

PREAMBLE

This Town Planning Scheme of the City of Vincent consists of this Scheme Text and the Scheme Maps. The Scheme Text should be read in conjunction with the Local Planning Strategy for the City.

Part 2 of the Scheme Text sets out the Local Planning Framework. At the core of this Framework is the Local Planning Strategy which sets out the long-term planning direction for the local government, applies State and regional planning policies and provides the rationale for the zones and other provisions of the Scheme. In addition to the Local Planning Strategy, the Framework provides for Local Planning Policies which set out the general policies of the local government on matters within the Scheme.

The Scheme divides the local government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.

SCHEME DETAILS

The City of Vincent

Town Planning Scheme No. 2

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

CONTENTS PAGE

Preamble	1
Scheme Details.....	1
Part 1 - Preliminary	6
1.1 <i>Citation</i>	6
1.2 <i>Responsible Authority</i>	6
1.3 <i>Scheme Area</i>	6
1.4 <i>Contents Of The Scheme</i>	6
1.5 <i>Purpose Of The Scheme</i>	7
1.6 <i>The Aims Of The Scheme</i>	7
1.7 <i>Definitions</i>	9
1.8 <i>Relationship With Local Laws</i>	9
1.9 <i>Relationship With Other Schemes</i>	9
1.10 <i>Relationship With The Metropolitan Region Scheme</i>	10
Part 2 – Local Planning Policy Framework	11
2.1 <i>Scheme Determinations To Conform With Local Planning Strategy</i> ...	11
2.2. <i>Local Planning Policies</i>	11
2.3. <i>Relationship Of Local Planning Policies To Scheme</i>	11
2.4 <i>Procedure For Making Or Amending A Local Planning Policy</i>	11
2.5 <i>Revocation Of Local Planning Policy</i>	12
Part 3 – Reserves	14
3.1 <i>Reserves</i>	14
3.2 <i>Regional Reserves</i>	14
3.3 <i>Local Reserves</i>	14
3.4 <i>Use And Development Of Local Reserves</i>	14
Part 4 – Zones And The Use Of Land.....	16
4.1 <i>Zones</i>	16
4.2 <i>Objectives Of The Zones</i>	16
4.3 <i>Zoning Table</i>	19
4.4 <i>Interpretation Of The Zoning Table</i>	23
4.5 <i>‘Ip’ Uses</i>	23
4.6 <i>Multiple Dwelling Land Uses</i>	23

4.7	<i>Additional Uses</i>	23
4.8	<i>Restricted Uses</i>	24
4.9	<i>Special Use Zones</i>	24
4.10	Non-Conforming Use	24
4.11	Extensions And Changes To A Non-Conforming Use	25
4.12	Discontinuance Of A Non-Conforming Use	25
4.13	Termination Of A Non-Conforming Use	25
4.14	Destruction Of Non-Conforming Use Buildings.....	25
4.15	Multiple Dwellings In West Perth	26
Part 5 – General Development Requirements		27
5.1	Compliance With Development Standards And Requirements	27
5.2	Residential Design Codes	27
5.3	Special Application Of Residential Design Codes	27
5.4	Restrictive Covenants.....	28
5.5	Variations To Site And Development Standards And Requirements...	29
5.6	Environmental Conditions.....	29
5.7	Conservation Of Trees.....	30
5.8	Local Development Plan.....	30
5.9	Activity Centre Structure Plan.....	30
Part 6 – Special Control Areas.....		32
6.1	Operation Of Special Control Areas.....	32
6.2	Development Areas	32
6.3	Development Contribution Areas	42
Part 7 – Heritage Protection.....		53
7.1	Heritage List	53
7.2	Designation Of A Character Retention Area.....	54
7.3	Heritage Agreements.....	55
7.4	Heritage Assessment.....	56
7.5	Variations To Scheme Provisions For A Heritage Place Or Heritage Area	56
Part 8 – Development Of Land.....		57
8.1	Requirement For Approval To Commence Development.....	57
8.2	Permitted Development	57
8.3	Amending Or Revoking A Planning Approval	61

8.4	Unauthorised Existing Developments	61
Part 9 – Applications For Planning Approval.....		63
9.1	Form Of Application	63
9.2	Accompanying Material	64
9.3	Additional Material For Heritage Matters	65
9.4	Additional Materials For Commercial Developments	65
9.5	Additional Materials For Affordable Housing Developments	66
9.6	Design Advisory Committee	66
9.7	Advertising Of Applications.....	66
Part 10 – Procedure For Dealing With Applications		68
10.1	Consultation With Other Authorities.....	68
10.2	Matters To Be Considered By Local Government	68
10.3	Determination Of Applications	70
10.4	Form And Date Of Determination	71
10.5	Term Of Planning Approval	71
10.6	Temporary Planning Approval	72
10.7	Scope Of Planning Approval.....	72
10.8	Approval Subject To Later Approval Of Details	72
10.9	Deemed Refusal.....	72
10.10	Appeals	73
Part 11 – Enforcement And Administration		74
11.1	Powers Of The Local Government	74
11.2	Removal And Repair Of Existing Advertisements.....	74
11.3	Delegation Of Functions	75
11.4	Person Must Comply With Provisions Of Scheme.....	75
11.5	Compensation	76
11.6	Purchase Or Taking Of Land.....	77
11.7	Notice For Removal Of Certain Buildings	77
Schedules		78
<i>Schedule 1</i>	<i>Dictionary Of Defined Words And Expressions</i>	<i>79</i>
	1. General Definitions.....	79
	2. Land Use Definitions	84
Schedule 2	Additional Uses	94
Schedule 3	Restricted Uses	95

Schedule 4	Special Use Zones	96
Schedule 5	Exempted Advertisements.....	97
Schedule 6	Form Of Application For Planning Approval	98
Schedule 7	Additonal Information For Advertisements.....	100
Schedule 8	Notice Of Public Advertisement Of Planning Proposal	102
Schedule 9	Notice Of Determination On Application For Planning Approval	103
Schedule 10	Environmental Conditions.....	104
Schedule 11	Special Control Areas.....	105
Schedule 12	Development (Structure Plan) Areas	106
Schedule 13	Development Contribution Areas.....	107
Schedule 14	Statutory Static Feasibility Assessment Model	108

PART 1 - PRELIMINARY

1.1 CITATION

1.1.1 The City of Vincent Scheme No. 2 (***the Scheme***) comes into operation on its Gazettal date.

1.1.2 The following Schemes are revoked –

<i>Name</i>	<i>Gazettal date</i>
City of Vincent Town Planning Scheme No.1	4 December 1998
City of Stirling District Planning Scheme No.2	13 September 1985
East Perth Redevelopment Scheme No. 1	18 December 1992
City of Perth City Planning Scheme No. 2	9 January 2004

1.2 RESPONSIBLE AUTHORITY

The City of Vincent is the responsible authority for implementing the Scheme.

