



Western Australia

Planning and Development (Local Planning Schemes) Regulations 2015

Compare between:

[25 Aug 2015, 00-a0-01] and [19 Oct 2015, 00-b0-01]

Western Australia

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Part 1 — Preliminary

1. Citation

These regulations are the *Planning and Development (Local Planning Schemes) Regulations 2015*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 19 October 2015.

~~{3-7. — Have not come into operation².}~~

~~{Parts 2-9 Have not come into operation².}~~

~~{Schedules 1-3 Have not come into operation².}~~

Notes

[†]—This is a compilation of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The following table contains information about those regulations^{†a}.

Compilation table

Citation	Gazettal	Commencement
<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> r. 1 and 2	25 Aug 2015 p. 3401-595	25 Aug 2015 (see r. 2(a))

^{†a}—On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Citation	Gazettal	Commencement
<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> r. 3-7, Pt. 2-9 and Sch. 1-3 ²	25 Aug 2015 p. 3401-595	19 Oct 2015 (see r. 2(b))

²—On the date as at which this compilation was prepared, the *Planning and Development (Local Planning Schemes) Regulations 2015* r. 3-7, Pt. 2-9 and Sch. 1-3 had not come into operation. They read as follows:

3. Terms used

In these regulations —

authorised person means a person or body designated under regulation 4 as an authorised person for the purposes of the regulation in which the expression is used;

Department means the department of the Public Service principally assisting the Minister in the administration of the Act;

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development contribution plan means a plan prepared under regulation 71;

local planning scheme documents means the documents referred to in regulation 8 that comprise a local planning scheme;

scheme area means an area described in a local planning scheme as the area to which the scheme applies;

scheme map means the map or set of maps referred to in regulation 9(1) that are designated as the scheme map for a local planning scheme.

Note:

Note the *Electronic Transactions Act 2011* section 9 in relation to information that is to be given in writing.

4. Authorised persons

- (1) Subject to subregulation (2), the Minister may, by notice in writing, designate any of the following persons or bodies to be an authorised person for the purposes of one or more of these regulations —
 - (a) an officer employed in the office of the Minister;
 - (b) the chief executive officer;
 - (c) an officer of the Department nominated in writing for the purposes of this regulation by the chief executive officer;
 - (d) the Commission;
 - (e) a person who is a member of the board;
 - (f) the Secretary to the Commission appointed under section 21 of the Act;
 - (g) a committee established under Schedule 2 of the Act.
- (2) The designation is subject to any conditions, qualifications, limitations or exceptions specified in the notice.

- (3) The Minister may, by notice in writing, amend or revoke a designation made under this regulation.

5. Provision of documents to the Commission

If documents must be provided to the Commission under these regulations the documents must be provided in a manner and form approved by the Commission.

6. Scheme in respect of Crown land

- (1) The Commission must, as soon as is practicable after resolving to prepare a scheme in respect of Crown land under section 97 of the Act, provide written notice of the resolution to each local government affected by the resolution.
- (2) These regulations, so far as consistent and applicable, apply to the preparation of a scheme in respect of Crown land under section 97 of the Act as if —
- (a) the Commission were a local government; and
 - (b) the scheme were a local planning scheme.

7. Scheme by order of Minister

These regulations, so far as consistent and applicable, apply to the preparation of a local planning scheme or an amendment to a local planning scheme ordered by the Minister under section 76 or 77A of the Act in the same way as they apply to the preparation of any other local planning scheme or amendment.

Part 2 — Elements of local planning schemes

8. Contents of local planning scheme

- (1) The documents that comprise a local planning scheme are the following —
 - (a) the scheme map for the local planning scheme;
 - (b) the local planning scheme text;
 - (c) if any of the provisions set out in Schedule 2 have not been incorporated into the local planning scheme text — those provisions;
 - (d) any supporting plans, maps, diagrams, illustrations and other material.
- (2) The Commission may specify any supporting plans, maps, diagrams, illustrations and other material that are to be included in a local planning scheme.

9. Defining area of local planning scheme

- (1) The area to which a local planning scheme applies is to be set out in a map or set of maps designated as the scheme map.
- (2) Each map that comprises the scheme map must be prepared —
 - (a) in a manner and form approved by the Commission; and
 - (b) using legends —
 - (i) set out in Schedule 3; or
 - (ii) approved by the Minister.

10. Local planning scheme text

- (1) The provisions in Schedules 1 and 2 are prescribed for the purposes of section 256 of the Act.

- (2) The provisions in Schedule 1 are model provisions, being provisions to which section 257A of the Act applies.

Note:

Under section 257A of the Act model provisions prescribed by regulations that are in force at the time a local planning scheme is prepared or adopted, and that apply to the scheme, are to be included in the scheme unless the Minister otherwise approves.

- (3) In Schedule 1 —
clause, followed by a number, means the clause of that number in Schedule 1 as it is included in the local planning scheme;
deemed provisions means the provisions set out in Schedule 2;
Part, followed by a number, means the Part of that number in Schedule 1 as it is included in the local planning scheme;
this Scheme, when used in a provision, is to be taken to be a reference to the local planning scheme in which the provision is included.
- (4) The provisions in Schedule 2 are deemed provisions, being provisions to which section 257B of the Act applies, and are applicable to all local planning schemes, whether or not they are incorporated into the local planning scheme text.

Note:

Under section 257B of the Act deemed provisions, as amended from time to time, have effect and may be enforced as part of each local planning scheme to which they apply, whether they are prescribed before or after the scheme comes into force.

If a deemed provision is inconsistent with another provision of a local planning scheme to which the deemed provision applies, the deemed provision prevails and the other provision, to the extent of the inconsistency, is of no effect.

- (5) In Schedule 2 —
clause, followed by a number, means the clause of that number in Schedule 2 as it applies to the local planning scheme;
Part, followed by a number, means the Part of that number in Schedule 2 as it applies to the local planning scheme;

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this Scheme, when used in a provision, is to be taken to be a reference to the local planning scheme in respect of which the provision has effect and may be enforced as part of.

- (6) The provisions of a local planning scheme that supplement the provisions set out in Schedules 1 and 2, or vary a provision set out in Schedule 1, are to be set out in the manner and form required by the Minister or an authorised person.

Note:

Section 73(2A) of the Act provides for a local planning scheme to supplement provisions set out in Schedules 1 and 2 and deal with special circumstances or contingencies for which adequate provision has not been made in those Schedules.

Part 3 — Local planning strategies

11. Requirement for local planning strategy for local planning scheme

- (1) A local government must prepare a local planning strategy in accordance with this Part for each local planning scheme that is approved for land within the district of the local government.
- (2) A local planning strategy must —
 - (a) set out the long-term planning directions for the local government; and
 - (b) apply any State or regional planning policy that is relevant to the strategy; and
 - (c) provide the rationale for any zoning or classification of land under the local planning scheme.
- (3) A local planning strategy may be prepared concurrently with the local planning scheme to which it relates.

12. Certification of draft local planning strategy

- (1) Before advertising a draft local planning strategy under regulation 13 the local government must provide a copy of the strategy to the Commission.
- (2) On receipt of a copy of a draft local planning strategy the Commission must, as soon as reasonably practicable, assess the strategy for compliance with regulation 11(2).
- (3) If the Commission is not satisfied that a draft local planning strategy complies with regulation 11(2) the Commission may, by notice in writing, require the local government to —
 - (a) modify the draft strategy; and
 - (b) provide a copy of the draft strategy as modified to the Commission for assessment under subregulation (2).

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- (4) If the Commission is satisfied that a draft local planning strategy complies with regulation 11(2) it must certify the strategy accordingly and provide a copy of the certification to the local government for the purpose of proceeding to advertise the strategy.

13. Advertising and notifying local planning strategy

- (1) A local government must, as soon as reasonably practicable after being provided with certification that a local planning strategy complies with regulation 11(2), advertise the strategy as follows —
- (a) publish a notice of the local planning strategy in a newspaper circulating in the area to which the strategy relates, giving details of —
 - (i) where the strategy may be inspected; and
 - (ii) to whom, in what form and during what period submissions may be made;
 - (b) display a copy of the notice in the offices of the local government for the period for making submissions set out in the notice;
 - (c) give a copy of the notice to each public authority that the local government considers is likely to be affected by the strategy;
 - (d) publish a copy of the notice and the strategy on the website of the local government;
 - (e) advertise the strategy as directed by the Commission and in any other way the local government considers appropriate.
- (2) The local government must ensure that arrangements are in place for the local planning strategy to be made available for inspection by the public during office hours —
- (a) at the office of the local government; and
 - (b) at the office of the Commission.

- (3) The period for making submissions in relation to a local planning strategy must not be less than a period of 21 days commencing on the day on which the notice of the strategy is published under subregulation (1)(a).
- (4) Notice of a local planning strategy as required under subregulation (1) may be given in conjunction with the notice to be given under regulation 20(1) for the scheme to which it relates.

14. Consideration of submissions

- (1) After the expiry of the period within which submissions may be made in relation to a local planning strategy, the local government must review the strategy having regard to any submissions made.
- (2) The local government may —
 - (a) support the local planning strategy without modification; or
 - (b) support the local planning strategy with proposed modifications to address issues raised in the submissions.
- (3) After the completion of the review of the local planning strategy the local government must submit to the Commission —
 - (a) a copy of the advertised local planning strategy; and
 - (b) a schedule of the submissions received; and
 - (c) particulars of any modifications to the advertised local planning strategy proposed by the local government.

15. Endorsement by Commission

- (1) Within 60 days of the receipt of the documents referred to in regulation 14(3) the Commission may —
 - (a) endorse the strategy without modification; or

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- (b) endorse the strategy with some or all of the modifications proposed by the local government; or
 - (c) require the local government to modify the strategy in the manner specified by the Commission before the strategy is resubmitted to the Commission for endorsement; or
 - (d) refuse to endorse the strategy.
- (2) The Minister or an authorised person may extend the time referred to in subregulation (1).

16. Publication of endorsed local planning strategy

- (1) If the Commission endorses a local planning strategy the Commission must publish the strategy in any manner the Commission considers appropriate.
- (2) The local government —
- (a) must ensure that an up-to-date copy of the local planning strategy is kept and made available for public inspection during business hours at the offices of the local government; and
 - (b) may publish an up-to-date copy of the local planning strategy on the website of the local government.

17. Amendment to local planning strategy

- (1) A local planning strategy may be amended by an amendment to the strategy prepared by the relevant local government and endorsed by the Commission.
- (2) This Part, with any necessary changes, applies to the preparation and endorsement of an amendment to a local planning strategy in the same way as it applies to the preparation and endorsement of a local planning strategy.

18. Revocation of local planning strategy

A local planning strategy may be revoked —

- (a) by a subsequent local planning strategy that —
 - (i) is prepared in accordance with this Part; and
 - (ii) expressly revokes the local planning strategy;

or

- (b) with the approval of the Commission, by a notice of revocation —
 - (i) prepared by the local government; and
 - (ii) published in a newspaper circulating in the area to which the strategy relates.

Part 4 — Preparation or adoption of local planning scheme

Division 1 — Proposal to prepare or adopt local planning scheme

19. Resolution to prepare or adopt scheme

- (1) A resolution of a local government to prepare or adopt a local planning scheme must be in a form approved by the Commission.

Note:

Section 72(1) of the Act provides for a local government to prepare a local planning scheme or to adopt a local planning scheme proposed by the owners of land in respect of which the local government might have prepared a scheme.

- (2) The local government may resolve not to adopt a local planning scheme proposed by a landowner if the local government is not satisfied that there is in place an agreement for the local government to use any copyrighted material provided in support of the proposed scheme —
- (a) for the purpose of preparing and implementing the scheme; and
 - (b) for zero remuneration.

20. Notification of resolution

- (1) A local government must, as soon as is reasonably practicable after passing a resolution to prepare or adopt a local planning scheme, advertise the resolution as follows —
- (a) publish a notice in a form approved by the Commission in a newspaper circulating in the district of the local government;
 - (b) provide a copy of the published notice to the following persons or bodies for recommendations —

- (i) the local government of each district that adjoins the local government district;
- (ii) each licensee under the *Water Services Act 2012* likely to be affected by the scheme;
- (iii) the chief executive officer of the department of the Public Service principally assisting in the administration of the *Conservation and Land Management Act 1984*;
- (iv) each other public authority likely to be affected by the scheme.

Note:

Under section 81 of the Act written notice of the resolution and written information about the local planning scheme must be given to the EPA.

- (2) A local government must, on the provision of the published notice to a person or body referred to in subregulation (1)(b), request the person or body to provide to the local government within 21 days or such longer period as the local government allows, a memorandum in writing setting out any recommendations in respect of the resolution.
- (3) If a person or body does not provide a memorandum within the time allowed under subregulation (2), the local government may determine that the person or body is to be taken to have no recommendations to make in respect of the resolution.

Division 2 — Advertising local planning scheme

21. Resolution to proceed to advertise draft local planning scheme

- (1) On completion of the preparation of local planning scheme documents or the consideration of local planning scheme documents proposed by an owner of land in the scheme area, a local government must resolve —
 - (a) to proceed to advertise the draft local planning scheme without modification; or

- (b) to proceed to advertise the draft local planning scheme with modifications; or
 - (c) not to proceed to advertise the draft local planning scheme.
- (2) If the local government resolves to proceed to advertise a draft local planning scheme the local government must, before advertising the scheme, submit 2 copies of the draft local planning scheme documents to the Commission.
- (3) The documents referred to in subregulation (2) must be submitted within 21 days of the local government resolution or such longer period as the Commission allows.
- (4) The Commission must, within 90 days or such longer period as the Minister or an authorised person allows, of receiving the documents submitted under subregulation (2), examine the documents and advise the local government if the Commission considers that any modification to the documents is required before the draft local planning scheme is advertised.
- (5) If the local government resolves not to proceed to advertise a draft local planning scheme the local government must, within 21 days or such longer period as the Commission allows, provide a copy of the resolution to the Commission.

22. Advertisement of local planning scheme

- (1) Subject to sections 81 and 82 of the Act, if the Commission advises a local government that it is satisfied that a draft local planning scheme submitted by the local government is suitable to be advertised, the local government must, as soon as is reasonably practicable, prepare a notice in a form approved by the Commission giving details of —
 - (a) the purpose of the draft scheme; and
 - (b) where the draft scheme may be inspected; and
 - (c) to whom and during what period submissions in respect of the draft scheme may be made.

- (2) On completion of the preparation of the notice, the local government must advertise the draft local planning scheme for public inspection as follows —
- (a) publish the notice in a newspaper circulating in the scheme area;
 - (b) display a copy of the notice in the offices of the local government for the period for making submissions set out in the notice;
 - (c) give a copy of the notice to each public authority that the local government considers is likely to be affected by the scheme;
 - (d) publish a copy of the notice and the draft scheme on the website of the local government;
 - (e) advertise the draft scheme as directed by the Commission and in any other way the local government considers appropriate.
- (3) The local government must ensure that arrangements are in place for the local planning scheme documents to be made available for inspection by the public during office hours —
- (a) at the office of the local government; and
 - (b) at the office of the Commission.
- (4) The period for making submissions set out in the notice referred to in subregulation (1) must be not less than —
- (a) a period of 90 days commencing on the day on which the notice is published under subregulation (2)(a); or
 - (b) if the draft local planning scheme does not involve the zoning or classification of land — a shorter period approved by the Commission.

23. Land owner may be required to pay costs of publication

The local government may require a person to pay the cost of the publication of a notice under regulation 22(2) if —

- (a) the notice relates to a draft local planning scheme in respect of land owned by the person; and
- (b) the person proposed the draft scheme.

24. Submissions on local planning scheme

- (1) A submission on a draft local planning scheme must —
 - (a) be made to the local government in a form approved by the Commission; and
 - (b) state the name and address of the person making the submission; and
 - (c) include a statement about the capacity in which the person makes the submission.
- (2) A local government must acknowledge in writing the receipt of each submission received by it.

25. Consideration of submissions

- (1) In this regulation —

consideration period, in relation to a draft local planning scheme, means the period ending on the latest of the following days —

 - (a) the day that is 120 days after the end of the submission period for the draft scheme;
 - (b) the day that is 21 days after the receipt of a statement in respect of the draft scheme delivered under section 48F(2)(a) of the EP Act;

- (c) the day that is 21 days after the receipt of a statement in respect of the draft scheme delivered under section 48G(3) of the EP Act if that statement is in response to a request by the local government made under section 48G(1) of the EP Act before the later of the days set out in paragraphs (a) and (b);
- (d) a day approved by the Commission;

submission period, in relation to a draft local planning scheme, means the period for making submissions specified in the notice in respect of the draft scheme referred to in regulation 22(1).

- (2) The local government —
 - (a) must consider all submissions on a draft local planning scheme lodged with the local government within the submission period; and
 - (b) may, at the discretion of the local government, consider submissions on a draft scheme lodged after the end of the submission period but before the end of the consideration period.
- (3) Before the end of the consideration period for a draft local planning scheme, or a later date approved by the Commission, the local government must pass a resolution —
 - (a) to support the draft scheme without modification; or
 - (b) to support the draft scheme with proposed modifications to address issues raised in the submissions; or
 - (c) not to support the draft scheme.
- (4) If no submissions have been received within the submission period, the resolution referred to in subregulation (3) must be passed as soon as is reasonably practicable after the end of the submission period.

26. Local government may advertise proposed modifications to draft local planning scheme

- (1) The local government may decide to advertise a proposed modification to the draft local planning scheme if —
 - (a) the local government proposes the modification to address issues raised in submissions made on the draft scheme; and
 - (b) the local government is of the opinion that the proposed modifications are significant.
- (2) If a local government makes a decision under subregulation (1) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the draft local planning scheme.
- (3) A proposed modification to a draft local planning scheme may not be advertised on more than one occasion without the approval of the Commission.
- (4) Any advertisement of a proposed modification to the draft local planning scheme must include a notice specifying —
 - (a) the proposed modifications to be made to the advertised local planning scheme; and
 - (b) where the advertised scheme and the proposed modifications may be inspected; and
 - (c) to whom and during what period submissions may be made; and
 - (d) the manner and form in which submissions may be made.
- (5) The period for making submissions specified in the notice referred to in subregulation (4) must be a period of not less than 60 days commencing on the day on which the notice is first given or a longer period approved by the Commission.

- (6) A person may make a submission on a proposed modification to a draft local planning scheme that has been advertised in accordance with subregulation (2) —
- (a) in the manner and form specified in the notice; and
 - (b) within the period specified in the notice.
- (7) If a proposed modification to a draft local planning scheme is advertised in accordance with this regulation, a local government —
- (a) must consider all submissions on the proposed modification made to the local government within the period specified in the notice; and
 - (b) may, at the discretion of the local government, consider submissions on the proposed modification made to the local government after the end of the period specified in the notice; and
 - (c) must make a recommendation in respect of each submission considered.

27. Incorporation of environmental conditions

If a local government receives a statement in respect of a draft local planning scheme delivered under section 48F(2) of the EP Act after passing a resolution to support the draft scheme but before complying with regulation 28, the local government must amend the local planning scheme documents —

- (a) to incorporate the conditions set out in the statement; or
- (b) if as the result of a request by the local government under section 48G(1) of the EP Act a statement is delivered to the local government under section 48G(3) of the EP Act, to incorporate the conditions set out in that later statement.

