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PLANNING AND DEVELOPMENT ACT 2005

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**TOWN OF BASSENDEAN**

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**LOCAL PLANNING SCHEME  
NO. 11**



**PLANNING AND DEVELOPMENT ACT 2005****TOWN OF BASSENDEAN****LOCAL PLANNING SCHEME NO. 11****TABLE OF CONTENTS**

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**PLANNING AND DEVELOPMENT ACT 2005**

## TOWN OF BASSENDEAN

**LOCAL PLANNING SCHEME NO. 11****PART 1—PRELIMINARY****1. Citation**

This local planning scheme is the Town of Bassendean Scheme No. 11.

**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 scheme is revoked—

Local Planning Scheme No. 10      Gazettal date 24 June 2008 as amended.

**4. Notes do not form part of Scheme**

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

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

**5. Responsibility for Scheme**

The Town of Bassendean 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 (or part) is also subject to the Metropolitan 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);
  - (b) the Scheme Map;
  - (c) the supplemental provisions to the deemed provisions.
- (2) This Scheme is to be read in conjunction with any local planning strategy for the Scheme area.

**8. Purposes of Scheme**

The purposes of this Scheme are to—

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

**9. Aims of Scheme**

The aims of this Scheme are to—

- (a) respect the community vision for the development of the district with appropriate land uses and development;
- (b) ensure new built form responds to, protects and enhances the local character and amenity;
- (c) provide greater housing choice to cater for a diverse and sustainable population;
- (d) optimise and facilitate appropriate development around railway stations;
- (e) promote greater use of alternative modes of transport and public transport;
- (f) protect, preserve and maintain the Town's cultural and heritage values;
- (g) protect and enhance the natural environment, in particular urban bushland, river environs and urban canopy;
- (h) facilitate and protect the establishment of an attractive and efficient industrial area;

- (i) ensure an appropriate transitional interface between industrial and residential land uses;
- (j) encourage and provide for local economic development and employment opportunities to improve the vibrancy of the Town in particularly the Bassendean Town centre; and
- (k) ensure the health and safety of residents, businesses and visitors of the district.

### 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 Town of Bassendean also apply in the Scheme area—

Guided Scheme No. 4A      Gazettal date 20 January 1981

### 12. Relationship with region planning scheme

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

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

## PART 2—RESERVES

### 13. Regional reserves

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

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"> <li>• To set aside areas for public open space, particularly those established under the <i>Planning and Development Act 2005</i> s. 152.</li> <li>• To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage.</li> </ul>
Private Community Purposes	<ul style="list-style-type: none"> <li>• To provide for a range of community facilities which are compatible with surrounding development.</li> <li>• 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.</li> </ul>
Public Purposes	<ul style="list-style-type: none"> <li>• To provide for a range of essential physical and community infrastructure.</li> </ul>
Infrastructure Services	<ul style="list-style-type: none"> <li>• Public Purposes which specifically provide for a range of essential infrastructure services.</li> </ul>
Education	<ul style="list-style-type: none"> <li>• Public Purposes which specifically provide for a range of essential education facilities.</li> </ul>
Drainage / Waterway	<ul style="list-style-type: none"> <li>• To set aside land required for significant waterways and drainage.</li> </ul>
Primary Distributor Road	<ul style="list-style-type: none"> <li>• 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.</li> </ul>
District Distributor Road	<ul style="list-style-type: none"> <li>• 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.</li> </ul>
Local Distributor Road	<ul style="list-style-type: none"> <li>• To set aside land required for a local distributor road being a road classified as a Local Distributor under the Western Australian Road Hierarchy.</li> </ul>
Local Road	<ul style="list-style-type: none"> <li>• To set aside land required for a local road being a road classified as an Access Road under the Western Australian Road Hierarchy.</li> </ul>