1.3 SCHEME AREA

The Scheme applies to the Scheme area which covers that part of the local government district of the City of Vincent as shown on the Scheme Map.

Note: The Scheme area is also subject to the Metropolitan Region Scheme (see clause 1.10) and other town planning schemes (see clause 1.9).

1.4 CONTENTS OF THE SCHEME

The Scheme comprises –

- (a) the Scheme Text;
- (b) the Scheme Maps (Maps 1-5)
 - (i) Map 1 depicting Precinct 1 – Leederville
 - (ii) Map 2 depicting Precinct 2 – North Perth
 - (iii) Map 3 depicting Precinct 3 – Perth
 - (iv) Map 4 depicting Precinct 4 – Mount Lawley/Highgate
 - (v) Map 5 depicting Precinct 5 – Mount Hawthorn

The Scheme is to be read in conjunction with the Local Planning Strategy.

1.5 PURPOSE OF THE SCHEME

The purposes of the Scheme is to —

- (a) set out the local government's planning aims and intentions for the Scheme area;
- (b) set aside land as reserves for public purposes;
- (c) zone land within the Scheme area for the purposes defined in the Scheme;
- (d) control and guide land use and development;
- (e) set out procedures for the assessment and determination of planning applications;
- (f) make provision for the administration and enforcement of the Scheme; and
- (g) address other matters set out in the *Planning and Development Act 2005*.

1.6 THE AIMS OF THE SCHEME

The aims of the 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 City's inhabitants and the social, environmental 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 the five community precincts within the Scheme 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 the community precincts;

- (e) to promote and safeguard the economic well-being and functions of the City;
- (f) to co-ordinate and ensure that development is carried out in an efficient, sustainable and environmentally responsible manner which –
 - (i) makes optimum use of the City's growing infrastructure and resources;
 - (ii) promotes an energy efficient environment;
 - (iii) respects the natural environment;
 - (iv) is congruent with the community's vision as set out in *Vincent Vision 2024*;
 - (v) reduces the City's carbon footprint;
- (g) to promote and safeguard the cultural heritage of the City 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;
- (h) to ensure planning at the local level is consistent with the Metropolitan Region Scheme;
- (i) to encourage and provide opportunities for affordable housing to ensure that a diverse range of housing choices are available to a broad spectrum of the community;
- (j) to provide a diverse range of employment opportunities such as retail, commercial, entertainment, knowledge based professions and tourism, to ensure a sustainable economy, as well as generating employment self-sufficiency and self-containment;
- (k) to improve access around the City to ensure safe and convenient movement of people including pedestrians, cyclists, public transport users and motorists;
- (l) to maintain and enhance the City's public open space areas to cater for active and passive recreation, consistent with the needs of the community;
- (m) to achieve high quality urban design outcomes for public and private areas; and

- (n) to ensure that land uses are appropriately integrated with the transport system throughout the City.

1.7 DEFINITIONS

1.7.1 Unless the context otherwise requires, the words and expressions used in the Scheme have the same meaning as they have –

- (a) in the *Planning and Development Act 2005*; or
- (b) if they are not defined in that Act –
 - (i) in the Dictionary of defined words and expressions in Schedule 1; or
 - (ii) in the Residential Design Codes.

1.7.2 If there is conflict between the meaning of a word or expression in the Dictionary of defined words and expressions in Schedule 1 and the meaning of that word or expression in the Residential Design Codes –

- (a) in the case of a residential development, the definition in the Residential Design Codes prevails; and
- (b) in any other case the definition in the Dictionary prevails.

1.7.3 Notes, and instructions printed in italics, are not part of the Scheme.

1.8 RELATIONSHIP WITH LOCAL LAWS

Where a provision of the Scheme is inconsistent with a local law, the provision of the Scheme prevails.

1.9 RELATIONSHIP WITH OTHER SCHEMES

By way of information, the following other Schemes of the City of Vincent are, at the Gazettal date of the Scheme, complementary to the Scheme –

Scheme No.	Gazettal Date
------------	---------------

There are no other Schemes of the City of Vincent, which apply to the Scheme area.

Note: The Metropolitan Redevelopment Authority is the responsible authority for the East Perth Redevelopment Scheme Area and areas within the City of Vincent local government area, subject to the East

Perth Redevelopment Authority Scheme, are identified on the Scheme Maps for information.

1.10 RELATIONSHIP WITH THE METROPOLITAN REGION SCHEME

The Scheme is complementary to the Metropolitan Region Scheme and the provisions of the Metropolitan Region Scheme.

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

PART 2 – LOCAL PLANNING POLICY FRAMEWORK

2.1 SCHEME DETERMINATIONS TO CONFORM WITH LOCAL PLANNING STRATEGY

Except to the extent that the Local Planning Strategy is inconsistent with the Scheme, determinations of the local government under the Scheme are to be consistent with the Local Planning Strategy.

A Local Planning Strategy has been prepared and endorsed under the *Town Planning Regulations 1967*.

2.2. LOCAL PLANNING POLICIES

The local government may prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme area so as to apply-

- (a) generally or for a particular class or classes of matters; and
- (b) throughout the Scheme area or in one or more parts of the Scheme area,

and may amend or add to or rescind the Policy.

2.3. RELATIONSHIP OF LOCAL PLANNING POLICIES TO SCHEME

2.3.1 If a provision of a Local Planning Policy is inconsistent with the Scheme, the Scheme prevails.

2.3.2 A Local Planning Policy is not part of the Scheme and does not bind the local government in respect of any application for planning approval but the local government is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

Note: Local Planning Policies are guidelines used to assist the local government in making decisions under the Scheme. Although Local Planning Policies are not part of the Scheme they must be consistent with, and cannot vary, the intent of the Scheme provisions, including the Residential Design Codes. In considering an application for planning approval, the local government must have due regard to relevant Local Planning Policies as required under clause 10.2.

2.4 PROCEDURE FOR MAKING OR AMENDING A LOCAL PLANNING POLICY

2.4.1 If a local government resolves to prepare a Local Planning Policy, the local government —

- (a) is to publish a notice of the proposed Policy once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area, giving details of —
 - (i) where the draft Policy may be inspected;
 - (ii) the subject and nature of the draft Policy; and
 - (iii) in what form and during what period (being not less than 28 days from the day the notice is published) submissions may be made;
- (b) may publish a notice of the proposed Policy in such other manner and carry out such other consultation as the local government considers appropriate.

