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PLANNING AND DEVELOPMENT ACT 2005

CITY OF BUNBURY

**APPROVED LOCAL PLANNING
SCHEME AMENDMENT**

**TOWN PLANNING SCHEME No. 7
AMENDMENT No. 44**

PLANNING AND DEVELOPMENT ACT 2005

CITY OF BUNBURY

TOWN PLANNING SCHEME No. 7—AMENDMENT No. 44

Ref: TPS/0416

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 City of Bunbury local planning scheme amendment on 29 June 2011 for the purpose of—

1. Deleting clause 5.8 'Detailed Area Plans' including the associated note from the Scheme Text and adjusting the 'Table of Contents' accordingly.
2. Deleting clause 5.9.13 from the Scheme Text.
3. Renumbering clauses 5.9-5.10 including all cross-referencing such that it reads as follows—

5.8 SPECIFIC OBJECTIVES AND DEVELOPMENT REQUIREMENTS FOR PARTICULAR ZONES**5.8.1 Residential zone**

5.8.1.1 The local government's specific objectives in controlling development within the Residential zone are—

- (a) To promote and safeguard the health, safety, convenience, general welfare and the amenities of residential areas and their residents;
- (b) To provide sufficient zoned land to meet the needs of the projected population;
- (c) To safeguard and promote the heritage architectural style of buildings within the Scheme Area;
- (d) To provide for a wide range of housing types and architectural styles and therefore, housing choice and lifestyle opportunities;
- (e) To promote urban consolidation in suitable locations;
- (f) To encourage residential development that will achieve efficient use of existing physical and social infrastructure, is economically serviced and affordable.
- (g) To require subdivision to have regard to any structure plan adopted by the local government;
- (h) To provide for home-based employment where such use does not cause injury to, or prejudicially affect, the amenity of the locality within which it is situated.

5.8.1.2 Building Height

- 5.8.1.2.1 Before determining an application for any type of residential development in the Residential zone which incorporates a building or buildings where the average building height in respect of the existing ground level exceeds 9 metres and, in the opinion of the local government, the proposed development may have a detrimental effect on the nearby/adjointing properties, the local government shall advertise the proposal in accordance with the provisions of clause 9.4 of the Scheme.

5.8.1.3 Neighbourhood Centres

- 5.8.1.3.1 To facilitate the comprehensive planning of Neighbourhood Centres, the local government may designate any residential area as a Special Neighbourhood Development Area as a guide to future rezoning and formulation of policies and special planning controls required to address issues such as landuse, amenity, landscaping and urban design guidelines.

5.8.2 City Centre zone

5.8.2.1 The local government's specific objectives in controlling development within the City Centre zone are—

- (a) To encourage development of a high environmental standard appropriate to the Central Business District;
- (b) To promote convenient and safe shopping facilities and relate these to the social, business and entertainment functions of the Central Business District;

- (c) To provide for the development or redevelopment of land within the zone for a broad range of compatible uses which the local government considers are appropriate to the City Centre function and serve the residents of, and visitors to, the City of Bunbury; and
- (d) To place a high priority on the function, ambience and regional primacy of the Central Business District and to only approve uses within the zone which are of a scale, appearance and/or character which positively contribute to these values and are consistent with any relevant policy requirements of the local government.

5.8.2.2 Plot Ratio

5.8.2.2.1 In the City Centre zone, the local government may permit a building to have a plot ratio up to 20 percent in excess of that prescribed in **Table 3** if the development proposed to be carried out—

- (a) incorporates on the site of the development at street level and adjoining a street, an area or areas freely accessible to the public and open to the sky or such an area or areas at some other level in circumstances which the local government considers justify an increase in the permissible plot ratio;
- (b) preserves an historical building which the local government considers warrants preservation and any other building on the site is located at least 6 metres from the building preserved;
- (c) incorporates a courtyard between two streets freely accessible to the public with pedestrian access to such courtyard from one or both streets through arcades;
- (d) includes a colonnade adjacent to a street or courtyard of a width of at least 4.5 metres and of a height which the local government considers justifies an increase in the permissible plot ratio;
- (e) is set back from the side boundaries of the site at such level or levels and at such distances as the local government considers justifies an increase in the permissible plot ratio—
- (f) includes a community or other facility or amenity which the local government considers justifies an increase in the permissible plot ratio.

