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PLANNING AND DEVELOPMENT ACT 2005

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**SHIRE OF COLLIE**

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**LOCAL PLANNING  
SCHEME No. 5**



**PLANNING AND DEVELOPMENT ACT 2005**

## APPROVED LOCAL PLANNING SCHEME

*Shire of Collie*

## LOCAL PLANNING SCHEME No. 5

Ref: 853/6/8/6 &amp; TPS/0030/1

It is hereby notified for public information, in accordance with section 87 of the *Planning and Development Act 2005* that the Minister for Planning approved the Shire of Collie Local Planning Scheme No. 5 on 3 September 2009, the scheme text of which is published as a Schedule annexed hereto.

W. R. SANFORD, Shire President.  
J. B. WHITEAKER, Chief Executive Officer.

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**Preamble**

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

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

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**PLANNING AND DEVELOPMENT ACT 2005****SHIRE OF COLLIE****LOCAL PLANNING SCHEME No. 5****SCHEME DETAILS**

The Shire of Collie 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 The Shire of Collie Local Planning Scheme No. 5 (“**the Scheme**”) comes into operation on its Gazettal date.

*Note: The Gazettal date is defined in Schedule 1.*

1.1.2 The following Scheme is revoked—

Name: Shire of Collie Town Planning Scheme No. 1

Date of Gazettal: 17 November 1972.

**1.2 Responsible authority**

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

**1.3 Scheme area**

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

*Note: The “local government” is defined in Schedule 1.*

**1.4 Contents of Scheme**

The Scheme comprises—

- (a) the Scheme Text;
- (b) the Scheme Map (Sheets 1—11).

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

*Note: The Scheme Map comprises an overall map that covers the entire local government and 10 maps that focus on areas of higher intensity.*

**1.5 Purposes of Scheme**

The purposes of the Scheme are to—

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

**1.6 The aims of the Scheme**

1.6.1 The local government’s general aim is to improve the aesthetic appeal of the Collie townships, safeguard its natural resources, (which include mineral, hydrological and ecological), whilst promoting sustainable development through diversified residential, agricultural, tourist and resource based economic activities.

1.6.2 The local government’s general aims shall include—

- To assist the effective implementation of regional plans and policies including the State Planning Strategy and the Bunbury-Wellington Region Plan.
- To ensure there is sufficient supply of serviced and suitable land for housing, employment, commercial activities, community facilities, recreation and open space.

- To provide for lifestyle and housing choice, and variety in neighbourhoods with a community identity and high levels of amenity.
- To assist employment and economic growth by facilitating the timely provision of suitable land for retail, commercial, industrial, entertainment and tourist developments, as well as providing opportunities for home based employment.
- To facilitate a diverse and integrated network of open space catering for active and passive recreation, consistent with the needs of the community.
- To promote the sustainable use of rural land for agricultural purposes whilst accommodating other rural activities.
- To protect and enhance the environmental values and natural resources of the Scheme area and to promote ecologically sustainable land use and development.
- To safeguard and enhance the character and amenity of the built and natural environment of the Scheme area.
- To reserve land required for public purposes and recreation, and zone the balance of the land within the Scheme area for the various purposes described in the Scheme.
- To generally have recognition of the objectives, strategies and recommendations of the Collie Basin Structure Plan.
- In recognition of the importance of coal to the local and state economy, to seek to avoid future land use conflicts by not supporting any land use that may deny future generations access to the coal resources they may need.
- To recognise and protect places of natural beauty and places of historic or scientific interest which are considered to be of importance to the heritage of the Shire of Collie.
- To make provision for other matters authorised by the Planning and Development Act.
- To recognise and protect the public drinking water supply areas in the Shire of Collie.

### 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 Planning and Development 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.

*Note: Reference to the Residential Design Codes and their application in respect of the Scheme are contained in Clause 5.2.*

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 a residential development, the definition in the Residential Design Codes prevails; and
- (b) in any other case the definition in the dictionary prevails.

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

### 1.8 Relationship with local laws

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

### 1.9 Relationship with other schemes

There are no other Schemes of the Shire of Collie which apply to the Scheme area.

## PART 2—LOCAL PLANNING POLICY FRAMEWORK

### 2.1 Scheme determinations to conform with Local Planning Strategy

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

### 2.2 Local Planning Policies

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

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

and may amend or add to or rescind the policy.

### 2.3 Relationship of Local Planning Policies to Scheme

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

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



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

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

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

- (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 Western Australian Planning 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 a Local Planning Policy**

A Local Planning Policy may be revoked by—

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

### **PART 3—RESERVES**

#### **3.1 Reserves**

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

*Note: All reserves are shown on the Scheme Map.*

#### **3.2 Regional Reserves**

There are no regional reserves in the Scheme area.

#### **3.3 Local Reserves**

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

3.3.2 The parts of the Scheme area depicted on the Scheme Maps are reserved for the following purposes—

- Public purposes
- State forest
- Parks and recreation
- Railway
- Major road

#### **3.4 Use and development of Local Reserves**

3.4.1 A person must not—

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

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

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

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

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

*Note: Under Section 6 of the Planning and Development Act, the Crown, statutory authorities and local governments undertaking, constructing or providing public works are exempt from the requirements to obtain planning approval but are required to consult with the local government and to have regard to the intent of the Scheme and local amenity.*

*Note: Operations under Section 120 of the Mining Act 1978, mining operations are also exempt from obtaining planning approval. However, before the Minister for Mines grants consent to 'mine' on a tenement, the agency managing the reserve and/or the relevant Minister is consulted and, depending on the nature of the reserve, either the recommendations or concurrence sought.*

## 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—

- *Rural 1 zone*

To provide for the sustainable use of land for a range of rural pursuits which are compatible with the capability of the land and retain the rural character and amenity of the locality.

To provide that subdivision and development activities that generate/propose alternative and incompatible landuse should not be permitted.

To provide for the retention and protection of portions of land within that Zone that are not cleared and that are valuable to the rural and natural landscape values and ecological systems of the District.

- *Rural 2 zone*

The use of land in the Rural 2 zone shall be consistent with the following objectives—

- (a) The zone shall consist of predominantly rural and mining uses;
- (b) To protect land from urban uses that may jeopardise the future use of that land for other planned purposes which are compatible with the zoning; and
- (c) To protect the land from closer development, which would detract from the rural character and amenity of the area.

- *General Industry zone*

To provide for manufacturing industry, the storage and distribution of goods and associated uses which, by the nature of their operations, should be separated from and not have an adverse impact on residential and other sensitive land uses.

- *Light and Service Industry zone*

To provide for light and service industries and associated uses which, by the nature of their operations, are not required to be situated so as to be remote from residential areas.

- *Mixed Use zone*

To provide for residential, offices, commercial and other compatible uses which complement the mixed use character of the locality.

- *Residential zone*

To provide for residential development at a range of densities with a variety of housing to meet the needs of different household types through the application of the Residential Design Codes.

- *Residential Development zone*

To provide for future residential land uses which could reasonably be expected to be associated with residential areas in accordance with a structure plan prepared under this Scheme.

- *Rural Residential zone*

Land used for residential purposes in a rural setting which provides for an alternative residential life style and seeks to preserve the amenity of such areas and control land use impacts, consistent with the following—

- (a) To encourage development for the purpose of closer rural settlement on land which is suitable for such a purpose, and is in reasonable proximity to existing town sites;
- (b) To ensure that development maintains the rural character of the locality, maintains a high level of residential amenity and minimises disturbance to the landscape through construction of buildings and structures, clearing, earthworks and access roads;
- (c) To enable a range of activities and land uses associated with the residential occupation of land;
- (d) To discourage or prohibit development not compatible with the predominantly rural nature and residential amenity of the zone;
- (e) To enable the development of land for other purposes where it can be demonstrated by the applicant that suitable land or buildings for the proposed purposes are not available elsewhere and where such purposes would not detrimentally affect the rural residential character of nearby land;

- (f) To direct and control the form rural residential subdivision takes to prevent a demand for the unreasonable and uneconomic provision or extension of services and facilities;
- (g) To promote and encourage cluster subdivision and other innovative rural residential designs, having consideration for conservation values; and
- (h) To discourage ribbon development so as to maintain the rural ambience of transport corridors generally;
  - *Town Centre zone*

To provide for retail shopping, office and commercial development, and social, recreational and community activities servicing the town as a whole.

#### 4.3 Zoning Table

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

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

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

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

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

*Note: 1. The planning approval of the local government is required for the development of land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the use and development of land.*

*2. The local government will not refuse a “P” use because of the unsuitability of the use for the zone but may impose conditions on the use of the land to comply with any relevant development standards or requirements of the Scheme, and may refuse or impose conditions on any development of the land.*

*3. In considering a “D” or “A” use, the local government will have regard to the matters set out in clause 10.2.*

*4. The local government must refuse to approve any “X” use of land. Approval to an “X” use of land may only proceed by way of an amendment to the Scheme.*

#### 4.4 Interpretation of the Zoning Table

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

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

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

#### 4.5 Additional uses

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

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

#### 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. There are no restricted uses which apply to the Scheme.*

#### 4.7 Special Use zones

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

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

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

**Table 1: Zoning Table**

		P—Permitted	D—LG Discretion	A—Advertising			X—Not Permitted			
Use Class		Rural 1	Rural 2	General Industry	Light & Service Industry	Mixed Use	Residential	Residential Development	Rural Residential	Town Centre
1	Abattoir	A	A	A	X	X	X	X	X	X
2	Aged persons home	X	X	X	X	X	D	D	X	X
3	Agriculture—extensive	P	P	X	X	X	X	A	A	X
4	Agriculture—intensive	P	A	X	X	X	X	X	A	X
5	Agro forestry	P	D	X	X	X	X	A	A	X
6	Amusement parlour	X	X	X	X	A	X	X	X	A
7	Ancillary accommodation	D	D	X	X	D	D	D	D	D
8	Animal establishment	D	A	X	D	X	X	X	X	X
9	Animal husbandry intensive	A	A	X	X	X	X	X	X	X
10	Bed and breakfast	D	D	X	X	D	A	A	A	D
11	Betting agency	X	X	X	X	D	X	X	X	P
12	Cabin	A	A	X	X	X	X	X	A	X
13	Caravan park and camping ground	A	A	X	X	X	X	X	X	X
14	Caretaker's dwelling	D	A	D	D	X	X	D	X	D
15	Car park	X	X	X	X	P	X	X	X	P
16	Chalet	A	A	X	X	X	X	X	A	X
17	Child care service	X	X	X	X	P	A	A	X	P
18	Cinema/theatre	X	X	X	X	A	X	X	X	P
19	Civic use	D	A	X	X	P	A	D	X	P
20	Club premises	X	X	X	A	D	A	A	X	D
21	Community purpose	P	P	P	P	P	P	P	P	P
22	Consulting room	X	X	X	X	P	A	A	X	P
23	Convenience store	X	X	X	A	D	A	X	X	P
24	Dwelling—group	X	X	X	X	D	D	D	X	D
25	Dwelling—multiple	X	X	X	X	A	A	A	X	A
26	Dwelling—single	P	P	X	X	P	P	P	P	D
27	Eco tourism Facility	D	A	X	X	X	X	X	A	X
28	Educational establishment	A	A	X	D	D	A	A	X	D
29	Exhibition centre	A	A	X	X	P	X	X	X	P
30	Family day care service	A	A	X	X	A	A	A	A	A
31	Farm stay	D	A	X	X	X	X	X	X	X
32	Fast food outlet	X	X	X	A	A	X	X	X	P
33	Fuel depot	X	X	P	D	X	X	X	X	X
34	Funeral parlour	X	X	X	D	P	X	X	X	D
35	Guesthouse	D	A	X	X	D	A	A	A	A
36	Holiday home	D	A	X	X	D	D	D	D	D