2.4.2 After the expiry of the period within which submissions may be made, the local government is to —

- (a) review the proposed Policy in the light of any submissions made; and
- (b) resolve to adopt the Policy with or without modification, or not to proceed with the Policy.

2.4.3 If the local government resolves to adopt the Policy, the local government is to —

- (a) publish notice of the Policy once in a newspaper circulating in the Scheme area; and
- (b) if, in the opinion of the local government, the Policy affects the interests of the Commission, forward a copy of the Policy to the Commission.

2.4.4 A Policy has effect from the date the local government resolves to adopt the Policy (date of the Council Meeting relating to the adoption of the Policy).

2.4.5 A copy of each Local Planning Policy, as amended from time to time, is to be kept and made available for public inspection during office hours at the offices of the local government.

2.4.6 Clause 2.4.1 to 2.4.5, with any necessary changes, apply to the amendment of a Local Planning Policy.

2.5 REVOCATION OF LOCAL PLANNING POLICY

A Local Planning Policy may be revoked by —

- (a) the adoption by a local government of a new Policy under clause 2.4 that is expressed to supersede the existing Local Planning Policy; or
- (b) publication of a notice of revocation by the local government once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area.

PART 3 – RESERVES

3.1 RESERVES

Certain lands within the Scheme area are classified as –

- (a) Regional Reserves; or
- (b) Local Reserves.

3.2 REGIONAL RESERVES

3.2.1 The lands shown as “Regional Reserves” on the Scheme Map are lands reserved under the Metropolitan Region Scheme and are shown on the Scheme Map for the purposes of the *Planning and Development Act 2005*. These lands are not reserved under the Scheme.

3.2.2 The approval of the local government under the Scheme is not required for the commencement or carrying out of any use or development on a Regional Reserve.

Note: The provisions of the Metropolitan Region Scheme continue to apply to such Reserves and approval is required under the Metropolitan Region Scheme from the Commission for the commencement or carrying out of any use or development on a Regional Reserve unless specifically excluded by the Region Scheme.

3.3 LOCAL RESERVES

“Local Reserves” are delineated and depicted on the Scheme Map according to the Legend on the Scheme Map.

3.4 USE AND DEVELOPMENT OF LOCAL RESERVES

3.4.1 A person must not —

- (a) use a Local Reserve; or
- (b) commence or carry out development on a Local Reserve, without first having obtained planning approval under Part 9 of the Scheme.

3.4.2 In determining an application for planning approval the local government is to have due regard to —

- (a) the matters set out in clause 10.2; and
- (b) the ultimate purpose intended for the Reserve.

- 3.4.3 In the case of land reserved for the purposes of a public authority, the local government is to consult with that authority before determining an application for planning approval.

PART 4 – ZONES AND THE USE OF LAND

4.1 ZONES

4.1.1 The Scheme area is classified into the zones shown on the Scheme Map.

4.1.2 The zones are delineated and depicted on the Scheme Map according to the legend on the Scheme Map.

4.1.3 Zones that exist in the City include;

- (a) Residential
- (b) Residential/Commercial
- (c) Local Centre
- (d) District Centre
- (e) Regional Centre
- (f) Commercial
- (g) Special Use

4.2 OBJECTIVES OF THE ZONES

The objectives of the zones are –

- (a) Residential –
 - (i) to promote and encourage design that incorporates sustainability principles, including but not limited to solar passive design, energy efficiency, water conservation, waste management and recycling;
 - (ii) to enhance the amenity and character of the residential neighbourhood by encouraging the retention of existing housing stock and ensuring new development is compatible within these established areas;
 - (iii) to manage residential development in a way that recognises the needs of innovative design and contemporary lifestyles;
 - (iv) to ensure the provision of a wide range of different types of residential accommodation, including affordable, social and special needs, to meet the diverse needs of the community.

- (b) Residential/Commercial –
 - (i) to provide for a compatible mix of high density residential and commercial development;
 - (ii) to promote residential use as a vital and integral component of these mixed use zones;
 - (iii) to ensure development design incorporates sustainability principles, with particular regard to waste management and recycling and including, but not limited, to solar passive design, energy efficiency and water conservation; and
 - (iv) to ensure the provision of a wide range of different types of residential accommodation, including affordable, social and special needs, to meet the diverse needs of the community.

- (c) Local Centre –
 - (i) to provide services for the immediate neighbourhoods which do not expand into or adversely impact on adjoining residential areas; and
 - (ii) to encourage high quality, pedestrian-friendly, street-orientated development.

- (d) District Centre –
 - (i) to provide a community focus point for people, services, employment and leisure that are highly accessible and do not expand into or adversely impact on adjoining residential areas;
 - (ii) to encourage high quality, pedestrian-friendly, street-orientated development that responds to and enhances the key elements of each District Centre, and to develop areas for public interaction;
 - (iii) to ensure levels of activity, accessibility and diversity of uses and density is sufficient to sustain public transport and enable casual surveillance of public spaces;
 - (iv) to ensure development design incorporates sustainability principles, with particular regard to waste management and recycling and including but not limited to solar passive design, energy efficiency and water conservation;

- (v) to ensure the provision of a wide range of different types of residential accommodation, including affordable, social and special needs, high density residential and tourist accommodation, to meet the diverse needs of the community;
 - (vi) to provide a broad range of employment opportunities to encourage diversity and self-sufficiency within the Centre;
 - (vii) to encourage the retention and promotion of uses including but not limited to specialty shopping, restaurants, cafes and entertainment;
 - (viii) to ensure that the City's District Centres are developed with due regard to State Planning Policy 4.2 - Activity Centres for Perth and Peel.
- (e) Regional Centre –
- (i) to provide a range of services and uses to cater for the local and regional community, including but not limited to specialty shopping, restaurants, cafes and entertainment;
 - (ii) to provide a broad range of employment opportunities to encourage diversity and self-sufficiency within the Centre.
 - (iii) to encourage high quality, pedestrian-friendly, street-orientated development that responds to and enhances the key elements of the Regional Centre, and to develop areas for public interaction.
 - (iv) to ensure levels of activity, accessibility and diversity of uses and density is sufficient to sustain public transport and enable casual surveillance of public spaces.
 - (v) to provide residential opportunities within the Regional Centre including high density housing, affordable housing, social and special needs housing, tourist accommodation and short term accommodation
 - (vi) to ensure that the centres are developed with due consideration to State Planning Policy 4.2 - Activity Centres for Perth and Peel.
- (f) Commercial –
- (i) to facilitate a wide range of compatible commercial uses that support sustainable economic development within the City; and

- (ii) to ensure development design incorporates sustainability principles, with particular regard to waste management and recycling and including but not limited to solar passive design, energy efficiency and water conservation.
- (g) Special Use –
 - (i) to provide for uses which have unique development requirements that cannot be easily accommodated by any of the other zones in the Scheme.