**15. Additional Uses for local reserves**

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

**PART 3—ZONES AND 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**

<b>Zone Name</b>	<b>Objectives</b>
Residential	<ul style="list-style-type: none"> <li>• To provide for a range of housing and a choice of residential densities to meet the needs of the community.</li> <li>• To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.</li> <li>• To provide for a range of non-residential uses, which are compatible with and complementary to residential development.</li> </ul>
Light Industry	<ul style="list-style-type: none"> <li>• To provide for a range of industrial uses and service industries generally compatible with urban areas, that cannot be located in commercial zones.</li> <li>• 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.</li> </ul>
General Industry	<ul style="list-style-type: none"> <li>• 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.</li> <li>• To accommodate industry that would not otherwise comply with the performance standards of light industry.</li> <li>• Seek to manage impacts such as noise, dust and odour within the zone.</li> </ul>
Mixed Use	<ul style="list-style-type: none"> <li>• To provide for a wide variety of active uses on street level which are compatible with residential and other non-active uses on upper levels.</li> <li>• 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.</li> </ul>
District Centre	<ul style="list-style-type: none"> <li>• Provide a community focal point for people, services, employment and leisure that are highly accessible and do not adversely impact on adjoining residential areas.</li> <li>• Provide for district centres to focus on weekly needs and services for a wider district catchment.</li> <li>• Provide a broad range of employment opportunities to encourage diversity within the Centre.</li> <li>• Ensure a mix of commercial and residential development, which provides for activity and accessibility at the street level and supports the provision of a public transport and pedestrian links.</li> <li>• Provide for a wide range of different types of residential accommodation, including high density residential, to meet the diverse needs of the community.</li> </ul>
Local Centre	<ul style="list-style-type: none"> <li>• To provide for predominantly convenience retailing and community facilities which serve the local community, and provides a high level of accessibility for local residents.</li> <li>• To encourage high quality, pedestrian-friendly, street-orientated development that is compatible with surrounding uses.</li> <li>• To encourage mixed use development of a scale appropriate to a locality.</li> </ul>

**17. Zoning Table**

The zoning table for this Scheme is as follows—

**Table 3—Zoning Table**

Use and Development Class	Zones					
	Residential	Light Industry	General Industry	Mixed Use	District Centre	Local Centre
Aged or Dependant Persons Dwelling	P	X	X	D	Refer to clause 18(6)	D
Amusement Parlour	X	X	X	D		P
Animal Establishment	X	D	A	X		X
Art Gallery	X	D	X	D		A
Bed and Breakfast	A	X	X	D		D
Betting Agency	X	X	X	D		D
Brewery	X	D	A	X		X
Bulky Goods Showroom	X	D	X	A		X
Caretaker's Dwelling	X	D	D	D		D
Carpark	X	D	D	D		D
Child Care Premises	A	X	X	D		D
Cinema/Theatre	X	X	X	D		D
Civic Use	D	D	A	P		P
Club Premises	X	A	A	D		D
Commercial Vehicle Parking	D	P	P	D		D
Community Purpose	A	D	X	A		A
Consulting Rooms	A	X	X	P		P
Convenience Store	X	X	X	P		P
Educational Establishment	A	A	X	P		P
Exhibition Centre	D	D	X	D		D
Family Day Care	P	X	X	D		D
Fast Food Outlet	X	X	X	A		A
Funeral Parlour	X	P	D	A		A
Garden Centre	X	A	A	X		X
Grouped Dwelling	P	X	X	D		D
Holiday Accommodation	A	X	X	D		D
Holiday House	A	X	X	D		D
Home Business	A	X	X	D		D
Home Occupation	P	X	X	D		D
Home Office	P	X	X	D		P
Home Store	A	X	X	A		A
Hospital	A	X	X	X		A
Hotel	X	X	X	A		A
Independent Living Complex	D	X	X	D		D
Industry—General	X	A	P	X		X
Industry—Light	X	P	D	X		X
Industry—Service	X	P	P	X		A
Liquor Store—Large	X	X	X	X		X
Liquor Store—Small	X	X	X	D		P
Lunch Bar	X	D	A	A		A
Market	X	A	A	A	D	
Medical Centre	X	D	X	D	P	
Motel	X	X	X	A	A	



Use and Development Class	Zones					
	Residential	Light Industry	General Industry	Mixed Use	District Centre	Local Centre
Motor Vehicle, Boat or Caravan Sales	X	D	A	X		X
Motor Vehicle Repair	X	D	D	X		X
Motor Vehicle Wash	X	D	A	D		D
Multiple Dwelling	P	X	X	P		D
Night Club	X	X	X	X		A
Office	X	D	X	P		P
Place of Worship	A	D	X	A		A
Reception Centre	X	D	X	A		A
Recreation—Private	X	D	A	D		D
Residential Aged Care Facility	A	X	X	D		A
Resource Recovery Centre	X	A	A	X		X
Restaurant/Cafe	X	X	X	D		P
Restricted Premises	X	X	X	X		X
Serviced Apartments	A	X	X	A		P
Service Station	X	P	D	X		X
Shop	X	X	X	P		P
Single House	P	X	X	X		D
Small Bar	X	X	X	A		P
Tavern	X	X	X	A		A
Telecommunications Infrastructure	A	A	P	A		A
Trade Display	X	D	D	X		X
Trade Supplies	X	D	D	X		X
Transport Depot	X	D	P	X		X
Veterinary Centre	X	D	A	D		D
Warehouse/ Storage	X	P	P	X		X
Waste disposal facility	X	A	A	X		X
Waste storage facility	X	A	A	X		X