Use Class		Rural 1	Rural 2	General Industry	Light & Service Industry	Mixed Use	Residential	Residential Development	Rural Residential	Town Centre
37	Home business	D	D	X	X	D	A	A	A	P
38	Home occupation	D	D	X	X	D	D	D	D	D
39	Home office	P	P	X	X	P	P	P	P	D
40	Home store	X	X	X	X	D	A	A	X	D
41	Hospital	X	X	X	X	D	X	A	X	X
42	Hotel	X	X	X	X	A	X	A	X	D
43	Industry—cottage	D	D	X	D	P	A	A	D	X
44	Industry -extractive	A	A	P	X	X	X	X	X	X
45	Industry—general	X	X	P	D	X	X	X	X	X
46	Industry—light	X	X	P	P	A	X	X	X	X
47	Industry—noxious	A	A	A	X	X	X	X	X	X
48	Industry—rural	P	A	D	D	X	X	X	X	X
49	Industry—service	X	X	D	P	A	X	X	X	X
50	Lunch bar	X	X	P	P	D	X	X	X	P
51	Market	D	A	X	X	D	X	D	D	D
52	Medical centre	X	X	X	X	A	A	A	X	D
53	Motel	X	X	X	X	A	X	X	X	D
54	Motor Vehicle, Boat or Caravan Sales	X	X	X	D	A	X	X	X	D
55	Motor vehicle repair	X	X	P	P	A	X	X	X	D
56	Motor vehicle wash	X	X	D	D	D	X	X	X	D
57	Motor vehicle wrecking	X	X	P	P	X	X	X	X	X
58	Night club	X	X	X	X	A	X	X	X	D
59	Office	X	X	X	X	P	X	X	X	P
60	Open air display	X	X	D	P	D	X	X	X	D
61	Park home park	X	X	X	X	X	A	A	X	X
62	Place of assembly	A	A	X	X	A	A	A	X	D
63	Plant nursery	A	A	X	D	A	X	X	A	A
64	Plantation	D	D	X	X	X	X	X	X	X
65	Reception centre	X	X	X	X	A	X	X	X	D
66	Recreation private	A	A	X	D	P	X	D	X	D
67	Residential building	A	A	X	X	D	A	A	X	D
68	Restaurant	D	A	X	X	P	X	X	A	P
69	Restricted premises	X	X	X	X	A	X	X	X	A
70	Retirement village	X	X	X	X	D	A	A	X	X
71	Rural pursuit	P	P	X	X	X	X	A	D	X
72	Saw mill	A	A	D	D	X	X	X	X	X
73	Serviced apartment	X	X	X	X	D	X	X	X	D
74	Service station	X	X	D	P	D	X	X	X	D
75	Shop	X	X	X	X	D	X	X	X	P
76	Showroom	X	X	D	P	D	X	X	X	P
77	Storage	X	X	P	P	X	X	X	X	X
78	Tavern	X	X	X	X	D	X	X	X	P
79	Telecommunications infrastructure	A	A	A	A	A	A	A	A	A
80	Trade display	D	A	D	D	A	X	X	X	D
81	Transport depot	D	A	P	P	D	X	X	X	X
82	Tourist resort	X	X	X	X	A	X	X	X	D

Use Class		Rural 1	Rural 2	General Industry	Light & Service Industry	Mixed Use	Residential	Residential Development	Rural Residential	Town Centre
83	Veterinary centre	D	A	X	P	A	X	X	A	D
84	Warehouse	X	X	P	P	D	X	X	X	D
85	Winery	A	A	A	A	A	X	X	X	X
86	Wood yard	A	A	P	P	X	X	X	X	X

#### 4.8 Non-conforming uses

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

- the continued use of any land for the purpose for which it was being lawfully used immediately prior to the Gazettal date;
- 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
- 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 dwellings, buildings and other works and structures.*

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

4.9.1 A person must not—

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

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

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

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

#### 4.10 Discontinuance of non-conforming use

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

#### 4.11 Termination of a non-conforming use

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

*Note: Part 11 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 town planning scheme, subject to Part 9 of the Land Administration Act 1997, that section and the Scheme.*

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

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

### PART 5—GENERAL DEVELOPMENT REQUIREMENTS

#### 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 with the provisions of those Codes.

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

### 5.3 Special application of Residential Design Codes

There are no exclusions or variations to the Residential Design Codes which apply to the Scheme.

### 5.4 Site, development and car parking requirements

5.4.1 Schedule 11 "Site, development and car parking requirements" lists the various development standards and car parking requirements that apply to various uses of land specified therein.

5.4.2 No person shall develop any land for a use or purpose specified in Schedule 11 otherwise than in accordance with the relevant standards contained therein.

5.4.3 Where a use or zone does not have a particular development standard prescribed for it in Schedule 11 or in any other part of the Scheme, the local government may apply such development standards as it considers appropriate.

5.4.4 Car parking spaces shall be provided in accordance with the Schedule 11 requirements and shall be designed, constructed and maintained to the satisfaction of local government.

#### 5.4.5 Cash-in-lieu of parking

- (a) The local government may, in respect of any use or development proposed within any zone of the Scheme, require the payment of cash-in-lieu of the provision of parking spaces on the lot of the proposed use or development. The local government's intent in this regard is to—
  - (i) encourage comprehensive, consolidated and coordinated development;
  - (ii) provide for safer and more efficient management of both pedestrian and vehicular traffic; and,
  - (iii) strategically plan and provide conveniently located public parking facilities, within the zone.
- (b) A cash-in-lieu payment made under this sub-clause shall not be less than the estimated cost to the local government of all of the following—
  - (i) constructing, sealing and draining the number or car parking spaces as a consequence of the proposed use or development;
  - (ii) the value of the land to be acquired by the local government and occupied by the number of car parking spaces and associated manoeuvring areas as estimated by an appropriately qualified land valuer; and
  - (iii) all associated additional costs to the local government as estimated by an appropriately qualified land valuer of purchasing an equal area of land identified by the local government in reasonable proximity to the proposed development or use.
- (c) In the event of a dispute in respect to a valuation pursuant to paragraphs (i), (ii) or (iii) of sub-clause 5.4.5(b), the matter shall be referred by the local government for determination under the *Commercial Arbitration Act 1985* (as amended).
- (d) A cash-in-lieu payment made under this sub-clause shall be paid into a special purpose fund for the acquisition of land and construction of parking facilities in accordance with a car parking strategy adopted by the local government.
- (e) The local government shall expend any cash-in-lieu payments made under this sub-clause on the construction of car parking facilities within a reasonable period and such facilities shall be constructed within reasonable proximity to the development.
- (f) The local government may require and accept the payment of cash-in-lieu of the provision of car parking for the prior provision of car parking areas by the local government in anticipation of development.

### 5.5 Building and Access Guidelines

Where the Western Australian Planning Commission, as a condition of subdivision, requires development to comply with Building and Access Guidelines, the local government will not approve development on the lots created by the subdivision unless the proposed development complies with the Building and Access Guidelines,

*Note: The Community Code provides for Building and Access Guidelines to be prepared by applicants for subdivision for approval in association with the subdivision application. The Code requires Building and Access Guidelines for all lots less than 350m<sup>2</sup>. They are also recommended for lots of 350m<sup>2</sup>—450m<sup>2</sup>, and for larger lots with special siting and design requirements.*

### 5.6 Restrictive covenants

5.6.1 Subject to clause 5.6.2, 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.

5.6.2 Where clause 5.6.1 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 5.6.1, 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.

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

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

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

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

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

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

### 5.8 Environmental conditions

5.8.1 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.

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

5.8.3 The local government is to—

- (a) maintain a register of all relevant statements published under sections 48F and 48G of the *Environmental Protection Act 1986*; 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.*

### 5.9 Development and subdivision requirements for particular zones

#### 5.9.1 Rural 1 zone

In the Rural 1 zone the following shall apply—

- (a) In considering any rezoning, subdivision or development within the Rural 1 zone the local government will have regard to whether the proposal may prejudice current or potential agricultural activities and production within the zone.

#### Development

- (b) No more than one single dwelling per lot shall be erected unless the local government is satisfied that an additional dwelling is required to provide accommodation for a farm employee or tenants in common on a lot used as part of an economically active farming enterprise.
- (c) When considering an application for a second dwelling the local government will also have regard to—
  - (i) whether the subject land has legal road frontage and the proposed means of access;
  - (ii) the size of the subject land and its capacity to operate as a farm; and
  - (iii) the landscape values of the area and any impact of the proposal upon these values.

#### Subdivision

- (d) The local government’s guidelines for assessing referrals from the Western Australian Planning Commission for the subdivision of land within the Rural 1 zone shall be—
  - (i) There is a general presumption against the further subdivision of land in the Rural 1 zone, except where it can be clearly demonstrated that the subdivision will be beneficial to viable and sustainable agricultural production and land management on the subject land and will not be prejudicial to similar production and management on adjoining lands.
  - (ii) Where land is to be used for grazing, cropping and other general agricultural practices, subdivision should be based on a minimum lot size of 80 hectares.
  - (iii) Where the land is to be used for annual or perennial horticulture production, subdivision should be based on a minimum lot size of 40 hectares, including a minimum area of high capability (class 1 or 2) land of 30 hectares, in addition to sufficient area for water capture/storage, the siting of a dwelling and agricultural buildings, other infrastructure, protection of any remnant vegetation, and sufficient setbacks from watercourses and adjoining properties so as not to restrict potential agricultural productivity on those properties.



- (iv) Where it is proposed to restructure existing allotments consideration will be given to the creation of lots smaller than those outlined in the above criteria, provided that—
  - the smaller lots have sufficient size to allow for the construction of a dwelling and other small farm infrastructure and buildings with sufficient setback from adjoining properties so as not to restrict potential agricultural productivity on those properties;
  - the smaller lots are located to have minimal adverse impact on the viability and sustainability of the main farming property;
  - the total number of resulting lots is not greater than the original number of lots; and
  - in the case of lifestyle lots, the land is located within 10km of a major townsite.
- (v) The existence of a second dwelling on a rural lot is not considered a justification for subdivision and the local government will recommend that such applications be refused by the Western Australian Planning Commission.

#### 5.9.2 Light and Service Industry and General Industry zones

In the Light and Service Industry and the General Industry zones the following shall apply—

##### Development

- (a) On lots within the zone having an area of less than 4000m<sup>2</sup>, land between the road reserve and the setback distance prescribed by the Scheme shall not be developed except for one or more of the following—
  - (i) an access driveway;
  - (ii) a parking area;
  - (iii) loading and unloading of vehicles;
  - (iv) a trade display; or
  - (v) landscaping.
- (b) A person shall not use land for open storage purposes unless it is screened from public view by a fence or wall to the satisfaction of the local government.
- (c) On lots within the zone having an area of 4000m<sup>2</sup> or more, the local government shall require to be shown on development application plans, at least 5% of the site area set aside and to be developed as landscaping and that at least one half of the landscaped area is to be at the front and sides of the development.
- (d) If a service road is situated between buildings, or between a building and boundary of the lot, it shall not be less than 6m in width. If a service road is situated between an open yard, or an open yard and a building on a side boundary, it shall not be less than 4.5m in width. In any event, the Building Code of Australia shall prevail.
- (e) Provision shall be made for service access in accordance with the requirements of sub-clause 5.11.1.
- (f) When considering an application for planning approval, the local government shall have regard to, and may impose conditions with respect to the location of parking on the site and the pedestrian and vehicle traffic circulation system proposed.
- (g) Car parking is to be provided in accordance with the standards for respective uses detailed in Schedule 11. Unless otherwise approved or required by the local government, the required car parking is to be provided on the site of the proposed development.
- (h) Where a proposed development is likely, if approved, to give rise to any significant off-site environmental impacts including pollution (e.g. gaseous emissions, odours or noise) or risk, which is likely to result in nuisance or adverse impacts on adjacent areas, the local government may—
  - (i) refuse the application; or
  - (ii) approve the application subject to conditions designed to ameliorate any impact.
- (i) In its determination of any application for planning approval, the local government is to take into consideration the potential environmental impact on the use and enjoyment of adjacent land or property, having regard to—
  - (i) the concentration of any pollutants (including gaseous emissions, odour and noise) or the level of risk, at the location of impact;
  - (ii) the frequency and duration of events associated with the environmental impact;
  - (iii) the practicability and effectiveness of any amelioration measures which form part of the proposed development; and
  - (iv) the zoning, use and likely future development or occupancy of the adjacent land or property upon which the environmental impacts will impinge.
- (j) Where a proposed industry involves the discharge of effluent, other than that associated with staff toilet facilities, then either—
  - (i) the premises must be connected to a reticulated sewerage system; or
  - (ii) where a connection to reticulated sewerage is not available, the premises are to be serviced by an on-site disposal and/or collection system of such capacity and design as to prevent pollution (including nutrient discharge to) of any ground or surface water systems in the vicinity of the site to the satisfaction of the Department of Health, the Environmental Protection Authority and the local government.

- (k) Where, either because of the nature or quantity of effluent to be discharged, or the characteristics of the site and its environment, the requirements for effluent disposal referred to in (j) cannot be met to the satisfaction of the local government, Department of Health and the Environmental Protection Authority, the application may be refused notwithstanding that the use of the site may be designated "P" in the Zoning Table.

#### Subdivision

- (l) The local government's guidelines for assessing referrals from the Western Australian Planning Commission for the subdivision of land within the Light and Service Industry and General Industry zones shall be—
- (i) a minimum lot size of 2,000m<sup>2</sup>;
  - (ii) the subdivision, where it involves creation of a significant number of lots, should provide for a variety in lot size; and
  - (iii) that where the land has been previously subdivided in accordance with an overall structure plan, subdivision plan or similar plan, there shall be a presumption against the further subdivision of the site, unless the above matters can be clearly addressed to the local government's satisfaction.