5.8.2.2.2 The local government is not to permit a building to have a plot ratio in excess of that prescribed in clause 5.8.2.2 unless—

- (a) it is satisfied that the development complies with at least one of the criteria set out in that clause;
- (b) it is satisfied that the design, standard and nature of the development as a whole is such as to constitute a significant improvement to the amenities or environment of the Central Business District.

5.8.2.3 Residential Accommodation

5.8.2.3.1 Residential development within the City Centre zone may be constructed up to the R100 density code development standards of the Residential Planning Codes.

5.8.2.3.2 In addition to a caretaker's residence, one unit of self-contained living accommodation for a single family may be incorporated in every building for every complete 450 square metres of area of the lot on which such building is erected and the floor area of such unit shall be excluded in calculating the plot ratio of the building.

5.8.2.3.3 All residential accommodation within the City Centre zone, whether in a mixed development or not, shall conform with the standards prescribed in the Residential Zone and the Residential Planning Codes where applicable.

5.8.2.4 Loading and Unloading

5.8.2.4.1 Where areas for the loading and unloading of vehicles carrying goods or commodities to or from premises are to be provided such areas are to be provided and maintained in accordance with the approved plan relating thereto and to the satisfaction of the local government.

5.8.2.5 Upper Floors

5.8.2.5.1 Where the ground floor of a multi-storey building is used for the purpose of shops, the upper floors of such building may be used for such purpose or purposes as may be permitted or approved of in the CBD zone.

5.8.2.6 Site Coverage

5.9.2.6.1 The site coverage of up to 100 percent is to be permitted subject to the satisfaction of the local government on matters relating to access, car parking, circulation, servicing, loading and unloading and other matters which the local government, in its absolute discretion, may take into consideration.

5.8.2.7 Road Widening

5.9.2.7.1 Council is to have due regard for the road widening requirements of the City at the time of assessment of any proposal.

5.8.3 Shopping Centre zone

5.8.3.1 The local government's specific objectives in controlling development within the Shopping Centre zone are—

- (a) To encourage a high standard of visually aesthetic development in the zone;

- (b) To promote areas for warehouse/showrooms, shops and comprehensive commercial businesses which are safe, convenient and attractive for people and traders alike; and
- (c) To encourage residences above local shopping centres.

5.8.3.2 Plot Ratio

5.8.3.2.1 In the Shopping Centre zone the maximum site coverage permitted is to be 92 percent subject to the satisfaction of the local government on matters relating to access, car parking, circulation, servicing, loading and unloading and other matters which the local government in its absolute discretion may take into consideration.

5.8.3.2.2 The local government is not to permit a building to have a plot ratio in excess of that prescribed in **Table 3** unless—

- (a) it is satisfied that the development complies with one or more of the design elements set out in clause 5.8.2.1; or,
- (b) it is satisfied that the design, standard and nature of the development as a whole is such as to constitute a significant improvement to the amenities or environment of the Shopping Centre Zone.

5.8.3.3 Residential Accommodation

5.8.3.3.1 Within the Shopping Centre zone, in addition to a caretaker's residence, one unit of self-contained living accommodation for a single family may be incorporated in every building for every complete 450 square metres of area of the lot on which such building is erected provided always that the floor area of such unit is to be included in calculating the plot ratio of the building.

5.8.3.4 Setbacks

5.8.3.4.1 Every building within the Shopping Centre zone shall be set back such distance from the boundaries of the lot on which it is to be erected as may be required by the local government as a condition of approval of the application for Planning Approval relating to the building.

5.8.3.5 Landscaped Areas

5.8.3.5.1 Where, in the opinion of the local government, sufficient landscape features exist in the lot or nearby streets and reserves, the landscaped area may be reduced by up to 50 percent.

5.8.3.6 Loading and Unloading

5.8.3.6.1 Areas for the loading and unloading of vehicles carrying goods or commodities to or from premises within the Shopping Centre Zone shall be provided and maintained in accordance with the approved plan relating thereto and to the satisfaction of the local government.

