

TABLE OF CONTENTS		i
PART 1 INTRODUCTORY		
1	Title	1
2	Commencement	1
3	Scheme Documents	1
4	Scheme Area	1
5	Responsible Authority	1
6	Objectives and Intentions	1
7	Relationship with Other Laws	3
8	Repeals	3
9	Definitions	4
PART 2 LAND USE		
10	Precincts	5
11	Reserves and Scheme Zones	5
12	Use of a Town of Vincent Scheme Reserve	6
13	Use of Land in a Scheme Zone	6
	Zone Table	8
14	Additional Uses	9
15	Unlisted Uses	9
16	Non-Conforming Uses	9
17	Register of Non-Conforming Uses	10
PART 3 DEVELOPMENT REQUIREMENTS		
DIVISION 1 – GENERAL DEVELOPMENT REQUIREMENTS		
18	Source of Development Requirements	11
19	Residential Planning Codes	11
20	Special Application of the Residential Planning Codes	11
21	Conservation of Trees	14
22	Sewerage Connection	14
22A	Local Development Plan	14
22B	Activity Centre Structure Plan	15
DIVISION 2 – PLACES OF CULTURAL HERITAGE SIGNIFICANCE		
23	Heritage List	16
24	Declaration of Heritage Places	16
25	Application for Planning Approval	17
26	Formalities of Application	18
27	Variations to Scheme Provisions	18
DIVISION 3 – CONTROL OF ADVERTISEMENTS		
28	Definition	20
29	Need for Planning Approval	20

30	Existing and Exempted Advertisements	20
31	Notices Affecting the Display of Advertisements	20
PART 4 PLANNING APPROVAL		
32	Need for Planning Approval	22
33	Exemption from Planning Approval	22
34	Unauthorised Existing Developments	23
35	Form of Application	24
36	Design Advisory Committee	25
37	Advertising Procedure	25
38	Determination of Application - General Provisions	25
39	Determination of Application for an Unlisted Use	27
40	Determination of Non-Complying Applications	27
41	Determination of an Application for Demolition	28
42	Notice of Council Decision	29
43	Term of Planning Approval	29
44	Temporary Planning Approval	29
45	Deemed Refusal	30
46	Appeals	30
PART 5 MISCELLANEOUS		
47	Planning Policies	31
48	Agreements and Dealings with Land	32
49	Delegation	33
50	Compensation and Betterment	33
PART 6 ENFORCEMENT		
51	Notices	35
52	Authorised Entry	35
53	Offences	36
PART 7 SPECIAL CONTROL AREAS		
54	Operation of Special Control Areas	37
55	Development Areas	37
56	Development Contribution Areas	47
Schedule 1 – Scheme Interpretations		
		1
Schedule 2 – Special Uses		
		12
Schedule 3 – Additional Uses		
		13
Schedule 4 – Form of Application		
		14
Schedule 5 – Notice of Council Decision		
		15
Schedule 6 – Development Areas		
		17
Schedule 7 – Development Contribution Plan		
		18
Schedule 8 – Statutory Static Feasibility Assessment Model		
		19

1 TITLE

This Town Planning Scheme may be referred to as the Town of Vincent Town Planning Scheme No. 1, (hereinafter called the “Scheme”).

2 COMMENCEMENT

This Scheme commences on the Gazettal date.

NOTE:
The “Gazettal date” is defined in Schedule 1.

3 SCHEME DOCUMENTS

This Scheme comprises the following documents:

- (a) This Scheme Text; and
- (b) The Scheme Map (sheets 1 – 15 inclusive)

4 SCHEME AREA

This Scheme applies to the Scheme area which covers all the municipal district of the Town of Vincent.

NOTE:
Parts of the Scheme area are also subject to other planning laws such as the Metropolitan Region Scheme (see Clause 7).

5 RESPONSIBLE AUTHORITY

The authority responsible for administering this Scheme is the Council.

NOTE:
The "Council" is defined in Schedule 1.

6 OBJECTIVES AND INTENTIONS

- (1) The Council has prepared this Scheme for the purpose of controlling and guiding development and growth in a responsible manner and which can initiate, accommodate and respond to change.
- (2) The overall goal of this Scheme is to ensure that the Town of Vincent will be widely recognised as providing a high level of services and amenities in a friendly and accountable manner.
- (3) The general objectives of this Scheme are -
 - (a) to cater for the diversity of demands, interests and lifestyles by facilitating and encouraging the provision of a wide range of choices in housing, business, employment, education, leisure, transport and access opportunities;

- (b) to protect and enhance the health, safety and general welfare of the Town's inhabitants and the social, physical and cultural environment;
- (c) to ensure that the use and development of land is managed in an effective and efficient manner within a flexible framework which-
 - (i) recognises the individual character and needs of localities within the Scheme zone area; and
 - (ii) can respond readily to change;
- (d) to promote the development of a sense of local community and recognise the right of the community to participate in the evolution of localities;
- (e) to promote and safeguard the economic well-being and functions of the Town;
- (f) to co-ordinate and ensure that development is carried out in an efficient and environmentally responsible manner which –
 - (i) makes optimum use of the Town's growing infrastructure and resources;
 - (ii) promotes an energy efficient environment; and
 - (iii) respects the natural environment;
- (g) to promote and safeguard the cultural heritage of the Town by –
 - (i) identifying, conserving and enhancing those places which are of significance to Vincent's cultural heritage;
 - (ii) encouraging development that is in harmony with the cultural heritage value of an area; and
 - (iii) promoting public awareness of cultural heritage generally; and
- (h) to ensure planning at the local level is consistent with the Metropolitan Region Scheme.

7 RELATIONSHIP WITH OTHER LAWS

- (1) This Scheme is complementary to, and not a substitute for, the Metropolitan Region Scheme and provisions of the Metropolitan Region Scheme continue to have affect. The authority responsible for implementing the Metropolitan Region Scheme is the Western Australian Planning Commission (hereinafter called the “Commission”).
- (2) Where a provision of this Scheme is inconsistent with a provision of a local law, the provision of this Scheme prevails.
- (3) In this Scheme, unless the contrary intention appears, a reference to-
 - (a) land, includes part of the land;
 - (b) premises, includes part of the premises; and
 - (c) a building, includes part of the building.
- (4) Where a word or term is defined in the Residential Planning Codes then, notwithstanding anything else in this Scheme, that word or term when used in respect of residential development has the meaning given to it in the Residential Planning Codes.
- (5) A word or term used in this Scheme, but not defined in this Scheme or in the Residential Planning Codes, is to have its normal and common meaning.

8 REPEALS

The following written laws are repealed -

Name	Date of Publication in the Government Gazette
(a) City of Perth City Planning Scheme	20 December 1985
(b) Lake Monger Town Planning Scheme No.12	29 July 1977
(c) Zoning By-law No.64	10 October 1961
(d) Zoning By-law No.65	10 October 1961
(e) Zoning By-law No.65	24 May 1962
(f) City of Perth City Planning Scheme No. 2	9 January 2004

NOTE:
The repeal of each of these schemes and by-laws extends to any amendments to them (see section 33 of the Interpretation Act 1984).

(g) City of Stirling District Planning Scheme No. 2 13 December 1985

9 DEFINITIONS

In this Scheme, unless the context otherwise requires, the words and expressions used have the meanings set out in Schedule 1.

NOTE:
The definitions of words and expressions set out in s.2(1) of the Town Planning and Development Act 1928 and s.6 of the Metropolitan Region Town Planning Scheme Act 1959 are also relevant for the purposes of this scheme.

10 PRECINCTS

NOTE:
"precinct" is
defined in
Schedule 1.

- (1) The Scheme area is divided into the precincts set out in the precinct list at the end of this clause.
- (2) For each precinct listed below, there is a planning policy. The Precinct Planning Policies are contained in the Council's Policy Manual.

PRECINCT LIST

P1	Mount Hawthorn
P2	Mount Hawthorn Centre
P3	Leederville
P4	Oxford Centre
P5	Cleaver
P6	Smith's Lake
P7	Charles Centre
P8	North Perth
P9	North Perth Centre
P10	Norfolk
P11	Mt Lawley Centre
P12	Hyde Park
P13	Beaufort
P14	Forrest
P15	Banks

11 RESERVES AND SCHEME ZONES

NOTE:
"Metropolitan
Region Scheme
reserve" and
"Town of
Vincent Scheme
reserve" are
defined in
Schedule 1.

- (1) The land within the Scheme area is classified into either -
 - (a) a Metropolitan Region Scheme reserve; or
 - (b) a Town of Vincent Scheme reserve; or
 - (c) one of the following Scheme zones –
 - (i) residential zone;
 - (ii) residential/commercial zone;
 - (iii) local centre;
 - (iv) district centre;
 - (v) commercial zone;
 - (vi) special use zone.

- (2) The classification of land within the Scheme area is shown on the Scheme Map in which that land is located.
- (3) Land shown as a “Metropolitan Region Scheme Reserve” or a “Regional Reserve” on a Scheme Map-
- (a) is land reserved under the Metropolitan Region Scheme;
 - (b) is shown on the Scheme Map to comply with the Metropolitan Region Town Planning Scheme Act 1959;
 - (c) is not reserved by this Scheme; and
 - (d) continues to be subject to the Metropolitan Region Scheme.

12 USE OF A TOWN OF VINCENT SCHEME RESERVE

A Town of Vincent Scheme reserve may be used for:

- (a) a use which gives effect to the purpose for which the land is reserved under this Scheme; and
- (b) where the land is vested in a public authority, a Commonwealth agency or in the Council, a use which gives effect to any purpose for which the land may lawfully be used.

NOTES:
 1. "public authority", "Commonwealth agency" and the "Council" are defined in Schedule 1.
 2. Planning approval is granted by the Council under Part 4.

13 USE OF LAND IN A SCHEME ZONE

- (1) The Zone Table indicates, subject to the provisions of this Scheme, the uses permitted in the Scheme Area in the various zones. The permissibility of any uses is determined by cross reference between the uses in the Use Class column on the left hand side of the Zone Table and the list of zones at the top of the Zone Table.
- (2) The symbols referred to in the Zone Table have the following meanings:
- (a) “P” means that the use is permitted by the Scheme;
 - (b) “X” means a use that is not permitted by the Scheme;
 - (c) “IP” means a use that is not permitted unless such use is incidental to the predominant use as decided and approved by the Council;

NOTES:
 1. Planning approval is required for most uses (see Clauses 32 and 33).
 2. Council shall refuse to approve any “X” use of land. Approval of an “X” use may only proceed by way of an amendment to the Scheme.

- (d) “AA” means that the use is not permitted unless the Council has exercised its discretion by granting planning approval; and
- (e) “SA” means that the use is not permitted unless the Council has exercised its discretion and has granted planning approval after giving special notice in accordance with Clause 37.

ZONE TABLE

USE CLASS	ZONES				
	Residential Zone	Residential/Commercial Zone	Local Centre	District Centre	Commercial Zone
Single house, caretaker's residence	P	P	P	P	P
Aged or dependent persons dwellings	P	P	AA	AA	AA
Attached house, grouped dwelling	P	P	AA	AA	AA
Multiple dwelling	P	P	AA	AA	AA
Home Occupations	P	P	AA	AA	AA
Lodging house, hotel, motel, club, tavern, private hostel, service apartment	SA	SA	SA	SA	SA
Hospital, institutional building	SA	SA	SA	AA	AA
Consulting rooms	SA	SA	AA	AA	AA
Local shop	SA	AA	P	P	P
Shop	SA	AA	P	P	P
Fish shop, pet meat shop, pet shop	X	SA	P	P	P
Eating house	SA	SA	AA	P	P
Day nursery	AA	AA	AA	AA	AA
Recreational facilities	AA	AA	AA	AA	AA
Educational establishment	AA	AA	AA	AA	AA
Public worship - place of	AA	AA	AA	AA	AA
Civic building	AA	AA	AA	P	P
Theatre, cinema, commercial hall	SA	SA	SA	P	P
Office building	SA	AA	P	P	P
Light industry	X	X	X	SA	SA
General industry	X	X	X	SA	SA
Hazardous or noxious industry	X	X	X	X	X
Warehouse, showrooms	X	SA	SA	P	P
Public utilities	AA	AA	AA	AA	AA
Car park	X	SA	AA	AA	AA
Amusement centre, camping ground, caravan park, cemetery, crematorium, drive-in theatre, drive-in fast food outlet, funeral parlours, fuel depot, open air display, open air storage yard, service station, transport depot, vehicle sales premises, veterinary clinic, veterinary hospital	X	SA	AA	AA	AA

14 ADDITIONAL USES

Notwithstanding anything contained in the Zone Table, the land specified in Schedule 3 may be used for the specific use that is listed in addition to any uses permitted in the zone in which the land is situated subject to the conditions set out in Schedule 3 with respect to that land.