### 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 all relevant development standards and requirements of this Scheme as it relates to the use of the land’;
- 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.

#### Note—

- 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 1 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.

4. If a proposed development is identified as a 'P' use in the zoning table, but the proposed development does not comply with all of the development standards and requirements of the scheme as they relate to the use of land, then it is to be treated as a 'D' 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 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) Table 4 sets out—
  - (a) classes of use for specified land that are additional to the classes of use that are permissible in the zone in which the land is located; and
  - (b) the conditions that apply to that additional use.

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

No.	Description of Land	Additional Use(s)	Conditions
1	Lot 2 (No. 77) West Road, Bassendean	Shop Restaurant/Café	Nil.

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

#### 20. Restricted uses

There are currently no restricted uses which apply to this Scheme.

#### 21. Special use zones

There are currently 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 uses

- (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) Notwithstanding any other provision of the Scheme, where a site has been approved for or developed for residential purposes at a density greater than that permitted under the relevant R-Code applicable under the Scheme, the local government may permit the site to be re-developed at the same density, provided it is satisfied that the standard of development will be significantly improved as a result.
- (2) Where a split density code is depicted on the Scheme maps, any subdivision/ development shall conform to the lower density code applicable to the lot, unless the Western Australian Planning Commission/ local government determines that development to the higher density code is acceptable, having regard to the following—
  - (i) whether the lots can be adequately serviced;
  - (ii) The heritage, character and amenity of the existing streetscape and how the development impacts that streetscape.

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

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

There are no modifications to State Planning Policy 3.6.

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

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

**30. Modification of State planning policies**

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

**31. Environmental conditions**

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

**32. Additional site and development requirements**

(1) Table 5 sets out requirements relating to development that are additional to those set out in the R-Codes, precinct structure plans, local development plans or State or local planning policies.

**Table 5—Additional requirements that apply to land in Scheme area**

No.	Description of Land	Requirement
1	All Residential zoned land	1. All new non-residential development within the residential zone shall comply with the provisions of the R-Codes with respect to setbacks, building height and open space unless otherwise specified in a precinct structure plan or Local Planning Policy.
2	Lot 74 (No. 68) & Lot 75 (No. 72) Walter Road East, Eden Hill	1. Vehicle access is not permitted from Walter Road East, Eden Hill. Vehicle Access must be provided from the secondary street (Ivanhoe Street or Marion Street).
3	Ida Street Local Centre (Lot 10 (No.71), Lot 50 (No.77) & 51 (No.85) Walter Road East, Bassendean)	1. The local government may at its discretion, permit residential development within the Ida Street Local Centre to a maximum density of R60. Residential Development shall only be permitted where the local government is satisfied that the development is consistent with the provisions of an applicable precinct structure plan and/or Local Planning Policy.
4	Eden Hill Local Centre (Lot 4 (No.248) & Lot 5 (No.246) Morley Drive, Eden Hill)	1. Prior to providing recommendations on applications for the subdivision and development of land within the Eden Hill Local Centre, the local government shall require the applicant prepare and submit a local development plan or precinct structure plan demonstrating building envelopes, indicative building configurations, setbacks, pedestrian and vehicular access, car parking layouts and any access easements required, tree retention and fencing. 2. The local government may at its discretion, permit residential development within the Eden Hill Local Centre to a maximum density of R60. Residential Development shall only be permitted where the local government is satisfied that the development is consistent with the provisions of an applicable local development plan, precinct structure plan and/or Local Planning Policy.
5	All zoned land	Ceding of rights-of-way and laneway widening. 1. The owner of land affected by a right-of-way or laneway identified by the Scheme or structure plan may be required to, at the time of developing or subdividing the land— (a) cede to the local government that part of the land affected by the right-of-way or laneway; and (b) construct the relevant section of the right-of-way or laneway to the satisfaction of the local government, or alternatively, make a financial contribution to such works. 2. The intention expressed in subclause (1) may be reinforced by a condition of subdivision or development approval.

