



**WESTERN
AUSTRALIAN
GOVERNMENT
Gazette**

ISSN 1448-949X (print)

ISSN 2204-4264 (online)

PRINT POST APPROVED PP665002/00041



PERTH, FRIDAY, 27 MAY 2016 No. 84

SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 12.30 PM

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PLANNING AND DEVELOPMENT ACT 2005

CITY OF MELVILLE

**LOCAL PLANNING
SCHEME No. 6**

PLANNING AND DEVELOPMENT ACT 2005

CITY OF MELVILLE

LOCAL PLANNING SCHEME No. 6

The City of Melville under the powers conferred by the *Planning and Development Act 2005* makes the following Local Planning Scheme.

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PLANNING AND DEVELOPMENT ACT 2005

CITY OF MELVILLE

LOCAL PLANNING SCHEME No. 6**PART 1—PRELIMINARY****1. Citation**

This local planning scheme is the *City of Melville Scheme No. 6*.

2. Commencement

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

3. Scheme revoked

The following local planning scheme is revoked—

City of Melville, *Community Planning Scheme No. 5*, Gazettal date 14 December 1999 as amended.

4. Notes do not form part of Scheme

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

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

5. Responsibility for Scheme

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

6. Scheme area

This Scheme applies to the area shown on the Scheme Map which comprises sheets 1-10.

Note: The Scheme area is also subject to the Metropolitan Region Scheme (see clause 12).

7. Contents of Scheme

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

- (a) the deemed provisions (set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2);
- (b) the Scheme Map (sheets 1-10).

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

8. Purposes of Scheme

The purposes of this Scheme are to—

- (a) set out the local government's planning aims and intentions for the Scheme area; and
- (b) set aside land as reserves for public purposes; and
- (c) zone land within the Scheme area for the purposes defined in this Scheme; and
- (d) control and guide development including processes for the preparation of structure plans, activity centre plans and local development plans; and
- (e) set out procedures for the assessment and determination of development applications; and
- (f) set out procedures for contributions to be made for the costs of providing infrastructure in connection with development through development contribution plans; and
- (g) make provision for the administration and enforcement of this Scheme; and
- (h) address other matters referred to in Schedule 7 of the Act.

9. Aims of the Scheme

(1) The aims of this Scheme are—

To maintain and improve the quality of life and services for the residents and ratepayers of the City of Melville while assisting the effective implementation of the State and Local Planning Strategies and relevant regional plans.

To achieve this and having regard to available options for development and conservation, the Scheme is the primary statutory instrument for coordinating and controlling land use, as well as implementing the socio-economic and environmental policies of the Council.

(2) The specific aims of the Scheme in relation to the various aspects of the City and its development are—

(a) Development and Population

- (i) To enhance the character and amenity of existing residential areas;
- (ii) to integrate planning for land use and transport to achieve sustainable urban development;
- (iii) to accommodate a sustainable and diverse mix of people, cultures, ages and lifestyles;
- (iv) support housing choice and variety in neighbourhoods to match changing household needs with community identity and high levels of amenity;
- (v) to promote a high standard of development;
- (vi) provide a sustainable built urban environment.

(b) Environment and Heritage

- (i) To have a healthy and sustainable local environment that makes a positive contribution towards the broader environment and ensure development complies with legislative requirements;
- (ii) to ensure that the natural environmental values of the City are protected and conserved for existing and future generations;
- (iii) contribute to the maintenance and enhancement of biodiversity for the preservation of our natural flora and fauna;
- (iv) use natural resources sustainably to reduce our ecological footprint;
- (v) to ensure urban form and development contribute to sustainability (economic, social and environmental), promote efficient resource use and minimisation of energy and waste;
- (vi) to protect significant natural landscapes and remnant vegetation;
- (vii) to protect and conserve Melville's significant built heritage and Aboriginal cultural heritage;
- (viii) to promote a safe, secure and healthy environment for the community;
- (ix) to protect and promote places of cultural heritage significance within the City including significant sites, buildings, structures, trees and landscape elements.

(c) Open Space and Recreation

- (i) To enhance existing public open space and extend such space in appropriate locations;
- (ii) to provide a variety of safe, natural and structured opportunities for recreation;
- (iii) to maintain, increase and improve where required the quantity, quality, amenity and accessibility of regional and local open space in accordance with the recommendations of the City's Open Space Strategy.

(d) Economy

- (i) To have a strong, vibrant, diversified and sustainable local and regional economy with a range of business and employment opportunities;
- (ii) to ensure access to different levels and types of retail and commercial activity and employment opportunities to promote a more liveable City in accordance with *Directions 2031 and beyond* and *Liveable Neighbourhood's* Community Design Code Principles;
- (iii) to provide a transport system that will contribute to the quality of life and economic development of the City of Melville with minimum adverse effects on residents and the natural environment;
- (iv) to ensure that appropriate utilities are provided on time and in a sustainable manner to suit the City's growing needs;
- (v) to protect and promote appropriate tourism opportunities within the City having regard to amenity and the environment;
- (vi) enhance and maintain a business friendly environment;
- (vii) have vibrant and diverse commercial centres that meet community and regional needs that provide a range of employment opportunities and accommodate a range of uses by nurturing existing and encouraging new and diverse industries and business;

- (viii) to encourage the Melville City Centre to grow and evolve into a centre with a multitude of high order commercial, office, civic and entertainment land uses and activities servicing the municipality and the region;
 - (ix) to develop diverse and attractive local centres providing a community focus for neighbourhood areas.
- (e) Community
- (i) To ensure citizens can lead a safe, healthy active life with opportunities to participate in social and cultural activities;
 - (ii) to ensure the community has access to an adequate range of services and facilities to meet their needs;
 - (iii) to ensure development promotes a sense of community and encourages participation in community life;
 - (iv) to ensure all development complements and contributes to the communities desired identity and character for Melville;
 - (v) to facilitate and encourage effective public involvement in issues of significance to the character, amenity and environmental attributes of the city.
- (f) Transport and Infrastructure
- (i) To promote management of regional traffic that contributes positively to the community and landscape and minimises the impact of regional traffic movements;
 - (ii) to encourage the reduction in reliance on, and impact of, private motor vehicle usage;
 - (iii) to reduce the demand for, and balance the provision of parking in commercial centres and encourage use of public transport;
 - (iv) to promote and enhance the pedestrian and cycling transport modes;
 - (v) to achieve an efficient and equitable relationship between land uses and available utility services;
 - (vi) to promote a high level of amenity and environmental quality in the supply of required utility services;
 - (vii) to promote the compatible use of land surrounding essential infrastructure;
 - (viii) to promote sustainable transport options;
 - (ix) provide safe, affordable and effective transport modes available for all sectors of the community.

10. Relationship with local laws

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

11. Relationship with other local planning schemes

There are no other local planning schemes of the City of Melville which apply to the Scheme area.

12. Relationship with region planning scheme

The Metropolitan Region Scheme made (or continued) under Part 4 of the Act applies in respect of part or all of the Scheme area.

Note: The authority responsible for implementing the *Metropolitan Region Scheme* is the Western Australian Planning Commission.

PART 2—RESERVES

13. Regional reserves

- (1) Regional reserves are marked on the Scheme Map according to the legend on the Scheme Map.
- (2) The lands marked as regional reserves are lands reserved for a public purpose under the *Metropolitan Region Scheme*.

14. Local reserves

- (1) In this clause—

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

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

- (2) Local reserves are shown on the Scheme Map according to the legend on the Scheme Map.