28. Information on draft local planning scheme to be provided to the Commission

- (1) After passing a resolution under regulation 25(3) the local government must provide the advertised local planning scheme documents to the Commission together with the following —
- (a) a schedule of submissions made on the draft scheme;
 - (b) the response of the local government to each submission;
 - (c) particulars of each modification to the draft scheme proposed by the local government in response to the submissions;
 - (d) if any proposed modification to the scheme was advertised —
 - (i) an explanation of the reasons for advertising the modification; and
 - (ii) particulars of how the modification was advertised; and
 - (iii) a schedule of submissions made on the proposed modifications; and
 - (iv) the recommendation of the local government in accordance with regulation 26(7)(c) in respect of each submission;
 - (e) a copy of the resolution passed under regulation 25(3);
 - (f) if that resolution was a resolution under regulation 25(3)(c) — a summary of the reasons why the local government does not support the draft scheme;
 - (g) details of any provision in the draft scheme that varies or excludes a provision set out in Schedule 1;
 - (h) details of any provision in the draft scheme that supplements a provision set out in Schedule 2;
 - (i) any relevant maps, plans, specifications and particulars required by the Commission.

- (2) A schedule of submissions referred to in subregulation (1)(a) and (d)(iii) must include —
- (a) the name and address of the person making the submission; and
 - (b) where it is relevant, a description of the property that is the subject of the submission; and
 - (c) the submission or a summary of the submission.
- (3) The documents referred to in subregulation (1) must be provided to the Commission —
- (a) in the case of a resolution to support a draft local planning scheme without modification or not to support a draft local planning scheme — within 21 days of passing the resolution; or
 - (b) in the case of a resolution to support a draft local planning scheme with proposed modifications —
 - (i) if the local government decides not to advertise the proposed modification — within 21 days of passing the resolution; or
 - (ii) otherwise — within 21 days of complying with regulation 26(7);
- or
- (c) if the Commission in any case approves a longer period — within that longer period.

29. Commission to submit draft local planning scheme and recommendations to Minister

The Commission must, within 120 days of receiving the documents provided to it under regulation 28(1), or within such longer period as the Minister or an authorised person allows —

- (a) consider the documents; and
- (b) make any recommendations to the Minister in respect of the draft local planning scheme that the Commission considers appropriate; and

- (c) submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.

30. Minister or authorised person may direct modifications to draft local planning scheme be advertised

- (1) Before a decision is made under section 87 of the Act, the Minister or an authorised person may direct the local government to advertise modifications to a draft local planning scheme if —
 - (a) the local government proposes, or the Commission recommends, that the scheme that was advertised under regulation 22 be modified; and
 - (b) the Minister or authorised person is of the opinion that the modification is significant.
- (2) The direction must include details of the process to be followed in respect of the advertisement including timeframes for —
 - (a) the making and consideration of submissions on the modifications; and
 - (b) providing recommendations to the Minister or authorised person following the advertisement.
- (3) If a local government is given a direction under subregulation (1), the local government must advertise the modification to a local planning scheme as directed by the Minister or authorised person.

Division 3 — Giving effect to decision on local planning scheme

31. Giving effect to Minister's decision

- (1) If a local government is notified that the Minister has, under section 87(2)(c) of the Act, refused to approve a local planning scheme, the local government must, as soon as is reasonably practicable, notify each person who made a submission in relation to the local planning scheme of that refusal.

- (2) Within 42 days of being notified that, under section 87(2)(b) of the Act, the Minister requires the local government to modify the draft local planning scheme, or a longer period approved by the Minister or authorised person, the local government must —
 - (a) modify the draft scheme as required; and
 - (b) execute the modified local planning scheme documents; and
 - (c) submit to the Minister a copy of the executed documents.
- (3) If the local government is notified that the Minister has, under section 87(2)(a) of the Act, approved the local planning scheme, the local government must provide to the Commission for endorsement such copies of the local planning scheme as the Commission requires, including not less than 2 copies of the local planning scheme documents that have been executed by the local government.
- (4) The documents referred to in subregulation (3) must be provided within 14 days of the local government being notified of the Minister's approval, or a longer period approved by the Commission.

32. Endorsement of local planning scheme

- (1) The Commission must endorse each of the copies of the local planning scheme that has been executed by the local government and submit one of those copies to the Minister.
- (2) The Minister must endorse the copy of the local planning scheme with the Minister's approval and return it to the Commission.
- (3) A person authorised in writing by the Commission may certify that a copy of a local planning scheme is a true copy of a local planning scheme as approved by the Minister.

33. Advertisement of approved local planning scheme

- (1) The Commission must provide to the relevant local government a copy of the notice of a local planning scheme published in the *Gazette* under section 87(3) of the Act.
- (2) The local government must —
 - (a) publish a copy of the notice in a newspaper circulating in the scheme area; and
 - (b) notify each person who made a submission in relation to the local planning scheme —
 - (i) that the local planning scheme has been approved; and
 - (ii) where a copy of the approved local planning scheme can be obtained.

Part 5 — Amending local planning scheme

Division 1 — Preliminary

34. Terms used

In this Part —

basic amendment means any of the following amendments to a local planning scheme —

- (a) an amendment to correct an administrative error;
- (b) an amendment to the scheme so that it is consistent with the model provisions in Schedule 1 or with another provision of the local planning scheme;
- (c) an amendment to the scheme text to delete provisions that have been superseded by the deemed provisions in Schedule 2;
- (d) an amendment to the scheme so that it is consistent with any other Act that applies to the scheme or the scheme area;
- (e) an amendment to the scheme so that it is consistent with a State planning policy;
- (f) an amendment to the scheme map to include a boundary to show the land covered by an improvement scheme or a planning control area;
- (g) an amendment to the scheme map that is consistent with a structure plan, activity centre plan or local development plan that has been approved under the scheme for the land to which the amendment relates if the scheme currently includes zones of all the types that are outlined in the plan;
- (h) an amendment that results from a consolidation of the scheme in accordance with section 92(1) of the Act;
- (i) an amendment to the scheme so that it is consistent with a region planning scheme that applies to the scheme area

if the amendment will have minimal effect on the scheme or landowners in the scheme area;

complex amendment means any of the following amendments to a local planning scheme —

- (a) an amendment that is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
- (b) an amendment that is not addressed by any local planning strategy;
- (c) an amendment relating to development that is of a scale, or will have an impact, that is significant relative to development in the locality;
- (d) an amendment made to comply with an order made by the Minister under section 76 or 77A of the Act;
- (e) an amendment to identify or amend a development contribution area or to prepare or amend a development contribution plan;

standard amendment means any of the following amendments to a local planning scheme —

- (a) an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;
- (b) an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
- (c) an amendment to the scheme so that it is consistent with a region planning scheme that applies to the scheme area, other than an amendment that is a basic amendment;
- (d) an amendment to the scheme map that is consistent with a structure plan, activity centre plan or local development plan that has been approved under the scheme for the land to which the amendment relates if

the scheme does not currently include zones of all the types that are outlined in the plan;

- (e) an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;
- (f) an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;
- (g) any other amendment that is not a complex or basic amendment.

Note:

Under section 257B of the Act and regulation 10(4) the provisions in Schedule 2 are deemed provisions and have effect and may be enforced as part of each local planning scheme. Incorporation of the provisions set out in Schedule 2 into the text of a local planning scheme is not an amendment of the local planning scheme.

35. Resolution to prepare or adopt amendment to local planning scheme

- (1) A resolution of a local government to prepare or adopt an amendment to a local planning scheme must be in a form approved by the Commission.

Note:

Section 75 of the Act provides for a local government to amend a local planning scheme or adopt an amendment to a local planning scheme proposed by all or any of the owners of land in the scheme area.

- (2) A resolution must —
 - (a) specify whether, in the opinion of the local government, the amendment is a complex amendment, a standard amendment or a basic amendment; and
 - (b) include an explanation of the reason for the local government forming that opinion.

- (3) An amendment to a local planning scheme must be accompanied by all documents necessary to convey the intent and reasons for the amendment.
- (4) The local government may refuse to adopt an amendment to a local planning scheme proposed by a landowner if the local government is not satisfied that there is in place an agreement for the local government to use any copyrighted material provided in support of the proposed amendment —
 - (a) for the purpose of preparing and implementing the amendment; and
 - (b) for zero remuneration.

36. Landowner may request Commission’s advice on type of amendment

- (1) A landowner may request the Commission to advise whether, in the opinion of the Commission, the amendment is a complex amendment, a standard amendment or a basic amendment if —
 - (a) the landowner has requested the amendment; and
 - (b) the landowner considers that the resolution made by the local government in respect of the amendment does not appropriately specify the amendment as being of a particular type.
- (2) If the Commission advises the local government that, in its opinion, the amendment is of a different type to that specified by the local government in the resolution, the local government must amend the resolution accordingly.

Division 2 — Process for complex amendments to local planning scheme

37. Resolution to proceed to advertise complex amendment

- (1) On completion of the preparation of a complex amendment to a local planning scheme or the consideration of a complex

amendment to a local planning scheme proposed by an owner of land in the scheme area, the local government must resolve —

- (a) to proceed to advertise the amendment to the local planning scheme without modification; or
 - (b) to proceed to advertise the amendment to the local planning scheme with modifications; or
 - (c) not to proceed to advertise the amendment to the local planning scheme.
- (2) If the local government resolves to proceed to advertise a complex amendment to a local planning scheme the local government must, before advertising the amendment, submit 2 copies of the proposed amendment to the Commission.
 - (3) The documents referred to in subregulation (2) must be submitted within 21 days of the local government resolution or such longer period as the Commission allows.
 - (4) The Commission must, within 60 days or such longer period as the Minister or an authorised person allows, of receiving the documents submitted under subregulation (2), examine the documents and advise the local government if the Commission considers that any modification to the documents is required before the amendment to the local planning scheme is advertised.
 - (5) If the local government resolves not to proceed to advertise a complex amendment to a local planning scheme the local government must within 21 days, or such longer period as the Commission allows, provide a copy of the resolution to the Commission.

38. Advertisement of complex amendment

- (1) Subject to sections 81 and 82 of the Act, if the Commission advises a local government that it is satisfied that a complex amendment to a local planning scheme submitted by the local government is suitable to be advertised, the local government

must, as soon as is reasonably practicable, prepare a notice in a form approved by the Commission giving details of —

- (a) the purpose of the amendment; and
- (b) where the amendment may be inspected; and
- (c) to whom and during what period submissions in respect of the amendment may be made.

(2) On completion of the preparation of the notice, the local government must advertise the complex amendment to a local planning scheme as follows —

- (a) publish the notice in a newspaper circulating in the scheme area;
- (b) display a copy of the notice in the offices of the local government for the period for making submissions set out in the notice;
- (c) give a copy of the notice to each public authority that the local government considers is likely to be affected by the amendment;
- (d) publish a copy of the notice and the amendment on the website of the local government;
- (e) advertise the amendment as directed by the Commission and in any other way the local government considers appropriate.

(3) The local government must ensure that arrangements are in place for the documents relating to the complex amendment to the local planning scheme to be made available for inspection by the public during office hours —

- (a) at the office of the local government;
- (b) at the office of the Commission.

(4) The period for submissions set out in a notice must be not less than a period of 60 days commencing on the day on which the notice is published in a newspaper circulating in the scheme area.

39. Land owner may be required to pay costs of publication

The local government may require a person to pay the cost of the publication of a notice under regulation 38(2) if —

- (a) the notice relates to an amendment to a local planning scheme in respect of land owned by the person; and
- (b) the person proposed the amendment to the local planning scheme.

40. Submissions on complex amendment

- (1) A submission on a complex amendment to a local planning scheme must —
 - (a) be made in writing to the relevant local government in a form approved by the Commission; and
 - (b) state the name and address of the person making the submission; and
 - (c) include a statement about the capacity in which the person makes the submission.
- (2) A local government must acknowledge in writing the receipt of each submission received by it.

41. Consideration of submissions on complex amendments

- (1) In this regulation —

consideration period, in relation to a complex amendment to a local planning scheme, means the period ending on the latest of the following days —

 - (a) the day that is 90 days after the end of the submission period for the amendment;
 - (b) the day that is 21 days after the receipt of a statement in respect of the amendment delivered under section 48F(2)(a) of the EP Act;
 - (c) the day that is 21 days after the receipt of a statement in respect of the amendment delivered under

section 48G(3) of the EP Act if that statement is in response to a request by the local government made under section 48G(1) of the EP Act before the later of the days set out in paragraphs (a) and (b);

- (d) a day approved by the Commission;

submission period, in relation to a complex amendment to a local planning scheme, means the period for making submissions specified in the notice in respect of the amendment referred to in regulation 38(1).

- (2) The local government —
- (a) must consider all submissions in relation to a complex amendment to a local planning scheme lodged with the local government within the submission period; and
 - (b) may, at the discretion of the local government, consider submissions in relation to the amendment lodged after the end of the submission period but before the end of the consideration period.
- (3) Before the end of the consideration period for a complex amendment to a local planning scheme, or a later date approved by the Commission, the local government must pass a resolution —
- (a) to support the amendment to the local planning scheme without modification; or
 - (b) to support the amendment to the local planning scheme with proposed modifications to address issues raised in the submissions; or
 - (c) not to support the amendment to the local planning scheme.
- (4) If no submissions have been received within the submission period, the resolution referred to in subregulation (3) must be passed as soon as is reasonably practicable after the end of the submission period.

42. Local government may advertise proposed modifications to complex amendment

- (1) The local government may decide to advertise a modification to a complex amendment to a local planning scheme if —
 - (a) the local government proposes the modifications to address issues raised in submissions made on the amendment; and
 - (b) the local government is of the opinion that the proposed modification is significant.
- (2) If a local government makes a decision under subregulation (1), the local government must take any steps the local government considers appropriate to advertise the proposed modification to the amendment to the local planning scheme.
- (3) A proposed modification to an amendment to a local planning scheme may not be advertised on more than one occasion without the approval of the Commission.
- (4) Any advertisement of a proposed modification to the local planning scheme must include a notice specifying —
 - (a) the proposed modifications to be made to the advertised amendment to the local planning scheme; and
 - (b) where the amendment to the local planning scheme and the proposed modifications may be inspected; and
 - (c) to whom and during what period submissions may be made; and
 - (d) the manner and form in which submissions may be made.
- (5) The period for making submissions set out in the notice referred to in subregulation (4) must be a period of not less than 42 days commencing on the day on which the notice is first given or a longer period approved by the Commission.

- (6) A person may make a submission on a proposed modification to a complex amendment to a local planning scheme that has been advertised in accordance with subregulation (2) —
- (a) in the manner and form specified in the notice included in the advertisement; and
 - (b) within the period specified in the notice.
- (7) If a proposed modification to an amendment to a local planning scheme is advertised in accordance with this regulation, a local government —
- (a) must consider all submissions on the proposed modifications made to the local government within the period specified in the notice; and
 - (b) may, at the discretion of the local government, consider submissions on the proposed modification made to the local government after the period specified in the notice; and
 - (c) must make a recommendation in respect of each submission considered.

43. Incorporation of environmental conditions

If a local government receives a statement in respect of a complex amendment to a local planning scheme delivered under section 48F(2) of the EP Act after passing a resolution to support the amendment but before complying with regulation 44, the local government must amend the amendment documents —

- (a) to incorporate the conditions set out in the statement; or
- (b) if as the result of a request by the local government under section 48G(1) of the EP Act a statement is delivered to the local government under section 48G(3) of the EP Act, to incorporate the conditions set out in that later statement.

44. Information on complex amendment to be provided to the Commission

- (1) After passing a resolution under regulation 41(3) the local government must provide the advertised amendment to the local planning scheme to the Commission together with the following —
- (a) a schedule of submissions made on the amendment;
 - (b) the response of the local government in respect of the submissions;
 - (c) particulars of each modification to the amendment proposed by the local government in response to the submissions;
 - (d) if any proposed modification to the amendment was advertised —
 - (i) an explanation of the reasons for advertising the modification; and
 - (ii) particulars of how the modification was advertised; and
 - (iii) a schedule of submissions made on the proposed modifications; and
 - (iv) the recommendation of the local government in accordance with regulation 42(7)(c) in respect of each submission;
 - (e) a copy of the resolution passed under regulation 41(3);
 - (f) if that resolution was a resolution under regulation 41(3)(c) — a summary of the reasons why the local government does not support the amendment to the local planning scheme;
 - (g) details of any provision in the local planning scheme as it will be amended that varies or excludes a provision set out in Schedule 1;

- (h) details of any provision in the local planning scheme as it will be amended that supplements a provision set out in Schedule 2;
 - (i) any relevant maps, plans, specifications and particulars required by the Commission.
- (2) A schedule of submissions referred to in subregulation (1)(a) and (d)(iii) must include the following —
- (a) the name and address of the person making the submission;
 - (b) where it is relevant, a description of the property that is the subject of the submission;
 - (c) the submission or a summary of the submission.
- (3) The documents referred to in subregulation (1) must be provided to the Commission —
- (a) in the case of a resolution to support an amendment to a local planning scheme without modification or not to support an amendment to a local planning scheme — within 21 days of passing the resolution; or
 - (b) in the case of a resolution to support an amendment to a local planning scheme with proposed modifications —
 - (i) if the local government decides not to advertise the proposed modification — within 21 days of passing the resolution; or
 - (ii) otherwise — within 21 days of complying with regulation 42(7);
- or
- (c) if the Commission in any case approves a longer period — within that longer period.

45. Commission to submit complex amendment and recommendations to Minister

The Commission must, within 90 days of receiving the documents provided to it under regulation 44(1), or within such longer period as the Minister or an authorised person allows —

- (a) consider the documents; and
- (b) make any recommendations to the Minister in respect of the amendment that the Commission considers appropriate; and
- (c) submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.

46. Minister or authorised person may direct modifications to complex amendment be advertised

- (1) Before a decision is made under section 87 of the Act, the Minister or an authorised person may direct the local government to advertise modifications to a complex amendment to a local planning scheme if —
 - (a) the local government proposes, or the Commission recommends, that the amendment that was advertised under regulation 38(2) be modified; and
 - (b) the Minister or authorised person is of the opinion that the modification is significant.
- (2) The direction must include details of the process to be followed in respect of the advertisement including timeframes for —
 - (a) the making and consideration of submissions on the modifications; and
 - (b) providing recommendations to the Minister or authorised person following the advertisement.
- (3) If a local government is given a direction under subregulation (1) the local government must advertise the

modification to the amendment to the local planning scheme as directed by the Minister or authorised person.

Division 3 — Process for standard amendments to local planning scheme

47. Advertisement of standard amendment

- (1) Subject to sections 81 and 82 of the Act, if a local government resolves under regulation 35(1) to prepare a standard amendment to a local planning scheme or to adopt a standard amendment to a local planning scheme proposed by the owner of land in the scheme area, the local government must, as soon as is reasonably practicable, prepare a notice in a form approved by the Commission giving details of —
 - (a) the purpose of the amendment; and
 - (b) where the amendment may be inspected; and
 - (c) to whom and during what period submissions in respect of the amendment may be made.
- (2) On completion of the preparation of the notice, the local government must advertise the standard amendment to a local planning scheme as follows —
 - (a) publish the notice in a newspaper circulating in the scheme area;
 - (b) display a copy of the notice in the offices of the local government for the period for making submissions set out in the notice;
 - (c) give a copy of the notice to each public authority that the local government considers is likely to be affected by the amendment;
 - (d) publish a copy of the notice and the amendment on the website of the local government;

- (e) advertise the scheme as directed by the Commission and in any other way the local government considers appropriate.
- (3) The local government must ensure that the standard amendment to the local planning scheme is made available for inspection by the public during office hours at the office of the local government.
- (4) The period for submissions set out in a notice must be not less than a period of 42 days commencing on the day on which the notice is published in a newspaper circulating in the scheme area.

