in what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made;
- (b) may publish a notice of the proposed Policy in such other manner and carry out such other consultation as the local government considers appropriate.



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

- (a) review the proposed Policy in the light of any submissions made; and
- (b) resolve to adopt the Policy with or without modification, or not to proceed with the Policy.

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

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

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

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

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

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

A Local Planning Policy may be revoked by—

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

## **PART 3—RESERVES**

### **3.1 RESERVES**

Certain lands within the Scheme area are classified as—

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

### **3.2 REGIONAL RESERVES**

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

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

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

### **3.3 LOCAL RESERVES**

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

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

3.4.1. A person must not—

- (a) use a Local Reserve; or
- (b) commence or carry out development on a Local Reserve,

without first having obtained planning approval under Part 9 of the Scheme.

3.4.2 In determining an application for planning approval the local government shall have regard to—

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

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

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

### **4.1 ZONES**

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

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

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

The objectives of the zones are—

#### **4.2.1 Residential Zones**

Residential

- To provide primarily for single residential development whilst allowing for a range of residential densities in order to encourage a wide choice of housing types within the Shire.

- To give consideration to grouped dwelling developments if the site is near amenities and can be integrated into the single residential environment.
- To facilitate a range of accommodation styles and densities to cater for all community groups inclusive of the elderly, young people in transition and the handicapped. Such accommodation is supported where it is appropriately situated in proximity to other services and facilities.
- To encourage the retention of remnant vegetation.

#### Residential Bushland

- To promote the development and use of land primarily for single detached houses, ensuring that development is designed and sited in a manner which is sensitive to the environmental characteristics of the land.
- To give due consideration to land uses that are compatible with the amenity of surrounding residential development.
- Encourage the retention and rehabilitation of native vegetation and the minimisation of bush fire hazard.

#### Urban Development

- To provide orderly and proper planning through the preparation and adoption of a Structure Plan setting the overall design principles for the area.
- To permit the development of land for residential purposes and for commercial and other uses normally associated with residential development.

### 4.2.2 Rural Zones—

#### Special Rural

- To enable smaller lot subdivision to provide for uses compatible with rural development.
- To retain amenity and the rural landscape in a manner consistent with orderly and proper planning.

#### Rural Landscape Interest

- Ensure development is in harmony with the natural environment.
- Ensure that land uses, activities and land management practices are consistent with natural resources conservation and are compatible with public water supply objectives.
- Conserve the natural vegetation where such exists so as to maintain a diversity of landscape quality and preserve and promote natural ecosystems.
- Conserve water quality and water course capacity to enable appropriate beneficial land use activities to be undertaken.
- To retain large lot sizes which will allow for rural activities.
- Encourage the reduction of bush fire hazard.

#### Rural Conservation

- Ensure development is in harmony with the natural environment.
- Ensure that land uses, activities and land management practices are consistent with natural resources conservation and are compatible with public water supply objectives.
- Conserve and preserve the bushland status of private freehold and Crown land within the zone.
- Conserve indigenous flora and fauna to ensure the viability of natural ecosystems.
- Encourage the reduction of bush fire hazard.
- To retain large lot sizes.

#### Rural Agriculture

- To protect and maintain the hills horticultural industry.
- To ensure the conservation of soil and water resources important to the well being of the horticulture industry.
- Ensure that land uses, activities and land management practices are consistent with natural resources conservation and are compatible with public water supply objectives.
- To limit the amount of subdivision supported to that which complies with the subdivisional land use and development requirements of this zone.
- To conserve the physical and visual environment of the area.
- Encourage the reduction of bush fire hazard.

#### Rural Composite zone

- To provide for small semi-rural lots that can accommodate a limited range of rural and low scale commercial land uses in a manner that will not adversely affect the landscape and environmental qualities of the land and are appropriate to the area.

#### 4.2.3 Commercial Zones

##### District Centre

- To promote, facilitate and strengthen the District Centres as the major foci of activity, particularly for shopping, business, professional, civic, cultural, entertainment facilities and related employment opportunities.
- Provide for medical and other health related services.
- Allow for the establishment of uses which would co-exist with the District Centre's activities whilst recognising a limited level of residential activities in the District Centre.
- Achieve safety and efficiency in traffic and pedestrian circulation.
- Ensure that the scale, size, design and location of buildings are compatible with the existing development in the District Centre.

##### Commercial

- To serve the needs of a localised area in providing for local shopping facilities, business, professional, civic, cultural, medical and other health related services.
- To ensure that development is designed to be compatible with nearby uses and zones particularly Residential zones.

##### Service Station

- To provide for the requirements of the motoring public in respect to the running and servicing of vehicles.
- To provide for low key requirements ancillary to the needs of motorists.
- Encourage the location of such facilities in association with other non residential uses.

#### 4.2.4 Industrial Zones

##### Light Industry

- To provide for predominantly light industry located in proximity to residential areas.
- To ensure that industries are environmentally compatible with surrounding zones and activities.
- To ensure that the movement of goods and services in and out of the zone cause minimal impact on residential land in the vicinity.

##### General Industry

- To provide for a wide range of manufacturing or associated industrial uses and services whilst allowing for a limited range of non industrial uses where ancillary to predominant industrial uses.
- To ensure that the movement of goods and services in and out of the zone causes minimal impact on the nearby area directly accessing the regional road system.

#### 4.2.5 Other Zones

##### Special Use

- To accommodate a specific use with special conditions on land where the provisions of the zoning table are not sufficiently sensitive or comprehensive to achieve the same objective.

##### Mixed Use

- To provide for business and other commercial uses, but excluding shopping.
- To provide for and encourage residential uses, but on the basis of recognition that the zone allows for considerably more non-residential activities than does a Residential zone.
- To provide for professional, civic uses, medical and health related uses.
- To provide for leisure and entertainment uses on a small scale so as not to unduly impinge on the amenity of the residential component of the zone.
- To ensure that the development in the zone is of such design, size, scale and appearance to be compatible with nearby uses or zones, particularly the Residential zones.

##### Private Clubs and Institutions

- To make provision for privately owned or operated schools, clubs, recreation facilities and similar uses.
- To make provision for privately owned or operated nursing homes, retirement villages, and a range of other residential uses which would be compatible with the type of non residential uses referred to above.
- To ensure that such uses have due regard and do not adversely impact upon the adjoining landuses.

### 4.3 ZONING TABLE

4.3.1 The Zoning Table (Table 1) indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme area in the various zones. The permissibility of any uses is determined by cross reference between the list of uses classes on the left hand side of the Zoning Table and the list of zones at the top of the Zoning Table.

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

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

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

- (a) the local government has exercised its discretion by granting planning approval;
- (b) the change is to a use which is designated with the symbol “P” in the cross reference to that zone in the Zoning Table and the proposed use complies with all the relevant development standards and any requirements of the Scheme;
- (c) the change is an extension of a use within the boundary of the lot which does not change the predominant use of the lot; or
- (d) the change is to an incidental use that does not change the predominant use of the land.

Note:—

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

#### 4.4 INTERPRETATION OF THE ZONING TABLE

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

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

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

<b>TABLE ONE—ZONING TABLE</b>															
P: Means that the use is permitted by the Scheme. D: Means that the use is not permitted unless the Council has granted planning approval. A: Means that the use is not permitted unless the Council has granted planning approval after giving notice in accordance with Clause 9.4 (Advertise). X: Prohibited Use		District Centre	Commercial	Mixed Use	Residential	Residential Bushland	Light Industry	General Industry	Service Station	Private Clubs & Inst.	Special Rural	Rural Composite	Rural Agriculture	Rural Landscape Interest	Rural Conservation
<b>USE CLASSES</b>															
Also Refer To Table 2 Site Requirements and Table 3 Parking Requirements	Aged/Dependant Dwellings	D	D	P	P	A	X	X	X	A	X	X	X	X	X
	Aged Residential Care	D	D	A	A	A	X	X	X	P	X	X	X	X	X
	Agriculture - extensive	X	X	X	X	X	X	X	X	X	D	D	P	D	D
	Agriculture - intensive	X	X	X	X	X	X	X	X	X	D	D	P	D	D
	Amusement Parlour	P	P	X	X	X	D	D	X	X	X	X	X	X	X
	Ancillary Accommodation	D	D	P	P	D	X	X	X	X	D	D	D	D	D
	Animal Establishment	X	X	X	X	X	D	D	X	X	X	A	A	X	X
	Animal Husbandry - intensive	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	Art Gallery	P	P	D	X	A	D	X	X	D	X	X	X	A	A
	Bed and Breakfast	D	X	D	D	A	X	X	X	X	D	D	D	D	D

<b>TABLE ONE—ZONING TABLE</b>														
P: Means that the use is permitted by the Scheme. D: Means that the use is not permitted unless the Council has granted planning approval. A: Means that the use is not permitted unless the Council has granted planning approval after giving notice in accordance with Clause 9.4 (Advertise). X: Prohibited Use														
<b>USE CLASSES</b>	District Centre	Commercial	Mixed Use	Residential	Residential Bushland	Light Industry	General Industry	Service Station	Private Clubs & Inst.	Special Rural	Rural Composite	Rural Agriculture	Rural Landscape Interest	Rural Conservation
Betting Agency	P	P	X	X	X	A	A	X	D	X	X	X	X	X
Caravan Park	X	X	X	A	X	X	X	X	X	X	X	X	X	X
Caretakers Dwelling	P	P	P	X	X	P	P	P	P	X	D	D	X	X
Car Park	P	P	A	X	X	P	P	D	P	X	X	X	X	X
Chalets - short term accommodation	X	X	X	X	X	X	X	X	X	X	X	X	A	X
Child Care Premises	P	P	A	A	D	X	X	X	X	X	X	X	X	X
Cinema/Theatre	P	P	A	X	X	X	X	X	A	X	X	X	X	X
Civic Use	D	D	D	A	A	D	D	X	D	X	X	D	D	D
Club Premises	P	P	A	A	A	P	P	X	P	X	X	A	A	X
Commercial Vehicle Parking	X	X	A	A	A	P	P	P	X	D	D	P	P	D
Community Purpose	P	P	A	A	A	A	A	A	A	X	X	X	X	X
Consulting Rooms	P	P	P	X	X	D	D	X	P	X	X	X	X	X
Convenience Store	D	D	X	X	X	D	D	P	X	X	X	X	X	X
Corrective Institution	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Educational Establishment	D	D	A	A	A	A	X	X	P	X	X	A	A	A
Family Day Care	P	P	D	D	D	X	X	X	D	D	D	D	D	D
Fast Food Outlet	P	P	X	X	X	D	D	A	X	X	X	X	X	X
Fuel Depot	X	X	X	X	X	P	P	P	X	X	X	D	X	X
Funeral Parlour	D	D	A	X	X	D	D	X	D	X	X	X	X	X
Garden Centre	P	P	D	X	X	P	P	X	X	X	A	X	A	X
Grouped Dwelling	D	D	D	D	X	X	X	X	X	X	X	X	X	X
Health/Fitness Centre	P	P	A	X	X	D	D	X	D	X	X	X	X	X
Home Business	P	P	P	A	A	X	X	X	A	X	A	A	A	X
Home Occupation	P	P	P	P	P	X	X	X	X	P	P	P	P	P
Home Store	P	P	A	A	A	X	X	X	X	X	X	X	X	X
Hospital	D	D	A	X	X	X	X	X	D	X	X	X	X	X
Hotel	D	D	X	X	X	X	X	X	A	X	X	X	X	X
Industry	X	X	X	X	X	D	P	X	X	X	X	X	X	X
Industry - Cottage	D	D	X	X	A	P	P	X	A	D	D	D	D	D
Industry - Extractive	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Industry - General	X	X	X	X	X	X	P	X	X	X	X	X	X	X
Industry - Light	X	X	X	X	X	P	P	X	X	X	X	X	X	X
Industry - Mining	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Industry - Rural	X	X	X	X	X	P	P	X	X	X	X	P	X	X
Industry - Service	D	D	X	X	X	P	P	D	X	X	X	X	X	X
Lodging House	A	A	A	A	A	X	X	X	A	X	X	A	X	X
Lunch Bar	P	P	X	X	X	P	P	X	X	X	X	X	X	X
Market	A	A	X	X	X	X	X	X	X	X	X	X	X	X
Medical Centre	P	P	A	X	X	D	X	X	D	X	X	X	X	X
Motel	A	A	X	X	X	X	X	X	X	X	X	X	X	X
Motor Vehicle Repairs	P	P	X	X	X	P	P	P	X	X	X	X	X	X
Motor Vehicle, Boat or Caravan Sales	P	P	X	X	X	D	P	D	X	X	X	X	X	X
Motor Vehicle Wash	D	D	X	X	X	P	P	D	X	X	X	X	X	X

Also Refer To Table 2 Site Requirements and Table 3 Parking Requirements

<b>TABLE ONE—ZONING TABLE</b>															
P: Means that the use is permitted by the Scheme. D: Means that the use is not permitted unless the Council has granted planning approval. A: Means that the use is not permitted unless the Council has granted planning approval after giving notice in accordance with Clause 9.4 (Advertise). X: Prohibited Use		District Centre	Commercial	Mixed Use	Residential	Residential Bushland	Light Industry	General Industry	Service Station	Private Clubs & Inst.	Special Rural	Rural Composite	Rural Agriculture	Rural Landscape Interest	Rural Conservation
<b>USE CLASSES</b>															
Also Refer To Table 2 Site Requirements and Table 3 Parking Requirements	Motor Vehicle Wrecking	X	X	X	X	X	P	P	X	X	X	X	X	X	
	Museum	A	A	X	X	X	X	X	X	X	X	X	X	X	
	Night Club	A	A	X	X	X	A	A	X	X	X	X	X	X	
	Office	P	P	D	X	X	D	D	X	D	X	X	X	X	
	Park Home Park	X	X	X	A	X	X	X	X	X	X	X	X	X	
	Place of Worship	D	D	A	A	A	P	P	X	P	X	X	X	X	
	Public Utility	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Recreation - Private	D	D	D	X	X	P	P	X	P	X	X	X	X	
	Reception Centre	P	P	A	X	X	D	D	X	D	X	X	X	A	X
	Restaurant	P	P	A	X	X	D	X	X	X	X	X	X	A	X
	Restricted Premises	X	X	X	X	X	D	D	X	X	X	X	X	X	X
	Rural Pursuit	X	X	X	X	X	X	X	X	X	D	D	P	P	D
	Salvage Yard	X	X	X	X	X	P	P	X	X	X	X	X	X	X
	Service Station	P	P	X	X	X	P	P	P	X	X	X	X	X	X
	Shop	P	P	X	X	X	X	X	X	X	X	X	X	X	X
	Showroom	P	P	X	X	X	P	P	X	X	X	X	X	X	X
	Single House	D	D	P	P	P	X	X	X	D	D	P	P	P	P
	Stable	X	X	X	X	X	X	X	X	D	P	P	P	D	D
	Storage	X	X	X	X	X	P	P	X	X	X	X	X	X	X
	Tavern	D	D	X	X	X	D	D	X	X	X	X	X	X	X
	Telecommunications infrastructure	D	D	A	A	A	P	P	D	D	D	D	D	D	D
	Trade Display	D	D	D	X	X	D	D	X	X	X	X	X	X	X
	Transport Depot	X	X	X	X	X	P	P	X	X	X	X	A	X	X
Veterinary Centre	P	P	A	X	X	P	P	X	X	X	A	A	A	X	
Warehouse	D	D	X	X	X	P	P	X	X	X	X	X	X	X	
Winery	X	X	X	X	X	X	X	X	X	X	X	A	D	D	

#### 4.5 ADDITIONAL USES

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

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

#### 4.6 RESTRICTED USES

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

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

#### 4.7 SPECIAL USE ZONES

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

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

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

**4.8 NON-CONFORMING USES**

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

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

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

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

4.9.1 A person must not—

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

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

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

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

**4.10 DISCONTINUANCE OF NON-CONFORMING USE**

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

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

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

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

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

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

**PART 5—GENERAL DEVELOPMENT REQUIREMENTS****5.1 COMPLIANCE WITH DEVELOPMENT STANDARDS AND REQUIREMENTS**

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

**5.2 RESIDENTIAL DESIGN CODES**

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

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

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

**5.3 SPECIAL APPLICATIONS OF RESIDENTIAL DESIGN CODES**

Location and design criteria for grouped dwelling developments (including aged and dependent persons dwellings) should address the following matters

5.3.1. Local government considers that—

- (i) inappropriately situated and designed Grouped Dwellings have the potential to create a negative impact on the amenity of other residential development in the area and to detract from the streetscape;
- (ii) any grouped dwelling development (including aged or dependent persons dwellings) should be situated in proximity to services and facilities normally associated with an urban area. Such services and facilities may include public open space, commercial and/or community services, public transport routes and pedestrian linkages; and

- (iii) appropriately designed Grouped Dwellings should protect or improve the amenity of other residential development in the area or of the streetscape.

5.3.2 The Design Criteria are intended to relate to all Grouped Dwelling development in the Shire, and in respect of guidelines in the Scheme for the Kalamunda Town Centre Design Control Area, the Design Criteria are intended to complement and not replace such guidelines.

5.3.3 In considering an application for Grouped Dwelling development, the local government may have regard to the following matters—

- (i) Site planning
- (ii) Lot Layout
- (iii) Street setbacks
- (iv) Building Envelopes
- (v) Privacy
- (vi) On-site Car parking and Access
- (vii) Private Open Space
- (viii) Communal Open Space and Landscaping
- (ix) Safety and Security
- (x) Energy Efficiency
- (xi) Site Facilities
- (x) Sites on traffic routes
- (xi) Bush fire Protection

5.3.4 Notwithstanding that clause 3.1.3 of the Residential Design Codes empowers the local government to vary the provisions of the Codes to reduce the minimum site area by up to one third for Aged or Dependent Persons' Dwellings, the local government may, at its discretion, not permit such variation where it considers that such dwellings—

- (i) will be out of character with the amenity of the area;
- (ii) will be isolated from services and facilities described in sub-clause 5.3.1 (ii);
- (iii) do not incorporate appropriate provision for the special needs of their prospective occupants; and
- (iv) do not provide appropriate amenities such as communal facilities or open space to service the needs of aged or dependent residents.

5.3.5 Local government may refuse to approve an application for development, or may require modification to an application in circumstances where local government believes criteria described in subclause 5.3.3 and 5.3.4 above are not being met.

#### **5.4 SPECIAL APPLICATIONS FOR THE SUBDIVISION OF LAND**

Council will not support the subdivision of land identified within the Kewdale Hazelmere Integrated Master Plan.

#### **5.5 RESTRICTIVE COVENANTS**

5.5.1 Subject to clause 5.4.2, a restrictive covenant affecting any land in the Scheme area by which, or the effect of which, is that the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Design Codes which apply under the Scheme.

5.5.2 Where clause 5.4.1 operates to extinguish or vary a restrictive covenant the local government is not to grant planning approval to the development of the land which would, but for the operation of clause 5.4.1, have been prohibited unless the application has been dealt with as an "A" use and has complied with all of the advertising requirements of clause 9.4.

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

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

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

- (a) consult the affected parties by following one or more of the provisions for advertising uses pursuant to clause 9.4; and
- (b) have regard to any expressed views prior to making its decision to grant the variation.

5.6.3 The power conferred by this clause may only be exercised if the local government is satisfied that—

- (a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2; and
- (b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.



TABLE 2—SITE REQUIREMENTS

ZONES	SETBACKS				SITE REQUIREMENTS		
	Front	Minor Street	Side	Rear	Site Coverage	Plot Ratio	Landscaping Strip (Road Frontage)
<b>Residential</b>	As per Residential Design Codes except the side setback in R5 zones which shall require a 6m side setback unless otherwise approved by the local government.						
<b>Bushland Residential</b>	As per Residential Design Codes (R2.5 & R5)						
<b>Urban Development</b>	As per the Residential Design Codes, relevant R-Code applicable. Non residential uses at the discretion of the local government.						
<b>District Centre</b>	Refer separate requirements for the district centre areas detailed below						
<b>Kalamunda</b>	0m	0m	0m	0m	100%	1.5	Nil
<b>Forrestfield</b>	15m	3m	0m	0m	70%	1.5	3m
<b>Commercial</b>	15m	3m	0m	0m	60%	0.6	3m
<b>Service station</b>	6m to canopy	3m	3m	4.5m	70%	0.6	3m
<b>Mixed Use</b>	6m ave	3m	as per R Codes	6m ave	50%	0.5	3m for non residential
<b>Light Industry</b>	15m	3m	0	0	60%	0.5	3m* to all road frontages
<b>General Industry</b>	15m	3m	0	0	60%	0.5	3m* to all road frontages
<b>Private Clubs and Institutions</b>	15m	3m	3m	7.5m	50%	0.5	3m
<b>Special Rural</b>	15m	15m	10m	10m	Unless a Building Envelope is identified.		
<b>Rural Composite</b>	20m	15m	10m	10m			5m
<b>Rural Agriculture</b>	20m	15m	15m	15m			
<b>Rural Landscape Interest</b>	20m	15m	15m	15m			
<b>Rural Conservation</b>	25m	20m	20m	20m			
<b>Special Use</b>	At the discretion of the local government.						

\* A 20m landscaping requirement is applicable to all properties fronting Berkshire Road.