(3) The objectives of each local reserve are as follows—

Table 1—Reserve objectives

Reserve Name	Objectives
Public Open Space	<ul style="list-style-type: none"> To set aside areas for public open space, particularly those established under the Planning and Development Act 2005 s. 152. To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage.
Public Purposes	<ul style="list-style-type: none"> To provide for a range of essential physical and community infrastructure.
Infrastructure Services	<ul style="list-style-type: none"> Public Purposes which specifically provide for a range of essential infrastructure services.
Education	<ul style="list-style-type: none"> Public Purposes which specifically provide for a range of essential education facilities.
District Distributor Road	<ul style="list-style-type: none"> To set aside land required for a district distributor road being a road classified as a Distributor A or Distributor B under the Western Australian Road Hierarchy.
Local Distributor Road	<ul style="list-style-type: none"> To set aside land required for a local distributor road being a road classified as a Local Distributor under the Western Australian Road Hierarchy.
Local Road	<ul style="list-style-type: none"> To set aside land required for a local road being a road classified as an Access Road under the Western Australian Road Hierarchy.

15. Additional uses for local reserves

There are no additional uses for land in local reserves that apply to this Scheme.

PART 3—ZONES AND THE USE OF LAND

16. Zones

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

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

Table 2—Zone objectives

Zone Name	Objectives
Residential	<ul style="list-style-type: none"> To provide for a range of housing and a choice of residential densities to meet the needs of the community. To facilitate and encourage high quality design, built form and streetscapes throughout residential areas. To provide for a range of non-residential uses, which are compatible with and complementary to residential development to promote sustainable residential development. To maintain the compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades.
Urban Development	<ul style="list-style-type: none"> To provide an intention of future land use and a basis for more detailed structure planning in accordance with the provisions of this Scheme. To provide for a range of residential densities to encourage a variety of residential accommodation. To provide for the progressive and planned development of future urban areas for residential purposes and for commercial and other uses normally associated with residential development.
Light Industry	<ul style="list-style-type: none"> To provide for a range of industrial uses and service industries generally compatible with urban areas that cannot be located in service commercial and centre zones. Ensure that where any development adjoins zoned or developed residential properties, the development is suitably setback, screened or otherwise treated so as not to detract from the residential amenity.
Mixed Use	<ul style="list-style-type: none"> To provide for a wide variety of active uses on street level which are compatible with residential and other non-active uses on upper levels. To allow for the development of a mix of varied but compatible land uses such as housing, child care, and appropriate land uses which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents.

Zone Name	Objectives
	<ul style="list-style-type: none"> • To ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality. • To ensure the design and landscaping of development provides a high standard of safety, convenience and amenity and contributes towards a sense of place and community. • To provide for a compatible mix of commercial and residential uses which complement the adjacent activity centres, and will contribute towards the development of a vibrant and attractive place to live and work. • To ensure the nature, form and scale of any non-residential development is such as not to prejudice the commercial services provided for within the designated activity centres, recognising the strategic significance of such centres with reference to their accessibility and co-locational synergies.
Service Commercial	<ul style="list-style-type: none"> • Accommodate commercial activities which, because of the nature of their business, require good vehicular access and/or large sites. • To prohibit residential development. • To provide for a range of commercial and industrial services and associated services as well as facilities for the storage and distribution of goods, which are required to meet the needs of the sub-regional community and which, by reason of their scale, character and requirements, are not generally appropriate to, or cannot conveniently or economically be accommodated within any of the Centre zones. • Provide for a range of wholesale sales, showrooms, trade and services which by reason of their scale character, operational or land requirements, are not generally appropriate in, or cannot conveniently or economically be accommodated in, the central area, shops and offices or industrial zones. • To ensure the nature, form and scale of development is such as not to prejudice the commercial services provided for within any of the Centre zones, recognising the strategic significance of such centres with reference to their accessibility and co-location efficiencies. • To ensure the design and landscaping of development is conducive to safe and efficient vehicular access, safe and convenient pedestrian access between adjacent premises and a level of visual amenity which is compatible with any adjacent commercial, mixed-use or residential areas.
Centre	<ul style="list-style-type: none"> • To designate land for future development as a city centre or activity centre. • To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme or the <i>Activity Centres State Planning policy</i>. • To provide for a wide variety of active uses on street level which are compatible with residential and other non-active uses on upper levels. • To allow for the development of a mix of varied but compatible land uses such as housing, offices, showrooms, shops, amusement centres, and eating establishments which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents. • C1—Secondary Centre—Booragoon: to provide for City Centre development including retail, commercial and residential development and gives due regard to the <i>Melville City Centre Structure Plan</i>. • C2—District Centres subject to activity centre plans: to provide for District Centre development focusing on weekly needs and services a wider district catchment giving due regard to the relevant activity centre plans. • C3—Other District Centres: to provide for District Centre development focusing on weekly needs and services a wider district catchment for centres with no activity centre plan. • C4—All Neighbourhood and Local Centres: to provide for Neighbourhood and Local Centres to focus on the main daily to weekly household shopping and community needs and focus for medium density housing. • To ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality. • To ensure the design and landscaping of development provides a high standard of safety, convenience and amenity and contributes towards a sense of place and community.

Zone Name	Objectives
Private clubs, institutions and places of worship	<ul style="list-style-type: none"> To provide sites for privately owned and operated recreation, institutions and places of worship. To integrate private recreation areas with public recreation areas wherever possible. To provide for a range of privately owned community facilities, and uses that are incidental and ancillary to the provision of those facilities, which are compatible with surrounding development. To ensure that the standard of development is in keeping with surrounding development and protects the amenity of the area.
Special Use Zone	<ul style="list-style-type: none"> To facilitate special categories of land uses which do not sit comfortably within any other zone. To enable the Council to impose specific conditions associated with the special use.

17. Zoning Table

The zoning table for this Scheme is as follows—

Table 3—Zoning Table

USE AND DEVELOPMENT CLASS	ZONES									
	Residential	Centre				Mixed Use	Service Commercial	Light Industry	Private clubs and institutions and places of worship	Urban Development
		C1	C2	C3	C4					
amusement parlour	X	Refer to Clause 18 (7)	Refer to Clause 18 (7)	P	D	X	D	X	X	Refer to Clause 18 (7)
art gallery	D			P	P	D	X	A	P	
bed and breakfast	A ¹			D	D	A	X	X	X	
betting agency	X			P	P	X	X	X	X	
brewery	X			D	X	X	P	P	X	
bulky goods showroom	X			X	X	X	D	X	X	
caretakers dwelling	D			D	D	P	D	A	P	
car park	X			A	A	A	D	D	D	
child care premises	A ¹			P	D	D	D	X	D	
cinema/theatre	X			A	X	X	X	X	X	
civic use	D			P	P	D	P	A	P	
club premises	A			D	A	A	D	X	P	
commercial vehicle parking	X			A	A	X	P	P	P	
community purpose	A			D	D	D	D	X	P	
consulting rooms	A ¹			P	P	D	P	X	X	
convenience store	X			P	P	X	P	P	X	
educational establishment	A			P	D	A	D	A	P	
exhibition centre	X			D	D	D	X	D	D	
family day care	P			P	P	P	X	X	X	
fast food outlet/lunch bar	X			P	D ²	X	D	X	X	
fuel depot	X			X	X	X	X	A	X	
funeral parlour	X			A	A	X	D	X	X	
garden centre	X			D	D	D	D	D	X	
home business	A ¹			D	D	D	X	X	X	
home occupation	D			D	D	D	X	X	X	
home office	P			P	P	P	X	X	P	
home store	A ¹			P	P	A	X	X	X	
hospital	X			D	A	X	D	X	D	
hotel	X			A	A	X	A	X	D	
industry	X			X	X	X	X	P	X	
industry—light	X	X	X	X	D	P	X			
liquor store—large	X	D	X	X	X	X	X			