48. Land owner may be required to pay costs of publication

The local government may require a person to pay the cost of the publication of a notice under regulation 47(2) if —

- (a) the notice relates to an amendment to a local planning scheme in respect of land owned by the person; and
- (b) the person proposed the amendment to the local planning scheme.

49. Submissions on standard amendment

- (1) A submission on a standard amendment to a local planning scheme must —
 - (a) be made in writing to the relevant local government in a form approved by the Commission; and
 - (b) state the name and address of the person making the submission; and
 - (c) include a statement about the capacity in which the person makes the submission.
- (2) A local government must acknowledge in writing the receipt of each submission received by it.

50. Consideration of submissions on standard amendments

(1) In this regulation —

consideration period, in relation to a standard amendment to a local planning scheme, means the period ending on the latest of the following days —

- (a) the day that is 60 days after the end of the submission period for the amendment;
- (b) the day that is 21 days after the receipt of a statement in respect of the amendment delivered under section 48F(2)(a) of the EP Act;
- (c) the day that is 21 days after the receipt of a statement in respect of the amendment delivered under section 48G(3) of the EP Act if that statement is in response to a request by the local government made under section 48G(1) of the EP Act before the later of the days set out in paragraphs (a) and (b);
- (d) a day approved by the Commission;

submission period, in relation to a standard amendment to a local planning scheme, means the period for making submissions specified in the notice in respect of the amendment referred to in regulation 47(1).

(2) The local government —

- (a) must consider all submissions in relation to a standard amendment to a local planning scheme lodged with the local government within the submission period; and
- (b) may, at the discretion of the local government, consider submissions in relation to the amendment lodged after the end of the submission period but before the end of the consideration period.

- (3) Before the end of the consideration period for a standard amendment to a local planning scheme, or a later date approved by the Commission, the local government must pass a resolution —
 - (a) to support the amendment without modification; or
 - (b) to support the amendment with proposed modifications to address issues raised in the submissions; or
 - (c) not to support the amendment.
- (4) If no submissions have been received within the submission period, the resolution referred to in subregulation (3) must be passed as soon as is reasonably practicable after the end of the submission period.

51. Local government may advertise proposed modifications to standard amendment

- (1) The local government may decide to advertise a modification to a standard amendment to a local planning scheme if —
 - (a) the local government proposes the modification to address issues raised in submissions made on the amendment; and
 - (b) the local government is of the opinion that the proposed modification to the amendment is significant.
- (2) If a local government makes a decision under subregulation (1) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the amendment.
- (3) A proposed modification to an amendment to a local planning scheme may not be advertised on more than one occasion without the approval of the Commission.

- (4) Any advertisement of a proposed modification to the amendment to the local planning scheme must include a notice specifying —
- (a) the proposed modifications to be made to the advertised amendment; and
 - (b) where the amendment and the proposed modifications may be inspected; and
 - (c) to whom and during what period submissions may be made; and
 - (d) the manner and form in which submissions may be made.
- (5) The period for making submissions set out in the notice referred to in subregulation (4) must be a period of 21 days commencing on the day on which the notice is first given or a longer period approved by the Commission.
- (6) A person may make a submission on a proposed modification to a standard amendment to a local planning scheme that has been advertised in accordance with subregulation (2) —
- (a) in the manner and form specified in the notice; and
 - (b) within the period specified in the notice.
- (7) If a proposed modification to an amendment to a local planning scheme is advertised in accordance with this regulation, a local government —
- (a) must consider all submissions on the proposed modification made to the local government within the period specified in the notice; and
 - (b) may, at the discretion of the local government, consider submissions on the proposed modification made to the local government after the period specified in the notice; and
 - (c) must make a recommendation in respect of each submission considered.

52. Incorporation of environmental conditions

If a local government receives a statement in respect of a standard amendment to a local planning scheme delivered under section 48F(2) of the EP Act after passing a resolution to prepare or adopt the amendment but before complying with regulation 53, the local government must amend the amendment documents —

- (a) to incorporate the conditions set out in the statement; or
- (b) if as the result of a request by the local government under section 48G(1) of the EP Act a statement is delivered to the local government under section 48G(3) of the EP Act, to incorporate the conditions set out in that later statement.

53. Information on standard amendment to be provided to the Commission

- (1) After passing a resolution under regulation 50(3) the local government must provide the advertised amendment to the local planning scheme to the Commission together with the following —
 - (a) a schedule of submissions made on the amendment;
 - (b) the response of the local government in respect of the submissions;
 - (c) particulars of each modification to the amendment proposed by the local government in response to the submissions;
 - (d) if any proposed modification to the amendment was advertised —
 - (i) an explanation of the reasons for advertising the modification; and
 - (ii) particulars of how the modification was advertised; and

- (iii) a schedule of submissions made on the proposed modifications; and
 - (iv) the recommendation of the local government in accordance with regulation 51(7)(c) in respect of each submission;
 - (e) a copy of the resolution passed under regulation 50(3);
 - (f) if that resolution was a resolution under regulation 50(3)(c) — a summary of the reasons why the local government does not support the amendment;
 - (g) details of any provision in the local planning scheme that varies or excludes a provision set out in Schedule 1;
 - (h) details of any provision in the local planning scheme as it will be amended that supplements a provision set out in Schedule 2;
 - (i) any relevant maps, plans, specifications and particulars required by the Commission.
- (2) The schedule of submissions referred to in subregulation (1)(a) and (d)(iii) must include the following —
- (a) the name and address of the person making the submission;
 - (b) where it is relevant, a description of the property that is the subject of the submission;
 - (c) the submission or a summary of the submission.
- (3) The documents referred to in subregulation (1) must be provided to the Commission —
- (a) in the case of a resolution to support an amendment to a local planning scheme without modification or not to support an amendment to a local planning scheme — within 21 days of passing the resolution; or

- (b) in the case of a resolution to support an amendment to a local planning scheme with proposed modifications —
 - (i) if the local government decides not to advertise the proposed modification — within 21 days of passing the resolution; or
 - (ii) otherwise — within 21 days of complying with regulation 51(7);

or

- (c) if the Commission in any case approves a longer period — within that longer period.

54. Commission may direct amendment be treated as complex amendment

If, on receipt of documents provided to it under regulation 53(1), the Commission considers that the amendment to the local planning scheme is a complex amendment, the Commission may direct the local government —

- (a) to readvertise the amendment as a complex amendment; or
- (b) to take any other steps the Commission considers appropriate to advertise the amendment.

55. Commission to submit standard amendment and recommendations to Minister

Unless the Commission makes a direction under regulation 54, the Commission must, within 60 days of receiving the documents provided to it under regulation 53(1), or within such longer period as the Minister or an authorised person allows —

- (a) consider the documents; and
- (b) make any recommendations to the Minister in respect of the amendment that the Commission considers appropriate; and

- (c) submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.

56. Minister or authorised person may direct modifications to standard amendment be advertised

- (1) Before a decision is made under section 87 of the Act, the Minister or an authorised person may direct the local government to advertise modifications to a standard amendment to a local planning scheme if —
 - (a) the local government proposes, or the Commission recommends, that the amendment that was advertised under regulation 47(2) be modified; and
 - (b) the Minister or authorised person is of the opinion that the modification is significant.
- (2) The direction must include details of the process to be followed in respect of the advertisement including timeframes for —
 - (a) the making and consideration of submissions on the modifications; and
 - (b) providing recommendations to the Minister or authorised person following the advertisement.
- (3) If a local government is given a direction under subregulation (1) the local government must advertise the modification to the amendment to the local planning scheme as directed by the Minister or authorised person.

Division 4 — Process for basic amendments

57. Incorporation of environmental conditions

If a local government receives a statement in respect of a basic amendment to a local planning scheme delivered under section 48F(2) of the EP Act after passing a resolution to prepare or adopt the amendment but before complying with regulation 58, the local government must amend the amendment documents —

- (a) to incorporate the conditions set out in the statement; or
- (b) if as the result of a request by the local government under section 48G(1) of the EP Act a statement is delivered to the local government under section 48G(3) of the EP Act, to incorporate the conditions set out in that later statement.

58. Basic amendment to be provided to the Commission

Within 21 days of passing a resolution to prepare or adopt a basic amendment to a local planning scheme under regulation 35(1), or such longer period as the Commission approves, the local government must provide the amendment to the Commission together with any relevant maps, plans, specifications and particulars required by the Commission.

59. Commission may direct amendment be treated as complex or standard amendment

If, on receipt of documents provided to it under regulation 58, the Commission considers that the amendment to the local planning scheme is a complex amendment or a standard amendment, the Commission may direct the local government —

- (a) to advertise the amendment as a complex amendment or a standard amendment as the case requires; or
- (b) to take any other steps the Commission considers appropriate to advertise the amendment.

60. Commission to submit basic amendment to Minister

Unless the Commission makes a direction under regulation 59, the Commission must, within 42 days of receiving the documents provided to it under regulation 58, or within such longer period as the Minister or an authorised person allows —

- (a) consider the documents; and

- (b) make any recommendations to the Minister in respect of the amendment that the Commission considers appropriate; and
- (c) submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.

61. Minister or authorised person may direct basic amendment be advertised

- (1) Before a decision is made under section 87 of the Act, the Minister or an authorised person may direct the local government to advertise a basic amendment to a local planning scheme if the Minister or authorised person is of the opinion that the amendment is significant.
- (2) The direction must include details of the process to be followed in respect of the advertisement including timeframes for —
 - (a) the making and consideration of submissions on the amendment; and
 - (b) providing recommendations to the Minister or authorised person following the advertisement.
- (3) If a local government is given a direction under subregulation (1) the local government must advertise the amendment to a local planning scheme as directed by the Minister or authorised person.

Division 5 — Giving effect to decision on amendment to local planning scheme

62. Giving effect to Minister's decision

- (1) If a local government is notified that the Minister has, under section 87(2)(c) of the Act, refused to approve an amendment to a local planning scheme, the local government must, as soon as is reasonably practicable, notify each person who made a submission in relation to the amendment of that refusal.

- (2) Within 42 days, or such longer period as allowed by the Commission, of being notified that, under section 87(2)(b) of the Act, the Minister requires the local government to modify the amendment to the local planning scheme, the local government must —
 - (a) modify the amendment as required; and
 - (b) execute the modified amendment; and
 - (c) submit to the Minister a copy of the executed documents.
- (3) If a local government is notified that the Minister has, under section 87(2)(a) of the Act, approved the amendment to the local planning scheme, the local government must provide to the Commission for endorsement copies of the amendment as required by the Commission, including not less than 2 copies of the amendment documents that have been executed by the local government.
- (4) The documents referred to in subregulation (3) must be provided within 14 days of the local government being notified of the Minister's approval, or a longer period approved by the Commission.

63. Endorsement of amendment to local planning scheme

- (1) The Commission must endorse each of the copies of the amendment to the local planning scheme that has been executed by the local government and submit one of those copies to the Minister.
- (2) The Minister must endorse the copy of the amendment to the local planning scheme with the Minister's approval and return it to the Commission.
- (3) A person authorised in writing by the Commission may certify that a copy of a local planning scheme is a true copy of a local planning scheme as approved by the Minister.

64. Advertisement of approved amendment to local planning scheme

- (1) The Commission must provide to the relevant local government a copy of the notice of an amendment to a local planning scheme published in the *Gazette* under section 87(3) of the Act.
- (2) The local government must —
 - (a) publish a copy of the notice in a newspaper circulating in the district where the land the subject of the local planning scheme is situated; and
 - (b) notify each person who made a submission in relation to the amendment to the local planning scheme —
 - (i) that the amendment has been approved; and
 - (ii) where a copy of the approved amendment can be obtained.

Part 6 — Review and consolidation of local planning schemes

Division 1 — Review of local planning scheme

65. Review of local planning scheme

- (1) A local government must carry out a review of each local planning scheme prepared by the local government —
 - (a) in the 5th year after the scheme is published in the *Gazette* under section 87(3) of the Act; and
 - (b) in the 5th year after the completion of each review carried out under this Division.
- (2) Subregulation (1) applies to a local planning scheme that was published in the *Gazette* more than 5 years before the commencement of this regulation as if it were published in the *Gazette* on the day that is 3 years before the day on which this regulation comes into operation.
- (3) The review must consider whether the local planning scheme is up-to-date and complies with these regulations.
- (4) The review may be undertaken in conjunction with the preparation of a consolidation of a scheme under Part 5 Division 5 of the Act.

66. Report of review

- (1) The local government must, no later than 6 months after the requirement to carry out the review of a local planning scheme arises under regulation 65, or such longer period as the Commission allows —
 - (a) prepare a report of the review; and
 - (b) approve the report by resolution; and
 - (c) provide the approved report to the Commission.

- (2) The report must be prepared in the manner and form approved by the Commission and must include the following information —
- (a) the date on which the local planning scheme was published in the *Gazette* in accordance with section 87(3) of the Act;
 - (b) the date on which each amendment made to the scheme was published in the *Gazette* in accordance with section 87(3) of the Act;
 - (c) the date on which the scheme was last consolidated under Part 5 Division 5 of the Act;
 - (d) an overview of the subdivision and development activity, lot take-up and population changes in the scheme area since the later of —
 - (i) the date on which the scheme was published in the *Gazette* in accordance with section 87(3) of the Act; and
 - (ii) the date on which the scheme was last reviewed;
 - (e) an overview of the extent to which the scheme has been amended to comply with the requirements of any relevant legislation, region planning scheme or State planning policy.
- (3) The report must make recommendations as to —
- (a) whether the scheme —
 - (i) is satisfactory in its existing form; or
 - (ii) should be amended; or
 - (iii) should be repealed and a new scheme prepared in its place;and
 - (b) whether the local planning strategy for the scheme —
 - (i) is satisfactory in its existing form; or
 - (ii) should be reviewed; or

- (iii) should be repealed and a new strategy prepared in its place.

67. Decision of Commission

- (1) Within 90 days of receiving a report of a review of a local planning scheme, or such longer period as the Minister or an authorised person allows, the Commission must consider the report and —
- (a) decide whether the Commission agrees or disagrees with the recommendations in the report; and
 - (b) notify the local government which prepared the report of the Commission's decision.
- (2) After receiving notification of the Commission's decision on a report of a review of a local planning scheme the local government must —
- (a) publish the report and notice of the Commission's decision on the website of the local government or in any other manner approved by the Commission; and
 - (b) make the report and notice of the Commission's decision available for inspection at the office of the local government.

Division 2 — Consolidation of local planning schemes

68. Consolidation of local planning schemes

- (1) Part 4, to the extent applicable, applies in respect of the preparation of a consolidation of a local planning scheme under Part 5 Division 5 of the Act.
- (2) A local government may not, under regulation 21(1)(c) or regulation 25(3)(c), make a resolution not to proceed with the consolidation of a local planning scheme.

69. Amendment of local planning scheme arising from consolidation

- (1) If, under section 92 of the Act, the Minister advises the local government that the Minister concurs with a recommendation of the local government that the local planning scheme be amended, or recommends an amendment to the local planning scheme, the local government is to prepare the amendment as a basic amendment under Part 5.
- (2) A local government must not make a resolution not to proceed with an amendment referred to in subregulation (1).

Part 7 — Development contribution plans

70. Development contribution area

- (1) A local government may determine that an area of land within a scheme area is a development contribution area if development or subdivision of the land would require the provision of infrastructure or facilities in the area to support the development or subdivision.
- (2) A development contribution area must be shown as a special control area on the scheme map for the local planning scheme.

71. Development contribution plan

- (1) A local government must prepare a development contribution plan for each area identified in a local planning scheme as a development contribution area.
- (2) A development contribution plan may be prepared concurrently with the identification of the development contribution area to which it relates.
- (3) A development contribution plan is prepared for the purpose of setting out who is to contribute to the cost of providing infrastructure or facilities in a development contribution area and how those contributions are to be determined.
- (4) A development contribution plan must set out the following —
 - (a) the development contribution area to which it applies;
 - (b) the infrastructure and administrative items to be funded through the plan;
 - (c) the method of determining the contribution of each owner of land in the development contribution area;
 - (d) the priority and timing for the provision of the infrastructure;
 - (e) whether costs of providing infrastructure and administrative items are to be reviewed annually and if

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so, the method proposed for the annual review of the costs;

- (f) the term for which the plan is to have effect.

72. Development contribution area and plans are complex amendments

The identification of a development contribution area and the preparation of a development contribution plan, or the amendment of an area or plan, are to be prepared as part of the preparation or adoption of a local planning scheme or as a complex amendment to a local planning scheme.

73. Effect of development contribution plan

- (1) A local government must not levy a contribution for the provision of infrastructure or facilities for an area unless there is a development contribution plan in place for the area.
- (2) The Commission must not grant subdivision approval subject to a condition that a person may be required to make a contribution to the provision of infrastructure or facilities for the area covered by the subdivision if a development contribution plan is not in place for the area.
- (3) A local government must not refuse to grant development approval on the grounds that a development contribution plan is being prepared for the area in which the development is located unless that plan has already been advertised.
- (4) The Commission must not refuse to grant subdivision approval on the grounds that a development contribution plan is being prepared for the area covered by the subdivision unless that plan has already been advertised.

Part 8 — Miscellaneous

74. Expenses of environmental review

- (1) In this regulation —

affected land, in relation to a local planning scheme or an amendment to a local planning scheme, means land to which the local planning scheme or amendment relates;

method of calculation means a method of calculation for the purposes of this regulation set out in subregulation (4);

review expenses means expenses incurred by a local government in undertaking an environmental review of a local planning scheme or amendment in accordance with instructions issued under section 48C(1)(a) of the EP Act;

value, in relation to land, means the rateable value of the land recorded in the rate records of the local government at the time the resolution to prepare or adopt the local planning scheme or amendment was passed.

- (2) A local government may, under section 82(6) of the Act, recover in a court of competent jurisdiction, as a debt due to the local government, any amount due and owing under this regulation in respect of review expenses incurred by the local government.
- (3) The owner of affected land is liable to pay an amount in respect of review expenses if —
- (a) the review is to be undertaken by the local government; and
 - (b) the local planning scheme or amendment documents —
 - (i) provide that the owner is liable for review expenses; and
 - (ii) set out a method of calculation for the amount that is to be payable by each owner.

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(4) The methods of calculation for the purposes of subregulation (3)(b)(ii) are as follows —

(a) proportional land area, being the amount calculated using the formula —

$$\text{Amount due by person} = \frac{A}{T} \times \text{review expenses}$$

$$\text{Amount due by person} = \frac{A}{T} \times \text{review expenses}$$

where —

A is the area of the affected land owned by the person;

T is the total area of affected land;

(b) proportional land value, being the amount calculated using the formula —

$$\text{Amount due by person} = \frac{V}{T} \times \text{review expenses}$$

$$\text{Amount due by person} = \frac{V}{T} \times \text{review expenses}$$

where —

V is the value of the affected land owned by the person;

T is the total value of affected land;

(c) another method of calculation approved by the Minister or an authorised person.