## 5.7 ENVIRONMENTAL CONDITIONS

5.7.1 Environmental conditions to which the Scheme is, or amendments to the Scheme are, subject are incorporated into the Scheme by Schedule 10 of the Scheme.

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

5.7.3 The local government is to—

- (a) maintain a register of all relevant statements published under sections 48F and 48G of the Environmental Protection Act; and
- (b) make the statements available for public inspection at the offices of the local government.

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

## 5.8 CAR PARKING REQUIREMENTS

### 5.8.1 Parking Specifications

A person shall not develop or use any land or erect, use or adapt any building unless car parking bays as specified in Table 3 are provided and such bays are constructed and maintained in accordance with local government requirements.

When considering any development application, the local government shall have regard to and may impose conditions on the provision of car parking bays and the details of locating and designing the required bays, and adequate turning areas, landscaping and pedestrian spaces on the lot. In particular, the local government shall take into account and may impose conditions concerning—

- (i) the number of bays to be provided;
- (ii) the proportion of car bays to be roofed or covered;
- (iii) the proportion of car bays to be below natural ground;
- (iv) the means of access to each car bay and the adequacy of any vehicle manoeuvring area;

- (v) the location of the car bays on the site and their effect on the amenity of adjoining development, including the potential effect if those bays should later be roofed or covered;
- (vi) the locations of proposed public footpaths, vehicular crossing, or private footpaths within the lot, and the effect on both pedestrian and vehicular traffic movement and safety;
- (vii) the suitability and adequacy of proposed screening or landscaping;
- (viii) the design and construction type of car parking areas and access ways.

5.8.2 The local government may apply at its discretion, a greater or lesser requirement for car parking than that stipulated as the minimum requirement in Table 3, if in its opinion the proposed use is likely to demand a greater or lesser need for car parking bays having due regard to the scale and nature of the intended use or uses.

#### 5.8.3 Reciprocal Parking

Local government may vary the parking requirements as specified in Table 3 for any zone when it is considered reasonable to do so by the recognition of reciprocal arrangements for parking or access or circulation. In making its decision on application for such recognition, the local government shall take into consideration the following matters—

- (i) the nature of the proposed development in relation to the existing or future development of any land within the immediate vicinity of the subject land;
- (ii) the hours of normal operation of the intended use and abutting land uses;
- (iii) any such matters as the local government considers relevant, including any legal agreements between affected landowners.

#### 5.8.4 Cash in Lieu of Parking

An owner may, if the local government so agrees contribute to the cost of acquisition and development by the local government of a public car park. The cost of each parking bay in a public car park shall be ascertained by dividing the total cost or estimated cost of the acquisition of land and development of the public car park by the number of car parking bays therein. The number of car parking bays which an owner is required to provide shall, if the local government so agrees, be reduced by the number of car parking bays in a public car park of which an owner pays the cost.

- (a) If the local government agrees to allow less than the minimum level stipulated in Table 3, local government may require any shortfall to be made up by way of a contribution to an appropriate local government fund created for the purpose of applying such funds as defined in sub-clause (c) at a rate per bay equal to the Parking Contribution.
- (b) (i) The local government may from time to time calculate or estimate the cost of providing a parking bay within the Scheme area (the "Parking Contribution") including but not limited to—
  - the market value of the land required for the parking bay and the necessary access and manoeuvring space;
  - any structures required; and
  - other improvements including paving, kerbing, drainage, landscaping, crossovers and lighting.
- (ii) The Parking Contribution shall be calculated in respect of the Scheme area as a whole.
- (iii) The local government may from time to time vary or adjust the Parking Contribution to reflect changes in values and costs, notwithstanding which the local government may at its discretion, determine a lesser amount to be applied as the Parking Contribution.
- (iv) All costs incurred in obtaining the valuation required under sub-clause b. (i) above shall be borne by the applicant.
- (c) The local government shall apply the moneys accumulated in the appropriate Carparking Trust Fund by way of payments for parking either—
  - (i) through land purchase for the construction of parking facilities;
  - (ii) for the provision of parking in joint-use facilities; or
  - (iii) for the provision of or for public transport within the Scheme area to the extent that its permits or encourages a reduction in the use of or demand for parking facilities within the Scheme area.

**TABLE 3 PARKING REQUIREMENTS**

#### Parking Requirements

Use	Car parking Standards
Aged Residential Care	1 per employee plus 1 bay per 10 beds.
Amusement Parlour	7 bays per 100 m <sup>2</sup> of NLA.
Art Gallery	1 per employee plus visitor bays at the discretion of the local government.
Bed and Breakfast	1 bay per bedroom used for accommodation and 2 for residence.
Betting Agency	7 bays per 100 m <sup>2</sup> of NLA.
Child Care Centre/Day Care	1 bay per staff member, plus 1 bay for every 10 children allowed under the approval.

<b>Use</b>	<b>Car parking Standards</b>
Cinema/Theatre	1 bay per employee or staff member, plus 1 bay for every 2.5 m <sup>2</sup> of seating area.
Civic Use	1 bay for every 5 persons the facility is designed to accommodate.
Club Premises	As per Hotel where applicable to a particular use, or as otherwise determined by the local government.
Community Purpose	1 bay for every 5 persons the facility is designed to accommodate.
Consulting Rooms	4 bays per practitioner plus 1 bay per employee.
Convenience Store	6 bays per 100 m <sup>2</sup> NLA for shop plus 1 bay per bowser.
Educational Establishment <ul style="list-style-type: none"> <li>• Pre Primary</li> <li>• Primary School</li> <li>• Secondary School</li> </ul>	1 bay for every staff member, plus 1 bay for every 3 students. 1 bay for every staff member, plus 14 drop off bays for every 100 students. 1 bay for every staff member, plus 7 drop off bays for every 100 students.
Fast Food Outlet	10 bays per 100 m <sup>2</sup> NLA. Min of 6 bays (excl. drive through).
Factory/Factory Units	3 bays per 100 m <sup>2</sup> NLA or 1 per employee plus one customer bay, whichever is the greater.
Funeral parlour	1 bay for every staff member plus 2 visitor bays.
Garden Centre	2 bays per 100 m <sup>2</sup> display and sales plus 1 bay per staff member.
Health/Fitness Centre	5 bays per 100 m <sup>2</sup> GLA
Homestore/Cornerstore	2 bays per 100 m <sup>2</sup> of NLA with a minimum of 5 bays.
Hospital	1 bay for every 4 beds provided, plus 4 bays for every 100 m <sup>2</sup> of outpatient treatment area including waiting rooms.
Hotel/Motel	1 bay for each unit and 1 bay for 4 persons proposed to be accommodated for the restaurants plus 1 bay for every 5 m <sup>2</sup> of bar and public area.
Industry—Cottage	2 bays per 100 m <sup>2</sup> of industrial area or 1 bay per person employed, whichever is the greater.
Industry—General	2 bays per 100 m <sup>2</sup> of industrial area, or 1 bay per employee plus 2 visitor bays, whichever is greater.
Industry—Light	2 bays per 100 m <sup>2</sup> of industrial area, or 1 bay per employee plus 2 visitor bays, whichever is greater.
Industry—Rural	1 bay per 100 m <sup>2</sup> NLA or 1 bay per employee whichever is greater.
Industry—Service	4 bays per 100 m <sup>2</sup> of floorspace open to the public plus 2 bays per 100 m <sup>2</sup> of industrial area, or 1 bay per employee, whichever is greater.
Lodging House	1 bay per bedroom or 10 bays per 100 m <sup>2</sup> NLA whichever is greater.
Lunchbar	6 bays per 100 m <sup>2</sup> NLA.
Market	6 bays per 100 m <sup>2</sup> of market area.
Medical centre	6 bays per practitioner and 1 per staff member.
Motor vehicle repair	4 bays to each working bay, plus 1 bay for employee on site.
Motor vehicle, boat and caravan sales	1 bay for every 100 m <sup>2</sup> display area plus 1 bay for every employee
Museum	1 per employee plus visitor bays at the discretion of the local government.

Use	Car parking Standards
Night club	1 bay per every 2.5 m <sup>2</sup> of public bar area, plus 1 bay for every 5 m <sup>2</sup> of lounge/garden area.
Office	4 bays per 100 m <sup>2</sup> of NLA.
Place of Worship	1 bay for every 5 m <sup>2</sup> of NLA.
Reception Centre	1 bay for every 4 persons to be accommodated, or 1 bay for every 5 m <sup>2</sup> of dining area, whichever is the greater.
Private Hospital	1 bay per staff member and 1 visitors bay for every bed.
Restaurant	1 bay for every 4 persons to be accommodated.
Retirement Village	0.5 bays per residential unit plus 1 bay per employee.
Service Station	5 bays (excl. bowser area).
Shop	7 bays per 100 m <sup>2</sup> of NLA.
Showroom	4 bays per 100 m <sup>2</sup> of NLA.
Tavern	1 bay for every 5 m <sup>2</sup> of bar and public area.
Veterinary Centre	4 bays per 100 m <sup>2</sup> of NLA plus 1 bay per staff member.
Warehouse	3 bays per 100 m <sup>2</sup> of NLA.
Winery	2 bays per 100 m <sup>2</sup> floorspace, or 1 bay per person employed, whichever is the greater, plus 1 bay per 5 m <sup>2</sup> of area used for eating or drinking.

Where a use is not listed the standard will be at the discretion of the local government.

### 5.9 RESIDENTIAL BUSHLAND ZONE

This zone provides for residential and residentially compatible use and development of land which is considered suitable for such use and development but which has special environmental characteristics including land predominantly covered with natural vegetation.

#### 5.9.1 Subdivision of Land

- (i) Local government will only support subdivision in the zone where reticulated scheme water is or can be made available as a condition of subdivision and the proposed lot sizes comply with the relevant Residential Design Codes.
- (ii) Any lot created shall have a minimum area of 500 m<sup>2</sup> having a slope less than 25% designated as a building envelope within which the dwelling and all domestic outbuildings are to be located. Such a building envelope is to be positioned so as to minimise clearing of vegetation and provided with an access road utilising cleared areas including fire breaks where ever possible and shall be submitted to the satisfaction of the local government to form part of the approved plan of subdivision.
- (iii) Proposals for the subdivision and development of land within the zone will be assessed in terms of the existing bush fire hazard and the requirements of the Regional Fire Plan prepared by the Bush Fires Board.

#### 5.9.2 Land Use and Development

The following provisions shall apply specifically to all land included in the Residential Bushland zone in addition to any provisions which are more generally applicable to the land under the Scheme—

- (i) In areas which the local government considers to be deficient in tree cover, it may require as a condition of development or subdivision, that the owner plant and maintain native trees on the subject lot.
- (ii) Development of buildings and effluent disposal systems shall be contained within building envelopes where adopted by the local government, unless otherwise approved.
- (iii) The keeping of any non-domesticated four-footed animals in the zone is not permitted.
- (iv) Proposals for the subdivision and development/subdivision of land within the zone will be assessed in terms of the existing bush fire hazard and the requirements of the Regional Fire Plan prepared by the Bush Fires Board.
- (v) Setbacks for structures and buildings in this zone will be in accordance with the relevant provisions of the Residential Design Codes.

### 5.10 SPECIAL RURAL ZONE

This zone provides for small rural lots to accommodate uses compatible with rural residential living.

#### 5.10.1 Subdivision of land

- (i) Subdivision in Special Rural zones shall not create lots less than 1 hectare in area.
- (ii) A reticulated water supply shall be provided to all lots of less than 2 hectares.

- (iii) A Subdivision Guide Plan will be required unless the Local Government is satisfied that such a plan is unnecessary. The Local Government may waive the requirement for a Subdivision Guide Plan if the proposal would result in the creation of no more than two lots or would not require a detailed analysis as required under clause 5.10.1 (v).
- (iv) Future subdivision will generally accord with Subdivisional Guide Plans where adopted for specified areas by local government and the Commission. The local government shall establish and maintain a copy of all Subdivision Guide Plans for Special Rural land. The local government shall keep copies of the plans with the Scheme documents for public inspection during normal office hours. The local government may, without amending the Scheme, remove a Subdivisional Guide Plan once subdivision has occurred or consider variation from the Subdivisional Guide Plan.
- (v) Detailed land capability analysis will be required for land prior to subdivision. Any proposal for subdivision must consider—
  - (a) The siting of building and effluent disposal envelopes to avoid remnant bushland, minor rock outcropping and seasonally wet areas;
  - (b) Drainage management and provision of nutrient stripping basins to avoid adverse impacts on water courses;
  - (c) Enhancement of basin wetland areas;
  - (d) Retention of remnant vegetation to reduce erosion, provide fauna habitat, retain visual amenity and conserve vegetation;
  - (e) Additional tree planting to improve environmental functions and provide screening for privacy and landscape amenity;
  - (f) The use of alternative on-site effluent disposal systems where desirable; and
  - (g) The placement of fence lines and fire breaks, and the use of control measures to minimise erosion potential.

#### 5.10.2 Land Use and Development

The following provisions shall apply specifically to all land included in the Special Rural Zone in addition to any provisions which are more generally applicable to the land under the Scheme.

- (i) In order to conserve the rural environment trees shall be retained unless their removal is approved by local government, in accordance with clause 5.19 “Tree and Vegetation Preservation”.
- (ii) Planning approval is required for all developments including a dwelling house and outbuildings.
- (iii) No building shall be constructed unless the external materials shall be of colour and material as approved by the local government.
- (iv) The keeping of animals shall be in accordance with clause 5.18 “Keeping of Animals”.
- (v) With the exception of boundary or other fencing that complies with Local Laws or Policy adopted by local government, no boundary or other fence shall be erected in a Special Rural Zone without the approval of local government having first been obtained. In making its decision on applications for approval to erect a fence, local government shall take into consideration the aesthetic impact of the fence on the environment of the Special Rural zone.
- (vi) The use of fibre cement sheeting, wooden pickets and metal sheeting as fencing material is not permitted.
- (vii) In order to enhance the rural amenity of the land, in areas deficient of tree cover, the owner may be required, as a condition of planning or subdivision approval, to plant and maintain such trees and/or groups of trees as specified by the local government.
- (viii) The minimum setback for structures or buildings from lot boundaries in this zone shall be as per Table 2, unless otherwise approved by the local government.

### 5.11 RURAL LANDSCAPE INTEREST ZONE

This zone seeks to provide for a diverse range of rural land uses in a manner which will not adversely affect the landscape and environmental qualities of the land. Land uses, activities and land management practices are to be consistent with natural resource conservation and compatible with public water supply objectives.

#### 5.11.1 Subdivision of land

- (i) In order to preserve the character of landscape interest and environmental attributes within the zone, the minimum lot size should be 12 hectares. However, subdivision to lot sizes not smaller than 6 hectares may be supported where an applicant can demonstrate that—
  - (a) an adequate water supply either from bores or from dams located up-slope from the main water course and within the property boundaries can be provided to each subdivisional lot;
  - (b) all lots shall have a minimum area of 1500 m<sup>2</sup> having a slope not exceeding 20% designated as a building envelope within which the dwelling and all domestic outbuildings are to be located. A plan shall be submitted together with the subdivision application to the satisfaction of local government showing the building envelope and shall be endorsed to form part of the approved plan of subdivision;
  - (c) each lot is capable of accommodating an on-site effluent disposal system;
  - (d) the proposal is consistent with the land capability advice provided by Agriculture WA;

- (e) the proposal limits bush fire hazard and complies with the requirements of the Regional Fire Plan prepared by the Bush Fires Services; and
- (ii) Notwithstanding (i) above, only land designated by the Water Corporation of WA as areas with potential for subdivision within the gazetted Water Catchment shall be approved for subdivision. Where a building envelope has been specified by the Water Corporation of WA all buildings and effluent disposal systems are to be placed within that area. However, if a landowner is aggrieved by the location of the specified building envelope and can show proof of a suitable alternative location, local government may, after consultation with the Water Corporation of WA, allow development outside the approved building envelopes.

#### 5.11.2 Land Use and Development

The following provisions shall apply specifically to all land included in the Rural Landscape Interest zone in addition to any provisions which are more generally applicable to the land under the Scheme—

- (i) Commercial market gardening and orcharding activities, horse agistment and other intensive animal husbandry activities operated for commercial gain will only be permitted in the zone whereby it can be demonstrated that there will be no detrimental impact on the water catchment area and the environment.
- (ii) The keeping of animals in the zone is subject to the approval of local government and will be assessed on an investigation of each property. Approval will be given where the land is capable of supporting the number of animals applied for having regard to the specific land management practices proposed to be implemented by the applicant. The keeping of animals will be in accordance with the provisions of clause 5.18 “Keeping of Animals”.
- (iii) The clearing of natural vegetation will be permitted only in accordance with clause 5.19 “Tree and Vegetation Preservation” of the Scheme.
- (iv) Rural pursuits in the zone will only be permitted by local government where they are to satisfy domestic needs only unless it can be demonstrated that there will be no detrimental impact on the water catchment and the environment. Land clearing associated with any proposal will be strictly limited by local government.
- (v) Local government shall have regard for clauses 2.1, 2.2, 2.3 and 2.4 relating to Planning Policies of the Scheme when considering any application for development within the zone.
- (vi) Proposals for the development of land will be assessed in terms of the existing bush fire hazard and the requirements of the Regional Fire Plan prepared by the Bush Fires Services.
- (vii) The minimum setback for structures of buildings from lot boundaries in this zone shall be as per Table 2, unless otherwise approved by the local government.

### 5.12 RURAL CONSERVATION ZONE

This zone seeks to ensure development is in harmony with the natural environment. Land uses, activities and land management practices are to be consistent with natural resources conservation and compatible with the public water supply objectives.

#### 5.12.1 Subdivision of Land

- (i) In order to preserve the character of landscape interest and environmental attributes within the zone, the minimum lot size should be 12 hectares, unless however, subdivision to lot sizes not smaller than 6 hectares may be supported where an applicant can demonstrate that—
  - (a) an adequate water supply either from bores or from dams located up-slope from the main water course and within the property boundaries can be provided to each subdivisional lot;
  - (b) all lots shall have a minimum area of 1500 m<sup>2</sup> having a slope of not greater than 20% designated as a building envelope within which the dwelling and all domestic outbuildings are to be located. A plan shall be submitted to the satisfaction of local government showing the building envelope and shall be endorsed to form part of the approved plan of subdivision;
  - (c) the site is capable of accommodating an on-site effluent disposal system within the building envelope;
  - (d) the proposal is consistent with the land capability advice provided by Agriculture WA;
  - (e) the proposal limits bush fire hazard and complies with the requirements of the Regional Fire Plan prepared by the Bush Fires Services; and
  - (f) the proposal is predicated on retaining natural vegetation on the land.
- (ii) Notwithstanding (i) above, only land designated by the Water Corporation of WA as areas with potential for subdivision within the gazetted Water Catchment shall be approved for subdivision. Where a building envelope has been specified by the Water Corporation of WA all buildings and effluent disposal systems are to be placed within that area. However, if a landowner is aggrieved by the location of the specified building envelope and can show proof of an alternative location, local government may, after consultation with the Water Corporation of WA, allow development outside the building envelopes.

#### 5.12.2 Land Use and Development

The following provisions shall apply specifically to all land included in the Rural Conservation zone in addition to any provisions which are more generally applicable to the land under the Scheme—

- (i) Intensive agriculture activities, horse agistment and other intensive animal husbandry activities operated for commercial gain will not be permitted in the zone unless it can be

demonstrated that there will be no detrimental impact on the water catchment area and the environment.

- (ii) The keeping of animals in the zone is subject to the approval of local government and will be assessed on an investigation of each property. Approval will only be given where the land is capable of supporting the number of animals applied for having regard to the specific land management practices proposed to be implemented. The keeping of animals will be in accordance with the provisions of clause 5.18 of the Scheme.
- (iii) The clearing of natural vegetation will be permitted only in accordance with clause 5.19 "Tree and Vegetation Preservation" of the Scheme.
- (iv) Rural pursuits in the zone will only be permitted by local government where they are to satisfy domestic needs only unless it can be demonstrated that there will be no detrimental impact on the water catchment and the environment. Land clearing associated with any proposal will be strictly limited by local government.
- (v) Proposals for the development of land will be assessed in terms of the existing bush fire hazard and the requirements of the Regional Fire Plan prepared by the Bush Fire Services.

### 5.13 RURAL AGRICULTURE ZONE

This zone provides for the protection and maintenance of the hills horticultural industry through the conservation of soil and water resources and limitations on subdivision.

#### 5.13.1 Subdivision of Land

- (i) In order to ensure agricultural land use compatible with environmental attributes within the zone, the minimum lot size should be 12 hectares. Subdivision to lot sizes not smaller than 6 hectares may be supported where an applicant can demonstrate that—
  - (a) at least 4 hectares of the land is suitable for horticultural and rural pursuits;
  - (b) an adequate water supply either from bores or from dams located up-slope from the main water course and within the property boundaries can be provided to each subdivisional lot;
  - (c) all lots shall have a minimum area of 1500 m<sup>2</sup> having a slope not exceeding 20% designated as a building envelope within which the dwelling and all domestic outbuildings are to be located. A plan shall be submitted to the satisfaction of local government showing the building envelope and shall be endorsed to form part of the approved plan of subdivision;
  - (d) the site is capable of accommodating an on-site effluent disposal system within the building envelope;
  - (e) the proposal is consistent with the land capability advice provided by the Department of Agriculture;
  - (f) the proposal limits bush fire hazard and complies with the requirements of the Regional Fire Plan prepared by Bush Fire Services; and
- (ii) Notwithstanding (i) above, subdivision of land not designated by the Water Corporation of WA as areas with potential for subdivision within the gazetted Water Catchment shall not be approved. Where a building envelope has been specified by the Water Corporation of WA all buildings and effluent disposal systems are to be placed within that area.