USE AND DEVELOPMENT CLASS	ZONES									
	Residential	Centre				Mixed Use	Service Commercial	Light Industry	Private clubs and institutions and places of worship	Urban Development
		C1	C2	C3	C4					
liquor store—small	X	Refer to Clause 18 (7)	Refer to Clause 18 (7)	P	D	X	X	X	X	Refer to Clause 18 (7)
market	X			D	D	X	X	X	A	
medical centre	X			P	D	A	D	X	A	
motor vehicle, boat or caravan sales	X			X	X	X	P	P	X	
motor vehicle repair	X			X	X	X	P	P	X	
motor vehicle wash	X			A	A	X	D	P	X	
night club	X			A	X	X	X	X	X	
office	X			P	P ¹	A ¹	X	X	X	
place of worship	A			D	A	A	D	X	A	
reception centre	X			D	A	D	D	X	A	
recreation—private	X			D	D	D	D	X	D	
resource recovery centre	X			X	X	X	A	D	X	
restaurant/cafe	X			P	P	X	D	X	X	
restricted premises	X			X	X	X	X	A	X	
serviced apartments	D			D	D	D	X	X	X	
service station	X			P	A	X	D	D	X	
shop	X			P	P	X	X	X	X	
small bar	X			D ¹	D ¹	X	X	X	X	
tavern	X			A ¹	A ¹	X	X	X	X	
telecommunications infrastructure (TI) ³	X ³			A ³	A ³	X ³	D ³	P ³	A ³	
trade display	X			X	X	X	D	P	X	
trade supplies	X			X	X	X	P	P	X	
transport depot	X			X	X	X	P	P	X	
veterinary centre	X			A	A	A	D	P	X	
warehouse/storage	X			X	X	X	D	P	X	

Note 1: The following symbols relate to the zoning table annotations—

C1 Secondary centre—Booragoon—Due regard to be given to the Melville City Centre Structure (Activity Centre) Plan.

C2 District centre—Riseley—Due regard to be given to the Riseley Centre Structure (Activity Centre) Plan.

District centre—Canning Bridge—Due regard to be given to the Canning Bridge Activity Centre Plan.

C3 Other district centres.

C4 All neighbourhood and local centres.

¹ Indicates that the development (including use) may be subject to a specific Scheme provision and/or policy, which may impose restrictions with reference to site suitability criteria, positioning on site or the amount or proportion of land or floorspace allocated to the particular use.

² Fast Food Outlets, incorporating a drive through facility are not permitted in the Centre—(C4) zone unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions.

³ Under the *Commonwealth Telecommunications (Low-Impact Facilities) Determination 1997 (as amended)*, certain facilities are exempt from local and state planning control, and the permissibility indicated in the above Zoning Table will not therefore apply to such (low-impact) facilities. Low-impact telecommunications facilities are defined with reference to their characteristics as well as the classification of the particular area in which they are proposed to be developed, e.g. commercial, industrial, residential, rural or area of environmental significance.

18. Interpreting zoning table

(1) The permissibility of uses of land in the various zones in the Scheme area is determined by cross-reference between the lists of classes on the left hand side of the zoning table and the list of zones at the top of the zoning table.

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

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

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

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

A means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with clause 64 of the deemed provisions;

X means that the use is not permitted by this Scheme.

Note: 1. The development approval of the local government may be required to carry out works on land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the carrying out of works on, and the use of, land. For development on land that do not require development approval see clause 61 of the deemed provisions.

2. In considering an application for development the local government will have regard to clause 67 of the deemed provisions.

(3) A specific use class referred to in the zoning table is excluded from any other use class described in more general terms.

(4) The local government may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table—

(a) determine that the use is consistent with the objectives of a particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by local government; or

(b) determine that the use may be consistent with the objectives of the particular zone and give notice under clause 64 of the deemed provisions before considering an application for planning approval for the use of the land; or

(c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted in the zone.

(5) If a use of land is identified in a zone as being a class P or class I use, the local government may not refuse an application for development approval for that use in that zone but may require works to be undertaken in connection with that use to have development approval.

(6) If a use of land is identified in a zone as being a class X use, the local government must refuse an application for development approval for that use in that zone unless—

(a) the development approval application relates to land that is being used for a non-conforming use; and

(b) the local government considers that the proposed use of the land would be less detrimental than the non-conforming use.

(7) If the zoning table does not identify any permissible uses for land in a zone the local government may, in considering an application for development approval for land within the zone, have due regard to any of the following plans that apply to the land—

(a) a structure plan;

(b) an activity centre plan;

(c) a local development plan.

19. Additional uses

(1) The table sets out—

(a) classes of use for specified land that are additional to the classes of use that are permissible in the zone in which the land is located; and

(b) the conditions that apply to that additional use.

Table 4—Specified additional uses for zoned land in Scheme area

No.	Description of land	Additional Use	Conditions
1	L1 (69) Parry Avenue, Murdoch	Medical Centre	Maximum occupancy— Four (4) doctors One (1) speech pathologist One (1) dentist One (1) diagnostic office
2	L337 (80) Carrington Street, Palmyra	Service Station	

No.	Description of land	Additional Use	Conditions
3	L29 (14) Carrington Street, Palmyra	Cycle Shop	
4	L16 (34A) Rome Road, Melville	Veterinary Clinic	Veterinary clinic use only
5	L235 (340) Marmion Street, Melville	Doctors Surgery	Four (4) doctors maximum
6	L108 (88) Gilbertson Road, Kardinya	Service Station	
7	L10 (1) Westminster Road, Leeming	Medical Centre	Three (3) doctors One (1) dietician
8	L4 (3) Point Walter Road, Bicton	Smash Repairs	
9	L157/Strata L1 (25) South Street, cnr Gilbertson Road, Kardinya	Professional Office	Single storey residential character of the premises being retained. Signage being limited to Home Occupation standards
10	L62 (568) Canning Highway, Attadale	Cafe/Restaurant	Use shall be contained within the existing building. In the event of the subject house (identified in the Municipal Inventory) being demolished, the additional use will cease to apply
11	L242 (17) Winthrop Drive, Winthrop	Medical Centre (Orthodontist)	Limited to two (2) only orthodontists with hours of operation limited to 8am to 6pm (Monday to Friday)
12	L106 (10) Robson Way, Murdoch	Service Station Convenience Store	
13	L107 (6) Robson Way, Murdoch	Doctors Surgery Occupational Therapist	Two (2) doctors One (1) occupational therapist permitted
14	L97 (7) Robson Way, Murdoch	Orthodontist; Dentist; Veterinary Surgeon; Office (Real Estate Agent); Office (Accountant); Office (Settlement Agent).	
15	Lot 55 (No. 391) Canning Highway, Lot 831 (No. 38) and Lot 830 (No. 38A) Waddell Road, Palmyra	P use Theatre; P use Restaurant / Café; D use Shop; D use Take Away Food Outlet	1. Maximum floor space per tenancy of two hundred square metres (200m ²). 2. Low vehicle trip generation rates. 1. Not including outlets involving car based service.
16	Lot 2 & Lot 3 (No.2-10 & 12-18) Bull Creek Drive, Bull Creek	Residential Aged Care, Medical Centre, Serviced Apartment (Short Stay)	1. The Masterplan dated 31 July 2006, as adopted by Council, is to be employed by Council as planning policy to guide future development of the site. 2. Development is to incorporate noise attenuation measures to minimise the impact of road noise on residents on site.
17	Lot 32 (520) Canning Highway, corner Ince Road, Attadale	Consulting Rooms	Maximum of four (4) Health Consultants and one (1) other staff to operate from the premises at any one time with hours of operation limited to 7.00am to 9.00pm Monday to Thursday, Friday 7.00am to 8.00pm, Saturday, Sunday and Public Holidays 8.00am to 5.00pm.
18	Lot 56 (485) Marmion Street (cnr) Malland Street, Myaree	Office and Medical Centre	Provision of residential setbacks to all streets, with the primary street setback of 6.0 metres to apply to the Marmion Street frontage. Marmion Street frontage to be landscaped and developed as a typical residential front garden with any fencing being open screen fencing.