NOTE:
An Additional Use is a land use that is permitted on a specific portion of land in addition to the uses already permitted in the zone that applies to the land.

15 UNLISTED USES

If use of the land for a particular purpose is not specifically mentioned in the Zone Table and cannot reasonably be determined as falling within the interpretation of one of the Use Class categories the Council may:-

- (a) determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or
- (b) determine that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the “SA” procedures of Clause 37 in considering an application for planning approval; or
- (c) determine that the use is not consistent with the objectives and purpose of the particular zone and is therefore not permitted.

NOTES:
1. Planning approval must be obtained for most unlisted uses (see Clauses 32, 33 and 39).
2. Planning approval is granted by the Council under Part 4.

16 NON - CONFORMING USES

- (1) Except as otherwise provided in this Scheme, no provision of the Scheme shall be deemed to prevent:
 - (a) the continued use of any land or building for the purpose for which it was being lawfully used at the Gazettal date of the Scheme; or
 - (b) the carrying out of any development thereon for which, immediately prior to that time, an approval or approvals, lawfully required to authorise the development to be carried out, were duly obtained and are current.
- (2) A person shall not alter or extend a non-conforming use or erect, alter or extend a building used in conjunction with a non-conforming use without first having applied for and obtained the planning approval of the Council under the Scheme and unless in conformity with any other provisions and requirements contained in the Scheme. All applications for planning approval under this clause will be subject to notice under Clause 37 and the Council shall have special regard to the impact of the proposed erection, alteration or extension of the building on the preservation of the amenity of the locality.

NOTE:
The definition of a “non-conforming use” and “Gazettal date” are defined in Schedule 1.

NOTE:
An application to alter or extend a non-conforming use is made by way of an application for planning approval under Part 4 of the Scheme.

- (3) Notwithstanding anything contained in the Zone Table, the Council may grant its planning approval to the change of use of any land from a non-conforming use to another non-conforming use if the proposed use is, in the opinion of the Council, less detrimental to the amenity of the locality than the original non-conforming use and is, in the opinion of the Council, closer to the intended purpose of the zone or reserve.
- (4) When a non-conforming use of any land or buildings has been discontinued for a period of six consecutive months or more such land or building shall not thereafter be used otherwise than in conformity with the provisions of the Scheme.
- (5) The Council may effect the discontinuance of a non-conforming use by the purchase of the affected property, or by the payment of compensation to the owner or the occupier or to both the owner and the occupier of that property, and may enter into an agreement with the owner for that purpose.
- (6) When a building used for a non-conforming use is destroyed to 75% or more of its value, the land on which the building is built shall not thereafter be used otherwise than in conformity with the Scheme, and the buildings shall not be repaired or rebuilt, altered or added to for the purpose of being used for a non-conforming use or in a manner not permitted by the Scheme, except with the planning approval of the Council.”

NOTE:
Section 13 of the Town Planning and Development Act enables the Council to purchase, or, with the consent of the Governor, compulsorily acquire land on which there is a non-conforming use subject to the Public Works Act and this Scheme.

17 REGISTER OF NON - CONFORMING USES

- (1) A person who wishes the Council to record a non-conforming use may submit to the Council in writing full details of the nature, location and extent of the non-conforming use.
- (2) Where the Council is satisfied that a non-conforming use exists, it is to record, in a register of non-conforming uses, details of each non-conforming use.
- (3) A copy of the register of non-conforming uses is to be –
 - (a) kept at the offices of the Council; and
 - (b) made available for public inspection during office hours.

NOTE:
The Policy Manual contains a register of Non-Conforming Uses.

DIVISION 1 - GENERAL DEVELOPMENT REQUIREMENTS

18 SOURCE OF DEVELOPMENT REQUIREMENTS

Unless otherwise consistent with a planning approval, the development of land is to be in accordance with the standards and requirements contained in this Scheme Text, the Scheme Map, the policy applying to the land proposed to be developed, the planning policies and the Residential Planning Codes.

19 RESIDENTIAL PLANNING CODES

- (1) The Residential Planning Codes are to be read as part of this Scheme and will be made available for inspection with the Scheme for determining residential densities.
- (2) Unless otherwise provided in, or consistent with, this Scheme or a planning approval, the development of land for any of the residential purposes dealt with by the Residential Planning Codes is to conform to the provisions of those Codes.

NOTE: 1. "Residential Planning Codes" is defined in Schedule 1.

20 SPECIAL APPLICATION OF THE RESIDENTIAL PLANNING CODES

- (1) The permitted site density per hectare under the Residential Planning Codes for any land is to be determined by reference to the Residential Planning Codes density number, as illustrated on the Scheme Map, for that land.
- (2) Subject to compliance with the procedures set out in the Residential Planning Codes for notifying affected owners and occupiers, the Council may grant an increase in the permitted dwelling density by up to 50% if -
 - (a) the proposed development effects the discontinuance of a non-conforming use; or
 - (b) the proposed development conserves or enhances an existing dwelling or existing dwellings worthy of retention; or
 - (c) the proposed development would remove all existing vehicular access to and from the site from a road shown on the functional road hierarchy map as a primary distributor or district distributor (A).

- (3) Where the Council allows an increase in the permitted dwelling density, the standards and provisions of the Residential Planning Codes which relate to that higher density are to apply.
- (4) Notwithstanding the provisions of the Residential Planning Codes, the following special applications of the Residential Planning Codes apply:-
 - (a) Cleaver Precinct P5,
 - (i) Multiple Dwellings are not permitted in the area east of Cleaver Street coded Residential R50 excluding lots which front Newcastle, Charles, Vincent and Cleaver Streets;
 - (ii) Buildings shall be setback from the street frontage such distance as is generally consistent with the building setback on adjoining land and in the immediate vicinity;
 - (iii) A reduction in the provision of on-site parking may be permitted.
 - (c) North Perth Precinct P8,
 - (i) Dual Coding: Within the area coded R30/40, development will only be permitted to R40 standards where the existing house is retained and where criteria specified in the precinct document is satisfied.
 - (ii) After 29 March 2017 development and subdivision of land coded R20 will be determined in accordance with the R30/40 code and shall be subject to all provisions relevant to that coding in the North Perth Precinct.
 - (d) Norfolk Precinct P10,
 - (ii) Within the areas coded R40 a maximum of two dwellings will be permitted per lot.
 - (e) Hyde Park Precinct P12,
 - (i) Multiple Dwellings are not permitted in the area east of Fitzgerald Street coded Residential R50 excluding the area bounded by Fitzgerald, Randell, Palmerston and Stuart Streets, Perth.

- (ii) The Council will consider any variation to the Residential Planning Codes where it is necessary to maintain the prevailing historic character of the precinct, particularly with regard to the redevelopment of small lots.
- (f) Forrest Precinct P14,
- (i) Multiple dwellings will not be permitted on land coded R50;
 - (ii) Dual coding: Within the area coded R80/100, development will only be permitted to R100 standards if a single integrated development is proposed, in accordance with the requirements set down in the Scheme Map;
 - (iii) Buildings on land with frontage(s) to McCarthy, Court, Turner, Roy or Gerald Streets shall;
 - (a) be a maximum of two storeys in height;
 - (b) be setback a distance consistent with existing setbacks in the street; and
 - (c) a reduction in the provision of on-site car parking may be permitted.
- (g) Banks Precinct P15,
- (ii) Dual Coding: Within the area coded R20/40, development will only be permitted from R20 to R40 where the existing house is retained or where the land is vacant or the existing house is not worthy of retention by virtue of its structural condition or uncharacteristic design; and in all such cases, a maximum of two dwellings per lot, where the lot area is the same as that on the Gazettal date, will be permitted;
 - (iii) In the residential area east of Joel Terrace a minimum of two parking spaces must be provided for each dwelling with at least one provided under cover.

- (h) Mount Hawthorn Precinct P1,
 - (i) After 29 March 2017 development and subdivision of land coded R20 will be determined in accordance with the R30 code and shall be subject to all provisions relevant to that coding in the Mount Hawthorn Precinct.
- (5) The Council will consider variations to Residential Planning Codes where it considers that acceptable levels of residential amenity can be achieved.
- (6) If a provision of the Residential Planning Codes is inconsistent with a provision of this Scheme listed in subclause (4) above, the latter is to prevail to the extent of that inconsistency.

21 CONSERVATION OF TREES

The removal, destruction of and/or interference with any tree(s) listed on the Town of Vincent Trees of Significance Inventory contravenes this Scheme unless planning approval has first been obtained from the Council.

22 SEWERAGE CONNECTION

- (1) Notwithstanding any provision of this Scheme to the contrary, all residential developments are to be connected to a comprehensive sewerage system, if one is available.
- (2) Where no comprehensive sewerage is available, the Council is not to grant planning approval for any residential development, other than the erection of a single house, unless the proposed development complies with the Government Sewerage Policy, 1995 (as amended).

<p>NOTE: "Gazetted date" is defined in Schedule 1.</p>

22A LOCAL DEVELOPMENT PLAN

- (1) The local government may require a local development plan in accordance with clause 55(15) of the Scheme prior to lodgement of a subdivision and/or development application.
- (2) A local development plan under clause 22A(1) is –
 - (i) required notwithstanding that the site may not be subject to Development Area provisions under Part 7 of the Scheme; and

- (ii) to be prepared and submitted by an owner or a proponent, and processed accordingly under clause 55(15) of the Scheme.

22B ACTIVITY CENTRE STRUCTURE PLAN

- (1) Any application for major development on land in the Commercial and/or District Centre zones which is wholly or partly within an activity centre shall not be approved unless an activity centre structure plan has been prepared and adopted in accordance with State Planning Policy 4.2, Activity Centres for Perth and Peel, and the processes and procedures in clause 55 of the Scheme.
- (2) Notwithstanding clause 22B(1), a local government may approve an application for major development before an activity centre structure plan has been prepared and adopted provided that the application for major development satisfies the provisions of State Planning Policy 4.2, Activity Centres for Perth and Peel.
- (3) For the purpose of this Scheme, the following definitions apply -

activity centre means an activity centre identified in the activity centres hierarchy of State Planning Policy 4.2, Activity Centres for Perth and Peel.

activity centre structure plan means a structure plan for an activity centre prepared in accordance with State Planning Policy 4.2, Activity Centre for Perth and Peel, and the processes and procedures in clause 55 of the Scheme.

major development in relation to an activity centre, has the same meaning as given to it by State Planning Policy 4.2, Activity Centres for Perth and Peel.

net lettable area in relation to an activity centre, has the same meaning as given to it by State Planning Policy 4.2, Activity Centres for Perth and Peel.

DIVISION 2 – PLACES OF CULTURAL HERITAGE SIGNIFICANCE

23 HERITAGE LIST

- (1) The Council shall establish and maintain a Heritage List of places considered by the Council to be of heritage significance and worthy of conservation.
- (2) For the purposes of this Clause, the Heritage List means the Municipal Inventory, as amended from time to time, prepared by the Council pursuant to section 45 of the Heritage of Western Australia Act 1990 (as amended), or such parts thereof as described in the Municipal Inventory.
- (3) The Council shall keep copies of the Heritage List with the Scheme documents for public inspection during normal office hours.

NOTE:

A "place" is defined in Schedule 1. It may include works, buildings and contents of buildings.

24 DECLARATION OF HERITAGE PLACES

- (1) The Council may designate an area of land to be a heritage place where, in the opinion of the Council, special planning control is needed to conserve and enhance the heritage values and character of the area.
- (2) The Council shall adopt for each heritage place a policy statement which shall comprise:
 - (a) a map showing the boundaries of the place;
 - (b) a list of places of heritage significance; and
 - (c) objectives and guidelines for the conservation of the place.
- (3) The Council shall keep a copy of the policy statement for any designated heritage place with the Scheme documents for public inspection during normal office hours.
- (4) The procedure to be followed by the Council in designating a heritage place shall be as follows:
 - (a) the Council shall notify in writing each owner of land affected by the proposal;
 - (b) the Council shall advertise the proposal by way of a notice in a newspaper circulating in the district, by the erection of a sign in a prominent location in the area affected by the designation, and by such other methods as

NOTE:

The procedures relating to the adoption of a planning policy are set out in Clause 47.

the Council consider necessary to ensure widespread notice of the proposal, describing the area subject of the proposed designation and where the policy statement which applies to the heritage place may be inspected;

- (c) the Council shall invite submissions on the proposal within 28 days of the date specified in the notice referred to immediately above;
 - (d) the Council shall carry out such other consultations as it thinks fit;
 - (e) the Council shall consider any submissions made and resolve to designate the heritage place with or without modification or reject the proposal after consideration of submissions; and
 - (f) the Council shall forward notice of its decision to the Heritage Council of WA and the Western Australian Planning Commission.
- (5) The Council may modify or may cancel a heritage place or any policy statement which relates to it by following the procedure set out in sub-clause 4 above.