However, if a landowner is aggrieved by the location of the specified building envelope and can show proof of a suitable alternative location, local government may, after consultation with the Water Corporation of WA approve development outside the building envelopes.

#### 5.13.2 Land Use and Development

The following provisions shall apply specifically to all land included in the Rural Agriculture Zone in addition to any provisions which are more generally applicable to the land under the Scheme—

- (i) The local government does not support any development where in the opinion of the local government such development will encourage the establishment of land uses considered not compatible with Rural Agriculture pursuits.
- (ii) Horse agistment, and other intensive animal husbandry activities operated for commercial gain will not be supported in the zone unless it can be demonstrated that there will be no detrimental impact on the water catchment area and the environment.
- (iii) Any new horticultural activities which necessitate fertiliser application rates greater than the current average level (i.e. 100 kg/ha per annum) will be discouraged. Any development application involving fertiliser application rates greater than this will require the submission of a nutrient irrigation management plan and will be referred to the Department of Environment for comment.
- (iv) The keeping of animals in the zone is subject to planning approval and will be assessed on an investigation of each property. Approval will be granted where the land is capable of supporting the number of animals applied for, having regard to the specific land management practices proposed to be implemented by the applicant. The keeping of animals will be in accordance with the provisions of clause 5.18 of the Scheme.
- (v) The clearing of natural vegetation will be permitted only in accordance with the clause 5.19 "Tree and Vegetation Preservation".
- (vi) Proposals for the development of land will be assessed in terms of the existing bush fire hazard and the requirements of the Regional Fire Plan prepared by the Bush Fires Board.

### 5.14 RURAL COMPOSITE ZONE

In this zone it is recognised that there is a mix of semi rural and commercial land uses which the local government seeks to maintain as a balance in a rural setting. Commercial land uses within the zone will only be considered for approval when it has been demonstrated that the use is appropriate to the area and that the commercial activity will not have a detrimental impact on the surrounding area.

#### 5.14.1 Subdivision of Land

- (i) A reticulated water supply shall be provided to all lots of less than 2 hectares.
- (ii) Subdivision Guide Plans may be required prior to subdivision.
- (iii) Future subdivision will generally accord with Subdivisional Guide Plans where adopted for specified areas by the local government and the Commission. The local government shall establish and maintain a copy of all Subdivision Guide Plans for Rural Composite land. The local government shall keep copies of the plans with the Scheme documents for public inspection during normal office hours.
- (iv) Subdivision in the Rural Composite zones creating lots less than 1 hectare in area will not be supported.
- (v) Detailed land capability analysis will be required for land prior to subdivision which must consider—
  - (a) The siting of building and effluent disposal envelopes to avoid remnant bushland, minor rock outcropping and seasonally wet areas;
  - (b) Drainage management and provision of nutrient stripping basins to avoid adverse impacts on water courses;
  - (c) Enhancement of basin wetland areas;
  - (d) Retention of remnant vegetation to reduce erosion, provide fauna habitat, retain visual amenity and conserve vegetation;
  - (e) Additional tree planting to improve environmental functions and provide screening for privacy and landscape amenity;
  - (f) The use of alternative on-site effluent disposal systems where desirable; and
  - (g) The placement of fence lines and fire breaks, and the use of control measures to minimise erosion potential.

#### 5.14.2 Land Use and Development

The following provisions shall apply specifically to all land included in the Rural Composite Zone in addition to any provisions which are generally more applicable to the land under the Scheme.

- (i) Planning Approval is required for all development including a dwelling house and outbuildings.
- (ii) No building shall be constructed unless the external materials shall be of colour and texture as approved by the local government.
- (iii) The minimum setback for structures or buildings from lot boundaries in this zone shall be as per Table 2, unless otherwise approved by the local government.
- (iv) With the exception of boundary or other fencing that complies with Local Laws or Policy adopted by the local government, no boundary or other fence shall be erected in a Rural Composite zone without the approval of the local government having first been obtained. In making its decision on applications for approval to erect a fence, the local government shall take into consideration the aesthetic impact of the fence on the environment of the Rural Composite zone.
- (v) The use of fibre cement sheeting, wooden pickets and metal sheeting as fencing material is not permitted, unless specifically approved by the local government.
- (vi) In order to conserve the environment, trees shall be retained unless their removal is approved by the local government.
- (vii) In order to enhance the rural amenity of the land, in areas deficient of tree cover, it may be required as a condition of any planning approval or building permit issued in these areas, the owner to plant and maintain such trees and/or groups of trees as specified by the local government.
- (viii) The clearing of natural vegetation will be permitted only in accordance with clause 5.19 "Tree and Vegetation Preservation" of the Scheme.
- (ix) The keeping of animals in the Zone is subject to the specific written approval of the local government and will be assessed on an investigation of each property. Approval will be given where the land is capable of supporting the number of animals applied for having regard to the specific land management practices proposed to be implemented by the applicant. The keeping of animals will be in accordance with the provisions of clause 5.18 "Keeping of Animals" of the Scheme.
- (x) Commercial development proposals will only be considered in accordance with clause 5.15 "Commercial Zones" of the Scheme. In addition, the following development requirements will apply—
  - (a) the maximum amount of net lettable area (NLA) is 300 m<sup>2</sup>;



- (b) A separate landscaping plan will be required for any commercial proposal. Extensive landscaping will be required to screen—
  - parking areas from the road and from adjoining properties.
  - non-residential buildings from adjoining properties;
- (c) the use of land outside any building for the display, sale or storage of materials, goods or equipment, will require the prior approval of the local government; and
- (d) planning approval will be required for all signs located on land.

## 5.15 COMMERCIAL ZONES

### 5.15.1 Design

A person shall not erect a building which by virtue of colour or type of materials, architectural style, height or bulk, ornamental or general appearance has an exterior design which in the opinion of the local government is out of harmony with existing buildings or the landscape character of the area.

### 5.15.2 Shared Access and Parking Areas

Local government may require the shared use of driveways, crossovers and car parking because of the need to—

- (i) minimise traffic conflict and the number of access points;
- (ii) maximise the through traffic function of abutting roads;
- (iii) minimise kerbside parking;
- (iv) encourage access from side streets or from the rear.

### 5.15.3 Setbacks

The land located between a street alignment and the buildings shall not be used for any other purpose than one or more of the following—

- (i) a means of vehicular or pedestrian access;
- (ii) the daily parking of vehicles used by employees and customers;
- (iii) the loading and unloading of vehicles;
- (iv) landscaping.

### 5.15.4 Landscaping

In connection with any application for development approval in a commercial zone, the local government shall, if it appears to be in the interest of amenity or orderly and proper planning to do so, require that such landscaping be provided in addition to that required in Table 2.

### 5.15.5 Access

No person shall use a service road, access way or parking area situated on a parcel of land for any other purpose than a service road, access way or vehicle parking respectively.

All vehicular access ways, servicing areas and parking areas shall be so designed to enable vehicles to enter and leave in forward gear.

### 5.15.6 Loading/Unloading Bays

A paved area for loading and unloading will be required where the interests of amenity and orderly and proper planning warrant the provision of such an area.

### 5.15.7 Service Yards and Refuse Storage

In any application for planning approval to which this part applies, provision shall be made for suitably designed and screened service yards and refuse storage areas, which shall be subsequently maintained to the satisfaction of the local government.

### 5.15.8 Drainage

Maximise on-site storage and stormwater treatment consistent with appropriate (water sensitive design) standards adopted by local government.

## 5.16 INDUSTRIAL ZONES

The following provisions shall apply in the Light Industry and General Industry zones.

### 5.16.1 Setbacks

The land between a street alignment and the distance that buildings are required to be setback from such street alignment shall not be used for any other purpose than one or more of the following—

- (i) a means of vehicular or pedestrian access;
- (ii) the daily parking of vehicles used by employees and customers;
- (iii) the loading and unloading of vehicles; and
- (iv) landscaping.

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.

### 5.16.2 Proximity to Residential Zones

No building or any other structure shall be erected closer than a distance of 15 metres from any part of a Residential zone, except with the special approval of the local government. In considering an application for planning approval of non-residential development on a lot which has a common boundary with land in the Residential zone, the local government will have particular regard for the

measures taken to minimise conflict between the non-residential and the residential or future residential uses.

#### 5.16.3 Access

No person shall use a service road, access way or parking area situated on a parcel of land for any other purpose than a service road, access way or vehicle parking respectively.

All vehicular access ways, servicing areas and parking areas shall be so designed to enable vehicles to enter and leave in forward gear.

#### 5.16.4 Storage of Materials

No goods, materials, merchandise or motor vehicles shall be stacked, placed or stored within 2 metres of either side or the rear boundaries of the site or nearer to the street or road than the building setback line, nor stacked to a vertical height exceeding 4 metres above the natural ground level unless otherwise approved by local government.

#### 5.16.5 Materials

- (i) The whole of any wall or building facing any street shall be constructed in brick, concrete or masonry or other material as approved by the local government.
- (ii) Cladding of the remainder of the building shall not be Zinalume unless approved by the local government.

#### 5.16.6 Loading/Unloading Bays

A paved area for loading and unloading being not less than 3.5 metres in width by 7 metres with a minimum height clearance of 3.5 metres is required unless in the opinion of local government, the interests of amenity and orderly and proper planning do not warrant the provision of such an area.

#### 5.16.7 Service Yards and Refuse Storage

In any application for planning approval to which this part applies, provision shall be made for suitably designed and screened service yards and refuse storage areas, which shall be subsequently maintained to the satisfaction of the local government.

#### 5.16.8 Landscaping

The landscaped area may include land between a street pavement and any buildings. In addition, trees shall be provided in car parking areas where an area of 12 or more car parking bays are to be provided to allow for shade.

#### 5.16.9 Drainage

On-site storage and stormwater treatment consistent with appropriate (water sensitive design) standards adopted by the local government should be maximised.

### 5.17 SPECIAL USE ZONES

5.17.1 The intent of the Special Use zone is to allow the local government to make special provisions for a specific use or combination of uses on particular land where the provisions of the zoning table are not sufficiently sensitive or comprehensive to achieve the same objective.

The local government shall only make such special provision by the creation of a special use zone when it considers that the special provisions—

- (i) will satisfy a specific need(s) in the locality where the subject land is situated;
- (ii) would enhance the amenity and the interest of the orderly and proper planning of the locality; and
- (iii) would be specifically appropriate or desirable.

5.17.2 The objectives of the zone are—

- (i) to make provision for a specific use or combination of uses on particular land where provisions of the Zoning Table would otherwise restrict this, or to prevent the establishment of a use or a combination of uses where the provisions of the Zoning Table would otherwise allow this;
- (ii) to ensure that any use or development of land which is considered to have significant impact, takes place only after the amendment process has been undergone; and
- (iii) to allow for the inclusion of specific uses or combinations of uses on particular land either with or without a base zoning (from the Zoning Table) of that land.

5.17.3 No person shall use any land, or any building or structure thereon in a Special Use zone, except for the purpose set against that land in Schedule 4 and subject to compliance with any conditions specified in the Schedule with respect to the land.

### 5.18 KEEPING OF ANIMALS

5.18.1 The following provisions apply to the keeping of animals, excluding domestic animals or pets.

- (i) Planning approval is required for the keeping of hoofed and/or large non-domesticated animals or pets. In considering an application for the keeping of animals the local government shall have particular regard for appropriately demonstrated land management arrangements inclusive of—
  - (a) the land capability of the property including an assessment of the management techniques proposed by the applicant;
  - (b) the amount and condition of remnant vegetation on the property;
  - (c) implications for water catchment areas and watercourses;
  - (d) implications on neighbouring properties.

- (ii) Local government may impose conditions relating to—
  - (a) reticulation of paddock areas to maintain pasture growth and prevent soil erosion and dust pollution;
  - (b) establishment and/or maintenance of pasture varieties suitable for the proposed animals;
  - (c) the stabling and yarding of animals;
  - (d) the collection and disposal of animal manures to prevent water pollution and insect breeding;
  - (e) measures for the prevention of the degradation of watercourses;
  - (f) the maximum number of animals permitted;
  - (g) the prevention of detrimental impacts on the amenity of nearby properties;
  - (h) the protection of existing remnant vegetation on the property.
- (iii) Local government shall not approve the keeping of animals in the Rural Conservation, Rural Landscape Interest and Residential Bushland zones if clearing of remnant natural vegetation is required for this purpose.
- (iv) Where in the opinion of the local government the continued presence of animals on any portion of land is likely to cause or is causing—
  - (a) damage to natural vegetation;
  - (b) water pollution;
  - (c) dust pollution;
  - (d) 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 stated in the notice.

#### **5.19 TREE AND VEGETATION PRESERVATION**

Native vegetation shall not be damaged, destroyed or removed unless it is in accordance with relevant state legislation, acts, regulations and guidelines. Such legislation includes the *Environmental Protection Act 1986*, the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* and other legislation as adopted from time to time.

#### **5.20 Commercial Vehicle Parking**

5.20.1 Notwithstanding any other provision in the Scheme to the contrary, determination of Commercial Vehicle parking shall be generally in accordance with local government's Policy Statement on "Parking of Commercial Vehicles on Private Property".

5.20.2 Commercial vehicle parking is prohibited in residential areas or Urban Development zones coded R20 and above.

5.20.3 Local government may seek opinions from affected landowners before any decision on an application to park a commercial vehicle is made.

5.20.4 Local government reserves the right to amend the conditions of an approval or to revoke an approval to park a commercial vehicle as a result of a justified complaint received or due to changes (or potential changes) of the zoning, subdivision or development of the subject or nearby land.

5.20.5 If a commercial vehicle owner who has been granted approval to park a commercial vehicle on a lot wishes to replace the vehicle with another commercial vehicle, a further application to local government is required, except where the replacement vehicle is of the equivalent tare weight or less. In such cases, only notification and submission of a photograph of the new commercial vehicle is required to be submitted by the owner.

#### **5.21 CARAVAN PARKS**

5.21.1 The local government's intent is to ensure that—

- (i) the area of the site is sufficient to accommodate caravans, ancillary amenities and adequate landscaped buffer areas;
- (ii) any intrusion of this form of development on adjacent sites is minimised;
- (iii) individual caravan sites are of an adequate size and shape to accommodate a caravan, cabin or tent and associated open space, while providing for a reasonable level of amenity and privacy;
- (iv) adequate and useable landscaped recreation space is available on site for the use of all residents of the caravan park;
- (v) the development is compatible with existing development in the adjacent area and designed to accommodate the needs of residents; and
- (vi) adequate provision is made for the safe and convenient movement of vehicles and pedestrians and the convenient parking of cars.

5.21.2 Landscaped buffer areas shall be provided along all external boundaries of the site and shall comprise a minimum of 10 metres width along any frontage and 5 metres adjoining any other boundary.

#### **5.21.3 Development Requirements**

- (i) A minimum of 100 m<sup>2</sup> shall be provided for each caravan site and not more than 1 caravan shall be located on each site.

- (ii) Each site shall have a minimum frontage of 10 metres to the internal road network.
- (iii) recreational facilities will be provided on the site for the use of residents.
- (iv) Any service shop must be incidental to the predominant use and the trading area is limited to the caravan park only.
- (v) No service shop shall be sited so as to abut or open directly on to the street frontage of the lot on which it is constructed.
- (vi) Bin store areas shall be provided and shall be suitably screened from view from the road.
- (vii) Provision shall be made for the washing of vehicles on the basis of 1 car washing bay per 100 caravan sites or part thereof with a minimum of 1 bay.
- (viii) Vehicular access to all residential sites and ancillary buildings shall be by means of shared internal roads. Internal roads shall be constructed to the satisfaction of local government.

## 5.22 AREAS SUBJECT TO AIRCRAFT NOISE

In areas subject to aircraft noise in excess of 20 ANEF (350,000 movements)—

- (a) development is required to incorporate noise attenuation measures to the satisfaction of the local government; and
- (b) in respect of subdivision of land, the local government will recommend to the Commission that all new lots be the subject of memorials on titles, warning of the potential for aircraft noise affecting such lots.

## PART 6—SPECIAL CONTROL AREAS

### 6.1 OPERATION OF SPECIAL CONTROL AREAS

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

- (a) development areas shown on the Scheme Map as DA with a number and included in Schedule 11.
- (b) urban Cells shown on the Scheme Map as Cell with a number and relevant provisions included in Schedule 11.
- (c) Kalamunda Town Centre Design Control Area shown on the Scheme Map as KDCA and shall be in accordance with clause 6.3
- (d) area shown on the Scheme Map as SC2 for which design guidelines for designated areas are applicable in accordance with clause 6.4.
- (e) Area shown on the Scheme Map as SC3 subject to aircraft noise contours in excess of 20 ANEF (350,000) movements.
- (f) Area shown on the Scheme Map as SC4 is affected by a 300-metre radius Poultry Farm buffer.

6.1.2 In respect of a special control area shown on a Scheme Map, the provisions applying to the special control area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme.

### 6.2 DEVELOPMENT AREAS

#### 6.2.1 Interpretation

In clause 6.2, unless the context otherwise requires—

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

“**Proposed Structure Plan**” means a structure plan, which may apply to either a local area or a district, that has been prepared in accordance with clause 6.2.4; and

“**Structure Plan**” means a Proposed Structure Plan that has been approved by both the Commission and adopted by the local government under clause 6.2.5.

#### 6.2.2 Purpose

- (a) To identify areas requiring comprehensive planning prior to subdivision and development; and
- (b) To coordinate subdivision, land use and development in areas requiring comprehensive planning.

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

6.2.2.2 Where a Structure Plan exists, the subdivision and development of land is to generally be in accordance with the Structure Plan and any associated provisions contained in Schedule 11.

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

6.2.2.4 Schedule 11 describes the Development Areas in more detail and sets out the purpose and particular requirements that may apply to the Development Area.

### 6.2.3 Preparation of Structure Plans

6.2.3.1 A Structure Plan may include plans and other documents.

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

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

6.2.3.4 A Structure Plan is to contain such detail as, in the opinion of the local government, is required to satisfy the planning requirements of the Development Area, and, without limiting the generality of the foregoing, may include the following details—

- (a) The area to which the Structure Plan applies;
- (b) Key opportunities and constraints of the Development Area including landform, topography, hydrology, landscape, some vegetation, soils, conservation and heritage values, ownership, land use, roads and public transport, and services;
- (c) The planning context for the Development Area including the regional and neighbourhood structure, relevant strategies, Scheme provisions and policies and where appropriate, indicating how the Proposed Structure Plan is to be integrated into the surrounding area;
- (d) Proposed major land uses, in particular, residential areas, public open space, school sites, civic and community uses, commercial uses (including the location and hierarchy of commercial centres), mixed use, industrial and mixed business uses;
- (e) The proposed indicative lot pattern and general location of any major building;
- (f) Estimates of future lots, dwellings, population, employment and retail floor space;
- (g) Provision for major infrastructure, including main drainage, sewerage, water supply and other key infrastructure services;
- (h) The proposed road network and hierarchy, public transport services, and bicycle and pedestrian networks;
- (i) The timeframe and staging of subdivision and development, and the method of implementation, including any proposals for funding by development contributions;
- (j) Details as appropriate relating to—
  - (i) vehicular access and parking;
  - (ii) the location, orientation and design of buildings and the space between buildings;
  - (iii) conservation areas;
  - (iv) heritage places; and
  - (v) special development control provisions; and
- (k) such other information as may be required by the local government.

6.2.3.5 In considering a Proposed Structure Plan for part of a Development Area, the local government may require the Proponent to demonstrate how planning for the subject land may be integrated with planning for the balance of the Development Area, including how broad land uses, essential services, main movement systems and major conservation and recreation areas are to be integrated and provide information on the arrangements for implementation.

### 6.2.4 Adoption and Approval of Structure Plans

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

6.2.4.2 Upon receiving a Proposed Structure Plan, the local government is to either—

- (a) determine that the Proposed Structure Plan is satisfactory for advertising;
- (b) determine that the Proposed Structure Plan is not to be advertised until further details have been provided or modifications undertaken; or
- (c) determine that the Proposed Structure Plan is not satisfactory for advertising and give reasons for this to the Proponent.

6.2.4.3 If within 60 days of receiving a Proposed Structure Plan for approval for advertising, or such longer period as may be agreed in writing between the Proponent and the local government, the local government has not made one of the determinations referred to in clause 6.2.5.2, the local government is deemed to have determined that the Proposed Structure Plan is not satisfactory for advertising.

- 6.2.4.4 (a) Where the Proponent is aggrieved by a determination of the local government under clause 6.2.5.2(b) or (c) or clause 6.2.5.3, the Proponent may request the local government by notice in writing to forward the Proposed Structure Plan to the Commission.
- (b) Within 21 days of receiving a notice from the Proponent under clause 6.2.5.4(a), the local government is to forward to the Commission—
  - (i) a copy of the Proposed Structure Plan;
  - (ii) details of the local government's determination including any modifications to the Proposed Structure Plan required by the local government; and
  - (iii) any other information the local government considers may be relevant to the Commission's consideration of approval of the Proposed Structure Plan for advertising.