(5) Unless the local government and the owner of affected land have agreed in writing that the review expenses may be recovered at an earlier time, review expenses must not be recovered from the owner until the local planning scheme or amendment has come into force and —

- (a) the affected land owned by the person is sold or subdivided; or
 - (b) in the case of an amendment that changed the zoning of affected land, the local government grants approval for the development of affected land owned by the person that could not have been granted under the local planning scheme prior to the amendment coming into force.
- (6) A local government must not seek to recover review expenses from a land owner unless the local government has kept separate records setting out details of —
- (a) the review expenses incurred and recovered; and
 - (b) the affected land; and
 - (c) any agreements of the type referred to in subregulation (5).

75. Compensation

An application for compensation under Part 11 of the Act arising from the making or amendment to a local planning scheme must be made to the local government in a form approved by the Commission.

76. Transitional arrangements for replacement local planning schemes

A local planning scheme that replaces one or more local planning schemes may provide that an application, instrument or policy that was made under, or applied in respect of, a local planning scheme that is being replaced is to be taken to be an application, instrument or policy for the purposes of the new scheme.

Part 9 — Repeal and transitional provisions

77. Terms used

In this Part —

commencement day means the day on which regulation 78 comes into operation;

planning instrument means any of the following instruments —

- (a) a consolidation of a local planning scheme;
- (b) an activity centre plan;
- (c) a development contribution plan;
- (d) a local development plan;
- (e) a local planning policy;
- (f) a local planning scheme;
- (g) a local planning strategy;
- (h) a structure plan;
- (i) an amendment to an instrument referred to in paragraph (b) to (h);

repealed regulations means the *Town Planning Regulations 1967*.

78. Town Planning Regulations 1967 repealed

The *Town Planning Regulations 1967* are repealed.

79. Planning instruments continued

- (1) A planning instrument made under the Act before commencement day and in accordance with the repealed regulations or a State planning policy continues in force as if it were a planning instrument of the same type made under the Act in accordance with these regulations.
- (2) For the purposes of subregulation (1), an instrument of a type referred to in column 2 of the Table is to be taken to be a

planning instrument of the type referred to in column 3 of the Table.

Table

Item	Type of instrument	Type of planning instrument
1.	Outline development plan Development plan Subdivision guide plan	Structure plan
2.	Activity centre structure plan	Activity centre plan
3.	Detailed area plan	Local development plan

80. Planning instruments in course of preparation

Any step taken under the Act and in accordance with the repealed regulations or a State planning policy before commencement day in the preparation of a planning instrument is to be taken to be a step taken in the preparation of a planning instrument of that type under these regulations.

81. Development applications

A development application made but not determined under a local planning scheme before commencement day is to be taken to be a development application made under the local planning scheme as that scheme is continued under regulation 79 and is to be determined in accordance with the local planning scheme as so continued.

Schedule 1 — Model provisions for local planning schemes

[r. 10(2)]

Part 1 — Preliminary

1. Citation

This local planning scheme is the City/Town/Shire of
Scheme No

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(s) is (are) revoked —

Name	Gazettal date
------	---------------

_____ (*Insert (where applicable) existing local planning schemes revoked by the Scheme.*)

4. Notes do not form part of Scheme

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

Note:

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

5. Responsibility for Scheme

The City/Town/Shire of 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.

_____ (*Where necessary, provision may be made for more than one responsible authority.*)

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 Region planning scheme (see clause 12) and other local planning schemes (see clause 11).

_____ *(Insert the appropriate description. Reference may be made to the whole of a district, part of a district, land within a townsite boundary or land within an area outlined on the Scheme Map. The note only applies where a region planning scheme or another local planning scheme is in force in the Scheme area.)*

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 following plans, maps, diagrams, illustrations or materials —

_____ *(Insert after paragraph (c) a description of any supporting plans, maps, diagrams, illustrations or materials which form part of the Scheme.)*

(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, activity centre plans and local development plans; and
- (e) set out procedures for the assessment and determination of development applications; and
- (f) set out procedures for contributions to be made for the costs of providing infrastructure in connection with development through development contribution plans; and
- (g) make provision for the administration and enforcement of this Scheme; and
- (h) address other matters referred to in Schedule 7 of the Act.

9. Aims of Scheme

The aims of this Scheme are —

_____ *(Insert a statement setting out the general aims of the Scheme.)*

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 City/Town/Shire of also apply in the Scheme area —

Scheme No Gazettal date

_____ *(If applicable, list any other Schemes which are complementary to the Scheme. If no other Schemes apply to the Scheme area, insert the words “There are no other local planning schemes of the City/Town/Shire of which apply to the Scheme area.”.)*

12. Relationship with region planning scheme

The 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 Region Scheme is the Western Australian Planning Commission.

_____*(This clause and note only apply where a region planning scheme applies to some or all of the Scheme area. If no region planning scheme applies to the Scheme area, insert the words “There are no region planning schemes which apply to the Scheme area.”.)*

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 Region Scheme.

_____*(This clause only applies where a region planning scheme is in force. If there is no region planning scheme in force, insert the words “There are no regional reserves in the Scheme area.”.)*

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 —

_____*(Select the reserves and the objectives for those reserves that are contained in the Scheme from the Table.)*

Table — 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.
Social Care Facilities	<ul style="list-style-type: none"> • Civic and Community which specifically provide for a range of essential social care facilities.
Cultural Facilities	<ul style="list-style-type: none"> • Civic and Community which specifically provide for a range of essential cultural facilities.
Public Purposes	<ul style="list-style-type: none"> • To provide for a range of essential physical and community infrastructure.
Medical Services	<ul style="list-style-type: none"> • Public Purposes which specifically provide for a range of essential medical services.
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.
Government Services	<ul style="list-style-type: none">• Public Purposes which specifically provide for a range of government services.
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.
Car Park	<ul style="list-style-type: none">• To set aside land required for a car park.
Drainage / Waterway	<ul style="list-style-type: none">• To set aside land required for significant waterways and drainage.
Railways	<ul style="list-style-type: none">• To set aside land required for passenger rail and rail freight services.
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.
Strategic infrastructure	<ul style="list-style-type: none">• To set aside land required for port or airport facilities.

Reserve name	Objectives
Special Purpose Reserve	<ul style="list-style-type: none"> • To set aside land for a special purpose. • Purposes that do not comfortably fit in any other reserve classification.

15. Additional uses for local reserves

- (1) The Table sets out —
- (a) classes of use for specified land located in local reserves that are additional to classes of use determined in accordance with the objectives of the reserve; and
 - (b) the conditions that apply to that additional use.

Table

Specified additional uses for land in local reserves in Scheme area

No.	Description of land	Additional use	Conditions

- (2) Despite anything contained in clause 14, 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.

(The Table of additional uses for land in local reserves may be set out as a Schedule to the Scheme.

If the Scheme does not include additional uses for land in local reserves, insert the words “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 —

(Select the zones and the objectives for those zones that are contained in the Scheme from the Table.)

Table — 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 following the lifting of an urban deferred zoning within the Metropolitan Region Scheme.

Zone name	Objectives
Settlement	<ul style="list-style-type: none"> • To identify existing and proposed Aboriginal settlements and to collaboratively plan for the orderly and proper development of those places by — <ul style="list-style-type: none"> (a) requiring preparation and endorsement of a layout plan in accordance with State Planning Policy 3.2; and (b) ensuring that development accords with a layout plan.
Special Residential	<ul style="list-style-type: none"> • To provide for lot sizes in the range of 2 000 m² and 1 ha. • To ensure development is sited and designed to achieve an integrated and harmonious character. • To set aside areas where the retention of vegetation and landform or other features which distinguish the land, warrant a larger residential lot size than that expected in a standard residential zone.
Rural	<ul style="list-style-type: none"> • To provide for the maintenance or enhancement of specific local rural character. • To protect broad acre 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, 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
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.
Rural Smallholdings	<ul style="list-style-type: none">• To provide for lot sizes in the range of 4 ha to 40 ha.• To provide for a limited range of rural land uses 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.
Rural Townsite Zone	<ul style="list-style-type: none">• To provide for a range of land uses that would typically be found in a small country town.
Environmental conservation	<ul style="list-style-type: none">• To identify land set aside for environmental conservation purposes.• To provide for the preservation, maintenance, restoration or sustainable use of the natural environment.
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.

Zone name	Objectives
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.
Industrial Development	<ul style="list-style-type: none">• To designate land for future industrial development.• To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme.
Strategic Industry	<ul style="list-style-type: none">• To designate industrial sites of State or regional significance.
Commercial	<ul style="list-style-type: none">• To provide for a range of shops, offices, restaurants and other commercial outlets 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.• To ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality.
Mixed Use	<ul style="list-style-type: none">• To provide for a wide variety of active uses on street level which are compatible with residential and other non-active uses on upper levels.• To allow for the development of a mix of varied but compatible land uses such as housing, 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.

Zone name	Objectives
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, the central area, shops and offices or industrial zones.
Centre	<ul style="list-style-type: none">• To designate land for future development as a town centre or activity centre.• To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme or the Activity Centres State Planning Policy.
Tourism	<ul style="list-style-type: none">• To promote and provide for tourism opportunities.• To provide for a variety of holiday accommodation styles and associated uses, including retail and service facilities where those facilities are provided in support of the tourist accommodation and are of an appropriate scale where they will not impact detrimentally on the surrounding or wider area.• To allow limited residential uses where appropriate.• To encourage the location of tourist facilities so that they may benefit from existing road services, physical service infrastructure, other tourist attractions, natural features and urban facilities.

Zone name	Objectives
Private clubs, institutions and places of worship	<ul style="list-style-type: none"> • To provide sites for privately owned and operated recreation, institutions and places of worship. • To integrate private recreation areas with public recreation areas wherever possible. • To 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.
Special Use Zone	<ul style="list-style-type: none"> • To facilitate special categories of land uses which do not sit comfortably within any other zone. • To enable the Council to impose specific conditions associated with the special use.

17. Zoning table

The zoning table for this Scheme is as follows —

(Insert zoning table.)

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 giving notice in accordance with clause 64 of the deemed provisions;
- X means that the use is not permitted by this Scheme.

(A symbol must appear in the cross-reference of a use class against all the zones in the zoning table.)

Note:

1. The development approval of the local government may be required to carry out works on land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the carrying out of works on, and the use of, land. For development on land that does not require development approval see clause 61 of the deemed provisions.
 - ~~2.~~ In considering an application for development approval, the local government will have regard to clause 67 of the deemed provisions.
- (3) A specific use class referred to in the zoning table is excluded from any other use class described in more general terms.
- (4) The local government may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table —
- (a) determine that the use is consistent with the objectives of a particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the local government; or
 - (b) determine that the use may be consistent with the objectives of a particular zone and give notice 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 a use of land is identified in a zone as being a class X use, the local government must refuse an application for development approval for that use in that zone unless —
 - (a) the development approval application relates to land that is being used for a non-conforming use; and
 - (b) the local government considers that the proposed use of the land would be less detrimental than the non-conforming use.
- (7) If the zoning table does not identify any permissible uses for land in a zone the local government may, in considering an application for development approval for land within the zone, have due regard to any of the following plans that apply to the land —
 - (a) a structure plan;
 - (b) an activity centre plan;
 - (c) a local development plan.

19. Additional uses

- (1) The Table sets out —
 - (a) classes of use for specified land that are additional to the classes of use that are permissible in the zone in which the land is located; and
 - (b) the conditions that apply to that additional use.

Table

Specified additional uses for zoned land in Scheme area

No.	Description of land	Additional use	Conditions

- (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.

(The Table of additional uses for zoned land may be set out as a Schedule to the Scheme.

If the Scheme does not include additional uses for zoned land, insert the words “There are no additional uses for zoned land that apply to this Scheme.”.)

20. Restricted uses

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

Table

Restricted uses for land in Scheme area

No.	Description of land	Restricted use	Conditions

- (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.

(The Table of restricted uses for land may be set out as a Schedule to the Scheme.

If the Scheme does not include restricted uses, insert the words “There are no restricted uses which apply to this Scheme.”.)

21. Special use zones

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

Table

Special use zones in Scheme area

No.	Description of land	Special use	Conditions

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

Note:

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

(The Table of special use zones may be set out as a Schedule to the Scheme.

If the Scheme does not include special use zones, insert the words "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 make a copy of the register available for public inspection during business hours at the offices of the local government; and
 - (c) may publish a copy of the register on the website of the local government.
- (4) An entry in the register in relation to land that is being used for a non-conforming use is evidence of the matters set out in the entry, unless the contrary is proved.

Part 4 — General development requirements

(This Part sets out the general requirements which apply to land use and development within the Scheme area and the specific requirements which apply to particular uses and forms of development, such as site requirements, access, parking, building design, setbacks and landscaping, for residential, industrial, rural and other uses.

Development requirements applying to particular zones may alternatively be incorporated with the zoning provisions in Part 3. Development requirements applying to special control areas should be included in Part 5.)

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 —
 - (a) must make a copy of the R-Codes available for public inspection during business hours at the offices of the local government; and
 - (b) may publish a copy of the R-Codes on the website of the local government.
- (3) The coding of land for the purposes of the R-Codes is shown by the coding number superimposed on a particular area contained within the boundaries of the area shown on the Scheme Map.
- (4) The R-Codes apply to an area if the area has a coding number superimposed on it in accordance with subclause (3).

26. Modification of R-Codes

(To be inserted if exclusions and variations to the R-Codes are to apply. If no exclusions or variations are to apply, insert the words “There are no modifications to the R-Codes.”.)

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

- (1) State Planning Policy 3.6 — Development Contributions for Infrastructure, modified as set out in clause 28, is to be read as part of this Scheme.
- (2) The local government —
 - (a) must make a copy of State Planning Policy 3.6 available for public inspection during business hours at the offices of the local government; and
 - (b) may publish a copy of State Planning Policy 3.6 on the website of the local government.

28. Modification of State Planning Policy 3.6

(To be inserted if exclusions and variations to State Planning Policy 3.6 are to apply. If no exclusions or variations are to apply,

insert the words “There are no modifications to State Planning Policy 3.6.”.)

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

- (1) The State planning policies set out in the Table, modified as set out in clause 30, are to be read as part of this Scheme.

Table

State planning policies to be read as part of Scheme
<i>(Insert details of any other State planning policies that are to be read into the scheme</i>

- (2) The local government —
- (a) must make a copy of each State planning policy referred to in subclause (1) available for public inspection during business hours at the offices of the local government; and
 - (b) may publish a copy of each of those State planning policies on the website of the local government.

(If no other State planning policies are to be read as part of the Scheme, insert the words “There are no other State planning policies that are to be read as part of the Scheme.”.)

30. Modification of State planning policies

(To be inserted if exclusions and variations to any other State planning policy that is to be read as part of the Scheme are to apply. If no exclusions or variations are to apply, insert the words “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) The conditions set out in the Table are environmental conditions that apply to this Scheme as a result of an assessment carried out under the *Environmental Protection Act 1986* Part IV Division 3.

Table

Environmental conditions that apply to land in Scheme area

Scheme or amendment No.	Gazettal date	Environmental conditions

- (2) The environmental conditions are indicated on the Scheme Map by the symbol EC to indicate that environmental conditions apply to the land.
- (3) The local government —
- (a) must make available for public inspection during business hours at the offices of the local government all statements relating to this Scheme published under the *Environmental Protection Act 1986* Part IV Division 3; and
 - (b) may publish those statements on the website of the local government.

(The Table of environmental conditions may be set out as a Schedule to the Scheme.

If no environmental conditions apply, insert the words “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 sets out requirements relating to development that are additional to those set out in the R-Codes, activity centre plans, local development plans or State or local planning policies.

Table

Additional requirements that apply to land in Scheme area

No.	Description of land	Requirement

(The Table of additional requirements that apply to land may be set out as a Schedule to the Scheme.

If no additional requirements are to apply, insert the words “There are no additional site and development requirements that apply to this Scheme.”.)

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

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

The Table sets out requirements relating to development that are included in structure plans, activity centre plans and local development plans that apply in the Scheme area.

Table

Additional requirements that apply to land covered by structure plan, activity centre plan or local development plan

No.	Description of land	Requirement

(The Table of additional requirements that apply to land as a result of a structure plan, activity centre plan or local development plan may be set out as a Schedule to the Scheme.

If no additional requirements are to apply as a result of a structure plan, activity centre plan or local development plan that applies in the Scheme area, insert the words “There are no additional requirements that apply to this Scheme.”.)

34. Variations to site and development requirements

- (1) In this clause —
additional site and development requirements means requirements set out in clauses 32 and 33.
- (2) The local government may approve an application for a development approval that does not comply with an additional site and development requirements.
- (3) An approval under subclause (2) may be unconditional or subject to any conditions the local government considers appropriate.
- (4) If the local government is of the opinion that the non-compliance with an additional site and development requirement will mean that the development is likely to adversely affect any owners or occupiers in the general locality or in an area adjoining the site of the development the local government must —
 - (a) consult the affected owners or occupiers by following one or more of the provisions for advertising applications for development approval under clause 64 of the deemed provisions; and
 - (b) have regard to any expressed views prior to making its determination to grant development approval under this clause.
- (5) The local government may only approve an application for development approval under this clause if the local government is satisfied that —
 - (a) approval of the proposed development would be appropriate having regard to the matters that the local government is to have regard to in considering an application for development approval as set out in clause 67 of the deemed provisions; and

- (b) the non-compliance with the additional site and development requirement will not have a significant adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

35. Restrictive covenants

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

Part 5 — Special control areas

(This Part is included in the Scheme to identify areas which are significant for a particular reason and where special provisions in the Scheme may need to apply. These provisions would typically target a single issue or related set of issues often overlapping zone and reserve boundaries. The special control areas should be shown on the Scheme Map as additional to the zones and reserves. If a special control area is shown on the Scheme Map, special provisions related to the particular issue would apply in addition to the provisions of the zones and reserves. These provisions would set out the purpose and objectives of the special control area, any specific development requirements, the process for referring applications to relevant agencies and matters to be taken into account in determining development proposals.)

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 the Table.

Table
Special control areas in Scheme area

Name of area	Purpose	Objectives	Additional provisions

(The Table relating to special control areas may be set out as a Schedule to the Scheme.

If the Scheme does not include a special control area, insert the words "There are no special control areas which apply to this Scheme.")

Part 6 — Terms referred to in Scheme

Division 1 — General definitions used 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 —

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

building height, in relation to a building —

- (a) if the building is used for residential purposes, has the meaning given in the R-Codes; or
- (b) 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;

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;

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

commercial vehicle means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including —

- (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 meaning given in the Building Code;

frontage, in relation to a building —

- (a) if the building is used for residential purposes, has the meaning given in the R-Codes; or
- (b) if the building is used for purposes other than residential purposes, means the line where a road reserve and the front of a lot meet and, if a lot abuts 2 or more road reserves, the one to which the building or proposed building faces;

incidental use means a use of premises which is consequent on, or naturally attaching, appertaining or relating to, the predominant use;

minerals has the meaning given in the *Mining Act 1978* section 8(1);

net lettable area or **nla** means the area of all floors within the internal finished surfaces of permanent walls but does not include the following areas —

- (a) stairs, toilets, cleaner's cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
- (b) lobbies between lifts facing other lifts serving the same floor;
- (c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
- (d) areas set aside for the provision of facilities or services to the floor or building where those facilities are not for the exclusive use of occupiers of the floor or building;

non-conforming use has the meaning given in the *Planning and Development Act 2005* section 172;

plot ratio means the ratio of the floor area of a building to an area of land within the boundaries of the lot or lots on which the building is located;

precinct means a definable area where particular planning policies, guidelines or standards apply;

predominant use means the primary use of premises to which all other uses carried out on the premises are incidental;

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

short-term accommodation means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12 month period;

wall height, in relation to a wall of a building —

- (a) if the building is used for residential purposes, has the meaning given in the R-Codes; or
- (b) if the building is used for purposes other than residential purposes, means the vertical distance from the natural ground level of the boundary of the property that is closest to the wall to the point where the wall meets the roof or parapet;

wholesale means the sale of goods or materials to be sold by others.