25 APPLICATIONS FOR PLANNING APPROVAL

- (1) In dealing with any matters which may affect a heritage place or individual entry on the Heritage List, including any application for planning approval, the Council shall have regard to any heritage policy of the Council.
- (2) The Council may, in considering any application that may affect a heritage place or individual entry on the Heritage List, solicit the views of the Heritage Council of WA and any other relevant bodies, and take those views into account when determining the application.
- (3) Notwithstanding any existing assessment on record, the Council may require a heritage assessment to be carried out prior to the approval for any development proposed in a heritage place or individual entry listed on the Heritage List.
- (4) For the purposes of Clause 33 of the Scheme the term ‘development’ shall have the meaning as set out in the Town Planning and Development Act (as amended) but shall also include, in relation to any place entered on the Heritage List or contained within a heritage place, any act or thing that is likely to

significantly change the external character of the building, object, structure or place.

26 FORMALITIES OF APPLICATION

- (1) In addition to the application formalities prescribed in Clause 25 and any formalities or requirements associated with applications for planning approval contained in any other provision of the Scheme, the Council may require an applicant for planning approval, where the proposed development may affect a place of cultural heritage significance or a heritage place, to provide one or more of the following to assist the Council in its determination of the application:
 - (a) street elevations drawn 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, and drawn as one continuous elevation;
 - (b) in addition to a site plan, a plan of the proposed development site showing existing and proposed ground levels over the whole of the land the subject of the application, and the location, type and height of all existing structures and of all existing vegetation exceeding 2 metres in height, and marking any existing structures and vegetation proposed to be removed; such plan shall be drawn to the same scale as the site plan;
 - (c) a detailed schedule of all finishes, including materials and colours of the proposed development and, unless the Council exempts the applicant from the requirement or any part of it, the finishes of the existing developments on the subject lot and on each lot immediately adjoining the subject lot; and
 - (d) any other information which the Council indicates that it considers relevant.

27 VARIATIONS TO SCHEME PROVISIONS

- (1) Where desirable to facilitate the conservation of a heritage place listed in the Heritage List or to enhance or preserve heritage values in a Heritage Area, the Council may vary any site or development requirement of the Scheme provided that, where in the Council's opinion the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for variation, the Council shall:

- (a) consult the affected parties by following one or more of the provisions dealing with advertising uses pursuant to Clause 37; and
 - (b) have regard to any expressed views prior to making its decision to grant the variation.
- (2) In granting variations under sub-clause (1) the Council may enter into a heritage agreement under Part 4 of the Heritage of Western Australia Act 1990 (as amended) with an owner who would benefit from the variation. The agreement may specify the owner's obligations and contain memorials noted on relevant Certificates of Title.

DIVISION 3 – CONTROL OF ADVERTISEMENTS

28 DEFINITION

For the purposes of this Division –

“advertiser” means any one or more of the land owner, occupier, licensee or other person having an interest in or benefiting from the display of an advertisement;

“display” in relation to an advertisement, includes the erection and placing of the advertisement; and

“exempted advertisement” means an advertisement that is-

- (a) fully displayed before the commencement of this Scheme; or
- (b) displayed under a licence or other approval granted by the Council before the commencement of this Scheme.

29 NEED FOR PLANNING APPROVAL

A person shall not begin or continue to display an advertisement, other than an existing or exempted advertisement, without having first applied for and having obtained planning approval under Part 4.

30 EXISTING AND EXEMPTED ADVERTISEMENTS

Unless it is subject to a notice under Clause 31 –

- (a) an exempted advertisement may be displayed; and
- (b) an existing advertisement may continue to be displayed in accordance with the licence or approval, if any, granted by the Council.

31 NOTICES AFFECTING THE DISPLAY OF ADVERTISEMENTS

(1) Where, in the opinion of the Council, the display of an advertisement, including an exempted or existing advertisement, seriously conflicts with –

- (a) the requirements of the Scheme;
- (b) any relevant planning policies;

- (c) the Scheme Map;
- (d) the orderly and proper planning of a locality;
- (e) the conservation of the amenities of a locality; and
- (f) the design, scale and relationship of existing buildings or surroundings of the advertisement;

the Council may, by notice in writing, require the advertiser to remove, relocate, adapt or otherwise modify the advertisement within the period specified in the notice.

- (2) Where, in the opinion of the Council, an advertisement has deteriorated inappropriately having regard to the matters set out in sub-clause (1), or where the advertisement ceased to be effective for the purpose for which it was displayed, the Council may by notice in writing require the advertiser to –
 - (a) repair, repaint or otherwise restore the advertisement to a standard specified by the Council in the notice; or
 - (b) remove the advertisement.
- (3) A notice under this clause is to –
 - (a) be given to the advertiser;
 - (b) refer to the advertisement which is the subject of the notice and give full details of the action or alternative courses to be taken by the advertiser to comply with the notice; and
 - (c) specify the period, not being less than 60 days, within which the action specified is to be completed by the advertiser.
- (4) Subject to the provisions of the Act, a person on whom the notice is served under this clause has a right of appeal against the Council's decision to serve the notice.

32 NEED FOR PLANNING APPROVAL

- (1) A person shall not begin or continue development of any land or building in the Scheme area, unless it is a development exempted by Clause 33, without first having applied for and obtained planning approval.
- (2) To avoid any doubt, development for which planning approval is required includes both use (which is the subject of Part 2 of this Scheme) and development (which is the subject of Part 3).

NOTES:

1. A "planning approval", which is defined in Schedule 1 is granted by the Council. In some cases, approval might also be required by the Western Australian Planning Commission under the Metropolitan Region Town Planning Scheme Act 1959.
2. A "development" is defined in Schedule 1. As well as building works it includes any -
- unlisted use (see Clause 15);
 - or
 - demolition (see Clause 41)

33 EXEMPTION FROM PLANNING APPROVAL

Planning approval is not required for the following development-

- (a) building or other work for the maintenance, improvement or other alteration of any building or structure where those works affect only its interior or do not materially affect its external appearance unless the building or structure is –
- (i) located in a place that has been entered in the Register of Places under the Heritage of Western Australia Act 1990;
- (ii) the subject of an Order under Part 6 of the Heritage of Western Australia Act 1990; or
- (iii) listed in the Heritage List; or
- (b) building or other work carried out by the Council, a public authority or a Commonwealth agency in connection with the maintenance or improvement of a public street;
- (c) building or other work carried out by the Council, a public authority or a Commonwealth agency in connection with any public utility;

NOTES:

1. The Heritage List also contains a list of each area declared by the Council to be a heritage place (see Clauses 23-24).
2. Planning approval is not required for -
- (a) certain developments carried out in accordance with subdivisional approval - see section 20D of the Town Planning and Developmental Act 1928.
3. Development of a Metropolitan Region Scheme reserve may require approval under the Metropolitan Region Town Planning Scheme Act 1959 and the Metropolitan Region Scheme.

- (d) development of a minor nature listed in a planning policy as exempt from the requirement to obtain planning approval;
- (e) a single dwelling where it complies with the Residential Planning Codes and where it is considered by the Council, the amenity of the area generally is not adversely affected;
- (f) the use of land which is a permitted (“P”) use in the zone in which that land is situated provided:
 - (i) it does not involve the carrying out of any building or other works; and
 - (ii) it is in compliance with all the requirements prescribed by the Scheme, planning policies and the Residential Planning Codes; and
- (g) the use of land in a reserve, where such land is held by the Council or vested in a public authority-
 - (i) for the purpose for which the land is reserved under the Scheme; or
 - (ii) in the case of land vested in a public authority, for any purpose for which the land may be lawfully used by that authority.

34 UNAUTHORISED EXISTING DEVELOPMENTS

- (1) Where a development has been, or is being, carried out contrary to Clause 32, a person may apply to the Council for planning approval for that development.
- (2) If the Council grants planning approval in respect of an application made under subclause (1), the planning approval is not to be taken as –
 - (a) authorising development before the date on which the Council resolved to grant the planning approval; or
 - (b) preventing action being taken in respect of the unauthorised development before the date on which the Council resolved to grant planning approval.

35 FORM OF APPLICATION

- (1) Every application for planning approval shall be made in the form prescribed in Schedule 4 to the Scheme.
- (2) Unless the Council waives any particular requirement every application for planning approval shall be accompanied by:
 - (a) a plan or plans to a scale of not less than 1:500 showing;
 - (i) street names, lot number(s), north point and the dimensions of the site;
 - (ii) the location and proposed use of the site, including any existing building to be retained and proposed buildings to be erected on the site;
 - (iii) the existing and proposed means of access for pedestrians and vehicles to and from the site;
 - (iv) the location, number, dimensions and layout of all car parking spaces intended to be provided;
 - (v) 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;
 - (vi) 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 same; and
 - (vii) the nature and extent of any open space and landscaping proposed for the site.
 - (b) plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain; and
 - (c) any other plan or information that the Council may reasonably require to enable the application to be determined.
- (3) An application is to be forwarded, together with the appropriate fee, to the Council.

NOTES:

1. The amount of the application fee is set out in the Schedule of Fees and Charges of the Council's Annual Budget.
2. Specific information, plans or documents may be required for applications relating to places of heritage significance as set out in Clauses 23 and 24.

36 DESIGN ADVISORY COMMITTEE

- (1) The Council is to appoint a design advisory committee for the purpose of considering, and advising the Council with respect to, applications.
- (2) The design advisory committee may be consulted on design matters relating to development.

NOTE:
Matters relating to the powers, constitution and procedures of an advisory committee are set out in s.180 of the Local Government Act 1960.

37 ADVERTISING PROCEDURE

- (1) Where an application involves an unlisted use or a use which is designated with the symbol “SA” in the cross reference to that zone, the Council is to direct the applicant to advertise the application in any manner that it considers to be appropriate.
- (2) Where an application does not involve an unlisted use or an “SA” use, the Council may direct the applicant to advertise the application in any manner that it considers to be appropriate.
- (3) Written submissions in respect of an application advertised in accordance with this clause are to be lodged with the Council within the period and in the form (if any) prescribed in the relevant advertisement or notice.
- (4) The Council may decline to consider a submission that has not been lodged on time or fails to comply with any other requirement applying to it.

NOTES:
1. An application which seeks a variation to a development requirement under Clause 27 must also be advertised in accordance with this clause.
2. The Council may make a planning policy under Clause 47 setting out advertising requirements and procedures.

38 DETERMINATION OF APPLICATION – GENERAL PROVISIONS

- (1) The Council may refuse to consider an application which does not comply with the requirements of this Part.
- (2) In assessing an application, the Council –
 - (a) may consult with any person or body; and
 - (b) is to have regard to any written submissions lodged with the Council under Clause 37 (3).
- (3) Subject to subclause (4), the Council may refuse or approve application.
- (4) In respect of an application –
 - (a) for demolition; or

NOTES:
1. Applications for demolition are dealt with in Clause 41.
2. Applications which must be advertised are those for an unlisted use (Clause 15).
3. The Council may also have regard to any trees or other vegetation considered by it to be worthy of conservation (see Clause 21).

-
- (b) which must be advertised, the Council may refuse or approve the application in accordance with Clauses 15 or 41 respectively.
- (5) Without limiting the scope of the Council's discretion to determine an application under subclause (3), the Council is to have regard to –
- (a) the provisions of this Scheme and of any other written law applying within the Scheme area including the Metropolitan Region Scheme;
 - (b) any relevant planning policy;
 - (c) the Scheme Map;
 - (d) any Statement of Planning Policy of the Western Australian Planning Commission;
 - (e) any planning study approved by the Council;
 - (f) any submission accompanying or related to the application;
 - (g) the orderly and proper planning of the locality;
 - (h) the conservation of the amenities of the locality; and
 - (i) the design, scale and relationship to existing buildings and surroundings of any proposed building or structure.
 - (j) any approved activity centre structure plan where it is required for the proposed development; and
 - (k) any approved local development plan that applies to the site.
- (6) Where an application involves a development which may affect-
- (a) an area declared by the Council (under Clause 24) to be a heritage place; or
 - (b) a place declared by the Council (under Clause 23) to be a heritage place,
- the Council, before determining the application, may require a heritage assessment to be carried out to determine how the proposed development might affect the area or place.
- (7) The Council's power to approve an application for planning approval includes the power to approve the application either
-

- (a) unconditionally; or
- (b) subject to such conditions as the Council considers to be appropriate.

39 DETERMINATION OF APPLICATION FOR AN UNLISTED USE

NOTE:
Unlisted uses are described and identified in Clause 15.