#### 5.9.3 Town Centre and Mixed Use zones

In the Town Centre and Mixed Use zones the following shall apply—

##### Development

- (a) All development within the zone shall comply with the standards prescribed by the Scheme in relation to the particular use.
- (b) Where development or re-development of properties is envisaged, the incorporation of residential uses up to a density of R40 is encouraged to create greater diversity of use.
- (c) In the Town Centre zone residential development is only permitted in conjunction with commercial activities and is not permitted on the commercial street frontage at ground floor.  
*Note: The objective is to encourage mixed uses and residential development above existing commercial businesses. Residential development (at ground floor level) may be considered at the rear of the building or the secondary street frontage of a corner lot as determined by the local government.*
- (d) In the case of a lot being developed for both residential and some other use as may be approved in the Town Centre zone, the local government will ensure that the design of the development provides a level of residential amenity consistent with the standard prescribed under the Residential Design Codes and if the building is multi-storey, restrict residential use to the upper storey.
- (e) Where the R40 code applies and where the residential development is incorporated into any proposed new or altered building, design guidelines will need to be prepared to the satisfaction of the local government where variations on setbacks, plot ratio and height are to be sought.
- (f) Provision shall be made for service access in accordance with the requirements of sub-clause 5.11.1.
- (g) The use of external space for storage is prohibited.
- (h) The primary street frontage of all non-residential buildings must have a facade predominantly constructed of brick, concrete, glass or steel or a combination of these materials or other materials acceptable to the local government.
- (i) It is the local government's intention that fencing within the front setback area should be kept to a minimum. In circumstances where security cannot be provided by any other means, the local government may allow fencing within the front setback provided it is of a high quality and constructed of wrought iron, masonry or similar materials.

##### Subdivision

- (j) The local government's guidelines for assessing referrals from the Western Australian Planning Commission for the subdivision of land within the Town Centre and Mixed Use zones shall be—
  - (i) a minimum lot size of 500m<sup>2</sup> in the Town Centre zone; and
  - (ii) a minimum lot size of 500m<sup>2</sup> in the Mixed Use zone.
- (k) In considering a subdivision application the local government will need to be satisfied that the proposed lots can be used for their intended purpose.

#### 5.9.4 Residential Development zone

In the Residential Development zone the following shall apply—

##### Development

- (a) No substantial development shall be approved within the Residential Development zone unless it is generally in accordance with a Structure Plan that has been prepared and approved pursuant to clause 6.3. Any residential development within the zone shall comply with the requirements of the Residential Design Codes as determined by the provisions of an approved Structure Plan.

## Subdivision

- (b) No subdivision shall be supported by the local government within the Residential Development zone unless it is generally in accordance with a Structure Plan that has been prepared and approved pursuant to clause 6.3.

5.9.5 Rural Residential zone

In the Rural Residential zone the following shall apply—

## Development

- (a) In addition to any provisions which are more generally applicable to land zoned Rural Residential, Schedule 12 sets out specific provisions for controlling land use and development within particular Rural Residential areas. No person shall use or develop land zoned Rural Residential except in accordance with the provisions set out in Schedule 12 for that specific area.
- (b) Not more than one dwelling per lot shall be erected.
- (c) Provision of a suitable water supply to an appropriate standard as determined by the local government, eg rainwater tanks having minimum capacity of 120,000 Litres, domestic bores, reticulated water supply or a combination of these.
- (d) No trees or substantial vegetation may be felled, removed or damaged except for—
- (i) clearing associated with approved development or an approved fire management plan;
  - (ii) establishment of fire breaks as may be required by a Local Law or a notice issued by the local government pursuant to the *Bush Fires Act 1954*; or
  - (iii) any other purpose approved by the local government.
- (e) Where land within the Rural Residential zone is in the opinion of the local government denuded or deficient of natural vegetation cover, the local government may as a condition of planning approval for development require the planting and maintenance of suitable tree cover in order to enhance the amenity of the area.

## Building envelopes

- (f) Structure Plans for the zone shall include defined building envelopes of a size and position approved by the local government. All development is to be contained within the local government endorsed building envelope.
- (g) Where, for the purpose of retaining natural flora, sound environmental reasons or the physical constraints of a site dictate, the local government may approve an alternative building envelope.
- (h) The local government, in considering an application for an alternative building envelope, shall follow the procedures under sub-clause 6.3.6.

## Building setbacks

- (i) Where a lot does not have an identified building envelope, the following setbacks apply—
- (i) for lots with an area of 1ha or less—
    - front: 15m
    - side: 5m
    - rear: 5m
  - (ii) for lots with an area greater than 1 ha—
    - front: 20m
    - side: 10m
    - rear: 10m

## On site effluent disposal

- (j) Each dwelling shall be provided with an effluent disposal system to the satisfaction of the local government, the Department of Health and where necessary meet the requirements of the Department of Environment and Conservation.

## Dams and water rights

- (k) Dams may not be constructed, nor the flow of water artificially retarded unless with the prior approval of the Department of Water and the local government. Dams existing prior to the creation of this Rural Residential zone are to be maintained in a safe condition to the satisfaction of the Department of Water and the local government and their use is to remain consistent with that existing prior to the creation of this zone.
- (l) Where dams exist or are proposed, they must not pond outside the respective property boundary. All dams should have some mechanism for by-passing all flow (summer flow) in the watercourse, to meet downstream environmental requirements and that of riparian users.

## Subdivision

- (m) Unless provided for in Schedule 12, subdivision within the Rural Residential zone shall be generally in accordance with an applicable Structure Plan that has been prepared and approved pursuant to clause 6.3.
- (n) Minimum lot sizes for each Rural Residential area shall be prescribed in Schedule 12.

- (o) Once a lot has been subdivided pursuant to the above provisions, no further subdivision of land within the zone shall be supported.
- (p) In considering any subdivision proposals the local government will have regard to provision of appropriate buffer zones to existing or future agricultural development.

#### 5.9.6 Rural 2 zone

In the Rural 2 zone the following shall apply—

- (a) The local government, prior to determining applications for planning approval on land within the Rural 2 zone, shall consult the Department of Mines and Petroleum and have due regard to its advice and recommendations, except where the Department has agreed that particular types of development in specific areas do not require referral.
- (b) The local government in considering any planning applications in the Rural 2 zone, is to consider if the scale and form of development will adversely impact upon future access to the underlying coal resource.
- (c) The applicant shall demonstrate to the satisfaction of the local government that the proposed development will neither significantly impact upon nor be significantly impacted upon by mining operations which may occur on adjacent properties.
- (d) The local government may as a condition of planning approval, require that a notification be placed on the certificate of title of the land and remain until removed at the discretion of the local government, to ensure that prospective purchasers are aware of the possibility of mining on adjacent properties and the potential for impact upon the amenity of the land.
- (e) Nothing in this Scheme shall prevent or restrict the development and use of land for “Industry Mining” as provided for in the—
  - *Collie Coal (Griffin) Agreement Act 1979*; and
  - *Collie Coal (Western Collieries) Agreement Act 1979*.

#### 5.10 Coolangatta Industrial Estate—Development Investigation Area (CIE-DIA)

The following provisions apply to the Special Use Zone: Coolangatta Industrial Estate—Development Investigation Area and Special Control Area.

##### 5.10.1 Collie Coal Basin Management and Planning Group

An advisory group was established comprising representatives of relevant agencies, local government and industry. The role of the advisory group was to make recommendations relating to the capacity of industry and mining within the Collie Coal Basin, based on an agreed model to define acceptable noise and air shed limits, and mechanisms to protect these limits under the local planning scheme.

##### 5.10.2 Planning requirements

- (a) Where land is identified on the Scheme Map as being within the Coolangatta Industrial Estate—Development Investigation Area, the local government shall require the preparation and approval of a Structure Plan for each stage of the Development Investigation Area before recommending subdivision or approving development of land within the Development Investigation Area.
- (b) All applications for planning approval on land within the estate must be referred to the Environmental Protection Authority and demonstrate their suitability and compliance with Environmental Protection Authority guidelines and Regulations. Proposals that are likely to have a significant effect on the environment must be referred to the Environmental Protection Authority pursuant to s38 of the *Environmental Protection Act 1986*.
- (c) All applications for development on land within the estate must be referred to the Department of Mines and Petroleum to ensure that they will not conflict with the extraction of the coal resource.
- (d) The proponent will be required to prepare a Noise Management Plan before subdivision or development of the first industrial activity including any power station. The Noise Management Plan will establish noise quotas for proposed industries within the relevant stage of the estate, and to establish a noise monitoring program regarding the cumulative impact of noise generated by industries in the estate, in consultation with the Department of Environment and Conservation, to determine that Environmental Protection Authority requirements are being met.
- (e) Prior to subdivision or development of the first industrial activity including any power station within the relevant stage of the estate, the proponent is required to prepare the following studies to the satisfaction of the Department of Environment and Conservation—
  - (i) a program for collection of baseline data for the monitoring of atmospheric emissions, and preparation of an air quality management plan;
  - (ii) a Nutrient and Drainage Management Plan or Strategy;
  - (iii) an assessment of any areas of potential soil and groundwater contamination;
  - (iv) a water supply strategy;
  - (v) a traffic management plan; and
  - (vi) ethnographical and archaeological surveys to ensure the protection of sites of Aboriginal heritage.
- (f) Within the Coolangatta Industrial Estate Special Control Area on all land zoned “Rural 1” and “Rural 2”, all uses are not permitted (including any residential uses), with the exception of “Agriculture—Extensive”.

### 5.10.3 Preparation of the Structure Plan

- (a) The Structure Plan relates to the relevant stage of the CIE-DIA that is being considered.
- (b) The Structure Plan may include plans and other documents.
- (c) The 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 Investigation Area and, without limiting the generality of the foregoing, shall include the following details—
  - (i) the stage of the CIE-DIA that the structure plan applies;
  - (ii) key opportunities and constraints of the Development Investigation Area including landform, topography, hydrology, landscape, vegetation, soils, conservation and heritage values, ownership, land use, roads and public transport, and services;
  - (iii) the planning context for the Development Investigation Area including its regional planning context, relevant strategies, Scheme provisions and policies and where appropriate, indicating how the Proposed Structure Plan is to be integrated into the surrounding area;
  - (iv) the proposed allocation of major land uses and typical lot sizes;
  - (v) the proposed indicative lot pattern and/or modules to accommodate future industrial uses;
  - (vi) the identification of permissible and discretionary land uses;
  - (vii) the management of environmentally sensitive locations, including identification of buffers, vegetation and habitat corridors;
  - (viii) the proposed principal road and other transport and movement systems;
  - (ix) proposed staging and anticipated timing of development;
  - (x) provision for major infrastructure, including main drainage, sewerage, water supply and other key infrastructure services;
  - (xi) be annotated to require that before the establishment of the first industrial activity within the relevant stage of the estate, that appropriate studies and procedures relative to noise management, air quality, nutrient and drainage, potential soil and water contamination, water supply and traffic management are prepared by the proponents; and
  - (xii) such other information as may be required by the local government.
- (d) In considering a proposed Structure Plan for part of a Development Investigation Area, the local government may require the proponent to demonstrate how planning for the subject land may be integrated with surrounding areas, including how broad land uses, essential services and main movement systems are to be integrated and provide information on the arrangements for implementation.

### 5.10.4 Structure Plan approval

The process for adoption and approval of a structure plan, change or departure of a structure plan and appeal provisions is to be in accordance, Clause 6.3.

### 5.10.5 Approved Structure Plans

Where an approved Structure Plan exists, the subdivision and development of land is to generally be in accordance with the approved Structure Plan.

## 5.11 **Additional development requirements**

### 5.11.1 Access for loading and unloading of vehicles

- (a) Provision shall be made for service access to the rear or side of a shop, industry, showroom, restaurant or other commercial use for the purpose of loading or unloading of goods except where alternative access, as considered acceptable by the local government, is provided.
- (b) Service access shall be provided in accordance with the following—
  - (i) The access shall be constructed so that vehicles using it may leave and return to a street in a forward gear unless otherwise agreed to by the local government.
  - (ii) Where a right of way or rear lane is to be used for service access, a paved area shall be provided on the lot so that when loading or unloading occurs, the vehicle does not obstruct other vehicles. In the event that the access way does not provide for through traffic, the paved area required by this clause shall be of a sufficient area to enable vehicles to turn so as to return to the road in a forward gear.
  - (iii) Insofar as is practical, the service access shall be designed so as to segregate service vehicles, both moving and stationary, from parking areas and access ways provided for customer parking.
- (c) One or more service courts, as determined by the local government, shall be provided in any commercial or industrial development for the storage and concealment of refuse disposal bins, crates and other materials of trade. A service court shall be—
  - (i) accessible from the service access required by this sub-clause;
  - (ii) of an area and dimensions to the satisfaction of the local government but, in any case, shall not be less than 10m<sup>2</sup> in area; and
  - (iii) screened to the satisfaction of the local government.