- (c) Upon receiving a Proposed Structure Plan in accordance with clause 6.2.5.4(b), the Commission is to make one of the determinations referred to in clause 6.2.5.2 and advise the local government and the Proponent accordingly.
- (d) If the Commission requires modifications to the Proposed Structure Plan, the Commission is to consult with the local government prior to making its determination under clause 6.2.5.4(c).
- (e) If within 60 days of receiving a Proposed Structure Plan under clause 6.2.5.4(b), or such longer period as may be agreed in writing between the Proponent and the Commission, the Commission has not made one of the determinations referred to in clause 6.2.5.2, the Commission is deemed to have determined that the Proposed Structure Plan is not satisfactory for advertising.

6.2.4.5 Where the local government has determined that the Proposed Structure Plan is satisfactory for advertising, the local government is to—

- (a) advertise, or require the proponent to advertise, the Proposed Structure Plan for public inspection by one or more of the methods of advertising proposals for development as set out in clause 9.4 of the Scheme, and
- (b) give notice or require the Proponent to give notice in writing to—
  - (i) all landowners affected by the Proposed Structure Plan; and
  - (ii) such public authorities and other persons as the local government nominates,

and such advertisement and notice are to explain the scope and purpose of the Proposed Structure Plan, when and where it may be inspected, and invite submissions to the local government by a specified date being at least 21 days from the date of the notice and advertisement.

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

6.2.4.7 The local government is to consider all submissions received and within 60 days of the latest date specified in the notice under clause 6.2.5.5 is to either—

- (a) adopt the Proposed Structure Plan with or without modifications; or
- (b) refuse to adopt the Proposed Structure Plan and give reasons for this to the Proponent.

6.2.4.8 If within the 60-day period, or such further time as may be agreed in writing between the Proponent and the local government, the local government has not made one of the determinations referred to in clause 6.2.5.7, the local government is deemed to have refused to adopt the Proposed Structure plan.

6.2.4.9 Within 21 days of the local government making its determination under clause 6.2.5.7, or deemed refusal under clause 6.2.5.8, the local government is to forward to the Commission—

- (a) a summary of all submissions and comments received by the local government in respect of the Proposed Structure Plan, and the local government's decisions or comments in relation to these;
- (b) the local government's recommendation to the Commission to approve, modify or refuse to approve the proposed Structure Plan; and
- (c) any other information the local government considers may be relevant to the Commission's consideration of the Proposed Structure Plan.

6.2.4.10 The Commission is to either—

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

6.2.4.11 If within 60 days of receiving the information referred to in clause 6.2.5.9, or such further time as may be agreed in writing between the Proponent and the Commission, the Commission has not made one of the determinations referred to in clause 6.2.5.10, the Commission is deemed to have refused to approve the Proposed Structure Plan.

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

6.2.4.13 If the Commission requires modifications to the Proposed Structure Plan, the Commission is to consult with the local government prior to approving the Proposed Structure Plan under clause 6.2.5.10.

6.2.4.14 If the local government, following consultation with the Commission, is of the opinion that any modification to the proposed Structure Plan is substantial, the local government may—

- (a) re-advertise the Proposed Structure Plan; or
- (b) require the Proponent to readvertise the Proposed Structure Plan

and, thereafter, the procedures set out in clause 6.2.5.5 onwards are to apply.

6.2.4.15 As soon as practicable after receiving notice of the approval of the Proposed Structure Plan by the Commission, the local government is to forward a copy of the Structure Plan to—

- (a) the Proponent;
- (b) the Commission; and
- (c) any other appropriate person or public authority which the local government thinks fit.

6.2.4.16 A Structure Plan is to be kept at the local government's administrative offices, and is to be made available for inspection by any member of the public during office hours.

#### 6.2.5. Change or Departure from Structure Plan

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

- 6.2.5.2 (a) The local government is to forward a copy of the minor change or departure to the Commission within 10 days from the date of adopting the minor change or departure.
- (b) If the Commission considers that the change or departure adopted by the local government under clause 6.2.6.1 materially alters the intent of the Structure Plan, then the Commission—
- (i) may require the local government to follow the procedures set out in clause 6.2.5 in relation to the change or departure; and
  - (ii) is to notify the local government of this requirement within 10 days.

6.2.5.3 Any change to or departure from a Structure Plan that is not within clause 6.2.6.1 is to follow the procedures set out in clause 6.2.5.

#### 6.2.6 Detailed area plans

- 6.2.6.1 (a) (i) The local government or the Commission may, by notice in writing, require a person to prepare and submit to the local government a detailed area plan within the time specified in the notice.
- (ii) A person may prepare and submit to the local government a detailed area plan
- (b) A detailed area plan is to relate to a particular lot or lots and may be prepared and submitted—
- (i) to enhance, elaborate or expand on the details or provisions contained in a Proposed Structure Plan or a Structure plan;
  - (ii) in place of a development approval required to comply with clause 2.5 of the Residential Design Codes; or
  - (iii) for any other planning purpose.
- (c) The local government is to—
- (i) approve with or without conditions; or
  - (ii) refuse to approve
- the detailed area plan.
- (d) If within 60 days of receiving a detailed area plan under clause 6.2.7.1(a), or such longer period as may be agreed in writing between the person and the local government, the local government has not made one of the determinations referred to in clause 6.2.7.1(c), the local government is deemed to have refused to approve the detailed area plan.
- (e) The local government is to forward a copy of the detailed area plan to the commission within 10 days of approving the detailed area plan.
- (f) The local government's refusal to approve a detailed area plan under clause 6.2.7 is not a valid reason for the local government to refuse to approve a Proposed Structure Plan under clause 6.2.5.

6.2.6.2 Unless clause 6.2.7.1(b)(ii) applies, once approved by the local government, the detailed area plan is to be used as the basis for—

- (a) making recommendations to the Commission on subdivision applications; and
- (b) determining development applications

with respect to the land subject to the detailed area plan.

6.2.6.3 A detailed area plan may include details as to—

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

6.2.6.4 (a) An approved detailed area plan may be modified or varied with the approval of the local government, but where there is a related Structure Plan, such modifications or variations are to conform with the intent of any related Structure Plan.

- (b) The local government is to forward a copy of the modification or variation to the detailed area plan to the Commission within 10 days of approving the modification or variation.

#### 6.2.7 Operation of Structure Plan

6.2.7.1 A Structure Plan commences operation on the date it is adopted by the local government pursuant to clause 6.2.5.15.

6.2.7.2 Subject to clause 6.2.8.5, if a Structure Plan imposes a classification on the land included in it by reference to reserves, zones, or Residential Design Codes then—

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

6.2.7.3 Without limiting the generality of clause 6.2.8.2, under a Structure Plan—

- (a) in the areas designated as zones, the permissibility of uses is to be the same as set out in the Zoning Table as if those areas were zones under the Scheme having the same designation;
- (b) the standards and requirements applicable to the zones and R Codings under the Scheme apply to the areas having corresponding designations under the Structure Plan;
- (c) the planning approval procedures including the procedures for the approval of uses and developments under the Scheme are to apply as if the land were correspondingly zoned or reserved under the Scheme;
- (d) where land is classified as a local reservation, the rights, provisions and procedures, and the obligations of the local government in regard to compensation set out in clauses 11.5 and 11.6 inclusive apply as if the land were correspondingly reserved under the Scheme; and
- (e) any other provision, standard or requirement in the Structure Plan is to be given the same force and effect as if it were a provision, standard or requirement of the Scheme.

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

6.2.7.5 If a provision of a Structure Plan which imposes a classification on the land included in it by reference to reserves, zones or Residential Design Codes is inconsistent with a provision of the Scheme, then the provision of the Scheme prevails to the extent of any inconsistency.

#### 6.2.8 Appeal

6.2.8.1 The Proponent may make application for review, in accordance with Part 14 of the Planning and Development Act, any—

- (a) determination or decision made by the Commission;
- (b) requirement imposed by or modification sought by the Commission; or
- (c) determinations deemed to have been made by the Commission under Clauses 6.2.5.4 or 6.2.5.11

in the exercise of the Commission's powers under clause 6.2.

6.2.8.2 The Proponent may make application for review, in accordance with Part 14 of the Planning and Development Act, any decision made by the local government under clause 6.2.6.1.

6.2.8.3 A person who has submitted a detailed area plan under clause 6.2.7 may make application for review, in accordance with Part 14 of the Planning and Development Act, any decision made by the local government under clauses 6.2.7.1 or 6.2.7.4.

#### 6.2.9 Outline Development Plans Under Previous Scheme.

Any Outline Development Plan duly approved under Town Planning Scheme No. 2 is to have the full force and effect as if it was approved as an Outline Development Plan or Structure Plan under Town Planning Scheme No. 3.

Any Outline Development Plan that, on the Gazettal date of this Scheme, is being prepared under Town Planning Scheme No. 2, may continue to be prepared in the manner required under that Scheme, and following approval is to have the full force and effect as if it was approved as an Outline Development Plan or Structure Plan under Local Planning Scheme No. 3.

6.2.10 In respect of the Urban Development zone generally bounded by Milner Road, West Sultana Road, Dundas Road and Maida Vale Road, the Structure Plan for this area shall ensure the protection of the threatened ecological community in the area of Lot 12 (11) Ibis Place, High Wycombe, for conservation purposes. The boundary of the threatened ecological community shall be defined from botanical survey by a suitably qualified botanist and may extend beyond the lot boundary. In addition, a vegetation management plan shall be prepared and implemented. The management plan and boundary determination shall be completed on advice of the Department of Environment and Conservation, and to the requirements of the Environmental Protection Authority, prior to determination of the Structure Plan.

### 6.3 Kalamunda Town Centre Design Control Area

6.3.1 The land bounded by Railway Road, Canning Road and Stirk Street and the land fronting Canning Road between Heath and Kalamunda Roads is designated the "Kalamunda Town Centre Design Control Area".



6.3.2 Development within the Kalamunda Town Centre Design Control Area shall be subject to the civic and design guidelines contained in the adopted Kalamunda Town Centre Study (as modified from time to time) which are for the purpose of ensuring that such development will not adversely affect the amenity and will enhance the character and visual appearance of the area.

6.3.3 Setback from the front boundary of any lot may be reduced from that specified in Table 2 to nil to enable a continuous verandah to be constructed over the footpath at local government's discretion.

6.3.4 Development shall not exceed 2 storeys in height except where local government considers that particular circumstances may warrant an exception being made and provided the intentions of this section are not compromised.

6.3.5 In considering a proposed development (including additions and alterations to existing development) in the Kalamunda Town Centre Design Control Area, local government shall have regard to, and may impose conditions relating to—

- (a) colour and building materials;
- (b) size, height, bulk and roof pitch;
- (c) setback and location on its lot;
- (d) architectural style and design details;
- (e) function;
- (f) relationship to surrounding development;
- (g) other characteristics as considered relevant.

6.3.6 Landscaping shall be of a nature that would compliment the appearance of the proposed development and the town centre and local government may require that native plants be used.

6.3.7 Design of car parking layout shall have regard for existing carparking areas in terms of traffic circulation and shall be integrated with existing carparking.

6.3.8 The following general design guidelines shall apply for grouped dwelling development—

- (a) grouped dwelling development shall be single storey unless specifically approved otherwise by local government;
- (b) grouped dwellings shall be constructed in either Colonial or Federation style or character, unless otherwise approved by local government;
- (c) grouped dwellings shall generally have the following characteristics/materials—
  - face brick of walls shall be in approved traditional colours and design.
  - Roofs shall be steep pitched custom orb or terracotta tiles incorporating verandahs.
  - Fencing shall be individually designed brick, picket, wrought-iron, or combination of these, integrated with landscaping.
  - Wherever possible, access and parking area be limited to a single crossover. Vehicular access to each dwelling directly from the street shall generally be discouraged.

Variation shall be subject to local government's approval.

#### **6.4 DESIGN GUIDELINES FOR DESIGNATED AREAS**

6.4.1 The purpose and intent of designated area provisions are—

- (i) to facilitate the preparation of design guidelines and development standards for designated areas; and
- (ii) ensure as far as possible, development has regard for the aesthetic values of the designated area.

6.4.2 The local government may designate an area of land as having particular aesthetic qualities that warrant special considerations for new development within that area.

6.4.3 An area designated under this part is to be identified within a Policy Statement which shall comprise—

- (i) a map showing the boundaries of the designated area;
- (ii) a description of the features and characteristics that warrants the designation; and
- (iii) objectives and guidelines to be taken into account when considering development.

6.4.4 The procedures for preparing and adopting a Policy Statement pursuant to this part shall be the same as those provisions set out under clause 2.2 of the Scheme.

6.4.5 In dealing with any matters which may affect a designated area under the terms of this part, local government shall have regard for the terms and guidelines set out in the associated policy statement.

6.4.6 In addition to the application formalities prescribed in any other provision of the Scheme, the local government may require an application for planning approval, where the proposed development affects a designated area under the provisions of this part, to be accompanied by one or more of the following to assist the local government in its determination of the application—

- (i) street elevations drawn to a scale not smaller than 1:100 showing the proposed development in relation to existing development on each lot immediately adjoining the land the subject of the application, and drawn as one continuous elevation;
- (ii) a detailed schedule of all finished, including material and colours of the proposed development; and
- (iii) any other information which the local government indicates that it considers relevant to allow full and proper assessment of the application.

**PART 7—HERITAGE PROTECTION****7.1 HERITAGE LIST**

7.1.1 The local government is to establish and maintain a Heritage List to identify those places within the Scheme area which are of cultural heritage significance and worthy of conservation under the provisions of the Scheme, together with a description of each place and the reasons for its entry.

7.1.2 In the preparation of the Heritage List the local government is to—

- (a) have regard to the municipal inventory prepared by the local government pursuant to Section 45 of the *Heritage of Western Australia Act 1990*.
- (b) Include on the Heritage List such of the entries on the municipal inventory as it considers to be appropriate.

7.1.3 In considering a proposal to include a place on the Heritage List, the local government is to—

- (a) notify in writing the owner and occupier of the place and provide them with a copy of the description referred to in a sub-clause 7.1.1 and the reasons for the proposed entry;
- (b) invite submissions on the proposal from the owner and occupier of the place within 21 days of the day the notice is served;
- (c) carry out such other consultations as it thinks fit; and
- (d) consider any submissions made and resolve to enter the place on the Heritage List with or without modification or reject the proposal after consideration of the submissions.

7.1.4 Where a place is included on the Heritage List, the local government is to give notice of the inclusion to the Commission, the Heritage Council of Western Australia and to the owner and occupier of the place.

7.1.5 The local government is to keep a copy of the Heritage List with the Scheme documents for public inspection.

7.1.6 The local government may remove or modify the entry of a place on the Heritage List by following the procedures set out in clause 7.1.3.

*Note: 1. The purpose and intent of the heritage provisions are —*

- (a) *to facilitate the conservation of places of heritage value; and*
- (b) *to ensure as far as possible that development occurs with due regard to heritage values.*

2. *A “place” is defined in Schedule 1 and may include works, buildings and contents of buildings.*

**7.2 DESIGNATION OF A HERITAGE AREA**

7.2.1 If, in the opinion of the local government, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area, the local government may, by resolution, designate that area to be a heritage area.

7.2.2 The local government is to—

- (a) adopt for each heritage area a Local Planning Policy which is to comprise—
  - (i) a map showing the boundaries of the heritage area;
  - (ii) a record of places of heritage significance; and
  - (iii) objectives and guidelines for the conservation of the heritage area; and
- (b) keep a copy of the Local Planning Policy for any designated heritage area with the Scheme documents for public inspection.

7.2.3 If a local government proposes to designate an area as a heritage area the local government is to—

- (a) notify in writing each owner of land affected by the proposed designation and provide the owner with a copy of the proposed Local Planning Policy for the heritage area;
- (b) advertise the proposal by—
  - (i) publishing a notice of the proposed designation once a week for two consecutive weeks in a newspaper circulating in the Scheme area,
  - (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation;
  - (iii) such other methods as the local government considers appropriate to ensure widespread notice of the proposal; and
- (c) carry out such other consultations as the local government considers appropriate.

7.2.4 Notice of a proposal under clause 7.2.3(b) is to specify—

- (a) the area subject of the proposed designation;
- (b) where the proposed Local Planning Policy which will apply to the proposed heritage area may be inspected; and
- (c) in what form and in what period (being not less than 21 days from the day the notice is published or the sign is erected, as the case requires) submissions may be made.

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

- (a) review the proposed designation in the light of any submissions made; and
- (b) resolve to adopt the designation with or without modification, or not to proceed with the designation.

7.2.6 If the local government resolves to adopt the designation, the local government is to forward a copy of the designation to the Heritage Council of Western Australia, the Commission and each owner of land affected by the designation.

7.2.7 The local government may modify or revoke a designation of a heritage area.

7.2.8 Clauses 7.2.3 to 7.2.6 apply, with any necessary changes, to the amendment of a designation of a heritage area.

### 7.3 HERITAGE AGREEMENTS

The local government may, in accordance with the *Heritage of Western Australia Act 1990*, enter into a heritage agreement with an owner or occupier of land or a building for the purpose of binding the land or affecting the use of the land or building in so far as the interest of that owner or occupier permits.

*Note: 1. A heritage agreement may include a covenant intended to run with the land relating to the development or use of the land or any part of the land.*

*2. Detailed provisions relating to heritage agreements are set out in the Heritage of Western Australia Act 1990.*

### 7.4 HERITAGE ASSESSMENT

Despite any existing assessment on record, local government may require a heritage assessment to be carried out prior to the approval of any development proposed in a heritage area or in respect of a heritage place listed on the Heritage List.

### 7.5 VARIATIONS TO SCHEME PROVISIONS FOR A HERITAGE PLACE AND HERITAGE AREA

Where desirable to—

- (a) facilitate the conservation of a heritage place entered into the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the Heritage List under clause 7.1.1;
- (b) enhance or preserve heritage values in a heritage area declared under clause 7.2.1;
- (c) the local government may vary any site or development requirement specified in the Scheme or the Residential Design Codes, by following the procedures set out in clause 5.5.2.

## PART 8—DEVELOPMENT OF LAND

### 8.1 REQUIREMENT FOR APPROVAL TO COMMENCE DEVELOPMENT

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

*Note: 1. The planning approval of the local government is required for both the development of land (subject of this Part) and the use of land (subject of Part 4).*

*2. Development includes the erection, placement and display of any advertisements.*

*3. Approval to commence development may also be required from the Commission under the Metropolitan Region Scheme.*

### 8.2 PERMITTED DEVELOPMENT

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

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

- (e) Any works which are temporary and in existence for less than 48 hours or such longer time as the local government agrees; and
- (f) any of the exempted classes of advertisement listed in Schedule 5 except in respect of a place included in the Heritage List or in a heritage area.

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

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

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

### **8.4 UNAUTHORISED EXISTING DEVELOPMENTS**

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

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

*Note: 1. Applications for approval to an existing development are made under Part 9.*

*2. The approval by the local government of an existing development does not affect the power of the local government to take appropriate action for a breach of the Scheme or the Act in respect of the commencement or carrying out of development without planning approval.*

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

### **9.1 FORM OF APPLICATION**

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

- (a) a use or commencement of development on a Local Reserve under clause 3.4;
- (b) a use or development on any zoned land within the local government unless otherwise exempt under clause 8.2;
- (c) commencement of a use not listed in the Zoning Table under clause 4.4.2;
- (d) alteration or extension of a non-conforming use under clause 4.9;
- (e) a change of a non-conforming use under clause 4.9;
- (f) continuation of a non-conforming use under clause 4.12;
- (g) variation of a site or development requirement under clause 5.5;
- (h) commencement of development under clause 8.1;
- (i) continuation of development already commenced or carried out under clauses 8.4;
- (j) a subsequent planning approval pursuant to an approval under clause 10.9.1; and
- (k) the erection, placement or display of an advertisement;

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

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

*Note: 1. Under the provisions of the Metropolitan Region Scheme, an application for planning approval in respect of land which is wholly within a regional reserve is to be referred by the local government to the Commission for determination. No separate determination is made by the local government.*

*2. An application for planning approval in respect of land which is wholly within the management area of the Swan River Trust is to be referred by the local government to the Swan River Trust for determination by the Minister responsible for the Swan River Trust Act 1988.*

*3. An application for planning approval in respect of land which is zoned under the Metropolitan Region Scheme and is —*

- (a) affected by a gazetted notice of resolution made by the Commission under clause 32 of the Metropolitan Region Scheme;
- (b) within or partly within a planning control area declared by the Commission under section 112 of the Planning and Development Act 2005;
- (c) partly within the management area of the Swan River Trust or which abuts waters that are in that area; or
- (d) affected by a notice of delegation published in the Gazette by the Commission under section 16 of the Planning and Development Act 2005 and is not of a type which may be determined by the local government under that notice,

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

## 9.2 ACCOMPANYING MATERIAL

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

- (a) a plan or plans to a scale of not less than 1:500 showing—
  - (i) the location of the site including street names, lot numbers, north point and the dimensions of the site;
  - (ii) the existing and proposed ground levels over the whole of the land the subject of the application and the location, height and type of all existing structures, and structures and vegetation proposed to be removed;
  - (iii) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
  - (iv) the existing and proposed means of access for pedestrians and vehicles to and from the site;
  - (v) the location, number, dimensions and layout of all car parking spaces intended to be provided and demonstration that adequate manoeuvring areas are provided on site;
  - (vi) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
  - (vii) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the same; and
  - (viii) the nature and extent of any open space and landscaping proposed for the site;
- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain;
- (c) any specialist studies that local government may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies; and
- (d) Any other plan or information that the local government may require to enable the application to be determined.