4.3 ZONING TABLE

4.3.1 The Zoning Table indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme area in the various zones. The permissibility of any uses is determined by cross reference between the list of use classes on the left hand side of the Zoning Table and the list of zones at the top of the Zoning Table.

ZONING TABLE

USE CLASS	ZONES				
	Residential Zone	Residential/Commercial Zone	Local Centre Zone	District Centre/Regional Centre Zone	Commercial Zone
Aged or dependent persons dwellings	P	P	P	D	D
Amusement centre	X	A	D	D	D
Auction Mart	X	A	A	A	D
Bank	A	A	D	P	P
Betting agency	A	A	A	A	D
Caravan park	X	A	A	A	A
Caretaker's dwelling	P	P	P	P	P
Carpark	X	A	D	D	D
Catering premises	A	A	D	D	P
Childcare premises	A	D	D	D	D
Cinema; Commercial hall; Theatre	A	A	A	P	P
Civic use	D	D	D	P	P
Club Premises	A	A	A	A	A
Consulting Rooms	A	A	P	IP	P
Convenience Store	A	D	P	P	P
Corrective Institution	A	A	A	D	D
Dry-cleaning premises	X	X	A	A	A
Dwelling (grouped)	P	P	D	D	D
Dwelling (multiple)	P/A**	P	IP*	IP*	P/D****
Dwelling (single house)	P	P	D	D	D
Educational establishment	D	D	D	D	D
Exhibition centre	A	D	P	P	D
Family day care (home)	D	D	D	D	D
Fast food outlet	X	A	D	D	D
Fuel depot	X	A	D	D	D
Funeral Parlour	X	A	A	A	D
Home Business	A	D	D	D	D
Home Occupation	P	P	P	P	P
Home Office	P	P	P	P	P
Home Store	A	A	A	A	A
Hotel	A	A	A	A	A
Industry – cottage	A	A	A	A	P
Industry – general	X	X	X	X	X
Industry – light	X	X	X	A	A
Industry – service	X	X	X	A	A
Lunch Bar	X	D	P	P	P
Market (outdoor/indoor)	A	A	A	A	A

USE CLASS	ZONES				
	Residential Zone	Residential/Commercial Zone	Local Centre Zone	District Centre/Regional Centre Zone	Commercial Zone
Medical centre	A	A	D	IP*	D
Motel	A	A	A	A	A
Motor vehicle, boat or caravan sales	X	A	A	A	D
Motor vehicle, boat or caravan repairs	X	A	A	A	D
Motor vehicle wash	X	A	A	A	D
Night club	X	A	A	A	A
Office	A	D	P	IP*	P
Open air display	X	A	D	D	D
Park home park	A	A	A	A	A
Place of worship	D	D	D	D	D
Public utilities	D	D	D	D	D
Reception centre	X	A	A	D	D
Recreational facility	A	D	D	D	D
Residential building	P	P	D	D	D
Restaurant	A	A	D	P	P
Restricted premises	A	A	A	A	A
Service station	X	A	D	D	D
Shop	A	D	P	P	P
Short term accommodation	A	D	P	P	P
Showroom	X	A	A	A	P
Small bar	A	A	A	D	A
Storage	X	A	A	D	D
Tavern	A	A	A	A	A
Trade display	X	D	D	D	P
Transport depot	X	A	D	D	D
Veterinary centre	X	A	D	D	D
Warehouse	X	A	A	D	D
Unlisted use***	A	A	A	A	A

Notes:

* Refer to Clause 4.5 relating to IP Uses

** Refer to Clause 4.6 relating to Multiple Dwelling Restriction

*** Refer to Clause 9.7.1 relating to Unlisted Use

**** Refer to Clause 4.15 relating to Multiple Dwellings in West Perth

4.3.2 The symbols used in the cross reference in the Zoning Table have the following meanings —

- 'P' means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme;
- 'IP' means that the use is permitted by the Scheme providing the use complies with clause 4.5 of the Scheme;
- 'D' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval;
- 'A' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.7;
- 'X' means a use that is not permitted by the Scheme.

4.3.3 A change in the use of land from one use to another is permitted if —

- (a) the local government has exercised its discretion by granting planning approval;
- (b) the change is to a use which is designated with the symbol 'P' in the cross reference to that zone in the Zoning Table and the proposed use complies with all the relevant development standards and any requirements of the Scheme;
- (c) the change is an extension of a use within the boundary of the lot which does not change the predominant use of the lot; or
- (d) the change is to an incidental use that does not change the predominant use of the land.

- Note:
- 1. The planning approval of the local government is required for the development of land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the use and development of the land.
 - 2. The local government will not refuse a 'P' use because of the unsuitability of the use for the zone but may impose conditions on the use of the land to comply with any relevant development standards or requirements of the Scheme, and may refuse or impose conditions on any development of the land.
 - 3. In considering a 'D' or 'A' use, the local government will have regard to the matters set out in clause 10.2.

4. The local government must refuse to approve any 'X' use of land. Approval to an 'X' use of land may only proceed by way of an amendment to the Scheme.

4.4 INTERPRETATION OF THE ZONING TABLE

4.4.1 Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.

4.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may —

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for planning approval; or
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

4.5 'IP' USES

Where a land use is classified as an 'IP' use in the zone table, the land use is not be permitted on the ground floor or at grade level with the street;

4.6 MULTIPLE DWELLING LAND USES

4.6.1 Multiple dwellings are not permitted within the area coded R50 bounded by Vincent Street, Beaufort Street, Lincoln Street and William Street, in the Mount Lawley/Highgate Precinct.

4.6.2 Multiple dwellings are not permitted in the area coded R50 and R25 between Cleaver Street and Beaufort Street in the Perth Precinct.

4.6.3 The use Multiple Dwelling is an 'A' use in accordance with Clause 4.3.2 on land zoned R30 and below in Mount Hawthorn.

4.7 ADDITIONAL USES

Despite anything contained in the Zoning Table, the land specified in Schedule 2 may be used for the specific use or uses that are listed in addition to any uses permissible in the zone in which the land is situated subject to the conditions set out in Schedule 2 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 permissible in that zone that applies to the land.

4.8 RESTRICTED USES

Despite anything else contained in the Zoning Table, the land specified in Schedule 3 may only be used for the specific use or uses that are listed and subject to the conditions set out in Schedule 3 with respect to that land.

There are no restricted uses which apply to the Scheme.