5.8.3.7 Upper Floors

5.8.3.7.1 Where the ground floor of a multi-storey building is used for the purpose of shops, the upper floors of such building may be used for such purpose or purposes as may be permitted or approved of in Shopping Centre zone or for the purpose of offices notwithstanding that such offices may not be a use which is incidental to the use of the building in question for the purpose of shops.

5.8.4 Mixed Business zone

5.8.4.1 The local government's specific objectives in controlling development within the Mixed Business zone are to provide for a range of development which complements, but does not compete with, the City Centre and Shopping Centre zones in terms of regional primacy of the City Centre (especially as the principal retail, office, civic, cultural, entertainment and administrative centre) nor the main retail and related functions of Shopping Centre zones.

5.8.4.2 Land Use

5.8.4.2.1 In considering proposed uses and development within the Mixed Business Zone, the local government is to ensure the proposal will complement, and not adversely impact on, the City Centre or Shopping Centre zones.

5.8.4.2.2 Notwithstanding any other provision of the Scheme relating to the Mixed Business zone, the local government may permit an office use or development within the zone providing it is, in the opinion of the local government, ancillary to the predominant use of the land and such use is not to comprise more than 20% of the net lettable area of development on the land or each individual business premises.

5.8.4.3 Setbacks

5.8.4.3.1 Where a lot is situated at the intersection of two or more streets, the local government may reduce the distance of the building line from any road reserve other than that which, in the opinion of the local government, the lot fronts.

5.8.4.4 Building Height

5.8.4.4.1 In considering any application for its planning approval within the Mixed Business zone the local government is to give due consideration to the building height and possible impacts on the use and amenity of any adjoining residential land.

5.8.4.5 Minimum Floor Area

5.8.4.5.1 In the Mixed Business zone the minimum net lettable area of each individual showroom or business premises that will be permitted by the local government is to be

200m². The minimum floor area for showrooms and other premises is to apply whether the use has developed under a single lot or under a strata title development.

5.8.4.5.2 The above minimum floor area of 200m² does not apply to lunch bars, home stores and other uses which are specifically restricted to a lower floor area as stated under Schedule I—"Dictionary of Defined Words and Expressions" or as determined by Council.

5.8.4.5.3 Office floor space in the Mixed Business Zone shall be limited to not more than 200m² NLA.

5.8.4.6 Special Development Areas

5.8.4.6.1 The local government may designate any area contained within the Mixed Business zone as a Special Development Area where, in the opinion of Council, special planning controls are needed to address amenity issues, interface with surrounding land uses, investigate land use options, development control standards, landscaping, and design guidelines. Any Special Development Area and associated special planning controls will be established and implemented under the policy provisions set out under Part 2 of the Scheme.

5.8.5 Industry zone

5.8.5.1 The local government's specific objectives in controlling development within the Industry zone are—

- (a) To encourage pleasant and efficient industrial facilities;
- (b) To encourage the consolidation and improvement of appropriately located industrial areas;
- (c) To enable industrial areas to expand where the need for such expansion can be sustained;
- (d) To promote the safe movement of vehicular and pedestrian traffic; and
- (e) To protect the amenity of adjacent areas.

5.8.5.2 Setbacks

5.8.5.2.1 Within each of the various Industrial zones under the Scheme, the side and rear setbacks are to be at the discretion of the local government.

5.8.5.2.2 Where a lot is situated at the intersection of two or more streets, the local government may reduce the distance of the building line from any road reserve other than that which, in the opinion of the local government, the lot fronts.

5.8.5.3 Loading and Unloading

5.8.5.3.1 Areas for the loading and unloading of vehicles carrying goods or commodities to or from premises within the various Industrial zones of the Scheme are to be provided and maintained in accordance with the approved plan relating thereto and to the satisfaction of the local government.

5.8.5.4 Wastewater Disposal

5.8.5.4.1 Within unsewered areas of the various Industrial zones of the Scheme, the local government is not to approve the establishment of industries which, in the opinion of the local government, following consultation with the Health Department of Western Australia, generate large volumes of wastewater or toxic wastes which cannot be adequately disposed of other than by reticulated sewerage means.

5.8.5.5 Industrial Buffer Areas

5.8.5.5.1 The local government is not to permit the establishment of non-industrial uses within existing or proposed industrial buffer areas as determined under the State Industrial Buffer Policy (SPP4) unless they are considered to be, in the opinion of the local government, compatible with adjoining industrial uses.