No.	Description of land	Additional Use	Conditions
			All vehicular parking to be provided off Malland Street behind the Marmion Street front setback and behind landscape screening to Marmion Street. The development shall be of a residential scale and have a residential façade to Marmion Street with any side setbacks being as would be required by the Residential Design Codes if it had applied and assuming that any opening is a major opening.
19	Lot 24 (527) Canning Highway (cnr) Rome Road, Melville	Medical Centre and Office.	The provision of residential setbacks to all street frontages including a 6.0m setback to the primary Canning Highway frontage. The provision of landscaping to the primary frontage together with restrictions for fencing design and construction. Buildings to be designed at typical residential scale. The provision of masonry fencing along party boundaries with adjoining residential properties. The provision of car parking to the front of the site facing Canning Highway, with access taken from the existing slip road to the front of the lot.

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

20. Restricted uses

(1) The table sets out—

- (a) restricted classes of use for specified land that apply instead of the classes of use that are permissible in the zone in which the land is located; and
- (b) the conditions that apply to that restricted use.

Table 5—Restricted uses for land in Scheme area

No.	Description of land	Restricted Use	Conditions
1	Hulme Court Local Centre (Land zoned 'Centre-C4')	Amusement parlour; Betting agency; Child care premises; Civic uses; Consulting rooms; Convenience store; Educational establishment; Exhibition centre; Fast food outlet/lunch bar; Garden centre; Industry—light; Office; Recreation—private; Restaurant/café; Service station; Shop; Small bar; Warehouse/storage.	Office and Small Bar Development may be subject to a specific Scheme provision and/or policy which may impose restrictions with reference to site suitability criteria, positioning on site or the amount or proportion of land or floorspace allocated to the particular use.
2	Marshall Road Local Centre (Land zoned 'Centre-C4')	Amusement parlour; Betting agency; Child care premises; Civic uses; Consulting rooms; Educational establishment; Exhibition centre; Fast food outlet/lunch bar; Garden centre;	Office and Small Bar Development (including use) may be subject to a specific Scheme provision and/or policy which may impose restrictions with reference to site suitability criteria, positioning on site or the amount or proportion of land or floorspace allocated to the particular use.

No.	Description of land	Restricted Use	Conditions
		Industry—light; Office; Recreation—private; Restaurant/café; Service station; Shop; Small bar; Warehouse/storage.	
3	1 Thurso Road; 1-14/33 McCoy Street; 32A McCoy Street; 28 McCoy Street; 34 McCoy Street; 34A McCoy Street; 36 McCoy Street; 38A-B McCoy Street; 40A McCoy Street; 42 McCoy Street; 1-2/44 McCoy Street; 46 McCoy Street; 48 McCoy Street; 50 McCoy Street; 54 McCoy Street; 1-2/89 Nth Lake Rd; 85-87 Nth Lake Rd; 81-83 Nth Lake Rd; 79 Nth Lake Rd; 77 Nth Lake Rd; 75 Nth Lake Rd; 73 Nth Lake Rd; 71 Nth Lake Rd; 1-4/13 Malland St; 11 Malland St; 9 Malland St; 7 Malland St; 1-28/3 Malland St; 5 Malland St; 69 Norma Rd; 67 Norma Rd; 65 Norma Rd; 61-63 Norma Rd; 59 Norma Rd; 57 Norma Rd; 55 Norma Rd; 53 Norma Rd; 51 Norma Rd; 49 Norma Rd; 47 Norma Rd; 1-7/41 Norma Rd; 39 Norma Rd; Myaree; 1 Shields Cres; 3 Shields Cres; 5 Shields Cres; 1-2/7 Shields Cres; 1-3/9 Shields Cres; 11 Shields Cres; 13 Shields Cres; 15 Shields Cres; 17 Shields Cres; 19 Shields Cres; 13-17 Aldous Place 11A-C Aldous Place 9 Aldous Place 3 Aldous Place	Caretakers dwelling; Child care; Civic uses; Commercial vehicles parking; Bulky goods showroom; Community purposes; Consulting rooms; Educational establishments; Exhibition centre; Funeral parlour; Garden centre; Hospital; Industry light; Lunch bar; Medical centre; Motor vehicle repair; Motor vehicle, boat, or caravan sales; Place of worship; Reception centre; Recreation private; Warehouse storage; Telecommunications infrastructure; Trade display; Veterinary centre.	

No.	Description of land	Restricted Use	Conditions
	5 Aldous Place 1 Aldous Place 508 Marmion Street, Booragoon.		
4	Lots 262 (No.71), 271 (No.73) and 274 (No.75-77) Leach Highway, Willagee, and Lots 277 (No.2), 66 (No.2A), 268 (No.4) and 269 (No.6) Webber Street, Willagee	Child Care Premises—P Consulting Rooms—P Educational Establishment—D Home Business—A Home Occupation—D Home Office—P Hospital—A Hotel—A Tavern—A Medical Centre—A Office—P Place of Worship—A Residential—D Warehouse/Storage—D Veterinary Centre—P Other uses not listed in the Zoning table—D	

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

21. Special use zones

(1) The Table sets out—

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

Table 6—Special use zones in Scheme area

No.	Description of land	Special Use	Conditions
1	Heathcote Hospital Site Pt Heathcote, Applecross	A broad range of land uses including— Civic, Cultural, Community, Recreation, Education, Administrative, Commercial, Restaurant/Café, Public assembly, Ancillary uses, and Caretaker's accommodation.	All development which involves the use or physical alteration of the land or buildings is to be in accordance with a Conservation Plan for the site approved by the Council and endorsed by the Heritage Council of Western Australia. The site is on the Council's Heritage List and is designated as a Heritage Area under Part 7 of the Scheme. It is also included on the Register of Heritage Places under the Heritage of Western Australia Act. The use and development of the land will therefore be subject to control both under the Scheme and the Heritage of Western Australia Act.
2	South of Perth Yacht Club	Club Premises (Yacht); Marina; Marine Filling Station.	

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

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

22. Non-conforming uses

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

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

- (2) Subclause (1) does not apply if—
- (a) the non-conforming use of the land is discontinued; and
 - (b) a period of 6 months, or a longer period approved by the local government, has elapsed since the discontinuance of the non-conforming use.
- (3) Subclause (1) does not apply in respect of a non-conforming use of land if, under Part 11 of the Act, the local government—
- (a) purchases the land; or
 - (b) pays compensation to the owner of the land in relation to the non-conforming use.