### 5.11.2 Factory unit buildings

All factory unit buildings shall—

- (a) have a minimum floor area of 100m<sup>2</sup>;
- (b) be developed so as to have a minimum width or depth of 6m;
- (c) have a storage yard of an area of not less than 50m<sup>2</sup> appurtenant thereto with such storage yard to be separated from other storage yards by a fence and screened from a public road by a closed screen fence or wall of not less than 1.8m in height; and
- (d) together with the storage yard required by paragraph (c) of this sub-clause, have direct access onto a paved internal service road and there shall be connecting vehicular access between each factory unit building and any open yard.

### 5.11.3 Areas not connected to a public reticulated water supply

An owner or occupier of any lot within the Scheme area which is not connected to a public reticulated water supply shall connect any new dwelling to a rainwater storage tank having a minimum capacity of 120,000 litres or an alternative potable water supply to the satisfaction of the local government.

### 5.11.4 Parking of commercial and heavy haulage vehicles

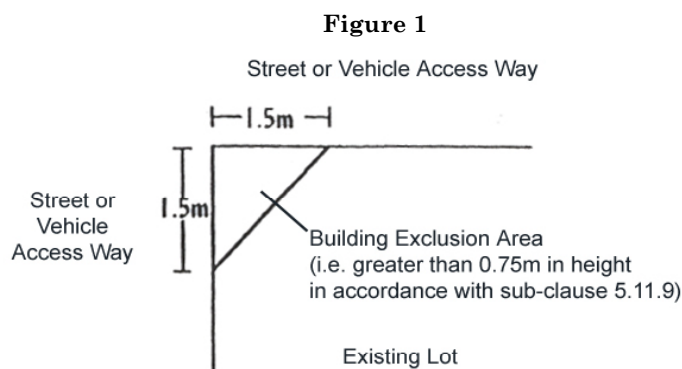
- (a) No parking of commercial or heavy haulage vehicles shall be permitted on any “residential” zoned lot without the planning approval of the local government, having due regard to aesthetic and visual amenity, except as permitted under this scheme or for the purpose of delivery or loading normally associated with domestic uses.
- (b) The local government shall not grant its approval under sub-clause 5.11.4(a) unless—
  - (i) Provision is made for the vehicle to be housed in a garage or parked behind the building line.
  - (ii) In the local government’s opinion the parking of the vehicle will not prejudicially affect the amenity of the neighbourhood due to the emission of light, noise, vibration, smell, fumes, smoke or dust.
  - (iii) Where the local government grants its approval pursuant to sub-clause 5.11.4(a) such approval shall be on an annual basis renewable at the local government’s discretion and the local government shall not renew its consent if the parking of the vehicle in question—
    - is determined by the local government to be causing a nuisance or annoyance to the owners or occupiers of land in the neighbourhood; or
    - does not comply with the provisions of paragraph sub-clause 5.11.4 b (ii).
  - (iv) Where the local government revokes its approval or decides not to renew its consent for the parking of such vehicles on a residential lot, no person shall park such a vehicle on a residential lot without the approval of the local government.

### 5.11.5 Development of lots with no access

- (a) The approval of the local government is required to use or develop land where—
  - (i) it abuts an unconstructed road reserve and no alternative means of access has been approved by the local government; or
  - (ii) it has no frontage to a road reserve and no alternative means of access has been approved by the local government.
- (b) In considering such an application the local government may either—
  - (i) refuse the application; or
  - (ii) approve the application subject to a condition requiring the construction of the road to the local government’s prescribed standard; or
  - (iii) approve the application subject to a condition requiring such other arrangements to be made for permanent access to the land to the satisfaction of the local government.

### 5.11.6 Visual truncations

Except with the approval of the local government, no building, wall, fence or other form of visual obstruction greater than 0.75m in height, measured from the natural ground level at the boundary, shall be constructed or placed on a lot within a 1.5m by 1.5m truncation of a street corner or within a 1.5m by 1.5m truncation of a vehicular access way unless such street corner or vehicular access way is already truncated to the same or greater dimensions (refer to Figure 1).



#### 5.11.7 Landscaping

- (a) The landscaping requirements shown in Schedule 11 “Site, Development and Car Parking Requirements” or referred elsewhere in the Scheme, means an open area designed, developed and maintained as garden planting and areas for pedestrian use. At the discretion of the local government, natural bushland, swimming pools and areas under covered ways may be included in calculating the provision of landscaping. Garbage collection and handling spaces and other open storage areas shall not be included in such calculation.
- (b) In considering the landscaping requirement of any application for planning approval, the following shall apply—
  - (i) The local government may, in a landscaped area, restrict the use of hard materials (eg concrete, gravel etc) and require instead, the planting of drought resistant trees and shrubs of a type that require little maintenance;
  - (ii) Where a proposed development utilises less than 50% of the site area, the local government may reduce the landscaping requirement proportionate to the area being developed, provided that the landscaping requirement shall be required proportionately as subsequent development occurs;
  - (iii) Except within the Residential zone and where the Scheme requires otherwise, the local government shall require that one native or suitable tree, capable of growing to a height of at least 5m, shall be planted for every 50m<sup>2</sup> of landscape area;
  - (iv) Landscaping required pursuant to this Scheme or to a conditional planning approval shall be carried out at the time of the development or at such other time as may be agreed in writing between the developer and the local government and shall thereafter be fully reticulated and permanently maintained to the satisfaction of the local government;
  - (v) A landscaping strip with a minimum width of 1.5m shall be provided between car parking areas and lot boundaries.

#### 5.11.8 Relocated residential buildings

- (a) Within the Scheme area a building may not be placed on a lot and occupied as a dwelling following transportation as a whole or as parts of a building without a planning approval.
- (b) The local government will not approve a planning application unless it considers such a building is in a satisfactory condition and will not detrimentally affect the amenity of the area; or the building has been specifically constructed as a transportable dwelling.
- (c) When considering an application for a relocated residential building, the local government shall have regard to any Planning Policy adopted pursuant to clause 2.4 of the Scheme.

#### 5.11.9 Derelict vehicles

The storage and/or wrecking of any vehicle which the local government considers to be derelict on any lot (or street verge) shall not be permitted without planning approval.

#### 5.11.10 Building heights

- (a) Any building that is in excess of 2 storeys or a height of 8m above natural ground level requires the planning approval of the local government.
- (b) In considering applications for buildings that exceed the number of storeys or height specified under clause 5.11.10 (a), the local government will have regard to—
  - (i) the reason for the intended height of the building and whether this is in keeping with the objectives for the locality and zone;
  - (ii) whether the building will be in harmony with the general character of buildings in the locality;
  - (iii) the impact of the building on the character of the locality, environment, townscape, streetscape or public amenity;
  - (iv) the proposed setbacks from the boundaries of the lot on which it is to be constructed and whether it may prejudice the siting, design, aspect of existing or future development on other nearby lots or impact on the privacy of those occupying those developments; and
  - (v) whether it will impair the potential for development of other vacant blocks in the vicinity with particular regard to amenity, aspect and views.
- (c) Sub clause 5.11.10(a) does not apply to—
  - an aerial;
  - a chimney stack;
  - a mast;
  - a pole;
  - a receiving tower;
  - a silo;
  - a transmission tower, or
  - a utility installation.

#### 5.11.11 Holiday accommodation

- (a) In considering a planning application for holiday accommodation uses the local government shall have regard to—
- (i) the objectives of the zone;
  - (ii) the likely impact upon surrounding development;
  - (iii) the scale and intensity of the development;
  - (iv) where applicable, appropriate setbacks to existing or proposed agricultural uses on the site or nearby properties;
  - (v) where applicable, the effect that existing or proposed agricultural uses could have on the proposal;
  - (vi) adequate provision of services for the development, including water supply, on site effluent disposal, solid waste disposal and electricity;
  - (vii) appropriate access to and from the site;
  - (viii) impact of the development upon the environment and landscape values;
  - (ix) protection of remnant vegetation; and
  - (x) fire management.
- (b) In the Rural Residential zone no more than 2 chalets may be permitted on any one property. In the Rural 1 and Rural 2 zones no more than 4 chalets may be permitted on any one property. On lots smaller than 1 ha in the Rural 1 and Rural 2 zones, the number of Chalets or Cabins that can be considered within these zones will be at the discretion of the local government and upon the local government having regard to the considerations specified at clause 5.11.11 (a), but shall not exceed the maximum of 4 Chalets or Cabins.
- (c) Holiday accommodation proposals which seek to accommodate a greater number of tourists than provided for by clause 5.11.11(b) will only be considered via a specific rezoning of the site that introduces appropriate land use and development controls.
- (d) In the Rural 1 and Rural 2 zones, holiday accommodation shall be set back a minimum distance of 100m from the property boundaries. The local government may only allow a reduction of this setback where it is satisfied that the development will not adversely affect the use of the adjoining land.

#### 5.11.12 Major roads

Notwithstanding any other provision of this Scheme—

- (a) The development and use of land adjoining a major road (as shown on the Scheme Map) requires the planning approval of the local government.
- (b) Any planning application made under sub clause 5.11.12(a) shall be referred to Main Roads WA and the local government shall take into consideration any advice from Main Roads WA.
- (c) In considering any planning application the local government shall have specific regard to—
- (i) the function of the road as a major transport route and ensuring that this is not adversely affected by the proposed development;
  - (ii) the traffic likely to be generated by the proposed use and the means of access and egress; and
  - (iii) the availability of alternative means of access and egress.
- (d) Sub clause 5.11.12(a) does not apply to uses that are ancillary to existing uses or development or that are considered by the local government to be minor in nature and will not generate any significant additional traffic flows.

### PART 6—SPECIAL CONTROL AREAS

#### 6.1 Operation of Special Control Areas

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

- **Collie Power Station Buffer**—Related to the separation of activities considered to be incompatible with the Collie Power Station.
- **Coolangatta Industrial Estate Buffer**—Related to the separation of activities considered to be incompatible with the Coolangatta Industrial Estate.
- **Flood Prone Land**—Related to areas liable to flooding.
- **Structure Plan Areas**—Land requiring Structure Planning as provided for by clause 6.3.3.2

#### 6.2 Special Control Area provisions

In respect of a Special Control Area shown on the 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.

##### 6.2.1 Collie Power Station Buffer

- (a) The purpose of identifying the Collie Power Station Buffer on the Scheme Map is to identify the land surrounding the power station within which the local government shall have regard to the compatibility of proposed uses with the on-going operations of the power station.
- The local government, in considering any development proposals on land located within the Collie Power Station Buffer and included in the Collie Coal Basin, is to ensure no conflict will result with the power station, coal mining and related activities.



- (b) Notwithstanding those uses variously permitted within the Rural 1 and Rural 2 zones (as specified in Table No. 1 Zoning Table), within the Collie Power Station Buffer Special Control Area, all uses are not permitted with the exception of “Agriculture—Extensive” and “General Industry” as permitted in Clause 5.10 and there shall be no habitable buildings associated with such “Agriculture—Extensive” or Industrial use(s) unless otherwise agreed by the Environmental Protection Authority.
- (c) In considering applications for its planning approval for development or land use within the Collie Power Station Buffer Special Control Area, the local government may consult with the Department of Environment and Conservation, Western Power, the Department of Health and/or the owner and/or operator of the power station and shall consider and have regard to—
  - (i) the possible impact of the operation of the power station on the proposed use;
  - (ii) whether the proposed use will jeopardise the on-going operation of the power station;
  - (iii) the compatibility of the proposed development or use with the power station; and
  - (iv) any other matter considered appropriate by the local government.

#### 6.2.2 Coolangatta Industrial Estate (CIE)

- (a) The Special Control Area shown on the Scheme Map comprises the Coolangatta Industrial Estate (CIE) and a buffer area. The Special Control Area is defined by the outer boundary of the acceptable noise levels determined for the approved power station.  
The local government, in considering any development proposals on land located within the CIE is to ensure no conflict will result with coal mining and related activities, it shall refer all applications for planning approval to the Department of Mines and Petroleum for comment.
- (b) Notwithstanding those uses variously permitted within the Rural 1 and Rural 2 zones (as specified in Table No. 1 Zoning Table), within the CIE Special Control Area all uses are not permitted with the exception of “Agriculture—Extensive” and “General Industry” as permitted in Clause 5.10 and there shall be no habitable buildings associated with such Agriculture—Extensive or Industrial use(s) unless otherwise agreed by the Environmental Protection Authority.
- (c) In considering applications for its planning approval for development or land use within the CIE Special Control Area, the local government may consult with the Department of Environment and Conservation, Western Power, the Department of Health, the Department of Mines and Petroleum and/or the owner and/or operator of the power station and shall consider and have regard to—
  - (i) the possible impact of the operation of the power station on the proposed use;
  - (ii) whether the proposed use will jeopardise the on-going operation of the power station;
  - (iii) the compatibility of the proposed development or use with the power station;
  - (iv) the possible impact of the proposed use on coal mining and related activities; and
  - (v) any other matter considered appropriate by the local government.