## 9.3 ADDITIONAL MATERIAL FOR HERITAGE MATTERS

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

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

## 9.4 ADVERTISING OF APPLICATIONS

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

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

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

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

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

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

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

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

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

## PART 10—PROCEDURE FOR DEALING WITH APPLICATIONS

### 10.1 CONSULTATION WITH OTHER AUTHORITIES

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

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

### 10.2 MATTERS TO BE CONSIDERED BY LOCAL GOVERNMENT

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

- (a) the aims and provisions of this Scheme and any other relevant local planning schemes operating within the Scheme area (including the Metropolitan Region Scheme);
- (b) the requirements of orderly and proper planning including any relevant proposed new local planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;
- (c) any approved Statement of Planning Policy of the Commission;
- (d) any approved environmental protection policy under the *Environmental Protection Act 1986*;
- (e) any relevant policy or strategy of the Commission or any relevant planning policy adopted by the Government of the State;
- (f) any local Planning Policy adopted by the local government clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2 and any other plan or guideline adopted by the local government under the Scheme;
- (g) in the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;
- (h) the conservation of any place that has been entered in the Register within the meaning of the *Heritage of Western Australia Act 1990*; or which is included in the Heritage List under clause 7.1, and the effect of the proposal on the character or appearance of a heritage area;
- (i) the compatibility of a use or development with its setting;
- (j) any social issues that have an effect on the amenity of the locality;
- (k) the cultural significance of any place or area affected by the development;
- (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (m) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- (n) the preservation of the amenity of the locality;
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (r) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
- (s) whether public utility services are available and adequate for the proposal;
- (t) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (u) whether adequate provision has been made for access by disabled persons;
- (v) whether adequate provision has been made for the landscaping of the land to which the planning application relates and whether any trees or other vegetation on the land should be preserved;
- (w) whether the proposal is likely to cause soil erosion or land degradation;
- (x) the potential loss of any community service or benefit resulting from the planning approval;
- (y) any relevant submissions received on the application;
- (z) the comments or submissions received from any authority consulted under clause 10.1.1; and
- (aa) any other planning consideration the local government considers relevant.

### 10.3 DETERMINATION OF APPLICATIONS

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

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

### 10.4 FORM AND DATE OF DETERMINATION

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

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

### 10.5 TERM OF PLANNING APPROVAL

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

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

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

### 10.6 TEMPORARY PLANNING APPROVAL

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

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

### 10.7 SCOPE OF PLANNING APPROVAL

Planning approval may be granted—

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

### 10.8 APPROVAL SUBJECT TO LATER APPROVAL OF DETAILS

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

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

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

### 10.9 DEEMED REFUSAL

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

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

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

### 10.10 RIGHT OF REVIEW

An applicant aggrieved by a determination of the local government in respect of the exercise of a discretionary power under the Scheme may make application for review under Part 14 of the *Planning and Development Act 2005*.

## PART 11—ENFORCEMENT AND ADMINISTRATION

### 11.1 POWERS OF THE LOCAL GOVERNMENT

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

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

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

### 11.2 REMOVAL AND REPAIR OF EXISTING ADVERTISEMENTS

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

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

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

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

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

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

### 11.3 DELEGATION OF FUNCTIONS

11.3.1 The local government may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or the Chief Executive Officer (CEO), within the meaning of those expressions under the *Local Government Act 1995*, the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.

11.3.2 The CEO may delegate to any employee of the local government the exercise of any of the Chief Executive Officer's powers or the discharge of any of the Chief Executive Officer's duties under clause 11.3.1.

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

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

### 11.4 PERSON MUST COMPLY WITH PROVISIONS OF SCHEME

A person must not—

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

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

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

*is guilty of an offence.*

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



## 11.5 COMPENSATION

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

- (a) in any case, within 6 months of the date of publication of notice of the approval of the Scheme or the amendment, as the case requires, in accordance with the *Town Planning Regulations 1967*; or
- (b) where the land has been reserved for a public purpose and—
  - (i) an application made under the Scheme for approval to carry out development on the land is refused; or
  - (ii) an application made under the Scheme for approval to carry out development on the land is granted subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a public purpose,
 not later than 6 months after the application is refused or the permission granted.

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

*Note: 1. A claim for compensation in respect of the refusal of planning approval or the imposition of conditions on land reserved under the Metropolitan Region Scheme should be made under the Planning and Development Act 2005.*

*2. A claim for compensation under section 173 of the Planning and Development Act may be made in the Form No. 7 in Appendix A of the Town Planning Regulations 1967.*

## 11.6 PURCHASE OR TAKING OF LAND

11.6.1 If, where compensation for injurious affection is claimed under the *Planning and Development Act 2005*, the local government elects to purchase or take the land compulsorily the local government is to give written notice of that election to the claimant within 3 months of the claim for compensation being made.

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

*Note: Sections 190 and 191 of the Planning and Development Act 2005 empowers the local government to purchase or compulsorily acquire land comprised in a scheme.*

## 11.7 NOTICE FOR REMOVAL OF CERTAIN BUILDINGS

11.7.1 Under section 214 of the *Planning and Development Act 2005*, 28 days written notice is prescribed as the notice to be given for the removal of a building or other work referred to in that subsection.

11.7.2 The local government may recover expenses under section 214 of the *Planning and Development Act 2005* in a court of competent jurisdiction.

## SCHEDULES

### SCHEDULE 1 — DICTIONARY OF DEFINED WORDS AND EXPRESSIONS

#### 1. GENERAL DEFINITIONS

In the Scheme—

- “**absolute majority**” has the same meaning given to the term in the *Local Government Act 1995*;
- “**advertisement**” means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and includes any hoarding or similar structure used, or adapted for use, for the display of advertisements. The term includes any airborne device anchored to any land or building and any vehicle or trailer or other similar object placed or located so as to serve the purpose of advertising;
- “**amenity**” means all those factors which combine to form the character of an area and shall include the present and likely future amenity;
- “**aged residential care**” has the same meaning given to the term in the *Aged Care Act 1997* (Commonwealth);
- “**building envelope**” means an area of land within a lot marked on a plan approved by the responsible authority within which all buildings and effluent disposal facilities on the lot must be contained;
- “**Commission**” means the Western Australian Planning Commission constituted under the *Planning and Development Act 2005*;
- “**conservation**” has the same meaning given to the term in the *Heritage of Western Australia Act 1990*;
- “**Council**” means the Council of the Shire of Kalamunda;
- “**cultural heritage significance**” has the same meaning given to the term in the *Heritage of Western Australia Act 1990*;

- “**development**” has the same meaning given to the term in the Planning and Development Act;
- “**floor area**” has the same meaning as in the *Building Code of Australia 1996*, published by the Australian Building Codes Board;
- “**frontage**” when used in relation to a building that is used for—
- residential purposes, has the same meaning as in the Residential Design Codes; and
  - purposes other than residential purposes, means the road alignment at the front of a lot and, if a lot abuts two or more roads, the one to which the building or proposed building faces;
- “**Gazettal date**” means the date on which the Scheme came into force, being the date on which notice of the Minister’s approval of the Scheme is published in the *Government Gazette*;
- “**height**” when used in relation to a building that is used for—
- Residential purposes, has the same meaning given to the term in the Residential Design Codes; or
  - Purposes other than residential purposes, means the maximum vertical distance between the ground level and the finished roof height directly above;
- “**incidental use**” means a use of premises which is ancillary and subordinate to the predominant or primary use;
- “**land**” has the same meaning given to the term in the Planning and Development Act;
- “**local government**” means the Shire of Kalamunda;
- “**Local Planning Strategy**” means the Local Planning Strategy in respect of the Scheme, as endorsed by the Commission under regulation 12B of the *Town Planning Regulations 1967* and amended from time to time;
- “**lot**” has the same meaning given to the term in the Planning and Development Act but shall not include a strata or survey strata lot;
- “**minerals**” has the same meaning given to the term in the *Mining Act 1978*;
- “**Minister**” means the Minister for Planning and Infrastructure;
- “**net lettable area (NLA)**” means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas—
- all stairs, toilets, cleaners cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
  - lobbies between lifts facing other lifts serving the same floor;
  - areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
  - areas set aside for the provision of facilities or services to the floor or building where such facilities are not for the exclusive use of occupiers of the floor or building;
- “**non-conforming use**” has the same meaning as it has in Section 172 of the Planning and Development Act;
- “**owner**” in relation to any land includes the Crown and every person who jointly or severally whether at law or in equity—
- is entitled to the land for an estate in fee simple in possession;
  - is a person to whom the Crown has lawfully contracted to grant the fee simple of that land;
  - is a lessor or licensee from the Crown; or
  - is entitled to receive or is in receipt of, or if the land were let to a tenant, would be entitled to receive the rents and profits from the land, whether as beneficial owner, trustee, mortgagee in possession, or otherwise;
- “**Planning and Development Act**” means the *Planning and Development Act 2005*;
- “**place**” in Part 7 (Heritage Places) has the same meaning as in the *Heritage of Western Australia Act 1990*;
- “**plot ratio**” is the total floor area of all buildings on a site divided by the area of the site except for residential dwellings where the term has the same meaning as in the Residential Design Codes;
- “**precinct**” means a definable area where particular planning policies, guidelines or standards apply;
- “**predominant use**” means the primary use of premises to which all other uses carried out on the premises are subordinate, incidental or ancillary;
- “**premises**” means land or buildings;
- “**public authority**” has the same meaning as in the Planning and Development Act;
- “**Region Scheme—Metropolitan**” means the Metropolitan Region Scheme made within the meaning of the *Planning and Development Act 2005*;
- “**Residential Design Codes**” means the Residential Design Codes in Appendix 2 to the Western Australian Planning Commission Statement of Planning Policy 3.1, as amended from time to time;
- “**Responsible authority**” has the same meaning as in the Planning and Development Act;

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

“**Scheme Act**” means the *Planning and Development Act 2005*;

“**site coverage**” means the total area covered by all buildings on the land, when measured from the outer surface of their walls and is calculated as a percentage of a lot that may be occupied by buildings;

“**substantially commenced**” means that work or development the subject of a planning approval has been begun by the performance of some substantial part of that work or development;

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

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

## 2. LAND USE DEFINITIONS

In the Scheme—

“**ancillary accommodation**” means self contained accommodation on the same site as a single house and may be attached or detached from the single house existing on the lot;

“**agriculture—intensive**” means premises used for trade or commercial purposes, including outbuildings and earthworks associated with the following—

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

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

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

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

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

“**art gallery**” means a place open to the public where the predominant use is the sale and display of artwork;

“**bed and breakfast**” means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a commercial basis and includes the provision of breakfast, but does not include a lodging house;

“**betting agency**” means any totalisator agency established and operated under the *Racing and Wagering W.A. Act 2003*, and includes any premises on which wagers may be made on a race or event through or with RWWA;

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

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

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

“**chalets**” means short term accommodation provided on a property for persons away from their normal place of residence on a commercial basis, but does not include a lodging house or bed and breakfast;

“**child care premises**” has the same meaning given to the term in the *Children and Community Services Act 2004*;

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

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

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

“**commercial vehicle**” means a vehicle whether licensed or not, and shall include motor propelled caravans, trailers, semi-trailers, earth moving machines whether self propelled or not, motor wagons, buses and tractors and their attachments but shall not include any, motor car or any vehicle whatsoever the weight of which is less than 3.5 tonnes;

- “**commercial vehicle parking**” means the parking of a commercial vehicle for more than two consecutive hours or for a longer period than is necessary to load and unload, or for a longer period than is necessary to complete a service being rendered to the property;
- “**community purpose**” means the use of premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit;
- “**consulting rooms**” means premises used by no more than two health consultants for the investigation or treatment of human injuries or ailments and for general care;
- “**convenience store**” means premises—
- used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents, or the retail sale of petrol and those convenience goods;
  - operated during hours which include, but may extend beyond, normal trading hours;
  - which provide associated parking; and
  - the floor area of which does not exceed 300 m<sup>2</sup> NLA;
- “**corrective institution**” means premises used to hold and reform persons committed to it by a court, such as a prison or other type of detention facility;
- “**dwelling**” has the same meaning given to the term in the Residential Design Codes;
- “**educational establishment**” means premises used for the purposes of education and includes a school, tertiary institution, business college, academy or other educational centre;
- “**family day care**” has the same meaning given to the term in the *Children and Community Services Act 2004*;
- “**fast food outlet**” means premises used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises;
- “**fuel depot**” means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel, but does not include a service station and specifically excludes the sale by retail into the final users vehicles or such fuel from the premises;
- “**funeral parlour**” means premises used to prepare and store bodies for burial or cremation;
- “**garden centre**” means any land or building or part thereof used for the sale and display of garden products, including garden ornaments, plants, seeds, domestic garden implements and motorised implements and the display, but not manufacture, of pre-fabricated garden buildings;
- “**grouped dwelling**” has the same meaning given to the term in the Residential Design Codes;
- “**health/fitness centre**” means a building designed and equipped for recreation and sporting activities and includes outdoor recreation if specially approved by the local government;
- “**home business**” means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which—
- does not employ more than 2 people not members of the occupier’s household;
  - will not cause injury to or adversely affect the amenity of the neighbourhood;
  - does not occupy an area greater than 50 m<sup>2</sup>;
  - does not involve the retail sale, display or hire of goods of any nature;
  - in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and
  - does not involve the use of an essential service of greater capacity than normally required in the zone;
- “**home occupation**” means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which—
- does not employ any person not a member of the occupier’s household;
  - will not cause injury to or adversely affect the amenity of the neighbourhood;
  - does not occupy an area greater than 20 m<sup>2</sup>;
  - does not display a sign exceeding 0.2 m<sup>2</sup>;
  - does not involve the retail sale, display or hire of goods of any nature;
  - in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and
  - does not involve the use of an essential service of greater capacity than normally required in the zone;
- “**home office**” means a home occupation limited to a business carried out solely within a dwelling by a resident of the dwelling but which—
- does not entail clients or customer travelling to and from the dwelling;
  - does not involve any advertising signs on the premises; and
  - does not require any external changes to the appearance of the dwelling;

- “home store”** means any shop with a NLA not exceeding 100 m<sup>2</sup> attached to a dwelling and which is operated by a person residing in the dwelling;
- “hospital”** means premises in which persons are admitted and lodged for medical treatment or care and includes a maternity hospital;
- “hotel”** means premises providing accommodation the subject of a hotel licence granted under the provisions of the *Liquor Licensing Act 1988* and may include a betting agency operated in accordance with the *Racing and Wagering WA Act 2003*, but does not include a tavern the subject of a tavern licence or a motel;
- “industry”** means premises used for the manufacture, dismantling, processing, assembly, testing, servicing, maintenance and repairing of goods products, and if on the same land as any of these operations, the storage of goods, the work of administration or accounting, the selling of goods by wholesale or retail and the provision of amenities for employees, where incidental operations carried out on the land;
- “industry—cottage”** means a trade or light industry producing arts and crafts goods which does not fall within the definition of a home occupation and which:—
- does not cause injury to or adversely affect the amenity of the neighbourhood;
  - where operated in a residential zone, does not employ any person other than a member of the occupier’s household;
  - is conducted in an out-building which is compatible with the principal uses to which land in the zone in which it is located may be put;
  - does not occupy an area in excess of 50 m<sup>2</sup>;
  - does not display a sign exceeding 0.2 m<sup>2</sup> in area;
- “industry—extractive”** means an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar material from the land and includes the treatment and storage of those materials, or the manufacture of products from those materials on, or adjacent to, the land from which the materials are extracted, but does not include industry mining;
- “industry—general”** means an industry other than a cottage, extractive, light, mining, rural or service industry;
- “industry—light”** means an industry—
- in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises do not cause any injury to or adversely affect the amenity of the locality;
  - the establishment or conduct of which does not, or will not, impose an undue load on any existing or proposed service for the supply or provision of essential services;
- “industry—rural”** means an industry handling, treating, processing or packing rural products and a workshop servicing plant or equipment used for rural purposes;
- “industry—service”** means an industry—light carried out from premises which may have a retail shop front and from which goods manufactured on the premises may be sold, or premises having a retail shop front and used as a depot for receiving goods to be serviced;
- “lodging house”** has the same meaning as given to the term in the *Health Act 1911*;
- “lunch bar”** means a building or part of a building used for sale of takeaway goods within industrial and commercial areas, in a form ready to be consumed without further preparation off the premises but does not include a fast food outlet;
- “market”** means premises used for the display and sale of goods from stalls by independent vendors;
- “medical centre”** means premises used by more than two health consultant(s) for the investigation or treatment of human injuries or ailments and for general outpatient care (including preventative care, diagnosis, medical and surgical treatment, and counselling);
- “motel”** means premises used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the accommodation of patrons with motor vehicles and may comprise premises licensed under the *Liquor Licensing Act 1988*;
- “motor vehicle, boat or caravan sales”** means premises used to sell or hire motor vehicles, boats or caravans;
- “motor vehicle repairs”** means premises used for or in connection with electrical and mechanical repairs and overhauls to motor vehicles. The term includes repairs to tyres but does not include recapping or retreading of tyres, panel beating, spray painting or chassis repair;
- “motor vehicle wash”** means premises where the primary use is the washing of motor vehicles;
- “motor vehicle wrecking”** means land and buildings used for panel beating, spray painting, chassis reshaping, dismantling of vehicles or other machinery of any nature and the sale of second hand parts derived from such dismantling;
- “museum”** means a building, structure or land used for storing and exhibiting objects illustrative of antiquities, natural history, art, nature and curiosities;
- “night club”** means premises used for entertainment with or without eating facilities and to which a licence and other provisions of the *Liquor Licensing Act 1988* has been granted;

- “nursery”**—means the use of land for the—
- (a) propagation, rearing and sale of plants and;
  - (b) the storage and sale of products associated with horticultural and garden decor from an open or enclosed area not exceeding a total of 200 square metres on one lot;
- but does not include—
- (a) the sale, storage, or handling of any manure other than in packages approved by the Council, or
  - (b) the sale, storage, packaging, handling, or processing of any manure in bulk;
- “office”** means premises used for administration, clerical, technical, professional or other like business activities;
- “park home park”** shall have the name meaning as given to the term in the *Caravan Parks and Camping Grounds Regulations 1997*;
- “place of worship”** means premises used for religious activities such as a church, chapel, mosque, synagogue and temple;
- “public utility”**—means any works or undertaking constructed or maintained by a public authority or municipality to provide water, sewerage, electricity, gas, drainage, communications, or other similar services, but excluding telecommunications infrastructure;
- “recreation—private”** means premises used for indoor and outdoor leisure, recreation and sport which are not usually open to the public without charge;
- “reception centre”** means premises used for functions on formal or ceremonial occasions but not for unhosted use for general entertainment purposes;
- “restaurant”** means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons and the term shall include a licensed restaurant;
- “restricted premises”** means premises used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of—
- (a) Publications that are classified as restricted publications pursuant to the *Classification (Publications Films and Computer Games) Enforcement Act 1996*; or
  - (b) Materials, compounds, preparations or articles which are used or intended to be used primarily in, or in connection with, any form of sexual behaviour or activity;
- “rural pursuit”** means any land or buildings used for—
- (a) The rearing or agistment of animals;
  - (b) The stabling, agistment or training of horses;
  - (c) The growing of trees, plants, shrubs or flowers for replanting in domestic, commercial or industrial gardens;
  - (d) The sale of produce grown solely on the lot;
- but does not include agriculture—extensive or agriculture—intensive;
- “salvage yard”** means land and buildings used for the storage and sale of materials salvaged from the erection, demolition, dismantling or renovating of, or fire or flood damage to structures including (but without limiting the generality of the foregoing) buildings, machinery, vehicles and boats;
- “service station”** means premises used for the retail sale of petroleum products and motor vehicle accessories and goods of an incidental /convenience retail nature, and for carrying out greasing, tyre repairs or minor mechanical repairs to motor vehicles, but does not include a transport depot, panel beating, spray painting, major repairs or wrecking;
- “shop”** means premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser and beauty therapist) but does not include a showroom or fast food outlet;
- “showroom”** means premises used for displaying or offering for sale by wholesale or retail, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature;
- “storage”** means premises used for the storage of goods, equipment, plant or materials;
- “tavern”** means premises used to sell liquor for consumption on the premises and the subject of a tavern licence granted under the provisions of the *Liquor Licensing Act 1988*;
- “telecommunications infrastructure”** means any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use, on or in connection with a telecommunications network;
- “trade display”** means premises used for display of trade goods and equipment for the purpose of advertisement;
- “transport depot”** means any land or buildings used for the garaging or parking of road motor vehicles or commercial 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;
- “veterinary centre”** means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders;

“warehouse” means premises used to store or display goods and which may include sale by wholesale;

“winery” means premises used for the production of viticulture produce and which may include sale of the produce.