23. Changes to a non-conforming use

- (1) A person must not, without development approval—
- (a) alter or extend a non-conforming use of land; or
 - (b) erect, alter or extend a building used for, or in conjunction with a non-conforming use; or
 - (c) repair, rebuild, alter or extend a building used for a non-conforming use that is destroyed to the extent of 75% or more of its value; or
 - (d) change the use of land from a non-conforming use to another use that is not permitted by the scheme.
- (2) An application for development approval for the purposes of this clause must be advertised in accordance with clause 64 of the deemed provisions.
- (3) A local government may only grant development approval for a change of use of land referred to in subclause (1)(d) if, in the opinion of the local government, the proposed use—
- (a) is less detrimental to the amenity of the locality than the existing non-conforming use; and
 - (b) is closer to the intended purpose of the zone in which the land is situated.

24. Register of non-conforming uses

- (1) The local government may prepare a register of land within the Scheme area that is being used for a non-conforming use.
- (2) A register prepared by the local government must set out the following—
- (a) a description of each area of land that is being used for a non conforming use;
 - (b) a description of any building on the land;
 - (c) a description of the non-conforming use;
 - (d) a date on which any discontinuance of the non-conforming use is noted.
- (3) If the local government prepares a register under subclause (1) the local government—
- (a) must ensure that the register is kept up-to-date; and
 - (b) must make a copy of the register available for public inspection during business hours at the offices of the local government; and
 - (c) may publish a copy of the register on the website of the local government.
- (4) An entry in the register in relation to land that is being used for a non-conforming use is evidence of the matters set out in the entry, unless the contrary is proved.

PART 4—GENERAL DEVELOPMENT REQUIREMENTS

25. R-Codes

- (1) The R-codes, modified as set out in clause 26, are to be read as part of this Scheme.
- (2) The local government must—
- (a) make a copy of the R-Codes available for public inspection during business hours at the offices of the local government; and
 - (b) may publish a copy of the R-Codes on the website of the local government.
- (3) The coding of land for the purposes of the R-Codes is shown by the coding number superimposed on a particular area contained within boundaries shown on the scheme map.
- (4) The R-Codes apply to an area if the area has a coding number superimposed on it in accordance with subclause (3).

26. Modification of R-codes

- (1) Where on the Scheme Map, an area is identified as having two density codes in the form of a split R-Code, when considering an application for development approval, or when making a recommendation to the Commission in respect of subdivision, the local government is to apply the lower of the two R-Codes unless—
- (a) in the case of sites with frontage to a primary distributor or district distributor road, all vehicular access (including vehicular access in respect of existing development) is provided to a road or carriageway other than the distributor road; and
 - (b) in the case of sites which adjoin a site with frontage to a primary distributor or district distributor road, but which itself does not have such frontage, provision is made to the satisfaction of the local government, for vehicular access to the adjoining site so as to obviate the need for direct access to the distributor road from that adjoining site.

Note: While amalgamation and joint development of adjoining sites is expected to be the predominant means of providing alternative access to those sited with frontage to a distributor road, alternative mechanisms such as the creation of easements or rights-of-carriageway may also be considered where direct vehicular access to the distributor road can be avoided.

(2) Where on the Scheme Map in Willagee an area is identified as having the two density codes R40/60, when considering an application for development approval, or when making a recommendation to the Commission in respect of subdivision, the local government is to apply the lower of the two R-Codes unless—

- (a) The lot has a minimum lot size of 3,000 square metres;
- (b) The proposed development or subdivision will result in the creation of single or grouped dwellings only; and
- (c) The created lots are not of an irregular shape and have individual street frontage.

(3) Where, on the gazettal date, land is developed at a density and/or with a plot ratio exceeding that provided for under the relevant density coding, then provided such development has been lawfully established, the local government may permit a variation to the minimum site area and/or the plot ratio requirements of the Scheme, in order to enable re-development to take place up to the same dwelling density and/or plot ratio as the pre-existing development.

Note: The intention of this clause is to provide for the redevelopment of sites, where the existing development does not accord with current density standards, so as to facilitate improvements in design and amenity.

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

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

(2) The local government—

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

28. Modification of State Planning Policy 3.6

There are no modifications to *State Planning Policy 3.6*.

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

There are no other State planning policies that are to be read as part of the Scheme.

30. Modification of State planning policies

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

31. Environmental conditions

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

32. Additional site and development requirements

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

Table 7—Additional site and development requirements

No.	Description of Land	Requirement
1	Centre Zone—C3 (District Centres)	<p>Where there is no Activity Centre Plan for the Centre, development will be guided by the following—</p> <p>(1) Setbacks</p> <ol style="list-style-type: none"> (a) Where there is an approved Local Development Plan for the site, setbacks shall be in accordance with that plan. (b) In the absence of an approved Local Development Plan, front setbacks are to be determined by local government, generally based on ‘main-street’ design principles where appropriate. (c) Other boundary setbacks may be reduced to nil, subject to any requirements for access, provided that where the boundary adjoins, land in a Residential or Mixed Use zone, the setback is to accord with the standards applicable to such adjacent land under the relevant R-Coding. <p>Note: The preparation and approval of the local development plan, and any variations from the local development plan to be in accordance with Part 6 of Schedule 2—Deemed provisions for local planning schemes.</p>