Note: A restricted use is the only use or uses that is permitted on a specific portion of land and other uses that would otherwise be permissible in the zone are not permitted.

4.9 SPECIAL USE ZONES

4.9.1 Special use zones are set out in Schedule 4 and are in addition to the zones in the Zoning Table.

4.9.2 A person must not use any land, or any structure or buildings on land, in a special use zone except for the purpose set out against that land in Schedule 4 and subject to compliance with any conditions set out in Schedule 4 with respect to that land.

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

4.10 NON-CONFORMING USE

Except as otherwise provided in the Scheme, no provision of the Scheme is to be taken to prevent —

- (a) the continued use of any land for the purpose for which it was being lawfully used immediately prior to the Gazettal date;
- (b) the carrying out of any development on that land for which, immediately prior to the Gazettal date, an approval or approvals, lawfully required to authorise the development to be carried out, were duly obtained and are current; or
- (c) subject to clause 11.2.1, the continued display of advertisements which were lawfully erected, placed or displayed prior to the Gazettal date.

Note: "Land" has the same meaning as in the *Planning and Development Act 2005* and includes houses, buildings and other works and structures.

4.11 EXTENSIONS AND CHANGES TO A NON-CONFORMING USE

4.11.1 A person must not —

- (a) alter or extend a non-conforming use;
- (b) erect, alter or extend a building used in conjunction with or in furtherance of a non-conforming use; or
- (c) change the use of land from a non-conforming use to another non-conforming use,

without first having applied for and obtained planning approval under the Scheme.

4.11.2 An application for planning approval under this clause is to be advertised in accordance with clause 9.7.

4.11.3 Where an application is for a change of use from an existing non-conforming use to another non-conforming use, the local government is not to grant its planning approval unless the proposed use is less detrimental to the amenity of the locality than the existing non-conforming use and is, in the opinion of the local government, closer to the intended purpose of the zone.

4.12 DISCONTINUANCE OF A NON-CONFORMING USE

Where a non-conforming use of any land has been discontinued for a period of 6 months the land must not be used after that period otherwise than in conformity with the provisions of the Scheme.

4.13 TERMINATION OF A NON-CONFORMING USE

The local government may effect the discontinuance of a non-conforming use by the purchase of the land, or by the payment of compensation to the owner or occupier or to both the owner and occupier of that land, and may enter into an agreement with the owner for that purpose.

Note: Section 190 & 191 of the *Planning and Development Act 2005* enables the local government to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a town planning scheme, subject to Part 9 of the *Land Administration Act 1997*, that section and the Scheme.

4.14 DESTRUCTION OF NON-CONFORMING USE BUILDINGS

If a building used for a non-conforming use is destroyed to 75% or more of its value, the building is not to be repaired, 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 local government.

Notes:

1. A person who wishes the local government to record a non-conforming use may submit to the local government in writing full details of the nature, location and extent of the non-conforming use.
2. Where the local government 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 non-conforming uses is to be –
 - Kept at the offices of the local government; and
 - Made available for public inspection during office hours.
4. A register of non-conforming uses can be found in the local government's Planning Policy Manual

4.15 MULTIPLE DWELLINGS IN WEST PERTH

- 4.15.1 "Dwelling (multiple)" is designated as a 'D' use for the areas zoned "Commercial" and bounded by the Mitchell Freeway, Loftus Street and Newcastle Street in the Perth Precinct.

PART 5 – GENERAL DEVELOPMENT REQUIREMENTS

5.1 COMPLIANCE WITH DEVELOPMENT STANDARDS AND REQUIREMENTS

- 5.1.1 Any development of land is to comply with the provisions of the Scheme
- 5.1.2 Unless otherwise specified in the Scheme, development requirements shall be determined by the Council having regard to any relevant Local Planning Policy adopted under the Scheme.

5.2 RESIDENTIAL DESIGN CODES

- 5.2.1 A copy of the Residential Design Codes is to be kept and made available for public inspection at the offices of the local government during office hours.
- 5.2.2 Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform with the provisions of those Codes.
- 5.2.3 The Residential Design Codes density applicable to land within the Scheme area is to be determined by reference to the Residential Design Codes density number superimposed on the particular areas contained within the borders shown on the Scheme Map or where such an area abuts another area having a Residential Design Code density, as being contained within the area defined by the centre-line of those borders.

5.3 SPECIAL APPLICATION OF RESIDENTIAL DESIGN CODES

5.3.1 Dual Coding

Within the areas coded R30/40 in the North Perth Precinct, development will only be permitted to R40 standards where the existing house is retained.

5.3.2 Corner Sites

For corner sites, on the corner of two (2) dedicated roads, within areas coded R20, R30 and R40, the Local Government may grant a reduction in the average site area of up to 20% and a decrease in the minimum site area specified in the Residential Design Codes by 10%, where the existing house is retained. This does not apply to land subject to Clause 5.3.1.

5.3.3 Sliding Densities

- (a) Within the area coded R60-R100 along Charles Street in the North Perth Precinct, development will only be permitted to R100 standards where the lot area is greater than 2,000 square meters.
 - (b) Within the area coded R60 – R100 along Fitzgerald Street in the North Perth Precinct, development will only be permitted to R100 standards where the lot area is greater than 2,000 square meters.
- 5.3.4 The Local Government may impose maximum residential car parking requirements as outlined in the relevant Local Planning Policy.
- 5.3.5 In the residential area east of Joel Terrace in the Mount Lawley/Highgate Precinct a minimum of two parking spaces must be provided for each dwelling.
- 5.3.6 Notwithstanding any other provision of the Scheme, where the general site requirements of an approved residential development is greater than that permitted by the relevant R-Code applicable under the Scheme, the Local Government may permit the site to be redeveloped to meet the general site requirements of the relevant R Code.
- 5.3.7 Within areas coded R40 bound by Vincent Street, Beaufort Street, Walcott Street and Fitzgerald Street, a maximum of two dwellings will be permitted per lot.

5.4 RESTRICTIVE COVENANTS

- 5.4.1 Subject to clause 5.4.2, a restrictive covenant affecting any land in the Scheme area by which, or the effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme, is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Design Codes which apply under the Scheme.
- 5.4.2 Where clause 5.4.1 operates to extinguish or vary a restrictive covenant the local government is not to grant planning approval to the development of the land which would, but for the operation of clause 5.4.1, have been prohibited unless the application has been dealt with as an 'A' use and has complied with all of the advertising requirements of clause 9.7.