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**SCHEDULE 2—ADDITIONAL USES**

[Clause 4.5]

NO.	DESCRIPTION OF LAND	ADDITIONAL USE	CONDITIONS
1	255 WALNUT ROAD, BICKLEY Lot 501	Restaurant	<ul style="list-style-type: none"> <li>(a) A restaurant is not permitted unless approval is granted by the Council (“D”).</li> <li>(b) The restaurant be restricted to a maximum of 50 seats.</li> <li>(c) Hours of operation shall be limited to 11.00am to 5.00pm in order to minimise the amount of light pollution which would potentially impact on the operations of the Perth Observatory.</li> </ul>
2	95 PALMATEER DRIVE, BICKLEY Lot 100 Canning Location 672	Dog Kennels	<ul style="list-style-type: none"> <li>(a) With the approval of the Council a service shop may be included, provided that the service shop is incidental to the primary purpose of boarding and/or breeding of dogs, and trades only in goods related to that activity.</li> <li>(b) Any service shop shall not be sited on the road frontage of the subject lot.</li> <li>(c) No provision in the Scheme shall prohibit the erection of a Caretaker’s Residence or Dwelling House (but not both) on the subject lot.</li> <li>(d) Landscaped buffers between a parcel of land used for dog kennels and adjoining land may be required to the specifications of Council. Any such landscaped buffer shall be sited on the subject land and maintained to the satisfaction of the Council.</li> </ul>
3	810 WELSHPOOL ROAD, WATTLE GROVE Part Lot 153, Canning Loc 11	Dog Kennels	<ul style="list-style-type: none"> <li>(a) With the approval of the Council a service shop may be included, provided that the service shop is incidental to the primary purpose of boarding and/or breeding of dogs, and trades only in goods related to that activity.</li> <li>(b) Any service shop shall not be sited on the road frontage of the subject lot.</li> <li>(c) No provision in the Scheme shall prohibit the erection of a Caretaker’s Residence or Dwelling House (but not both) on the subject lot.</li> <li>(d) Landscaped buffers between a parcel of land used for dog kennels and adjoining land may be required to the specifications of Council. Any such landscaped buffer shall be sited on the subject land and maintained to the satisfaction of the Council.</li> </ul>
4	714 WELSHPOOL ROAD, WATTLE GROVE Lot 201	Dog Kennels	<ul style="list-style-type: none"> <li>(a) With the approval of the Council a service shop may be included, provided that the service shop is incidental to the primary purpose of boarding and/or breeding of dogs, and trades only in goods related to that activity.</li> <li>(b) Any service shop shall not be sited on the road frontage of the subject lot.</li> <li>(c) No provision in the Scheme shall prohibit the erection of a Caretaker’s Residence or Dwelling House (but not both) on the subject lot.</li> </ul>

NO.	DESCRIPTION OF LAND	ADDITIONAL USE	CONDITIONS
			(d) Landscaped buffers between a parcel of land used for dog kennels and adjoining land may be required to the specifications of Council. Any such landscaped buffer shall be sited on the subject land and maintained to the satisfaction of the Council.
5	35 CANNING ROAD, KALAMUNDA Kalamunda Townsite, Lot 58	Non-licensed Restaurant	Maximum floor area of 67 m <sup>2</sup> for the public dining area.
6	55 RAILWAY ROAD/ STIRK STREET KALAMUNDA Lot 1, Kalamunda Townsite, Lot 15	Arts and Crafts Centre including teaching, production, display and sales	<p>(a) Does not cause injury to or prejudicially affect the amenity of the neighbourhood including (but without limiting the generality of the foregoing) injury or prejudicial affectation due to the emission of light, noise, vibrations, smell, fumes, smoke, vapour, steam, soot, ash, dust, grit, oil, waste water, or waste products.</p> <p>(b) Does not require the provision of any essential service main of a greater capacity than normally required in the zone in which it is located.</p> <p>(c) Does not provide more than one advertisement sign and that not exceeding 0.2 m<sup>2</sup>.</p> <p>(d) Does not involve the use of commercial vehicles exceeding one tonne in weight for the delivery and collection of materials to or from the premises, provided that any such vehicle owned by the proprietor of such business or not of occupier of the dwelling unit where parked on the site shall be contained in an entirely enclosed garage.</p> <p>(e) Provides on-site parking for vehicles attracted by or related to use of the site as an Arts and Crafts Centre.</p>
7	550 CANNING ROAD, CARMEL Lot 8	Restaurant and Craft Shop	<p>(a) The scale of the restaurant and number of persons to be catered for as determined by the local government, compatible with the retention of the landscape interest and amenity of the area, upon receipt of application of planning approval.</p> <p>(b) Provision of sufficient car parking to the satisfaction and specification of the local government that is designed to blend with the scale and character of the surrounding area, with an emphasis on the retention of landscape quality.</p> <p>(c) The size and scale of the craft shop shall be incidental to the restaurant and at the discretion of the local government.</p>
8	80 CANNING ROAD, CNR BLAMIRE ROAD, KALAMUNDA Pt Lot 102 Canning Loc 271	Local Shop	Development of that portion zoned "Shopping" shall be limited to a local shop with a gross leasable area for retail purposes of not more than one hundred and fifteen point four (115.4) square metres. An additional sixty seven point two (67.2) square metres gross leasable area may be used for storage and/or staff facilities only.
9	176 GROVE ROAD, LESMURDIE Lot 142		<p>(a) The following uses are not permitted unless approval is granted by the local government.</p> <ul style="list-style-type: none"> <li>• Office</li> <li>• Professional Office</li> <li>• Consulting Rooms</li> </ul>



NO.	DESCRIPTION OF LAND	ADDITIONAL USE	CONDITIONS
10	269 KALAMUNDA ROAD, MAIDA VALE Lot 24	Convenience store	The convenience store use shall have a total net leasable area not exceeding 300 m <sup>2</sup> .
11	115 BRACKEN ROAD, PICKERING BROOK Pt Canning Loc 852	Part time Engineering Workshop	<ul style="list-style-type: none"> <li>(a) The activity being restricted to its current size and scale of operation as approved by Council (OCM 10.2.86) and as contained in the records held by Council.</li> <li>(b) Trade display being limited to Council's satisfaction.</li> <li>(c) The use is personal to Luigi ALTINIER and Roberto ALTINIER only and will automatically cease on their demise or when the property is sold (ie. the right is not transferable to other members of their family or any other person).</li> <li>(d) No non-conforming use rights implied or other wise being accrued.</li> <li>(e) All on-site advertising shall be non-illuminated and limited to a sign not exceeding 600 mm<sup>2</sup> which shall not be erected without the prior approval of Council.</li> </ul>
12	Portion of (765) Abernethy Road, Forrestfield Lot 1349 being the Office Park as Generally delineated in the Forrestfield Concept plan within the Scheme Report accompanying Scheme Amendment 177.	Child Care Centre Fast Food Outlet; Medical Centre Office; Restaurant Service Station; Shop; Showroom Tavern	Provided that the Gross Leasable Area set aside for the purposes of Shop, other than Fast Food Outlet, does not exceed 500 m <sup>2</sup> in total.
13	350 KALAMUNDA ROAD MAIDA VALE Reserve 27074—Hillview Golf Course	Tavern	No Bottle Shop/Liquor Store activity being permitted.
14	MEAD STREET, KALAMUNDA Those portions of Kalamunda Lots 36 and 42 Mead Street and the Right of Way between that are within the Service Station zone	Offices	
15	29 ROSEMOUNT TERRACE, LESMURDIE Lot 73	Professional Office in a Dwelling House	<ul style="list-style-type: none"> <li>(a) All office use activity being restricted to the existing house.</li> <li>(b) No increase in floor space or extension to the existing building is permitted.</li> <li>(c) All on-site advertising shall be non-illuminated and limited to a sign not exceeding 600 mm x 600 mm which shall not be erected without prior approval of Council.</li> </ul>
16	118 WEST LAWNBROOK ROAD, WALLISTON Ptn Canning Loc 570	Firewood Yard	<ul style="list-style-type: none"> <li>(a) Additional use being restricted to a storage area not exceeding 44 m x 44 m, with stacking of firewood not to exceed 2 m above natural ground level.</li> <li>(b) The storage area for firewood to be set back not less than 50 m from the street frontage.</li> </ul>

NO.	DESCRIPTION OF LAND	ADDITIONAL USE	CONDITIONS
			<p>(c) All existing trees to be retained.</p> <p>(d) The additional use is limited to Mr E C CONTI and is not transferable and will automatically cease when he ceases operation of the business or upon his demise.</p>
17	84 CANNING ROAD, KALAMUNDA Pt Lot 129, Canning Loc 714	Additional Use "Veterinary Clinic or Surgery	Excluding treatment of horses or other large animals which would require trailer transport.
18	34 CARINYAH ROAD, PICKERING BROOK Lot 1188 Swan Location 1743	"Sawmill", including display of historical and modern methods of saw milling; and production, and sale of woodcraft.	<p>(a) The size and scale of the sawmill operation shall be limited to 6000 m<sup>3</sup> of sawn timber production per annum.</p> <p>(b) Trade display being limited in operation to Council's satisfaction and may include the provision of light refreshment for which the size and scale is to be determined by Council.</p> <p>(c) All on-site advertising shall be non-illuminated and limited to a sign not exceeding 600 mm x 600 mm which shall not be erected without the prior approval of Council.</p> <p>(d) Provision of on-site parking for vehicles attracted by or related to the educational and woodcraft use of the site.</p>
19	94 BRAE ROAD, HIGH WYCOMBE Lot 200 Swan Location 1348	Rotary Hoeing Business	<p>(a) The activity being restricted to rotary/slashing business only.</p> <p>(b) The workshop to be limited to 300 m<sup>2</sup>.</p> <p>(c) The use is personal to Trevor George MILNER only and will automatically cease on his demise or when the property is sold (i.e. the right is not transferable to other members of his family or any other person).</p> <p>(d) All on-site advertising shall be non-illuminated and limited to a sign not exceeding 600 mm<sup>2</sup> square which shall not be erected without the prior approval of Council.</p>
20	23 Brand Road, High Wycombe. Lot 7	Educational Establishment	A maximum number of two classes per week and in the order of 30 students per class.
21	61 MERRIVALE ROAD, PICKERING BROOK Lot 824	Second residence	On condition that the land will not be subsequently subdivided
22	85, 91 & 95 PICKERING BROOK ROAD, PICKERING BROOK Lots 3, 105 and 104 Canning Locations 817 And 1840	The Sale/Purchase Of Commercial Vehicles (Trucks) By Western Truck Sales Pty Ltd	<p>(a) The sale/purchase vehicles be limited to commercial vehicles (trucks) only</p> <p>(b) The use will automatically cease when property is sold.</p> <p>(c) The use be related to the existing non-conforming use that being a truck depot.</p> <p>(d) The additional use applies to a total area not exceeding 8000 m<sup>2</sup> over Lots 3, 10 &amp; 12.</p> <p>(e) The existing non-conforming use rights being contained to an area not exceeding 8000 m<sup>2</sup> over Lots 3, 10 &amp; 12.</p>
23	116 GLENISLA ROAD, BICKLEY Lot 1 Canning Locations 506 and 507	Art Gallery	<p>(a) Partial decommissioning of existing residence to the satisfaction of Council.</p> <p>(b) Provision for light refreshments (eg Devonshire Tea) as an ancillary use to the Art Gallery, the operation of which shall not commence without prior approval of Council.</p>

NO.	DESCRIPTION OF LAND	ADDITIONAL USE	CONDITIONS
			<ul style="list-style-type: none"> <li>(c) The existing residence to be used only as an Art Gallery and shall not be converted back or used for residential purposes in the event that the Art Gallery is closed.</li> <li>(d) The new residence to be used by the owner/operator/ caretaker of the Art Gallery.</li> <li>(e) Provision for 12 on-site parking bays for vehicles attracted by, or related to the use of the site.</li> <li>(f) All on-site advertising shall be non-illuminated and limited to a size not exceeding 600 mm x 600 mm, which shall not be erected without the prior approval of Council.</li> </ul>
24	19 LOARING ROAD, BICKLEY Lot 101, Canning Location 673	Restaurant	<ul style="list-style-type: none"> <li>(a) Scale of development and number of persons to be catered for as determined by the council, compatible with the retention of the landscape interest and amenity of the area, upon receipt of application for planning approval.</li> <li>(b) Provision of sufficient car parking to the satisfaction and specification of the Council that is designed to blend with the scale and character of the surrounding area, with an emphasis on the retention of landscape quality.</li> </ul>
25	50 Asher Road, Paulls Valley Lot 619	Tourist or Short Stay Accommodation	<ul style="list-style-type: none"> <li>(a) Suitable apparatus for treatment and disposal of effluent, with such a system suitably designed for the number of persons to be accommodated.</li> <li>(b) The Council's approval to the total number of persons to be accommodated on the site.</li> <li>(c) Specific development conditions as deemed appropriate by the Council.</li> <li>(d) The building on Lot 619 proposed for Tourist or Short Stay Accommodation may alternatively be utilised as a dwelling.</li> </ul>
26	13 Heath Road, Kalamunda, Part Lot 3, Canning Location 308	Aged Persons Units	The additional use is subject to not more than 2 Aged Persons' Dwellings being constructed in addition to the existing residence; or a total of 3 Aged Persons' Dwellings being constructed, in accordance with the Residential Design Codes.
27	130 Pomeroy Road, Walliston, Lot 200 Portion Canning Location 460	Wood Yard and Nursery	<ul style="list-style-type: none"> <li>(a) The wood yard use being for the storage of firewood only, with no cutting or splitting of firewood on the lot.</li> <li>(b) The wood yard area not exceeding an area of 44 m x 44 m, with stacking of wood not to exceed 2 m above natural ground level.</li> <li>(c) Storage area being located between 85 and 130 m from the road frontage;</li> <li>(d) All existing trees to be retained.</li> <li>(e) Planning Application being made to the Council prior to the commencement of the wood yard and or nursery.</li> </ul>
28	306 Pickering Brook Road, Pickering Brook. Lot 501	Second Residence	The land will not be subsequently subdivided.
29	120 Victoria Road, Wattle Grove Lot 108 Portion Canning Location 12	Art Studio, Art Gallery and Art School	(a) These uses being restricted to the current scale of operation and confined to the existing residence as approved under Building Licence 7677/1558. No addition to the building being permitted.

NO.	DESCRIPTION OF LAND	ADDITIONAL USE	CONDITIONS
			(b) A maximum of 6 students per day to attend the Art School. (c) A minimum of 6 parking bays being provided on site; (d) these uses being personal to Mr John Kinglsey BALDOCK only and will automatically cease on his demise or when the property is sold (ie. the Additional Use is not transferable to other members of his family or any other person). (e) No non-conforming use rights implied or otherwise being accrued. (f) Any on-site advertising to be non-illuminated, limited to a sign not exceeding 600 m <sup>2</sup> and subject to Council approval.
30	110 Hummerston Road, PIESSE BROOK Pt Lot 903	Second Residence	Second dwelling and associated outbuildings within a specified building envelope on the lot as approved by the Council.
31	66 Carinyah Road, Pickering Brook Lot 2, Ptn Location 838	Second dwelling	Second dwelling and ancillary outbuildings within a specified building envelope on the lot as approved by the Council and subject to such conditions as the Council deems appropriate.
32	40 Masonmill Road, Carmel Lot 1107	Tearoom and Craft Shop	(a) The activities being limited to a total floor area of 220 m <sup>2</sup> . (b) The development to be generally in accordance with a Development Plan endorsed by Council.
33	10 Kiev Court, Lesmurdie Lot 32 Canning Location 311	Second dwelling (additional accommodation)	Second dwelling (additional accommodation) and ancillary outbuildings within specified building envelopes on the lot as approved by the Council and subject to such conditions as the Council deems appropriate.
34	361 Paulls Valley Road, Paulls Valley. Lot 430	Tourist Facility—Camel Farm	Development being generally in accordance with the indicative guide development plan dated January 1997 as included in the Scheme amendment documents.
35	(542) Pt Lot 870 and the north western portion of Lot 4 (550) Pickering Brook Road, Pickering Brook	Wood yard	
36	221 GOOSEBERRY HILL ROAD, MAIDA VALE Lot 101		(a) Any development or change of use shall require the following to be undertaken— (i) Fencing shall be designed and installed to a height to ensure minimal impact on residential amenity of neighbours. (ii) Landscaping shall be incorporated into the development of a minimum of 2 m in width along boundaries abutting residential development, to the satisfaction of Council. (iii) Hours of operation and hours of delivery and pick up shall be restricted to between 7.00am and 9.00pm only. The exception being any health studio where the operation may occur between the hours of 6.00am and 9.00pm and the swimming pool complex between the hours of 5.30am and 9.00pm.

NO.	DESCRIPTION OF LAND	ADDITIONAL USE	CONDITIONS
			<ul style="list-style-type: none"> <li>(iv) No further two (2) storey development to what already exists.</li> <li>(v) Buildings shall be setback 5 m from the rear boundary unless otherwise approved by the Council.</li> <li>(vi) Service and bin store areas not be located to the rear of buildings abutting residential properties.</li> <li>(vii) No parapet walls will be permitted.</li> <li>(viii) On site lighting shall be restricted to security lighting only. No advertising lighting will be permitted and any lighting after 9.00pm shall be sensor activated lights in accordance with Department of Environmental Protection requirements and the relevant Australian Standards.</li> <li>(ix) All signs to comply with the provisions of Council's Local Laws.</li> <li>(x) Any activity likely to generate noise such as a Health Studio will require the areas of noise generation to be soundproofed.</li> <li>(xi) Council may request a strategy in regard to any other matters which is considered likely to impact on the residential amenity of surrounding residents as part of a development application.</li> <li>(b) Variations in point (a) will only be considered by Council in exceptional circumstances and consultation will be undertaken with adjoining residential neighbours.</li> <li>(c) Carparking and access shall be in accordance with the access strategy as approved by Council.</li> <li>(d) Easements in gross being registered on all lots, as a condition of planning approval to ensure that the access strategy is implemented and access rights are registered for future owners.</li> <li>(e) A Health Studio is not permitted unless planning approval is granted by the Council.</li> <li>(f) A swimming Pool is a permitted use.</li> <li>(g) A shop is not permitted unless deemed to be incidental to the predominant use of the property, as determined by Council.</li> <li>(h) A restaurant use is not permitted.</li> <li>(i) A lodging house is not permitted.</li> </ul>
37	268 KALAMUNDA ROAD, MAIDA VALE Lot 60		<ul style="list-style-type: none"> <li>(a) Any development or change of use shall require the following to be undertaken. <ul style="list-style-type: none"> <li>(i) Fencing shall be designed and installed to a height to ensure minimal impact on residential amenity of neighbours.</li> <li>(ii) Landscaping shall be incorporated into the development of a minimum of 2 m in width along boundaries abutting residential development, to the satisfaction of Council.</li> </ul> </li> </ul>

NO.	DESCRIPTION OF LAND	ADDITIONAL USE	CONDITIONS
			<p>(iii) Hours of operation and hours of delivery and pick up shall be restricted to between 7.00am and 9.00pm only. The exception being any Health Studio where the operation may occur between the hours of 6.00am and 9.00pm and the swimming pool complex between the hours of 5.30am and 9.00pm.</p> <p>(iv) No further two (2) storey development to what already exists.</p> <p>(v) Buildings shall be setback 5 m from the rear boundary unless otherwise approved by the Council.</p> <p>(vi) Service and bin store areas not be located to the rear of buildings abutting residential properties.</p> <p>(vii) No parapet walls will be permitted.</p> <p>(viii) On site lighting shall be restricted to security lighting only. No advertising lighting will be permitted and any lighting after 9.00pm shall be sensor activated lights in accordance with Department of Environmental Protection requirements and the relevant Australian Standards.</p> <p>(ix) All signs to comply with the provisions of Council's Local Laws.</p> <p>(x) Any activity likely to generate noise such as a Health Studio will require the areas of noise generation to be soundproofed.</p> <p>(xi) Council may request a strategy in regard to any other matters which is considered likely to impact on the residential amenity of surrounding residents as part of a development application.</p> <p>(b) Variations in point a) will only be considered by Council in exceptional circumstances and consultation will be undertaken with adjoining residential neighbours.</p> <p>(c) Carparking and access shall be in accordance with the access strategy as approved by Council.</p> <p>(d) Easements in gross being registered on all lots, as a condition of planning approval to ensure that the access strategy is implemented and access rights are registered for future owners.</p> <p>(e) The following uses are not permitted unless planning approval is granted by the Council—</p> <ul style="list-style-type: none"> <li>• Hairdresser;</li> <li>• Health Studio;</li> <li>• Squash Courts.</li> </ul> <p>(f) A restaurant use is not permitted.</p> <p>(g) A lodging house is not permitted.</p>
38	268 KALAMUNDA ROAD, MAIDA VALE Lot 60		<p>(a) Any development or change of use shall require the following to be undertaken.</p> <p>(b) Variations in point (a) will only be considered by Council in exceptional circumstances and consultation will be undertaken with adjoining residential neighbours.</p>