#### 6.2.3 Flood prone land

Notwithstanding any other provision of the Scheme—

- (a) The local government shall not grant approval to the carrying out of any development on land (or portion(s) thereof) that is shown on the Scheme Map as being flood prone land unless it has made an assessment of—
  - (i) the effect of the proposed development on the efficiency and capacity of the floodway to carry and discharge flood water;
  - (ii) the safety of the proposed development in time of flood; and
  - (iii) whether the proposed development involves any possible risk to life, human safety or private property in time of flood.
 The local government may require points (i), (ii) and (iii) of this sub-clause to be undertaken at the proponent’s cost.
- (b) A person shall not carry out any development on land (or portion(s) thereof) identified as flood prone land on the Scheme Map or other land which, in the opinion of the local government, may be prone to flooding, unless—
  - (i) where no works have been carried out to protect the land from flooding, the floor of any dwelling or other habitable building is, or will be, raised a minimum of 50cm above the 1 in 100 flood level, as determined by the local government, or where a 1 in 100 flood level has not been determined, above the maximum recorded flood level; or
  - (ii) in any other case, the local government is satisfied that adequate measures have been taken to offset the likely effects of flooding on the development concerned.
- (c) For the purposes of sub-clause 6.2.3(a), the local government shall consult with, and take into consideration, the advice of the Department of Water, in relation to the delineation of floodways and flood prone land, the effect of the development on a floodway, and any other measures to offset the effects of flooding.
- (d) For the purposes of this clause, “habitable building” means a building designed primarily for housing and/or overnight accommodation for persons.
- (e) Where land which is identified as being Flood Prone Land is proposed to be subdivided, the local government shall recommend to the Western Australian Planning Commission that memorials be placed on newly created titles to ensure prospective purchasers are aware that the land may be prone to flooding.

### 6.3 Structure Plan areas

#### 6.3.1 Interpretation

In clause 6.3, 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 6.3.4; and

“**Structure Plan**” means a Proposed Structure Plan that has been approved by both the Western Australian Planning Commission and adopted by the local government under clause 6.3.5.

#### 6.3.2 Purpose

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

#### 6.3.3 Planning requirements

6.3.3.1 The provisions of clause 6.3 apply to land covered by a Structure Plan or in a Structure Plan Area, in addition to the provisions applying to any underlying zone or reserve or any general provision of the Scheme.

6.3.3.2 The local government requires a Structure Plan for the Residential Development zone and Rural Residential zone, or for any particular part or parts of the Residential Development zone and Rural Residential zone, before recommending subdivision or approving development of land within the zones. Land within these zones will also be deemed to be within a Structure Plan Area.

6.3.3.3 The local government may require a structure plan for any other zoned or reserve areas in the Scheme where it is of the opinion that comprehensive planning is required, and the relevant provisions of clause 6.3 will apply. Areas requiring Structure Planning may also be identified within a “Structure Plan Area” on the Scheme map. Structure Plans in these areas will need to address, to the satisfaction of the local government, the applicable land use expectations, matters to be addressed and associated provisions contained in Schedule 14, in addition to the matters specified in clause 6.3.4.4.

6.3.3.4 Where a Structure Plan exists, subdivision and development of land is to generally be in accordance with the Structure Plan and any associated provisions contained in Schedules 12, 13 and 14.

6.3.3.5 The local government or the Western Australian Planning 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.

6.3.3.6 Schedule 12 describes the Rural Residential areas that require preparation of a structure plan prior to approval for development and those Rural Residential areas that are exempt from a requirement to prepare a structure plan. Schedule 12 includes special provisions associated with Clause 5.9.5. Schedule 13 identifies areas with pre existing structure plans.

#### 6.3.4 Preparation of Structure Plans

6.3.4.1 A Structure Plan may include plans and other documents.

6.3.4.2 A Structure Plan may, with the agreement of the local government, be prepared and implemented in stages, unless specified elsewhere in the Scheme.

6.3.4.3 A Structure Plan may relate to only part of a Residential Development zone or Rural Residential zone or any other relevant zoned or reserved land or any other relevant zoned or reserved land as determined by the local government.

6.3.4.4 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 underlying zone or any general provisions of the Scheme, 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 Structure Plan area including landform, topography, hydrology, landscape, vegetation, soils, conservation and heritage values, ownership, land use, roads and public transport, and services;
- (c) the planning context for the Structure Plan area including the regional and neighbourhood structure, relevant strategies, Scheme provisions and policies and where appropriate, indicating how the Proposed Structure Plan is to be integrated into the surrounding area;
- (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 subdivision pattern, lot yields, lot sizes, and general location of any major buildings;
- (f) estimates of future population and employment;
- (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.

6.3.4.5 In considering a Proposed Structure Plan, the local government may require the proponent to demonstrate how planning for the subject land may be integrated with planning for the Collie town site and surrounding 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.

#### 6.3.5 Adoption and approval of Structure Plans

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

6.3.5.2 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.

6.3.5.3 If within 60 days of receiving a Proposed Structure Plan for approval for advertising, or such longer period as may be agreed in writing between the proponent and the local government, the local government has not made one of the determinations referred to in clause 6.3.5.2, the local government is deemed to have determined that the Proposed Structure Plan is not satisfactory for advertising.

6.3.5.4 (a) Where the proponent is aggrieved by a determination of the local government under clause 6.3.5.2(b), or (c) or clause 6.3.5.3, the proponent may request the local government by notice in writing to forward the Proposed Structure Plan to the Western Australian Planning Commission.

(b) Within 21 days of receiving a notice from the proponent under clause 6.3.5.4(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 6.3.5.4(b), the Commission is to make one of the determinations referred to in clause 6.3.5.2 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 6.3.5.4(c).

(e) If within 60 days of receiving a Proposed Structure Plan under clause 6.3.5.4(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 6.3.5.2, the Commission is deemed to have determined that the Proposed Structure Plan is not satisfactory for advertising.

6.3.5.5 Where the local government, or the Commission under clause 6.3.5.4, 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.

6.3.5.6 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.

6.3.5.7 The local government is to consider all submissions received and within 60 days of the latest date specified in the notice under clause 6.3.5.5 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.

6.3.5.8 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 6.3.5.7, the local government is deemed to have refused to adopt the Proposed Structure Plan.

6.3.5.9 Within 21 days of the local government making its determination under clause 6.3.5.7, or deemed refusal under clause 6.3.5.8, 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.

6.3.5.10 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.

6.3.5.11 If within 60 days of receiving the information referred to in clause 6.3.5.9, 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 6.3.5.10, the Commission is deemed to have refused to approve the Proposed Structure Plan.

6.3.5.12 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.

6.3.5.13 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 6.3.5.10.

6.3.5.14 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) readvertise the Proposed Structure Plan; or
- (b) require the proponent to readvertise the Proposed Structure Plan and, thereafter, the procedures set out in clause 6.3.5.5 onwards are to apply.

6.3.5.15 As soon as practicable after receiving notice of the approval of the Proposed Structure Plan by the Commission, the local government is to adopt the Proposed Structure Plan and 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.

6.3.5.16 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.

### 6.3.6 Change or departure from Structure Plan

6.3.6.1 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.

6.3.6.2 (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 6.3.6.1 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 6.3.5 in relation to the change or departure; and
  - (ii) is to notify the local government of this requirement within 10 days.

6.3.6.3 Any change to or departure from a Structure Plan that is not within clause 6.3.6.1 is to follow the procedures set out in clause 6.3.5.

### 6.3.7 Operation of Structure Plan

6.3.7.1 A Structure Plan commences operation on the date it is adopted by the local government pursuant to clause 6.3.5.15.

6.3.7.2 Subject to clause 6.3.7.4, 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 Structure Plan Area.

6.3.7.3 Without limiting the generality of clause 6.3.7.2, 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 Residential Design Codes 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.

6.3.7.4 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.

6.3.7.5 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.

#### 6.3.8 Appeals

6.3.8.1 The Proponent may appeal, in accordance with Part 14 of the Planning and Development Act, any—

- (a) determination or decision made by the Western Australian Planning Commission;
- (b) requirement imposed by or modification sought by the Commission; or
- (c) determinations deemed to have been made by the Commission under clauses 6.3.5.4 or 6.3.5.11 in the exercise of the Commission's powers under clause 6.3.

6.3.8.2 The Proponent may appeal, in accordance with Part 14 of the Planning and Development Act, any decision made by the local government under clause 6.3.6.1.

#### 6.3.9 Transitional provisions relating to Structure Plans and Subdivision Guide Plans

6.3.9.1 Subdivision Guide Plans and Structure Plans prepared, adopted and in operation under the provisions of any revoked Scheme and listed in Schedule 13 of the Scheme continue in operation under the Scheme and shall be applied to the relevant land as if they were prepared, adopted and approved pursuant to the provisions of the Scheme.

6.3.9.2 Subdivision Guide Plans prepared and adopted for the purpose of guiding the subdivision and development of land under a revoked Scheme with continued relevance for the purpose of implementing the Scheme shall continue to have force and effect.

## 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 under section 45 of the *Heritage of Western Australia Act 1990*; and
- (b) include on the Heritage List such of the entries on the municipal inventory as it considers to be appropriate.

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

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

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

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

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

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

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

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

## 7.2 Designation of a heritage area

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

7.2.2 The local government is to—

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

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

- (a) notify in writing each owner of land affected by the proposed designation and provide the owner with a copy of the proposed Local Planning Policy for the heritage area;
- (b) advertise the proposal by—
  - (i) publishing a notice of the proposed designation once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area;
  - (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
  - (iii) such other methods as the local government considers appropriate to ensure widespread notice of the proposal;
- (c) carry out such other consultation as the local government considers appropriate.

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

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

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

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

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

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

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

## 7.3 Heritage agreements

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

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

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

## 7.4 Heritage assessment

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

## 7.5 Variations to Scheme provisions for a heritage place or heritage area

7.5.1 Where desirable to—

- (a) facilitate the conservation of a heritage place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the Heritage List under clause 7.1.1; or
- (b) enhance or preserve heritage values in a heritage area designated under clause 7.2.1,

the local government may vary any site or development requirement specified in the Scheme or the Residential Design Codes by following the procedures set out in clause 5.7.2.

## 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.*

### 8.2 Permitted development

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

- (a) The carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is—
  - (i) located in a place that has been entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*;
  - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*; or
  - (iii) included on the Heritage List under clause 7.1 of the Scheme.
- (b) The erection on a lot of a single dwelling 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; or
  - (iii) approval is required under clause 5.11.5 for lots without legal road frontage and or constructed road access.
- (c) The demolition of any building or structure except where the building or structure is—
  - (i) located in a place that has been entered in the Register of Places under the *Heritage of Western Australia Act 1990*;
  - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*;
  - (iii) included on the Heritage List under clause 7.1 of the Scheme; or
  - (iv) located within a heritage area designated under the Scheme.
- (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;
- (f) Any of the exempted classes of advertisements listed in Schedule 5 except in respect of a place included in the Heritage List or in a heritage area.

*Note: Development carried out in accordance with a subdivision approval granted by the Western Australian Planning 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 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 Unauthorized existing developments

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

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

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

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

## PART 9—APPLICATIONS FOR PLANNING APPROVAL

### 9.1 Form of application

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

- (a) a use or commencement of development on a Local Reserve under clause 3.4;
- (b) commencement of a “P” use which does not comply with all relevant development standards and requirements of the Scheme as referred to in clause 4.3.2;
- (c) commencement of a “D” use or an “A” use as referred to in clause 4.3.2;

- (d) commencement of a use not listed in the Zoning Table under clause 4.4.2(b);
- (e) alteration or extension of a non-conforming use under clause 4.9;
- (f) a change of a non-conforming use under clause 4.9;
- (g) continuation of a non-conforming use under clause 4.12;
- (h) variation of a site or development requirement under clause 5.7;
- (i) commencement of development under clause 8.1;
- (j) continuation of development already commenced or carried out under clause 8.4;
- (k) a subsequent planning approval pursuant to an approval under clause 10.8.1; and
- (l) the erection, placement or display of an advertisement,

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

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

### 9.2 Accompanying material

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

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

### 9.3 Additional material for heritage matters

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

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

### 9.4 Advertising of applications

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

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

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

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



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

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

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

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

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

## PART 10—PROCEDURE FOR DEALING WITH APPLICATIONS

### 10.1 Consultation with other authorities

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

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

### 10.2 Matters to be considered by local government

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

- (a) the aims and provisions of the Scheme and any other relevant local planning schemes operating within the Scheme area;
- (b) the requirements of orderly and proper planning including any relevant proposed new local planning scheme or amendment, which has been granted consent for public submissions to be sought;
- (c) any approved State Planning Policy of the Commission;
- (d) any approved environmental protection policy under the *Environmental Protection Act 1986*;
- (e) any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State;
- (f) any Local Planning Policy adopted by the local government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the local government under the Scheme;
- (g) in the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;
- (h) the conservation of any place that has been entered in the Register within the meaning of the *Heritage of Western Australia Act 1990*, or which is included in the Heritage List under clause 7.1, on the National Trust's List of Classified Places, or the Register of Aboriginal Heritage Sites and the effect of the proposal on the character or appearance of a heritage area;
- (i) the compatibility of a use or development with its setting;
- (j) any social issues that have an effect on the amenity of the locality;
- (k) the cultural significance of any place or area affected by the development;
- (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (m) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- (n) the preservation of the amenity of the locality;
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality, including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;

- (r) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
- (s) whether public utility services are available and adequate for the proposal;
- (t) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (u) whether adequate provision has been made for access by disabled persons;
- (v) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (w) whether the proposal is likely to cause soil erosion or land degradation;
- (x) the potential loss of any community service or benefit resulting from the planning approval;
- (y) any relevant submissions received on the application;
- (z) the comments or submissions received from any authority consulted under clause 10.1.1; and
- (za) 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; or
- (b) refuse to grant its approval.