5.8.5.6 Environmental Considerations

5.8.5.6.1 The local government will not determine an application for any use or development within the various Industrial zones which, in the opinion of the local government, appears likely, if implemented, to have a significant effect on the environment, unless—

- (a) the use or development has been referred to the Environmental Protection Authority ("the Authority") pursuant to section 38 of the *Environmental Protection Act 1986* ("the EP Act"); and,

(b) either—

- (i) the local government has been informed under section 40(1)(a) of the EP Act that the Authority considers that the use or development should not be assessed by the Authority, and the period within which an appeal against that decision may be lodged under the EP Act has expired without the lodging of such an appeal or, if an appeal has been lodged, the appeal has been determined; or

- (ii) the Minister administering the EP Act has informed the local government under section 45(7) of the EP Act that the use or development may be implemented.

5.8.5.6.2 The local government is not to permit any use or development within the various Industrial zones unless the applicant or other responsible person has applied for and

obtained any works approvals or licences required in respect of the use or development under Part VI of the EP Act.

5.8.5.6.3 The local government is not to permit any use or development within the various Industrial zones which, in the opinion of the local government, would require a buffer zone, other physical device or special restrictions to apply outside the boundary of the site containing the use or development in order to make it environmentally acceptable.

5.8.5.6.4 The local government may require an applicant (at the applicant's expense) to provide it with scientific and/or technical information or analysis in respect of any Industrial use or development.

5.8.6 Port Industry zone

5.8.6.1 The local government's specific objective in controlling development within the Port Industry zone is to accommodate industrial uses which are consistent with the definition given to Port Industry within Schedule 1 or uses which are port related and require, or could reasonably be considered to benefit from, close proximity to the Bunbury Port.

5.8.6.2 Development requirements are prescribed as for the Industry zone in clauses 5.8.5.2-5.8.5.6.

5.8.7 Place of Assembly zone

5.8.7.1 The local government's specific objective in controlling development within the Place of Assembly zone is to provide for uses where people may assemble for a variety of religious, cultural, recreational, sporting or other group activities.

5.8.7.2 The local government may permit any other use or development on land within the Place of Assembly zone which the local government considers to be dependent upon, incidental and subservient to the predominant use or development existing upon the land.

5.8.8 Education zone

5.8.8.1 The local government's specific objective in controlling development within the Education zone is to provide for educational establishments, whether public or private, including kindergartens, pre-primary, primary and secondary schools, tertiary institutions, business colleges, academies or other educational centres.

5.8.8.2 The local government may permit any other use or development on land within the Education zone which the local government considers to be dependent upon, incidental and subservient to the predominant use or development existing upon the land.

5.8.9 Service Station zone

5.8.9.1 The local government's specific objective in controlling development within the Service Station zone is to accommodate only those uses consistent with the definition given to Service Station in Schedule 1.

5.8.9.2 The local government may permit any other use or development on land within the Service Station zone which the local government considers to be dependent upon, incidental and subservient to the predominant use or development existing upon the land.

5.8.10 Rural zone

5.8.10.1 The local government's specific objective in controlling development within the Rural zone is to provide for the sustainable use of land for a range of rural pursuits and other uses reasonably and/or commonly associated with rural areas which are compatible with the capability of the land and retain the rural character and amenity of the locality.

5.8.10.2 The local government is to apply such development standards to a proposal the subject of an application for Planning Approval as it thinks fit providing such standards are not less than that pertaining to similar uses under the Scheme.

5.8.11 Special Use zone

5.8.11.1 The local government's specific objective in controlling development within the Special Use zone is to accommodate particular land uses or developments which the local government considers appropriate, but under circumstances where the location of the site and/or the nature of the particular use or development makes it impracticable for the use or development to be included within another zone.

5.8.11.2 Refer to clause 4.7 for development guidelines and requirements.

5.8.12 Development (Residential or Industrial) zones

5.8.12.1 The local government's specific objective in controlling development within the Development (Residential or Industrial) zones is to facilitate the comprehensive planning and development of future urban areas in accordance with adopted structure plans.

5.8.12.2 Land within the Scheme Area may be designated on the Scheme Map as either Development Zone (Residential) or Development Zone (Industrial) as the case may be and such designation indicates the local government's general intentions as to the predominant future use applicable to the land so designated.