(2) To the extent that a requirement referred to in subclause (1) (2) 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 for areas covered by structure plan or local development plan**

There are currently no areas covered by a structure plan or local development plans under this scheme.

**34. Variations to site and development requirements**

(1) In this clause—

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

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

- (3) An approval under subclause (2) may be unconditional or subject to any conditions the local government considers appropriate.
- (4) If the local government is of the opinion that the non-compliance with an additional site and development requirement will mean that the development is likely to adversely affect any owners or occupiers in the general locality or in an area adjoining the site of the development the local government must—
- (a) consult the affected owners or occupiers by following one or more of the provisions for advertising applications for development approval under clause 64 of the deemed provisions; and
  - (b) have regard to any expressed views prior to making its determination to grant development approval under this clause.
- (5) The local government may only approve an application for development approval under this clause if the local government is satisfied that—
- (a) approval of the proposed development would be appropriate having regard to the matters that the local government is to have regard to in considering an application for development approval as set out in clause 67 of the deemed provisions; and
  - (b) the non-compliance with the additional site and development requirement will not have a significant adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

### 35. Restrictive covenants

- (1) A restrictive covenant affecting land in the Scheme area that would have the effect of limiting the number of residential dwellings which may be constructed on the land is extinguished or varied to the extent that the number of residential dwellings that may be constructed is less than the number that could be constructed on the land under this Scheme.
- (2) If subclause (1) operates to extinguish or vary a restrictive covenant
- (a) development approval is required to construct a residential dwelling that would result in the number of residential dwellings on the land exceeding the number that would have been allowed under the restrictive covenant; and
  - (b) the local government must not grant development approval for the construction of the residential dwelling unless it advertises the application for development approval in accordance with clause 64 of the deemed provisions.

## PART 5—SPECIAL CONTROL AREAS

### 36. 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 Table 6.
- (3) Development within a Special Control Area marked on the Scheme Map shall require development approval from the local government.

**Table 6—Special control areas in scheme area**

<b>Name of Area</b>	<b>Purpose</b>	<b>Objectives</b>	<b>Additional Provisions</b>
SCA 1—Swan River Floodway and Flood Fringe.	To appropriately regulate development and subdivision of land identified as being at risk of flooding.	To ensure new development— <ol style="list-style-type: none"> <li>(a) minimises the potential for loss of life and property damage due to floods.</li> <li>(b) conserves the floodplain environment and ensures that proposed development within the floodplain is compatible with the locality.</li> </ol>	In considering applications for development, the local government shall have regard to any relevant State Planning Policy and the requirements of the Department of Water and Environmental Regulation.

## PART 6—TERMS REFERRED TO IN SCHEME

## 37. Terms used

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

<b>building envelope</b>	means the area of land within which all buildings and effluent disposal facilities on a lot must be contained.
<b>building height</b>	in relation to a building— <ol style="list-style-type: none"> <li>if the building is used for residential purposes, has the meaning given in the R-Codes; or</li> <li>if the building is used for purposes other than residential purposes, means the maximum vertical distance between the natural ground level and the finished roof height directly above, excluding minor projections as that term is defined in the R-Codes.</li> </ol>
<b>commercial vehicle</b>	means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including— <ol style="list-style-type: none"> <li>a utility, van, truck, tractor, bus or earthmoving equipment; and</li> <li>a vehicle that is or is designed to be an attachment to a vehicle referred to in paragraph (a).</li> </ol>
<b>floor area</b>	has meaning given in the Building Code.
<b>plot ratio</b>	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.
<b>precinct</b>	means a definable area where particular planning policies, guidelines or standards apply.
<b>predominant use</b>	means the primary use of premises to which all other uses carried out on the premises are incidental.
<b>retail</b>	means the sale or hire of goods or services to the public.
<b>Scheme commencement day</b>	means the day on which this Scheme comes into effect under section 87(4) of the Act.
<b>short-term accommodation</b>	means temporary accommodation provided on a commercial basis, either continuously or from time-to-time with no guest accommodated for periods totally more than 3 months in any 12-month period.
<b>wholesale</b>	means the sale of goods or materials to be sold by others.