### 10.4 Form and date of determination

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

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

### 10.5 Term of planning approval

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

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

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

### 10.6 Temporary planning approval

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

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

### 10.7 Scope of planning approval

Planning approval may be granted—

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

### 10.8 Approval subject to later approval of details

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

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

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

### 10.9 Deemed refusal

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

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

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

#### **10.10 Appeals**

An applicant aggrieved by a determination of the local government in respect of the exercise of a discretionary power under the Scheme may appeal under Part 14 of the Planning and Development Act.

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

#### **11.1 Powers of the local government**

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

- (a) enter into an agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matter pertaining to the Scheme;
- (b) acquire any land or buildings within the Scheme area under the provisions of the Scheme or the 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 the local government in the notice; or
- (b) remove the advertisement.

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

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

11.2.4 A person on whom notice is served under this clause may appeal 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 CEO, within the meaning of those expressions under the *Local Government Act 1995*, the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.

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

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

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

#### **11.4 Person must comply with provisions of Scheme**

A person must not—

- (a) contravene or fail to comply with the provisions of the Scheme;
- (b) use any land or commence or continue to carry out any development within the Scheme area—
  - (i) otherwise than in accordance with the Scheme;
  - (ii) unless all approvals required by the Scheme have been granted and issued;

- (iii) otherwise than in accordance with any conditions imposed upon the grant and the issue of any approval required by the Scheme; and
- (iv) otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or determined by the local government under the Scheme with respect to that building or that use.

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

- (a) *contravenes or fails to comply with the provisions of a 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 planning scheme or otherwise than in accordance with any condition imposed with respect to the development by the responsible authority pursuant to its powers under the 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: 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, the local government elects to purchase or take the land compulsorily the local government is to give written notice of that election to the claimant within 3 months of the claim for compensation being made.

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

*Note: Section 187 of the Planning and Development Act empowers the local government to purchase or compulsorily acquire land comprised in a scheme.*

### **11.7 Notice for removal of certain buildings**

11.7.1 Under section 214 of the Planning and Development Act, 60 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 215(2) of the Planning and Development Act in a court of competent jurisdiction.

## **SCHEDULES**

- 1** Dictionary of defined words and expressions
- 2** Additional uses
- 3** Restricted uses
- 4** Special use zones
- 5** Exempted advertisements
- 6** Form of application for planning approval
- 7** Additional information for advertisements
- 8** Notice of public advertisement of planning proposal
- 9** Notice of determination on application for planning approval
- 10** Environmental conditions
- 11** Site, development and car parking requirements
- 12** Rural Residential zones
- 13** Transitional provisions—Structure Plans and Subdivision Guide Plans
- 14** Structure Plan Areas

## SCHEDULE 1—DICTIONARY OF DEFINED WORDS AND EXPRESSIONS

[cl. 1.7]

## 1. General definitions

In the Scheme—

- “**advertisement**” means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and includes any hoarding or similar structure used, or adapted for use, for the display of advertisements. The term includes any airborne device anchored to any land or building and any vehicle or trailer or other similar object placed or located so as to serve the purpose of advertising;
- “**amenity**” means all those factors which combine to form the character of an area and include the present and likely future amenity;
- “**building envelope**” means an area of land within a lot marked on a plan approved by the responsible authority within which all buildings and effluent disposal facilities on the lot must be contained;
- “**conservation**” has the same meaning as in the *Heritage of Western Australia Act 1990*;
- “**cultural heritage significance**” has the same meaning as in the *Heritage of Western Australia Act 1990*;
- “**floor area**” has the same meaning as in the Building Code of Australia published by the Australian Building Codes Board;
- “**frontage**”, when used in relation to a building that is used for—
- (a) residential purposes, has the same meaning as in the Residential Design Codes; and
  - (b) purposes other than residential purposes, means the road alignment at the front of a lot and, if a lot abuts two or more roads, the one to which the building or proposed building faces;
- “**Gazettal date**”, in relation to a Scheme, means the date on which the Scheme is published in the *Government Gazette* under section 87(3) of the Planning and Development Act;
- “**height**” when used in relation to a building that is used for—
- (a) residential purposes, has the same meaning as in the Residential Design Codes; or
  - (b) purposes other than residential purposes, means the maximum vertical distance between the ground level and the finished roof height directly above;
- “**incidental use**” means a use of premises which is ancillary and subordinate to the predominant use;
- “**local government**” means the Shire of Collie;
- “**Local Planning Strategy**” means the Local Planning Strategy in respect of the Scheme, as endorsed by the Commission under regulation 12B of the *Town Planning Regulations 1967* and amended from time to time;
- “**lot**” has the same meaning as in the Planning and Development Act but does not include a strata or survey strata lot;
- “**minerals**” has the same meaning as in the *Mining Act 1978*;
- “**net lettable area (nla)**” means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas—
- (a) all stairs, toilets, cleaner’s cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
  - (b) lobbies between lifts facing other lifts serving the same floor;
  - (c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
  - (d) areas set aside for the provision of facilities or services to the floor or building where such facilities are not for the exclusive use of occupiers of the floor or building;
- “**non-conforming use**” has the same meaning as it has in section 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—
- (a) is entitled to the land for an estate in fee simple in possession;
  - (b) is a person to whom the Crown has lawfully contracted to grant the fee simple of that land;
  - (c) is a lessor or licensee from the Crown; or
  - (d) is entitled to receive or is in receipt of, or if the land were let to a tenant, would be entitled to receive, the rents and profits from the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise;
- “**place**”, in Part 7 (Heritage Protection) has the same meaning as it has in the *Heritage of Western Australia Act 1990*;
- “**Planning and Development Act**” means the *Planning and Development Act 2005*;
- “**plot ratio**”, in the case of residential dwellings 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;

“**Regulations**” means Regulations as made under the Planning and Development Act;

*Note: Regulations can be approved under—*

*Section 256—General Provisions;*

*Section 258—Procedures;*

*Section 259—Environmental Reviews;*

*Section 261—Fees;*

*Section 263—General Compliance with the Act; and*

*Section 25 of Part 3 Transitional and Savings Provisions carry forward previous regulations including those made under the Town Planning and Development Act 1928.*

“**Residential Design Codes**” means the Residential Design Codes in Appendix 2 to the Western Australian Planning Commission State Planning Policy No. 1, as amended from time to time;

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

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

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

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

## 2. Land use definitions

In the Scheme—

“**abattoir**” means any land or buildings used for the slaughter of animals for human consumption and the treatment of carcasses, offal and by-products;

“**aged persons home**”; means a building or group of buildings used primarily as a residence for aged persons and may include a hostel and/or nursing home;

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

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

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

“**agroforestry**” means land used commercially for tree production and agriculture where trees are planted in blocks of more than one hectare;

“**amusement parlour**” means premises open to the public, where the predominant use is for amusement by means of amusement machines and where there are more than 2 amusement machines operating within the premises;

“**ancillary accommodation**” self-contained living accommodation on the same lot as a single dwelling that may be attached or detached from the single dwelling occupied by members of the same family as the occupiers of the main dwelling;

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

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

“**bed and breakfast**” means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast;

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

“**cabin**” means an individual self-contained unit similar to chalet but may lack ensuite facilities and may comprise only one room and is designed for short-stay guests, forming part of a tourism facility and where occupation by any person is limited to a maximum of 3 months in any 12-month period;

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

- “**caravan park**” has the same meaning as in the *Caravan Parks and Camping Grounds Act 1995*;
- “**caretaker’s dwelling**” means a dwelling on the same site as a building, operation, or plant, and occupied by a supervisor of that building, operation or plant;
- “**car park**” means premises used primarily for parking vehicles whether open to the public or not but does not include any part of a public road used for parking or for a taxi rank, or any premises in which cars are displayed for sale;
- “**chalet**” means an individual self-contained unit usually comprising cooking facilities, ensuite, living area and one or more bedrooms designed to accommodate short-stay guests, forming part of a tourism facility and where occupation by any person is limited to a maximum of 3 months in any 12-month period;
- “**child care service**” has the same meaning as in the *Child Care Services Act 2007*;
- “**cinema/theatre**” means premises where the public may view a motion picture or theatrical production;
- “**civic use**” means premises used by a government department, an instrumentality of the Crown, or the local government, for administrative, recreational or other purposes;
- “**club premises**” means premises used by a legally constituted club or association or other body of persons united by a common interest;
- “**commercial or heavy haulage vehicle**” means a vehicle which is used and designed for use for business, trade, industrial or commercial purposes and includes any trailer or other attachment to them and includes earthmoving machines, whether self-propelled or not;
- “**community purpose**” means the use of premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organizations involved in activities for community benefit;
- “**consulting rooms**” means premises used by no more than 2 health consultants for the investigation or treatment of human injuries or ailments and for general outpatient care;
- “**convenience store**” means premises—
- 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 300m<sup>2</sup> net lettable area;
- “**dwelling**” a building or portion of a building being used or intended, adapted or designed to be used for the purpose of human habitation on a permanent basis by—
- a single person;
  - a single family; or
  - no more than 6 persons who do not comprise a single family;
- “**eco-tourist facility**” means a form of tourist accommodation that is designed, constructed, operated and of a scale so as not to destroy the natural resources and qualities that attract tourists to the location. The development should utilise sustainable power, have a low energy demand through incorporation of passive solar design, provide for low water consumption, ecologically sensitive waste processing and disposal with no pollutant product;
- “**educational establishment**” means premises used for the purposes of education and includes a school, tertiary institution, business college, academy or other educational centre;
- “**exhibition centre**” means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature, and includes a museum or art gallery;
- “**factory unit building**” a building or structure where provision is made for two or more separate industries or storage areas, not owned or managed by the same person, are contained;
- “**family day care service**” has the same meaning as in the *Child Care Services Act 2007*;
- “**farm stay**” means a residential building, bed and breakfast, chalet or similar accommodation unit used to accommodate short-stay guests on a farm or rural property and where occupation by any person is limited to a maximum of 3 months in any 12-month period;
- “**fast food outlet**” means premises used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises, but does not include a lunch bar;
- “**fuel depot**” means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel, but does not include a service station and specifically excludes the sale by retail into a vehicle for final use of such fuel from the premises;
- “**funeral parlour**” means premises used to prepare and store bodies for burial or cremation;
- “**guesthouse**” means integrated premises for short-stay guests comprising serviced accommodation units and on-site tourism facilities such as reception, centralised dining, and management, and where occupation by any person is limited to a maximum of 3 months in any 12-month period;

“**holiday accommodation**” means land and buildings providing accommodation and facilities for tourists and travellers, including chalets, cabins, farm stay, bed and breakfast, camping grounds, caravan parks and eco-tourist facility, none of which is occupied by the tenant for a period of more than 3 months in any one calendar year;

“**holiday home**” means a residential building used to provide accommodation for short-stay guests, rather than permanent residency, and excluding those uses more specifically defined elsewhere;

“**home business**” means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which—

- (a) does not employ more than 2 people not members of the occupier’s household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 50m<sup>2</sup>;
- (d) does not involve the retail sale, display or hire of goods of any nature;
- (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and
- (f) does not involve the use of an essential service of greater capacity than normally required in the zone;

“**home occupation**” means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which—

- (a) does not employ any person not a member of the occupier’s household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 20m<sup>2</sup>;
- (d) does not display a sign exceeding 0.2m<sup>2</sup>;
- (e) does not involve the retail sale, display or hire of goods of any nature;
- (f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and
- (g) does not involve the use of an essential service of greater capacity than normally required in the zone;