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

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 —

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;

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 pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) or other livestock in feedlots, sheds or rotational pens;

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 childrens' goods, including play equipment and accessories;
 - (xi) sporting, cycling, leisure, fitness goods and accessories;
 - (xii) swimming pools;

or

- (b) used to sell by retail 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;

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 child care service as defined in the *Child Care Services Act 2007* section 4 is provided;

cinema/theatre means premises where the public may view a motion picture or theatrical production;

civic use means premises used by a government department, an instrumentality of the State or the local government for administrative, recreational or other purposes;

club premises means premises used by a legally constituted club or association or other body of persons united by a common interest;

commercial vehicle parking means premises used for parking of one or 2 commercial vehicles but does not include —

- (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/lunch bar means premises, including premises with a facility for drive-through service, used for the preparation, sale and serving of food to customers in a form ready to be eaten —

- (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;
- (f) take-away food retailing;
- (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;

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 of 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 of more than 4.5 tonnes tare weight; and
 - (h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and

- (i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;

home office means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation —

- (a) is solely within the dwelling; and
- (b) does not entail clients or customers travelling to and from the dwelling; and
- (c) does not involve the display of a sign on the premises; and
- (d) does not require any change to the external appearance of the dwelling;

home store means a shop attached to a dwelling that —

- (a) has a net lettable area not exceeding 100 m²; and
- (b) is operated by a person residing in the dwelling;

hospital means premises used as a hospital as defined in the *Hospitals and Health Services Act 1927* section 2(1);

hotel means premises the subject of a hotel licence other than a small bar or tavern licence granted under the *Liquor Control Act 1988* including any betting agency on the premises;

industry means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes —

- (a) the storage of goods;
- (b) the work of administration or accounting;
- (c) the selling of goods by wholesale or retail;
- (d) the provision of amenities for employees;
- (e) incidental purposes;

industry — 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;

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 re-treading 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;

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

restaurant/cafe means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises

by customers for whom seating is provided, including premises that are licenced under the *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); or
- (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;

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 occupation 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 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 more than 3 vehicles at any one time or of a vehicle of 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;

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 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 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;

wind farm means premises used to generate electricity by wind force and any associated turbine, building or other structure but does not include anemometers or turbines used primarily to supply electricity for a domestic property or for private rural use;

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.

Schedule 2 — Deemed provisions for local planning schemes

[r. 10(4)]

Part 1 — Preliminary

1. Terms used

In this Scheme —

Act means the *Planning and Development Act 2005*;

advertisement means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, that is used wholly or partly for the purposes of advertising, announcing or directing, and includes —

- (a) any hoarding or similar structure used, or adapted for use, for the display of advertisements; and
- (b) any airborne device anchored to any land or building used for the display of advertising; and
- (c) any vehicle or trailer or other similar object placed or located so as to serve the purpose of displaying advertising;

amenity means all those factors which combine to form the character of an area and include the present and likely future amenity;

Building Code means the Building Code of Australia which is volumes 1 and 2, as amended from time to time, of the National Construction Code series published by, or on behalf of, the Australian Building Codes Board;

built heritage conservation means conservation as defined in the *Heritage of Western Australia Act 1990* section 3(1);

cultural heritage significance has meaning given in the *Heritage of Western Australia Act 1990* section 3(1);

development contribution plan means a development contribution plan, prepared in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Part 7, that applies to land in the Scheme area;

local government means the local government responsible for this Scheme;

local government CEO means the chief executive officer of the local government;

local planning strategy means the local planning strategy for this Scheme prepared under the *Planning and Development (Local Planning Schemes) Regulations 2015* Part 3, as amended from time to time;

owner, in relation to land, means —

- (a) if the land is freehold land —
 - (i) a person whose name is registered as a proprietor of the land; and
 - (ii) the State, if registered as a proprietor of the land; and
 - (iii) a person who holds an interest as purchaser under a contract to purchase an estate in fee simple in the land; and
 - (iv) a person who is the holder of a freehold interest in land vested in an executor or administrator under the *Administration Act 1903* section 8;

and

- (b) if the land is Crown land —
 - (i) the State; and
 - (ii) a person who holds an interest as purchaser under a contract to purchase an estate in fee simple in the land;

premises means land, buildings or part of land or a building;

R-Codes means the Residential Design Codes prepared by the Western Australian Planning Commission under section 26 of the Act, as amended from time to time;

region planning scheme means a region planning scheme that applies in respect of part or all of the Scheme area;

reserve means land reserved under this Scheme for a public purpose;

Scheme area means the area to which this Scheme applies;

special control area means an area identified under this Scheme as an area subject to special controls set out in this Scheme;

substantially commenced means that some substantial part of work in respect of a development approved under a planning scheme or under an interim development order has been performed;

works, in relation to land, means —

- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land; and
- (b) the carrying out on the land of any excavation or other works; and
- (c) in the case of a place to which a Conservation Order made under the *Heritage of Western Australia Act 1990* section 59 applies, any act or thing that —
 - (i) is likely to damage the character of that place or the external appearance of any building; or
 - (ii) would constitute an irreversible alteration to the fabric of any building;

zone means a portion of the Scheme area identified on the Scheme Map as a zone for the purpose of indicating the controls imposed by this Scheme on the use of, or the carrying out of works on, land, but does not include a reserve or special control area.

Part 2 — Local planning framework

Division 1 — Local planning strategy

2. Local planning strategy

Where a local planning strategy for the Scheme area has been prepared by the local government in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Part 3 the local planning strategy sets out the long-term planning directions for the Scheme area.

Division 2 — Local planning policies

3. Local planning policies

- (1) The local government may prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.

- (2) A local planning policy —
 - (a) may apply generally or in respect of a particular class or classes of matters specified in the policy; and
 - (b) may apply to the whole of the Scheme area or to part or parts of the Scheme area specified in the policy.
- (3) A local planning policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.
- (4) The local government may amend or repeal a local planning policy.
- (5) In making a determination under this Scheme the local government must have regard to each relevant local planning policy to the extent that the policy is consistent with this Scheme.

4. Procedure for making local planning policy

- (1) If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows —
 - (a) publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of —
 - (i) the subject and nature of the proposed policy; and
 - (ii) the objectives of the proposed policy; and
 - (iii) where the proposed policy may be inspected; and
 - (iv) to whom, in what form and during what period submissions in relation to the proposed policy may be made;
 - (b) if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;
 - (c) give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.
- (2) The period for making submissions in relation to a local planning policy must not be less than a period of 21 days commencing on the day on which the notice of the policy is published under subclause (1)(a).

- (3) After the expiry of the period within which submissions may be made, the local government must —
 - (a) review the proposed policy in the light of any submissions made; and
 - (b) resolve to —
 - (i) proceed with the policy without modification; or
 - (ii) proceed with the policy with modification; or
 - (iii) not to proceed with the policy.
- (4) If the local government resolves to proceed with the policy, the local government must publish notice of the policy in a newspaper circulating in the Scheme area.
- (5) A policy has effect on publication of a notice under subclause (4).
- (6) The local government —
 - (a) must ensure that an up-to-date copy of each local planning policy made under this Scheme is kept and made available for public inspection during business hours at the offices of the local government; and
 - (b) may publish a copy of each of those local planning policies on the website of the local government.

5. Procedure for amending local planning policy

- (1) Clause 4, with any necessary changes, applies to the amendment to a local planning policy.
- (2) Despite subclause (1), the local government may make an amendment to a local planning policy without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.

6. Revocation of local planning policy

A local planning policy may be revoked —

- (a) by a subsequent local planning policy that —
 - (i) is prepared in accordance with this Part; and
 - (ii) expressly revokes the local planning policy;
- or

- (b) by a notice of revocation —
 - (i) prepared by the local government; and
 - (ii) published in a newspaper circulating in the Scheme area.

Part 3 — Heritage protection

7. Terms used

In this Part —

heritage area means an area designated as a heritage area under clause 9;

heritage list means a heritage list established under clause 8(1);

place has the meaning given in the *Heritage of Western Australia Act 1990* section 3(1).

Note:

The purpose of this Part is to provide for the identification of places and areas of heritage value so that development in the Scheme can, as far as possible, be consistent with the conservation of heritage values.

8. Heritage list

- (1) The local government must establish and maintain a heritage list to identify places within the Scheme area that are of cultural heritage significance and worthy of built heritage conservation.
- (2) The heritage list —
 - (a) must set out a description of each place and the reason for its entry in the heritage list; 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 place in, or remove a place from, the heritage list or modify the entry of a place in the heritage list unless the local government —

- (a) notifies in writing each owner and occupier of the place and provides each of them with a description of the place and the reasons for the proposed entry; and
 - (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; and
 - (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 place be entered in the heritage list with or without modification, or that the place be removed from the heritage list.
- (4) If the local government enters a place in the heritage list or modifies an entry of a place in the heritage list the local government must give notice of the entry or modification to —
- (a) the Heritage Council of Western Australia; and
 - (b) each owner and occupier of the place.

9. Designation of heritage areas

- (1) If, in the opinion of the local government, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area to which this Scheme applies, the local government may, by resolution, designate that area as a heritage area.
- (2) If the local government designates an area as a heritage area the local government must adopt for the area a local planning policy that sets out the following —
 - (a) a map showing the boundaries of the heritage area;
 - (b) a statement about the heritage significance of the area;
 - (c) a record of places of heritage significance in the heritage area.
- (3) The local government must not designate an area as a heritage area unless the local government —
 - (a) notifies in writing each owner of land affected by the proposed designation and provides the owner with a copy of the proposed local planning policy for the heritage area; and
 - (b) advertises the proposed designation by —

- (i) publishing a notice of the proposed designation in a newspaper circulating in the Scheme area; and
 - (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
 - (iii) publishing a copy of the notice of the proposed designation on the website of the local government;
 - and
 - (c) carry out any other consultation the local government considers appropriate.
- (4) Notice of a proposed designation under subclause (3)(b) must specify —
- (a) the area that is the subject of the proposed designation; and
 - (b) where the proposed local planning policy for the proposed heritage area may be inspected; and
 - (c) to whom, in what form and in what period submissions may be made.
- (5) The period for making submissions in relation to the designation of an area as a heritage area must not be less than a period of 21 days commencing on the day on which the notice of the proposed designation is published under subclause (3)(b)(i).
- (6) After the expiry of the period within which submissions may be made, the local government must —
- (a) review the proposed designation in the light of any submissions made; and
 - (b) resolve —
 - (i) to adopt the designation without modification; or
 - (ii) to adopt the designation with modification; or
 - (iii) not to proceed with the designation.
- (7) If the local government designates an area as a heritage area the local government must give notice of the designation to —
- (a) the Heritage Council of Western Australia; and
 - (b) each owner of land affected by the designation.

- (8) The local government may modify or revoke a designation of a heritage area.
- (9) Subclauses (3) to (7) apply, with any necessary changes, to the amendment to a designation of a heritage area or the revocation of a designation of a heritage area.

10. Heritage agreements

- (1) The local government may, in accordance with the *Heritage of Western Australia Act 1990* section 29, enter into a heritage agreement with an owner or occupier of land or a building for the purpose of binding the land or affecting the use of the land or building insofar as the interest of that owner or occupier permits.
- (2) The local government may not enter into an agreement with the owner or occupier of land or a building that relates to heritage matters other than in accordance with subclause (1).

11. Heritage assessment

- (1) Despite any existing assessment on record, the local government may require a heritage assessment to be carried out prior to the approval of any development proposed in a heritage area or in respect of a place entered in the heritage list.
- (2) A heritage assessment must be in a form approved by the Heritage Council of Western Australia.

12. Variations to local planning scheme provisions for heritage purposes

- (1) The local government may vary any site or development requirement specified in this Scheme to —
 - (a) facilitate the built heritage conservation of a place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the heritage list; or
 - (b) enhance or preserve heritage values in a heritage area.
- (2) A variation under subclause (1) may be unconditional or subject to any conditions the local government considers appropriate.

- (3) If the local government is of the opinion that the variation of site or development requirements is likely to affect any owners or occupiers in the general locality of the place or the heritage area the local government must —
- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 64; and
 - (b) have regard to any views expressed prior to making its determination to vary the site or development requirements under this clause.

13. Heritage conservation notice

- (1) In this clause —

heritage conservation notice means a notice given under subclause (2);

heritage place means a place that is on the heritage list or located in a heritage area;

properly maintained, in relation to a heritage place, means maintained in a way that ensures that there is no actual or imminent loss or deterioration of —

- (a) the structural integrity of the heritage place; or
 - (b) an element of the heritage place that is integral to —
 - (i) the reason set out in the heritage list for the entry of the place in the heritage list; or
 - (ii) the heritage significance of the area in which it is located, as set out in a statement in the local planning policy for the area adopted in accordance with clause 9(2).
- (2) If the local government forms the view that a heritage place is not being properly maintained the local government may give to a person who is the owner or occupier of the heritage place a written notice requiring the person to carry out specified repairs to the heritage place by a specified time, being a time that is not less than 60 days after the day on which the notice is given.
- (3) If a person fails to comply with a heritage conservation notice, the local government may enter the heritage place and carry out the repairs specified in the notice.

- (4) The expenses incurred by the local government in carrying out repairs under subclause (3) may be recovered as a debt due from the person to whom the notice was given in a court of competent jurisdiction.
- (5) The local government may —
 - (a) vary a heritage conservation notice to extend the time for carrying out the specified repairs; or
 - (b) revoke a heritage conservation notice.
- (6) A person who is given a heritage conservation notice may apply to the State Administrative Tribunal for a review, in accordance with Part 14 of the Act, of a decision —
 - (a) to give the notice; or
 - (b) to require repairs specified in the notice to be carried out; or
 - (c) to require repairs specified in the notice to be carried out by the time specified in the notice.

Part 4 — Structure plans

14. Term used: structure plan

In this Part —

structure plan means a plan for the coordination of future subdivision and zoning of an area of land.

15. When structure plan may be prepared

A structure plan in respect of an area of land in the Scheme area may be prepared if —

- (a) the area is —
 - (i) all or part of a zone identified in this Scheme as an area suitable for urban or industrial development; and
 - (ii) identified in this Scheme as an area requiring a structure plan to be prepared before any future subdivision or development is undertaken;
- or
- (b) a State planning policy requires a structure plan to be prepared for the area; or

- (c) the Commission considers that a structure plan for the area is required for the purposes of orderly and proper planning.

16. Preparation of structure plan

- (1) A structure plan must —
 - (a) be prepared in a manner and form approved by the Commission; and
 - (b) include any maps, information or other material required by the Commission; and
 - (c) unless the Commission otherwise agrees, set out the following information —
 - (i) the key attributes and constraints of the area covered by the plan including the natural environment, landform and the topography of the area;
 - (ii) the planning context for the area covered by the plan and the neighbourhood and region within which the area is located;
 - (iii) any major land uses, zoning or reserves proposed by the plan;
 - (iv) estimates of the future number of lots in the area covered by the plan and the extent to which the plan provides for dwellings, retail floor space or other land uses;
 - (v) the population impacts that are expected to result from the implementation of the plan;
 - (vi) the extent to which the plan provides for the coordination of key transport and other infrastructure;
 - (vii) the proposed staging of the subdivision or development covered by the plan.
- (2) The local government may prepare a structure plan in the circumstances set out in clause 15.
- (3) A person may make an application to the local government for a structure plan prepared by the person in the circumstances set out in clause 15 to be assessed and advertised if the person is —

- (a) a person who is the owner of any or all of the land in the area to which the plan relates; or
- (b) an agent of a person referred to in paragraph (a).

17. Action by local government on receipt of application

- (1) On receipt of an application for a structure plan to be assessed and advertised, the local government —
 - (a) must consider the material provided by the applicant and advise the applicant in writing —
 - (i) if the structure plan complies with clause 16(1); or
 - (ii) if further information from the applicant is required before the structure plan can be accepted for assessment and advertising;
 - and
 - (b) must give the applicant an estimate of the fee for dealing with the application in accordance with the *Planning and Development Regulations 2009* regulation 48.
- (2) The structure plan is to be taken to have been accepted for assessment and advertising if the local government has not given written notice to the applicant of its decision by the latest of the following days —
 - (a) 28 days after receipt of an application;
 - (b) 14 days after receipt of the further information requested under subclause (1)(a)(ii);
 - (c) if the local government has given the applicant an estimate of the fee for dealing with the application — the day the applicant pays the fee.

18. Advertising structure plan

- (1) The local government must, within 28 days of preparing a structure plan or accepting an application for a structure plan to be assessed and advertised —
 - (a) advertise the proposed structure plan in accordance with subclause (2); and
 - (b) seek comments in relation to the proposed structure plan from any public authority or utility service provider that the local government considers appropriate; and

- (c) provide to the Commission —
 - (i) a copy of the proposed structure plan and all accompanying material; and
 - (ii) details of the advertising and consultation arrangements for the plan.
- (2) The local government must advertise the structure plan in one or more of the following ways —
 - (a) by giving notice of the proposed structure plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the structure plan, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is given to the person;
 - (b) by publishing a notice of the proposed structure plan in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;
 - (c) by publishing a notice of the proposed structure plan on the local government website including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;
 - (d) by erecting a sign or signs in a conspicuous place on the land the subject of the proposed structure plan giving notice of the proposed plan for a period of not less than 14 days and not more than 28 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the sign is erected.

- (3) The local government —
 - (a) must make a structure plan advertised under subclause (2) and the material accompanying it available for public inspection during business hours at the offices of the local government; and
 - (b) may publish the structure plan and the material accompanying it on the website of the local government.
- (4) If a local government fails to advertise a structure plan in accordance with this clause, the Commission may take reasonable steps to ensure that the plan is advertised.
- (5) All costs incurred by the Commission in the exercise of the power conferred by subclause (4) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

19. Consideration of submissions

- (1) The local government —
 - (a) must consider all submissions made to the local government within the period specified in a notice advertising the structure plan; and
 - (b) may consider submissions made to the local government after that time; and
 - (c) may request further information from a person who prepared the structure plan; and
 - (d) may advertise any modifications proposed to the structure plan to address issues raised in submissions.
- (2) If a local government makes a decision under subclause (1)(d) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the structure plan.
- (3) Modifications to a structure plan may not be advertised on more than one occasion without the approval of the Commission.

20. Local government report to Commission

- (1) The local government must prepare a report on the proposed structure plan and provide it to the Commission no later than 60 days after the day that is the latest of —
 - (a) the last day for making submissions specified in a notice given or published under clause 18(2); or
 - (b) the last day for making submissions after a proposed modification of the structure plan is advertised under clause 19(2); or
 - (c) a day agreed by the Commission.
- (2) The report on the proposed structure plan must include the following —
 - (a) a list of the submissions considered by the local government, including, if relevant, any submissions received on a proposed modification to the structure plan advertised under clause 19(2);
 - (b) any comments by the local government in respect of those submissions;
 - (c) a schedule of any proposed modifications to address issues raised in the submissions;
 - (d) the local government's assessment of the proposal based on appropriate planning principles;
 - (e) a recommendation by the local government on whether the proposed structure plan should be approved by the Commission, including a recommendation on any proposed modifications.

