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PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF CAPEL

**LOCAL PLANNING SCHEME
NO. 8**

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF CAPEL

LOCAL PLANNING SCHEME NO. 8

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PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF CAPEL

LOCAL PLANNING SCHEME NO. 8

PART 1—PRELIMINARY

1. Citation

This local planning scheme is the Shire of Capel Scheme No 8.

2. Commencement

Under section 87(4) of the Act, this local planning scheme comes into operation on the day on which it is published in the *Gazette*.

3. Scheme revoked

The following local planning schemes are revoked—

| Name: | Gazettal date— |
|--|----------------|
| Shire of Capel Local Planning Scheme No. 7 | 17 March 1998 |

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 Shire of Capel 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.

Note: The Scheme area is also subject to the Greater Bunbury Region Scheme (see clause 12) and other local planning schemes (see clause 11).

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) including the supplemental provisions to the deemed provisions outlined in Schedule A of the scheme text;
 - (b) the Scheme Map (Maps 1 to 12).
- (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—

- (1) set out the local government's planning aims and intentions for the Scheme area; and
- (2) set aside land as local reserves for public purposes; and
- (3) zone land within the Scheme area for the purposes defined in this Scheme; and
- (4) control and guide development including processes for the preparation of structure plans and local development plans; and
- (5) set out procedures for the assessment and determination of development applications; and
- (6) set out procedures for contributions to be made for the costs of providing infrastructure in connection with development through development contribution plans; and
- (7) make provision for the administration and enforcement of this Scheme; and
- (8) address other matters referred to in Schedule 7 of the Act.

9. Aims of Scheme

The aims of this Scheme are—

- (1) to implement the Strategies, Actions and Strategic Plans of the Shire of Capel Local Planning Strategy;
- (2) to provide facilities and services that recognize the diverse needs of the community and strive to make the Shire a safe place to live, work and visit;
- (3) to foster and support responsible and progressive economic development opportunities in the Shire;
- (4) to facilitate sustainable growth and development taking account of the special assets and individual requirements of each locality in the Shire;

- (5) to plan and facilitate safe sustainable and efficient infrastructure and transport networks to meet the need of the community;
- (6) to preserve and enhance the natural and built environment to ensure it is liveable, sustainable and adaptable to the communities' needs and expectations;
- (7) to provide for the preservation and enhancement of areas, places and objects of cultural and heritage significance;
- (8) to protect rural land for sustainable agricultural production and natural resource development and provide for a broad range of rural and ancillary land use opportunities;

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

The following local planning schemes of the Shire of Capel also apply in the Scheme area—

| | |
|---|---------------------|
| Name: | Gazettal date— |
| Shire of Capel Town Planning Scheme No. 3 | 22nd September 1976 |

12. Relationship with region planning scheme

The Greater Bunbury 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 Greater Bunbury 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 Greater Bunbury Region Scheme.

Note: The process of reserving land under a regional planning scheme is separate from the process of reserving land under the *Land Administration Act 1997* section 41.

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 <i>Planning and Development Act 2005</i> 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. |
| Environmental Conservation | <ul style="list-style-type: none"> To identify areas with biodiversity and conservation value, and to protect those areas from development and subdivision. To identify and protect areas of biodiversity conservation significance within National Parks and State and other conservation reserves. |
| State Forest | <ul style="list-style-type: none"> To identify areas of State Forest. |
| Civic and Community | <ul style="list-style-type: none"> To provide for a range of community facilities which are compatible with surrounding development. To provide for public facilities such as halls, theatres, art galleries, educational, health and social care facilities, accommodation for the aged, and other services by organisations involved in activities for community benefit. |
| 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. |

| Reserve name | Objectives |
|---------------------------|---|
| Emergency Services | <ul style="list-style-type: none"> Public Purposes which specifically provide for a range of essential emergency services. |
| Heritage | <ul style="list-style-type: none"> Public Purposes which specifically provide for a range of heritage purposes. |
| Recreational | <ul style="list-style-type: none"> Public Purposes which specifically provide for a range of public recreational facilities. |
| Cemetery | <ul style="list-style-type: none"> To set aside land required for a cemetery. |
| Drainage / Waterway | <ul style="list-style-type: none"> To set aside land required for significant waterways and drainage. |
| Primary Distributor Road | <ul style="list-style-type: none"> To set aside land required for a primary distributor road being a road classified as a Regional Distributor or Primary Distributor under the Western Australian Road Hierarchy. |
| 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

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

PART 3—ZONES AND 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. |
| 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. To provide an intermediate transitional zone prior to or following the lifting of an urban deferred zoning within the Greater Bunbury Region Scheme. |
| Rural | <ul style="list-style-type: none"> To provide for the maintenance or enhancement of specific local rural character. To protect extensive agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use. To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, in order to protect sensitive areas especially the natural valley and watercourse systems from damage. To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone. To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses. |

| Zone name | Objectives |
|-----------------------|---|
| Priority Agriculture | <ul style="list-style-type: none"> • To identify land of State, regional or local significance for food production purposes. • To retain priority agricultural land for agricultural purposes. • To limit the introduction of sensitive land uses which may compromise existing future and potential agricultural production. |
| Rural Residential | <ul style="list-style-type: none"> • To provide for lot sizes in the range of 1 ha to 4 ha. • To provide opportunities for a range of limited rural and related ancillary pursuits on rural-residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land. • To set aside areas for the retention of vegetation and landform or other features which distinguish the land. |
| 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 commercial zones. • To ensure that where any development adjoins zoned or developed residential properties, the development is suitably set back, screened or otherwise treated so as not to detract from the residential amenity. |
| General Industry | <ul style="list-style-type: none"> • To provide for a broad range of industrial, service and storage activities which, by the nature of their operations, should be isolated from residential and other sensitive land uses. • To accommodate industry that would not otherwise comply with the performance standards of light industry. • Seek to manage impacts such as noise, dust and odour within the zone. |
| District Centre | <ul style="list-style-type: none"> • To provide a community focal point for people, services, employment and leisure that are highly accessible. • To provide for District Centres to focus on weekly needs and services for a wider district catchment. • To provide a broad range of employment opportunities to encourage diversity within the District Centre. • To ensure a mix of commercial and residential development, which provides for activity and accessibility at the street level and supports the provision of public transport and pedestrian links. • To provide for a wide range of different types of residential accommodation, including high density residential, to meet the diverse needs of the community. • To ensure that development is not detrimental to the amenity of adjoining owners/occupiers and/or residential properties in the locality. |
| Commercial | <ul style="list-style-type: none"> • To provide for a range of shops, offices, restaurants and other commercial facilities in defined townsites or activity centres. • 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 or to improve the existing streetscape. • To ensure that development is not detrimental to the amenity of adjoining owners/occupiers and/or residential properties in the locality. |
| Mixed-Use Residential | <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 ground/upper levels. • To allow for the development of a mix of varied but compatible land uses such as housing, offices, showrooms, amusement centres, eating establishments and appropriate industrial activities which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents. |
| Service Commercial | <ul style="list-style-type: none"> • To accommodate commercial activities which, because of the nature of the business, require good vehicular access and/or large sites. • To 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 commercial centres or industrial zones. |

| Zone name | Objectives |
|-----------------------------------|---|
| Private Community Purposes | <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 separate potentially noisy engine sports from incompatible uses. 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. |
| Cultural and Natural Resource Use | <ul style="list-style-type: none"> To support the preservation of Aboriginal heritage and culturally significant areas. To provide for the conservation of landscape and environmental areas and values. To provide for economic development that balances cultural and conservation values. Allow for low impact tourism development including limited tourist accommodation and camping areas. Allow land uses associated with Aboriginal heritage, traditional law and culture. |

17. Zoning table

(1) The zoning table for this Scheme is as follows—

Table 3—Zoning Table

| Land Use Class | Zones | | | | | | | | | | | | Urban Development |
|------------------------------------|-------------|-------------------|-------|----------------------|----------------|------------------|-----------------|------------|-----------------------|--------------------|----------------------------|-----------------------------------|-----------------------|
| | Residential | Rural Residential | Rural | Priority Agriculture | Light Industry | General Industry | District Centre | Commercial | Mixed-Use Residential | Service Commercial | Private Community Purposes | Cultural and Natural Resource Use | |
| Abattoir | X | X | A | A | X | X | X | X | X | X | X | X | Refer to clause 18(6) |
| Agriculture—Extensive ¹ | X | X | P | P | X | X | X | X | X | X | X | P | |
| Agriculture—Intensive ¹ | X | X | P | P | X | X | X | X | X | X | X | D | |
| Airfield | X | X | A | X | X | X | X | X | X | X | X | X | |
| Amusement Parlour | X | X | X | X | X | X | D | A | X | A | X | X | |
| Ancillary Dwelling | P | D | D | A | X | X | X | X | D | X | X | D | |
| Animal Establishment | X | X | A | A | A | X | X | X | X | X | X | A | |
| Animal Husbandry—Intensive | X | X | A | A | X | X | X | X | X | X | X | A | |
| Art Gallery | X | A | D | A | X | X | P | D | D | D | X | A | |
| Bed and Breakfast | A | A | D | A | X | X | X | X | A | X | X | D | |
| Betting Agency | X | X | X | X | X | X | D | D | A | A | X | X | |
| Brewery | X | X | A | A | A | A | I | I | X | A | X | A | |
| Bulky Goods Showroom | X | X | X | X | X | X | X | D | X | P | X | X | |
| Camping Ground | X | X | D | A | X | X | X | X | X | X | X | A | |
| Caravan Park | X | X | D | A | X | X | X | X | X | X | X | A | |

| Land Use Class | Zones | | | | | | | | | | | | Urban Development |
|----------------------------|-------------|-------------------|-------|----------------------|----------------|------------------|-----------------|------------|-----------------------|--------------------|----------------------------|-----------------------------------|-----------------------|
| | Residential | Rural Residential | Rural | Priority Agriculture | Light Industry | General Industry | District Centre | Commercial | Mixed-Use Residential | Service Commercial | Private Community Purposes | Cultural and Natural Resource Use | |
| Caretakers Dwelling | X | X | I | I | I | I | I | X | X | I | X | I | Refer to clause 18(6) |
| Car Park | X | X | X | X | P | P | P | P | A | P | A | X | |
| Child Care Premises | A | A | A | X | X | X | A | A | A | A | A | A | |
| Cinema/Theatre | X | X | A | A | X | X | P | A | A | A | A | X | |
| Civic Use | A | A | A | A | D | D | P | P | A | D | D | X | |
| Club Premises | A | A | A | A | A | X | D | D | X | D | D | X | |
| Commercial Vehicle Parking | X | X | D | D | P | P | I | I | I | I | X | X | |
| Community Purpose | A | A | A | A | A | X | P | P | A | D | P | X | |
| Consulting Rooms | A | X | X | X | X | X | P | P | D | A | X | X | |
| Convenience Store | A | X | X | X | X | X | X | P | A | A | X | X | |
| Corrective Institution | X | X | A | X | X | X | X | X | X | X | X | X | |
| Education Establishment | A | A | A | A | A | X | A | D | A | A | P | D | |
| Exhibition Centre | X | X | A | A | X | X | P | P | A | A | A | X | |
| Family Day Care | A | A | D | A | X | X | X | X | A | X | X | X | |
| Fast Food Outlet | X | X | X | X | X | X | D | D | X | D | X | X | |
| Freeway Service Centre | X | X | A | A | X | X | X | X | X | X | X | X | |
| Fuel Depot | X | X | X | X | P | P | X | X | X | X | X | X | |
| Funeral Parlour | X | X | X | X | D | X | D | D | A | D | X | A | |
| Garden Centre | X | X | D | A | D | D | I | I | X | P | X | D | |
| Grouped Dwelling | P | X | X | X | X | X | X | X | D | X | A | D | |
| Holiday Accommodation | A | X | A | A | X | X | D | X | X | X | X | X | |
| Holiday House | A | A | A | A | X | X | X | X | A | X | X | P | |
| Home Business | A | A | A | A | X | X | D | A | A | X | A | D | |
| Home Occupation | D | D | D | D | X | X | P | P | P | X | A | P | |
| Home Office | P | P | P | P | X | X | P | P | P | X | P | I | |
| Home Store | A | X | X | X | X | X | X | X | A | X | A | X | |
| Hospital | X | X | X | X | X | X | A | X | X | X | A | X | |
| Hotel | X | X | X | X | X | X | D | A | A | X | X | X | |
| Industry | X | X | X | X | X | P | X | X | X | X | X | X | |
| Industry—Extractive | X | X | A | A | X | P | X | X | X | X | X | D | |
| Industry—Light | X | X | X | X | P | P | X | X | X | A | X | X | |

| Land Use Class | Zones | | | | | | | | | | | | |
|---------------------------------------|-------------|-------------------|-------|----------------------|----------------|------------------|-----------------|------------|-----------------------|--------------------|----------------------------|-----------------------------------|-----------------------|
| | Residential | Rural Residential | Rural | Priority Agriculture | Light Industry | General Industry | District Centre | Commercial | Mixed-Use Residential | Service Commercial | Private Community Purposes | Cultural and Natural Resource Use | Urban Development |
| Industry—Primary Production | X | X | A | D | D | D | X | X | X | X | X | X | Refer to clause 18(6) |
| Liquor Store—Large | X | X | X | X | X | X | A | X | X | A | X | X | |
| Liquor Store—Small | X | X | X | X | X | X | A | A | A | A | X | X | |
| Lunch Bar | X | X | X | X | D | D | A | A | X | D | X | X | |
| Marina | X | X | X | X | X | X | X | X | X | X | X | X | |
| Marine Filling Station | X | X | X | X | X | X | X | X | X | X | X | X | |
| Market | X | X | A | A | X | X | P | D | A | D | X | A | |
| Medical Centre | X | X | X | X | X | X | P | D | A | A | A | X | |
| Mining Operations ² | X | X | A | A | X | A | X | X | X | X | X | D | |
| Motel | X | X | X | X | X | X | D | A | A | X | X | X | |
| Motor Vehicle, Boat or Caravan Sales | X | X | X | X | A | X | X | X | X | P | X | X | |
| Motor Vehicle Repair | X | X | X | X | P | P | X | X | X | D | X | X | |
| Motor Vehicle Wash | X | X | X | X | D | X | X | A | X | D | X | X | |
| Multiple Dwelling | D | X | X | X | X | X | D | A | A | X | A | A | |
| Night Club | X | X | X | X | X | X | A | X | X | A | X | X | |
| Office | X | X | X | X | I | I | P | D | D | D | X | X | |
| Park Home Park | X | X | A | X | X | X | X | X | X | X | X | X | |
| Place of Worship | A | X | A | X | X | X | A | A | A | A | P | D | |
| Produce Sales | X | A | D | A | X | X | X | X | X | X | X | X | |
| Reception Centre | X | X | A | X | X | X | A | A | A | A | A | A | |
| Recreation—Private | X | X | A | X | D | X | P | D | A | A | A | A | |
| Renewable Energy Facility | X | X | A | A | A | A | X | X | X | X | X | A | |
| Repurposed Dwelling | D | D | D | A | X | X | X | X | D | X | X | D | |
| Residential Aged Care Facility | P | X | X | X | X | X | A | A | P | X | A | X | |
| Resource Recovery Centre | X | X | X | X | X | A | X | X | X | X | X | A | |
| Restaurant/Café | X | X | I | I | X | X | P | P | D | A | X | D | |
| Restricted Premises | X | X | X | X | X | X | A | A | A | A | X | X | |
| Road House | X | X | A | A | A | A | A | A | X | A | X | X | |
| Rural Home Business | X | A | A | A | X | X | X | X | X | X | X | X | |
| Rural Pursuit/Hobby Farm ¹ | X | D | P | P | X | X | X | X | X | X | X | P | |
| Second-hand Dwelling | D | D | D | A | X | X | X | X | D | X | X | D | |