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

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

## 38. Land use terms used

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

<b>amusement parlour</b>	means premises— <ol style="list-style-type: none"> <li>that are open to the public; and</li> <li>that are used predominantly for amusement by means of amusement machines including computers; and</li> <li>where there are 2 or more amusement machines.</li> </ol>
<b>animal establishment</b>	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.
<b>art gallery</b>	means premises— <ol style="list-style-type: none"> <li>that are open to the public; and</li> <li>where artworks are displayed for viewing or sale.</li> </ol>
<b>bed and breakfast</b>	means a dwelling— <ol style="list-style-type: none"> <li>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</li> <li>containing not more than 2 guest bedrooms;</li> </ol>
<b>betting agency</b>	means an office or totalisator agency established under the <i>Racing and Wagering Western Australia Act 2003</i> .
<b>brewery</b>	means premises the subject of a producer's licence authorising the production of beer, cider or spirits granted under the <i>Liquor Control Act 1988</i> .

<b>bulky goods showroom</b>	<p>means premises—</p> <p>(a) used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes—</p> <ul style="list-style-type: none"> <li>(i) automotive parts and accessories;</li> <li>(ii) camping, outdoor and recreation goods;</li> <li>(iii) electric light fittings;</li> <li>(iv) animal supplies including equestrian and pet goods;</li> <li>(v) floor and window coverings;</li> <li>(vi) furniture, bedding, furnishings, fabrics, manchester and homewares;</li> <li>(vii) household appliances, electrical goods and home entertainment goods;</li> <li>(viii) party supplies;</li> <li>(ix) office equipment and supplies;</li> <li>(x) babies' and childrens' goods, including play equipment and accessories;</li> <li>(xi) sporting, cycling, leisure, fitness goods and accessories;</li> <li>(xii) swimming pools; or</li> </ul> <p>(b) used to sell goods and accessories by retail if—</p> <ul style="list-style-type: none"> <li>(i) a large area is required for the handling, display or storage of the goods; or</li> <li>(ii) vehicular access is required to the premises for the purpose of collection of purchased goods.</li> </ul>
<b>caretaker's dwelling</b>	means a dwelling on the same site as a building, operation or plant, and occupied by a supervisor of that building, operation or plant.
<b>car park</b>	<p>means premises used primarily for parking vehicles whether open to the public or not but does not include—</p> <ul style="list-style-type: none"> <li>(a) any part of a public road used for parking or for a taxi rank; or</li> <li>(b) any premises in which cars are displayed for sale.</li> </ul>
<b>child care premises</b>	<p>means premises where—</p> <ul style="list-style-type: none"> <li>(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</li> <li>(b) a child care service as defined in the <i>Child Care Services Act 2007</i> section 4 is provided.</li> </ul>
<b>cinema/ theatre</b>	means premises where the public may view a motion picture or theatrical production.
<b>civic use</b>	means premises used by a government department, an instrumentality of the State or the local government for administrative, recreational or other purposes.
<b>club premises</b>	means premises used by a legally constituted club or association or other body of persons united by a common interest.
<b>commercial vehicle parking</b>	<p>means premises used for parking of one or 2 commercial vehicles but does not include—</p> <ul style="list-style-type: none"> <li>(a) any part of a public road used for parking or for a taxi rank; or</li> <li>(b) parking of commercial vehicles incidental to the predominant use of the land.</li> </ul>
<b>community purpose</b>	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.
<b>consulting rooms</b>	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.
<b>convenience store</b>	<p>means premises—</p> <ul style="list-style-type: none"> <li>(a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents; and</li> <li>(b) operated during hours which include, but may extend beyond, normal trading hours; and</li> <li>(c) the floor area of which does not exceed 300m<sup>2</sup> net lettable area.</li> </ul>
<b>educational establishment</b>	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.
<b>exhibition centre</b>	means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature including a museum.

<b>family day care</b>	means premises where a family day care service as defined in the Education and Care Services National Law (Western Australia) is provided.
<b>fast food outlet / lunch bar</b>	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.
<b>funeral parlour</b>	means premises used (a) to prepare and store bodies for burial or cremation; (b) to conduct funeral services.
<b>garden centre</b>	means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens.
<b>holiday accommodation</b>	means 2 or more dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot.
<b>holiday house</b>	means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast.
<b>home business</b>	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 50m <sup>2</sup> ; 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.
<b>home occupation</b>	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 20m <sup>2</sup> ; and (d) does not involve the display on the premises of a sign with an area exceeding 0.2m <sup>2</sup> ; 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.
<b>home office</b>	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.