5.8.12.3 No Development within the Development zone is to be permitted unless the local government considers that it complies with a structure plan that has been adopted by the local government and endorsed by the Commission in accordance with clause 6.2.4.

5.8.12.4 The local government shall from time to time amend the Scheme to more particularly zone and reserve land after an approved structure plan has been adopted by the local government and endorsed by the Commission.

5.8.12.5 Uses within a development zone that existed at the time that the scheme came into operation which do not comply with an adopted structure plan are non-complying uses and are subject to clause 4.9.

5.8.13 Unkempt Land

5.8.13.1 For the purpose of maintaining amenity—

- (a) the local government may cause a notice to be served on the owner or occupier of any land within the Scheme Area that contains any undergrowth, refuse, vehicles and or parts, rubbish or disused material which in the opinion of the local government is likely to adversely affect the value of adjoining property or the health, comfort or convenience of the inhabitants thereof, such notice requiring that within a specified time the owner or occupier shall clear and/or remove from the land such undergrowth, refuse, vehicles and or parts, rubbish, or disused material;
- (b) every owner or occupier of land upon whom a notice is served shall comply with such notice within the time period therein specified;
- (c) where the owner or occupier does not clear the land or remove the refuse, vehicles and or parts, rubbish or disused material as required by the notice given by the local government, the local government may, without payment or any compensation in respect thereof, clear or remove it and dispose of it at the expense of the owner or occupier, and recover in a court of competent jurisdiction, the amount of the expense from the owner or occupier to whom the notice is given; and,
- (d) any person who fails to comply with any notice served commits an offence and is liable to action under the Scheme.

5.8.14 Commercial Vehicles in Residential Areas

5.8.14.1 No more than two commercial vehicles may be parked on a lot within a Residential Zone, provided that—

- (a) only one vehicle may exceed ten tonnes gross weight;
- (b) the vehicles are parked on a lot containing only a single house;
- (c) the vehicles form an essential part of the occupation of an occupant of the dwelling;
- (d) no vehicle either exceeds either 2.7 metres or 15 metres in length;
- (e) any vehicles exceeding 8 metres in length are screened from view outside the lot;
- (f) no vehicle is brought to or taken from the lot between the hours of 10 pm and 6.30 am;
- (g) no major repairs to either of the vehicles are undertaken on the lot; and
- (h) any minor repairs, servicing or cleaning of either of the vehicles is carried out in areas which are screened from view from outside the lot.

5.8.14.2 Notwithstanding the provisions of Clause 5.8.14.1 above, the special approval of the Council is required for the parking of a commercial vehicle exceeding ten tonnes gross weight, on a lot within a Residential Zone.

5.8.14.3 An approval of the Council granted under 5.8.14.2—

- (a) is personal to the person to whom it was granted;
- (b) is not capable of being transferred or assigned to any other person; and
- (c) does not run with the land in respect of which it was granted.

5.8.14.4 A person whom an approval has been granted under 5.8.14.2 shall not park or cause to be parked such a vehicle on any lot within a Residential Zone other than on the Lot in respect of which the approval was granted.

5.8.14.5 If a vehicle has been parked with the approval of the Council under 5.8.14.2 and if in the opinion of the Council, such vehicle is causing nuisance or annoyance to neighbours or to owners or occupiers of land in the neighbourhood, the Council may rescind the approval granted by it and after such rescission, no person shall upon the land subject of a resolution for rescission, park a commercial vehicle exceeding ten tonnes gross weight unless approval to do so shall subsequently be granted by the Council.

5.8.14.6 Except as hereinafter provided, no person within any residential lot may without the approval of Council in writing, keep, park, allow to remain, repair, service or maintain any boat, launch, yacht, dinghy or other watergoing vessel or any caravan in front of the building setback line.

5.8.14.7 A person shall not stack or place any fuel or raw material or products of waste or manufacture in front of the building line other than the building line of a service station or petrol filling station.

5.9 TELECOMMUNICATIONS INFRASTRUCTURE

5.9.1 An application for Council Planning Consent will be required for overhead cabling, radio communication dishes (greater than 1.2 metres in diameter) and mobile telecommunications towers for the purposes of protecting visual amenity, landscape or urban character of an area, as well as addressing safety concerns, and areas of landscape and environmental significance.