| Land Use Class | Zones | | | | | | | | | | | |
|-----------------------------------|-------------|-------------------|-------|----------------------|----------------|------------------|-----------------|------------|-----------------------|--------------------|----------------------------|-----------------------------------|
| | Residential | Rural Residential | Rural | Priority Agriculture | Light Industry | General Industry | District Centre | Commercial | Mixed-Use Residential | Service Commercial | Private Community Purposes | Cultural and Natural Resource Use |
| Serviced Apartment | A | X | X | X | X | X | D | A | A | X | A | A |
| Service Station | X | X | X | X | D | D | X | A | X | A | X | A |
| Shop | X | X | X | X | X | X | P | P | D | X | X | X |
| Single House | P | P | P | P | X | X | X | X | P | X | A | D |
| Small Bar | X | X | X | X | X | X | A | A | A | X | X | X |
| Tavern | X | X | X | X | X | X | A | A | A | X | X | X |
| Telecommunications Infrastructure | A | A | A | A | A | A | A | A | A | A | A | D |
| Tourist Development | X | X | A | X | X | X | D | D | A | X | X | D |
| Trade Display | X | X | X | X | A | A | X | X | X | I | X | X |
| Trade Supplies | X | X | X | X | D | D | X | A | A | P | X | X |
| Transport Depot | X | X | X | X | D | D | X | X | X | D | X | A |
| Tree Farm | X | X | P | D | X | X | X | X | X | X | X | D |
| Veterinary Centre | X | X | D | A | D | X | P | D | A | A | X | A |
| Warehouse/Storage | X | X | A | A | P | P | X | X | X | P | X | X |
| Waste Disposal Facility | X | X | X | X | X | A | X | X | X | X | X | X |
| Waste Storage Facility | X | X | X | X | A | A | X | X | X | X | A | X |
| Winery | X | X | D | D | X | X | X | X | X | X | X | A |
| Workforce Accommodation | X | X | A | A | X | A | X | X | X | X | X | X |

Refer to clause 18(6)

¹ Refer to Schedule A – Supplemental Provisions to the Deemed Provisions clause 61(2)(g);² Refer to Schedule 3 – DR7 – Mining Operations.**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 list of use classes on the left hand side of the zoning table and the list of zones at the top of the zoning table.
- (2) The symbols used in the zoning table have the following meanings—
- P means that the use is permitted if it complies with any relevant development standards and 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 standards and 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 advertising the application in accordance with clause 64 of the deemed provisions
 - X means that the use is not permitted by this Scheme.

Notes for this clause—

- 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.
- Under clause 61 of the deemed provisions, certain works and uses are exempt from the requirement for development approval.
- Clause 67 of the deemed provisions deals with the consideration of applications for development approval by the local government. Under that clause, development approval cannot be granted for development that is a class X use in relation to the zone in which the development is located, except in certain circumstances where land is being used for a non-conforming use.

- (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 the local government; or
 - (b) determine that the use may be consistent with the objectives of a particular zone and advertise under clause 64 of the deemed provisions before considering an application for development approval for the use of the land; or
 - (c) determine that the use is not consistent with the objectives of a 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 that are to be undertaken in connection with that use to have development approval.
- (6) 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) a local development plan

19. Additional uses

- (1) The Table in Schedule 1 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.
- (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 in Schedule 2 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.
- (2) Despite anything contained in the zoning table, 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) There are no special use zones which apply to this 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 the 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 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) the 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 ensure that an up-to-date copy of the register is published in accordance with clause 87 of the deemed provisions.
- (3A) Subclause (3)(b) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.
- (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 ensure that the R-Codes are published in accordance with clause 87 of the deemed provisions.
- (2A) Subclause (2) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.
- (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 the boundaries of the area shown on the Scheme Map.
- (4) The R-Codes apply to an area if—
 - (a) the area has a coding number superimposed on it in accordance with subclause (3); or
 - (b) a provision of this Scheme provides that the R-Codes apply to the area.

26. Modification of R-Codes

- (1) Where a lot has a dual residential density coding, for the purposes of assessing and determining applications for development approval and/or when making a recommendation to the Commission in respect of subdivision, except that the local government may approve development and support subdivision to the higher density coding providing—
 - (a) it achieves all relevant design principles and/or deemed-to-comply provisions of the Residential Design Codes to the satisfaction of the local government; and
 - (b) it is consistent with any relevant Local Planning Policy to the satisfaction of the local government; and
 - (c) It is consistent with any provisions of any relevant planning instrument governing the control of development within a Special Control Area to the satisfaction of the local government and any other relevant public authority; and
 - (d) it retains the heritage values of the premises where included on the Heritage List in accordance with the Scheme and any relevant Local Planning Policy to the satisfaction of the local government; and
 - (e) reticulated sewerage is or becomes available to the land subject to the provisions of the Government Sewerage Policy; or
 - (f) the development is facilitating a mixed-use development within the Mixed-Use Residential zone.
- (2) Notwithstanding the minimum and average site area and plot ratio requirements of the Residential Design Codes, Council may, at its discretion, grant development approval after giving notice in accordance with clause 64 of the deemed provisions for the development of Grouped Dwelling(s) and/or Multiple Dwelling(s) on a property with a density coding of R40 or greater where the lot is over 600m² in size and the development complies with all of the following criteria—
 - (a) Any new dwelling shall have a maximum gross floor area of 120 square metres
 - (b) A maximum of three dwellings, including any existing dwelling(s), on lots 750m² or less. On lots over 750m², one additional dwelling for every 150m² in excess of 750m² may be approved

- (c) A maximum of one vehicle parking bay shall be provided for each new dwelling and a maximum of two car bays shall be provided for any existing dwelling on the development site
- (d) Visitor parking shall not be provided for developments of less than 5 dwellings
- (e) A minimum of 70% open space, as defined by the R-Codes, shall be provided over the entire development site unless otherwise provided for in a local planning policy.

These requirements are not capable of variation under clause 36. Other buildings, including outbuildings, are only permitted on the development site where these requirements are met.

- (3) Within areas coded R15, the other/rear setback shall be assessed in accordance with the R20 code.
- (4) For lots coded Residential R2.5 and R5, the minimum setback from side boundaries shall be 6 metres.

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

- (1) *State Planning Policy 3.6—Infrastructure Contributions*, modified as set out in clause 28, is to be read as part of this Scheme.
- (2) The local government must ensure that State Planning Policy 3.6 is published in accordance with clause 87 of the deemed provisions.
- (3) Subclause (2) is an ongoing publication requirement for the purposes of clause 87(5)(a) of the deemed provisions.

28. Modification of State Planning Policy 3.6

- (1) There are no modifications to State Planning Policy 3.6.

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

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

30. Modification of State planning policies

- (1) 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

- (1) There are no environmental conditions imposed under the *Environmental Protection Act 1986* that apply to this Scheme.

32. Additional site and development requirements

- (1) The Table in Schedule 3 sets out the requirements relating to development that are additional to those set out in the R-Codes, precinct structure plans, local development plans, State or local planning policies.
- (2) To the extent that a requirement referred to in subclause (1) is inconsistent with a requirement in the R-Codes, a precinct structure 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 that apply to zones in the Scheme Area

- (1) The Table in Schedule 4 sets out requirements relating to development in Zones in the Scheme Area.
- (2) To the extent that a requirement referred to in subclause (1) is inconsistent with a requirement in the R-Codes, a precinct structure plan, a local development plan or a State or local planning policy, the requirement referred to in subclause (1) prevails.

34. Additional site and development requirements for areas covered by structure plan or local development plan

- (1) The Table in Schedule 5 sets out requirements relating to development that are included in precinct structure plans, structure plans approved before 19 October 2015 and local development plans that apply in the Scheme area.
- (2) To the extent that a requirement referred to in subclause (1) is inconsistent with a requirement in the R-Codes, a precinct structure plan, a local development plan or a State or local planning policy, the requirement referred to in subclause (1) prevails.

35. Additional site and development requirements for other land in the Scheme Area

- (1) The Table in Schedule 6 sets out the requirements relating to development that are additional to those set out in the R-Codes, precinct structure plans, local development plans, State or local planning policies.
- (2) To the extent that a requirement referred to in subclause (1) is inconsistent with a requirement in the R-Codes, a precinct structure plan, a local development plan or a State or local planning policy the requirement referred to in subclause (1) prevails.

36. Variations to site and development requirements

- (1) In this clause—
additional site and development requirements means requirements set out in clauses 32-35.
- (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(4) 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(2) 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.

37. 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 advertises the application for development approval in accordance with clause 64 of the deemed provisions.

PART 5—SPECIAL CONTROL AREAS

38. Special control areas

- (1) Special control areas are marked on the Scheme Map according to the legend on the Scheme Map.
- (2) The purpose, objectives and additional provisions that apply to each special control area is set out in the table in Schedule 7.

PART 6—TERMS REFERRED TO IN SCHEME

Division 1—General definitions used in Scheme

39. Terms used

- (1) If a word or expression used in this Scheme is listed in this clause, its meaning is as follows—

Building envelope means the area of land within which all buildings and effluent disposal facilities on a lot must be contained.

Cabin means a dwelling forming part of a tourist development or caravan park that is—
 - (a) an individual unit other than a chalet; and
 - (b) designed to provide short-term accommodation for guests.

Chalet means a dwelling forming part of a tourist development or caravan park that is—
 - (a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and
 - (b) designed to provide short-term accommodation for guests.

Commercial vehicle means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including—
 - (a) a utility, van, truck, tractor, bus or earthmoving equipment; and
 - (b) a vehicle that is or is designed to be an attachment to a vehicle referred to in paragraph (a).

Floor area has the meaning given in the Building Code.

Minerals has the meaning given in the *Mining Act 1978* section 8(1).

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.

Scheme commencement day means the day on which this Scheme comes into effect under section 87(4) of the Act;

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.

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—

(a) has the meaning it has in the *Planning and Development Act 2005*; or

(b) 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

40. Land use terms used

(1) If this Scheme refers to a category of land use that is listed in this provision, the meaning of that land use is as follows—

Abattoir means premises used commercially for the slaughtering of animals for the purposes of consumption as food products.

Agriculture—extensive means premises used for the raising of stock or crops including outbuildings and earthworks, but does not include agriculture—intensive or animal husbandry—intensive.

Agriculture—intensive means premises used for commercial production purposes, including outbuildings and earthworks, associated with any of the following—

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

Airfield means an area of land or water (including any buildings, installations and equipment), the use of which as an aerodrome is certified under the regulations made under the *Civil Aviation Act 1988*, being such an area intended for use wholly or partly for the arrival, departure or movement of aircraft;

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.

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

Animal husbandry—intensive means premises used for keeping, rearing or fattening of alpacas, beef and dairy cattle, goats, pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production), sheep or other livestock in feedlots, sheds or rotational pens, but does not include agriculture-extensive.

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 agency 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.

Camping ground means premises that are a camping ground as defined in the *Caravan Parks and Camping Grounds Act 1995*.

Caravan park means premises that are a caravan park as defined in the *Caravan Parks and Camping Grounds Act 1995* section 5 (1).

Caretaker's dwelling means a dwelling on the same site as a building, operation or plant used for industry, 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 childcare 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—

- (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—

- (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 the *Education and Care Services National Law (Western Australia)* is provided.

Fast food outlet 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—

- (a) without further preparation; and
- (b) primarily off the premises.

Freeway service centre means premises that has direct access to a freeway and which provides all the following services or facilities and may provide other associated facilities or services but does not provide bulk fuel services—

- (a) service station facilities
- (b) emergency breakdown repair for vehicles

- (c) charging points for electric vehicles
- (d) facilities for cyclists
- (e) restaurant, cafe or fast-food services, excluding the sale or consumption of alcohol under the *Liquor Licensing Act 1988*
- (f) take-away food retailing, without a drive-through facility;
- (g) public ablution facilities, including provision for disabled access and infant changing rooms
- (h) parking for passenger and freight vehicles
- (i) outdoor rest stop facilities such as picnic tables and shade areas; and
- (j) Dump points for the disposal of black and/or grey water from recreational vehicles.

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—

- (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

- (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.

Holiday accommodation means 2 or more dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot.

Holiday house means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast.

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—

- (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—

- (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 *Health Services Act 2016* section 8(4);

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 or
- (e) incidental purposes.

Industry—extractive means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any of the following purposes—

- (a) the processing of raw materials including crushing, screening, washing, blending or grading
- (b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration.

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.

Industry—primary production means premises used—

- (a) to carry out a primary production business as that term is defined in the *Income Tax Assessment Act 1997 (Commonwealth)* Section 995-1; or
- (b) for a workshop servicing plant or equipment used in primary production businesses.

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.

Lunch bar means premises within an industrial or commercial area used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation with a net lettable area of not more than 100m², but does not include a fast food outlet or restaurant/cafe.

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.

Marine 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.

Mining operations means premises where mining operations, as that term is defined in the *Mining Act 1978* section 8(1), is carried out.

Motel means premises, which may be licensed under the *Liquor Control Act 1988*—

- (a) used to accommodate guests in a manner similar to a hotel and
- (b) with specific provision for the accommodation of guests with motor vehicles.

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 *Liquor Control Act 1988*.

Office means premises used for administration, clerical, technical, professional or similar business activities.

Park home park means premises used as a park home park as defined in the *Caravan Parks and Camping Grounds Regulations 1997* Schedule 8.

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.

Renewable energy facility means premises used to generate energy from a renewable energy source and includes any building or other structure used in, or relating to, the generation of energy by a renewable resource. It does not include renewable energy electricity generation where the energy produced principally supplies a domestic and/or business premises and any on selling to the grid is secondary.

Repurposed dwelling means a building or structure not previously used as a single house, which has been repurposed for use as a dwelling.

Residential aged care facility means a residential facility providing personal and/or nursing care primarily to people who are frail and aged or dependent persons which, as well as accommodation, includes: a) appropriate staffing to meet the nursing and personal care needs of residents b) meals and cleaning services c) furnishings, furniture and equipment. This may consist of multiple components that include communal amenities and land uses for residents and staff that are incidental and ancillary to the provision of such accommodation, residential respite (short-term) care and an independent living complex, but does not include a hospital, rehabilitation or psychiatric facility.

Resource recovery centre means premises other than a waste disposal facility used for the recovery of resources from waste.

Restaurant/café 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 *Liquor Control Act 1988*.