21. Cost and expenses incurred by local government

The costs and expenses incurred by the local government in giving a report under clause 20(1), are, to the extent that they are not payable by a person who prepared a structure plan under the *Planning and Development Regulations 2009* regulation 49, to be borne by the local government.

22. Decision of Commission

- (1) On receipt of a report on a proposed structure plan, the Commission must consider the plan and the report and may —
 - (a) approve the structure plan; or
 - (b) require the local government or the person who prepared the structure plan to —
 - (i) modify the plan in the manner specified by the Commission; and
 - (ii) resubmit the modified plan to the Commission for approval;or
 - (c) refuse to approve the structure plan.
- (2) Before making a decision under subclause (1), the Commission may, if the Commission considers that major modifications have been made to the structure plan since it was advertised, direct the local government to readvertise the structure plan in the manner specified by the Commission.
- (3) The Commission may not direct the local government to readvertise the structure plan on more than one occasion.
- (4) If the Commission is not given a report on a proposed structure plan in accordance with clause 20(1), the Commission may make a decision on the proposed structure plan under subclause (1) in the absence of the report.
- (5) The Commission is to be taken to have refused to approve a structure plan if the Commission has not made a decision under subclause (1) within —
 - (a) 120 days of the day on which the local government provides the report to the Commission, excluding any period between the Commission requiring modifications to the structure plan and the resubmission of the modified plan; or
 - (b) a longer period agreed in writing between the Commission and the person who prepared the proposed structure plan.
- (6) Despite subclause (5), the Commission may decide whether or not to approve a structure plan after the period applicable under

subclause (5) has expired, and the validity of the decision is not affected by the expiry.

- (7) The Commission must give the local government and any person who prepared the proposed structure plan written notice of its decision to approve or to refuse to approve a structure plan.

23. Further services or information from local government

- (1) The Commission may direct the local government to give to the Commission technical advice and assistance or further information in writing in connection with the application if —
- (a) the local government does not provide a report on a structure plan within the timeframe referred to in clause 20(1); or
 - (b) the local government provides a report on a structure plan that does not contain sufficient information for the Commission to make its decision on whether or not to approve the structure plan.
- (2) The direction must be in writing and must specify —
- (a) the services or information required; and
 - (b) the time within which the local government must comply with the direction.
- (3) If a local government fails to comply with a direction given to it under subclause (1), the Commission may take reasonable steps to obtain the services or information referred to in the direction on its own behalf.
- (4) All costs incurred by the Commission in the exercise of the power conferred by subclause (3) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

24. Structure plan may provide for later approval of details of subdivision

- (1) The Commission may approve a structure plan that provides for further details of a proposed subdivision included in the plan to be submitted to, and approved by, the Commission before the subdivision is approved under Part 10 of the Act.

- (2) The Commission may only approve a structure plan referred to in subclause (1) if the Commission is satisfied that the further matters that are to be approved would not result in a substantial departure from the plan.

25. Review

A person who prepared a structure plan may apply to the State Administrative Tribunal for a review, in accordance with the *Planning and Development Act 2005* Part 14, of a decision by the Commission not to approve the structure plan.

26. Publication of structure plan approved by Commission

- (1) If the Commission approves a structure plan the Commission must publish the structure plan in any manner the Commission considers appropriate.
- (2) The local government may publish a structure plan approved by the Commission on the website of the local government.

27. Effect of structure plan

- (1) A decision-maker for an application for development approval or subdivision approval in an area that is covered by a structure plan that has been approved by the Commission is to have due regard to, but is not bound by, the structure plan when deciding the application.
- (2) A decision-maker for an application for development approval or subdivision approval in an area referred to in clause 15 as being an area for which a structure plan may be prepared, but for which no structure plan has been approved by the Commission, may approve the application if the decision-maker is satisfied that —
 - (a) the proposed development or subdivision does not conflict with the principles of orderly and proper planning; and
 - (b) the proposed development or subdivision would not prejudice the overall development potential of the area.

28. Duration of approval

- (1) The approval of a structure plan has effect for a period of 10 years commencing on the day on which the Commission approves the plan, or another period determined by the Commission, unless —
 - (a) the Commission earlier revokes its approval; or
 - (b) an amendment to the Scheme that covers the area to which the structure plan relates takes effect in accordance with section 87 of the Act.
- (2) For the purposes of subclause (1), a structure plan that was approved before the day referred to in the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 2(b) (**commencement day**) is to be taken to have been approved on commencement day.
- (3) The Commission may extend the period of approval of a structure plan if there are no changes to the terms of the plan or the conditions attached to the approval.
- (4) The Commission may revoke its approval of a structure plan if the Commission considers that the structure plan cannot be effectively implemented because of a legislative change or a change in a State planning policy.

29. Amendment of structure plan

- (1) A structure plan may be amended by the Commission at the request of the local government or a person who owns land in the area covered by the plan.
- (2) The procedures for making a structure plan set out in this Part, with any necessary changes, are to be followed in relation to an amendment to a structure plan.
- (3) Despite subclause (2), the local government may decide not to advertise an amendment to a structure plan if, in the opinion of the local government and the Commission, the amendment is of a minor nature.
- (4) An amendment to a structure plan does not extend the period of approval of the plan unless, at the time the amendment is approved, the Commission agrees to extend the period.

Part 5 — Activity centre plans

30. Terms used

In this Part —

activity centre means —

- (a) an area of land identified in accordance with a State planning policy as an activity centre; or
- (b) an area of land identified by the Commission as an activity centre;

activity centre plan or *activity centre structure plan* means a plan for the coordination of the future subdivision, zoning and development of an activity centre.

31. When activity centre plan may be prepared

An activity centre plan in respect of an area of land in the Scheme area may be prepared if —

- (a) a State planning policy requires an activity centre structure plan to be prepared for the area; or
- (b) the Commission considers that an activity centre plan for the area is required for the purposes of orderly and proper planning.

32. Preparation of activity centre plan

(1) An activity centre plan must —

- (a) be prepared in a manner and form approved by the Commission; and
- (b) include any maps, information or other material required by the Commission; and
- (c) unless the Commission otherwise agrees, set out the following information —
 - (i) the key attributes and constraints of the area covered by the plan including the natural environment, landform and the topography of the area;
 - (ii) the planning context for the area covered by the plan and the neighbourhood and region within which the area is located;

- (iii) any major land uses, zoning or reserves proposed by the plan;
 - (iv) estimates of the future number of lots in the area covered by the plan and the extent to which the plan provides for dwellings, retail floor space or other land uses;
 - (v) the population impacts that are expected to result from the implementation of the plan;
 - (vi) the extent to which the plan provides for the coordination of key transport and other infrastructure;
 - (vii) the proposed staging of the subdivision or development covered by the plan;
 - (viii) the standards to be applied for the buildings, other structures and works that form part of the development or subdivision to which it applies;
 - (ix) arrangements for the management of services for the development or subdivision;
 - (x) the arrangements to be made for vehicles to access the area covered by the plan.
- (2) The local government may prepare an activity centre plan in the circumstances set out in clause 31.
- (3) A person may make an application to the local government for an activity centre plan prepared by the person in the circumstances set out in clause 31 to be assessed and advertised if the person is —
- (a) a person who is the owner of any or all of the land in the area to which the plan relates; or
 - (b) an agent of a person referred to in paragraph (a).

33. Action by local government on receipt of application

- (1) On receipt of an application for an activity centre plan to be assessed and advertised, the local government —
- (a) must consider the material provided by the applicant and advise the applicant in writing —
 - (i) if the activity plan complies with clause 32(1); or

- (ii) if further information from the applicant is required before the activity centre plan can be accepted for assessment and advertising;
 - and
 - (b) must give the applicant an estimate of the fee for dealing with the application in accordance with the *Planning and Development Regulations 2009* regulation 48.
- (2) The activity centre plan is to be taken to have been accepted for assessment and advertising if the local government has not given written notice of its decision to the applicant by the latest of the following days —
- (a) 28 days after receipt of an application;
 - (b) 14 days after receipt of the further information requested under subclause (1)(a)(ii);
 - (c) if the local government has given the applicant an estimate of the fee for dealing with the application — the day on which the applicant pays the fee.

34. Advertising activity centre plan

- (1) The local government must, within 28 days of preparing an activity centre plan or accepting an application for an activity centre plan to be assessed and advertised —
- (a) advertise the proposed activity centre plan in accordance with subclause (2); and
 - (b) seek comments in relation to the proposed activity centre plan from any public authority or utility service provider that the local government considers appropriate; and
 - (c) provide to the Commission —
 - (i) a copy of the proposed activity centre plan and all accompanying material;
 - (ii) details of the advertising and consultation arrangements for the plan.
- (2) The local government must advertise the activity centre plan in one or more of the following ways —

- (a) by giving notice of the proposed activity centre plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the activity centre plan, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is given to the person;
 - (b) by publishing a notice of the proposed activity centre plan in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;
 - (c) by publishing a notice of the proposed activity centre plan by electronic means in a form approved by the local government CEO including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;
 - (d) by erecting a sign or signs in a conspicuous place on the land the subject of the proposed activity centre plan giving notice of the proposed plan for a period of not less than 14 days and not more than 28 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the sign is erected.
- (3) The local government —
- (a) must make an activity centre plan advertised under subclause (2) and the material accompanying it available for public inspection during business hours at the offices of the local government; and
 - (b) may publish the activity centre plan and the material accompanying it on the website of the local government.

- (4) If a local government fails to advertise an activity centre plan in accordance with this clause, the Commission may take reasonable steps to ensure that the plan is advertised.
- (5) All costs incurred by the Commission in the exercise of the power conferred by subclause (4) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

35. Consideration of submissions

- (1) The local government —
 - (a) must consider all submissions made to the local government within the period specified in a notice advertising a proposed activity centre plan; and
 - (b) may consider submissions made to the local government after that time; and
 - (c) may request further information from a person who prepared the activity centre plan; and
 - (d) may advertise any modifications proposed to the activity centre plan to address issues raised in submissions.
- (2) If a local government makes a decision under subclause (1)(d) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the activity centre plan.
- (3) Modifications to an activity centre plan may not be advertised on more than one occasion without the approval of the Commission.

36. Local government report to Commission

- (1) The local government must prepare a report on the proposed activity centre plan and provide it to the Commission no later than 60 days after the day that is the latest of —
 - (a) the last day for making submissions specified in a notice given or published under clause 34(2); or
 - (b) the last day for making submissions after a proposed amendment to the activity centre plan is advertised under clause 35(2); or
 - (c) a day agreed by the Commission.

- (2) The report on the proposed activity centre plan must be in a form approved by the Commission and must include the following —
- (a) a list of the submissions considered by the local government, including if relevant, any submissions received on a proposed modification to the activity centre plan advertised under clause 35(2);
 - (b) any comments by the local government in respect of those submissions;
 - (c) a schedule of any proposed modifications to address issues raised in the submissions;
 - (d) the local government's assessment of the proposal based on appropriate planning principles;
 - (e) a recommendation by the local government on whether the proposed activity centre plan should be approved by the Commission, including a recommendation on any proposed modifications.

37. Cost and expenses incurred by local government

The costs and expenses incurred by the local government in giving a report under clause 36(1), are, to the extent that they are not payable by a person who prepared an activity centre plan under the *Planning and Development Regulations 2009* regulation 49, to be borne by the local government.

38. Decision of Commission

- (1) On receipt of a report on a proposed activity centre plan, the Commission must consider the plan and the report and may —
- (a) approve the activity centre plan; or
 - (b) require the local government or the person who prepared the activity centre plan to —
 - (i) modify the plan in the manner specified by the Commission; and
 - (ii) resubmit the modified plan to the Commission for approval;
- or
- (c) refuse to approve the activity centre plan.

- (2) Before making a decision under subclause (1), the Commission may, if the Commission considers that major modifications have been made to the activity centre plan since it was advertised, direct the local government to readvertise the activity centre plan as specified by the Commission.
- (3) The Commission must not direct the local government to readvertise the activity centre plan on more than one occasion.
- (4) If the Commission is not given a report on a proposed activity centre plan in accordance with clause 36(1), the Commission may make a decision on the proposed plan under subclause (1) in the absence of the report.
- (5) The Commission is to be taken to have refused to approve an activity centre plan if the Commission has not made a decision under subclause (1) within —
 - (a) 120 days of the day on which the local government provides the report to the Commission, excluding any period between the Commission requiring modifications to the activity centre plan and the resubmission of the modified plan; or
 - (b) a longer period agreed in writing between the Commission and the person who prepared the proposed activity centre plan.
- (6) Despite subclause (5), the Commission may decide whether or not to approve an activity centre plan after the period applicable under subclause (5) has expired, and the validity of the decision is not affected by the expiry.
- (7) The Commission must give the local government and any person who prepared the proposed activity centre plan written notice of its decision to approve or to refuse to approve an activity centre plan.

39. Further services or information from local government

- (1) The Commission may direct the local government to give to the Commission technical advice and assistance or further information in writing in connection with the application if —
 - (a) the local government does not provide a report on an activity centre plan within the timeframe referred to in clause 36(1);
or

- (b) the local government provides a report on an activity centre plan that does not contain sufficient information for the Commission to make its decision on whether or not to approve the activity centre plan.
- (2) The direction must be in writing and must specify —
 - (a) the services or information required; and
 - (b) the time within which the local government must comply with the direction.
- (3) If a local government fails to comply with a direction given to it under subclause (1), the Commission may take reasonable steps to obtain the services or information referred to in the direction on its own behalf.
- (4) All costs incurred by the Commission in the exercise of the power conferred by subclause (3) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

40. Activity centre plan may provide for later approval of details of subdivision or development

- (1) The Commission may approve an activity centre plan that provides for —
 - (a) further details of a subdivision included in the plan to be submitted to, and approved by, the Commission before the subdivision is approved under Part 10 of the Act; or
 - (b) further details of development included in the plan to be submitted to, and approved by, the local government before the development commences.
- (2) The Commission may only approve an activity centre plan referred to in subclause (1) if the Commission is satisfied that the further matters that are to be approved would not result in a substantial departure from the plan.

41. Review

A person who prepared an activity centre plan may apply to the State Administrative Tribunal for a review, in accordance with the *Planning and Development Act 2005* Part 14, of a decision by the Commission not to approve the activity centre plan.

42. Publication of activity centre plan approved by Commission

- (1) If the Commission approves an activity centre plan the Commission must publish the activity centre plan in any manner the Commission considers appropriate.
- (2) The local government may publish an activity centre plan approved by the Commission on the website of the local government.

43. Effect of activity centre plan

- (1) A decision-maker for an application for development approval or subdivision approval in an area that is covered by an activity centre plan that has been approved by the Commission is to have due regard to, but is not bound by, the activity centre plan when deciding the application.
- (2) A decision-maker for an application for development approval or subdivision approval in an area referred to in clause 31 as being an area for which an activity centre plan may be prepared, but for which no activity centre plan has been approved by the Commission, may approve the application if the decision-maker is satisfied that —
 - (a) the proposed development or subdivision does not conflict with the principles of orderly and proper planning; and
 - (b) the proposed development or subdivision would not prejudice the overall development potential of the area.

44. Duration of approval

- (1) The approval of an activity centre plan has effect for a period of 10 years commencing on the day on which the Commission approves the plan, or another period determined by the Commission, unless —
 - (a) the Commission earlier revokes its approval; or
 - (b) an amendment to the Scheme that covers the area to which the activity centre plan relates takes effect in accordance with section 87 of the Act.
- (2) For the purposes of subclause (1), an activity centre plan that was approved before the day referred to in the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 2(b) (**commencement day**) has effect as if it were approved on commencement day.

- (3) The Commission may extend the period of approval of an activity centre plan if there are no changes to the terms of the plan or the conditions attached to the approval.
- (4) The Commission may revoke its approval of an activity centre plan if the Commission considers that the activity centre plan cannot be effectively implemented because of a legislative change or a change in a State planning policy.

45. Amendment of activity centre plan

- (1) An activity centre plan may be amended by the Commission at the request of the local government or a person who owns land in the area covered by the plan.
- (2) The procedures for making an activity centre plan set out in this Part, with any necessary changes, are to be followed in relation to an amendment to an activity centre plan.
- (3) Despite subclause (2), the local government may decide not to advertise an amendment to an activity centre plan if, in the opinion of the local government and the Commission, the amendment is of a minor nature.
- (4) An amendment to an activity centre plan does not extend the period of approval of the plan unless, at the time the amendment is approved, the Commission agrees to extend the period.

Part 6 — Local development plans

46. Term used: local development plan

In this Part —

local development plan means a plan setting out specific and detailed guidance for a future development including one or more of the following —

- (a) site and development standards that are to apply to the development;
- (b) specifying exemptions from the requirement to obtain development approval for development in the area to which the plan relates.

47. When local development plan may be prepared

A local development plan in respect of an area of land in the Scheme area may be prepared if —

- (a) the Commission has identified the preparation of a local development plan as a condition of approval of a plan of subdivision of the area; or
- (b) a structure plan requires a local development plan to be prepared for the area; or
- (c) an activity centre plan requires a local development plan to be prepared for the area; or
- (d) the Commission and the local government considers that a local development plan is required for the purposes of orderly and proper planning.

48. Preparation of local development plan

- (1) A local development plan must —
 - (a) be prepared in a manner and form approved by the Commission; and
 - (b) include any maps or other material considered by the local government to be necessary; and
 - (c) set out the following information —
 - (i) the standards to be applied for the buildings, other structures and works that form part of the development to which it applies;
 - (ii) details of the arrangements to be made for vehicles to access the area covered by the plan.
- (2) The local government may prepare a local development plan in the circumstances set out in clause 47.
- (3) A person may make an application to the local government for a local development plan prepared by the person in the circumstances set out in clause 47 to be assessed and advertised if the person is —
 - (a) a person who is the owner of any or all of the land in the area to which the plan relates; or
 - (b) an agent of a person referred to in paragraph (a).

49. Action by local government on receipt of application

- (1) On receipt of an application for a local development plan to be assessed and advertised, the local government —
- (a) must consider the material provided by the applicant and advise the applicant in writing —
 - (i) if the local development plan complies with clause 48(1); or
 - (ii) if further information from the applicant is required before the local development plan can be accepted for assessment and advertising;
- and
- (b) must give the applicant an estimate of the fee for dealing with the application in accordance with the *Planning and Development Regulations 2009* regulation 48.
- (2) The local development plan is to be taken to have been accepted for assessment and advertising if the local government has not given written notice of its decision to the applicant by the latest of the following days —
- (a) 14 days after receipt of an application;
 - (b) 7 days after receipt of the further information requested under subclause (1)(a)(ii);
 - (c) if the local government has given the applicant an estimate of the fee for dealing with the application — the day on which the applicant pays the fee.

50. Advertising of local development plan

- (1) The local government must, within 28 days of preparing a local development plan or accepting an application for a local development plan to be assessed and advertised —
- (a) advertise the proposed local development plan in accordance with subclause (2); and
 - (b) seek comments in relation to the proposed local development plan from any public authority or utility service that the local government considers appropriate.