5.9.2 Where Council Planning Consent is required to be obtained, Council may resolve to seek public comment, subject to advertising procedures as stipulated in Clause 9.4, prior to considering the application for planning consent.

5.9.3 Applications for the development of telecommunications facilities shall be accompanied by information as listed in Clause 9.2 and considered in relation to the following—

- consistency with the objectives of the zone or reserve;
- (i) social and economic benefits;

- (ii) telecommunication based services for people and businesses throughout the state;
- (iii) protection of the environment and heritage values;
- (iv) safeguarding visual amenity and streetscape;
- (v) public safety; and
- (vi) coordination with other services.

5.9.4 Subclauses 5.9.1 to 5.9.3 also relate to Crown land. Such applications must be accompanied by written consent of the Department of Land Administration and the vesting/management authority.

4. Amending clauses 4.2.1.12 and 5.2.5 (i) by deleting reference to clause 5.9.13 and replacing with clause 6.2.4.
5. Amending 'Special Use No. 5' in Schedule 2 by deleting reference to clause 5.9.3 under Condition 2 and replacing it with clause 5.8.3.
6. Amending 'Special Use No. 15' in Schedule 2 by deleting reference to clause 5.9.11 under the 'Special Use' section and replacing it with clause 5.8.11.
7. Amending 'Special Use No. 35' in Schedule 2 by deleting reference to clauses 5.9.1 and 5.9.3 under Condition 3 and replacing it with clauses 5.8.1 and 5.8.3 respectively.
8. Modifying clause 6.1.1 under Part 6 of the Scheme Text as follows—
 - 6.1.1 The following Special Control Areas are shown on maps contained in Schedule 7 or on the Scheme map—
 - (a) Development Investigation Policy Area shown on the Scheme Map as "DIPA" with a number or included in Schedule 7;
 - (b) Development Contribution Area shown on the Scheme Map as 'DCA' with a number or included in Schedule 7; and
 - (c) Flood Prone Land.
9. Modifying clause 6.2 under Part 6 of the Scheme Text such that it reads as follows and amending the table of contents accordingly—

6.2 DEVELOPMENT INVESTIGATION POLICY AREAS

6.2.1 Interpretation

In clause 6.2, unless the context otherwise requires—

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

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

"Structure Plan" means a Proposed Structure Plan that has been approved by both the Western Australian Planning Commission and adopted by the Local Government under clause 6.2.5.15.

6.2.2 Purpose

- (a) To designate areas requiring further strategic planning and investigations in relation to land use options, environmental issues, servicing infrastructure requirements, transportation infrastructure needs, landscaping and urban design guidelines.
- (b) To identify areas requiring comprehensive planning prior to subdivision and development.
- (c) To coordinate subdivision, land use and development in areas requiring comprehensive planning.

6.2.3 Planning Requirements

6.2.3.1 The Local Government requires a Structure Plan for a Development Investigation Policy Area, or for any particular part or parts of a Development Investigation Policy Area, before recommending subdivision or approving development of land within the Development Investigation Policy Area.

6.2.3.2 Where a Structure Plan exists, the subdivision and development of land is to generally be in accordance with the Structure Plan and any associated provisions contained in Schedule 7.

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

6.2.3.4 Schedule 7 describes the Development Investigation Policy Areas in more detail and sets out the purpose and particular requirements that may apply to the Development Investigation Policy Area.

6.2.3.5 Where an Industry Zone or Development Zone intended for future industrial development abuts or is in proximity to a Residential Zone or Development Zone intended for residential development; any structure plan for the existing or future industrial area shall provide suitable land use buffer areas that protect the amenity, environmental and public health of the existing and/or future residential area.

6.2.3.6 Where a Residential Zone or Development Zone intended for future residential development abuts or is in proximity to an Industry Zone or Development Zone intended for industrial development or major transport corridor; any structure plan for the existing or future residential area shall provide suitable land use buffer areas that protect the amenity, environmental and public health of the existing and/or future residential area.

Note—

Structure Plans and Detailed Area Plans are to be prepared consistent with the State Planning Framework of the Western Australian Planning Commission and Local Planning Policy Framework of the Local Government.