Restricted premises means premises used for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of—

- (a) publications that are classified as restricted under the *Classification (Publications, Films and Computer Games) Act 1995* (Commonwealth); 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.

Road house means premises that has direct access to a State road other than a freeway and which provides the services or facilities provided by a freeway service centre and may provide any of the following facilities or services—

- (a) a full range of automotive repair services
- (b) wrecking, panel beating and spray painting services
- (c) transport depot facilities
- (d) short-term accommodation for guests
- (e) facilities for being a muster point in response to accidents, natural disasters and other emergencies and
- (f) dump points for the disposal of black and/or grey water from recreational vehicles.

Rural 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 occupation—

- (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 200 m² and
- (d) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood and
- (e) does not involve the presence, use or calling of more than 3 vehicles at any one time or of a vehicle more than 30 tonnes gross weight.

Rural pursuit/hobby farm means any premises, other than premises used for agriculture—extensive or agriculture—intensive, that are used by an occupier of the premises to carry out any of the following activities if carrying out of the activity does not involve permanently employing a person who is not a member of the occupier's household—

- (a) the rearing, agistment, stabling or training of animals
- (b) the keeping of bees
- (c) the sale of produce grown solely on the premises.

Second-hand dwelling means a dwelling that has been in a different location, and has been dismantled and transported to another location, but does not include a new modular or transportable dwelling.

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 *Liquor Control Act 1988*.

Tavern means premises the subject of a tavern licence granted under the *Liquor Control Act 1988*.

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.

Tourist development means a building, or a group of buildings forming a complex, other than a bed and breakfast, a caravan park or holiday accommodation, used to provide—

- (a) short-term accommodation for guests and
- (b) onsite facilities for the use of guests and
- (c) facilities for the management of the development.

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—

- (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.

Tree farm means land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the *Carbon Rights Act 2003* section 5.

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

- (a) the storage of goods, equipment, plant or materials or
- (b) the display or the sale by wholesale of goods.

Waste disposal facility means premises used—

- (a) for the disposal of waste by landfill or
- (b) the incineration of hazardous, clinical or biomedical waste.

Waste storage facility means premises used to collect, consolidate, temporarily store or sort waste before transfer to a waste disposal facility or a resource recovery facility on a commercial scale.

Winery means premises used for the production of viticultural produce and associated sale of the produce.

Workforce accommodation means premises, which may include modular or relocatable buildings, used—

- (a) primarily for the accommodation of workers engaged in construction, resource, agricultural or other industries on a temporary basis and
- (b) for any associated catering, sporting and recreation facilities for the occupants and authorised visitors.

SCHEDULES—

- Schedule A—Supplemental provisions to the deemed provisions
 - Schedule 1—Additional Uses for zoned land in Scheme Area
 - Schedule 2—Restricted Uses for zoned land in Scheme Area
 - Schedule 3—Additional Site and Development Requirements
 - Schedule 4—Additional Site and Development Requirements by zone
 - Schedule 5—Additional Site and Development Requirements that apply to land covered by structure plan or local development plan
 - Schedule 6—Additional Site and Development Requirements for other land in the Scheme Area.
 - Schedule 7—Special Control Areas in Scheme area
 - Schedule 8—Development Contribution Plans
-

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*.

13A Register of Significant Trees

- (1) In this clause—

Significant Tree means a tree, group of trees or area designated under sub-clause (2);

Register of Significant Trees means a list of trees, groups of trees or areas designated under sub-clause (4);

Note: The purpose of this part is to provide for the identification of individual trees, types or groups of trees as being significant so that development in the Scheme can, as far as possible, be consistent with the preservation of these significant assets.

- (2) The local government, having due regard to—
- (a) the historical, cultural heritage or ecological significance of a tree
 - (b) the amenity or aesthetic quality of a tree
 - (c) the rarity of a tree
 - (d) any other characteristic which in the opinion of the local government makes the tree worthy of preservation
 - (e) the advice of any responsible public authority and
 - (f) any submissions received,
- may establish and maintain a Register of Significant Trees to identify trees within the scheme area that are worthy of preservation.
- (3) An entry into the Register of Significant Trees may be made in respect of an individual tree, a group of trees, or an area that contains trees.
- (4) The Register of Significant Trees—
- (a) must set out a description of each tree and the reason for its entry in the Register of Significant Trees
 - (b) must be available, with the Scheme documents, for public inspection during business hours at the offices of the local government and
 - (c) may be published on the website of the local government.
- (5) The local government must not enter a tree in, or remove a tree from, the register or modify the entry of a tree in the register, unless the local government—
- (a) notifies in writing each owner and occupier of the place where the tree is located and provides each of them with a description of the tree and the reasons for the proposed entry
 - (b) invites each owner and occupier to make submissions on the proposal within 21 days of the day on which the notice is served or within a longer period specified in the notice
 - (c) carries out any other consultation the local government considers appropriate and
 - (d) following any consultation and consideration of the submissions made on the proposal, resolves that the tree(s) or area be entered into, removed from or entry modified in the Register of Significant Trees.
- (6) After an area or tree(s) has been entered in the Register of Significant Trees, a notification in the form of a memorial is to be placed on the Certificate(s) of Title of a lot or proposed lot(s), advising the existence of a Significant Tree in accordance with section 70A of the *Transfer of Land Act 1893*, to the satisfaction of the local government and at the landowner's cost.
- (7) The local government's prior development approval is required in order to clear a tree(s) contained within the Register of Significant Trees, except for a tree that—
- (a) presents an immediate risk of personal injury or damage to property

- (b) must be cleared where necessary and only to the extent necessary—
 - (i) for the purposes of fire prevention or for access for public services or utilities; or
 - (ii) for the commencement or carrying out of development in accordance with a development approval granted under Part 9 of the Deemed Provisions; or
 - (iii) for the carrying out of any condition of subdivision approval for which approval is deemed to be given under Part 10 of the *Planning and Development Act 2005*; or
 - (iv) where expressly required by the terms of a written law.
- (8) In determining an application for development approval to clear a tree(s) which is on the Register of Significant Trees, the local government may refuse the application, or approve the application with or without conditions.
- (9) In considering an application for development approval to clear a tree(s) which is on the Register of Significant Trees, the local government is to have due regard to—
 - (a) the significance of the tree(s) taking into account the matters listed in sub-clause (2) and the information contained within the Register of Significant Trees
 - (b) the effect of any revegetation programme or any imposed or proposed revegetation condition associated with the development application
 - (c) any advice received from a relevant statutory, public or planning authority
 - (d) any advice or recommendations contained within an arboriculturist report, which is to be prepared at the full cost of the applicant; and
 - (e) any other matter which the local government considers relevant.
- (10) Any person who fells a tree that is within a Register of Significant Trees without the prior approval of the local government, contravenes the provisions of the Scheme.
- (11) If any tree on the Register of Significant Trees is cleared contrary to the provisions of the Scheme, the local government may, by notice served on the owner of the land to which the Significant Tree relates, require that the owner plant another tree of an appropriate size and species at the same place, and at the owner's cost, within 90 days of the notice being served on the owner or such other time as agreed between the local government and the owner.
- (12) If the owner fails to plant another tree as required under sub-clause (11), the local government may plant the tree and recover the cost of the tree and associated works from the owner.
- (13) In relation to any tree planted pursuant to sub-clause (11), the relevant entry on the Register of Significant Trees applies as it applied to the original tree.

61 Development for which development approval not required

- (1) Development approval of the local government is not required for the following works—
 - (k) the erection or extension of a single house on a lot if a single house is a permitted ("P") use in a zone where the R Codes do not apply, in which that lot is located and where the development standards set out in the Scheme for that particular zone (including boundary setbacks) are satisfied, unless the development is located in a place that is—
 - (i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
 - (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
 - (iii) included on a heritage list prepared in accordance with this Scheme; or
 - (iv) within an area designated under the Scheme as a heritage area; or
 - (v) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29; or
 - (vi) abutting an unconstructed road reserve or on a lot which does not have direct frontage to a gazetted road reserve.
 - (l) the erection or extension of an external fixture, boundary wall or fence, outbuilding, patio, pergola, veranda, garage, carport, water tank, or swimming pool on the same lot as a single house, or on a lot where a single house is under construction, if a single house is a permitted ("P") use in a zone where the R Codes do not apply, in which that lot is located and where the development standards set out in the Scheme for that particular zone (including boundary setbacks) are satisfied, unless the development is located in a place that is—
 - (i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
 - (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
 - (iii) included on a heritage list prepared in accordance with this Scheme; or
 - (iv) within an area designated under the Scheme as a heritage area; or
 - (v) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29; or
 - (vi) abutting an unconstructed road reserve or on a lot which does not have direct frontage to a gazetted road reserve.
 - (m) the erection or extension of a single house in an Urban Development Zone if the development is in accordance with an approved structure plan and/or an approved subdivision, and where it is consistent with other provisions within this Scheme.

- (n) the construction of non-residential agricultural development and buildings (such as sheds, yards, races and rainwater tanks) that are incidental to the main agriculture—extensive, agriculture—intensive, animal husbandry—intensive or industry—primary production use of the land, and where it is consistent with other provisions within this Scheme.
- (o) the clearing of vegetation that—
- is not specifically protected through a reserve, zone, special control area, entry on the significant tree register, structure plan, activity centre plan, local development plan, local planning policy or by any other provision of this Scheme; or
 - is within an approved building envelope; or
 - is associated with implementing approved development; or
 - is necessary for an approved access way; or
 - is the subject of an approved clearing permit; or
 - is dead, diseased or dangerous; or
 - is the removal of exotic species and/or declared weeds; or
 - is for general fire management or to comply with a requirement of an approved fire management plan.
- (2) Development approval of the local government is not required for the following uses—
- (g) Agriculture—Extensive, Agriculture—Intensive and Rural Pursuit / Hobby Farm for lots in a Rural or Priority Agriculture zone with an area of 15 hectares or greater. Notwithstanding the land use permissibility in Table 3—Zoning Table, these land uses are not permitted for lots in a Rural or Priority Agriculture zone with an area of less than 15 hectares unless the local government has exercised its discretion by granting development approval.

Schedule 1—Additional Uses for zoned land in Scheme area

| No. | Description of land | Additional use | Conditions |
|-----|---|--|--|
| AU1 | Lots 72 and 73 #57 to 77 Weld Road, Capel | The following land use classes are listed as permitted 'P' uses— <ul style="list-style-type: none"> Rural Pursuit / Hobby Farm | None. |
| AU2 | Lot 36 #54 South Western Highway, Boyanup | The following land use classes are listed as permitted 'P' uses— <ul style="list-style-type: none"> Industry—Service. | <ol style="list-style-type: none"> Development to be in accordance with the Residential Design Codes; Access to the lot to be limited to one crossover only. |
| AU3 | Lot 2 #2 Fisherman's Road, Stratham | The following land use classes are listed as permitted 'P' uses— <ul style="list-style-type: none"> Art Gallery; Industry—Light. The following land use classes are listed as incidental 'I' uses— <ul style="list-style-type: none"> Restaurant / Cafe | <ol style="list-style-type: none"> The Additional Uses to cease on 30 December 2034 being 20 years from the date of gazettal of the Shire of Capel Town Planning Scheme No. 7 Amendment 59, or within the date of any extension of time as agreed to by Main Roads WA and the Shire of Capel. A maximum of 20 car bays shall be provided on site including 6 bays for the Art Gallery and Industry—Light uses, with a maximum 14 bays designated to the incidental restaurant/cafe use. The restaurant (including any outdoor or alfresco areas) shall have a maximum seating capacity of 56 persons. The gross floor area of the restaurant (including alfresco and outdoor dining) shall not exceed the gross floor area of the Art Gallery and Industry—Light uses. Access shall be from Fisherman's Road only and is to be constructed and maintained to the satisfaction of Main Roads WA. |

| No. | Description of land | Additional use | Conditions |
|-----|--|---|--|
| AU4 | Lot 26 #1540 Bussell Highway Stratham | The following land use classes are listed as permitted 'P' uses— <ul style="list-style-type: none"> • Road house • Restaurant/Café • Shop | 1. The combined gross floor area of the Road House, Restaurant/Café and Shop uses shall not exceed 504m ² , of which a maximum of 160m ² may be utilised automotive repair services and/or wrecking, panel beating and spray painting services. Where automotive repair services and/or wrecking, panel beating and spray-painting services are not proposed, the combined gross floor area shall be limited to 344m ² . |
| AU5 | Lot 49 #158 Capel Drive, Capel | The following land use classes are listed as permitted 'P' uses— <ul style="list-style-type: none"> • Motel; • Reception Centre; • Restaurant/Café; • Shop. | None. |
| AU6 | Lot 105 #48 Peppermint Grove Road, Stirling Estate | The following land use classes are listed as permitted 'P' uses— <ul style="list-style-type: none"> • Camping Ground; • Caravan Park; • Caretaker's Dwelling; • Holiday Accommodation; • Liquor Store—Small; • Restaurant / Café; • Shop | 1. The combined gross floor area of the Liquor Store—Small, Restaurant/Café and Shop uses shall not exceed 300m ² ; 2. The proponent is to establish to the satisfaction of Council and the relevant state government agency that the fill levels proposed will provide adequate flood protection and that stormwater can be adequately contained on-site; 3. The effluent disposal system for the site is to be designed, constructed and maintained to the specification and satisfaction of Council and the relevant state government agencies. |
| AU7 | Lot 201 #33 Turner Street, Boyanup | The following land use classes are listed as permitted 'P' uses— <ul style="list-style-type: none"> • Caretaker's dwelling; • Car Park; • Community Purpose; • Holiday Accommodation; • Office; • Park Home Park; The following land use classes are listed as discretionary 'A' uses— <ul style="list-style-type: none"> • Recreation—Private | 1. Development and use of the land shall have due regard to the following approved plans— <ul style="list-style-type: none"> • Local structure plan and local development plan; • Noise Management Study; • Traffic Management Study; |
| AU8 | Lot 197 #28 Mangles Road, Stirling Estate | The following land use classes are listed as discretionary 'A' uses— <ul style="list-style-type: none"> • Recreation—Private; | 1. The maximum number of patrons permitted to attend functions shall be 80; 2. The preparation and sale of food shall be undertaken from a registered mobile food premises. 3. The total number of functions to be held in any calendar year shall not exceed seven (7). 4. The proponent shall provide details of onsite signage, onsite displays and material in advertising brochures providing awareness of mosquito-borne diseases and their management for patron education. 5. Any function shall not be conducted outside the hours of 4pm-8pm and only on a Sunday. |

| No. | Description of land | Additional use | Conditions |
|------|---|---|---|
| AU9 | Lot 9001 (P055485 9001), corner Norton Promenade / Parade Road, Dalyellup | <p>The following land use classes are listed as permitted 'P' uses—</p> <ul style="list-style-type: none"> • Residential Aged Care Facility; • Community Purpose; • Office; • Serviced Apartment; <p>The following land use classes are listed as discretionary 'D' uses—</p> <ul style="list-style-type: none"> • Hospital; • Medical Centre; • Restaurant / Café | None. |
| AU10 | Lot 1 #16580 South Western Highway, North Boyanup | <p>The following land use classes are listed as permitted 'P' uses—</p> <ul style="list-style-type: none"> • Industry—Light; • Office; • Warehouse / Storage; | <ol style="list-style-type: none"> 1. The development of a storage shed and workshop is limited to one building with horizontal dimensions of 30m by 10m; 2. Access to South Western Highway to be constructed and maintained to the satisfaction of Main Roads WA; |
| AU11 | Lot 9000 Hayfield Drive, Peppermint Grove Beach | <p>The following land uses are listed as permitted 'P' uses—</p> <ul style="list-style-type: none"> • Animal Establishment; • Art gallery; • Exhibition Centre; • Holiday Accommodation; • Reception Centre; • Restaurant / Café; • Rural Produce Store; | <ol style="list-style-type: none"> 1. A maximum of 5 units of Holiday Accommodation are permitted within the lot. |