NO.	DESCRIPTION OF LAND	ADDITIONAL USE	CONDITIONS
			<p>(c) Carparking and access shall be in accordance with the access strategy as approved by Council.</p> <p>(d) Easements in gross being registered on all lots, as a condition of planning approval to ensure that the access strategy is implemented and access rights are registered for future owners.</p> <p>(e) The following uses are not permitted unless planning approval is granted by the Council—</p> <ul style="list-style-type: none"> <li>• Hairdresser;</li> <li>• Health Studio.</li> </ul> <p>(f) A restaurant use is not permitted.</p> <p>(g) A lodging house is not permitted.</p>
39	262 Kalamunda Road, Maida Vale		<p>(a) Any development or change of use shall require the following to be undertaken—</p> <ul style="list-style-type: none"> <li>(i) Fencing shall be designed and installed to a height to ensure minimal impact on residential amenity of neighbours.</li> <li>(ii) Landscaping shall be incorporated into the development of a minimum of 2 m in width along boundaries abutting residential development, to the satisfaction of Council.</li> <li>(iii) Hours of operation and hours of delivery and pick up shall be restricted to between 7.00am and 9.00pm only. The exception being any Health Studio where the operation may occur between the hours of 6.00am and 9.00pm and the swimming pool complex between the hours of 5.30am and 9.00pm.</li> <li>(iv) No further two (2) storey development to what already exists.</li> <li>(v) Buildings shall be setback 5 m from the rear boundary unless otherwise approved by the Council.</li> <li>(vi) Service and bin store areas not be located to the rear of buildings abutting residential properties.</li> <li>(vii) No parapet walls will be permitted.</li> <li>(viii) On site lighting shall be restricted to security lighting only. No advertising lighting will be permitted and any lighting after 9.00pm shall be sensor activated lights in accordance with Department of Environmental Protection requirements and the relevant Australian Standards.</li> <li>(ix) All signs to comply with the provisions of Council's Local Laws.</li> <li>(x) Any activity likely to generate noise such as a Health Studio will require the areas of noise generation to be soundproofed.</li> <li>(xi) Council may request a strategy in regard to any other matters which is considered likely to impact on the residential amenity of surrounding residents as part of a development application.</li> </ul>

NO.	DESCRIPTION OF LAND	ADDITIONAL USE	CONDITIONS
			<p>(b) Variations in point (a) will only be considered by Council in exceptional circumstances and consultation will be undertaken with adjoining residential neighbours.</p> <p>(c) Carparking and access shall be in accordance with the access strategy as approved by Council.</p> <p>(d) Easements in gross being registered on all lots, as a condition of planning approval to ensure that the access strategy is implemented and access rights are registered for future owners.</p> <p>(e) The following uses are not permitted unless planning approval is granted by the Council—</p> <ul style="list-style-type: none"> <li>• Local Shop</li> <li>• Hairdresser</li> <li>• Liquor Store</li> </ul> <p>(f) A restaurant use is not permitted.</p> <p>(g) A lodging house is not permitted.</p> <p>(h) The maximum gross leasable area shall be limited to 450 m<sup>2</sup>.</p>
40	264 Kalamunda Road, Maida Vale 262 Kalamunda Road, Maida Vale		<p>(a) Any development or change of use shall require the following to be undertaken—</p> <p>(i) Fencing shall be designed and installed to a height to ensure minimal impact on residential amenity of neighbours.</p> <p>(ii) Landscaping shall be incorporated into the development of a minimum of 2 m in width along boundaries abutting residential development, to the satisfaction of Council.</p> <p>(iii) Hours of operation and hours of delivery and pick up shall be restricted to between 7.00am and 9.00pm only. The exception being any Health Studio where the operation may occur between the hours of 6.00am and 9.00pm and the swimming pool complex between the hours of 5.30am and 9.00pm.</p> <p>(iv) No further two (2) storey development to what already exists.</p> <p>(v) Buildings shall be setback 5 m from the rear boundary unless otherwise approved by the Council.</p> <p>(vi) Service and bin store areas not be located to the rear of buildings abutting residential properties.</p> <p>(vii) No parapet walls will be permitted.</p> <p>(viii) On site lighting shall be restricted to security lighting only. No advertising lighting will be permitted and any lighting after 9.00pm shall be sensor activated lights in accordance with Department of Environmental Protection requirements and the relevant Australian Standards.</p> <p>(ix) All signs to comply with the provisions of Council's Local Laws.</p> <p>(x) Any activity likely to generate noise such as a Health Studio will require the areas of noise generation to be soundproofed.</p>



NO.	DESCRIPTION OF LAND	ADDITIONAL USE	CONDITIONS
			<p>(xi) Council may request a strategy in regard to any other matters which is considered likely to impact on the residential amenity of surrounding residents as part of a development application.</p> <p>(b) Variations in point (a) will only be considered by Council in exceptional circumstances and consultation will be undertaken with adjoining residential neighbours.</p> <p>(c) Carparking and access shall be in accordance with the access strategy as approved by Council.</p> <p>(d) Easements in gross being registered on all lots, as a condition of planning approval to ensure that the access strategy is implemented and access rights are registered for future owners.</p> <p>(e) The following uses are not permitted unless planning approval is granted by the Council—</p> <ul style="list-style-type: none"> <li>• Hairdresser</li> </ul> <p>(f) A restaurant use is not permitted.</p> <p>(g) A lodging house is not permitted.</p>
41	1100 ABERNETHY ROAD, HIGH WYCOMBE Lot 101	Fast Food Outlet Convenience Store	
42	3 Leschenaultia Way Maida Vale Lot 86	Place of Worship	
43	811 Welshpool Road Wattle Grove Lot 194	Restaurant	<p>(a) A Restaurant is not permitted unless it is determined by the Council to be incidental to nursery use and is approved as such by Council.</p> <p>(b) The restaurant be restricted to a maximum of 60 seats.</p> <p>(c) The restaurant may not operate outside the trading hours of the nursery.</p> <p>(d) If in the event that the predominant use (i.e., the nursery) ceases to operate then the approval for the restaurant shall no longer be valid.</p>
44	51 Carmel Road Lot 51	Tea Room & Mini Winery	(a) A Tea Room and Mini Winery is not permitted unless approved is granted by Council ("D").

### SCHEDULE 3—RESTRICTED USES

[Clause 4.6]

No.	Description of Land	Restricted use	Conditions
1	1 & 3 Stirk Street, Kalamunda Lots 10 and 11	Car Park and open air display and weekend market	
2	Portion of (882) Abernethy Road, Forrestfield Lot 12815 Specifically that portion zoned Mixed Use only being delineated in the Forrestfield Concept plan within the Scheme Report accompanying Scheme Amendment 177	Car Park; Child Care Centre; Consulting Rooms; Consulting Rooms—Group; Cottage Industry; Education Establishment; Kindergarten; Medical Centre; Office; Public Utility; Reception Centre; Restaurant; Veterinary Clinic or Surgery; Worship—Place of.	

## SCHEDULE 4—SPECIAL USE ZONES

[Clause 4.7.1]

No.	DESCRIPTION OF LAND	SPECIAL USE	CONDITIONS
1	369 Holmes Road, Forrestfield Lot 1000	Service Industry	<p>(a) Landscaping shall be established and maintained to the satisfaction of the Council. For the purpose of interpretation of this sub-clause the species of flora shall be determined in negotiation with Council subject to the principles of landscaped screening being maintained.</p> <p>(b) No building shall exceed 4.5 m in height measured from finished ground level to ridge lines; or the height of buildings existing on the land on the gazettal date, whichever is the greater.</p> <p>(c) Uses in the zone shall be limited to those uses classified as hereunder and each use shall be regarded as a use that is not permitted unless approval is granted by the local government—</p> <ul style="list-style-type: none"> <li>(i) Light metal fabrication manufacture and sales.</li> <li>(ii) Electrical engineering excluding retail sales.</li> <li>(iii) Light vehicle body and caravan manufacture excluding trade display;</li> <li>(iv) Hire service subject to no open air display or outdoor storage.</li> <li>(v) Printer and sign writer.</li> <li>(vi) Retail hardware store to maximum gross leasable area of 520 m<sup>2</sup> subject to the requirement of seven (7) car parking bays for each 100 m<sup>2</sup> gross leasable area of the hardware retail store.</li> <li>(vii) Mechanical repairs and overhauls, and servicing of light vehicles excluding tyre recapping or retreading, panel beating, spray painting, or chassis reshaping.</li> <li>(viii) Showroom.</li> <li>(ix) Warehouse.</li> <li>(x) Service industry.</li> <li>(xi) Indoor Cricket or any such indoor recreation as approved by Council subject to the issuing of an annual permit. Council may impose such conditions as are deemed necessary to preserve the amenity of the adjoining residential neighbourhood.</li> </ul> <p>(d) The operation of any use or uses which may from time to time establish in this zone, shall always be such that the amenity of residential development in the vicinity shall not be adversely affected by the emission of light, noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, grit, oil, waste water, or waste products.</p> <p>Should any such use or uses cause a nuisance as specified above, the Council may resolve that action be taken separately or severally by the establishments concerned to reduce the nuisance to acceptable levels.</p>

No.	DESCRIPTION OF LAND	SPECIAL USE	CONDITIONS
2	11 Salix Way, Forrest-field. Lot 13	Office & Medical Centre	Notwithstanding anything elsewhere appearing in the Scheme, in this Zone the term "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 a professional office, estate agency, and insurance office, but excludes a travel agency, bank, building society, and post office.
3	332 Kalamunda Road, Maida Vale. Reserve 27075. 170 Hale Road, Forrestfield. Lot 190	Nursery / Special Garden Centre	<p>(a) The size of the building(s) being commensurate with a nursery/garden centre and being at the discretion of the local government.</p> <p>(b) Goods sold from the premises being limited to those ordinarily associated with a nursery/garden centre and being at the discretion of the local government.</p> <p>(c) No outdoor storage or display of bulky materials such as cement or cement products, landscape supplies, bulk soils or timber.</p>
4	384 Holmes Road, Forrestfield Lot 301	Office/Shop	<p>(a) The development of the site shall be limited to a total of 580 m<sup>2</sup> gross leasable area, comprising an Office 340 m<sup>2</sup> and a Delicatessen Shop 240 m<sup>2</sup></p> <p>(b) Provision and maintenance of a total of 34 car spaces measuring 5.5 m x 2.5 m and clearly marked on the ground, 6m wide access ways, landscaping and garden treatment areas.</p> <p>(c) Building setbacks—</p> <p>(i) 0 m from Holmes Road (verandah on road frontage).</p> <p>(ii) 5 and 6 m from Hale Road respectively.</p>
5	Portion of (25) Worrell Avenue, High Wycombe Lot 1311 Lots 102 (88), 103 (90), 104 (81), 105 (85), Lots (89), 110 (111), 111 (117), 112 (123) & 113 (127) Dundas Road, High Wycombe Lots 114 (136), 115 (132), 116 (130), 211 (105) & 122 (102) Wittenoom Road, High Wycombe	Business	<p>(a) The purpose of this zone is to facilitate the development of a Business Park which will incorporate a range of business and service trades activities.</p> <p>(b) Within this zone the following uses are permitted (P): Office, Showroom, Warehouse, Hardware/Homemaker Centre, Service Industry, Car Parking, Garden Nursery, Consulting Rooms, Light Industry and Public Utilities.</p> <p>(c) The following uses are not permitted unless specific approval is granted by the Council (A): Reception Centre, Restaurants, Indoor Recreation, Public Amusement, Trade Displays, Child Care Premises.</p> <p>(d) All other uses not mentioned above are not permitted.</p> <p>(e) All buildings within this zone shall be constructed of brick, concrete, masonry or Colorbond or other such material as approved by Council.</p> <p>(f) All development and/or buildings shall be appropriately sited, screened and landscaped to the satisfaction of the Council to provide a buffer for the residential area.</p> <p>(g) Building setback—15 m from Main Road, 6 m from Minor Road, or otherwise as approved by Council. Landscaping—3 m landscaping strips on the road frontage, or otherwise as approved by Council.</p>

No.	DESCRIPTION OF LAND	SPECIAL USE	CONDITIONS
			(h) Parking—generally in accordance with Scheme requirements; where not listed parking requirement is at the discretion of Council.
6	115 Canning Road, Kalamunda. Lot 9	Consulting Rooms and Professional Offices	Subject to compliance with provisions of the scheme for car parking for health centre, clinic, consulting rooms up to three medical practitioners may practice at the clinic at any one time.
7	Portion of Lots 1 (10) & 40 (20) West Sultana Road & Lot 20 (100) Milner Road, High Wycombe	Home Business	<p>(a) Within this zone, the following uses are permitted (“P”): single house.</p> <p>(b) Within this zone the following uses are not permitted unless Council grants specific approval (“D”): commercial vehicle parking; home business; office; veterinary centre.</p> <p>(c) The Council may grant planning approval for a home business subject to the use, if conducted in a separate building, being at the rear of the dwelling.</p> <p>(d) The Council may grant planning approval for not more than one commercial vehicle to be parked on a lot subject to a dwelling first being developed on the lot and the commercial vehicle being parked at the rear of the dwelling. Clause 5.20 applies.</p>
8	105 Watsonia Road, Maida Vale Part of Lot 503 Swan Location 1290	Reception Centre and Caretakers Disabled Services Residence.  Administration and Training Centre for people with intellectual and physical disabilities	
9	186 Hale Road, Forrestfield Lot 23 Canning Loc. 319	Caravan Park	
10	351 Hawtin Road Forrestfield Lot 402 Swan Location 28	Caravan Park	
11	2 Cypress Road (Cnr Hale Rd), Forrestfield Lot 498 Canning Location 310	Car Park	
12	43 CANNING ROAD (CNR Burt Street), Kalamunda Lot 15	Vehicle Sales/ Service	
13	81 Canning Road (CNR Collins Road) Kalamunda. Canning Loc 457, Lot 4	Gymnasium/ Health Studio	
14	Canning Road & Heath Road, Kalamunda. Canning Loc. 308, Lot 29  5 Heath Road, Kalamunda Lot 3	Car Park	

No.	DESCRIPTION OF LAND	SPECIAL USE	CONDITIONS
15	345 Kalamunda Road, Maida Vale Lot 1	Church/ Convention	<p>(a) Within this zone, the following uses are permitted: Place of worship; convention facility/office and administration for chalets, church, school and community groups; caravan/camping sites up to 35 sites.</p> <p>(b) Within this zone, the following uses are not permitted, unless approval is granted by the Council: overflow events exceeding 10 events per calendar year (including church, school, community or commercial events); recreational activities; educational establishment.</p> <p>(c) All other land uses not mentioned above are not permitted unless they are identified under the Master Plan, as approved by Council.</p>
16	Portion of 492 Kalamunda Road, High Wycombe Lot 29	Car Park	
17	Portion of 597 Kalamunda Road, High Wycombe Part Lot 5	Park Home Village	<p>(i) Within this zone the following uses are not permitted unless approval is granted by the Council ("A")—</p> <ul style="list-style-type: none"> <li>• Park Home Park to a maximum density of R25</li> <li>• Uses deemed to be incidental to Park Home Village.</li> </ul> <p>(ii) All other land uses not mentioned above are not permitted.</p>
18	Kalamunda Road, High Wycombe, Lots 50 and 23, Swan Location 1327	Shopping Centre & Tavern	<p>(a) The purpose of this zone is to facilitate the development of a "Town Centre" as adopted by Council at its Ordinary meeting held on 20 September 2004, which shall incorporate a range of retail, entertainment and restaurant activities;</p> <p>(b) The following uses are not permitted unless specific approval is granted by the Council ("A")—</p> <ul style="list-style-type: none"> <li>• Buildings used in conjunction with and for the purpose of playing fields;</li> <li>• Recreation grounds/sporting clubs and recreational facilities;</li> <li>• Carpark;</li> <li>• Child care centre (including day care and family day care);</li> <li>• Cinema/Theatre;</li> <li>• Civic building;</li> <li>• Club premises;</li> <li>• Community purpose;</li> <li>• Consulting rooms;</li> <li>• Consulting rooms group;</li> <li>• Convenience store;</li> <li>• Fast food outlet;</li> <li>• Hall;</li> <li>• Garden centre;</li> <li>• Grouped dwelling;</li> </ul>

No.	DESCRIPTION OF LAND	SPECIAL USE	CONDITIONS
			<ul style="list-style-type: none"> <li>• Health centre;</li> <li>• Health studio;</li> <li>• Laundromat;</li> <li>• Liquor store;</li> <li>• Lunch bar;</li> <li>• Market;</li> <li>• Medical centre;</li> <li>• Motel;</li> <li>• Multiple dwelling;</li> <li>• Night club;</li> <li>• Office;</li> <li>• Parks, recreation grounds, botanical gardens, playing fields not used at nights;</li> <li>• Place of worship;</li> <li>• Public utility;</li> <li>• Reception centre;</li> <li>• Recreation—private;</li> <li>• Restaurant;</li> <li>• Service station;</li> <li>• Shop;</li> <li>• Showroom;</li> <li>• Tavern;</li> <li>• Veterinary clinic or surgery; and</li> <li>• Veterinary hospital.</li> </ul> <p>(c) All other uses shall not be permissible unless such uses are consistent with the “Town Centre” concept and permissible in the Shopping / Commercial zone and Council’s discretion has been exercised in granting approval;</p> <p>(d) The maximum retail floor space is not to exceed 2,300 m<sup>2</sup> nla unless additional floor space is otherwise supported in an endorses local commercial strategy.</p>

#### SCHEDULE 5—EXEMPTED ADVERTISEMENTS

[Clause 8.2(f)]

LAND USE AND/OR DEVELOPMENT	EXEMPTED SIGN	MAXIMUM SIZE
Dwellings	One professional name-plate as appropriate.	0.2 m <sup>2</sup>
Home Occupation	One advertisement describing the nature of the home occupation.	0.2 m <sup>2</sup>
Places of Worship, Meeting Halls and Places of Public Assembly.	One advertisement detailing the function and/or the activities of the institution concerned.	0.2 m <sup>2</sup>
Cinemas, Theatres and Drive-In Theatres	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed.	Each advertisement sign not to exceed 5 m <sup>2</sup>
Shops, Showrooms and other uses appropriate to a Shopping area.	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a level measured at 5 m from the ground floor level of the building subject to compliance with the requirements of the Local Law Relating to Signs Hoardings and Bill Posting.	N/A

LAND USE AND/ OR DEVELOPMENT	EXEMPTED SIGN	MAXIMUM SIZE
Industry and Warehouse Premises	<p>A maximum of 4 advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding signs projecting from a building whether or not these signs are connected to a pole, wall or other building.</p> <p>A maximum of two free-standing advertisement signs not exceeding 5 m in height above ground level.</p>	<p>Total area of any such advertisements shall not exceed 15 m<sup>2</sup>.</p> <p>Maximum permissible total area shall not exceed 10 m<sup>2</sup> and individual advertisement signs shall not exceed 6 m<sup>2</sup></p>
Showroom, race courses, major racing tracks, sports stadia, major sporting grounds and complexes.	All signs provided that, in each case, the advertisement is not visible from outside the complex or facility concerned either from other private land or from public places and streets.	N/A
Public places and Reserves	<p>(a) Advertisement signs (illuminated and non-illuminated) relating to the functions of government, a public authority or Council of a local government excluding those of a local government excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body.</p> <p>(b) Advertisement signs (illuminated and non illuminated) required for the management or control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed or exhibited by or at the direction of a Government department, public authority or the Council of a local government.</p> <p>(c) Advertisement signs (illuminated and non illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a Statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p>
Railway property and Reserves	Advertisement signs exhibited on such a land provided that each such advertisement is directed only at persona at or upon a railway station.	No sign shall exceed 2 m <sup>2</sup> in area.
Advertisements within buildings	All advertisements placed or displayed with building which cannot ordinarily be seen by a person outside those buildings.	N/A
All classes of buildings other than single family dwellings	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	0.2 m <sup>2</sup>

TEMPORARY SIGNS	EXEMPTED SIGN 2 TYPE AND NUMBER (All non illuminated unless otherwise stated)	MAXIMUM SIZE
<p>Building construction sites (advertisement signs displayed only for the duration of the construction as follows)—</p> <p>(a) Dwellings</p>	One advertisement per street frontage containing details of the project and the contractors undertaking the construction work.	2 m <sup>2</sup>

TEMPORARY SIGNS	EXEMPTED SIGN 2 TYPE AND NUMBER (All non illuminated unless otherwise stated)	MAXIMUM SIZE
(b) Multiple dwellings, Shops, commercial and Industrial projects	One sign as for (a) above	5 m <sup>2</sup>
(c) Large development or redevelopment projects involving shopping centres, office or other buildings exceeding 3 storeys in height.	One sign as for (a) above One additional sign showing the name of the project builder.	5 m <sup>2</sup>
Sales of Goods or Livestock	One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or livestock upon any land within any building upon which the sign is exhibited provided that the land is not normally used for that purpose.	2 m <sup>2</sup>
Property Transactions Advertisement signs displayed for the duration of the period over which property transactions are offered and negotiated as follows— (a) Dwellings (b) Multiple dwellings, shops, commercial and industrial properties. (c) Large properties comprised of shopping centre, buildings in excess of four storeys and rural properties in excess of 5 ha.	One sign per street frontage for each property relating to the sale, leading or impending auction of the property at or upon which the sign is or the signs are displayed. One sign as for (a) above One sign as for a) above	Each sign shall not exceed an area of 2 m <sup>2</sup> Each sign shall not exceed an area of 5 m <sup>2</sup> Each sign shall not exceed an area of 10 m <sup>2</sup>
Display Homes Advertisement signs displayed for the period over which homes are on display for public inspection.	One sign for each dwelling on display In addition to above one sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display.	2 m <sup>2</sup> 5 m <sup>2</sup>

**SCHEDULE 6—FORM OF APPLICATION FOR PLANNING APPROVAL**

[Clause 9.1.1]

APPLICATION FOR PLANNING APPROVAL

**OWNER DETAILS—**

Name .....