No.	Description of Land	Requirement												
		<p>(2) Building height</p> <p>(a) Building height standards for the respective District Centres are as follows—</p> <table data-bbox="774 344 1402 546"> <tr> <td>R30—R50</td> <td>11.0 m to eaves 12.0 m External Wall (Concealed Roof) 13.5 m maximum</td> </tr> <tr> <td>R60 and above</td> <td>15.0 m to eaves 16.0 m External Wall (Concealed Roof) 17.5m maximum</td> </tr> </table> <p>provided that, where the site adjoins or is immediately adjacent to land in the Residential zone, building height is to be limited as necessary so as to comply with overshadowing limits applicable to such adjacent land under the relevant R-Coding.</p> <p>Note: Variations from the building height standard may be approved in accordance with clause (34).</p> <p>(3) Building bulk</p> <p>(a) Total plot ratio standards for the respective District Centres are as follows—</p> <table data-bbox="774 792 954 904"> <tr> <td>Melville</td> <td>—1.2</td> </tr> <tr> <td>Palmyra</td> <td>—1.0</td> </tr> <tr> <td>Kardinya</td> <td>—1.0</td> </tr> <tr> <td>Bull Creek</td> <td>—1.0</td> </tr> </table> <p>Note: The achievable maximum plot ratio floorspace will depend on the type and mix of uses, the form of building and the resultant requirement and design of car parking. With a mix of shops, offices and other uses, based on shared use of car parking, it should be possible to develop up to the maximum plot ratio. However, with shops alone, the achievable plot ratio is likely to be limited to less than the maximum specified above.</p> <p>Variations from the building bulk standard may be approved in accordance with clause (34).</p> <p>(4) Open space</p> <p>Minimum of 10 per cent of the development site.</p> <p>Note: Variations from the open space standard may be approved in accordance with clause (34), and may be reduced where it can be demonstrated that the planting of open space extends the effectiveness of such areas, e.g. shade tree planting in car parking and service areas. Refer to Local Planning Policy.</p> <p>(5) Landscaping</p> <p>Landscaping is to accord with an overall landscaping plan for the site, which has been approved by the local government.</p> <p>Note: The landscaping plan may form part of the Local Development Plan or may be separate from that plan, but in either case is subject to approval by the local government.</p>	R30—R50	11.0 m to eaves 12.0 m External Wall (Concealed Roof) 13.5 m maximum	R60 and above	15.0 m to eaves 16.0 m External Wall (Concealed Roof) 17.5m maximum	Melville	—1.2	Palmyra	—1.0	Kardinya	—1.0	Bull Creek	—1.0
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Melville	—1.2													
Palmyra	—1.0													
Kardinya	—1.0													
Bull Creek	—1.0													
2	Centre Zone—C4 (Neighbourhood and Local Centres)	<p>(1) Setbacks</p> <p>(a) Where there is an approved Local Development Plan for the site, in accordance with that plan.</p> <p>(b) In the absence of an approved Local Development Plan, front setbacks are to be as determined by local government, generally based on ‘main-street’ design principles where appropriate.</p> <p>(c) Other boundary setbacks may be reduced to nil, subject to any requirements for access provided that where the boundary adjoins, land in a Residential or Mixed Use zone, the setback is to accord with the standards applicable to such adjacent land under the relevant R-Coding.</p> <p>Note: The preparation and approval of the local development plan, and any variations from the local development plan to be in accordance with processes and procedures outlined in Part 6 of Schedule 2—Deemed provisions for local planning schemes</p> <p>(2) Building height</p> <p>(a) Building height standards for the respective Neighbourhood and Local Centres are as follows—</p> <table data-bbox="774 2007 1402 2094"> <tr> <td>R30—R50</td> <td>11.0 m to eaves 12.0 m External Wall (Concealed Roof) 13.5 m maximum</td> </tr> </table>	R30—R50	11.0 m to eaves 12.0 m External Wall (Concealed Roof) 13.5 m maximum										
R30—R50	11.0 m to eaves 12.0 m External Wall (Concealed Roof) 13.5 m maximum													

No.	Description of Land	Requirement
		<p>R60 and above 15.0 m to eaves 16.0 m External Wall (Concealed Roof) 17.5m maximum</p> <p>(b) provided that, where the site adjoins or is immediately adjacent to land in the Residential zone, building height is to be limited as necessary so as to comply with overshadowing limits applicable to such adjacent land under the relevant R-Coding.</p> <p>Note: Variations from the building height standard may be approved in accordance with clause (34).</p> <p>(3) Building bulk (a) Total plot ratio standard is 1.0.</p> <p>Note: The achievable maximum plot ratio floorspace will depend on the type and mix of uses, the form of building and the resultant requirement and design of car parking. With a mix of shops, offices and other uses, based on shared use of car parking, it should be possible to develop up to the maximum plot ratio. However, with shops alone, the achievable plot ratio may be limited.</p> <p>(4) Open space (a) Minimum of 10 per cent of the development site.</p> <p>Note: Variations from the open space standard may be approved in accordance with clause (34), and may be reduced where it can be demonstrated that the planting of open space extends the effectiveness of such areas, e.g. shade tree planting in car parking and service areas. Refer to Local Planning Policy.</p> <p>(5) Landscaping Landscaping is to accord with an overall landscaping plan for the site, which has been approved by the local government.</p> <p>Note: The landscaping plan may form part of the Local Development Plan or may be separate from that plan, but in either case is subject to approval by the local government.</p>
3	Mixed Use Zone	<p>Where there is no Activity Centre Plan for the adjacent Centre, development will be guided by the following—</p> <p>(1) Setbacks (a) the setback is to accord with the standards applicable under the relevant R-Coding for the subject site.</p> <p>(2) Building height (a) As per council policy (b) where the site adjoins or is immediately adjacent to land in the Residential zone, building height is to be limited as necessary so as to comply with overshadowing limits applicable to such adjacent land under the relevant R-Coding.</p> <p>(3) Building bulk (a) Total plot ratio standard is 0.6.</p> <p>(4) Open space (a) Minimum of 10 per cent of the development site.</p> <p>(5) Landscaping (a) Landscaping is to accord with an overall landscaping plan for the site, which has been approved by the local government.</p>
4	Service Commercial Zone	<p>(1) Setbacks (a) Front (street) setbacks to all street frontages other than Leach Highway shall be a minimum of 6.0 metres but shall be sufficient to accommodate a landscape strip of at least 3 metres in width immediately inside the front boundary, as well as any vehicular access and parking proposed between the building and the street. (b) Front (street) setback to Leach Highway shall be a minimum of 15 metres. (c) Other boundary setbacks may be reduced to nil, subject to any requirements for access provided that where the boundary adjoins; land in a Residential Zone, the setback is to accord with the standards applicable to such adjacent land under the relevant R-Coding.</p> <p>Note: Front setback areas are often the most suitable for car parking to service mixed business development, and if used for such purposes,</p>

No.	Description of Land	Requirement
		<p>should be based on an efficient car parking layout. Reference should be made to AS 2890.1 for alternative car parking layouts and associated manoeuvre specification. For example, in the case of standard width bays and right-angle parking either side of a central manoeuvre aisle, a total dimension of 17 metres would be required. By comparison, a car parking layout based on a single-sided parking aisles requires a dimension of only 11.5 metres, but involves around 35 per cent more land per bay than for a two-sided aisle.</p> <p>(2) Building height</p> <p>(a) Building height standard is 13.5 metres overall, provided that where the site adjoins, or is immediately adjacent to land in the Residential zone, building height is to be limited to at least 10.5 metres and further as necessary so as to comply with overshadowing limits applicable to such adjacent land under the relevant R-Coding.</p> <p>Note: Variations from the building height standard may be approved in accordance with clause (34).</p> <p>(3) Building bulk—</p> <p>(a) Plot ratio standard is 1.0</p> <p>(4) Open space</p> <p>(a) Minimum of 10 per cent of the development site.</p> <p>Note: Variations from the open space standard may be approved in accordance with clause (34), and may be reduced where it can be demonstrated that the planting of open space extends the effectiveness of such areas, e.g. shade tree planting in car parking and service areas. Refer Local Planning Policy.</p> <p>(5) Landscaping</p> <p>Landscaping is to accord with an overall landscaping plan for the site, which has been approved by the local government.</p> <p>Note: The landscaping plan may form part of the Local Development Plan or may be separate from that plan, but in either case is subject to approval by the local government.</p>
5	Light Industrial Zone	<p>(1) Setbacks</p> <p>(a) Front (street) setbacks to all street frontages shall be a minimum of 6.0 metres but shall be sufficient to accommodate a landscape strip of at least 3 metres in width immediately inside the front boundary, as well as any vehicular access and parking proposed between the building and the street.</p> <p>(b) Other setbacks may be reduced to nil, subject to any requirements for access.</p> <p>Note: Front setback areas are often the most suitable for car parking within industrial areas, and if used for such purposes, should be based on an efficient car parking layout. Reference should be made to AS 2890.1 for alternative car parking layouts and associated manoeuvre specification. For example, in the case of standard width bays and right-angle parking either side of a central manoeuvre aisle, a total dimension of 17 metres would be required. By comparison, a car parking layout based on a single-sided parking aisles requires a dimension of only 11.5 metres, but involves around 35 per cent more land per bay than for a two-sided aisle.</p> <p>(2) Building height</p> <p>(a) Building height standard is 13.5 metres overall, provided that where the site adjoins, or is immediately adjacent to land in the Residential zone, building height is to be limited as necessary so as to comply with building height and overshadowing standards applicable to such adjacent land under the relevant R-Coding.</p> <p>Note: Variations from the building height standard may be approved in accordance with clause (34).</p> <p>(3) Building bulk—</p> <p>(a) Plot ratio standard is 1.0 subject to any relevant Local Planning Policy.</p> <p>(4) Open space</p> <p>(a) Minimum of 10 per cent of the development site.</p> <p>Note: Variations from the open space standard may be approved in accordance with clause (34), and may be reduced where it can be demonstrated that the planting of open space extends the</p>