Schedule 2—Restricted Uses for zoned land in Scheme area

| No. | Description of land | Restricted use | Conditions |
|------|--|--|------------|
| RU 1 | Pt Lot 3345 Bussell Highway, Capel; Lot 7 Bussell Highway, Capel; Lot 106 #120 Yearly Road, Capel; Pt Lot 1 John Hogg Road, Capel; Pt Lot 2 Bussell Highway, Capel; Pt Lot 3 Bussell Highway, Capel; Pt Lot 4 Bussell Highway, Capel; Pt Lot 6 #120 Yearly Road, Capel; Lot 4453 #120 Yearly Road, Capel; Lot 840 Matthews Road, Capel. | <p>The following land use classes are listed as permitted 'P' uses—</p> <ul style="list-style-type: none"> • Agriculture—Extensive; • Car park; • Fuel Depot; • Industry—Extractive; • Mining Operations; <p>The following land use classes are listed as permitted 'I' uses—</p> <ul style="list-style-type: none"> • Caretakers Dwelling; • Industry; • Warehouse / Storage; <p>The following land use classes are listed as discretionary 'A' uses—</p> <ul style="list-style-type: none"> • Rural pursuit / Hobby Farm; • Workforce Accommodation; | None |

| No. | Description of land | Restricted use | Conditions |
|------|--|--|--|
| RU 2 | Lot 56 #13 Jenkin Road, Capel; Lot 61 #13 Jenkin Road, Capel; Lot 64 #13 Jenkin Road, Capel; Lot 2 #13 Jenkin Road, Capel; Lot 182 #13 Jenkin Road, Capel. | The following land use classes are listed as permitted 'P' uses— <ul style="list-style-type: none"> • Industry—Extractive; The following land use classes are listed as permitted 'I' uses— <ul style="list-style-type: none"> • Caretakers Dwelling; • Office; | None. |
| RU 3 | Lot 160 #108 Vickery Road, Elgin | The following land use classes are listed as discretionary 'A' uses— <ul style="list-style-type: none"> • Recreation—Private; | 1. Any Recreation—Private use approved on the lot shall be restricted to the operation of a model aircraft club; |

Schedule 3—Additional site and development requirements

| No. | Title | Requirements |
|-----|--|---|
| DR1 | Development of lots abutting unconstructed roads or with no gazetted road access | <ol style="list-style-type: none"> 1. Development approval is required for all development abutting an unconstructed road reserve or on a lot which does not have direct frontage to a gazetted road reserve, pursuant to Supplemental Provisions 61(1)(k)(vi) and 61(1)(l)(vi). 2. In considering such a proposal, the local government may— <ol style="list-style-type: none"> a. refuse to grant development approval until the road has been constructed or direct access to a constructed road is provided; or b. grant development approval subject to a condition requiring the applicant to contribute to the full or partial cost of constructing the road as determined by the local government; or c. where dedicated road access is available, grant development approval subject to a condition requiring the applicant to pay a sum of money in whole or in part towards the cost of constructing the road or part thereof; or d. where gazetted road access is not available, consider other legal arrangements to be made for permanent legal access to the satisfaction of the local government, addressing the following— <ol style="list-style-type: none"> (i) permanent access being secured (ii) the location of the access (iii) access being constructed and maintained and (iv) a notification is to be placed on the certificate of title of the land alerting landowners that the lot does not have access to a constructed public road and alternative access arrangements must be maintained, both physically and legally. |

| | | |
|-----|---------------------------------------|---|
| DR2 | Building Envelopes | <ol style="list-style-type: none"> 1. All buildings and effluent disposal facilities in the Residential R2.5, R5 and Rural Residential zones must be located within an approved building envelope (as may be shown on an approved Structure Plan, Local Development Plan or approved building envelope plan). 2. No development is permitted outside of the designated building envelope, except for— <ol style="list-style-type: none"> (a) Provision of a suitable access way to the building envelope (b) Provision of suitable boundary fencing as approved by the local government and (c) development related to the implementation of an approved bushfire management plan or any other general bushfire requirements. 3. Where a building envelope has not been designated, a plan shall be submitted identifying a building envelope, in a location to the satisfaction of the local government, on the plans submitted with any application for development approval that— <ol style="list-style-type: none"> (a) does not exceed 25% of the lot area, or 2,000m² whichever is the lesser (b) can be in no more than two separate areas which in total do not exceed the maximum area set out in subclause (2)(a) (c) complies with the minimum setback requirements of the R-Codes, other provisions in this Scheme or any setback requirements under an approved bushfire management plan (d) minimises the removal of remnant vegetation and (e) complies with any other fire management requirements. 4. The local government may approve a variation to, or relocation of a building envelope, subject to advertising in accordance with clause 64 of the Deemed Provisions, provided in each case it is satisfied that— <ol style="list-style-type: none"> (a) the objectives of the zone are not compromised (b) the visual amenity and rural character of the locality will not be affected to any greater degree by development within the proposed new building envelope to that which might have occurred within the building envelope as originally proposed (c) development within the proposed new building envelope will not render the protection of the property from the risk of bushfire any more difficult to achieve than would be the case with the approved building envelope and (d) the proposed size, shape and location of the building envelope can accommodate all buildings and effluent disposal facilities, and limit detrimental impacts on the environment. |
| DR3 | Re-purposed and second-hand dwellings | <ol style="list-style-type: none"> 1. The local government shall not grant development approval for a repurposed dwelling or second-hand dwelling unless it is satisfied that the development will— <ol style="list-style-type: none"> (a) be consistent with the character of the locality in which the development is proposed (b) maintain the amenity of the locality in which the development is proposed and (c) comply with any development standards of this Scheme or any R-Code standards applicable to the development 2. In considering the above, the local government will give particular consideration to the external appearance and materials used in the construction of the repurposed dwelling or second-hand dwelling. 3. The local government may advertise an application for development of repurposed dwellings or second-hand dwellings pursuant to Clause 64 of the Deemed Provisions. |

| | | |
|-----|-----------------------------------|---|
| DR4 | Water Supply | <ol style="list-style-type: none"> 1. Where a reticulated water supply network is available, all development requiring potable water is to connect to the supply. 2. Where a reticulated water supply network is not available— <ol style="list-style-type: none"> (a) each dwelling shall be provided with a minimum 135,000 litre water storage tank in addition to any requirements of an approved bushfire management plan; and (b) for all other uses, where applicable, sufficient quantity and quality of potable water shall be provided, to the satisfaction of the local government. 3. All water storage tanks are to be fitted with couplings for the purposes of firefighting, to the specifications of the relevant state government agency. 4. All applications for development approval for private water supply dams which seek to— <ol style="list-style-type: none"> (a) reduce or are likely to reduce the natural flow of any creek or watercourse; or (b) direct any storm water, other water or liquid from any source to any creek, watercourse or wetland, will only be permitted where it can be demonstrated, to the satisfaction of the local government, that there will be no adverse impacts on the creek, watercourse or wetland and/or environment of the area within which the development is proposed. 5. The local government in determining applications for the construction of private water dams will consider any advice provided by a relevant state government agency. 6. Where appropriate, the local government may approve the use of fit-for-purpose water, wastewater recycling and re-use, for the purposes of public open space management. In addition, the local government may require developers to hand over entitlement to any fit-for-purpose water supplies for the irrigation of green infrastructure for which the local government will have long term responsibility. |
| DR5 | Wastewater and drainage | <ol style="list-style-type: none"> 1. Sewage is to be discharged via a reticulated sewerage scheme, or where deemed appropriate by the relevant decision-maker, via an on-site sewage disposal system which meets the requirements of the relevant Government Sewerage Policy and is appropriate to the specific site and soil conditions. 2. Where relevant, all applications for development approval will only be permitted where it can be demonstrated, to the satisfaction of the local government, that— <ol style="list-style-type: none"> (a) the proposed drainage system manages stormwater runoff volume, timing and quality in an efficient manner; and (b) the proposed development will not result in significant adverse impacts on water-dependent ecosystems, including wetlands, waterways and estuaries. |
| DR6 | Telecommunications Infrastructure | <ol style="list-style-type: none"> 1. An application for development approval is required for the development of all Telecommunications Infrastructure excluding those listed under Schedule 3 of the <i>Telecommunications Act 1997</i> (Commonwealth) and the <i>Telecommunications Low Impact Facilities Determination 1997</i>. |
| DR7 | Mining Operations | <ol style="list-style-type: none"> 1. Whilst Mining Operations are exempt from the need for development approval under the Mining Act 1978, the local government may exercise its discretion to inform the Minister for Mines and the Minister for Planning in writing that the granting of a mining lease or general purpose lease is contrary to the provisions of the Scheme and the Local Planning Strategy. In providing advice to the Minister for Mines on the suitability of Mining Operations, the local government will be guided by the permissibility of this use in the zoning table. |
| DR8 | Building Height | <ol style="list-style-type: none"> 1. Any building height limit required by this Scheme does not apply to a chimney, mast, telecommunications infrastructure, satellite dish (not exceeding a diameter of 4 metres), pole, wind turbine or signal receiving or transmitting tower or other roof structures. Notwithstanding this, the proposed development is to be designed, sited and/or treated to ensure that it does not adversely impact upon the visual amenity of the locality, as determined by the local government. |

Schedule 4—Additional site and development requirements by zone

| Zone | Minimum lot size (hectares) | Minimum building setback (metres) | | | Maximum building height (metres) | Minimum landscaping (% of site area) |
|-------------------|--|--|------------------|-------------|----------------------------------|--------------------------------------|
| | | Primary street | Secondary street | Side / Rear | | |
| Residential | All site and development requirements are to be in accordance with R-Codes for residential and non-residential development, and other provisions within this Scheme. | | | | | |
| | Other Requirements: | 1) No person shall park a commercial vehicle within the Residential zone without the development approval of the local government. Where commercial vehicle parking is proposed it shall comply with the following— (a) only one commercial vehicle is to be parked on the lot; (b) the commercial vehicle is required as an essential part of a resident's occupation; (c) the commercial vehicle is to be parked behind the front building line of the dwelling and effectively screened from view from outside the lot; (d) no part of the commercial vehicle is to be parked on any portion of a right-of-way or public road contiguous with the lot; (e) servicing (major or minor) of the commercial vehicle shall not be undertaken on the lot; and (f) the commercial vehicle shall not be brought to or taken from the lot between the hours of midnight and 6.00 am. 2) For lots coded Residential R2.5 and R5, boundary fencing shall be visually permeable with a post and wire, rural-style design. Solid fencing for privacy purposes within a lot may be permitted where it will not impact upon the amenity and rural character of the area and adjoining lots; | | | | |
| Rural Residential | 2 | 20 | 20 | 20 | 9 | N/A |
| | Other Requirements: | 1) The subdivision of land is to be guided by an approved Structure Plan; 2) Boundary fencing shall be visually permeable with a post and wire, rural-style design. Solid fencing for privacy purposes within a lot may be permitted where it will not impact upon the amenity and rural character of the area and adjoining lots; 3) The keeping of livestock is permitted where— (a) Stocking rates do not exceed State government guidelines; (b) Livestock is confined to land that is cleared and adequately fenced; (c) The environmental impacts in terms of air, soil, water, noise, odour and native vegetation are within acceptable standards; 4) The use of reflective or colourful materials in a development will not be permitted where it adversely impacts upon the visual amenity of the area; 5) Where a lot is provided with a connection to a public reticulated water supply at the subdividers expense, the minimum lot size is 1 hectare. | | | | |
| Rural | N/A | 20 | 20 | 20 | Residential: 9; | N/A |
| | Other Requirements: | 1) No more than two dwellings are permitted on any rural lot; 2) The existence of a second dwelling on a rural lot is not a justification for subdivision. 3) The existing historic pattern of subdivision in a locality as justification to support further subdivision is not recognised. 4) Development approval is required for the provision of a second dwelling on a rural zoned lot. A second dwelling on a rural lot will only be permitted where the land is managed for agricultural, tourism, or education purposes or where an existing dwelling is included on the local government's Heritage List and/or on the Heritage Council's State Heritage. The latter will only apply where a dwelling is included on an applicable Heritage List and a suitable agreement between the applicant, the local government | | | | |

| Zone | Minimum lot size (hectares) | Minimum building setback (metres) | | | Maximum building height (metres) | Minimum landscaping (% of site area) |
|----------------------|-----------------------------|--|------------------|-------------|----------------------------------|--------------------------------------|
| | | Primary street | Secondary street | Side / Rear | | |
| | | and/or the state government will be required to be entered into to conserve and maintain the heritage significance of the dwelling. 5) Where appropriate, land uses which generate off-site impacts must demonstrate an appropriate separation distance from a sensitive land use or that potential impacts will be acceptable in order to preserve rural character and amenity, in accordance with state government guidance, to the satisfaction of the local government; 6) Where the land adjoins a State Forest Reserve or a National Park, the building setback from the common boundary shall be 100 metres; 7) Except in association with a permitted land use as identified on Table 3—Zoning Table, no person shall occupy a Camping Ground or Caravan Park for other than holiday accommodation wherein the total stay will be limited to a maximum of 3 months in any 12 month period; 8) The use of reflective or colourful materials in a development will not be permitted where it adversely impacts upon the visual amenity of the area. | | | | |
| | N/A | 20 | 20 | 20 | Residential: 9. | N/A |
| Priority Agriculture | Other Requirements: | 1) Development proposals for Agriculture—Extensive, Agriculture—Intensive, Animal Husbandry—Intensive and Rural Pursuit/Hobby Farm may, as required by the local government, be supported by a nutrient management plan, demonstrating that the proposal and nutrient management practices will not adversely impact surface or groundwater quality, to the satisfaction of the local government; 2) No more than two dwellings are permitted on any rural lot; 3) The existence of a second dwelling on a rural lot is not a justification for subdivision. 4) The local government will not recognise the existing historic pattern of subdivision in a locality as justification to support further subdivision. 5) Development approval is required for the provision of a second dwelling on a priority agriculture zoned lot. A second dwelling on a rural lot will only be permitted where the land is managed for agricultural, tourism, or education purposes or where an existing dwelling is included on the local government's Heritage List and/or on the Heritage Council's State Heritage. The latter will only apply where a dwelling is included on an applicable Heritage List and a suitable agreement between the applicant, the local government and/or the state government will be required to be entered into to conserve and maintain the heritage significance of the dwelling. 6) Where appropriate, land uses which generate off-site impacts must demonstrate an appropriate separation distance from a sensitive land use or that potential impacts will be acceptable in order to preserve rural character and amenity, in accordance with state government guidance, to the satisfaction of the local government; 7) Where the land adjoins State Forest Reserve or a National Park, the setback from the common boundary shall be 100 metres; 8) Except in association with a permitted land use as identified on Table 3—Zoning Table, no person shall occupy a Camping Ground or Caravan Park for other than holiday accommodation wherein the total stay will be limited to a maximum of 3 months in any 12 month period; 9) The use of reflective or colourful materials in a development will not be permitted where it adversely impacts upon the visual amenity of the area. | | | | |