“**home office**” means a home occupation limited to a business carried out solely within a dwelling by a resident of the dwelling but which does not—

- (a) entail clients or customers travelling to and from the dwelling;
- (b) involve any advertising signs on the premises; or
- (c) require any external change to the appearance of the dwelling;

“**home store**” means any shop with a net lettable area not exceeding 100m<sup>2</sup> attached to a dwelling and which is operated by a person resident in the dwelling;

“**hospital**” means premises in which persons are admitted and lodged for medical treatment or care and includes a maternity hospital;

“**hotel**” means premises providing accommodation the subject of a hotel licence under the *Liquor Control Act 1988*, and may include a betting agency on those premises, but does not include a tavern or motel;

“**industry**” means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes premises on the same land used for—

- (a) the storage of goods;
- (b) the work of administration or accounting;
- (c) the selling of goods by wholesale or retail; or
- (d) the provision of amenities for employees, incidental to any of those industrial operations;

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

- (a) does not cause injury to or adversely affect the amenity of the neighbourhood;
- (b) where operated in a residential zone, does not employ any person other than a member of the occupier’s household;
- (c) is conducted in an out-building which is compatible with the principal uses to which land in the zone in which it is located may be put;
- (d) does not occupy an area in excess of 50m<sup>2</sup>; and
- (e) does not display a sign exceeding 0.2m<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—

- (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises do not cause any injury to or adversely affect the amenity of the locality; and
- (b) the establishment or conduct of which does not, or will not, impose an undue load on any existing or proposed service for the supply or provision of essential services;

**“industry—noxious”** means an industry which is subject to licensing as “Prescribed Premises” under the *Environmental Protection Act 1986*—

- (a) that, by reason of the processes involved, the method of manufacture, the nature of the materials used or produced, and/or the emissions or other by-products released into the atmosphere, water or ground requires separation from other land uses and/or buildings in the interests of human enjoyment or comfort; and/or
- (b) within which the processes involved constitute an offensive trade within the meaning of the *Health Act 1911* (as amended) but does not include a fish shop, dry cleaning premises, marine collectors yard or laundromat.

**“industry—rural”** means—

- (a) an industry handling, treating, processing or packing rural products; or
- (b) a workshop servicing plant or equipment used for rural purposes;

**“industry—service”** means—

- (a) an industry—light carried out from premises which may have a retail shop front and from which goods manufactured on the premises may be sold; or
- (b) premises having a retail shop front and used as a depot for receiving goods to be serviced;

**“lodge”**—see “guesthouse”;

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

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

**“medical centre”** means premises, other than a hospital, used by one or more health consultant(s) for the investigation or treatment of human injuries or ailments and for general outpatient care (including preventative care, diagnosis, medical and surgical treatment, and counselling);

**“motel”** means premises used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the accommodation of patrons with motor vehicles and may comprise premises licensed under the *Liquor Control Act 1988*;

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

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

- (a) electrical and mechanical repairs, or overhauls, to vehicles; or
- (b) repairs to tyres,

but does not include premises used for recapping or retreading of tyres, panel beating, spray painting or chassis reshaping;

**“motor vehicle wash”** means premises where the primary use is the washing of motor vehicles;

**“motor vehicle wrecking”** means premises used for the storage, breaking up or dismantling of motor vehicles and includes the sale of second-hand motor vehicle accessories and spare parts;

**“night club”** means premises—

- (a) used for entertainment with or without eating facilities; and
- (b) licensed under the *Liquor Control Act 1988*;

**“office”** means premises used for administration, clerical, technical, professional or other like business activities;

**“open air display”** means the use of land as a site external to a building for the display and/or sale of goods and equipment;

**“park home park”** has the same meaning as in the *Caravan Parks and Camping Grounds Regulations 1997*;

**“place of assembly”** means any land or buildings where people assemble for a public, religious or cultural activity;

**“plant nursery”** means any land or building used for the propagation, rearing and sale of plants and the storage and sale of products associated with horticultural and garden activities;

**“plantation”** has the same meaning as in the Code of Practice for Timber Plantations in Western Australia (2006) published by the Forest Industries Federation (WA) Inc;

**“reception centre”** means premises used for functions on formal or ceremonial occasions but not for unhosted use for general entertainment purposes;

- “**recreation—private**” means premises used for indoor or outdoor leisure, recreation or sport which are not usually open to the public without charge;
- “**residential building**” has the same meaning as in the Residential Design Codes;
- “**restaurant**” means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the *Liquor Control Act 1988*;
- “**restricted premises**” means premises used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of—
- publications that are classified as restricted under the *Classification (Publications, Films and Computer Games) Enforcement Act 1996*;
  - 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;
- “**retirement village**” means premises used to accommodate retirees together with ancillary facilities;
- “**rural pursuit**” means any premises used for—
- the rearing or agistment of animals;
  - the stabling, agistment or training of horses;
  - the growing of trees, plants, shrubs or flowers for replanting in domestic, commercial or industrial gardens; or
  - the sale of produce grown solely on the lot,
- but does not include agriculture—extensive or agriculture—intensive;
- “**saw mill**” means any land or buildings where logs or large pieces of timber are sawn, but does not include a joinery works;
- “**short-stay accommodation**” and “**tourism development**” mean a building, or group of buildings forming a complex, designed for the accommodation of short-stay guests and which provides on-site facilities for the convenience of guests and for management of the development, where occupation by any person is limited to a maximum of 3 months in any 12-month period and excludes those uses more specifically defined elsewhere;
- “**serviced apartment**” means a complex where all units or apartments provide for self-contained accommodation for short-stay guests, where integrated reception and recreation facilities may be provided, and where occupation by any person is limited to a maximum of 3 months in any 12-month period;
- “**service station**” means premises used for—
- the retail sale of petroleum products, motor vehicle accessories and goods of an incidental/convenience retail nature; and
  - the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles,
- but does not include premises used for a transport depot, panel beating, spray painting, major repairs or wrecking;
- “**shop**” means premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet;
- “**showroom**” means premises used to display, sell by wholesale or retail, or hire, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature;
- “**storage**” means premises used for the storage of goods, equipment, plant or materials;
- “**tavern**” means premises licensed as a tavern under the *Liquor Control Act 1988* and used to sell liquor for consumption on the premises;
- “**telecommunications infrastructure**” means land used to accommodate any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use in or in connection with, a telecommunications network;
- “**tourist resort**” means integrated, purpose-built luxury or experiential premises for short-stay guests comprising accommodation units and on-site tourism facilities such as reception, restaurant and leisure facilities like swimming pool, gymnasium, tennis courts, and where occupation by any person is limited to a maximum of 3 months in any 12-month period;
- “**trade display**” means premises used for the display of trade goods and equipment for the purpose of advertisement;
- “**transportable structure**” means a building which has been prefabricated at another location and transported either whole or in parts to the intended location but is not classified as a single dwelling;
- “**transport depot**” means any land or buildings used for the garaging of motor vehicles used or intended to be used for carrying goods or persons, or for the transfer of goods or persons from one motor vehicle to another of such motor vehicle and includes ambulance depot, fire brigades depot and milk depot) and includes maintenance, management and repair of the vehicles used, but not of other vehicles, and may include overnight accommodation on-site for the transport workers;

- “**veterinary centre**” means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders;
- “**warehouse**” means premises used to store or display goods and may include sale by wholesale;
- “**woodyard**” means a premises used for the sale or distribution of wood and timber products including fire wood; and
- “**winery**” means premises used for the production of viticultural produce and may include sale of the produce.

**SCHEDULE 2—ADDITIONAL USES**

[cl. 4.5]

No.	Description of land	Additional Use(s) Permitted	Conditions
1	Lot 198 Ash Mews, Collie	Child day care centre	As required by local government and/or as prescribed elsewhere in the Scheme.
2	Lots 2 & 3 Moira Road, Collie	Squash courts	As required by local government and/or as prescribed elsewhere in the Scheme.
3	Lot 1910 cnr Coombes & Paul Streets, Collie	Local shop and single dwelling	As required by local government and/or as prescribed elsewhere in the Scheme.
4	Lot 10 Bedlington Street, Allanson	Local shop and single dwelling	As required by local government and/or as prescribed elsewhere in the Scheme.
5	Lot 6 cnr Prinsep Street North/View Street, Collie	Local shop and single dwelling	As required by local government and/or as prescribed elsewhere in the Scheme.
6	Lot 298 Bunbury Street, Collie	Local shop and single dwelling	As required by local government and/or as prescribed elsewhere in the Scheme.
7	Lot 1699 cnr Moore Street & Irwin Road, Collie	Local shop and single dwelling	As required by local government and/or as prescribed elsewhere in the Scheme.
8	Lot 21 cnr Steere Street North & Deakin Street, Collie	Local shop and single dwelling	As required by local government and/or as prescribed elsewhere in the Scheme.

**SCHEDULE 3—RESTRICTED USES**

[cl. 4.6]

No.	Description of land	Restricted use	Conditions

## SCHEDULE 4—SPECIAL USE ZONES

[cl. 4.7]

No.	Description of land	Only use(s) permitted	Conditions
1	Reserve 30627	Motor vehicle and motor cycle raceway	As determined by local government
2	Wellington Boulevard, Collie Portion of Lots 56 and 60	Tourist development, being either— (i) Tourist shops and showrooms; (ii) Tourist market and entertainment (iii) museum (iv) Motel expansion	As determined by local government
3	Lot 8 WL 796 Boys Home Road	Coolangatta Industrial Estate—Development Investigation Area (CIE-DIA).	As per clause 5.10
4	Lot 5 P20709 Boys Home Road	Power station	In accordance with any license issued under the <i>Environmental Protection Act 1986</i>
5	Lot 317 Throssell Street, Collie	Motel	As determined by local government
6	Portion Lot 2775 Atkinson Street, Collie	Motel	As determined by local government
7	Reserve 36454	Caravan and chalet park	As determined by local government
8	Lot 1367 Preston Road	Transport depot	As determined by local government
9	Lot 2893 Ewing Street	Club premises	As determined by local government
10	Lot 2802 Burt Street	Aged persons home	As determined by local government

## SCHEDULE 5—EXEMPTED ADVERTISEMENTS

[cl. 8.2(f)]

Land Use and/or Development	Exempted Sign	Maximum Size
Dwellings	One professional name-plate as appropriate.	0.5m <sup>2</sup>
Home occupation	One advertisement describing the nature of the home occupation.	0.2m <sup>2</sup>
Place of assembly.	One advertisement detailing the function and/or the activities of the institution concerned.	2.0m <sup>2</sup>
Cinemas, theatres and drive-in theatres	Two signs (illuminated or non-illuminated) detailing the entertainment being presented from time to time at the venue upon which the signs are displayed.	Each advertisement sign not to exceed 5m <sup>2</sup>
Shops, showrooms and other uses appropriate to a shopping area.	All advertisements affixed to the building below the top of the awning or, in the absence of an awning, below a line measured at 5m from the ground floor level of the building subject to compliance with the requirements of the Signs Hoarding and Bill Posting Bylaws.	N/A
Industrial and warehouse premises	A maximum of 4 advertisements applied to or affixed to the walls of the building but not including signs which project above the eaves or the ridge of the roof of the building, and excluding signs projecting from a building whether or not those signs are connected to a pole, wall or other building. A maximum of 2 free-standing advertisement signs not exceeding 5m in height above ground level.	Total area of any such advertisements shall not exceed 15m <sup>2</sup> . Maximum permissible total area shall not exceed 10m <sup>2</sup> and individual advertisement signs shall not exceed 6m <sup>2</sup>

<b>Land Use and/or Development</b>	<b>Exempted Sign</b>	<b>Maximum Size</b>
Showroom, race courses, major racing tracks, sports stadia, major sporting grounds and complexes.	All signs provided that, in each case, the advertisement is not visible from outside the complex or facility concerned either from other private land or from public places and streets.	N/A
Public places and reserves	(a) Advertisement signs (illuminated and non-illuminated) relating to the functions of government a public authority or Council of a local government excluding those of a promotional nature constructed or exhibited by, or on behalf of any such body.  (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, and  (c) Advertisement signs (illuminated and non-illuminated) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a Statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein.	N/A N/A N/A
Railway property and reserves	Advertisement signs exhibited on such land provided that each such advertisement is directed only at persons at or upon a railway station.	No sign shall exceed 2m <sup>2</sup> in area.
Advertisements within buildings	All advertisements placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings.	N/A
All classes of buildings other than single family dwellings.	One advertisement sign containing the name, number and address of the building, the purpose for which the building is used or the name and address of the managing agent thereof.	0.2m <sup>2</sup>