- (1) Subject to subclause (2), the Council may refuse or approve an application which involves an unlisted use.
- (2) The Council cannot grant planning approval for a development which involves an unlisted use unless –
 - (a) the advertising procedure referred to in Clause 37 has been followed; and
 - (b) it is satisfied, by an absolute majority, that the proposed development is consistent with the matters listed in Clause 38 (5).

40 DETERMINATION OF NON-COMPLYING APPLICATIONS

- (1) In this clause:-
 - (a) an application which does not comply with a standard or requirement of this Scheme (including a standard or requirement set out in a planning policy or in the Scheme Map), where the standard or requirement does not provide for any permitted variation, is called a "non-complying application"; and
 - (b) a non-complying application does not include an application involving a prohibited use.
- (2) Subject to subclause (3), the Council may refuse or approve a non-complying application.
- (3) The Council cannot grant planning approval for a non-complying application unless –
 - (a) if so, required by the Council under Clause 38 (2) and the application has been advertised; and
 - (b) the Council is satisfied by an absolute majority that –

- (i) if approval were granted, the development would be consistent with –
 - (a) the orderly and proper planning of the locality;
 - (b) the conservation of the amenities of the locality; and
 - (c) the statement of intent set out in the relevant Scheme Map; and
- (ii) the non-compliance would not have any undue adverse affect on –
 - (a) the occupiers or users of the development;
 - (b) the property in, or the inhabitants of, the locality; or
 - (c) the likely future development of the locality.

41 DETERMINATION OF AN APPLICATION FOR DEMOLITION

In considering an application for or involving demolition, the Council is to have regard to the matters listed in Clause 38 (5) and -

- (a) may defer consideration of the application until –
 - (i) it has granted planning approval for subsequent development of the relevant site;
 - (ii) it has issued a building licence for that development; and
 - (iii) it is satisfied that the subsequent development will commence;
- (b) may approve the application, subject to conditions including –
 - (i) the retention, maintenance, reinstatement or repositioning of any part of the existing building or structure;
 - (ii) the screening of the site during redevelopment; and
 - (iii) where the development that has been approved has not been substantially commenced for a total period of more than six months, the landscaping of or other treatment of the site to the satisfaction of the Council; or

- (c) may refuse the application.

42 NOTICE OF COUNCIL DECISION

As soon as is practicable after making a decision in relation to an application, the Council is to give to the applicant, in writing, in the form prescribed by the Council -

NOTE: The prescribed form is set out in Schedule 4.
--

- (a) notice of the approval or refusal;
- (b) the reason or reasons for the approval or refusal; and
- (c) the conditions, if any, to which approval is subject.

43 TERM OF PLANNING APPROVAL

- (1) Subject to subclause (2), a planning approval is valid from the date on which the application is approved until-
- (a) the expiry of the period, if any, imposed by the Council under Clause 44;
- (b) it is amended; or
- (c) in the case of planning approval for a home occupation, the specified occupier ceases to be the occupier of the lot in respect of which the approval is granted.
- (2) A planning approval shall lapse if the development has not been substantially commenced before the expiration of two years, or such period as the Council may determine, from the date on which the application is approved.

44 TEMPORARY PLANNING APPROVAL

The Council may, in granting planning approval, limit the period during which the development may be carried out where -

- (a) it considers that that development in excess of that period might adversely affect the amenities of the locality or the orderly and proper planning of the locality; or
- (b) for any other reason it considers that approval ought to be granted for a limited or trial period.

45 DEEMED REFUSAL

- (1) Subject to subclauses (2), (3) and (4), an application is taken to have been refused where notice of planning approval is not given to the applicant by the Council within –
- (a) 60 days of the receipt of the application; or
 - (b) such further time as may be agreed in writing between the applicant and the Council within that period of 60 days.
- (2) Subject to sub-clause (4), an application which the Council requires to be advertised and/or referred to any other body to be in accordance with the procedure outlined in Clause 37.
- (3) Subject to subclause (3), an application in respect of any place which –
- (a) is listed in the Heritage List, or
 - (b) is being considered, under Clause 24, for the purposes of being declared to be significant and worthy of conservation, is taken to have been refused where notice of planning approval is not given to the applicant within-
 - (i) 120 days of the receipt of the application; or
 - (ii) such further time as may be agreed in writing between the applicant and the Council within that period of 120 days.
- (4) Nothing in this clause prevents the Council from making a decision about an application after the expiry of the periods referred to in subclauses (1), (2) and (3).

NOTE:
An applicant for planning approval has a right of appeal where there has been a deemed refusal (see Clause 46).

46 APPEALS

Subject to the provisions of the Act, an applicant for planning approval has a right of appeal against the exercise by the Council of a discretion to-

- (a) impose a condition of planning approval; or
- (b) refuse to grant planning approval.

NOTES:
1. The appeal provisions are set out in Part V of the Town Planning and Development Act 1928.
2. An appeal may be either to the Minister for Planning or to the Town Planning Appeal Tribunal.

47 PLANNING POLICIES

- (1) The Council may make planning policies, which are to –
 - (a) relate to an aspect or aspects of development control or any other matter relevant to this Scheme; and
 - (b) apply to all or a part of the Scheme area.
- (2) In preparing a draft planning policy, the Council is to have regard to –
 - (a) the purpose for which land is set aside under this Scheme;
 - (b) the orderly and proper planning of the locality;
 - (c) the conservation of the amenities of the locality;
 - (d) any strategies, studies or objectives adopted by the Council; and
 - (e) any other matters it considers to be relevant.
- (3) Having prepared a draft planning policy, the Council is –
 - (a) to advertise a summary of the draft once a week for four consecutive weeks in a newspaper circulating in the locality;
 - (b) where practicable, to notify those persons who, in the opinion of the Council, might be directly affected by the draft; and
 - (c) to forward a copy of the draft to the Western Australian Planning Commission.
- (4) The advertising and notification referred to in subclause (3) is to contain details of –
 - (a) where the draft planning policy may be inspected; and
 - (b) where, in what form and during what period written submissions may be made to the Council.
- (5) After the expiry of the period for submissions, the Council is to –
 - (a) review the draft planning policy having regard to any written submissions; and

- (b) determine, by resolution, to adopt the draft planning policy, with or without amendment, or not to proceed with it.
- (6) As soon as practicable after the Council makes a determination under subclause (5), details of the determination are –
 - (a) to be advertised once in a newspaper circulating in the locality;
 - (b) where practicable, to be given to those persons directly affected by the draft planning policy; and
 - (c) to be given to the Western Australian Planning Commission together with, where the Council has resolved to adopt the draft planning policy with one or more amendments, a copy of the amended draft planning policy.
- (7) A copy of each planning policy, as amended, is to be kept and made available for public inspection at the offices of the Council and any other premises nominated by the Council.
- (8) A planning policy adopted by the Council may be altered or rescinded only by following the procedure set out in this clause for making and adopting a planning policy.
- (9) A planning policy prepared under this part of the scheme shall be consistent with the Scheme text and where any inconsistencies arise, the provisions of the Scheme text shall prevail.

48 AGREEMENTS AND DEALINGS WITH LAND

For the purpose of carrying out this Scheme and ensuring compliance with it, the Council may –

- (a) enter into any agreement with any owner, occupier or other person having an interest in land affected by this Scheme;
- (b) acquire any land within the Scheme area; and
- (c) deal with or dispose of any land which it has acquired.

49 DELEGATION

The Council may, either generally or in a particular case or in a particular class of cases, by resolution passed by an absolute majority of the Council, delegate to –

- (a) a Committee of the Council; or
- (b) an officer of the Council,

any power conferred or duly imposed on the Council under this Scheme.

NOTES:

1. Sections 58 and 59 of the Interpretation Act 1984 apply to the construction and scope of this delegation power.
2. Delegations made by the Council may be contained in a planning Policy.

50 COMPENSATION AND BETTERMENT

- (1) Claims for compensation under section 11(1) of the Act by reason of the land or property of a person being injuriously affected by the making of this Scheme are not to be made later than 6 months after the Gazettal date.
- (2) Any claim made by the Council under section 11(2) of the Act is to be made within 6 months of the completion of the work or the section of the work by reason of which the land in which the claim is made is increased in value.
- (3) Where compensation for injurious affection is claimed pursuant to either sub-clauses (1) or (2), the Council may, at its option elect to acquire the land so affected instead of paying compensation.
- (4) Where the Council elects to acquire the land in respect of which the claim for compensation for injurious affection is made, the Council shall give notice of that election to the claimant by notice in writing within three (3) months of the claim for compensation being made.
- (5) Where the Council elects to acquire land as provided in sub-clause (3), if the Council and the owner of the land are unable to agree as to the price to be paid for the land by the Council, the price at which the land may be acquired by the Council shall be the value of the land as determined in accordance with sub-clause (6).
- (6) The value of the land referred to in sub-clause (5) shall be the value thereof on the date that the Council elects to acquire the land and that value shall be determined-
 - (a) by arbitration in accordance with the Commercial Arbitration Act 1985; or

NOTES:

1. The reference to the Act is to the Town Planning and Development Act 1928.
2. The "Gazettal date" is defined in Schedule 1.

- (b) by some other method agreed upon by the Council and the owner of the land;

and the value shall be determined without regard to any increase or decrease, if any, in value attributable wholly or in part to this Scheme.

- (7) The Council may deal with or dispose of land acquired for a Local Reserve or pursuant to the preceding sub-clause (6) upon such terms and conditions as it thinks fit provided the land is used for, or preserved for, a use compatible with the use for which it was reserved.

51 NOTICES

<p>NOTE: The reference to the Act is to the Town Planning and Development Act, 1928.</p>
--

- (1) A notice required to be given by the Council under section 10(1) of the Act is to be a 28 day notice signed by the Chief Executive/Town Clerk and sent by registered post to the owner and to any occupier or lessee of the premises affected by the notice.
- (2) The Council may recover expenses under section 10(2) of the Act in any manner in which it is from time to time entitled to recover rates levied by it under the Local Government Act 1960.

52 AUTHORISED ENTRY

- (1) An officer authorised by the Council may, with any assistance required, enter at any reasonable time any building or land to determine whether the provisions of this Scheme have been or are being observed.
- (2) An authorised officer exercising the power of entry under subclause (1) or any other person accompanying an authorised officer who -
 - (a) finds a person committing; or
 - (b) on reasonable grounds suspects a person of having committed;

a breach of a provision of this Scheme, may ask that person for his or her name and address.
- (3) A person who –
 - (a) in any way opposes the exercise of an authorised officer's power of entry; or
 - (b) when asked to do so under subclause (2), refuses to state his or her name or address or states a false name or address;

commits an offence.
- (4) A person who gives or is suspected of giving a false name or address to the person making the enquiry under subclause (2) may, without any other warrant, be apprehended by the person making the demand and taken before a Justice to be dealt with according to law.

53 OFFENCES

NOTE:
A person who fails to comply with a provision of this Scheme is guilty of an offence and is subject to the penalty set out in section 10(4) of the Town Planning and Development Act 1928.

- (1) Subject to Part 4 of this Scheme, a person shall not erect, alter or add to a building or use or change the use of any land or building, or permit or suffer any land or building to be used or the use of any land or building to be changed for any purpose -
- (a) other than a purpose permitted or approved of by the Council in the zone in which that land or building is situated;
 - (b) unless all approvals, consents or licences required by this Scheme or any other law have been granted or issued;
 - (c) unless all conditions imposed upon the grant or issue of any approval, consent or licence required by this Scheme or any other law have been and continue to be complied with; and
 - (d) unless all standards laid down and all requirements prescribed by this Scheme or determined by the Council pursuant to this Scheme with respect to that building or that use of that land or building have been and continue to be complied with.
- (2) Where the Council has granted planning approval for the development of land on a condition which involves the maintenance or continuance of the state or condition of any place, area, matter or thing a person shall not use or permit or suffer the use of that land for any purpose while the state or condition of that place, area, matter or thing is not being maintained or continued in accordance with that condition.

54 OPERATION OF SPECIAL CONTROL AREAS

- (1) There are no special control areas which apply to the Scheme.
- (2) In respect of a special control area shown on a Scheme Map, the provisions applying to the special control area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme.

55 DEVELOPMENT AREAS

- (1) Interpretation

In clause 55, unless the context otherwise requires —

‘Structure Plan’ means a structure plan that has come into effect in accordance with clause 55(12)(a); and

‘owner’ means an owner or owners of land in the Development Area.

- (2) Purpose of Development Areas

(a) The purposes of Development Areas are to —

- (i) identify areas requiring comprehensive planning; and
- (ii) coordinate subdivision and development in areas requiring comprehensive planning.

(b) Schedule 6 describes the Development Areas in detail and sets out the specific purposes and requirements that apply to the Development Area.

- (3) Subdivision and Development in Development Areas

(a) The development of land within a Development Area is to comply with Schedule 6.

(b) The subdivision and development of land within a Development Area is to generally be in accordance with any structure plan that applies to that land.