5.5 VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS

5.5.1 Variations to Standards or Requirements Prescribed under the Scheme

- (a) Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the local government, may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.
- (b) In considering an application for planning approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers of any land in the locality, the local government is to —
 - (i) consult with the affected parties by following one or more of the provisions for advertising uses under clause 9.7; and
 - (ii) have regard to any submissions received or expressed views prior to making its determination to grant the variation.
- (c) The power conferred by this clause may only be exercised if the local government is satisfied that —
 - (i) approval of the proposed development would be appropriate having regard to the matters set out in clause 10.2; and
 - (ii) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.
 - (iii) the decision is made by an absolute majority of the Local Government.

5.6 ENVIRONMENTAL CONDITIONS

There are no environmental conditions imposed by the Minister for Environment which apply to this Scheme.

5.7 CONSERVATION OF TREES

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

5.8 LOCAL DEVELOPMENT PLAN

5.8.1 A local development plan under clause 5.8 is required in accordance with clause 6.2.15 prior to the lodgment of a subdivision and/or development application in the following instances;

- (a) Has a total site area of more than 3,000m²;
- (b) Exceeds 4 storeys in height;
- (c) Notwithstanding the site may not be subject to Development Area provisions under Part 7 of the Scheme; and
- (d) The local development plan is to be prepared and submitted by an owner or a proponent, and processed accordingly under clause 6.2.15 of the Scheme.

5.8.2 In addition to Clauses 5.8.1 (a) – (d) the local government may require a local development plan for any other development proposal.

5.9 ACTIVITY CENTRE STRUCTURE PLAN

5.9.1 Any application for major development on land in the District and/or Regional 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 6.2 of the Scheme.

5.9.2 Notwithstanding clause 5.8.1, 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.

5.9.3 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 6.2 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.

PART 6 – SPECIAL CONTROL AREAS

6.1 OPERATION OF SPECIAL CONTROL AREAS

6.1.1 There are no special control areas which apply to the Scheme

6.1.2 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

6.2 DEVELOPMENT AREAS

6.2.1 Interpretation

In clause 6.2, unless the context otherwise requires:

‘Structure Plan’ means a structure plan that has come into effect in accordance with clause 6.2.12(a); and

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

6.2.2 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 13 describes the Development Areas in detail and sets out the specific purposes and requirements that apply to the Development Area.

6.2.3 Subdivision and Development in Development Areas

(a) The development of land within a Development Area is to comply with Schedule 12.

(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.

6.2.4 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 6.2.4(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.

6.2.5 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.

6.2.6 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 6.2.6(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 6.2.6(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 6.2.6(a) are to:
- (aa) be drawn to a scale that clearly illustrates the details referred to in clause 6.2.6(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.

6.2.7 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 20 000m², 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.

6.2.8 Advertising of structure plan

- (a) Within 60 days of preparing or receiving a proposed structure plan that conforms with clause 6.2.6 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
 - (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.

6.2.9 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 6.2.9(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 6.2.9(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;
 - (iii) and thereafter, the procedures set out in clause 6.2.8(a) onwards are to apply.

- (d) If within the period referred to in clause 6.2.9(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 6.2.9(a), the local government is deemed to have refused to adopt the proposed structure plan.

6.2.10 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 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 6.2.9(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 6.2.10(b).

6.2.11 Notification of structure plan

- (a) As soon as practicable after adopting a proposed structure plan under clause 6.2.9(a) and if clause 6.2.10 applies, as soon as practicable after being notified of the Commission's decision under clause 6.2.10(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.

6.2.12 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 6.2.10(b); or
 - (ii) on the day on which it is adopted by the local government under clause 6.2.9(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.

6.2.13 Inspection of structure plan

- (a) The structure plan and the Commission's notification under clause 6.2.10(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.

6.2.14 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 6.2.6 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 6.2.14(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 6.2.14(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 6.2.14(d); or
 - (ii) on the day on which the local government resolves to make the variation under clause 6.2.14(a)(i).

6.2.15 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 6.2.15(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 6.2.15(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 6.2.15(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 6.2.15 onwards provided such variations do not prejudice the intention of any related structure plan.

6.2.16 Appeal

- (a) An owner who has submitted a proposed structure plan under clause 6.2.7(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 6.2.8(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 6.2.15 may appeal, in accordance with Part 14 of the Planning and Development Act 2005, any discretionary decision made by the local government under clause 6.2.15.

6.3 - DEVELOPMENT CONTRIBUTION AREAS

6.3.1 Interpretation

In clause 6.3, 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 6.3.10.

“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 13.

“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 6.3 of the scheme (as incorporated in schedule 13 to this scheme).

“Development contribution plan report” means a report prepared and distributed in accordance with clause 6.3.10.

“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.

6.3.2 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.

6.3.3 Development contribution plan required

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

6.3.4 Development contribution plan part of scheme

The development contribution plan is incorporated in Schedule 13 as part of this scheme.

6.3.5 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.

6.3.6 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.

6.3.7 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.

6.3.8 Period of development contribution plan

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

6.3.9 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.

6.3.10 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 6.3.11.

6.3.11 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 6.3.12; 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 6.3.11(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.

6.3.12 Valuation

- (a) Clause 6.3.12 applies in order to determine the value of land to be acquired for the purpose of providing Infrastructure.

(b) In clause 6.3.12 —

“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 14. 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.

6.3.13 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 6.3.

(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 6.3.13(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 6.3.8, 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.

6.3.14 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 instalments 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.

6.3.15 Charge on land

- (a) The amount of any cost contribution for which an owner is liable under clause 6.3.13, 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 6.3.15(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 6.3.15.

6.3.16 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 6.3.16(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.

6.3.17 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 6.3.17(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.

6.3.18 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.

6.3.19 Arbitration

Subject to clauses 6.3.12(c) and 6.3.12(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.

PART 7 – HERITAGE PROTECTION

7.1 HERITAGE LIST

- 7.1.1 The local government is to establish and maintain a Heritage List to identify those places within the Scheme area which are of cultural heritage significance and worthy of conservation under the provisions of the Scheme, together with a description of each place and the reasons for its entry.
- 7.1.2 In the preparation of the Heritage List the local government is to –
- (a) have regard to the municipal inventory prepared by the local government under section 45 of the Heritage of Western Australia Act 1990; and
 - (b) include on the Heritage List such of the entries on the municipal inventory as it considers to be appropriate.
- 7.1.3 In considering a proposal to include a place on the Heritage List the local government is to —
- (a) notify in writing the owner and occupier of the place and provide them with a copy of the description proposed to be used under clause 7.1.1 and the reasons for the proposed entry;
 - (b) invite submissions on the proposal from the owner and occupier of the place within 21 days of the day the notice is served;
 - (c) carry out such other consultations as it thinks fit; and
 - (d) consider any submissions made and resolve to enter the place on the Heritage List with or without modification or reject the proposal after consideration of the submissions.
- 7.1.4 Where a place is included on the Heritage List, the local government is to give notice of the inclusion to the Commission, the Heritage Council of Western Australia and to the owner and occupier of the place.
- 7.1.5 The local government is to keep a copy of the Heritage List with the Scheme documents for public inspection during office hours.
- 7.1.6 The local government may remove or modify the entry of a place on the Heritage List by following the procedures set out in clause 7.1.3.