No.	Description of Land	Requirement
		<p>effectiveness of such areas, e.g. shade tree planting in car parking and service areas. Refer Local Planning Policy.</p> <p>(5) Landscaping Landscaping is to accord with an overall landscaping plan for the site, which has been approved by the local government. Note: The landscaping plan may form part of the Local Development Plan or may be separate from that plan, but in either case is subject to approval by the local government.</p>
6	Private Clubs, Institutions and Places of Worship Zone.	In addition to any general provisions of the scheme, development of land within each of the Private Clubs, Institutions and places of worship sites is to accord with a Local Development Plan for the site which has been approved by the local government in accordance with Part 6 of Schedule 2—Deemed provisions for local planning schemes.

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

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

There are no additional requirements that apply to this Scheme.

34. Variations to site and development requirements

(1) In this clause—

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

(2) The local government may approve an application for a development approval that does not comply with an additional site and development requirements.

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

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

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

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

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

35. Restrictive covenants

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

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

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

PART 5—SPECIAL CONTROL AREAS

36. Special control areas

There are no special control areas which apply to this Scheme.

PART 6—TERMS REFERRED TO IN SCHEME*Division 1—General definitions used in the scheme***37. Terms used**

(1) If a word used in the Scheme is listed in this clause the meaning of the word is set out below—

building envelope	means the area of land within which all buildings and effluent disposal facilities on a lot must be contained.
building height	in relation to a building— <ol style="list-style-type: none"> if the building is used for residential purposes, has the meaning given in the R-Codes; or if the building is used for purposes other than residential purposes, means the maximum vertical distance between the natural ground level and the finished roof height directly above, excluding minor projections as that term is defined in the R-Codes.
Commencement day	means the day this Scheme comes into effect under section 87(4) of the Act.
Commercial vehicle	means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including— <ol style="list-style-type: none"> a utility, van, truck, tractor, bus or earthmoving equipment; and a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a).
floor area	has meaning given in the Building Code.
frontage	in relation to a building— <ol style="list-style-type: none"> if the building is used for residential purposes, has the meaning given in the R-Codes; or if the building is used for purposes other than residential purposes, means the road alignment at the front of a lot and, if a lot abuts 2 or more roads, the one to which the building or proposed building faces.
incidental use	means a use of premises which is consequent on, or naturally attaching, appertaining or relating to, the predominant use
net lettable area or nla	means the area of all floors within the internal finished surfaces of permanent walls but does not include the following areas— <ol style="list-style-type: none"> stairs, toilets, cleaner's cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas; lobbies between lifts facing other lifts serving the same floor; areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building; areas set aside for the provision of facilities or services to the floor or building where those facilities are not for the exclusive use of occupiers of the floor or building.
non-conforming use	has the meaning given in the <i>Planning and Development Act 2005</i> section 172.
plot ratio	means the ratio of the floor area of a building to an area of land within the boundaries of the lot or lots on which the building is located.
precinct	means a definable area where particular planning policies, guidelines or standards apply.
predominant use	means the primary use of premises to which all other uses carried out on the premises are incidental.
retail	means the sale or hire of goods or services to the public.
short-term accommodation	means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12 month period.
wall height	in relation to a wall of a building— <ol style="list-style-type: none"> if the building is used for residential purposes, has the meaning given in the R-Codes; or if the building is used for purposes other than residential purposes, means the vertical distance from the natural ground level of the boundary of the property that is closest to the wall to the point where the wall meets the roof or parapet.
wholesale	means the sale of goods or materials to be sold by others.

(2) A word or expression that is not defined in this Scheme—

- has the meaning it has in the *Planning and Development Act 2005*; or
- if it is not defined in that Act—has the same meaning as it has in the R-Codes.

*Division 2—Land use terms used in Scheme***38. Land use terms used**

If this Scheme refers to a category of land use that is listed in this provision the meaning of that land use is as set out below—

- amusement parlour** means premises—
- (a) that are open to the public; and
 - (b) that are used predominantly for amusement by means of amusement machines including computers; and
 - (c) where there are 2 or more amusement machines.
- art gallery** means premises—
- (a) that are open to the public; and
 - (b) where artworks are displayed for viewing or sale.
- bed and breakfast** means a dwelling—
- (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and
 - (b) containing not more than 2 guest bedrooms.
- betting agency** means an office or totalisator established under the *Racing and Wagering Western Australia Act 2003*.
- brewery** means premises the subject of a producer's licence authorising the production of beer, cider or spirits granted under the *Liquor Control Act 1988*.
- bulky goods showroom** means premises—
- (a) used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes—
 - (i) automotive parts and accessories;
 - (ii) camping, outdoor and recreation goods;
 - (iii) electric light fittings;
 - (iv) animal supplies including equestrian and pet goods;
 - (v) floor and window coverings;
 - (vi) furniture, bedding, furnishings, fabrics, manchester and homewares;
 - (vii) household appliances, electrical goods and home entertainment goods;
 - (viii) party supplies;
 - (ix) office equipment and supplies;
 - (x) babies' and children's goods, including play equipment and accessories;
 - (xi) sporting, cycling, leisure, fitness goods, and accessories;
 - (xii) swimming pools;
 - or
 - (b) used to sell goods and accessories by retail if—
 - (i) a large area is required for the handling, display or storage of the goods; or
 - (ii) vehicular access is required to the premises for the purpose of collection of purchased goods.
- 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—
- (a) any part of a public road used for parking or for a taxi rank; or
 - (b) any premises in which cars are displayed for sale.
- child care premises** means premises where—
- (a) an education and care service as defined in the *Education and Care Services National Law (Western Australia)* Section 5(1), other than a family day care service as defined in that section, is provided; or
 - (b) a child care service as defined in the *Child Care Services Act 2007* section 4 is provided.
- cinema/theatre** means premises where the public may view a motion picture or theatrical production.
- civic use** means premises used by a government department, an instrumentality of the State or the local government for administrative, recreational or other purposes.
- club premises** means premises used by a legally constituted club or association or other body of persons united by a common interest.