| Zone | Minimum lot size (hectares) | Minimum building setback (metres) | | | Maximum building height (metres) | Minimum landscaping (% of site area) |
|------------------|-----------------------------|--|------------------|-------------|----------------------------------|--------------------------------------|
| | | Primary street | Secondary street | Side / Rear | | |
| Light Industry | 0.1 | 10 | 5 | 5 | 15 | 5% |
| | Other Requirements: | <p>1) Primary and secondary street setback areas shall be used only for the following purposes—</p> <ul style="list-style-type: none"> (a) an access driveway; (b) parking areas, including the daily parking of vehicles by employees and customers; (c) trade display; and (d) landscaping (minimum 2 metre wide strip). <p>2) Primary and secondary street setback areas shall not be used for the parking of vehicles which are being wrecked or repaired, the storage of materials, products, by-products or wastes or the storage of fuel, except in underground fuel tanks.</p> <p>3) A nil setback is allowed to one side boundary only;</p> <p>4) A trade display may be conducted within the primary and secondary street setback areas, where the trade display—</p> <ul style="list-style-type: none"> (a) does not occupy more than one-fifth of the area of the street setback within which it is proposed to be located; (b) is not located closer than 2 metres to a road reserve; and (c) in the opinion of the local government, the trade display will not adversely impact the streetscape or the amenity of the locality. <p>5) Loading/unloading areas to be located either inside buildings or to side/rear of the premises, separate from any publicly accessible areas.</p> <p>6) Notwithstanding the provisions of Table 3—Zoning Table, fast food outlets or other land uses that include a 'drive-through service' are not permitted.</p> | | | | |
| General Industry | 0.2 | 15 | 5 | 5 | 20 | 5% |
| | Other Requirements: | <p>1) Primary and secondary street setback areas shall be used only for the following purposes—</p> <ul style="list-style-type: none"> (a) an access driveway; (b) parking areas, including the daily parking of vehicles by employees and customers; (c) trade display; and (d) landscaping (minimum 2 metre wide strip). <p>2) Setback areas shall not be used for the parking of vehicles which are being wrecked or repaired, the storage of materials, products, by-products or wastes or the storage of fuel, except in underground fuel tanks.</p> <p>3) A nil setback is allowed to one side boundary only;</p> <p>4) A trade display may be conducted within the primary and secondary street setback areas, where the trade display—</p> <ul style="list-style-type: none"> (a) does not occupy more than one-fifth of the area of the street setback within which it is proposed to be located; (b) is not located closer than 2 metres to a road reserve; and (c) in the opinion of the local government, the trade display will not adversely impact the streetscape or the amenity of the locality. <p>5) Loading/unloading areas to be located either inside buildings or to side/rear of the premises, separate from any publicly accessible areas.</p> <p>6) Notwithstanding the provisions of Table 3—Zoning Table, fast food outlets or other land uses that include a 'drive-through service' are not permitted.</p> | | | | |

| Zone | Minimum lot size (hectares) | Minimum building setback (metres) | | | Maximum building height (metres) | Minimum landscaping (% of site area) |
|-----------------------|-----------------------------|---|------------------|-------------|----------------------------------|--------------------------------------|
| | | Primary street | Secondary street | Side / Rear | | |
| District Centre | No minimum | Nil | Nil | Nil | 12 | No minimum |
| | Other Requirements: | <ol style="list-style-type: none"> Where a lot adjoins a Residential or Mixed-Use Residential zone, setbacks and building heights adjacent to that zone are to be in accordance with the R-Codes; Developments constructed up to the primary street boundary shall where practical provide appropriate shelter over the pedestrian footpath in the form of an awning, canopy, balcony or verandah; Landscaping is to be in accordance with relevant Activity Centre Plan, Local Development Plan or Local Planning Policy or, if none exists, to the satisfaction of the local government; Loading/unloading areas to be located either inside buildings or to side/rear of the premises. Notwithstanding the provisions of Table 3—Zoning Table, fast food outlets or other land uses that include a 'drive-through service' are not permitted. Multiple dwellings within the District Centre zone must be part of a mixed-use development. | | | | |
| Commercial | No minimum | Nil | Nil | Nil | 9 | No minimum |
| | Other Requirements: | <ol style="list-style-type: none"> Where a lot adjoins a Residential or Mixed-Use Residential zone, setbacks and building heights adjacent to that zone are to be in accordance with the R-Codes; Developments constructed up to the primary street boundary shall where practical provide appropriate shelter over the pedestrian footpath in the form of an awning, canopy, balcony or verandah; Landscaping is to be in accordance with relevant Activity Centre Plan, Local Development Plan or Local Planning Policy, or if none exists, to the satisfaction of the local government; Loading/unloading areas to be located either inside buildings or to side/rear of the premises; Notwithstanding the provisions of Table 3—Zoning Table, a dwelling is not permitted at ground level immediately fronting— <ol style="list-style-type: none"> South Western Highway, Boyanup, Forrest Road, Capel and Bussell Highway, Gelorup. Notwithstanding the provisions of Table 3—Zoning Table, fast food outlets or other land uses that include a 'drive-through service' are not permitted on those lots having frontage to— <ol style="list-style-type: none"> South Western Highway, Boyanup, Forrest Road, Capel and Bussell Highway, Gelorup. Multiple dwellings within the Commercial zone must be part of a mixed-use development. | | | | |
| Mixed Use Residential | As per R-codes | Residential Development: as per R-Codes Non-Residential Development: Primary Street—2m; | | | 9 | 10% |
| | Other Requirements: | <ol style="list-style-type: none"> Where a lot adjoins residential development, setbacks and building heights adjacent to that use are to be in accordance with the R-Codes; Landscaping is to be in accordance with relevant Activity Centre Plan, Local Development Plan or Local Planning Policy or, if none exists, to the satisfaction of local government; | | | | |

| Zone | Minimum lot size (hectares) | Minimum building setback (metres) | | | Maximum building height (metres) | Minimum landscaping (% of site area) |
|-----------------------------------|--|---|------------------|-------------|---|--|
| | | Primary street | Secondary street | Side / Rear | | |
| | | 3) Loading/unloading areas to be located either inside buildings or to side/rear of the premises; 4) Notwithstanding the provisions of Table 3—Zoning Table, fast food outlets or other land uses that include a 'drive-through service' are not permitted. 5) Maximum net lettable area (nla) per lot (including a strata or survey lot)— (a) Office—200m ² ; and (b) Shop—300m ² . | | | | |
| Service Commercial | 0.1 | 10 | 5 | Nil | 12 | 10% |
| | Other Requirements: | 1) Where a lot adjoins residential development, setbacks and building heights adjacent to that use are to be in accordance with the R-Codes; 2) Landscaping is to be in accordance with relevant Activity Centre Plan, Local Development Plan or Local Planning Policy or, if none exists, to the satisfaction of the local government; 3) Loading/unloading areas to be located either inside buildings or to side/rear of the premises; | | | | |
| Private Community Purposes | No minimum | Residential Development: as per R-Codes Non-Residential Development: Primary Street—2m; | | | Residential: As per R-codes; Non-residential: 9 metres | Subject to local government discretion |
| | Other Requirements: | 1) Where a lot adjoins residential development, setbacks and building heights adjacent to that use are to be in accordance with the R-Codes; | | | | |
| Cultural and Natural Resource Use | Development requirements shall be determined by the local government on application | | | | | |
| Urban Development | Subdivision and development in the Urban Development zone shall be in accordance with a structure plan and/or activity centre plan prepared and approved in accordance with Part 4 of the Deemed Provisions, unless the proposed subdivision and development is approved by the decision-maker in accordance with Part 4, clause 27(2) of the Deemed Provisions. | | | | | |

Schedule 5—Additional site and development requirements that apply to land covered by structure plan or local development plan

| No. | Description of land | Requirement |
|-----|---------------------------|---|
| SR1 | Dalyellup District Centre | 1. The subdivider shall be responsible for all costs associated with the acquisition and construction of that portion of the proposed extension of Parade Road proposed to pass through Lot 1 (Deposited Plan D083461) #744 Bussell Highway, Dalyellup, as detailed in the Dalyellup East Local Structure Plan. |
| SR2 | Dalyellup South | 1. Prior to commencing the first stage of subdivision, the subdivider shall provide a strategy detailing that the district distributor and neighbourhood connector roads, including the upgrading of the Harewoods Road / Bussell Highway intersection, are constructed in a timely manner at the subdividers' cost, to the satisfaction of the Shire of Capel and Main Roads WA; 2. The subdivider shall, at the time of creating new lots, ensure that finished ground levels within the subdivision are at a minimum of 0.5m above the predicted 100-year average recurrence interval level for the Five Mile Brook Diversion Drain adjacent to the land; |

| No. | Description of land | Requirement |
|-----|---------------------|---|
| | | <p>3. The subdivider shall, prior to commencing subdivision works, provide a management plan for a 100m wide section of Regional Open Space to the satisfaction of the WAPC and the Shire of Capel. The management plan should provide such rehabilitation and management infrastructure as are reasonably required to provide for a transition from the urban development to the core ecological habitat and linkage values in the reserves. This shall include but not be limited to the wetland west of and the wildlife corridor south of the land; and</p> <p>4. The subdividing owner(s) of the land is to provide utility services to the identified Community Purposes site within the Dalyellup South Local Structure Plan, prior to the site being reserved.</p> |
| SR3 | Boyanup East | <p>1. Prior to subdivision, the subdivider shall submit the following for approval by the Shire/relevant agencies—</p> <ol style="list-style-type: none"> Detailed staging plan. Urban water management plan to include a water balance and POS reticulation master plan. Detailed construction and landscape design plans for POS, foreshore reserves, road reserves, multiple use corridors and vegetation buffers. Bushfire management plan. Acoustic Report and Landscape Buffer Management Plan (adjacent to Boyanup-Picton Road and railway). Agriculture-Residential buffer management plan. A plan identifying which lots are within 1 km of the Greater Bunbury Region Scheme Strategic Minerals Resource Policy Area. Integrated analysis of subdivision layout (i.e. lot layout, building envelope siting, road layout, vegetation protection areas) which demonstrates consistency with both bushfire risk management and biodiversity protection requirements. The sustainability implementation plan to address sustainability initiatives for the Precinct including— <ul style="list-style-type: none"> lot/housing orientation for passive heating and cooling. affordable housing. water sensitive urban design/local water management. on-site water capture/re-use, and reuse of grey water. provision of sustainable landscaping packages for residential lots. initiatives for achieving installation of photovoltaic systems on dwellings. the feasibility of a 'third pipe' water system for non-potable water uses. <p>2. Prior to lodgement of an application to the WAPC for the first stage of subdivision, the subdivider shall prepare a detailed traffic management strategy to the satisfaction of the Shire and Main Roads WA to ensure that Bridge Street, Boyanup-Picton Road, local and neighbourhood connector roads and associated intersections are upgraded or constructed in a timely manner by the subdivider. The plan shall refer to the timing and funding arrangements for the upgrading (including land acquisition) of the intersection of Hurst Road or other subdivisional roads and Boyanup-Picton Road;</p> <p>3. Prior to undertaking subdivision works, the subdivider shall prepare an assessment of any potential health impacts from previously mined or potentially contaminated areas, demonstrate that these areas are suitable for urban development, and formulate mechanisms for successful management of impacts if necessary;</p> <p>4. Multiple use drainage and/or ecological corridor/foreshore protection areas and community purpose sites are to be ceded to the Crown free of cost as a condition of subdivision and vested for the relevant purposes. The subdivider/s shall provide utility services to community sites.</p> <p>5. Lot sizes and all on-site treatment systems for effluent shall be located/sited in accordance with the requirements of the Government Sewerage Policy, and a Site and Soil Evaluation prepared in accordance with AS/NZS1547.</p> |

| No. | Description of land | Requirement |
|-----|--|---|
| SR4 | Lots 9002 and 9003 Hawley Parkway, Lot 302 Kelang Circle and Lots 94-98 inclusive (#2-10 evens) Kwenda Loop, Capel | <ol style="list-style-type: none"> 1. As a condition of subdivision, the subdivider will contribute to the upgrading of Prowse and Goodwood Roads and cede free of cost to the Crown a 5 metre road widening to the Goodwood Road Reserve; 2. Future structure planning and subdivision shall seek to retain habitat and protect threatened flora and fauna; and 3. As a condition of subdivision approval, the subdivider undertakes a noise assessment to determine traffic noise impacts on dwellings adjoining Goodwood Road and to implement any noise mitigation measures that are identified by the study to the satisfaction of Main Roads WA. The noise mitigation measures shall include the notification on the titles of lots 94-98 inclusive, prohibiting the clearing of vegetation in a vegetation buffer area along Goodwood Road. |
| SR5 | Lot 100 #79 Bussell Highway, Gelorup | <ol style="list-style-type: none"> 1. The total net lettable area (NLA) permitted on the lot is 1171m² and the maximum NLA shall apply to the following land uses— <ul style="list-style-type: none"> • Liquor store—large = 830m² • Fast food outlet / lunch bar = 141m² • Shop: 200m² 2. In the event that the Liquor Store—large ceases operation, total on-site retail floor space shall not exceed 830m² NLA and the remaining floor space area shall be occupied by a non-retail land use. |
| SR6 | Lots 225 and 226 Range Road, Capel | <ol style="list-style-type: none"> 1. Any application for subdivision and development of Lots 225 and 226 Range Road, Capel shall be accompanied by a Local Water Management Strategy, prepared in accordance with the Capel Townsite District Water Management Strategy; 2. An appropriate environmental investigation will be required for Lot 225 in accordance with the <i>Contaminated Sites Act 2003</i> and relevant Department of Water and Environmental Regulation Guidelines. 3. An appropriate investigation will be required to be undertaken by subdividing land owners to determine whether ground water resources available to the future owners of lots resulting from the subdivision of Lots 225 and 226 are of an acceptable standard for residential domestic use, to the satisfaction of the Department of Water and Environmental Regulation and the Department of Health. 4. The Shire of Capel may request the WAPC to impose conditions at the time of subdivision requiring lodgement of a memorial on the title of all lots advising that the lot is located in a region that may have amenity and other issues associated with adjoining land uses being Shire Depot, Shire Transfer Station, Shire Dog Pound, dog kennels, future mineral sands mining and agricultural land uses; 5. The Shire of Capel may request the WAPC to impose conditions at the time of subdivision requiring the imposition of a Restrictive Covenant along the Range Road boundary of all adjoining lots prohibiting vehicle access; 6. The Shire of Capel may request the WAPC to impose conditions, at the time of subdivision, requiring the lodgement of a memorial on the title of all lots advising that no ground water abstraction is permitted without the approval of the Department of Water and Environment Regulation and the Department of Health due to the potential contamination of ground water in the locality. |