<b>home store</b>	means a shop attached to a dwelling that— (a) has a net lettable area not exceeding 100m <sup>2</sup> ; and (b) is operated by a person residing in the dwelling.
<b>hospital</b>	means premises used as a hospital as defined in the <i>Private Hospitals and Health Services Act 1927</i> section 2(1).
<b>hotel</b>	means premises the subject of a hotel licence other than a small bar or tavern licence granted under the <i>Liquor Control Act 1988</i> including any betting agency on the premises.
<b>independent living complex</b>	means a development with self-contained, independent dwellings for aged or dependent persons together with communal amenities and facilities for residents and staff that are incidental and ancillary to the provision of such accommodation but does not include a development which includes these features as a component of a residential aged care facility.
<b>industry</b>	means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes— (a) the storage of goods; (b) the work of administration or accounting; (c) the selling of goods by wholesale or retail; (d) the provision of amenities for employees; (e) incidental purposes.
<b>industry—general</b>	means an industry other than a cottage, extractive, light, mining, rural or service industry;
<b>industry—light</b>	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.
<b>industry—service</b>	means— (a) an industry—light carried out from premises which may have a retail shop front and from which goods manufactured on the premises may be sold; or (b) premises having a retail shop front and used as a depot for receiving goods to be serviced;
<b>liquor store—large</b>	means premises the subject of a liquor store licence granted under the <i>Liquor Control Act 1988</i> with a net lettable area of more than 300m <sup>2</sup> .
<b>liquor store—small</b>	means premises the subject of a liquor store licence granted under the <i>Liquor Control Act 1988</i> with a net lettable area of not more than 300m <sup>2</sup> .
<b>market</b>	means premises used for the display and sale of goods from stalls by independent vendors.
<b>medical centre</b>	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.
<b>motel</b>	means premises, which may be licensed under the <i>Liquor Control Act 1988</i> — (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.
<b>motor vehicle, boat or caravan sales</b>	means premises used to sell or hire motor vehicles, boats or caravans.
<b>motor vehicle repair</b>	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 re-treading of tyres.
<b>motor vehicle wash</b>	means premises primarily used to wash motor vehicles.
<b>nightclub</b>	means premises the subject of a nightclub licence granted under the <i>Liquor Control Act 1988</i> .
<b>office</b>	means premises used for administration, clerical, technical, professional or similar business activities.
<b>place of worship</b>	means premises use for religious activities such as a chapel, church, mosque, synagogue or temple.
<b>reception centre</b>	means premises used for hosted functions on formal or ceremonial occasions.
<b>recreation private</b>	means premises that are— (a) used for indoor or outdoor leisure, recreation or sport; and (b) not usually open to the public without charge.

<b>residential aged care facility</b>	<p>means 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—</p> <ul style="list-style-type: none"> <li>(a) appropriate staffing to meet the nursing and personal care needs of residents;</li> <li>(b) meals and cleaning services; and</li> <li>(c) furnishings, furniture and equipment.</li> </ul> <p>This may consist of multiple components that include communal amenities and facilities for residents and staff that are incidental and ancillary to the provision of such accommodation, residential respite (short-term) care, and/or an independent living complex, but does not include a hospital, rehabilitation or psychiatric facility.</p>
<b>resource recovery centre</b>	<p>means premises other than a waste disposal facility used for the recovery of resources from waste.</p>
<b>restaurant/café</b>	<p>means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the <i>Liquor Control Act 1988</i>.</p>
<b>restricted premises</b>	<p>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—</p> <ul style="list-style-type: none"> <li>(a) publications that are classified as restricted under the <i>Classification (Publications, Films and Computer Games) Act 1995</i> (Commonwealth); and</li> <li>(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</li> <li>(c) smoking-related implements.</li> </ul>
<b>serviced apartment</b>	<p>means a group of units or apartments providing—</p> <ul style="list-style-type: none"> <li>(a) self-contained short-term accommodation for guests; and</li> <li>(b) any associated reception or recreational facilities.</li> </ul>
<b>service station</b>	<p>means premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for—</p> <ul style="list-style-type: none"> <li>(a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; and/or</li> <li>(b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles.</li> </ul>
<b>shop</b>	<p>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.</p>
<b>small bar</b>	<p>means premises the subject of a small bar licence granted under the <i>Liquor Control Act 1988</i>.</p>
<b>tavern</b>	<p>means premises the subject of a tavern licence granted under the <i>Liquor Control Act 1988</i>.</p>
<b>telecommunications infrastructure</b>	<p>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.</p>
<b>trade display</b>	<p>means premises used for the display of trade goods and equipment for the purpose of advertisement.</p>
<b>trade supplies</b>	<p>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—</p> <ul style="list-style-type: none"> <li>(a) automotive repairs and servicing;</li> <li>(b) building including repair and maintenance;</li> <li>(c) industry;</li> <li>(d) landscape gardening;</li> <li>(e) provision of medical services;</li> <li>(f) primary production;</li> <li>(g) use by government departments or agencies, including local government.</li> </ul>
<b>transport depot</b>	<p>means premises used primarily for the parking or garaging of 3 or more commercial vehicles including—</p> <ul style="list-style-type: none"> <li>(a) any ancillary maintenance or refuelling of those vehicles; and</li> <li>(b) any ancillary storage of goods brought to the premises by those vehicles; and</li> <li>(c) the transfer of goods or persons from one vehicle to another.</li> </ul>