- (4) Structure Plan required —

(a) The local government is not to —

- (i) consider recommending subdivision; or
- (ii) approve development

of land within a Development Area unless there is a structure plan for the Development Area or for the relevant part of the Development Area.

- (b) Notwithstanding clause 55(4)(a), a local government may recommend subdivision or approve development of land within a Development Area prior to a structure plan coming into effect in relation to that land, if the local government is satisfied that this will not prejudice the specific purposes and requirements of the Development Area.

(5) Preparation of proposed structure plans

- (a) A proposed structure plan may be prepared by—
 - (i) the local government; or
 - (ii) an owner.
- (b) A proposed structure plan may be prepared for all, or part of, a Development Area.

(6) Details of proposed structure plans

- (a) A proposed structure plan is to contain the following details—
 - (i) a map showing the area to which the proposed structure plan is to apply;
 - (ii) a site analysis map showing the characteristics of the site including —
 - (aa) landform, topography and land capability;
 - (bb) conservation and environmental values including bushland, wetlands, damp lands, streams and water courses, foreshore reserves and any environmental policy areas;
 - (cc) hydrogeological conditions, including approximate depth to water table;
 - (dd) sites and features of Aboriginal and European heritage value;
 - (iii) a context analysis map of the immediate surrounds to the site including —

-
- (aa) the pattern of neighbourhoods, and existing and planned neighbourhood, town and regional centres—
 - (bb) transport routes, including freeways, arterial routes and neighbourhood connector alignments, public transport routes, strategic cycle routes, bus stops and rail stations;
 - (cc) existing and future land uses;
- (iv) for local structure plans a map showing proposals for—
- (aa) neighbourhoods around proposed neighbourhoods and town centres;
 - (bb) existing and proposed commercial centres;
 - (cc) natural features to be retained;
 - (dd) street block layouts;
 - (ee) the street network including street types;
 - (ff) transportation corridors, public transport network, and cycle and pedestrian networks;
 - (gg) land uses including residential densities and estimates of population;
 - (hh) schools and community facilities;
 - (ii) public parklands; and
 - (jj) urban water management areas.
- (v) a written report to explain the mapping and to address the following —
- (aa) the planning framework for the structure plan including any applicable regional or district structure plans, and any policies, strategies and scheme provisions which apply to the land, and any environmental conditions which apply under the Scheme;
 - (bb) the site analysis including reference to the matters listed in clause 55(6)(a)(ii) above, and, in

-
- particular, the significance of the conservation, environmental and heritage values of the site;
- (cc) the context analysis including reference to the matters listed in clause 55(6)(a)(iii) above;
 - (dd) how planning for the structure plan area is to be integrated with the surrounding land;
 - (ee) the design rationale for the proposed pattern of subdivision, land use and development;
 - (ff) traffic management and safety;
 - (gg) parkland provision and management;
 - (hh) urban water management;
 - (ii) proposals for public utilities including sewerage, water supply, drainage, gas, electricity and communication services;
 - (jj) the proposed method of implementation including any cost sharing arrangements and details of any staging of subdivision and development.
- (vi) The maps referred to in clause 55(6)(a) are to—
- (aa) be drawn to a scale that clearly illustrates the details referred to in clause 55(6)(a); and
 - (bb) include a north point, visual bar scale, street names and a drawing title number.
- (vii) A proposed structure plan may, to the extent that it does not conflict with the Scheme, impose a classification on the land included in it by reference to reserves, zones or the Residential Design Codes, and where the proposed structure plan becomes a structure plan, the local government is to have due regard to such reserves, zones or Residential Design Codes when recommending subdivision or approving development of land within a Development Area.
- (viii) A proposed structure plan must, in the opinion of the local government, be consistent with orderly and proper planning.

-
- (7) Submission to local government and Commission
- (a) A proposed structure plan prepared by an owner is to be submitted to the local government.
 - (b) Within 7 days of preparing or receiving a proposed structure plan which proposes the subdivision of land, or any activity centre structure plan for a Secondary Centre or a District Centre where the shop-retail net lettable area exceeds 20000m², in accordance with State Planning Policy 4.2, Activity Centres for Perth and Peel, the local government is to forward a copy of the proposed structure plan to the Commission.
 - (c) The Commission is to provide comments to the local government as to whether it is prepared to endorse the proposed structure plan with or without modifications.
 - (d) The Commission must provide its comments to the local government within 30 days of receiving the proposed structure plan.
- (8) Advertising of structure plan
- (a) Within 60 days of preparing or receiving a proposed structure plan that conforms with clause 55(6) and complies with the Scheme (or such longer time as may be agreed in writing between the owner who submitted the proposed structure plan and the local government), the local government is to —
 - (i) advertise, or require the owner who submitted the proposed structure plan to advertise, the proposed structure plan for public inspection by one or more of the following ways —
 - (aa) notice of the proposed structure plan published in a newspaper circulating in the Scheme area;
 - (bb) sign or signs displaying notice of the proposed structure plan to be erected in a conspicuous place or places in the Development Area, or part of the Development Area, to which the proposed structure plan applies; and
 - (ii) give notice or require the owner who submitted the proposed structure plan to give notice, in writing to —
 - (aa) all owners whose land is included in the proposed structure plan;

- (bb) all owners and occupiers who, in the opinion of the local government, are likely to be affected by the adoption of the proposed structure plan;
- (cc) such other public authorities as the local government nominates.

- (b) The advertisement and notice are to —
 - (i) explain the scope and purpose of the proposed structure plan;
 - (ii) specify when and where the proposed structure plan may be inspected; and

invite submissions to the local government by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.

(9) Adoption of proposed structure plan

- (a) the local government is to consider all submissions received and within 60 days of the latest date specified in the notice or advertisement for the making of submissions is to—
 - (i) adopt the proposed structure plan, with or without modifications; or
 - (ii) refuse to adopt the proposed structure plan and, where the proposed structure plan was submitted by an owner, give reasons for this to the owner.
- (b)
 - (i) In making a determination under clause 55(9)(a), the local government is to have due regard to the comments and advice received from the Commission in relation to the proposed structure plan.
 - (ii) If the Commission requires modifications to the proposed structure plan, the local government is to consult with the Commission prior to making a determination under clause 55(9)(a).
- (c) If the local government, after consultation with the Commission, is of the opinion that a modification to the proposed structure plan is substantial, the local government may—
 - (i) readvertise the proposed structure plan; or

-
- (ii) require the owner who submitted the proposed structure plan to readvertise the proposed structure plan; and thereafter, the procedures set out in clause 55(8)(a) onwards are to apply.
 - (d) If within the period referred to in clause 55(9)(a), or such further time as may be agreed in writing between the owner who submitted the proposed structure plan and the local government, the local government has not made a determination under clause 55(9)(a), the local government is deemed to have refused to adopt the proposed structure plan.
- (10) Endorsement by Commission
- (a) If the proposed structure plan proposes the subdivision of land, or is an activity centre structure plan for a Secondary Centre or a District Centre where the shop-retail net lettable area exceeds 20000m², in accordance with State Planning Policy 4.2, Activity Centres for Perth and Peel, then within 7 days of making its determination under clause 55(9)(a), the local government is to forward the proposed structure plan to the Commission for its endorsement.
 - (b) As soon as practicable after receiving the proposed structure plan, the Commission is to determine whether to endorse the proposed structure plan.
 - (c) The Commission is to notify the local government of its determination under clause 55(10)(b).
- (11) Notification of structure plan
- (a) As soon as practicable after adopting a proposed structure plan under clause 55(9)(a) and if clause 55(10) applies, as soon as practicable after being notified of the Commission's decision under clause 55(10)(c), the local government is to forward a copy of the structure plan to —
 - (i) any public authority or person that the local government thinks fit; and
 - (ii) where the structure plan was submitted by an owner, to the owner.
- (12) Operation of structure plan
- (a) A structure plan comes into effect —

-
- (i) where the structure plan proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to clause 55(10)(b); or
 - (ii) on the day on which it is adopted by the local government under clause 55(9)(a) in all other cases.
 - (b) If a provision of a structure plan is inconsistent with a provision of the Scheme, then the provision of the Scheme prevails to the extent of the inconsistency.
- (13) Inspection of structure plan
- (a) The structure plan and the Commission’s notification under clause 55(10)(c) is to be kept at the local government’s administrative offices, and is to be made available for inspection by any member of the public during office hours.
- (14) Variation to structure plan
- (a) The local government may vary a structure plan —
 - (i) by resolution if, in the opinion of the local government, the variation does not materially alter the intent of the structure plan;
 - (ii) otherwise, in accordance with the procedures set out in clause 55(6) onwards.
 - (b) If the local government varies a structure plan by resolution, and the variation does not propose the subdivision of land, the local government is to forward a copy of the variation to the Commission within 10 days of making the resolution.
 - (c) If the local government varies a structure plan by resolution, and the variation proposes the subdivision of land, the local government is to forward a copy of the variation to the Commission within 10 days of making the resolution for its endorsement.
 - (d) As soon as practicable after receiving the copy of the variation referred to in clause 55(14)(c), the Commission is to determine whether to endorse the proposed variation.
 - (e) The Commission is to notify the local government of its determination under clause 55(14)(d).
 - (f) A variation to a structure plan by resolution comes into effect—
-

(i) where the variation proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to clause 55(14)(d);

or

(ii) on the day on which the local government resolves to make the variation under clause 55(14)(a)(i).

(15) Local Development Plan

(a) Where it is considered desirable to enhance, elaborate or expand the details or provisions contained in a structure plan for a particular lot or lots, a local development plan may be prepared by —

(i) the local government; or

(ii) an owner.

(b) A local development plan may include details as to—

(i) building envelopes;

(ii) distribution of land uses within a lot;

(iii) private open space;

(iv) services;

(v) vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;

(vi) location, orientation and design of buildings and the space between buildings;

(vii) advertising signs, lighting and fencing;

(viii) landscaping, finished site levels and drainage;

(ix) protection of sites of heritage, conservation or environmental significance;

(x) special development controls and guidelines; and

(xi) such other information considered relevant by the local government.

-
- (c) When a local development plan is prepared under clause 55(15)(a), the local government is to —
- (i) advertise, or require the owner who submitted the proposed local development plan to advertise the proposed local development plan for inspection by one or more of the following ways —
 - (aa) notice of the proposed local development plan published in a newspaper circulating in the Scheme area;
 - (bb) a sign or signs displaying notice of the proposed local development plan to be erected in a conspicuous place or places in the Development Area, or part of the Development Area, to which the proposed local development plan applies; and
 - (ii) give notice or require the owner who submitted the proposed local development plan to give notice, in writing to —
 - (aa) all owners whose land is included in the proposed local development plan;
 - (bb) all owners and occupiers who, in the opinion of the local government, are likely to be affected by the adoption of the proposed local development plan;
 - (cc) such public authorities and other persons as the local government nominates.
- (d) The advertisement and notice are to —
- (i) explain the scope and purpose of the proposed local development plan;
 - (ii) specify when and where the proposed local development plan may be inspected; and
 - (iii) invite submissions to the local government by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.
- (e) The local government is to consider all submissions received and —

- (i) approve the local development plan with or without conditions; or
 - (ii) refuse to approve the local development plan and, where the proposed local development plan was submitted by an owner, give reasons for this to the owner.
- (f) If within 60 days of receiving a local development plan prepared under clause 55(15)(a)(ii), or such longer period as may be agreed in writing between the owner and the local government, the local government has not made one of the determinations referred to in clause 55(15)(e), the local government is deemed to have refused to approve the local development plan.
- (g) Once approved by the local government, the local development plan constitutes a variation of the structure plan.
- (h) The local government may vary a local development plan in accordance with the procedures set out in clause 55(15) onwards provided such variations do not prejudice the intention of any related structure plan.

(16) Appeal

- (a) An owner who has submitted a proposed structure plan under clause 55(7)(a) may appeal, under Part 14 of the *Planning and Development Act 2005* —
- (i) any failure of the local government to advertise, or require the owner to advertise, a proposed structure plan within the required time period under clause 55(8)(a);
 - (ii) any determination of the local government —
 - (aa) to refuse to adopt a proposed structure plan (including a deemed refusal); or
 - (bb) to require modifications to a proposed structure plan that are unacceptable to that owner.
- (b) An owner who has submitted a local development plan in accordance with clause 55(15) may appeal, in accordance with Part 14 of the *Planning and Development Act 2005*, any discretionary decision made by the local government under clause 55(15).

56 DEVELOPMENT CONTRIBUTION AREAS

(1) Interpretation

In clause 56, unless the context otherwise requires —

“Administrative costs” means such costs as are reasonably incurred for the preparation and (with respect to standard infrastructure items) implementation of the development contribution plan.