6.2.4 Preparation of Structure Plans

6.2.4.1 A Structure Plan may include plans and other documents.

6.2.4.2 A Structure Plan may, with the agreement of the Local Government, be prepared and implemented in stages.

6.2.4.3 A Structure Plan may relate to only part of a Development Investigation Policy Area.

6.2.4.4 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 Development Investigation Policy Area, and, without limiting the generality of the foregoing, may include the following details—

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

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

6.2.5 Adoption and approval of Structure Plans

6.2.5.1 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.

6.2.5.2 Upon receiving a Proposed Structure Plan, the Local Government is to either—

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

6.2.5.3 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 6.2.5.2, the Local Government is deemed to have determined that the Proposed Structure Plan is not satisfactory for advertising.

- 6.2.5.4 (a) Where the Proponent is aggrieved by a determination of the Local Government under clause 6.2.5.2(b) or (c) or clause 6.2.5.3, the Proponent may request the Local Government by notice in writing to forward the Proposed Structure Plan to the Commission.
- (b) Within 21 days of receiving a notice from the Proponent under clause 6.2.5.4(a), the Local Government is to forward to the Commission—
 - i. a copy of the Proposed Structure Plan;

- ii. details of the Local Government's determination including any modifications to the Proposed Structure Plan required by the Local Government; and
 - iii. any other information the Local Government considers may be relevant to the Commission's consideration of approval of the Proposed Structure Plan for advertising.
 - (c) Upon receiving a Proposed Structure Plan in accordance with clause 6.2.5.4(b), the Commission is to make one of the determinations referred to in clause 6.2.5.2 and advise the Local Government and the Proponent accordingly.
 - (d) If the Commission requires modifications to the Proposed Structure Plan, the Commission is to consult with the Local Government prior to making its determination under clause 6.2.5.4(c).
 - (e) If within 60 days of receiving a Proposed Structure Plan under clause 6.2.5.4(b), or such longer period as may be agreed in writing between the Proponent and the Commission, the Commission has not made one of the determinations referred to in clause 6.2.5.2, the Commission is deemed to have determined that the Proposed Structure Plan is not satisfactory for advertising.
- 6.2.5.5 Where the Local Government, or the Commission under clause 6.2.5.4, 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.
- 6.2.5.6 Within 14 days of determining that a Proposed Structure Plan is satisfactory for advertising, the Local Government is to forward a copy of the Proposed Structure Plan to the Commission.
- 6.2.5.7 The Local Government is to consider all submissions received and within 60 days of the latest date specified in the notice under clause 6.2.5.5 is to either—
- (a) adopt the Proposed Structure Plan with or without modifications; or
 - (b) refuse to adopt the Proposed Structure Plan and give reasons for this to the Proponent.
- 6.2.5.8 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 6.2.5.7; the Local Government is deemed to have refused to adopt the Proposed Structure Plan.
- 6.2.5.9 Within 21 days of the Local Government making its determination under clause 6.2.5.7, or deemed refusal under clause 6.2.5.8, the Local Government is to forward to the Commission—
- (a) a summary of all submissions and comments received by the Local Government in respect of the Proposed Structure Plan, and the Local Government's decisions or comments in relation to these;
 - (b) the Local Government's recommendation to the Commission to approve, modify or refuse to approve the Proposed Structure Plan; and
 - (c) any other information the Local Government considers may be relevant to the Commission's consideration of the Proposed Structure Plan.
- 6.2.5.10 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.
- 6.2.5.11 If within 60 days of receiving the information referred to in clause 6.2.5.9 or such further time as may be agreed in writing between the Proponent and the Commission, the Commission has not made one of the determinations referred to in clause 6.2.5.10, the Commission is deemed to have refused to approve the Proposed Structure Plan.
- 6.2.5.12 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.
- 6.2.5.13 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 6.2.5.10.
- 6.2.5.14 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 6.2.5.5 onwards are to apply.
- 6.2.5.15 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.

6.2.5.16 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.

6.2.6 Change or Departure from Structure Plan

6.2.6.1 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.

6.2.6.2 (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 6.2.6.1 materially alters the intent of the Structure Plan, then the Commission—

- i. may require the Local Government to follow the procedures set out in clause 6.2.5 in relation to the change or departure; and
- ii. is to notify the Local Government of this requirement within 10 days.