<b>Temporary Signs</b>	<b>Exempted Sign—Type And Number (All Non-Illuminated Unless Otherwise Stated)</b>	<b>Maximum Area</b>
Building construction sites (advertisement signs displayed only for the duration of the construction as follows— (a) Dwellings.	One advertisement per street frontage containing details of the project and the contractors undertaking the construction work.	2m <sup>2</sup>
(b) Multiple dwellings, shops, commercial and industrial projects.	One sign as for (i) above	5m <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 (i) above One additional sign showing the name of the project builder.	10m <sup>2</sup> 5m <sup>2</sup>

Temporary Signs	Exempted Sign—Type And Number (All Non-Illuminated Unless Otherwise Stated)	Maximum Area
Sales of goods or livestock	One sign per lot displayed for a period not exceeding 3 months advertising the sale of goods or livestock upon any land or within any building upon which the sign is exhibited provided that the land is not normally used for that purpose.	2m <sup>2</sup>
Home open and garage sale signs	Maximum 2 portable signs per dwelling or sale. Signs may be erected on the day of the opening or sale only and must be removed before sunset the same day.	0.25m <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 centres, buildings in excess of four storeys and rural properties in excess of 5ha.	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 2m <sup>2</sup>  Each sign shall not exceed an area of 5m <sup>2</sup> .  Each sign shall not exceed an area of 10m <sup>2</sup> .
Display homes Advertisement signs displayed for the period over which homes are on display for public inspection.	(i) One sign for each dwelling on display. (ii) In addition to (i) above one sign for each group of dwellings displayed by a single project builder giving details of the project building company and details of the range of dwellings on display.	2m <sup>2</sup> 5m <sup>2</sup>
Community Signs and Banners	Maximum 2 signs to advertise a forthcoming event. Signs must be erected within the locality of the event only. May be displayed no more than 2 weeks prior to the event and must be removed the day following the event. The local government's Executive Manager Technical Services may approve signs within the road verge or on local government land where there exists public liability insurance no less than \$5,000,000 indemnifying The local government.	
Flags	One national or state flag	N/A
Other than "home open" and "garage sale" signs all signs must be located within the property boundary.		

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

[cl. 9.1.1]

<b>Owner details</b>		
Name:		
Address:		Postcode:
Phone: (work): (home): (mobile):	Fax:	E-mail:
Contact person:		
Signature:		Date:
Signature:		Date:
<i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature.</i>		

<b>Applicant details</b>		
Name:		
Address:		Postcode:
Phone: (work): (home): (mobile):	Fax:	E-mail:
Contact person for correspondence:		
Signature:		Date:

<b>Property details</b>		
Lot No:	House/Street No:	Location No:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Title encumbrances (e.g. easements, restrictive covenants):		
Street name:		Suburb:
Nearest street intersection:		

<b>Existing building/land use:</b>
Description of proposed development and/or use:
Nature of any existing buildings and/or use:
Approximate cost of proposed development:
Estimated time of completion:

<b>OFFICE USE ONLY</b>	
Acceptance Officer's initials:	Date received:
Local government reference no:	

**SCHEDULE 7—ADDITIONAL INFORMATION FOR ADVERTISEMENTS**

[cl. 9.1.2]

*Note: to be completed in addition to the Application for Planning Approval form*

1.	Description of property upon which advertisement is to be displayed including full details of its proposed position within that property: .....
2.	Details of proposed sign: (a) Type of structure on which advertisement is to be erected (i.e. freestanding, wall mounted, other): ..... (b) Height: ..... Width: ..... Depth: ..... (c) Colours to be used: ..... (d) Height above ground level: • (to top of advertisement):..... • (to underside):..... (e) Materials to be used:..... ..... Illuminated: Yes / No If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source:..... .....
3.	Period of time for which advertisement is required:..... .....
4.	Details of signs (if any) to be removed if this application is approved:.... ..... ..... ..... Not e: 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**

[cl. 9.4.4]

Planning and Development Act 2005

Shire of Collie

**Notice of public advertisement of planning proposal**

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



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

[cl. 10.4.1]

Planning and Development Act 2005

Shire of Collie

**Determination on application for planning approval**

Location:	
Lot:	Plan/Diagram:
Vol. No.:	Folio No.:
Application date:	Received on:
Description of proposed development: .....	
.....	
The application for planning approval is:	
<input type="checkbox"/> granted subject to the following conditions:	
<input type="checkbox"/> refused for the following reasons(s):	
Conditions/reasons for refusal:	
.....	
.....	
Note 1:	If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
Note 2:	Where an approval has so lapsed, no development shall be carried out without the further approval of the Shire of Collie having first been sought and obtained.
Note 3:	If an applicant is aggrieved by this determination there is a right of appeal under Part 14 of the <i>Planning and Development Act 2005</i> . An appeal must be lodged within 28 days of the determination.
Signed:	Dated:
.....	
for and on behalf of the Shire of Collie	

**SCHEDULE 10—ENVIRONMENTAL CONDITIONS**

[cl. 5.8.1]

Scheme or Amendment No.	Gazettal Date	Environmental Conditions

**SCHEDULE 11—SITE, DEVELOPMENT AND CAR PARKING REQUIREMENTS**

[cl. 5.4, cl. 5.9.2(g), cl. 5.11.7(a)]

Use Class	Car Parking Requirement
Aged Persons Home, Hospital	1 per 4 beds plus 1 per employee.
Bed and Breakfast	1 space per guest bedroom.
Café, Restaurant	1 space per four seats provided or 1 space for every 20m <sup>2</sup> of gross floor area, whichever is greater
Child Care Premises	1 space for every 4 children plus 1 per employee
Consulting Rooms, Medical Centre, Veterinary Centre	4 spaces per practitioner.
Fast Food Outlet, Lunch Bar	1 space for every 20m <sup>2</sup> of gross floor area.
Home Business, Home Office, Home Occupation	Nil (parking for applicable dwelling unit applies).
Hotel, Motel, Tavern, Tourist Resort	1 space per unit plus 1 space for every 25m <sup>2</sup> of bar and public area.
Industry—General	1 space per 100m <sup>2</sup> gross floor area.
Industry, Light, Rural and Service	1 space per 50m <sup>2</sup> gross floor area.
Motor Vehicle, Boat or Caravan sales	1 space per 200m <sup>2</sup> of site area.
Office	1 space per 40m <sup>2</sup> of gross floor area.
Place of Assembly, Public Amusement, Reception Centre, Exhibition Centre, Club Premises	1 space for every 4 persons that the building is designed to accommodate.
Residential Development	As per the Residential Design Codes.
Service Stations	2 spaces for every service bay, plus 1 space for every 25m <sup>2</sup> net floor area.
Shops and other commercial not listed	1 space per 20m <sup>2</sup> of gross floor area.
Showrooms	1 space per 50m <sup>2</sup> of gross floor area.
Tourist Accommodation/Chalets, Cabins	1 space per site/tourist accommodation unit plus 1 visitor space for every 4 sites/tourist accommodation units.
Warehouse, Storage, Transport Depot	1 space per 100m <sup>2</sup> of gross floor area.
Any use not listed in this table	As determined by the local government.

**Development Standards**

Zone	Minimum Setback			Maximum Site Coverage (Percent)	Minimum Lot Size	Landscaping (%)
	Front (Metres)	Side (Metres)	Rear (Metres)			
<b>RESIDENTIAL</b>	As per the Residential Design Codes except for non-residential development in which case the standards shall be as required by the local government in each particular case.					
<b>RESIDENTIAL DEVELOPMENT</b>	As per the Residential Design Codes except for non-residential development in which case the standards shall be as required by the local government in each particular case.				(A)	
<b>TOWN CENTRE</b>	Nil (D)	Nil (D)	6 (D)	90% (D)	500m <sup>2</sup> (D)	10 (D)
<b>MIXED USE</b>	Nil (D)	Nil (D)	6 (D)	75% (D)	500m <sup>2</sup> (D)	10 (D)
<b>GENERAL INDUSTRY</b>	9	5	7.5	50	2,000m <sup>2</sup>	5
<b>LIGHT AND SERVICE INDUSTRY</b>	7.5	3	7.5	60	2,000m <sup>2</sup>	5
<b>RURAL RESIDENTIAL</b>	As per clause 5.9.5				(C)	
<b>RURAL 1</b>	30	15	30	(B)	(B)	
<b>RURAL 2</b>	30	15	30	(B)	(B)	

## Notes—

- (A) As per a structure plan as approved under Clause 6.3.  
 (B) As determined by the local government on application.  
 (C) Lot sizes shall be determined by the approved Structure Plan or the standard adopted in Schedule 12 for each Rural Residential area  
 (D) Where residential development is proposed within these zones the development standards applicable to an R40 Residential Design Code shall apply (see Clause 5.9.3(b))

**SCHEDULE 12—RURAL RESIDENTIAL ZONES**

[cl. 5.9.5, 6.3.3]

Special Provisions relating to Subdivision and Development on Land zoned “Rural Residential”.

Rural Residential Area special provisions relate to areas marked on the Scheme Map.

Scheme Map ref no.	Area description	Special conditions and provisions.
R-R1	Ewington East (Palmer Road)	1. No further subdivision is permitted that will create additional lots.
R-R2	East Collie (Coote Road)	1. Subdivision of lots will not require the preparation of a structure plan. 2. Subdivision in this area is permitted to a minimum lot size of 8,000m <sup>2</sup>
R-R3	Collie River (Rowe Street)	1. Subdivision in this area is permitted to a minimum lot size of 8,000m <sup>2</sup>
R-R4	Collie South (McVee Street)	1. No further subdivision is permitted that will create additional lots.
R-R5	Allanson South (Buckle Street)	1. No further subdivision is permitted that will create additional lots.
R-R6	Allanson West (McManus Road)	1. Subdivision of lots will not require the preparation of a structure plan. 2. Subdivision in this area is permitted to a minimum lot size of 8,000m <sup>2</sup>
R-R7	Preston (Collie Preston Road)	1. No further subdivision is permitted that will create additional lots, except for Lot 1622 (minimum lot size of 2ha)
R-R8	Mungalup (Mungalup Road)	1. No further subdivision is permitted that will create additional lots.
R-R9	Harris Road North	1. Subdivision shall be generally in accordance with the Subdivision Guide Plan ref: no. BY89-28-2 dated May 1991 for Location 1248.
R-R10	Harris Road South	1. Subdivision shall be generally in accordance with the Subdivision Guide Plan No 1.

**SCHEDULE 13—TRANSITIONAL PROVISIONS SUBDIVISION GUIDE PLANS AND STRUCTURE PLANS ADOPTED BY THE SCHEME**

[cl. 6.3.3, cl 6.3.9]

For the purpose of Clause 6.3.9 the following subdivision guide plans and structure plans will continue to have force and effect under the scheme unless specifically superseded, modified or revoked by the local government under the Scheme.

- |   |                               |   |
|---|-------------------------------|---|
| 1 | Harris River Road (South)     | Wellington Location 2798<br>Plan of Subdivision No. 1 (Harris River Road Special Rural Zone)<br>Endorsed by Minister for Planning on 14th April 1989                                      |
| 2 | Harris River Road (North)     | Wellington Location 1248 (or subdivided portions thereof)<br>Subdivision guide plan no BY89-28-2 dated May 1991   |
| 3 | North Collie                  | Lots 1451 to 1455 inclusive Booth St, Atkinson St and Ewing St.<br>Lots 1119 to 1133 inclusive bordered by Ewing St, Booth St and Princep St.<br>Endorsed by the WAPC on 23rd August 2004 |
| 4 | Coolangatta Industrial Estate | Lot 8 Wellington Location 796<br>Endorsed by the WAPC on 20th June 2005 (Amended 11th April 2007)   |

**SCHEDULE 14—STRUCTURE PLAN AREAS**

[cl. 6.3]

Area number in the Table below relate to Structure Plan Areas (SPA) shown on the Scheme Map. (e.g. SPA 1)

Area No. (SPA)	Description of Land Area	Land Use Expectation	Matters to be Addressed in Structure Plans (in addition to clause 6.3.4.4)	Associated Provisions

**ADOPTION**

Adopted by resolution of the Council of the Shire of Collie at the Meeting of the Council held on the thirteenth day of March 2007

W. SANFORD, Shire President.  
J. WHITEAKER, Chief Executive Officer.

**FINAL APPROVAL**

Adopted for final approval by resolution of the Shire of Collie at the Meeting of the Council held on the 14th day of April 2009 and the Common Seal of the Shire of Collie was hereunto affixed by the authority of a resolution of the Council in the presence of—

W. SANFORD, Shire President.  
J. WHITEAKER, Chief Executive Officer.

Recommended/submitted for final approval—

N. FRASER, delegated Under S.16 of  
Planning and Development Act 2005.

Dated: 19 August 2009.

Final approval granted—

JOHN DAY, Minister for Planning.

Dated: 3 September 2009.