“Administrative items” means the administrative matters required to be carried out by or on behalf of the local government in order to prepare and (with respect to standard infrastructure items) implement the development contribution plan, including legal, accounting, planning engineering, and other professional advice.

“Cost apportionment schedule” means a schedule prepared and distributed in accordance with clause 56(10).

“Cost contribution” means the contribution to the cost of infrastructure and administrative costs.

“Development contribution area” means shown on the scheme map as DCA with a number and included in schedule 7.

“Development contribution plan” means a development contribution plan prepared in accordance with the provisions of State Planning Policy 3.6 Development Contributions for Infrastructure and the provisions of this clause 56 of the scheme (as incorporated in schedule 7 to this scheme).

“Development contribution plan report” means a report prepared and distributed in accordance with clause 56(10).

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

“Infrastructure costs” means such costs as are reasonably incurred for the acquisition and construction of infrastructure.

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

“Owner” means an owner of land that is located within a development contribution area.

(2) Purpose

The purpose of having development contribution areas is to—

- (a) provide for the equitable sharing of the costs of infrastructure and administrative costs between owners;
- (b) ensure that cost contributions are reasonably required as a result of the subdivision and development of land in the development contribution area; and
- (c) coordinate the timely provision of Infrastructure.

(3) Development contribution plan required

A development contribution plan is required to be prepared for each development contribution area.

(4) Development contribution plan part of scheme

The development contribution plan is incorporated in schedule 7 as part of this scheme.

(5) Subdivision, strata subdivision and development

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

(6) Guiding principles for development contribution plans

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

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

-
- (b) **Transparency**
Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.
 - (c) **Equity**
Development contributions should be levied from all developments within a development contribution area, based on their relative contribution to need.
 - (d) **Certainty**
All development contributions should be clearly identified and methods of accounting for cost adjustments determined at the commencement of a development.
 - (e) **Efficiency**
Development contributions should be justified on a whole of life capital cost basis consistent with maintaining financial discipline on service providers by precluding over recovery of costs.
 - (f) **Consistency**
Development contributions should be applied uniformly across a development contribution area and the methodology for applying contributions should be consistent.
 - (g) **Right of consultation and review**
Owners have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the calculation of the costs of the contributions is not reasonable.
 - (h) **Accountable**
There must be accountability in the manner in which development contributions are determined and expended.
- (7) **Recommended content of development contribution plans**
- (a) **The development contribution plan is to specify —**
 - (i) the development contribution area to which the development contribution plan applies;
 - (ii) the infrastructure and administrative items to be funded through the development contribution plan;
 - (iii) the method of determining the cost contribution of each owner; and

(iv) the priority and timing for the provision of infrastructure.

(8) Period of development contribution plan

A development contribution plan shall specify the period during which it is to operate.

(9) Land excluded

In calculating both the area of an owner's land and the total area of land in a development contribution area, the area of land provided in that development contribution area for—

- (a) roads designated under the Metropolitan Region Scheme as primary regional roads and other regional roads;
- (b) existing public open space;
- (c) existing government primary and secondary schools; and
- (d) such other land as is set out in the development contribution plan, is to be excluded.

(10) Development contribution plan report and cost apportionment schedule

- (a) Within 90 days of the development contribution plan coming into effect, the local government is to adopt and make available a development contribution plan report and cost apportionment schedule to all owners in the development contribution area.
- (b) The development contribution plan report and the cost apportionment schedule shall set out in detail the calculation of the cost contribution for each owner in the development contribution area, based on the methodology provided in the development contribution plan, and shall take into account any proposed staging of the development.
- (c) The development contribution plan report and the cost apportionment schedule do not form part of the scheme, but once adopted by the local government they are subject to review as provided under clause 56(11).

(11) Cost contributions based on estimates

- (a) The determination of Infrastructure costs and administrative costs is to be based on amounts expended, but when expenditure has not occurred, it is to be based on the best and latest estimated costs available to the local government and adjusted accordingly, if necessary.

-
- (b) Where a cost apportionment schedule contains estimated costs, such estimated costs are to be reviewed at least annually by the local government —
- (i) in the case of land to be acquired, in accordance with clause 56(12); and
 - (ii) in all other cases, in accordance with the best and latest information available to the local government,
- until the expenditure on the relevant item of infrastructure or administrative costs has occurred.
- (c) The local government is to have such estimated costs independently certified by appropriate qualified persons and must provide such independent certification to an owner when requested to do so.
- (d) Where any cost contribution has been calculated on the basis of an estimated cost, the local government—
- (i) is to adjust the cost contribution of any owner in accordance with the revised estimated costs; and
 - (ii) may accept a cost contribution, based upon estimated costs, as a final cost contribution and enter into an agreement with the owner accordingly.
- (e) Where an owner’s cost contribution is adjusted under clause 56(11)(d), the local government, on receiving a request in writing from an owner, is to provide the owner with a copy of estimated costs and the calculation of adjustments.
- (f) If an owner objects to the amount of a cost contribution, the owner may give notice to the local government requesting a review of the amount of the cost contribution by an appropriate qualified person (‘independent expert’) agreed by the local government and the owner at the owner’s expense, within 28 days after being informed of the cost contribution.
- (g) If the independent expert does not change the cost contribution to a figure acceptable to the owner, the cost contribution is to be determined —
- (i) by any method agreed between the local government and the owner;

or

- (ii) if the local government and the owner cannot agree on a method pursuant to (a) or on an independent expert, by arbitration in accordance with the *Commercial Arbitration Act 1985*, with the costs to be shared equally between the local government and owner.

(12) Valuation

- (a) Clause 56(12) applies in order to determine the value of land to be acquired for the purpose of providing Infrastructure.

- (b) In clause 56(12)—

“Value” means the fair market value of land, at a specified date, which is defined as the capital sum that would be negotiated in an arm’s length transaction in an open and unrestricted market, assuming the highest and best use of the land with all its potential and limitations (other than the limitation arising from the transaction for which the land is being valued), wherein the parties act knowledgeably, prudently and without compulsion to buy or sell. The net land value is to be determined by a static feasibility valuation model, using the working sheet model attached to this scheme as schedule 8. As part of that feasibility an appropriate profit and risk factor is to be determined from which a 10 per cent profit factor is to be excluded from the calculation.

“Valuer” means a licensed valuer agreed by the local government and the owner, or, where the local government and the owner are unable to reach agreement, by a valuer appointed by the President of the Western Australian Division of the Australian Property Institute.

- (c) If an owner objects to a valuation made by the valuer, the owner may give notice to the local government requesting a review of the amount of the value, at the owner’s expense, within 28 days after being informed of the value.

- (d) If, following a review, the valuer’s determination of the value of the land is still not a figure acceptable to the owner, the value is to be determined—

- (i) by any method agreed between the local government and the owner;

or

- (ii) if the local government and the owner cannot agree, the owner may apply to the State Administrative Tribunal for a

review of the matter under part 14 of the *Planning and Development Act 2005*.

(13) Liability for cost contributions

- (a) An owner must make a cost contribution in accordance with the applicable development contribution plan and the provisions of clause 56.
- (b) An owner's liability to pay the owner's cost contribution to the local government arises on the earlier of —
 - (i) the Western Australian Planning Commission endorsing its approval on the deposited plan or survey strata plan of the subdivision of the owner's land within the development contribution area;
 - (ii) the commencement of any development on the owner's land within the development contribution area;
 - (iii) the approval of any strata plan by the local government or Western Australian Planning Commission on the owner's land within the development contribution area; or
 - (iv) the approval of a change or extension of use by the local government on the owner's land within the development contribution area. The liability arises only once upon the earliest of the above listed events.
- (c) Notwithstanding clause 56(13)(b), an owner's liability to pay the owner's cost contribution does not arise if the owner commences development of the first single house or outbuildings associated with that first single house on an existing lot which has not been subdivided or strata subdivided since the coming into effect of the development contribution plan.
- (d) Where a development contribution plan expires in accordance with clause 56(8), an owner's liability to pay the owner's cost contribution under that development contribution plan shall be deemed to continue in effect and be carried over into any subsequent development contribution plan which includes the owner's land, subject to such liability.

(14) Payment of cost contribution

- (a) The owner, with the agreement of the local government, is to pay the owner's cost contribution by —
 - (i) cheque or cash;

- (ii) transferring to the local government or a public authority land in satisfaction of the cost contribution;
 - (iii) the provision of physical infrastructure;
 - (iv) some other method acceptable to the local government; or
 - (v) any combination of these methods.
- (b) The owner, with the agreement of the local government, may pay the owner's cost contribution in a lump sum, by installments or in such other manner acceptable to the local government.
- (c) Payment by an owner of the cost contribution, including a cost contribution based upon estimated costs in a manner acceptable to the local government, constitutes full and final discharge of the owner's liability under the development contribution plan and the local government shall provide certification in writing to the owner of such discharge if requested by the owner.

(15) Charge on land

- (a) The amount of any cost contribution for which an owner is liable under clause 56(13), but has not paid, is a charge on the owner's land to which the cost contribution relates, and the local government may lodge a caveat, at the owner's expense, against the owner's certificate of title to that land.
- (b) The local government, at the owner's expense and subject to such other conditions as the local government thinks fit, can withdraw a caveat lodged under clause 56(15)(a) to permit a dealing and may then re-lodge the caveat to prevent further dealings.
- (c) If the cost contribution is paid in full, the local government, if requested to do so by the owner and at the expense of the owner, is to withdraw any caveat lodged under clause 56(15).

(16) Administration of funds

- (a) The local government is to establish and maintain a reserve account in accordance with the *Local Government Act 1995* for each development contribution area into which cost contributions for that development contribution area will be credited and from which all payments for the infrastructure costs and administrative costs within that development contribution area will be paid. The purpose of such a reserve account or the use of money in such a reserve account is limited to the application of funds for that development contribution area.

-
- (b) Interest earned on cost contributions credited to a reserve account in accordance with clause 56(16)(a) is to be applied in the development contribution area to which the reserve account relates.
 - (c) The local government is to publish an audited annual statement of accounts for that development contribution area as soon as practicable after the audited annual statement of accounts becomes available.
- (17) Shortfall or excess in cost contributions
- (a) If there is a shortfall in the total of cost contributions when all cost contributions have been made or accounted for in a particular development contribution area, the local government may —
 - (i) make good the shortfall;
 - (ii) enter into agreements with owners to fund the shortfall; or
 - (iii) raise loans or borrow from a financial institution,but nothing in paragraph 56(17)(a)(i) restricts the right or power of the local government to impose a differential rate to a specified development contribution area in that regard.
 - (b) If there is an excess in funds available to the development contribution area when all cost contributions have been made or accounted for in a particular development contribution area, the local government is to refund the excess funds to contributing owners for that development contribution area. To the extent, if any, that it is not reasonably practicable to identify owners and/or their entitled amount of refund, any excess in funds shall be applied, to the provision of additional facilities or improvements in that development contribution area.
- (18) Powers of the local government
- The local government in implementing the development contribution plan has the power to —
- (a) acquire any land or buildings within the scheme area under the provisions of the *Planning and Development Act 2005*; and
 - (b) deal with or dispose of any land which it has acquired under the provisions of the *Planning and Development Act 2005* in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.
-

(19) Arbitration

Subject to clauses 56(12)(c) and 56(12)(d), any dispute between an owner and the local government in connection with the cost contribution required to be made by an owner is to be resolved by arbitration in accordance with the *Commercial Arbitration Act 1985*.