- Note:
1. The purpose and intent of the heritage provisions are —
 - (a) to facilitate the conservation of places of heritage value; and
 - (b) to ensure as far as possible that development occurs with due regard to heritage values.
 2. A “place” is defined in Schedule 1 and may include works, buildings and contents of buildings.

7.2 DESIGNATION OF A CHARACTER RETENTION AREA

7.2.1 If, in the opinion of the local government, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area, the local government may, by resolution, designate that area as a character retention area.

7.2.2 The local government is to —

- (a) adopt for each character retention area a Local Planning Policy which is to comprise —
 - (i) a map showing the boundaries of the character retention area;
 - (ii) a record of places of heritage significance; and
 - (iii) objectives and guidelines for the conservation of the character retention area; and
- (b) keep a copy of the Local Planning Policy for any designated character retention area with the Scheme documents for public inspection during office hours.

7.2.3 If a local government proposes to designate an area as a character retention area, the local government is to —

- (a) notify in writing each owner of land affected by the proposed designation and provide the owner with a copy of the proposed Local Planning Policy for the character retention area;
- (b) advertise the proposal by —
 - (i) publishing a notice of the proposed designation once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area;
 - (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and

- (iii) such other methods as the local government considers appropriate to ensure widespread notice of the proposal; and
 - (c) carry out such other consultation as the local government considers appropriate.
- 7.2.4 Notice of a proposal under clause 7.2.3(b) is to specify —
 - (a) the area subject of the proposed designation;
 - (b) where the proposed Local Planning Policy which will apply to the proposed character retention area may be inspected; and
 - (c) in what form and in what period (being not less than 21 days from the day the notice is published or the sign is erected, as the case requires) submissions may be made.
- 7.2.5 After the expiry of the period within which submissions may be made, the local government is to —
 - (a) review the proposed designation in the light of any submissions made; and
 - (b) resolve to adopt the designation with or without modification, or not to proceed with the designation.
- 7.2.6 If the local government resolves to adopt the designation, the local government is to forward a copy of the designation to the Heritage Council of Western Australia, the Commission and each owner of land affected by the designation.
- 7.2.7 The local government may modify or revoke a designation of a character retention area.
- 7.2.8 Clauses 7.2.3 to 7.2.6 apply, with any necessary changes, to the amendment of a designation of a character retention area.

7.3 HERITAGE AGREEMENTS

The local government may, in accordance with the *Heritage of Western Australia Act 1990*, enter into a heritage agreement with an owner or occupier of land or a building for the purpose of binding the land or affecting the use of the land or building insofar as the interest of that owner or occupier permits.

- Note:
- 1. A heritage agreement may include a covenant intended to run with the land relating to the development or use of the land or any part of the land.
 - 2. Detailed provisions relating to heritage agreements are set out in the *Heritage of Western Australian Act 1990*.

7.4 HERITAGE ASSESSMENT

Despite any existing assessment on record, the local government may require a heritage assessment to be carried out prior to the approval of any planning application, including proposed demolition.

7.5 VARIATIONS TO SCHEME PROVISIONS FOR A HERITAGE PLACE OR CHARACTER AREA

Where desirable to —

- (a) facilitate the conservation of a heritage place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the Heritage List under clause 7.1.1; or
- (b) enhance or preserve heritage values in a character area designated under clause 7.2.1,

the local government may vary any site or development requirement specified in the Scheme or the Residential Design Codes by following the procedures set out in clause 5.5.1.

PART 8 – DEVELOPMENT OF LAND

8.1 REQUIREMENT FOR APPROVAL TO COMMENCE DEVELOPMENT

Subject to clause 8.2, all development on land zoned and reserved under the Scheme requires the prior approval of the local government. A person must not commence or carry out any development without first having applied for and obtained the planning approval of the local government under Part 9.

- Note:
1. The planning approval of the local government is required for both the development of land (subject of this Part) and the use of land (subject of Part 4).
 2. Development includes the erection, placement and display of any advertisements.
 3. Approval to commence development may also be required from the Commission under the Metropolitan Region Scheme.
 4. 'Development' is defined in Schedule 1. As well as building works it includes:
 - any unlisted use (see clause 9.7.1)
 - demolition

8.2 PERMITTED DEVELOPMENT

Except as otherwise provided in the Scheme, for the purposes of the Scheme the following development does not require the planning approval of local government —

- (a) the carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is —
 - (i) located in a place that has been entered in the Register of Heritage 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) included on the Heritage List under clause 7.1 of the Scheme;
- (b) the erection on a lot of a single house including any extension, ancillary outbuildings and swimming pools, except where —
 - (i) the proposal requires the exercise of a discretion by the local government under the Scheme to vary the provisions of the Residential Design Codes; or

- (ii) the development will be located in a heritage area designated under the Scheme or located in a place included on the Heritage List;
- (c) home office;
- (d) home occupation;
- (e) any works which are temporary and in existence for less than 48 hours or such longer time as the local government agrees;
- (f) any of the exempted classes of advertisements listed in Schedule 5 except in respect of a place included in the Heritage List or in a Character Retention_area;
- (g) 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 Design Codes; and
- (h) the use of land in a reserve, where such land is held by the Local Government 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.
- (i) new street fences, walls and gates, including those adjacent to secondary street frontages and main roads that fully comply with the acceptable development provisions of the Local Government Policies, and Local Laws;
- (j) retaining walls that do not exceed 500 millimetres in height;
- (k) filling or excavation of land that does not exceed 500 millimetres in height or, in the opinion of the Local Government, is over a limited area of the lot and will not constitute a significant alteration of the natural ground level of the land;
- (l) single storey pergolas, porches, roofs, patios, verandahs, garages, carports, outbuildings and external fixtures (such as those items attached to buildings as identified in 6.10 Element

10 - Incidental Development of the Residential Design Codes) appurtenant, to a single house, grouped dwelling, multiple dwelling, that fully comply with the acceptable development provisions of the Residential Design Codes and the Local Government Policies;