commercial vehicle parking	means premises used for parking of one or 2 commercial vehicles but does not include— <ul style="list-style-type: none"> (a) any part of a public road used for parking or for a taxi rank; or (b) parking of commercial vehicles incidental to the predominant use of the land.
community purpose	means premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit.
consulting rooms	means premises used by no more than 2 health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care.
convenience store	means premises— <ul style="list-style-type: none"> (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents; and (b) operated during hours which include, but may extend beyond, normal trading hours; and (c) the floor area of which does not exceed 300 m² net lettable area.
corrective institution	means premises used to hold and reform persons committed to it by a court, such as a prison or other type of detention facility.
educational establishment	means premises used for the purposes of providing education including premises used for a school, higher education institution, business college, academy or other educational institution.
exhibition centre	means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature including a museum.
family day care	means premises where a family day care service as defined in <i>the Education and Care Services National Law (Western Australia)</i> is provided.
fast food outlet/ lunch bar	means premises, including premises with a facility for drive-through service, used for the preparation, sale and serving of food to customers in a form ready to be eaten— <ul style="list-style-type: none"> (a) without further preparation; and (b) primarily off the premises.
fuel depot	means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel but does not include premises used— <ul style="list-style-type: none"> (a) as a service station; or (b) for the sale of fuel by retail into a vehicle for use by the vehicle.
funeral parlour	means premises used <ul style="list-style-type: none"> (a) to prepare and store bodies for burial or cremation; (b) to conduct funeral services.
garden centre	means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens.
home business	means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession— <ul style="list-style-type: none"> (a) does not involve employing more than 2 people who are not members of the occupier's household; and (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and (c) does not occupy an area greater than 50 m²; and (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and (f) does not involve the presence, use or calling of a vehicle more than 4.5 tonnes tare weight; and (g) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located.
home occupation	means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation that— <ul style="list-style-type: none"> (a) does not involve employing a person who is not a member of the occupier's household; and (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and

- (c) does not occupy an area greater than 20 m²; and
 - (d) does not involve the display on the premises of a sign with an area exceeding 0.2 m²; and
 - (e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
 - (f) does not—
 - (i) require a greater number of parking spaces than normally required for a single dwelling; or
 - (ii) result in an increase in traffic volume in the neighbourhood; and
 - (g) does not involve the presence, use or calling of a vehicle more than 4.5 tonnes tare weight; and
 - (h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and
 - (i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located.
- home office** means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation—
- (a) is solely within the dwelling; and
 - (b) does not entail clients or customers travelling to and from the dwelling; and
 - (c) does not involve the display of a sign on the premises; and
 - (d) does not require any change to the external appearance of the dwelling.
- home store** means a shop attached to a dwelling that—
- (a) has a net lettable area not exceeding 100 m²; and
 - (b) is operated by a person residing in the dwelling.
- hospital** means premises used as a hospital as defined in the *Hospitals and Health Services Act 1927* section 2(1).
- hotel** means premises the subject of a hotel licence other than a small bar or tavern licence granted under the *Liquor Control Act 1988* including any betting agency on the premises.
- industry** means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes—
- (a) the storage of goods;
 - (b) the work of administration or accounting;
 - (c) the selling of goods by wholesale or retail;
 - (d) the provision of amenities for employees;
 - (e) incidental purposes.
- industry—light** means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed.
- liquor store—large** means premises the subject of a liquor store licence granted under the *Liquor Control Act 1988* with a net lettable area of more than 300 m².
- liquor store—small** means premises the subject of a liquor store licence granted under the *Liquor Control Act 1988* with a net lettable area of not more than 300 m².
- marina** means—
- (a) premises used for providing mooring, fuelling, servicing, repairing, storage and other facilities for boats, including the associated sale of any boating gear or equipment; and
 - (b) all jetties, piers, embankments, quays, moorings, offices and storerooms used in connection with the provision of those services.
- marina filling station** means premises used for the storage and supply of liquid fuels and lubricants for marine craft.
- market** means premises used for the display and sale of goods from stalls by independent vendors.
- medical centre** means premises other than a hospital used by 3 or more health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care.
- motor vehicle, boat or caravan sales** means premises used to sell or hire motor vehicles, boats or caravans.

motor vehicle repair	means premises used for or in connection with— (a) electrical and mechanical repairs, or overhauls, to vehicles other than panel beating, spray painting or chassis reshaping of vehicles; or (b) repairs to tyres other than recapping or retreading of tyres.
motor vehicle wash	means premises primarily used to wash motor vehicles.
nightclub	means premises the subject of a nightclub licence granted under the <i>Liquor Control Act 1988</i> .
office	means premises used for administration, clerical, technical, professional or similar business activities.
place of worship	means premises used for religious activities such as a chapel, church, mosque, synagogue or temple.
reception centre	means premises used for hosted functions on formal or ceremonial occasions.
recreation—private	means premises that are— (a) used for indoor or outdoor leisure, recreation or sport; and (b) not usually open to the public without charge.
Resource recovery centre	means premises other than a waste disposal facility used for the recovery of resources from waste.
restaurant/cafe	means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the <i>Liquor Control Act 1988</i> .
restricted premises	means premises used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of— (a) publications that are classified as restricted under the <i>Classification (Publications, Films and Computer Games) Act 1995 (Commonwealth)</i> ; and (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity; or (c) smoking-related implements.
serviced apartment	means a group of units or apartments providing— (a) self-contained short-stay accommodation for guests; and (b) any associated reception or recreational facilities.
service station	means premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for— (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; or (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles.
shop	means premises other than a bulky goods showroom, a liquor store large or a liquor store—small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.
small bar	means premises the subject of a small bar licence granted under the <i>Liquor Control Act 1988</i> .
tavern	means premises the subject of a tavern licence granted under the <i>Liquor Control Act 1988</i> .
telecommunications infrastructure	means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network.
trade display	means premises used for the display of trade goods and equipment for the purpose of advertisement.
trade supplies	means premises used to sell by wholesale or retail, or to hire, assemble or manufacture any materials, tools, equipment, machinery or other goods used for any of the following purposes including goods which may be assembled or manufactured off the premises— (a) automotive repairs and servicing; (b) building including repair and maintenance; (c) industry; (d) landscape gardening; (e) provision of medical services; (f) primary production; (g) use by government departments or agencies, including local government.

transport depot	means premises used primarily for the parking or garaging of 3 or more commercial vehicles including— <ul style="list-style-type: none"> (a) any ancillary maintenance or refuelling of those vehicles; and (b) any ancillary storage of goods brought to the premises by those vehicles; and (c) the transfer of goods or persons from one vehicle to another.
veterinary centre	means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders.
warehouse/ storage	means premises including indoor or outdoor facilities used for <ul style="list-style-type: none"> (a) the storage of goods, equipment, plant or materials; or (b) the display or the sale by wholesale of goods.

Schedule A

SUPPLEMENTAL PROVISIONS TO THE DEEMED PROVISIONS

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

Clause 61 (2)(g) Construction and/or repair of boats and recreation vehicles on Residential zoned land, in the following circumstances—

- (i) Only one such boat or vehicle is to be constructed and/or repaired, at any time;
- (ii) the boat or vehicle under construction and/or repair is not to be sited between the residential building and the street and is to be screened from adjacent roads and/or residences;
- (iii) the period of construction on site is to be limited to two years; and
- (iv) the construction and/or repair work is not to adversely affect the amenity of the area in which the site is situated.

Council Resolution to Advertise Local Planning Scheme

Adopted by resolution of the Council of the City of Melville at the Special Meeting of Council held on the 9th day of August 2011.

M. TIELEMAN, A/Chief Executive Officer.
R. AUBREY, Mayor.

Council Resolution to Support Scheme for Approval

Council resolved to support approval of the draft Scheme of the City of Melville at the Ordinary Meeting of Council held on the 12th day of May 2015.

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

M. TIELEMAN, A/Chief Executive Officer.
R. AUBREY, Mayor.

WAPC Recommended for Approval—

A. TREVOR, Delegated under S.16 of the
Planning and Development Act 2005.

Date: 10 May 2016.

Approval Granted—

D. FARAGHER, Minister for Planning.

Date: 16 May 2016.