- (2) The local government must advertise the local development plan in one or more of the following ways —
- (a) by giving notice of the proposed plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the plan, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is given to the person;
 - (b) by publishing a notice of the proposed plan in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is published;
 - (c) by publishing a notice of the proposed plan by electronic means in a form approved by the local government CEO including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is published;
 - (d) by erection of a sign or signs in a conspicuous place on the land the subject of the proposed plan giving notice of the proposed plan for a period of not less than 14 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the sign is erected.
- (3) Despite subclause (1) the local government may decide not to advertise a local development plan if the local government is satisfied that the plan is not likely to adversely affect any owners or occupiers within the area covered by the plan or an adjoining area.
- (4) The local government —
- (a) must make a local development plan advertised under subclause (1) and the material accompanying it available for public inspection during business hours at the offices of the local government; and
 - (b) may publish the local development plan and the material accompanying it on the website of the local government.

51. Consideration of submissions

The local government —

- (a) must consider all submissions in relation to a local development plan made to the local government within the period specified in a notice advertising a proposed local development plan; and
- (b) may consider submissions in relation to a local development plan made to the local government after that time; and
- (c) is to have due regard to the matters set out in clause 67 to the extent that, in the opinion of the local government those matters are relevant to the development to which the plan relates.

52. Decision of local government

- (1) Following consideration of a proposed local development plan, including any amendments made to the plan to address matters raised in submissions, the local government must —
 - (a) approve the local development plan; or
 - (b) require the person who prepared the local development plan to —
 - (i) modify the plan in the manner specified by the local government; and
 - (ii) resubmit the modified plan to the local government for approval;or
 - (c) refuse to approve the plan.
- (2) The local government is to be taken to have refused to approve a local development plan if the local government has not made a decision under subclause (1) —
 - (a) if the plan was advertised — within the period of 60 days after the last day for making submissions specified in a notice given or published under clause 50(2) or a longer period agreed between the local government and a person other than the local government who prepared the plan; or

- (b) if the plan was not advertised — within the period of 60 days after the resolution not to advertise the plan was made by the local government or a longer period agreed between the local government and a person other than the local government who prepared the plan.
- (3) For the purposes of calculating the periods referred to in subclause (2)(a) and (b), the period between the local government requiring modifications to the local development plan and the resubmission of the modified plan is to be excluded.
- (4) Despite subclause (2), the local government may decide whether or not to approve a local development plan after the period applicable under subclause (2) has expired, and the validity of the decision is not affected by the expiry.
- (5) The local government must give any person who prepared the local development plan written notice of its decision to approve or to refuse to approve a local development plan.

53. Local development plan may provide for later approval of details of development

- (1) The local government may approve a local development plan that provides for further details of any development included in the plan to be submitted to, and approved by, the local government before the development commences.
- (2) The local government may only approve a local development plan referred to in subclause (1) if the local government is satisfied that the further matters that are to be approved would not result in a substantial departure from the plan.

54. Review

A person who prepared a local development plan may apply to the State Administrative Tribunal for a review, in accordance with the *Planning and Development Act 2005* Part 14, of a decision by the local government not to approve the local development plan.

55. Publication of local development plan approved by local government

If the local government approves a local development plan the local government must publish the local development plan on the website of the local government.

56. Effect of local development plan

- (1) A decision-maker for an application for development approval in an area that is covered by a local development plan that has been approved by the local government must have due regard to, but is not bound by, the local development plan when deciding the application.
- (2) A decision-maker for an application for development approval in an area referred to in clause 47 as being an area for which a local development plan may be prepared, but for which no local development plan has been approved by the local government, may approve the application if the decision-maker is satisfied that —
 - (a) the proposed development does not conflict with the principles of orderly and proper planning; and
 - (b) the proposed development would not prejudice the overall development potential of the area.

57. Duration of approval

- (1) The approval of a local development plan has effect for a period of 10 years commencing on the day on which the local government approves the plan, or another period determined by the local government, unless the local government earlier revokes its approval.
- (2) For the purposes of subclause (1), a local development plan that was approved before the day referred to in the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 2(b) (**commencement day**) is to be taken to have been approved on commencement day.
- (3) A local government may extend the period of approval of a local development plan if there are no changes to the terms of the plan or the conditions attached to the approval.

58. Revocation of local development plan

The local government must not revoke approval of a local development plan unless this Scheme is amended so that the development to which the plan relates is a non-conforming use.

59. Amendment of local development plan

- (1) A local development plan may be amended by the local government.
- (2) A person who owns land in the area covered by a local development plan may request the local government to amend the plan.
- (3) The procedures for making a local development plan set out in this Part, with any necessary changes, are to be followed in relation to an amendment to a local development plan.
- (4) Despite subclause (3), the local government may decide not to advertise an amendment to a local development plan if, in the opinion of the local government, the amendment is of a minor nature.
- (5) An amendment to a local development plan does not extend the period of approval of the plan unless, at the time the amendment is approved, the local government agrees to extend the period.

Part 7 — Requirement for development approval

60. Requirement for development approval

A person must not commence or carry out any works on, or use, land in the Scheme area unless —

- (a) the person has obtained the development approval of the local government under Part 8; or
- (b) the development is of a type referred to in clause 61.

NotesNote:

1. Development includes the erection, placement and display of advertisements.
2. Approval to commence development may also be required from the Commission if the land is subject to a region planning scheme.

61. Development for which development approval not required

(1) Development approval of the local government is not required for the following works —

- (a) the carrying out of works that are wholly located on an area identified as a regional reserve under a region planning scheme;

Note:

Approval may be required from the Commission for development on a regional reserve under a region planning scheme.

- (b) the carrying out of internal building work which does not materially affect the external appearance of the building unless the work is on a building identified as having an interior with cultural heritage significance —
 - (i) in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
 - (ii) on a heritage list prepared in accordance with this Scheme;
- (c) the erection or extension of a single house on a lot if the R-Codes apply to the development and the development satisfies the deemed-to-comply requirements of the R-Codes 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;
- (d) the erection or extension of an ancillary dwelling, outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool on the same lot as a single house or a grouped dwelling if the

R-Codes apply to the development and the development satisfies the deemed-to-comply requirements of the R-Codes 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;
- (e) the demolition of a single house, ancillary dwelling, outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool except where the single house or other structure is —
- (i) located in a place that is 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) located within an area designated under this 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;
- (f) temporary works which are in existence for less than 48 hours, or a longer period agreed by the local government, in any 12 month period;
- (g) the temporary erection or installation of an advertisement if —

- (i) the advertisement is erected or installed in connection with an election, referendum or other poll conducted under the *Commonwealth Electoral Act 1918* (Commonwealth), the *Electoral Act 1907* or the *Local Government Act 1995*; and
 - (ii) the primary purpose of the advertisement is for political communication in relation to the election, referendum or poll; and
 - (iii) the advertisement is not erected or installed until the election, referendum or other poll is called and is removed no later than 48 hours after the election, referendum or other poll is conducted;
- (h) the erection or installation of a sign of a class specified in a local planning policy or local development plan that applies in respect of the sign unless the sign is to be erected or installed —
- (i) on a place included on a heritage list prepared in accordance with this Scheme; or
 - (ii) on land located within an area designated under this Scheme as a heritage area;
- (i) the carrying out of any other works specified in a local planning policy or local development plan that applies to the development as works that do not require development approval;
- (j) the carrying out of works of a type identified elsewhere in this Scheme as works that do not require development approval.

Notes~~Note~~:

1. The *Planning and Development Act 2005* section 157 applies in respect of the carrying out of works necessary to enable the subdivision of land if the Commission has approved a plan of the subdivision.

2. The *Planning and Development Act 2005* section 6 applies in respect of the carrying out of public works by the Crown, the Governor, the Government of the State or a local government.

- (2) Development approval of the local government is not required for the following uses —
- (a) a use that is wholly located on an area identified as a regional reserve under a region planning scheme;

Note:

Approval may be required from the Commission for development on a regional reserve under a region planning scheme.

- (b) development that is a use identified in this Scheme as a use that is permitted in the zone in which the development is located and —
 - (i) the development has no works component; or
 - (ii) development approval is not required for the works component of the development;
 - (c) the use of premises as a home office;
 - (d) temporary use which is in existence for less than 48 hours, or a longer period agreed by the local government, in any 12 month period;
 - (e) any other use specified in a local planning policy or local development plan that applies to the development as a use that does not require development approval;
 - (f) use of a type identified elsewhere in this Scheme as use that does not require development approval.
- (3) Despite subclause (1) development approval may be required for certain works carried out in a special control area.
- (4) For the purposes of subclause (1)(c) or (d), development is to be taken to satisfy a deemed-to-comply requirement of the R-Codes if it complies with —
- (a) a requirement in a local development plan or activity centre plan made under the R-Codes that amends or replaces the deemed-to-comply requirement; or
 - (b) a requirement —
 - (i) in a structure plan that was approved before the day referred to in the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 2(b); and
 - (ii) that amends or replaces the deemed-to-comply requirement;
- or
- (c) a requirement in a local planning policy that amends or replaces the deemed-to-comply requirement.

- (5) If under subclause (1)(c) or (d) development approval is not required for the carrying out of works on land, the owner of the land may provide to the local government confirmation of the matters set out in subclause (1)(c) or (d), as relevant, in a manner and form approved by the Commission.

Part 8 — Applications for development approval

62. Form of application

- (1) An application for development approval must be —
- (a) made in the form of the “Application for development approval” set out in clause 86(1); and
 - (b) signed by the owner of the land on which the proposed development is to be located; and
 - (c) accompanied by any fee for an application of that type set out in the *Planning and Development Regulations 2009* or prescribed under the *Local Government Act 1995*; and
 - (d) accompanied by the plans and information specified in clause 63.
- (2) For the purposes of subclause (1)(b), a person or body may sign an application for development approval as the owner of freehold land if the person or body is one of the following —
- (a) a person who is referred to in the definition of *owner* in respect of freehold land in clause 1;
 - (b) a strata company that is authorised by a management statement registered under the *Strata Titles Act 1985* section 5C to make an application for development approval in respect of the land;
 - (c) a person who is authorised under another written law to make an application for development approval in respect of the land;
 - (d) an agent of a person referred to in paragraph (a).

Note:

— The *Planning and Development Act 2005* section 267A makes provision for the signing of documents by the owner of Crown land.

- (3) An application for development approval for the erection, placement or display of an advertisement must be accompanied by sufficient information to determine the application in the form of the “Additional information for development approval for advertisements” set out in clause 86(2).

Note:

— The *Interpretation Act 1984* section 74 provides for circumstances in which deviations from a prescribed form do not invalidate the form used.

63. Accompanying material

- (1) An application for development approval must be accompanied by —
- (a) a plan or plans in a form approved by the local government showing the following —
 - (i) the location of the site including street names, lot numbers, north point and the dimensions of the site;
 - (ii) the existing and proposed ground levels over the whole of the land the subject of the application;
 - (iii) the location, height and type of all existing structures and environmental features, including watercourses, wetlands and native vegetation on the site;
 - (iv) the structures and environmental features that are proposed to be removed;
 - (v) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
 - (vi) the existing and proposed means of access for pedestrians and vehicles to and from the site;
 - (vii) the location, number, dimensions and layout of all car parking spaces intended to be provided;
 - (viii) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles

carrying goods or commodities to and from the site and the means of access to and from those areas;

- (ix) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the open storage or trade display area;
- (x) the nature and extent of any open space and landscaping proposed for the site;

and

- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building that is intended to be retained; and
 - (c) a report on any specialist studies in respect of the development that the local government requires the applicant to undertake such as site surveys or traffic, heritage, environmental, engineering or urban design studies; and
 - (d) any other plan or information that the local government reasonably requires.
- (2) The local government may waive or vary a requirement set out in subclause (1).
- (3) Where an application relates to a place entered on a heritage list prepared in accordance with this Scheme or within an area designated under this Scheme as a heritage area, the local government may require the application to be accompanied by one or more of the following —
- (a) street elevations drawn as one continuous elevation to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application;
 - (b) a detailed schedule of all finishes, including materials and colours of the proposed development;
 - (c) a description of the finishes of the existing developments on the subject lot and on each lot immediately adjoining the subject lot.

64. Advertising applications

- (1) An application for development approval must be advertised under this clause if the proposed development —
- (a) relates to the extension of a non-conforming use; or
 - (b) relates to a use if —
 - (i) the use is not specifically referred to in the zoning table for this Scheme in respect of the zone in which the development is located; and
 - (ii) the local government determines that the use may be consistent with the objective of that zone and that notice of the application should be given;
- or
- (c) does not comply with a requirement of this Scheme; or
 - (d) is a development for which the local government requires a heritage assessment to be carried out under clause 11(1); or
 - (e) is of a type that this Scheme requires to be advertised.
- (2) The local government may waive a requirement for an application to be advertised in the circumstances set out in subclause (1)(c) if the local government is satisfied that the departure from the requirements of this Scheme is of a minor nature.
- (3) The local government may advertise, or require the applicant to advertise, an application for development approval in one or more of the following ways —
- (a) by giving notice of the proposed use or development to owners and occupiers of properties in the vicinity of the development who, in the opinion of the local government, are likely to be affected by the granting of development approval, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is given to the person;
 - (b) by publishing a notice of the proposed use or development in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is published;

- (c) by publishing a notice of the proposed use or development by electronic means in a form approved by the local government CEO including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is published;
 - (d) by erecting a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed use or development for a period of not less than 14 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the sign is erected.
- (4) Notice referred to in subclause (3) must be in the form of the “Notice of public advertisement of planning proposal” set out in clause 86(3) unless the local government specifies otherwise.
- (5) If an application for development approval is advertised under this clause, the local government —
- (a) must make the application and the material accompanying it available for public inspection during business hours at the offices of the local government; and
 - (b) may publish the application and the material accompanying it on the website of the local government.

65. Subsequent approval of development

The procedures relating to applications for development approval set out in Part 7, Part 9 and this Part apply, with any modifications necessary, to an application for development approval for development already commenced or carried out.

Note:

The *Planning and Development Act 2005* section 164 sets out the effect of approval for development already commenced or carried out.

Part 9 — Procedure for dealing with applications for development approval

66. Consultation with other authorities

- (1) When, in the opinion of the local government, an application for development approval may affect any other statutory, public or planning authority, the local government is to provide a copy of the application to the authority for objections and recommendations.
- (2) If an application for development approval relates to proposed development on land that is reserved under this Scheme for a public purpose and vested in a public authority, the local government must provide a copy of the application to that authority for objections and recommendations before making a decision on the application.
- (3) A statutory, public or planning authority receiving a copy of an application may, within 42 days of receiving the application or within such longer period as the local government allows, provide to the local government a memorandum in writing containing any objections to, or recommendations in respect of the whole or part of the proposed development.
- (4) If a statutory, public or planning authority does not provide a memorandum within the time allowed under subclause (3), the local government may determine that the authority is to be taken to have no objections or recommendations to make.

67. Matters to be considered by local government

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —

- (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
- (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the *Planning and Development (Local Planning Schemes) Regulations 2015* or any other proposed planning instrument that the local government is seriously considering adopting or approving;

- (c) any approved State planning policy;
- (d) any environmental protection policy approved under the *Environmental Protection Act 1986* section 31(d);
- (e) any policy of the Commission;
- (f) any policy of the State;
- (g) any local planning policy for the Scheme area;
- (h) any structure plan, activity centre plan or local development plan that relates to the development;
- (i) any report of the review of the local planning scheme that has been published under the *Planning and Development (Local Planning Schemes) Regulations 2015*;
- (j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;
- (k) the built heritage conservation of any place that is of cultural significance;
- (l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
- (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- (n) the amenity of the locality including the following —
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;
- (o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;
- (p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;

- (q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;
- (r) the suitability of the land for the development taking into account the possible risk to human health or safety;
- (s) the adequacy of —
 - (i) the proposed means of access to and egress from the site; and
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (u) the availability and adequacy for the development of the following —
 - (i) public transport services;
 - (ii) public utility services;
 - (iii) storage, management and collection of waste;
 - (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
 - (v) access by older people and people with disability;
- (v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;
- (w) the history of the site where the development is to be located;
- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- (y) any submissions received on the application;
- (za) the comments or submissions received from any authority consulted under clause 66;

- (zb) any other planning consideration the local government considers appropriate.

68. Determination of applications

- (1) The local government must not determine an application for development approval until the later of —
 - (a) if the application is advertised under clause 64 — the end of each period for making submissions to the local government specified in a notice referred to in clause 64(3); and
 - (b) if a copy of the application has been provided to a statutory, public or planning authority under clause 66 — the end of each period for providing a memorandum to the local government referred to in clause 66(3).
- (2) The local government may determine an application for development approval by —
 - (a) granting development approval without conditions; or
 - (b) granting development approval with conditions; or
 - (c) refusing to grant development approval.

69. Application not to be refused if development contribution plan not in place

- (1) The local government must not refuse an application for development approval only because there is not a development contribution plan in place in relation to the development.
- (2) The local government must not grant development approval subject to a condition that future contributions to the provision of infrastructure related to the development may be required under a development contribution plan that is not in place at the time the application is determined.

70. Form and date of determination

- (1) As soon as practicable after determining an application for development approval, the local government must give the applicant written notice of the determination in the form of the “Notice of determination on application for development approval” set out in clause 86(4).

- (2) The determination has effect on the day on which the notice of determination is given to the applicant.

71. Commencement of development under development approval

If development approval is granted under clause 68 —

- (a) the development must be substantially commenced —
 - (i) if no period is specified in the approval — within the period of 2 years commencing on the date on which the determination is made; or
 - (ii) if a period is specified in the approval — within that period; or
 - (iii) in either case — within a longer period approved by the local government on an application made under clause 77(1)(a);

and

- (b) the approval lapses if the development has not substantially commenced within the period determined under paragraph (a).

72. Temporary development approval

— The local government may impose conditions limiting the period of time for which development approval is granted.

Note:

— A temporary development approval is where the local government grants approval for a limited period. It does not have any effect on the period within which the development must commence.

73. Scope of development approval

Development approval may be granted —

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

74. Approval subject to later approval of details

- (1) The local government may grant development approval subject to a condition that further details of any works or use specified in the condition must be submitted to, and approved by, the local government before the developer commences the development.
- (2) The local government may only impose a condition referred to in subclause (1) if the local government is satisfied that the further matters that are to be approved would not substantially change the development approved.

75. Time for deciding application for development approval

- (1) The local government must determine an application for development approval —
 - (a) if the application is advertised under clause 64 or a copy of the application is provided to a statutory, public or planning authority under clause 66 — within 90 days of receipt of the application; or
 - (b) otherwise — within 60 days of the receipt of the application and the material that is required to accompany the application referred to in clause 63; or
 - (c) in either case — within a longer time agreed in writing between the applicant and the local government.
- (2) If the local government has not made a determination in the time referred to in subclause (1) the local government is to be taken to have refused to grant the development approval.
- (3) Despite subclause (2), the local government may determine whether or not to grant the development approval after the period applicable under subclause (1) has expired and the validity of the determination is not affected by the expiry.
- (4) The local government must give the applicant written notice of its decision to grant or refuse to grant development approval.