Schedule 6—Additional site and development requirements that apply to other land in the Scheme Area

| No. | Description of land | Requirement |
|-----|---|---|
| SR7 | Lots 120 and 121 Minninup Road, Dalyellup | <ol style="list-style-type: none"> 1. In addition to those land use classes listed in Table 3, the following land use classes are not permitted 'X'— <ol style="list-style-type: none"> a. Rural Pursuit / Hobby Farm; 2. The Shire of Capel shall recommend to the Western Australian Planning Commission that the minimum lot size for the area shall be one (1) hectare; 3. The Shire of Capel shall request the following information prior to recommending subdivision approval (pre-lodgement)— <ol style="list-style-type: none"> a. Bushfire Management Plan; b. Site and Soil Evaluation prepared in accordance with AS/NZS 1547; and c. An implementation plan prepared in consultation with the Shire of Capel, Main Roads Western Australia and Water Corporation, to ensure the Minninup Road extension, along with any other associated intersections and upgrades, is constructed at an appropriate time and standard to service the development; 4. The Shire of Capel shall recommend the preparation and implementation of the following management plans as a condition of subdivision approval— <ol style="list-style-type: none"> a. Regional Open Space Environmental Management Plan; b. Urban Water Management Plan; c. Mosquito Management Plan; and d. Bushfire Management Plan; 5. The Shire of Capel shall recommend as a condition of subdivision approval that the portion of Minninup Road abutting the boundary of Lots 120 and 121 Minninup Road, Dalyellup is to be constructed to a rural sealed standard. In addition— <ol style="list-style-type: none"> a. the Minninup Road alignment shall maintain a minimum 50m buffer to the Conservation Category Wetland to the west of the site; b. where remnant vegetation exists within the Minninup Road road reserve, this is to be retained and Minninup Road realigned through the site to the east; and c. any extension to Minninup Road shall include the construction of a suitable primary route shared path alongside the vehicle carriageway; 6. All on-site treatment systems for effluent shall be located/sited in accordance with the requirements of the Government Sewerage Policy, including, but not limited to, being located no closer than 100 metres to the Conservation Category Wetland or the Five Mile Brook Diversion Drain. All on-site effluent disposal is to occur via secondary treatment units with nutrient removal. 7. Areas of remnant vegetation within Lot 121 and the undeveloped section of Minninup Road reserve are to be retained as part of any future subdivision and development of the land. |
| SR8 | Lot 514 #83 Bridge Street, Boyanup | <ol style="list-style-type: none"> 1. All proposals for subdivision and/or development should demonstrate that— <ol style="list-style-type: none"> a. they are consistent with and positively enhance the character and setting of the Fettle's Cottages and the wider railway heritage places; and b. they are consistent with and positively enhance the function and amenity of Fettle's Park. |
| SR9 | Pt Lot 2 Calinup Road, Gelorup | <ol style="list-style-type: none"> 1. The minimum vertical clearance between the underside of any leach drain and the highest known water table on any lot shall be 2.0 metres. Where assessment determines necessary, an on-site secondary treatment system with nutrient removal will be required and to the specification of the Health Department of Western Australia. 2. Council shall recommend to the Western Australian Planning Commission that subdivision proposals should have regard to the protection and preservation of existing natural vegetation and, |

| No. | Description of land | Requirement |
|-----|---------------------|--|
| | | <p>where relevant, the retention of vegetation required for rehabilitation for former land uses.</p> <p>3. No building development shall occur within 500 metres of an active extractive industry as determined by the local government. The development of sensitive land uses and extractive industries is to be staged in order to maintain adequate separation distances in accordance with the relevant guidance.</p> <p>4. The subdivider shall, prior to undertaking subdivision works, prepare a local mosquito management plan to the satisfaction of the local government to address the control of mosquitos within the area having regard to any District level mosquito management program run by the Shire. The local mosquito management plan may be required among other things to provide an equitable method of making a financial contribution to the funding of mosquito breeding control as a per lot contribution to be made at the time residential lots are created and establish a suitable information program for public education about the risk of mosquito borne diseases.</p> <p>5. A notification is to be placed on the certificates of title of any proposed lot(s) advising that the lot is in close proximity to known mosquito breeding areas. The predominant mosquito species is known to carry viruses and other diseases.</p> |

Schedule 7—Special control areas in Scheme area

| No. | Name of area | Provisions |
|------|--------------------------------|--|
| SCA1 | Development Area | <p>Purpose— To designate areas requiring further investigations and structure, activity centre and/or local development planning in relation to issues such as environmental and natural resource values, natural hazards, land use options, infrastructure servicing requirements, transportation infrastructure needs, landscaping and/or urban design.</p> <p>Objectives—</p> <ul style="list-style-type: none"> (a) To identify areas requiring structure, activity centre and/or local development planning prior to subdivision and/or development; (b) To coordinate and integrate orderly subdivision, infrastructure provision, land use and development in areas requiring structure, activity centre and/or local development planning; (c) To guide the layout and design of lots, land uses and developments on land within a structure plan, activity centre plan and/or a local development plan area; (d) To establish a framework for the assessment of applications for development approval within a structure plan, activity centre plan and/or a local development plan area; and (e) To institute arrangements for the implementation of the plan by landowners, infrastructure providers and the local government. <p>Additional Provisions—</p> <ul style="list-style-type: none"> 1. A Structure Plan, Activity Centre Plan and/or Local Development Plan is required in accordance with the provisions of Schedule 2, Parts 4, 5 and/or 6 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>. |
| SCA2 | Development Contribution Areas | <p>Purpose— To designate areas requiring infrastructure servicing for the purposes of implementing arrangements for the fair and equitable apportionment of the costs of providing identified infrastructure.</p> <p>Objectives—</p> <ul style="list-style-type: none"> (a) To provide for the equitable sharing of the costs of infrastructure and administrative costs between landowners; (b) To ensure that cost contributions are reasonably required as a result of the subdivision and development of land in the development contribution area; and (c) To coordinate the timely provision of infrastructure. |

Additional Provisions—**1. Interpretation—**

Unless the context otherwise requires, the meaning of terms used in the Development Contribution Areas Special Control Area are as follows—

administrative costs means such costs as are reasonably incurred for the preparation and (with respect to standard infrastructure items) implementation of the Development Contribution Plan;

administrative items means the administrative matters required to be carried out by or on behalf of the local government in order to prepare and (with respect to standard infrastructure items) implement the Development Contribution Plan, including legal, accounting, planning engineering, and other professional advice;

Cost Apportionment Schedule means a schedule prepared and distributed in accordance with subclause 9;

cost contribution means the contribution to the cost of infrastructure and administrative costs;

Development Contribution Area means the Special Control Area shown on the Scheme Map as 'DCA' with a number;

Development Contribution Plan means a Development Contribution Plan prepared in accordance with the provisions of State Planning Policy 3.6—Infrastructure Contributions;

Development Contribution Plan Report means a report prepared and distributed in accordance with subclause 9;

Infrastructure means the standard infrastructure items (services and facilities set out in Appendix 1—Standard development contribution requirements of State Planning Policy 3.6—Infrastructure Contributions) and community infrastructure, including recreational facilities; community centres; child care and after school centres; libraries and cultural facilities and such other services and facilities for which development contributions may reasonably be requested having regard to the objectives, scope and provisions of this policy;

infrastructure costs means such costs as are reasonably incurred for the acquisition and construction of infrastructure;

landowner means an owner of land that is located within a development contribution area;

local government means the local government or local governments in which the development contribution area is located or through which the services and facilities are provided.

2. Development Contribution Plan Required—

A Development Contribution Plan is required to be prepared for each Development Contribution Area.

3. Development Contribution Plans Part of Scheme—

Development Contribution Plans are incorporated in Schedule 7 as part of this Scheme.

4. Subdivision, Strata Subdivision and Development—

The local government shall not withhold its support for subdivision, strata subdivision or refuse to approve a development solely for the reason that a Development Contribution Plan is not in effect, there is no approval to advertise a Development Contribution Plan, or that there is no other arrangement with respect to a landowner's contribution towards the provision of community infrastructure.

5. Guiding Principles for Development Contribution Plans—

The Development Contribution Plan for any development contribution area is to be prepared in accordance with the following principles—

(a) Need and the nexus—

The need for the infrastructure included in the plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).

(b) Transparency—

Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.

(c) Equity—

Development contributions should be levied from all developments within a development contribution area, based on their relative contribution to need.

(d) Certainty—

All development contributions should be clearly identified and methods of accounting for cost adjustments determined at the commencement of a development.

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| | <p>(e) Efficiency— Development contributions should be justified on a whole of life capital cost basis consistent with maintaining financial discipline on service providers by precluding over recovery of costs.</p> <p>(f) Consistency— Development contributions should be applied uniformly across a development contribution area and the methodology for applying contributions should be consistent.</p> <p>(g) Right of consultation and review— Owners have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the calculation of the costs of the contributions is not reasonable.</p> <p>(h) Accountable— There must be accountability in the manner in which development contributions are determined and expended.</p> <p><u>6. Content of Development Contribution Plans—</u> The Development Contribution Plan is to specify—</p> <ul style="list-style-type: none"> (a) the development contribution area to which the Development Contribution Plan applies; (b) the infrastructure and administrative items to be funded through the Development Contribution Plan; (c) the method of determining the cost contribution of each landowner; and (d) the priority and timing for the provision of infrastructure. <p>Note: A suggested outline of a Development Contribution Plan is contained in State Planning Policy 3.6—Infrastructure Contributions.</p> <p><u>7. Period of Development Contribution Plan—</u> A Development Contribution Plan shall specify the period during which it is to operate.</p> <p><u>8. Land Excluded—</u> In calculating both the area of an landowner's land and the total area of land in a development contribution area, the area of land provided in that development contribution area for—</p> <ul style="list-style-type: none"> (a) roads designated under the Greater Bunbury Region Scheme as Primary Regional Roads Reserve and Other Regional Roads Reserve; (b) land designated as Regional Open Space Reserve and Public Purposes Reserve under the Greater Bunbury Region Scheme; (c) existing public open space; (d) existing government primary and secondary schools; and (e) such other land as is set out in the Development Contribution Plan, <p>is to be excluded.</p> <p><u>9. Development Contribution Plan Report and Cost Apportionment Schedule—</u></p> <ul style="list-style-type: none"> (a) Within 90 days of the Development Contribution Plan coming into effect, the local government is to adopt and make available a Development Contribution Plan Report and Cost Apportionment Schedule to all owners in the development contribution area. (b) The Development Contribution Plan Report and the Cost Apportionment Schedule shall set out in detail the calculation of the cost contribution for each landowner in the development contribution area, based on the methodology provided in the Development Contribution Plan, and shall take into account any proposed staging of the development. (c) The Development Contribution Plan report and the Cost Apportionment Schedule do not form part of the Scheme, but once adopted by the local government they are subject to review as provided under subclause 10. <p>Note: A suggested outline of a Development Contribution Plan Report and a Cost Apportionment Schedule are contained in State Planning Policy 3.6—Infrastructure Contributions. The Cost Apportionment Schedule is adopted by the local government but does not form part of the Scheme.</p> <p><u>10. Cost Contributions Based on Estimates—</u></p> <ul style="list-style-type: none"> (a) The determination of Infrastructure costs and administrative costs is to be based on amounts expended, but when expenditure has not occurred, it is to be based on the best and latest estimated costs |
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| | | <p>available to the local government and adjusted accordingly, if necessary.</p> <p>(b) Where a Cost Apportionment Schedule contains estimated costs, such estimated costs are to be reviewed at least annually by the local government—</p> <p>i in the case of land to be acquired, in accordance with subclause 11; and</p> <p>ii in all other cases, in accordance with the best and latest information available to the local government,</p> <p>iii until the expenditure on the relevant item of infrastructure or administrative costs has occurred.</p> <p>(c) The local government may have such estimated costs independently certified by an appropriately qualified person or persons, and must provide such independent certification to a landowner when requested to do so.</p> <p>(d) Where any cost contribution has been calculated on the basis of an estimated cost, the local government—</p> <p>i is to adjust the cost contribution of any landowner in accordance with the revised estimated costs; and</p> <p>ii may accept a cost contribution, based upon estimated costs, as a final cost contribution and enter into an agreement with the landowner accordingly.</p> <p>(e) Where a landowner's cost contribution is adjusted under subclause 10(d), the local government, on receiving a request in writing from a landowner, is to provide the landowner with a copy of estimated costs and the calculation of adjustments.</p> <p>(f) If a landowner objects to the amount of a cost contribution, the landowner may give notice in writing to the local government requesting a review of the amount of the cost contribution by an appropriately qualified person or persons ('independent expert') agreed by the local government and the landowner at the landowner's expense, within 28 days after being informed of the cost contribution.</p> <p>(g) If the independent expert does not change the cost contribution to a figure acceptable to the landowner, the cost contribution is to be determined—</p> <p>i by any method agreed between the local government and the landowner; or</p> <p>ii if the local government and the landowner cannot agree on a method pursuant to (a) or on an independent expert, by arbitration in accordance with the <i>Commercial Arbitration Act 1985</i>, with the costs to be shared equally between the local government and landowner.</p> <p>11. Valuation—</p> <p>(a) Subclause 11 applies in order to determine the value of land to be acquired for the purpose of providing Infrastructure.</p> <p>(b) In subclause 11—</p> <p>Value means the fair market value of land, at a specified date, which is defined as the capital sum that would be negotiated in an arm's length transaction in an open and unrestricted market, assuming the highest and best use of the land with all its potential and limitations (other than the limitation arising from the transaction for which the land is being valued), wherein the parties act knowledgeably, prudently and without compulsion to buy or sell.</p> <p>The net land value is to be determined by a static feasibility valuation model, using the working sheet model attached to this Scheme as Schedule 4. As part of that feasibility an appropriate profit and risk factor is to be determined from which a 10% profit factor is to be excluded from the calculation.</p> <p>Valuer means a licensed valuer agreed by the local government and the landowner, or, where the local government and the landowner are unable to reach agreement, by a valuer appointed by the President of the Western Australian Division of the Australian Property Institute.</p> |