SCHEDULE 1 - SCHEME INTERPRETATIONS

DEFINITIONS

In this Scheme, unless the contrary intention appears -

"absolute majority" in relation to the Council, means a total majority of the members for the time being of the Council, whether present and voting or not;

"Act" means the Town Planning and Development Act 1928;

"advertisement" means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or partly for the purpose of an advertisement, announcement or direction and includes any hoarding or similar structure used or adapted for use, for the display of advertisements and "advertising" has a correlative meaning. The term includes any airborne device anchored to any land or building and any vehicle or trailer or any other similar object placed or located so as to serve the purpose of advertising;

"aged or dependent person's dwellings" has the same meaning as given to the term in and for the purposes of the Residential Planning Codes;

"amenity" means all those factors which combine to form the character of the area to residents and passers by and shall include the present and likely future amenity;

"amusement centre" means any land or building, open to the public, where the predominant use is amusement by amusement machines and where there are more than two amusement machines operating within the premises;

"ancillary use" means a use which is incidental to the predominant use of land and buildings;

"battle-axe leg" means a lot having access to a public road by means of an access strip included in the Certificate of Title of that lot;

"building" means any structure or appurtenance thereto whether fixed or movable, temporary or permanent, placed or erected upon land, and the term shall include dwellings and buildings appurtenant to dwellings such as carports, garages, verandahs and retaining walls;

"Building Code of Australia" means the Building Code of Australia 1996 (as amended);

"building envelope" means an area of land within a lot marked on a plan approved by the responsible authority within which all buildings and effluent facilities on the lot must be contained;

“building line” means the line between which and any public place or public reserve a building may not be erected except by or under the authority of an Act;

“camping ground” means any land used for the lodging of persons in tents;

“caravan park” has the same meaning as given to the term in and for the purposes of the Caravan Parks and Camping Grounds Act 1995;

“caretaker’s residence” means any building, incidental to the predominant use, used as a dwelling by a person having the care of the building, plant, equipment or grounds associated with an industry, business, office or recreation area carried on or existing on the same site;

"car park" means any land or buildings used primarily for parking vehicles whether open to the public or not but does not include any part of a public road used for parking or for a taxi rank, or any land or buildings in which cars are displayed for sale, and does not include car parking areas provided in compliance with development approvals;

“cemetery” means any land or building used to prepare and store bodies for burial or cremation and may include facilities to conduct memorial services;

"Chief Executive Officer" means the Chief Executive Officer or Deputy Chief Executive Officer of the Council;

“cinema” means any land or building where the public may view a motion picture;

“civic building” means any building designed, used or intended to be used by a Government Department, an instrumentality of the Crown, or the Council for offices or for administrative or other like purposes;

“civic use” means land or building used by a Government Department, an instrumentality of the Crown, or the Council, for administrative, recreational or other purpose, and includes a hall or library, or a centre for cultural, recreational, social or other community purposes;

“club” means any land or building used or designed for use by a legally constituted club or association or other body of persons united by a common interest whether such building or premises be licensed under the provisions of the Liquor Licensing Act 1988 (as amended) or not and which building or premises are not otherwise classified under the provisions of the Scheme;

“commercial hall” means premises used primarily for the purpose of:

- (a) hiring the same for use by others; or
- (b) in respect of the use of which an admission charge is made and which premises are not otherwise classified under the provisions of the Scheme;

“Commission” means the Western Australian Planning Commission constituted under the Western Australian Planning Commission Act 1985;

"Commonwealth agency" includes a Commonwealth Minister, department, body or officer and an agency or instrumentality of the Crown in right of the Commonwealth;

“consulting rooms” means any building or part thereof used in the practice of a profession by a legally qualified medical practitioner or dentist, or by a physiotherapist, a masseur, a chiropractor, a chiropodist, or a person ordinarily associated with a medical practitioner in the investigation or treatment of physical or mental injuries or ailments but does not include a hospital;

“convenience store” means any land and/or building used for the retail sale of convenience goods being those goods commonly sold in supermarkets, delicatessens and newsagents but including the sale of petrol and operated during hours which include but which may extend beyond normal trading hours and providing associated parking. The buildings associated with a convenience store shall not exceed 300 square metres gross leasable area;

"Council" has the same meaning as given to the term in and for the purposes of the Local Government Act 1995;

“crematorium” means any land or building used for cremation;

“day nursery” means any land or building used for the daily or occasional care of children in accordance with the Child Care Act 1972;

"development" has the same meaning as given to the term in and for the purposes of the Act;

“district” has the same meaning as given to the term in and for the purposes of the Local Government Act 1995;

“drive-in-theatre” means an open air theatre that makes provision for the audience or spectators to view the entertainment while seated in motor vehicles;

"dwelling" has the same meaning given to the term in and for the purposes of the Residential Planning Codes;

“eating house” means any building or premises used primarily for the purpose of serving meals to the public for gain or reward but does not include a fast food outlet;

"educational establishment" means a school, college, university, technical institute, kindergarten, academy or other educational centre, but does not include an institutional building;

“facade” means the exposed faces of a building towards roads or open space or the frontal outward appearance of the building;

"fast food outlet" means any premises where food is prepared and sold:

- (a) for consumption on the premises and to be taken away; and
- (b) to be taken away and the operation of which is likely to attract considerable vehicular traffic to those premises for short periods;

“fish shop” means any building where the goods offered for sale are primarily wet fish, shell fish or fish cooked on the premises for consumption elsewhere;

"floor area" has the same meaning given to it in and for the purposes of the Building Code of Australia 1996;

"frontage" means the boundary line or lines between land and the street or streets upon which that land abuts;

"fuel depot" means any land or building for the storage and sale in bulk of solid or liquid or gaseous fuel, but does not include a service station and specifically excludes the sale by retail into the final users vehicle of such fuel from the premises;

"functional road hierarchy map" means the map on which is set out the system of classifying roads by their function or role;

"funeral parlour" means any land or building used to prepare and store bodies for burial or cremation and may include facilities to conduct memorial services;

"gazettal date" means the date on which the Scheme came into force, being the date on which notice of the Minister's approval of the Scheme is published in the Government Gazette;

"general industry" means any industry other than a light, hazardous or noxious industry;

"gross floor area" shall have the same meaning as "Floor Area" in the Building Code of Australia 1996;

"gross leasable area" means, in relation to a building, the area of all floors capable of being occupied by a tenant for his exclusive use, which area is measured from the centre lines of joint partitions or walls and from the outside faces of external walls or the building alignment, including shop fronts, basements, mezzanines and storage areas;

"grouped dwelling" has the same meaning as given to the term in and for the purposes of the Residential Planning Codes;

"hazardous industry" means an industry which by reason of the processes involved, the method of manufacture or the nature of the materials stored used or produced requires isolation from other buildings;

"height" when used in relation to a building that is used for:

- (a) residential purposes, has the same meaning given to it in and for the purpose of the Residential Planning Codes; or
- (b) purposes other than residential purposes, means the measurement taken from the natural ground level immediately in front of the centre of the face of the building to a level of the top of the eaves, parapet or flat roof, whichever is the highest;

"heritage agreement" means an agreement entered into under Clause 27(2) of this Scheme and Part 4 of the Heritage of Western Australia Act 1990 (as amended);

"Heritage of Western Australia Act" means the Heritage of Western Australia Act 1990 (as amended);

"home occupation" means a business or activity carried on within a dwelling house or the curtilage of a house by a person resident therein or within a domestic outbuilding by a person resident in the dwelling house to which it is appurtenant that:

- (a) entails the conduct of a business, office, a workshop only, and does not entail the retail sale or display of goods of any nature;
- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (c) does not detract from the residential appearance of the dwelling house or domestic outbuilding;
- (d) does not entail employment of any person not a member of the occupier's household;
- (e) does not occupy an area greater than 20 square metres;
- (f) does not display a sign exceeding 0.2 square metre in area;
- (g) in the opinion of the Council is compatible with the principal uses to which land in the zone in which it is located may be put;
- (h) will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in a substantial increase in the amount of vehicular traffic in the vicinity; and
- (i) does not entail the presence, parking and garaging of a vehicle of more than one (1) tonne tare weight;

"hospital" means any land or building, whether permanent or otherwise, in which persons receive medical or surgical treatment or care and includes a maternity hospital or nursing home as defined in the Hospitals Act 1927, but does not include an institutional building or consulting rooms;

"hostel" means a lodging house which is not open to the public generally but is reserved for use solely by students and staff of educational establishments, members of societies, institutes or associations;

"hotel" means any land or building used for the overnight accommodation of patrons and may include facilities for consumption of beverages or a restaurant, or a betting agency operated in accordance with the Totalisator Agency Betting Board Act 1960, or facilities for entertainment, and which may be the subject of a hotel licence granted under the provisions of the Liquor Licensing Act 1988;

"industry" means the carrying out of any process for and incidental to one or more of the following:

- (a) the winning, processing or treatment of minerals;
- (b) the making, altering, repairing or ornamentation, painting, finishing, cleaning, packing or canning or adapting for sale or the breaking up or demolition of any article or part of any article;
- (c) the generation of electricity or the production of gas;
- (d) the manufacture of edible goods; and

- (e) the recycling of goods,

and includes, when carried out on the land upon which the process is carried out and in connection with that process, the storage of goods, any work of administration or accounting, or the wholesaling of, or the incidental sale of goods resulting from the process, and the use of land for the amenity of persons engaged in the process; but does not include:

- (i) the carrying out of agriculture;
- (ii) on-site work on buildings or land; and
- (iii) in the case of edible goods the preparation of food for retail sale from the premises;

“institutional building” means a building used wholly or principally for the purpose of -

- (a) hospital;
- (b) sanatorium for the treatment of infectious or contagious diseases;
- (c) home or other institution for the care of State wards, orphans or persons who are physically or mentally handicapped;
- (d) penal or reformatory institution;
- (e) hospital for the treatment or care of the mentally ill;
- (f) residential building for the care and maintenance of children, the aged or the infirm;
or
- (g) benevolent institution;

"land" has the same meaning given to the term in and for the purposes of the Act;

"landscaped area" means any area developed by the planting of lawns, garden beds, shrubs or trees and includes any area developed with rockeries, ornamental ponds, swimming pools, barbecue areas or children's playgrounds and includes any other area approved by the Council as landscaped area;

“light industry” means an industry,

- (a) in which the processes carried on, the machinery used, and the goods carried to and from the premises will not adversely affect the amenity of the locality by reason of the emission of light, noise, electrical interference, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, grit, oil, waste water, or other waste products; and
- (b) the establishment of which will not, or the conduct of which does not, impose an undue load on any existing or proposed service for the supply or provision of water, gas, electricity, sewerage facilities, or any other like services;

"local shop" means a building in which the only goods offered for sale are foodstuffs, toiletries, stationery or goods of a similar domestic nature intended for day to day consumption or use by persons living or working in the locality of the shop;

"lodging house" has the same meaning given to the term in and for the purposes of the Health Act 1911;

"lot" has the same meaning given to the term in and for the purposes of the Act, and "allotment" has the same meaning;

"Metropolitan Region Scheme" means the Metropolitan Region Scheme made pursuant to the Metropolitan Region Town Planning Scheme Act 1959 published in the Government Gazette of August 9 1963 and as amended from time to time;

"Metropolitan Region Scheme reserve" means land reserved under the Metropolitan Region Scheme;

"Minister" means the Minister for Planning;

"motel" means any land or building used or intended to be used to accommodate patrons in a manner similar to a hotel or lodging house but in which special provision is made for the accommodation of patrons with motor vehicles and to which a licence under the Liquor Licensing Act 1988 may have been granted;

"multiple dwelling" has the same meaning as given to the term in and for the purposes of the Residential Planning Codes;

"net lettable area" means the area of all floors within the internal finished surfaces of permanent walls but excludes the following areas:

- (a) all 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 for the provision of facilities or services to the floor or building; and
- (d) areas set aside for the provision of facilities or services to the floor or building where such facilities are not for the exclusive use of occupiers of the floor or building;

"non-conforming use" means any use of land or building which was lawful immediately prior to the coming into operation of the Scheme, but is not now in conformity with the provisions of the Scheme;

"noxious industry" means an industry in which any of the processes involved constitutes an "offensive trade" within the meaning of the Health Act 1911, but does not include fish shops or dry cleaning premises;

"nursing home" means a hospital in which patients reside;

"office building" means premises used for:

- (a) the conduct of the administration requirements or the secretarial or accounting services of a business or industry;
- (b) the practice of a profession; or

(c) the provision of business services;

"open air display" means the use of land for the display, sale or hire of goods or equipment in the open air;

"open air storage yard" means the use of land for the storage of goods or equipment in the open air;

"owner" in relation to any land includes the Crown and every person who jointly or severally whether at law or in equity:

- (a) is entitled to the land for an estate in fee simple in possession; or
- (b) is a person to whom the Crown has lawfully contracted to grant the fee simple of the land; or
- (c) is a lessor or licensee from the Crown; or
- (d) is entitled to receive or is in receipt of, or if the land were let to a tenant, would be entitled to receive the rents and profits thereof, whether as a beneficial owner, trustee, mortgagee in possession, or otherwise;

"place" for the purposes of Division 2 of Part 3 dealing with places of cultural heritage significance, has the same meaning as given to the term in and for the purposes of the Heritage of Western Australia Act, 1990;

"plot ratio" when used in relation to a building that is used for:

- (a) residential purposes, has the same meaning given to it and for the purposes of the Residential Planning Codes; or
- (b) purposes other than residential purposes, means the ratio of the gross floor area to the area of the land within the site boundary;

"precinct" means an area or neighbourhood of limited size having –

- (a) a similar use or other characteristics; and
- (b) specified boundaries;

"predominant use" is the use of land to which all other uses carried on that land are subordinate, incidental or ancillary;

"public authority" has the same meaning given to the term in and for the purposes of the Act;

"public utility" means any works or undertaking constructed or maintained by a public authority or the Council as may be required to provide water, sewerage, electricity, gas, drainage, communications or other similar services;

"public worship – place of" or "place of public worship" means any land or building used primarily for the religious activities of a church, but does not include an institution for primary, secondary, or higher education, or a residential training institution;