76. Review of decisions

- (1) In this clause —
- affected person***, in relation to a reviewable determination, means —
- (a) the applicant for development approval; or
 - (b) the owner of land in respect of which an application for development approval is made;
- reviewable determination*** means a determination by the local government to —
- (a) refuse an application for development approval; or
 - (b) to grant development approval subject to conditions; or
 - (c) to refuse to amend or cancel a development approval on an application made under clause 77.
- (2) An affected person may apply to the State Administrative Tribunal for a review of a reviewable determination in accordance with the *Planning and Development Act 2005* Part 14.

77. Amending or cancelling development approval

- (1) An owner of land in respect of which development approval has been granted by the local government may make an application to the local government requesting the local government to do any or all of the following —
- (a) to amend the approval so as to extend the period within which any development approved must be substantially commenced;
 - (b) to amend or delete any condition to which the approval is subject;
 - (c) to amend an aspect of the development approved which, if amended, would not substantially change the development approved;
 - (d) to cancel the approval.
- (2) An application under subclause (1) —
- (a) is to be made in accordance with the requirements in Part 8 and dealt with under this Part as if it were an application for development approval; and

- (b) may be made during or after the period within which the development approved must be substantially commenced.
- (3) Despite subclause (2), the local government may waive or vary a requirement in Part 8 or this Part in respect of an application if the local government is satisfied that the application relates to a minor amendment to the development approval.
- (4) The local government may determine an application made under subclause (1) by —
 - (a) approving the application without conditions; or
 - (b) approving the application with conditions; or
 - (c) refusing the application.

Part 10 — Enforcement and administration

Division 1 — Powers of local government

78. Powers of local government

- (1) For the purposes of implementing this Scheme the local government may —
 - (a) enter into an agreement in respect of a matter relating to this Scheme with any owner, occupier or other person having an interest in land affected by this Scheme; and
 - (b) deal with or dispose of any land in the Scheme area which it has acquired in accordance with the *Planning and Development Act 2005* Part 11 Division 4.
- (2) The local government may only deal with or dispose of land acquired by the local government for the purpose of a local reserve for a use of the land that is compatible with the purpose for which it is reserved.

79. Entry and inspection powers

- (1) The local government CEO may, by instrument in writing, designate an officer of the local government as an authorised officer for the purposes of this clause.

- (2) An authorised officer may, for the purpose of monitoring whether the local planning scheme is being complied with, at any reasonable time and with any assistance reasonably required —
 - (a) enter any building or land in the Scheme area; and
 - (b) inspect the building or land and any thing in or on the building or land.

80. Repair of existing advertisements

- (1) The local government may require the owner of an advertisement located in the Scheme area to repair the advertisement if, in the opinion of the local government, the advertisement has deteriorated to a point where it is in conflict with the aims of this Scheme.
- (2) A requirement referred to in subclause (1) must —
 - (a) be in the form of a written notice given to the person; and
 - (b) specify the advertisement the subject of the requirement; and
 - (c) set out clear reasons for the requirement; and
 - (d) set out full details of the action or alternative courses of action to be taken by the person; and
 - (e) specify the period, not being a period of less than 60 days from the day on which the notice is given to the person, within which the requirement must be complied with.
- (3) If the local government does not know who the owner of an advertisement is, the local government may give a notice referred to in subclause (1) to the owner of the land on which the advertisement is located and direct the owner of the land to give the notice to the owner of the advertisement within a period specified by the local government.
- (4) If an owner of land on which an advertisement is located does not give to the owner of the advertisement a notice as directed under subclause (3), the owner of the land is to be taken to be the owner of the advertisement.
- (5) A person to whom a notice under this clause is given may apply for a review of the requirement to the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14.

Division 2 — Delegations

81. Terms used

In this Division —

absolute majority has the meaning given in the *Local Government Act 1995* section 1.4;

committee means a committee established under the *Local Government Act 1995* section 5.8.

82. Delegations by local government

- (1) The local government may, by resolution, delegate to a committee or to the local government CEO the exercise of any of the local government's powers or the discharge of any of the local government's duties under this Scheme other than this power of delegation.
- (2) A resolution referred to in subclause (1) must be by absolute majority of the council of the local government.
- (3) The delegation must be in writing and may be general or as otherwise provided in the instrument of delegation.

83. Local government CEO may delegate powers

- (1) The local government CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's functions under this Scheme other than this power of delegation.
- (2) A delegation under this clause must be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) Subject to any conditions imposed by the local government on its delegation to the local government CEO under clause 82, this clause extends to a power or duty the exercise or discharge of which has been delegated by the local government to the CEO under that clause.

84. Other matters relevant to delegations under this Division

The *Local Government Act 1995* sections 5.45 and 5.46 apply to a delegation made under this Division as if the delegation were a delegation under Part 5 Division 4 of that Act.

Division 3 — Miscellaneous

85. Agreement to use of material provided for Scheme purposes

The local government may refuse to accept an application made under this Scheme if the local government is not satisfied that there is in place an agreement for the local government to use any copyrighted material provided in support of the application —

- (a) for the purposes of advertising the application or implementing a decision on the application; and
- (b) for zero remuneration.

Part 11 — Forms referred to in this Scheme

86. Forms referred to in this Scheme

- (1) The form of an application for development approval referred to in clause 62(1)(a) is as follows —

Application for development approval

Owner details
Name:
ABN (if applicable):
Address:
.....Address:
.....
..... Postcode:

Phone: Work: Home: Mobile:	Fax:	Email:
Contact person for correspondence:		
Signature:		Date:
Signature:		Date:
<p><i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature. For the purposes of signing this application an owner includes the persons referred to in the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 clause 62(2).</i></p>		

Applicant details (if different from owner)
Name:
Address:
..... Postcode:

Phone: Work: _____ _____ _____ Home: _____ _____ _____ Mobile: _____ _____ _____	Fax: _____ _____ _____	Email: _____ _____ _____
Contact person for correspondence:		
The information and plans provided with this application may be made available by the local government for public viewing in connection with the application. <input type="checkbox"/> Yes <input type="checkbox"/> No		
Signature: _____		Date: _____
Property details		
Lot No: _____	House/Street No: _____	Location No: _____
Diagram or Plan No: _____	Certificate of Title Vol. No: _____	Folio: _____
Title encumbrances (e.g. easements, restrictive covenants): _____ _____		
Street name: _____	Suburb: _____	
Nearest street intersection: _____		
Proposed development		
Nature of development: <input type="checkbox"/> Works <input type="checkbox"/> Use <input type="checkbox"/> Works and use		

<p>(b) Height: Width: Depth:</p> <p>(c) Colours to be used:</p> <p>(d) Height above ground level — to top of advertisement: to underside:</p> <p>(e) Materials to be used:</p> <p>Illuminated: Yes / No</p> <p>If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source:</p>
<p>3. Period of time for which advertisement is required:</p> <p>4. Details of signs (if any) to be removed if this application is approved:</p> <p>Note: This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed as detailed in 4 above.</p> <p>Signature of advertiser(s):</p> <p>(if different from land owners)</p> <p>Date:</p>

- (3) The form of a notice of public advertisement of a planning proposal referred to in clause 64(4) is as follows —

Planning and Development Act 2005

City/Town/Shire of

Notice of public advertisement of planning proposal

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

- (4) The form of a notice of determination on an application for development approval referred to in clause 70 is as follows —

Planning and Development Act 2005

City/Town/Shire of

Notice of determination on application for development approval

Location:	
Lot:	Plan/Diagram:
Vol. No:	Folio No:
Application date:	Received on:

Description of proposed development:

.....

The application for development approval is:

Approved subject to the following conditions

Refused for the following reason(s)

Conditions/reasons for refusal:

.....

.....

.....

Date of determination:

Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect.

Note 2: Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.

Note 3: If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

Signed: _____ Dated: _____

.....

for and on behalf of the City/Town/Shire of:

(The content of the determination notice must conform to this form but minor variations may be permitted to the format.)




Schedule 3 — Legends used in Scheme




[r. 9(2)(b)]




1. Reserve legends used in local planning scheme maps



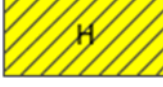
Land reserved under a local planning scheme is to be identified on the scheme map using the legend set out in the Table.




Table — Reserve legends used in Scheme


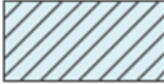

Reserve name	Appearance
Public Open Space	 <p>Mid green hatched RGB Colours FILL: Red: 0 Green: 176 Blue: 80 Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm</p>
Environmental Conservation	 <p>Yellow green hatched RGB Colours FILL: Red: 155 Green: 187 Blue: 89 Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm</p>
State Forest	 <p>Mustard yellow hatched RGB Colours FILL: Red: 255 Green: 204 Blue: 01 Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm</p>


Reserve name	Appearance
Civic and Community	 <p>Orange hatched RGB Colours FILL: Red: 255 Green: 153 Blue: 0 Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm</p>
Social Care Facilities	 <p>Orange hatched with black label text "SC" RGB Colours FILL: Red: 255 Green: 153 Blue: 0 Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm BLACK LABEL (Text "SC")</p>
Cultural Facilities	 <p>Orange hatched with black label text "C" RGB Colours FILL: Red: 255 Green: 153 Blue: 0 Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm BLACK LABEL (Text "C")</p>

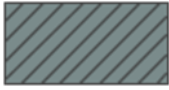

Reserve name	Appearance
Public Purposes	 <p>Yellow hatched RGB Colours FILL: Red: 255 Green: 255 Blue: 0 Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm</p>
Medical Services	 <p>Yellow hatched with black label text “M” RGB Colours FILL: Red: 255 Green: 255 Blue: 0 Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm BLACK LABEL (Text “M”)</p>
Infrastructure Services	 <p>Yellow hatched with black label text “IS” RGB Colours FILL: Red: 255 Green: 255 Blue: 0 Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm BLACK LABEL (Text “IS”)</p>

Reserve name	Appearance	
Education		<p>Yellow hatched with black label text “E”</p> <p>RGB Colours</p> <p>FILL: Red: 255 Green: 255 Blue: 0</p> <p>Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm</p> <p>BLACK LABEL (Text “E”)</p>
Emergency Services		<p>Yellow hatched with black label text “ES”</p> <p>RGB Colours</p> <p>FILL: Red: 255 Green: 255 Blue: 0</p> <p>Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm</p> <p>BLACK LABEL (Text “ES”)</p>
Heritage		<p>Yellow hatched with black label text “H”</p> <p>RGB Colours</p> <p>FILL: Red: 255 Green: 255 Blue: 0</p> <p>Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm</p> <p>BLACK LABEL (Text “H”)</p>

Reserve name	Appearance	
Government Services		<p>Yellow hatched with black label text “GS”</p> <p>RGB Colours</p> <p>FILL: Red: 255 Green: 255 Blue: 0</p> <p>Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm</p> <p>BLACK LABEL (Text “GS”)</p>
Recreational		<p>Yellow hatched with black label text “R”</p> <p>RGB Colours</p> <p>FILL: Red: 255 Green: 255 Blue: 0</p> <p>Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm</p> <p>BLACK LABEL (Text “R”)</p>
Cemetery		<p>Yellow hatched with black label text “CE”</p> <p>RGB Colours</p> <p>FILL: Red: 255 Green: 255 Blue: 0</p> <p>Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm</p> <p>BLACK LABEL (Text “CE”)</p>

Reserve name	Appearance	
Car Park		<p>Yellow hatched with black label text “CP”</p> <p>RGB Colours</p> <p>FILL: Red: 255 Green: 255 Blue: 0</p> <p>Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm</p> <p>BLACK LABEL (Text “CP”)</p>
Drainage / Waterway		<p>Pale blue hatched</p> <p>RGB Colours</p> <p>FILL: Red: 218 Green: 238 Blue: 243</p> <p>Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm</p>
Railways		<p>Grey hatched</p> <p>RGB Colours</p> <p>FILL: Red: 191 Green: 191 Blue: 191</p> <p>Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm</p>


Reserve name	Appearance
Primary Distributor Road	 <p>Red hatched RGB Colours FILL: Red: 255 Green: 0 Blue: 0 Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm</p>
District Distributor Road	 <p>Blue hatched RGB Colours FILL: Red: 0 Green: 93 Blue: 173 Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm</p>
Local Distributor Road	 <p>Light red hatched RGB Colours FILL: Red: 247 Green: 164 Blue: 155 Style: Hatch Angle +45.00° Separation 1.27mm Width 0.035mm</p>
Local Road	 <p>White RGB Colours FILL: Red: 255 Green: 255 Blue: 255</p>



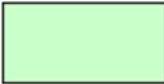


Reserve name	Appearance
Strategic Infrastructure	 <p>Dark grey hatched RGB Colours FILL: Red: 122 Green: 139 Blue: 139 Style: Hatch Angle +45.00° Separation 1.27mm Width. 0.035mm</p>
Special Purpose Reserve	 <p>Blue and white checked RGB Colours FILL: Red: 38 Green: 101 Blue: 137 Style: Crosshatching Angle 1 +45.00° Angle 2 -45.00° Separation 1.27mm Width 0.035mm</p>





2. Zone legends used in local planning scheme maps






Land zoned under a local planning scheme is to be identified on the scheme map using the legend set out in the Table.





Table — Zone legends used in Scheme

Zone name	Appearance
Residential	 <p>Light red brown RGB Colours FILL: Red: 255 Green: 222 Blue: 178</p>

Zone name	Appearance
Urban Development	 <p>Light cream with red brown border RGB Colours FILL: Red: 253 Green: 253 Blue: 217 Border: Red: 247 Green: 150 Blue: 70 Width: 1.5mm Offset: -0.75</p>
Settlement	 <p>Light orange RGB Colours FILL: Red: 255 Green: 170 Blue: 0</p>
Rural	 <p>Light green RGB Colours FILL: Red: 201 Green: 255 Blue: 201</p>
Rural Residential	 <p>Medium brown RGB Colours FILL: Red: 138 Green: 101 Blue: 69</p>
Rural Smallholdings	 <p>Jade green RGB Colours FILL: Red: 0 Green: 168 Blue: 132</p>

Zone name	Appearance
Rural Townsite Zone	 <p>Light green with light blue border RGB Colours FILL: Red: 201 Green: 255 Blue: 201 Border: Red: 0 Green: 176 Blue: 240 Width: 1.5mm Offset: -0.75</p>
Environmental Conservation	 <p>Olive green RGB Colours FILL: Red: 62 Green: 85 Blue: 9</p>
Light Industry	 <p>Light purple RGB Colours FILL: Red: 212 Green: 185 Blue: 218</p>
General Industry	 <p>Deep purple RGB Colours FILL: Red: 188 Green: 140 Blue: 191</p>




Zone name	Appearance
Industrial Development	 <p>Light cream with magenta border RGB Colours FILL: Red: 253 Green: 253 Blue: 217 Border: Red: 158 Green: 36 Blue: 134 Width: 1.5mm Offset: -0.75</p>
Strategic Industry	 <p>Magenta RGB Colours FILL: Red: 158 Green: 36 Blue: 134</p>
Commercial	 <p>Mid blue RGB Colours FILL: Red: 0 Green: 176 Blue: 240</p>
Mixed Use	 <p>Pink RGB Colours FILL: Red: 228 Green: 128 Blue: 171</p>
Service Commercial	 <p>Light blue RGB Colours FILL: Red: 198 Green: 219 Blue: 239</p>




Zone name	Appearance
Centre	 <p>Light cream with light blue border RGB Colours FILL: Red: 253 Green: 253 Blue: 217 Border: Red: 77 Green: 172 Blue: 226 Width: 1.5mm Offset: -0.75</p>
Tourism	 <p>Orange RGB Colours FILL: Red: 255 Green: 110 Blue: 0</p>
Private clubs, institutions and place of worship	 <p>Yellow green RGB Colours FILL: Red: 146 Green: 208 Blue: 80</p>
Special Use Zone	 <p>White with red border RGB Colours FILL: Red: 255 Green: 255 Blue: 255 Border: Red: 255 Green: 0 Blue: 0 Width: 1.5mm Offset: -0.75 BLACK TEXT LABEL FOR SPECIFIC PURPOSE</p>



3. Additional information used in local planning scheme maps



Additional information about land or waters in the scheme area is to be identified on the scheme map using the legend set out in the Table.


Table - Additional information used in local planning scheme maps

Additional information	Appearance
Oceans/Waterways	 <p>Pale blue RGB Colours FILL: Red: 219 Green: 255 Blue: 255</p>
No Zone	 <p>White RGB Colours FILL: Red: 0 Green: 0 Blue: 0</p>
Additional Use	 <p>Transparent with red dashed border with text "A" RGB Colours FILL: NA Border Dash: Red: 255 Green: 0 Blue: 0 Text: Red: 255 Green: 0 Blue: 0</p>

Additional information	Appearance
Restricted Use	 <p>Transparent with red dashed border with text “R”</p> <p>RGB Colours FILL: NA Border Dash: Red: 255 Green: 0 Blue: 0</p> <p>Text: Red: 255 Green: 0 Blue: 0</p>
Special Control Area – General	 <p>Inwards triangled border with boxed SCA labelled (Label related to Scheme Text)</p> <p>RGB Colours FILL: NA Border Triangle: Red: 255 Green: 0 Blue: 0</p> <p>Text: Red: 0 Green: 0 Blue: 0 (Boxed with white background)</p>
Special Control Area - Infrastructure	 <p>Inwards triangled border with boxed SCA labelled (Label related to Scheme Text)</p> <p>RGB Colours FILL: NA Border Triangle: Red: 0 Green: 0 Blue: 0</p> <p>Text: Red: 0 Green: 0 Blue: 0 (Boxed with white background)</p>

Additional information	Appearance
Special Control Area – Basic Raw Material	 <p>Inwards triangled border with boxed SCA labelled (Label related to Scheme Text)</p> <p>RGB Colours FILL: NA Border Triangle: Red: 115 Green: 76 Blue: 0 Text: Red: 0 Green: 0 Blue: 0 (Boxed with white background)</p>
Special Control Area – Heritage	 <p>Inwards triangled border with boxed SCA labelled (Label related to Scheme Text)</p> <p>RGB Colours FILL: NA Border Triangle: Red: 0 Green: 132 Blue: 168 Text: Red: 0 Green: 0 Blue: 0 (Boxed with white background)</p>

Additional information	Appearance
Special Control Area – Development Control Area/Plan	 <p>Inwards triangled border with boxed SCA labelled (Label related to Scheme Text)</p> <p>RGB Colours FILL: NA Border Triangle: Red: 115 Green: 0 Blue: 176 Text: Red: 0 Green: 0 Blue: 0 (Boxed with white background)</p>
Special Control Area – Environment	 <p>Inwards triangled border with boxed SCA labelled (Label related to Scheme Text)</p> <p>RGB Colours FILL: NA Border Triangle: Red: 0 Green: 168 Blue: 132 Text: Red: 0 Green: 0 Blue: 0 (Boxed with white background)</p>

Additional information	Appearance
Residential Design Code	 <p>Inwards striped border with boxed R-Code labelled (Label related to Scheme Text)</p> <p>RGB Colours FILL: NA Border: Red: 0 Green: 0 Blue: 0 Striped: Width: 2.5 Offset: -1 Text: Red: 0 Green: 0 Blue: 0 (Boxed with white background)</p>

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Notes

¹ [This is a compilation of the *Planning and Development \(Local Planning Schemes\) Regulations 2015*. The following table contains information about those regulations.](#)

Compilation table

<u>Citation</u>	<u>Gazettal</u>	<u>Commencement</u>
Planning and Development (Local Planning Schemes) Regulations 2015	25 Aug 2015 p. 3401-595	r. 1 and 2: 25 Aug 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 19 Oct 2015 (see r. 2(b))