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| | | <p>(c) If a landowner objects to a valuation made by the valuer, the landowner may give notice in writing to the local government requesting a review of the amount of the value, at the landowner's expense, within 28 days after being informed of the value.</p> <p>(d) If, following a review, the valuer's determination of the value of the land is still not a figure acceptable to the landowner, the value is to be determined—</p> <ol style="list-style-type: none"> by any method agreed between the local government and the landowner; or if the local government and the landowner cannot agree, the landowner may apply to the State Administrative Tribunal (SAT) for a review of the matter under Part 14 of the <i>Planning and Development Act 2005</i>. <p>12. Liability for Cost Contributions—</p> <p>(a) A landowner must make a cost contribution in accordance with the applicable Development Contribution Plan and the provisions of subclause 9.</p> <p>(b) A landowner's liability to pay the landowner's cost contribution to the local government arises on the earlier of—</p> <ol style="list-style-type: none"> the Western Australian Planning Commission endorsing its approval on the deposited plan or survey strata plan of the subdivision of the landowner's land within the development contribution area; prior to the commencement of any development on the landowner's land within the development contribution area; prior to the final approval and endorsement of any strata plan by the local government or Western Australian Planning Commission on the landowner's land within the development contribution area; or the approval of a change or extension of use by the local government on the landowner's land within the development contribution area. <p>The liability arises only once upon the earliest of the above listed events.</p> <p>(c) Despite subclause 12(b), a landowner's liability to pay the landowner's cost contribution does not arise if the landowner commences development of the first single house or outbuildings associated with that first single house on an existing lot which has not been subdivided or strata subdivided since the coming into effect of the Development Contribution Plan.</p> <p>(d) Where a Development Contribution Plan expires in accordance with subclause 7, a landowner's liability to pay the landowner's cost contribution under that Development Contribution Plan shall be deemed to continue in effect and be carried over into any subsequent Development Contribution Plan which includes the landowner's land, subject to such liability.</p> <p>13. Payment of Cost Contribution—</p> <p>(a) The landowner, with the agreement of the local government, is to pay the landowner's cost contribution by—</p> <ol style="list-style-type: none"> cheque or cash; or transferring to the local government or a public authority land in satisfaction of the cost contribution; or the provision of physical infrastructure; or some other method acceptable to the local government; or any combination of these methods. <p>(b) The landowner, with the agreement of the local government, may pay the landowner's cost contribution in a lump sum, by instalments or in such other manner acceptable to the local government.</p> <p>(c) Payment by a landowner of the cost contribution, including a cost contribution based upon estimated costs in a manner acceptable to the local government, constitutes full and final discharge of the landowner's liability under the Development Contribution Plan and the local government shall provide certification in writing to the landowner of such discharge if requested by the landowner.</p> |

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| | | <p><u>14. Charge on Land—</u></p> <p>(a) The amount of any cost contribution for which a landowner is liable under subclause 13, but has not paid, is a charge on the landowner's land to which the cost contribution relates, and the local government may lodge a caveat, at the landowner's expense, against the landowner's certificate of title to that land.</p> <p>(b) The local government, at the landowner's expense and subject to such other conditions as the local government thinks fit, can withdraw a caveat lodged under subclause 14(a) to permit a dealing and may then re-lodge the caveat to prevent further dealings.</p> <p>(c) If the cost contribution is paid in full, the local government, if requested to do so by the landowner and at the expense of the landowner, is to withdraw any caveat lodged under subclause 14.</p> <p><u>15. Administration of Funds—</u></p> <p>(a) The local government is to establish and maintain a reserve account in accordance with the <i>Local Government Act 1995</i> for each development contribution area into which cost contributions for that development contribution area will be credited and from which all payments for the infrastructure costs and administrative costs within that development contribution area will be paid. The purpose of such a reserve account or the use of money in such a reserve account is limited to the application of funds for that development contribution area.</p> <p>(b) Interest earned on cost contributions credited to a reserve account in accordance with subclause 15(a) is to be applied in the development contribution area to which the reserve account relates.</p> <p>(c) The local government is to produce an annual statement of accounts for that development contribution area as soon as practicable after the audited annual statement of accounts becomes available.</p> <p><u>16. Shortfall or Excess in Cost Contributions—</u></p> <p>(a) If there is a shortfall in the total of cost contributions when all cost contributions have been made or accounted for in a particular development contribution area, the local government may—</p> <ol style="list-style-type: none"> i make good the shortfall; or ii enter into agreements with owners to fund the shortfall; or iii raise loans or borrow from a financial institution, <p>but nothing in subclause 16(a)(i) restricts the right or power of the local government to impose a differential rate to a specified development contribution area in that regard.</p> <p>(b) If there is an excess in funds available to the development contribution area when all cost contributions have been made or accounted for in a particular development contribution area, the local government is to refund the excess funds to contributing owners for that development contribution area. To the extent, if any, that it is not reasonably practicable to identify owners and/or their entitled amount of refund, any excess in funds shall be applied, to the provision of additional facilities or improvements in that development contribution area.</p> <p><u>17. Powers of the Local Government—</u></p> <p>The local government in implementing the Development Contribution Plan has the power to—</p> <ol style="list-style-type: none"> (a) acquire any land or buildings within the Scheme area under the provisions of the Act; and (b) deal with or dispose of any land which it has acquired under the provisions of the Act in accordance with the law and for such purpose may make such agreements with other owners as it considers fit. <p><u>18. Arbitration—</u></p> <p>Subject to subclause 11(c) and (d), any dispute between a landowner and the local government in connection with the cost contribution required to be made by a landowner is to be resolved by arbitration in accordance with the <i>Commercial Arbitration Act 1985</i>.</p> |

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| SCA3 | Flood-Prone Land | <p>Purpose— To identify Flood Prone Land as a Special Control Area (SCA) and to provide measures to ensure that land use and development within its boundaries are regulated and managed to minimise the risk of flood impacts.</p> <p>Objectives—</p> <ul style="list-style-type: none"> (a) To identify land within the Scheme area at risk of being affected by flooding consistent with the Greater Bunbury Region Scheme—Floodplain Management Policy; (b) To identify land within the Scheme area where flood management and mitigation is required to ensure that development provides an acceptable level of flood protection for the health and safety of people, and for property and public infrastructure. (c) To assist the natural flood carrying capacity of floodplains by ensuring any use or development maintains the free passage and temporary storage of flood waters; <p>Additional Provisions—</p> <ul style="list-style-type: none"> 1. Land use, subdivision and development within this Special Control Area is to comply with all the matters set out in the Greater Bunbury Region Scheme—Floodplain Management Policy. 2. The local government will consult with the Department of Water and Environmental Regulation (DWER) as required and have due regard to the advice and recommendations on any application for development approval in flood prone land. 3. The local government shall not grant development approval to any development on land, or portion(s) thereof, which is shown on the Scheme Map as being flood prone land, unless it has made an assessment of— <ul style="list-style-type: none"> (a) the effect on the natural flood carrying capacity of floodplains (including the cumulative effect of individual developments) and ensuring the proposal maintains the free passage and temporary storage of floodwaters (b) The proposed development has an adequate level of flood protection. For residential development, this requires minimum habitable floor levels of 500 mm above the 1 in 100 AEP flood level. A higher level of flood protection may be required for proposals that are required to function during emergencies (ie, hospitals, evacuation centres, etc.) (c) The potential risk of isolation and the ability to evacuate in a flood emergency can be suitably managed (d) The potential impact on water quality and outline any measures required to maintain and protect water quality and waterways as natural resources, (e) In any other case, the local government is satisfied that adequate measures have been taken to manage the likely effects of flooding on the development concerned; <p>The local government may require further information to be provided at the proponent's expense to make an assessment.</p> 4. Where land identified as being flood prone land is proposed to be subdivided, the local government shall recommend to the Western Australian Planning Commission that memorials be placed on newly created titles to ensure prospective purchasers are aware that the land may be prone to flooding. 5. Outside of the identified SCA3, the above provisions are to apply generally within 200 metres of watercourses or a section of a watercourse, for which a floodplain has not been defined by floodplain mapping, but where the WAPC or local government considers that there is likely to be floodplain development requirements. |
| SCA4 | Transport Corridors | <p>Purpose— To protect the function and safety of the key travel routes within the Scheme area, along with the amenity and visual character of adjacent land and to ensure that the requirements of State Planning Policy 5.4—Road and Rail Noise (SPP 5.4) are satisfied by all proposed development and land use.</p> <p>Objectives—</p> <ul style="list-style-type: none"> (a) To delineate land within which SPP 5.4 applies; |

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| | | <p>(b) To ensure that SPP 5.4 is properly considered and implemented where development or a change of use is proposed on land within which SPP 5.4 applies;</p> <p>(c) To protect major transport corridors and freight operations from incompatible urban encroachment;</p> <p>(d) To maintain the safety of major transport corridors through the minimisation of distractions and access points;</p> <p>Additional Provisions—</p> <ol style="list-style-type: none"> 1. Notwithstanding any other provisions in this Scheme, development approval is required for any development or change of use proposed for land within Special Control Area 4. 2. In considering an application lodged within this Special Control Area, the local government will have due regard to SPP 5.4. 3. Approval of an application lodged within this Special Control Area will only be forthcoming where the local government is satisfied that any applicable requirements of SPP 5.4 have been met, or can be met through the satisfaction of a condition of approval. 4. In considering an application lodged within this Special Control Area, the local government may seek technical advice from the Department of Planning, Lands and Heritage, Main Roads WA, Passenger Transport Authority and Department of Water and Environmental Regulation, as appropriate, and will have due regard to that advice when making its decision. 5. Subdividing landowners for sensitive land uses within this Special Control Area shall, where appropriate, establish and landscape a buffer for the purposes of noise attenuation and landscape amenity that may include an earth bund or similar alternative treatments but generally exclude walls or solid fencing. The buffer should be established to the satisfaction of the Shire of Capel, Department of Planning, Lands and Heritage and Main Roads WA. 6. There is a presumption against the construction of new vehicle or pedestrian access routes to or over the highway or railway reserve. Proposals for new access points are not to be constructed without the approval of the local government, Main Roads WA and/or Passenger Transport Authority, as appropriate; 7. Except within the Residential, Commercial or Mixed Use Residential zones, buildings are to be set back a distance of 40 metres from the edge of the Highway or Railway reserve. Service roads and other minor development or infrastructure may be constructed within this building setback area. Notwithstanding this, all other setbacks shall be in accordance with any approved building envelope or setback provisions prescribed for a particular zone, as set out in cl. 34 and Schedule 3; 8. Except within the Residential, Commercial or Mixed Use Residential zones, proposals for the erection of any signage or advertisement for a service or commodity (including land and property), which is not produced, offered or sold on the lot on which the sign or advertisement is erected will not be supported by the local government. The local government may remove any public sign, advertisement, hoarding or notice which has been erected contrary to the Scheme; 9. All proposed lots within the special control area shall be subject to a Notification on Title advising owners that the lot is located within 100m of a highway and/or railway and has the potential to be affected by noise or other environmental impacts. |
| SCA5 | Wastewater Treatment Plant Odour Buffer | <p>Purpose—</p> <p>To identify land within the identified special control area located around wastewater treatment plants in accordance with the Environmental Protection Authority (EPA) Guidance Statement No. 3—Separation Distances Between Industrial and Sensitive Land Uses (June 2005).</p> <p>Objectives—</p> <ol style="list-style-type: none"> (a) To ensure that adequate separation distances are maintained between wastewater treatment plants and residential or other sensitive land uses in order to manage any risks to public health or the environment; (b) To ensure that public health and environmental impacts from wastewater treatment plant emissions are acceptable and meet the relevant regulations and standards beyond the boundary of the site and the special control area; and |

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| | | <p>(c) To ensure that decisions regarding land use and development within the special control area minimise the potential for land use conflict and have due regard for and do not impinge upon the operation of the wastewater treatment plant.</p> <p>Additional Provisions—</p> <ol style="list-style-type: none"> 1 Development and/or use of premises for the purposes of residential or other sensitive land use is not permitted within the special control area, unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions. 2 Applications for development approval to permit a residential or other sensitive land use within the special control area must be accompanied by a risk management assessment of the final chlorine storage area, which is to be prepared by a suitably qualified person to the specifications and satisfaction of the local government in consultation with the relevant public authority. <p>Note: Reference should be made to EPA Guidance Statement No. 2—Risk Assessment and Management: Off-site Individual Risk from Hazardous Industrial Plant (July 2000).</p> <ol style="list-style-type: none"> 3 Where the local government proposes to amend this Scheme within the special control area, the local government is to notify the responsible public authority of its intention to amend this Scheme as soon as practicable. 4 Applications for development approval for the development and/or use of premises within the special control area that may result in a risk to public health or the environment shall be referred to the responsible public authority for comment and advice prior to determination by the local government. 5 Without limiting clause 67 of the deemed provisions, when considering any amendment to this Scheme or assessing and determining any application for development approval in relation to premises within the special control area, the local government shall have due regard to a range of matters including but not limited to the following— <ol style="list-style-type: none"> (a) how the proposal complies with the provisions of any relevant state planning policy; (b) guidelines for a wastewater treatment plant regarding risk and the generic separation distances table of the EPA Guidance Statement No. 3—Separation Distances Between Industrial and Sensitive Land Uses (June 2005); (c) the potential impacts on public health and/or the environment from emissions resulting from a proposed land use and/or development; and (d) the advice or comment provided by a responsible public authority in relation to the application for development approval or Scheme amendment. |
| SCA6 | Strategic Minerals and Basic Raw Materials | <p>Purpose—</p> <p>To identify areas where basic raw materials and strategic mineral resources need to be protected from incompatible land uses in line with the GBRS Strategic Minerals and Basic Raw Materials Resource Policy 2018.</p> <p>Objectives—</p> <ol style="list-style-type: none"> (a) To identify land within the Scheme area which contains mineral resources and basic raw materials of State or regional significance (b) To prevent mineral resources and basic raw materials of State or regional significance being sterilised by incompatible development and land uses. (c) To encourage the mining of mineral resources and extraction of basic raw materials in accordance with acceptable environmental standards. (d) To promote the rehabilitation and restoration of mining and extraction sites, after works have been completed, in a way that is consistent with the long-term use of the land. <p>Additional Provisions—</p> <ol style="list-style-type: none"> 1. Proposals for land use and development within the Strategic Minerals and Basic Raw Materials Special Control Area must have due regard to the policy provisions of the GBRS Strategic Minerals and Basic Raw Materials Policy. |