“recreational facilities” means any land or building or part of a building used for:

- (a) public tennis courts;
- (b) public or private swimming pools;
- (c) squash courts or centres;
- (d) basketball centres;
- (e) gymnasias;
- (f) ice and roller skating rinks;
- (g) physical health studios; and
- (h) any other similar purpose;

in respect of which a charge is made for the use thereof;

“residential building” means any land or buildings used to accommodate persons but does not include a caravan and camping park, or corrective institution;

"Residential Planning Codes" means the Residential Planning Codes, in Appendix 2 to the Western Australian Planning Commission Statement of Planning Policy No.1;

“retail” means the sale or hire of products, goods or services to the public generally in small quantities and via a shop;

"serviced apartments" means a building or buildings which include self-contained units for transient accommodation;

“service station” means any land or building used for the retail sale of petroleum products and motor vehicle accessories and for carrying out greasing, tyre repairs, minor mechanical repairs to motor vehicles but does not include a transport depot, panel beating, spray painting, major repairs or wrecking;

"shop" means any building wherein goods are exposed or offered for sale by retail;

"showroom" means any building or part of a building used or intended for use for the purpose of displaying or offering for sale by wholesale or retail, automotive spare parts, carpets, large electrical appliances, furniture, hardware or goods of a bulky nature;

“single bedroom dwelling” has the same meaning as given to the term in and for the purposes of the Residential Planning Codes;

"single house" has the same meaning as given to the term in and for the purposes of the Residential Planning Codes;

"storey" means that portion of a building which is situated between the top of any floor and the top of the floor next above it and, if there is no floor above it, that portion between the top of the floor and the ceiling above it but does not include any portion of a building used solely for car parking and having 50% or more of its volume below natural ground level;

"street alignment" means the boundary between the land comprising a street and the land abutting it, but, where a new street alignment is prescribed, means the boundary between that land and that new street alignment;

"substantial commencement" means that work or development the subject of the planning approval has begun by the performance of some substantial part of that work or development;

"tavern" means any land or building wherein the primary use is the consumption of beverages and may include an eating house or facilities for entertainment and to which a licence may have been granted under the provisions of the Liquor Licensing Act 1988;

"theatre" means any land or building where the public may view a theatrical production;

"Town" means the Town of Vincent established as a municipality under the Local Government Act 1960. The division of the municipality of the former City of Perth was effected by Section 9 of the City of Perth Restructuring Act 1993;

"Town of Vincent Scheme reserve" means land reserved under this Scheme and shown on the Scheme Map as a Town of Vincent Scheme Reserve;

"transport depot" means land or building which are designed and used or adapted for use for one or more of the following purposes:

- (a) for the parking or garaging of commercial or industrial vehicles used or intended for use by the carriage of goods, for hire or reward;
- (b) for the transfer of goods or passengers from one vehicle to another vehicle;
- (c) for the maintenance, repair or refueling of vehicles referred to in (a) or (b) above patrons of facilities and/or the transport workers;

"vehicle sales premises" means any land or building used for the display, sale or hire of new or second hand motor vehicles, motor-cycles, boats, caravans or recreation vehicles, or any one or more of them, but does not include a workshop;

"veterinary clinic" means any premises used in the practice of their profession by a registered veterinary surgeon other than for the purpose of hospitalisation or boarding of animals;

"veterinary hospital" means any premises used in the practice of their profession by a registered veterinary surgeon which premises include provision for the hospitalisation or boarding of animals whilst receiving treatment;

"warehouse" means any building or enclosed land or part of a building or enclosed land, used for the storage of goods whether or not commercial transactions involving the sale of the goods by wholesale are carried out in or on that building or land;

"wholesale" means the sale of any goods to any person or persons other than the ultimate consumer of those goods;

“zone” means a portion of the Scheme area shown on the map by distinctive colouring, patterns, symbols, hatching, or edging for the purpose of indicating the restrictions imposed by the Scheme on the use and development of land, but does not include a reserve.

SCHEDULE 2 – SPECIAL USES

No.	Land Particulars	Special Uses	Development Standards/Conditions
1	Lot 31 (Nos. 148-158) Scarborough Beach Road, Mount Hawthorn	Carpark	Nil
2	Lot 99 (No. 62) Coogee Street, Mount Hawthorn	Carpark	Nil
3	Lots 4 & 5 (Nos. 50-52) Flinders Street, Mount Hawthorn	Carpark	Nil
4	Lot 192 (No.51) Albert Street, North Perth	Hall and Non-Residential Club	Nil
5	Lot 4 Ellesmere Street, Lots 2 & 3 Carrington Street, North Perth	Hotel	Nil
6	Lots Pt 91, 92 & 93 Charles Street, North Perth	Service Station	Nil
7	Lots Pt 4091, 4092 & 4093 Charles Street, North Perth	Carpark	Nil
8	Lot 16 (No. 445) Charles Street, North Perth	Function Centre	Nil

SCHEDULE 3 – ADDITIONAL USES

No.	Description of Land	Additional Use	Conditions
1	Lots 8 (180) and 9 (178) Alma Road, North Perth	P - Light Industry (Bakery) IP –Local Shop, Office	<ol style="list-style-type: none"> 1. Minimum residential land use component comprising 100sqm net lettable area shall be provided and maintained on the land; 2. The uses of Local Shop and/or Office are permitted uses where those uses are incidental to the predominant Light Industry (Bakery) use; 3. Any Local Shop shall have a maximum gross floor area of 50sqm and only sell items produced on site; 4. Any Office shall have a maximum gross floor area of 100sqm; and 5. The Additional Use, shall operate in accordance with a Management Plan approved by the Council, prior to the issuing of a Planning Approval and must comprise information relating to: <ol style="list-style-type: none"> (i) Parking & Access; (ii) Noise; (iii) Streetscape Amenity; and (iv) Operational Procedures, including Business Operating Hours and Delivery Schedules. 6. The Management Plan shall be made public available to all owners and occupiers within the locality; and 7. The Management Plan may be amended and updated as required, subject to the consent of both the Council and the proponent.

SCHEDULE 4 – FORM OF APPLICATION

SCHEDULE 5 - NOTICE OF COUNCIL DECISION

THIS IS NOT A BUILDING LICENCE

Fourth Schedule Clause 37
For Office Use Only
Serial No.

TOWN OF VINCENT TOWN PLANNING SCHEME

APPROVAL **TO COMMENCE DEVELOPMENT**
REFUSAL OF APPROVAL

LOT:

STREET:

LOCALITY:

Name of owner of land on which development proposed:

SURNAME:

OTHER NAMES:

ADDRESS:

Approval to commence development in accordance with the application for Town Planning Approval dated for and the attached plans dated was granted

 refused in accordance with the provisions of the Town Planning Scheme and the Metropolitan Region Scheme subject to the following conditions:-

NOTE:

OWNER(S), BUILDER(S) AND DEVELOPER(S) UNDERTAKING DEVELOPMENT/CONSTRUCTION OF ANY KIND ARE HEREBY ADVISED OF A RESPONSIBILITY TO COMPLY WITH THE REQUIREMENTS OF THE DISABILITY DISCRIMINATION ACT 1992. FOR FURTHER INFORMATION ON THIS ACT, ENQUIRIES SHOULD BE DIRECTED TO THE DISABILITY SERVICES COMMISSION ON TELEPHONE NUMBER (08) 9426 9200 OR TTY ON (08) 9426 92325.

SHOULD THE APPLICANT BE AGGRIEVED BY THIS DECISION A RIGHT OF APPEAL MAY EXIST UNDER THE PROVISIONS OF THE TOWN PLANNING SCHEME OR THE METROPOLITAN REGION SCHEME.

This approval is valid for a period of TWO years only. If the development is not substantially commenced within this period a fresh approval must be obtained before commencing or continuing the development.

DATE OF DECISION:

DATE OF ISSUE:

Signed

CHIEF EXECUTIVE OFFICER

SCHEDULE 6 – DEVELOPMENT AREAS

Ref:	Area	Provisions
DA 1	The area bounded by Richmond Street, Loftus Street, Leederville Parade and Mitchell Freeway, Leederville.	Subdivision and development to be in accordance with an Activity Centre Structure Plan adopted in accordance with State Planning Policy 4.2, Activity Centres for Perth and Peel, and the processes and procedures in clause 55 of the Scheme.

SCHEDULE 7 – DEVELOPMENT CONTRIBUTION PLAN

SCHEDULE 8 – STATUTORY STATIC FEASIBILITY ASSESSMENT MODEL

Gross realisation

Net lot yield @ average market value per lot
 “X” lots @ “\$Y” per lot \$ (1)

Less GST @ standard / normal rates

(1) Multiplied by GST rate/(100+GST rate) \$ (2)
 (1-2) \$ (3)

Less selling, marketing, advertising & settlement fees

@ market % multiplied by (1) \$ (4)

Add back Input Tax Credit on selling fees
 (4) Multiplied by GST rate/(100+GST rate) \$ (5)

(4-5) \$ (6)

Balance after selling costs etc. & Input Tax Credit (3-6) \$ (7)

Less adjusted profit & risk allowance as per SPP 3.6

Market determined profit & risk allowance % (8)

Less fixed profit allowance per SPP 3.6 10% (9)

Risk rate applied (8-9) = % (10)

EXPLANATION: (10) to be expressed as a whole number eg. 15%=15

ie Risk = (7) multiplied by (10)/((10)+(100)) \$ (11)

Balance after profit & risk factor (7-11) \$ (12)

Less development costs @ “X” lots multiplied by “\$Z” per lot \$ (13)

Add back Input Tax Credit on (13)

(13) Multiplied by GST rate/(100+GST rate) \$ (14)

Development cost after Input Tax Credit (13-14) \$ (15)

Add interest on net development costs (15)

For 1/2 development and 1/2 selling term

@ Applicable market rates

(15) Multiplied by % rate \$ (16)

(15+16) \$ (17)

Balance after deduction of development costs & interest (12-17) \$ (18)

Less interest on land value, rates & taxes and stamp duty

Assessed over 1/2 development and 1/2 selling term

@ Applicable market rates

(18) Multiplied by % rate/(100+%rate) \$ (19)

Balance after interest on the land (18-19) \$ (20)

Less rates & taxes \$ (21)

Balance after rates & taxes (20-21) \$ (22)

Less Stamp Duty @ current statutory rates

(22) Multiplied by stamp duty rate/(100+stamp duty rate) \$ (23)

Residual Land Value prior to GST considerations (22-23) \$ (24)

Add GST (24) + GST at prevailing statutory rate \$ (25)

ASSESSED STATUTORY CONTRIBUTION PER SPP 3.6 (22+23) \$

The Static Feasibility Model is based upon —

- (i) The number of lots yielded from the land will have a gross sale price which, when multiplied by the number of lots created, establishes the Gross Realisation (i).

- (ii) GST will be calculated by the standard/normal method.
- (iii) Selling, marketing, advertising and settlement fees expressed as a percentage shall be added and then expressed as a total percentage against the gross realisation.
- (iv) The adjusted risk component applied in the model is the established market profit and risk at the date of valuation less the fixed 10 per cent profit applied in SPP 3.6.
- (v) Development costs will be established as an appropriate servicing cost per lot at the date of valuation, multiplied by the lots realised from the land.
- (vi) Interest against the development costs will be established by the application of bank lending rates for such projects at the date of valuation.
- (vii) Interest against the land in development will be established by the application of bank lending rates for such development acquisitions at the date of valuation.
- (viii) Rates and taxes will be applied for the full term of acquisition, development and sale.
- (ix) Stamp Duty will be applied at the statutory rate as applicable at the date of valuation.
- (x) GST will be applied at the appropriate rate adopted at the date of valuation.

TOWN OF VINCENT
TOWN PLANNING SCHEME NO. 1

ADOPTION

Adopted by resolution of the Council of the Town of Vincent at the Ordinary Meeting of the Council held on 9th day of August 1994.

CR JOHN HYDE
DEPUTY MAYOR

JOHN GIORGI, J.P.
CHIEF EXECUTIVE OFFICER

TOWN OF VINCENT

TOWN PLANNING SCHEME NO. 1

FINAL ADOPTION

Adopted for final approval by resolution of the Council of the Town of Vincent at the Special Meeting of the Council held on the 31st day of August 1998 and the common seal of the Municipality was pursuant to that resolution, hereunto affixed in the presence of:

**CR JOHN HYDE
DEPUTY MAYOR**

**JOHN GIORGI, J.P.
CHIEF EXECUTIVE OFFICER**

RECOMMENDED FOR FINAL ADOPTION

**CHAIRMAN OF THE
WESTERN AUSTRALIAN PLANNING COMMISSION**

Date.....

FINAL APPROVAL GRANTED

MINISTER FOR PLANNING

Date