Address: ..... Postcode: .....

Phone (work) ..... (home) ..... Fax .....

Contact Person .....

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

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

The signature of the landowners is required for all applications. This application will not proceed without that signature.



**APPLICANT DETAILS—**

Name .....  
Address ..... Postcode .....  
Phone (work) ..... (home) ..... Fax .....  
Contact Person for correspondence .....  
Signature..... Date .....

**PROPERTY DETAILS—**

Lot No. House/Street No. Diagram or Plan No. ....  
Certificate of Title Vol No. .... Folio ..... Lot Area (m<sup>2</sup>) .....  
Title Encumbrances (eg, easements, restrictive covenants) .....  
Street Name ..... Suburb .....  
Nearest Street Intersection .....

**PLANNING APPROVAL—**

Description of Development of Proposed Use .....  
.....  
Nature of any existing development and/or use .....  
Approx. Cost of Development ..... Est. Date of Completion .....

**OFFICE USE ONLY**

Fee Paid..... Date Received .....

**SCHEDULE 7—ADDITIONAL INFORMATION FOR ADVERTISEMENTS**

[Clause 9.1.2]

*NOTE: TO BE COMPLETED IN ADDITION TO THE APPLICATION FOR  
PLANNING APPROVAL*

1. Description of property upon which advertisement is to be displayed including full details of its proposed position within that property—  
.....  
.....

2. Details of Proposed Sign—

- (a) Type of structure on which advertisement is to be erected (ie freestanding, wall mounted, other)—  
.....
- (b) Height: ..... Width:..... Depth: .....
- (c) Colours to be used: .....
- (d) Height above ground level — (to top of advertisement) : .....  
— (to underside):.....
- (e) Materials to be used: .....  
Illuminated: Yes/No. If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source—  
.....

3. Period of time for which advertisement is required:.....

4. Details of signs (if any) to be removed if this application is approved:.....  
.....  
.....

*Note: This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed detailed in 4 above.*

Signature of Advertiser(s): .....  
if different from land owners)

Date: .....

**SCHEDULE 8—NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL**

[Clause 9.4.4]

**PLANNING AND DEVELOPMENT ACT 2005**

*Shire of Kalamunda*

**NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL**

The local government has received an application to use and/or develop land for the following purpose and public comments are invited.

LOT NO .....STREET ADDRESS .....SUBURB .....

PROPOSAL .....

.....  
.....  
.....

Details of the proposal are available for inspection at the local government office. Comment on the proposal may be submitted to the local government in writing on or before the ..... day of ..... 20.....

Signed: ..... Dated: .....  
for and on behalf of the Shire of Kalamunda

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

[Clause 10.4.1]

**PLANNING AND DEVELOPMENT ACT 2005**

*Shire of Kalamunda*

**DETERMINATION ON APPLICATION FOR PLANNING APPROVAL**

ADDRESS:.....

Lot No. ....Diagram or Plan No. ....

Certificate of Title Vol No.....Folio.....

Application Date: ..... Received on:.....

Description of proposed development:.....

.....

The application for approval to undertake development in accordance with the plans attached thereto is—

granted subject to the following conditions—

refused for the following reason(s)—

CONDITIONS OF APPROVAL / REASONS FOR REFUSAL—

.....  
.....  
.....

*Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.*

*Note 2: Where an approval has so lapsed, no developed shall be carried out without the further approval of the council having first sought and obtained.*

*Note 3: If an applicant is aggrieved by this determination there is a right of review under Part 14 of the Planning and Development Act 2005. An application for review must be lodged within 28 days of the determination.*

Signed: ..... Dated: .....  
for and on behalf of the Shire of Kalamunda

## SCHEDULE 10—ENVIRONMENTAL CONDITIONS

[Clause 5.6.1]

	Scheme or Amendment No.	Gazettal Date	Environmental Conditions
1	Amendment 177 to District Planning Scheme No. 2	22 October 99	Refer Statement 511 (see following pages)

**1. Drainage and Nutrient Management Plans**

1.1 Prior to submission of an application for subdivision approval (other than an application for consolidation or minor modification to existing boundaries) or development, which ever occurs first, the Responsible Authority shall require the preparation of a Drainage and Nutrient Management Plan for that portion of the drainage catchment within the Forrestfield Marshalling Yards and the widened portion of the “Important Regional Road” between Wittenoom and Kalamunda Roads which contains the application site, to meet the following objective—

- To maintain or enhance the quality of surface water so that existing and potential uses, including ecosystem maintenance, are protected consistent with the Environmental Protection (Swan and Canning Rivers) Policy 1997, and the Environmental Protection Authority “Draft Western Australian Water Quality Guidelines for Fresh and Marine Waters” Bulletin 711 (1993).

The Drainage and Nutrient Management Plan shall be prepared to the requirement of the Responsible Authority with the concurrence of the Department of Environmental Protection and the Waters and Rivers Commission.

The Plan shall include—

1. management actions and objectives consistent with the Environmental Protection (Swan and Canning Rivers) Policy, relevant subregional drainage and catchment management plans, and water sensitive urban design principles and best management practices;
2. mechanisms to minimise erosion during and after the development phase;
3. mechanisms to protect the water regimes of the conservation category wetlands within the Amendment area and adjacent System Six M52 area, including water quality and water levels.
4. a monitoring program, including definition of performance criteria and analysis procedures, to demonstrate whether the objectives for the catchment are being achieved;
5. contingency measures to be implemented in the event that performance criteria are not met; and
6. identification of responsibilities for implementation of the Plan.

1.2 The abovementioned Drainage and Nutrient Management Plan shall be implemented.

**2. Soil Contamination Remediation Plans**

2.1 Prior to submission of an application for subdivision approval (other than an application for consolidation or minor modification to existing boundaries) or development, whichever occurs first, the Responsible Authority shall require the preparation of a Soil Contamination Remediation Plan for the application site to the requirement of the Responsible Authority with the concurrence of the Department of Environmental Protection, to meet the following objective—

- To ensure the rehabilitation of the site is to an acceptable standard that is compatible with the intended land use, consistent with appropriate criteria.

The Plan shall include—

1. establishment of soil quality criteria to be achieved following remediation of contaminated soils, based on the intended land uses;
2. identification of areas of soil contamination;
3. development of a remediation plan for contaminated soils in areas where the soil quality criteria are not met; and
4. identification of responsibilities for implementation of the Plan.

*Note:* Criteria for assessment and remediation recognised by the Environmental Protection Authority include those in the ANZECC and NHMRC “Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites” (1992) and “Dutch B and C” (1986), or the most current soil remediation criteria.

2.2 The above mentioned Soil Contamination Remediation Plan shall be implemented.

**3. Ground water Contamination Remediation Plans**

3.1 Prior to submission of an application for subdivision approval (other than an application for consolidation or minor modification to existing boundaries) or development, which ever occurs first, the Responsible Authority shall require the preparation of a Groundwater Contamination Remediation Plan for the application site to the requirements of the Responsible Authority with the concurrence of the Department of Environmental Protection and the Waters and Rivers Commission, to meet the following objective—

- to ensure that the beneficial uses of groundwater can be maintained, consistent with the Environmental Protection Authority “Draft Western Australian Water Quality Guidelines for Fresh and Marine Waters” (1993).

The Plan shall include—

1. establishment of ground water quality criteria to be achieved, based in the most sensitive beneficial use of the groundwater;
2. determination of the extent, and any movement, of contaminated groundwater beneath the application site.
3. development of management actions, including remediation if necessary, in the event that groundwater quality criteria are not met; and
4. identification of responsibilities for implementation of the Plan.

*Note:* Criteria for assessment and remediation recognised by the Environmental Protection Authority include those in the ANZECC and NHMRC “Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites” (1992), “Dutch B and C” (1986), or the most current soil remediation criteria, the ANZECC “Australian Water Quality Guidelines for Fresh and Marine Waters” (1992), and the NHMRC and ARMCANZ “Australian Drinking Water Guidelines—National Water Quality Management Strategy” (1996).

3.2 The abovementioned Groundwater Contamination Remediation Plan shall be implemented.

#### 4. Groundwater Abstraction Plan

4.1 Prior to submission of an application for subdivision approval (other than an application for consolidation or minor modification to existing boundaries) or development, whichever occurs first, the Responsible Authority shall require the preparation of a Groundwater Abstraction Plan to the requirements of the Responsible Authority with the concurrence of the Department of Environment Protection and the Waters and Rivers Commission to meet the following objective—

- to ensure that the beneficial uses of groundwater can be maintained, consistent with the Environmental Protection Authority “Draft Western Australian Water Quality Guidelines for Fresh and Marine Waters” (1993).

The Plan shall include—

1. mechanisms to protect the groundwater regimes of the conservation category wetlands within the Amendment area and the adjacent System Six M52 area—
2. a monitoring program, including definition of performance criteria and analysis procedures, to demonstrate whether the objectives for the groundwater are being achieved;
3. contingency measures to be implemented in the event that performance criteria are not met; and
4. identification of responsibilities for implementation of the Plan.

4.2 The abovementioned Groundwater Abstraction Plan shall be implemented.

#### 5. Scheme Map

5.1 The Scheme Map shall be amended by inserting an appropriate symbol on the Scheme Maps and a corresponding modification to the legend, to show that environmental conditions apply to the subject land, to the requires of Responsible Authority with the concurrence of the Environmental Protection Authority.

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## SCHEDULE 11—DEVELOPMENT AREAS

[Clause 6.1.1]

### PROVISIONS RELATING TO SPECIFIED AREAS

#### PART 1: WATTLE GROVE URBAN CELL 9

##### 1. Interpretation

In this Part 1 of Schedule 11—

“Cell 9” means the area shown on the map which follows and forms part of this Schedule;

“Cell 9 ODP” means such Outline Development Plan as is approved and adopted in respect of Cell 9 pursuant to clause 6.2.1 of the Scheme;

“Cell Infrastructure Costs” means—

- (a) the costs of and incidental to the preparation of the Cell 9 ODP and the carrying out of the Cell Infrastructure Works;
- (b) the administration costs of the Cell 9 ODP and the subdivision and development of Cell 9 including without limitation—
  - (i) an amount to reimburse the Council for such overhead supervision and management costs as may be incurred in the preparation of the Cell 9 ODP and the carrying out of the Cell Infrastructure Works; and
  - (ii) all legal costs, planning costs, payments to other professional consultants and advisers, survey and valuation costs, in each case whether incurred before or after the coming into operation of this Part and reimbursement to the Council for the time spent by its officers or any employee or agent of the Council in so far as that time was spent in connection with the carrying out of the Cell Infrastructure Works and including time spent prior to the coming into operation of this Part;

- (c) all compensation payable in respect of the carrying out of Cell Infrastructure Works and the expenses of determining and settling such compensation;
- (d) the cost of the acquisition of any land within Cell 9 for the purpose of carrying out Cell Infrastructure Works whether that land is purchased or acquired by compulsory acquisition or otherwise including without limitation the purchase price or compensation paid (as the case may be), and any other costs, fees or expenses whatsoever of or incidental to such acquisition;
- (e) the costs of extension or relocation of any services within Cell 9;
- (f) all legal costs and fees whatsoever incurred by the Council in or in contemplation of any arbitration or other legal proceedings arising out of or concerning the carrying out of the Cell Infrastructure Works or any appeal against a decision or determination of the Council exercising a power in relation to the Cell Infrastructure Works or in relation to the assessment or recovery of Cell Infrastructure Contributions and the fees and expenses of any witness expert or consultant for which the Council becomes liable in connection with any proceedings referred to in this paragraph and any costs ordered to be paid by the Council or payable pursuant to any settlement negotiated by the Council in such proceedings;
- (g) all interest paid or payable on moneys borrowed, credit obtained or financial accommodation extended for the purposes of carrying out Cell Infrastructure Works;
- (h) all other costs and expenses which the Council is required to meet in order to carry out the Cell Infrastructure Works; and
- (i) all costs and expenses of the exercise by the Council of any power conferred by clause 5 of this Part upon the Council;

“**Cell Infrastructure Contribution**” means, in relation to an owner, a sum of money which bears the same proportion to Cell Infrastructure Costs as the Dwelling Yield of all of that owner’s land in Cell 9 bears to the Dwelling Yield of all land in Cell 9;

“**Cell Infrastructure Works**” means—

- (a) the acquisition of land for any public facility or service as identified on the Cell 9 ODP and also any of the works or facilities referred to in this definition;
- (b) the acquisition of land for a school as identified on the Cell 9 ODP;
- (c) the provision of land for and the improvement of public open space as identified on the Cell 9 ODP;
- (d) the creation of any water-way identified on the Cell 9 ODP;
- (e) the widening or improvement of the following roads within Cell 9—
  - Hale Road
  - Arthur Road (existing and proposed extension)
  - Sheffield Road;
- (f) the provision of any easement or way, including without limitation, any carriageway, cycleway, walkway or dual use path within Cell 9 as identified in the Cell 9 ODP;
- (g) the provision or upgrading of drainage works within Cell 9 including any contribution necessarily or unavoidably payable to the Water Corporation for the provision of drainage headworks by that body benefiting Cell 9;

“**Dwelling**” has the meaning set out in the Residential Design Codes;

“**Dwelling Yield**” means—

- (a) in relation to land permitted pursuant to the Cell 9 ODP to be developed for residential purposes, the maximum number of dwellings permitted on that land; and
- (b) in relation to land other than land described in paragraph (a), one Dwelling for each complete 450 m<sup>2</sup> of that land;

“**this Part**” means this Part 1 of Schedule 11; and

“**Trust Account**” means the trust account established by the Council for compliance with clause 6.1 of this Part.

## 2. Designation as Specified Area and Purpose

2.1 (Designation): Cell 9 is hereby designated as an outline development plan area for the purposes of clause 6.2.1 of the Scheme and this Part shall apply to Cell 9.

2.2 (Purpose of designation): The purpose of establishing and designating Cell 9 as an outline development plan area is to permit the carrying out of Cell Infrastructure Works and the apportionment of Cell Infrastructure Costs equitably among the owners of land within Cell 9 so as to permit the orderly and proper planning of the urban subdivision and urban development of Cell 9 at no cost to the Council’s ratepayers (other than the owners of land within Cell 9).

## 3. Cell 9 ODP

3.1 (Scheme provision to apply): The provisions of clause 6.2.1 of the Scheme are incorporated in this Part and apply to Cell 9 so far as they are not varied by or inconsistent with the express terms of this Part.

3.2 (Cell 9 ODP and subdivision and development) Subdivision and development (other than the development of a single residential dwelling on an existing lot) should be in accordance with the Cell 9 ODP.

#### 4. Cell Infrastructure Works

4.1 (Council may carry out) The Council may in its discretion (but is not obliged to) carry out or contract with any person for the carrying out of Cell Infrastructure Works.

4.2 (Works not included in Cell Infrastructure Works) For the sake of clarity, the following works are not Cell Infrastructure Works—

- (a) the provision of any sewerage works within Cell 9 including both headworks and reticulation;
- (b) the provision or upgrading of a reticulated water supply to and within Cell 9;
- (c) the provision of gas and electric power to and the reticulation of such services within Cell 9;
- (d) the provision of telecommunications to and within Cell 9; and
- (e) the provision of or contribution to the cost of providing any road within Cell 9 or the widening or improvement of any road within Cell 9 other than as specified in paragraph (d) of the definition of Cell Infrastructure Works.

#### 5. Council's Powers

The Council has, for the purposes of carrying out or contracting with any person for the carrying out of Cell Infrastructure Works and for the purposes of implementing the provisions of this Part, but subject to the provisions of any other applicable law, the legal capacity of a natural person and, without limitation, has the following powers—

- (a) (enter into contracts): to enter into contracts for the purposes of this Part;
- (b) (acquisition and disposal of land): to—
  - (i) acquire any land within Cell 9 for the purpose of securing any objective of this Part;
  - (ii) deal with or dispose of any land that the Council owns within Cell 9 or which it acquires pursuant to this Part in accordance with the powers conferred upon it and for that purpose may make such agreements with any other owner or person or body whatsoever as it sees fit; and
  - (iii) without limiting the generality of sub-paragraphs (i) and (ii)—
    - (A) the Council may compulsorily acquire land pursuant to the provisions of the *Public Works Act 1902*; and
    - (B) the Council may enter into any lease or licence or agreement for the use of any land it acquires for such period and on such terms as the Council thinks fit;
    - (C) (legal agreements): to enter into any agreement with any owner, occupier or other person having an interest in land within Cell 9 for the purpose of securing any of the objectives of this Part.

#### 6. Establishment of Trust Account

6.1 (Establishment): The Council shall establish and maintain a trust account or fund.

6.2 (Debit and credits to Trust Account): The Trust Account shall be debited with Cell Infrastructure Costs and credited with Cell Infrastructure Contributions.

6.3 (Repayment of moneys borrowed): Moneys borrowed by the Council may be repaid to the Council out of the Trust Account.

#### 7. Cell Infrastructure Contributions

7.1 (Restriction on subdivision and development): The owner of land in Cell 9 must not subdivide or develop that land or allow any person to do so without paying the Cell Infrastructure Contribution in accordance with the succeeding provisions of this clause 7.

7.2 (Manner of Payment): The Cell Infrastructure Contribution must be paid to the Council (or arrangements pursuant to clause 7.6 or clause 7.7 of this Part made with the Council to the satisfaction in all respects of the Council) prior to—

- (a) in the case of subdivision, the date upon which the Commission endorses its approval on a diagram or plan of subdivision of that owner's land (and the Council may withhold its clearance to any plan or diagram of subdivision until the owner has given to the Council evidence of compliance with this clause 7); or
- (b) in the case of development, at the time of carrying out development or commencing any use of a parcel of land.

7.3 (Disputes): If there is a dispute between the Council and any owner in relation to the amount of a Cell Infrastructure Cost, that dispute must be referred to arbitration in the manner provided by the *Commercial Arbitration Act 1985* (in which arbitration a party may be represented by a legal practitioner).

Where a Cell Infrastructure Cost is determined by arbitration to be different from that calculated and adopted by the Council at any time, the Council shall adjust Cell Infrastructure Costs so that they conform to such determination.

7.4 (Interest): Interest shall be payable on any overdue Cell Infrastructure Contribution at the rate payable from time to time on judgment debts as determined pursuant to section 142 of the *Supreme Court Act 1935*. Interest shall become payable from the date the Cell Infrastructure Contribution became due until the date of payment unless the Council for good reason shown by the owner agrees to suspend or waive interest.

7.5 (Charge): The liability (whether present or prospective) of any person to pay a Cell Infrastructure Contribution is a charge on the land to which that Cell Infrastructure Contribution relates and the

Council may lodge a caveat against the title to that land at the Land Titles Office in respect thereof. The Council may from time to time withdraw a caveat to permit registration of a dealing in the land and thereafter lodge another caveat. On the payment of all Cell Infrastructure Contributions in respect of any land the Council shall withdraw any caveat which it has lodged against the title to that land.

7.6 (Acceptance of land in lieu of money): The Council may in its discretion agree to accept land within Cell 9 to the value of any moneys due in respect of a Cell Infrastructure Contribution.

7.7 (Payment on terms): The Council may in its discretion agree to accept payment of a Cell Infrastructure Contribution on terms of deferred payment and may secure the payment to the Council of any deferred payment in such manner as the Council may in its discretion decide.

7.8 (Estimates): The Council may, before any item of Cell Infrastructure Costs has been finally ascertained from time to time (but in any event shall at least annually) make estimates of that cost on the best advice or information available to the Council and in calculating Cell Infrastructure Contributions may rely upon such estimates.

## **PART 2: MILNER ROAD, HIGH WYCOMBE**

In respect of the Urban Development zone generally bounded by Milner Road, West Sultana Road, Dundas Road and Maida Vale Road, the Outline Development Plan for this area shall ensure the protection of the threatened ecological community in the area of Lot 12 (11) Ibis Place, Maida Vale, for conservation purposes. The boundary of the threatened ecological community shall be defined from botanical survey by a suitably qualified botanist and may extend beyond the lot boundary. In addition, a vegetation management plan shall be prepared and implemented. The management plan and boundary determination shall be completed on advice of the Department of Environment and Conservation to the requirements of the Environmental Protection Authority, prior to determination of the ODP.

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### **ADOPTION—**

Adopted by resolution of the Council of the Shire of Kalamunda at the Ordinary Meeting of the Council held on the 19th day of February 2001.

ELIZABETH TAYLOR, President.  
D. E. VAUGHAN, Chief Executive Officer.

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### **FINAL APPROVAL—**

Adopted by resolution of the local government of the Shire of Kalamunda at the meeting of the local government held on the 20th day of February 2006, and pursuant to that resolution the Seal of the Municipality was hereunto affixed in the presence of—

ELIZABETH TAYLOR, President.  
D. E. VAUGHAN, Chief Executive Officer.

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### **RECOMMENDED/SUBMITTED FOR FINAL APPROVAL—**

R. KOHN, Delegated under s.16 of the *Planning and Development Act 2005*.  
Dated: 19 December 2006.

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### **FINAL APPROVAL GRANTED—**

ALANNAH MacTIERNAN, Minister for Planning and Infrastructure.  
Dated: 20 February 2007.

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