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| | | <p>2. All proposals within the Special Control Area will be referred to the relevant agencies for advice and any advice provided will be considered by the local government in making a decision;</p> <p>3. In relation to any proposals for mining operations and/or Industry—Extractive within the Special Control Area, the local government shall consider the following—</p> <ul style="list-style-type: none"> (a) Where a strategic resource is located with native vegetation or significant biodiversity values, extraction of the resource may require referral under Part IV or Part V of the <i>Environmental Protection Act 1986</i>. Environmental regulation of the proposal may require vegetation retention and/or protection of other environmental assets; (b) advice from environmental agencies and consider potential impacts on fragmentation and connectivity of remnant vegetation; (c) the horizontal separation distances from water supply infrastructure, and other management measures in order to protect water quality; (d) achieving appropriate vertical separation distance to the groundwater table in order to protect water quality. The separation distance will vary based on the value of the groundwater resource (for example, public drinking water source areas); (e) the rehabilitation and restoration of extraction sites in order to ensure that an appropriate vertical separation distance to groundwater is achieved. The distance needs to be consistent with the long-term use of the land and protection of the groundwater quality. |
| SCA7 | Public Drinking Water Reserves | <p>Purpose— To identify and protect public drinking water source areas.</p> <p>Objectives—</p> <ul style="list-style-type: none"> (a) To provide a basis for the protection of public drinking water resources through the control of land use or development, which has the potential to affect the quality of drinking water supplies for public use; (b) To identify land that has been designated as a public drinking water source area; and (c) To implement additional planning provisions that are designed to address water quality and public health risks in a public drinking water source area. <p>Additional Provisions—</p> <ul style="list-style-type: none"> 1. The Local Government shall refer all applications for development approval to the Department of Water and Environmental Regulation for comment where that application is for a use which is identified as 'compatible with conditions' or 'incompatible' in the relevant priority classification in the Department of Water and Environmental Regulation's Water Quality Protection Note 25: Land Use Compatibility in Public Drinking Water Source Areas. 2. Notwithstanding the land use permissibility set out in Table 3—Zoning Table, a use which is identified as incompatible within the relevant priority area on the Land Use Compatibility Table in the Department of Water and Environmental Regulation's Water Quality Protection Note 25: Land Use Compatibility in Public Drinking Water Source Areas shall not be approved, unless exceptional circumstances apply. 3. In determining or making recommendation on an application for planning approval or making recommendation on an application for subdivision in the Special Control Area, the Local Government shall have due regard to— <ul style="list-style-type: none"> (a) State Planning Policy 2.9 Planning for Water and associated guidelines; (b) Advice received from the Department of Water and Environmental Regulation; (c) Compliance with the Department of Water and Environmental Regulation's Water Quality Protection Note 25: Land Use Compatibility in Public Drinking Water Source Areas. (d) Recommendations of the relevant drinking water source protection report or land use and water management strategy; (e) The potential risk of contamination to the public drinking water source area resulting from a proposed land use and/or development; |

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| | | <p>(f) The retention of native vegetation and protection of wetlands and waterways; and</p> <p>(g) The drainage characteristics of the land, including surface and groundwater flow, and the adequacy of proposed measures to meet water quality targets and manage run-off and drainage.</p> <p>4. Development must be connected to reticulated sewerage, where required in accordance with Water Quality Protection Note No.25: Land use compatibility tables for Public Drinking Water Source Areas.</p> |
| SCA8 | Regional Ecological Linkages | <p>Purpose— To identify significant ecosystems on the Scheme Map as a Special Control Area and to provide measures to ensure that land use and development within its boundaries are regulated and managed to protect significant ecological linkages, foreshore environments, biodiversity and environmental quality.</p> <p>Objectives—</p> <ul style="list-style-type: none"> (a) To provide a clear framework for how significant ecosystems are to be considered and protected under this Scheme; (b) To assist in the protection and management of biodiversity and significant ecological linkages and their interactions with the non-living elements of the ecosystems; (c) To assist in the protection and managements of non-living elements of ecosystems and enhancement of air, soil and water quality and their interactions with the living elements of the ecosystems; (d) To assist in the protection and management of foreshore environments and associated life, property and community infrastructure from impacts related to natural and/or man-made processes; <p>Additional Provisions—</p> <ol style="list-style-type: none"> 1. For the purposes of assessing and determining any proposed structure plan, application for development approval and/or making a recommendation to the Commission on subdivision referral within the Special Control Area that may directly or indirectly impact upon an ecological linkage, value or asset, the local government— <ul style="list-style-type: none"> (a) shall require the proponent to show the mapped extent and boundaries of any land containing significant ecosystems that are proposed to be removed or cleared; and/or conserved in perpetuity; (b) shall require the proponent to demonstrate how and where the proposal may remove or alter significant ecosystems to the local government's satisfaction; (c) may require the preparation of an ecological and/or environmental survey of the area, and associated supporting development impact statement, by the proponent to the satisfaction of the local government; (d) may require a landowner to produce and implement a Foreshore Management Plan and Bushfire Management Plan to the satisfaction of the local government; (e) may require the preparation of a structure plan in accordance with Part 4 of the deemed provisions, in order to ensure orderly and proper planning and to enable the strategic assessment of any proposal involving significant ecosystems; (f) may require the preparation of an ecosystem management plan for any area(s) proposed for conservation in perpetuity; (g) may require the mapping and identification of any wetland boundary within or adjoining the plan area as appropriate, on the advice of the Department of Biodiversity, Conservation and Attractions; (h) may require the provision of an adequate wetland buffer. 2. When considering any scheme amendment, structure plan, subdivision or development application within the Special Control Area, the local government shall seek, where practicable, to ensure that the development and/or land use does not result in the removal or harming of significant ecosystems specifically protected under any relevant local, state and/or federal government legislation or policy. 3. When considering any scheme amendment, structure plan, or subdivision proposal within the Special Control Area, the local government shall consider undertaking one or more of the following— |

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| | | <p>(a) recommend to the Western Australian Planning Commission that an area is of regional importance which should be protected within the Regional Open Space Reserve under the Greater Bunbury Region Scheme;</p> <p>(b) initiate an amendment to this Scheme to include an area in the Environmental Conservation Reserve, where such an amendment to this Scheme is proposed in writing by the land owner and would lead to the protection and retention in private ownership of significant ecosystems;</p> <p>(c) encourage proponents to provide a strategic protection plan for multiple sites where such areas are held by the one proponent, with the intent of maximising the conservation outcome across multiple sites, for example, in accordance with the 'Strategic Assessment' process under the Commonwealth Government's <i>Environment Protection and Biodiversity Conservation Act 1999</i>; and</p> <p>(d) designate an Environmental Conservation Reserve over all or part of an area, where the land is to be reserved for public purposes and vested in the Crown in accordance with section 152 of the Act.</p> |

Schedule 8—Development Contribution Plans

| DCA1 | Capel Development Contribution Area |
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| Area | DCA1—Capel—As depicted on the Scheme Map. |
| Relationship to other planning instruments | <p>The Capel Development Contribution Plan (DCP) generally conforms to the—</p> <ul style="list-style-type: none"> • Shire of Capel Strategic Community Plan; • Shire of Capel Long Term Financial Plan; • Shire of Capel Community Facilities and Services Plan; and • Capel Townsite Strategy. |
| Infrastructure and administrative items to be funded | <ol style="list-style-type: none"> 1. Additional active green space (new oval) at Capel Recreation Ground— <ul style="list-style-type: none"> • oval and associated car parking spaces located at Lot 5 on DP75950 #64 Spurr Street, Capel <ol style="list-style-type: none"> i. planning and design ii. earthworks and site (including servicing) iii. construction of oval development iv. associated parking 2. Administrative costs (1% of per lot contribution rate) including— <ul style="list-style-type: none"> • costs to prepare and administer the plan during the period of operation (including legal expenses, valuation fees, proportion of staff salaries, computer software or hardware for purpose of administering the plan). • costs to prepare Annual Report and monitoring. • costs to prepare and review cost estimates and the cost apportionment schedule. • Valuation costs |
| Method for calculating contributions | <p>The contributions outlined in this plan have been based on the need for community infrastructure generated by additional development in the development contribution plan. The local government's Community Facilities and Services Plan identifies the community infrastructure needs that impact on the development contribution plan. The method for calculating contributions excludes the—</p> <ul style="list-style-type: none"> • demand for a facility that is generated by the current population. • demand created by external usage—the proportion of use drawn from outside the main catchment area (i.e. DCA 1). • future usage—the proportion of usage that will be generated by future development outside of the development contribution plan timeframe. <p>The proportion of growth attributed to additional development is determined from the estimated additional population as a proportion of the projected 2031 population (i.e. 37% in Capel).</p> <p>The per lot contribution rate is determined from the proportional cost of facilities (to development) divided by the anticipated lot production (+1% for the cost to administer the DCP).</p> <p>Development contributions are required at the subdivision stage (including strata) or development stage based on the number of new lots or dwelling units proposed.</p> |

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| | Aged/dependent persons dwellings (including lifestyle village and retirement village dwellings) may contribute 50% of the otherwise applicable dwelling/lot rate, as a concession for the provision of residential development for the aged/dependent. |
| Period of operation | 2019-2031 |
| Timing and priority | Timing and priority of infrastructure items are in accordance with the Capital Expenditure Plan within the Development Contribution Plan, which aligns with the Shire of Capel's Long Term Financial Plan. |
| Review process | <p>The plan will be reviewed five (5) years from the date of gazettal of the local planning scheme or amendment to the local planning scheme to incorporate the plan, or earlier should the local government consider it appropriate having regard to the rate of development in the area and the degree of development potential still existing.</p> <p>Grant funding when and/or if it arises shall be incorporated within any review of the development contribution rates.</p> <p>The estimated infrastructure costs shown in the cost apportionment schedule will be reviewed at least annually to reflect changes in funding and revenue sources and indexed based on the Building Cost Index or other appropriate index as approved by the qualified person undertaking the certification of costs.</p> |
| Reporting requirements | An annual report must be prepared by the responsible authority each financial year and published no later than three (3) months after the end of the financial year reported on in accordance with the template in Schedule 5 within State Planning Policy 3.6—Infrastructure Contributions. |
| DCA2 | Dalyellup Development Contribution Area |
| Area | DCA2—Dalyellup—As depicted on the Scheme Map. |
| Relationship to other planning instruments | <p>The Development Contribution Plan generally conforms to the—</p> <ul style="list-style-type: none"> • Shire of Capel Strategic Community Plan; • Shire of Capel Long Term Financial Plan; • Shire of Capel Community Facilities and Services Plan; • Dalyellup Beach Structure Plan; • Dalyellup East Structure Plan; • Dalyellup South Structure Plan; and • Dalyellup District Centre Structure Plan. |
| Infrastructure and administrative items to be funded | <ol style="list-style-type: none"> 1. Beach Multi-Purpose Community Recreation Centre— <ul style="list-style-type: none"> • Single Storey multi-purpose building comprising of function/ meeting rooms, office areas, storage area and toilets, situated near the existing Dalyellup Beach Car Park, located at Lot 5810 Dalyellup Boulevard, Dalyellup (Reserve# 45076) <ol style="list-style-type: none"> i. planning and design. ii. earthworks and civil works (including services). iii. construction of facility (including associated tender). iv. associated parking. v. associated landscaping. 2. Feasibility and design for Multi-Purpose Community Resource Centre— <ul style="list-style-type: none"> • Feasibility and detailed design for the Multi-Purpose Community Resource Centre buildings to be located on a portion of Lot 9041 on DP 414972, within the Dalyellup District Centre. 3. Multi-Purpose Community Resource Centre— <ul style="list-style-type: none"> • Single Storey multi-purpose building comprising of function/ meeting rooms, office areas, storage area and toilets. • Single Storey Library building and basic facilities. • Single Storey community youth facility, office areas, kitchen facilities and toilets. <ol style="list-style-type: none"> i. earthworks and civil works (including services) ii. construction of facilities (including associated tender) iii. associated parking iv. associated landscaping <p>located on a portion of Lot 9041 on DP 414972, within the Dalyellup District Centre.</p> 4. Public Open Space Development— <ul style="list-style-type: none"> • Construction of a toilet block situated at Bibra Loop Park at Lot 8006 #1 Bibra Loop, Dalyellup (Reserve# 51235) <ol style="list-style-type: none"> i. earthworks and civil works (including services). ii. construction of facility. |

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| | <p>5. Administrative costs (1% per lot contribution rate) including—</p> <ul style="list-style-type: none"> • costs to prepare and administer the plan during the period of operation (including legal expenses, valuation fees, proportion of staff salaries, computer software or hardware for purpose of administering the plan). • costs to prepare Annual Report and monitoring. • costs to prepare and review cost estimates and the cost apportionment schedule. • valuation costs. |
| Method for calculating contributions | <p>The contributions outlined in this plan have been based on the need for community infrastructure generated by additional development in the development contribution plan. The local government's Community Facilities and Services Plan identifies the community infrastructure needs that impact on the development contribution plan. The method for calculating contributions excludes the—</p> <ul style="list-style-type: none"> • demand for a facility that is generated by the current population. • demand created by external usage—the proportion of use drawn from outside the main catchment area (i.e. DCA 2). • future usage—the proportion of usage that will be generated by future development outside of the development contribution plan timeframe. <p>The proportion of growth attributed to additional development is determined from the estimated additional population as a proportion of the projected 2031 population (i.e. 45% in Dalyellup).</p> <p>The per lot contribution rate is determined from the proportional cost of facilities (to development) divided by the anticipated lot production (+1% for the cost to administer the DCP).</p> <p>Development contributions are required at the subdivision stage (including strata) or development stage based on the number of new lots or dwelling units proposed.</p> <p>Aged/dependent persons dwellings (including lifestyle village and retirement village dwellings) may contribute 50% of the otherwise applicable dwelling/lot rate, as a concession for the provision of residential development for the aged/dependent.</p> <p>The land component for the Multi-Purpose Community Resource Centre and Multi-Purpose Community Recreation Centre being funded in accordance with the following parameters—</p> <ul style="list-style-type: none"> • The proportion of the contribution to the land value from the development contribution plan is to be established by determining the percentage of development remaining within the DCA2, as a proportion of the total estimated lot yield for DCA2—the 'Proportional Contribution'. • The land is to be ceded free of cost to the Crown at the time of subdivision, with the subdivider(s) to be refunded the 'Proportional Contribution', once sufficient development contribution plan funds become available. This will be subject to an agreement between the subdivider(s) and Shire of Capel. • Land value is to be determined based upon the static feasibility model and valued by an agreed independent licensed valuer. |
| Period of operation | 2019-2031 |
| Timing and priority | Timing and priority of infrastructure items are in accordance with the Capital Expenditure Plan within the Development Contribution Plan, which aligns with the Shire of Capel's Long Term Financial Plan. |
| Review process | <p>The plan will be reviewed five (5) years from the date of gazettal of the local planning scheme or amendment to the local planning scheme to incorporate the plan, or earlier should the local government consider it appropriate having regard to the rate of development in the area and the degree of development potential still existing.</p> <p>Grant funding when and/or if it arises shall be incorporated within any review of the development contribution rates.</p> <p>The estimated infrastructure costs shown in the cost apportionment schedule will be reviewed at least annually to reflect changes in funding and revenue sources and indexed based on the Building Cost Index or other appropriate index as approved by the qualified person undertaking the certification of costs.</p> |
| Reporting requirements | An annual report must be prepared by the responsible authority each financial year and published no later than three (3) months after the end of the financial year reported on in accordance with the template in Schedule 5 within State Planning Policy 3.6—Infrastructure Contributions. |

ADOPTION**Council Resolution to Advertise Local Planning Scheme**

Adopted by resolution of the Council of the **Shire of Capel** at the **Ordinary** Meeting of Council held on the **25th September 2019**

R. STEWART, Acting Chief Executive Officer.
M. SOUTHWELL, Shire President.

Council Resolution to Support Scheme for Approval

Council resolved to **support** approval of the draft Scheme of the Shire of Capel at the Ordinary Meeting of Council held on the **30th March 2022**.

The Common Seal of the **Shire of Capel** was hereunto affixed by authority of a resolution of the Council in the presence of—

G. MACMILE, Chief Executive Officer.
D. KITCHEN, Shire President.

WAPC Recommended for Approval

C. MEAGHAN.

Delegated under S.16 of the *Planning and Development Act 2005*

Date: 16 May 2023

Approval Granted

R. SAFFIOTI, Minister for Planning.

Date: 1 June 2023.