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

6.2.7 Detailed Area Plans

6.2.7.1 (a) i. The Local Government or the Commission may, by notice in writing, require a person to prepare and submit to the Local Government a Detailed Area Plan within the time specified in the notice.

ii. A person may prepare and submit to the Local Government a Detailed Area Plan.

(b) A Detailed Area Plan is to relate to a particular lot or lots and may be prepared and submitted—

- i. to enhance, elaborate or expand on the details or provisions contained in a Proposed Structure Plan or a Structure Plan;
- ii. in place of a development approval required to comply with clause 2.5 of the Residential Planning Codes; or
- iii. for any other planning purpose.

(c) The Local Government is to—

- i. approve with or without conditions; or
- ii. refuse to approve the Detailed Area Plan.

(d) If within 60 days of receiving a Detailed Area Plan under clause 6.2.7.1(a), or such longer period as may be agreed in writing between the person and the Local Government, the Local Government has not made one of the determinations referred to in clause 6.2.7.1(c), the Local Government is deemed to have refused to approve the Detailed Area Plan.

(e) The Local Government is to forward a copy of the Detailed Area Plan to the Commission within 10 days of approving the Detailed Area Plan.

(f) The Local Government's refusal to approve a Detailed Area Plan under clause 6.2.7 is not a valid reason for the Local Government to refuse to adopt or the Commission to refuse to approve a Proposed Structure Plan under clause 6.2.5.

6.2.7.2 Unless clause 6.2.7.1(b) ii. applies, once approved by the Local Government, the Detailed Area Plan is to be used as the basis for—

- (a) making recommendations to the Commission on subdivision applications; and
- (b) determining development applications with respect to the land subject to the Detailed Area Plan.

6.2.7.3 A Detailed Area Plan may include details as to—

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

6.2.7.4 (a) An approved Detailed Area Plan may be modified or varied with the approval of the Local Government, but where there is a related Structure Plan, such modifications or variations are to conform with the intent of any related Structure Plan.

- (b) The Local Government is to forward a copy of the modification or variation to the Detailed Area Plan to the Commission within 10 days of approving the modification or variation.

6.2.8 Operation of Structure Plans

6.2.8.1 A Structure Plan commences operation on the date it is adopted by the Local Government pursuant to clause 6.2.5.15.

6.2.8.2 Subject to the Scheme, 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.

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

- (a) in the areas designated as zones, the permissibility of uses is to be the same as set out in the Zoning Table as if those areas were zones under the Scheme having the same designations;
- (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; and
- (d) any other provision, standard or requirement in the Structure Plan is to be given the same force and effect as if it were a provision, standard or requirement of the Scheme.

6.2.8.4 A Structure Plan, adopted and endorsed in accordance with the Scheme, will be used by the Local Government and the Western Australian Planning Commission respectively as a guide for the assessment of Applications for Planning Approval under the Scheme and of Applications for Approval to Subdivide Land under the provisions of Part 10 of the Planning and Development Act 2005.

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

6.2.9 Appeals

6.2.9.1 The Proponent may appeal, in accordance with Part 14 of the Planning and Development Act 2005, any—

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

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

6.2.9.2 The Proponent may appeal, in accordance with Part 14 of the Planning and Development Act 2005, any decision made by the Local Government under clause 6.2.6.1.

6.2.9.3 A person who has submitted a Detailed Area Plan under Clause 6.2.7 may seek a review, in accordance with Part 14 of the Planning and Development Act 2005, any decision made by the local government under clauses 6.2.7.1 or 6.2.7.4.

6.3 DEVELOPMENT CONTRIBUTION AREA

6.3.1 Land within the Scheme Area that is within a Development Contribution Area is depicted on the map in Schedule 7.

10. Renumbering clause 6.2.2 'Flood Prone Land' to 6.4 'Flood Prone Land' and adjusting the table of contents accordingly.

11. Amending Schedule 7 under the Table of Contents to include Development Contribution Areas.

12. Inserting the map in the amending document in Schedule 7 of the Scheme.

D. L. SMITH, Mayor.
G. KLEM, Acting Chief Executive Officer.