<b>veterinary centre</b>	means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders.
<b>warehouse/ storage</b>	means premises including indoor or outdoor facilities used for <ol style="list-style-type: none"> <li>(a) the storage of goods, equipment, plant or materials; or</li> <li>(b) the display or the sale by wholesale of goods.</li> </ol>
<b>waste disposal facility</b>	means premises used— <ol style="list-style-type: none"> <li>(a) for the disposal of waste by landfill; or</li> <li>(b) the incineration of hazardous, clinical or biomedical waste.</li> </ol>
<b>waste storage facility</b>	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.

### SCHEDULE 1—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*.

#### 6A. Design review

- (1) The local government may appoint a Design Review Panel for the purpose of considering and advising the Local Government with respect to applications and/or planning documents.
- (2) The local government shall prepare and adopt a policy that details the operation of the Design Review Panel will be consulted.
- (3) When considering applications and/or planning documents on which a recommendation has been made by the Design Review Panel, the decision-maker shall have due regard for that recommendation.

#### 6B. Significant Tree Register

- (1) The local government may establish and maintain a significant tree register to identify trees within the Scheme area that are worthy of preservation.
- (2) The significant tree register—
  - (a) must set out a description of each tree, its location and the reason for its entry in the significant tree register; and
  - (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.
- (3) The local government must not enter a tree or remove a tree from the significant tree register unless the local government has received a written nomination from the owner of the land which contains the tree. A written nomination can only be made by the owner of the land which contains the tree.
- (4) Upon receiving a written nomination in accordance with sub-clause (3), the local government may—
  - (a) Carry out any other consultation the local government considers appropriate; and
  - (b) Following any consultation and consideration of the submissions made on the proposal, resolve that the tree be entered into the significant tree register with or without modifications, or that the tree be removed from the significant tree register.
- (5) If the local government enters a tree in the significant tree register or modifies an entry of a tree in the significant tree register, the local government must give notice of the entry or modification to each owner and occupier of the land which contains the tree.
- (6) The local government may require assessment or certification by an arboriculturist to be carried out prior to the determination of an application for development approval for which contains a tree identified on the significant tree register.

#### 61. Development for which development approval is not required

Table

	Column 1 Works	Column 2 Conditions
6.		(d) The subject site is not located within Special Control Area 1 (Swan River Floodway and Flood Fringe).
7.		(d) The subject site is not located within Special Control Area 1 (Swan River Floodway and Flood Fringe).

#### 67. Matters to be considered by local government

- (zc) Any advice of the Design Review Panel

**COUNCIL RESOLUTION TO ADVERTISE LOCAL PLANNING SCHEME**

Adopted by resolution of the Council of the Town of Bassendean at the Ordinary Meeting of Council held on 25 October 2022.

C. WOODS, Chief Executive Officer.  
K. HAMILTON, Mayor.

**COUNCIL RESOLUTION TO SUPPORT SCHEME FOR APPROVAL**

Council resolved to support approval of the draft Scheme of the Town of Bassendean at the Ordinary Meeting of Council held on 22 August 2023.

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

C. WOODS, Chief Executive Officer.  
K. HAMILTON, Mayor.

**WAPC Recommended for Approval**

R. MILLER, Delegated under S.16 of the  
*Planning and Development Act 2005*.  
Dated 20 March 2024.

**Approval granted**

J. CAREY, Minister for Planning.  
Dated 8 April 2024.

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