- (m) swimming pools where no part is more than 500 millimetres above the surrounding ground level;
- (n) sun-shade sails and the like, used for the purpose of providing shade provided that they:
 - (i) are not located within any primary street setback area;
 - (ii) do not exceed 3.0 metres in height; and
 - (iii) do not exceed 20 square metres in area”
- (o) garage sales, fairs, fetes, circus, charity goods sales and the like;
- (p) maximum of two amusement machines;
- (q) shop front alterations where the alignment is unaltered, where not affecting heritage requirements or which do not include the installation of roller doors and shutters. Shopfronts are to maintain an active and interactive relationship between the development and the adjacent street(s), to ensure surveillance and visual amenity of the public domain and communal spaces;
- (r) family day care centres for five or less children;
- (s) signs and advertising on public places and reserves relating to:
 - (i) the functions of government, a public authority or the local government, excluding those of a promotional nature constructed or exhibited by, or on behalf of, any such body;
 - (ii) required for the management and control of traffic on any public road, car park, cycleway, railway or waterway where such advertisement has been constructed, exhibited by or at the direction of a government department, public authority or the local government; and
 - (iii) required to be exhibited by or pursuant to any statute or regulation or the like made pursuant to powers contained within a statute provided that any such advertisement is constructed and/or exhibited strictly in accordance with the requirements specified therein;
- (t) change of text and graphics on existing signs and advertising;

- (u) works to a building in a dangerous state or of an emergency endangering any person, building or structure, such that the building will be a replication of the building before it became dangerous or of an emergency, or the works fully comply with the acceptable development provisions of the Residential Design Codes and the Local Government Policies, where applicable;
- (v) temporary offices and sheds (including containers) used by builders or contractors directly associated with the building works occurring on site for the duration of completing those building works and operations;
- (w) Alfresco Blinds on approved premises with Alfresco Dining Licences used for the purpose of outdoor weather protection provided that they:
 - (i) are non-reflective, transparent and lightweight in appearance and do not have the visual or apparent effect of enclosing public space;
 - (ii) are removed from public areas at the close of business each day;
 - (iii) do not hinder use of public areas during and after trading hours; and
 - (iv) do not cause injury to or prejudicially affect the amenity of the immediate area;
- (x) Water Tanks, provided that:
 - (i) the aggregated capacity is less than 2 cubic metres if located within the primary street setback area; and
 - (ii) no part is more than 2 metres above the surrounding ground level.
- (y) Satellite Dishes where:
 - (i) it is less than one metre in diameter;
 - (ii) it is not located on a wall or that portion of the roof of a building which faces, or is visible from, the primary street or foreshore reserves;
 - (iii) it is not located within any street setback area;
 - (iv) it does not project above the ridgeline of the building or is

- not visible from the primary street or foreshore reserves;
- (v) it is coloured in a similar colour to the wall or roof of the building it is erected upon if it is visible from any nearby properties; and
 - (vi) there are no other satellite dishes or microwave antennae on the lot.
- (z) Microwave Antennae where:
- (i) it has an area less than 0.6 square metres;
 - (ii) it does not project higher than 3 metres above the ridge line of the building except where it is attached to an existing television mast; and
 - (iii) there are no satellite dishes or other microwave antennae on the lot.
- (aa) Tower masts for the transmission and reception of radio signals where it is not in excess of 5 metres from the natural ground level, or if in excess of 5 metres from the natural ground level where there are no written valid objections received by the local government;
- (bb) mobile communication facilities temporarily located at any one specific place for a period not exceeding one week; and
- (cc) essential State Emergency Service communication equipment, and any other essential emergency service authority or telecommunications authority acting within the scope of its statutory responsibilities.

Note: Development carried out in accordance with a subdivision approval granted by the Commission is exempt under- Part 10 of the *Planning and Development Act 2005*.

8.3 AMENDING OR REVOKING A PLANNING APPROVAL

The local government may, on written application from the owner of land in respect of which planning approval has been granted, revoke or amend the planning approval, prior to the commencement of the use or development subject of the planning approval.

8.4 UNAUTHORISED EXISTING DEVELOPMENTS

8.4.1 The local government may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.

8.4.2 Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of planning approval.

- Note:
1. Applications for approval to an existing development are made under Part 9.
 2. The approval by the local government of an existing development does not affect the power of the local government to take appropriate action for a breach of the Scheme or the Act in respect of the commencement or carrying out of development without planning approval.

PART 9 – APPLICATIONS FOR PLANNING APPROVAL

9.1 FORM OF APPLICATION

9.1.1 An application for approval for one or more of the following —

- (a) a use or commencement of development on a Local Reserve under clause 3.4;
- (b) commencement of a 'P' use which does not comply with all relevant development standards and requirements of the Scheme as referred to in clause 4.3.2;
- (c) commencement of a 'D' use or an 'A' use as referred to in clause 4.3.2;
- (d) commencement of a use not listed in the Zoning Table under clause 4.4.2(b);
- (e) alteration or extension of a non-conforming use under clause 4.11;
- (f) a change of a non-conforming use under clause 4.11;
- (g) continuation of a non-conforming use under clause 4.12;
- (h) variation of a site or development requirement under clause 5.5;
- (i) commencement of development under clause 8.1;
- (j) continuation of development already commenced or carried out under clause 8.4;
- (k) a subsequent planning approval pursuant to an approval under clause 10.8.1; and
- (l) the erection, placement or display of an advertisement,

is, subject to clause 9.1.2, to be made in the form prescribed in Schedule 6 and is to be signed by the owner, and accompanied by such plans and other information as is required under the Scheme.

9.1.2 An application for the erection, placement or display of an advertisement is to be accompanied by the additional information set out in the form prescribed in Schedule 7.

Note: 1. Under the provisions of the Metropolitan Region Scheme, an application for planning approval in respect of land which is wholly within a regional reserve

is to be referred by the local government to the Commission for determination. No separate determination is made by the local government.

2. An application for planning approval in respect of land which is wholly within the development control area of the Swan River Trust is to be referred by the local government to the Swan River Trust for determination by the Minister responsible for the *Swan and Canning Rivers Management Act 2006*
3. An application for planning approval in respect of land which is zoned under the Metropolitan Region Scheme and is —
 - (a) affected by a gazetted notice of resolution made by the Commission under clause 32 of the Metropolitan Region Scheme;
 - (b) within or partly within a planning control area declared by the Commission under part 7 of the *Planning and Development Act 2005*.
 - (c) partly within the development control area of the Swan River Trust or which abuts waters that are in that area; or
 - (d) affected by a notice of delegation published in the *Gazette* by the Commission under the Planning and Development Act 2005 and is not of a type which may be determined by the local government under that notice,

is to be referred by the local government to the Commission in accordance with the requirements of the Metropolitan Region Scheme and notice of delegation. Separate determinations are made by the local government under the Scheme and the Commission under the Region Scheme.

9.2 ACCOMPANYING MATERIAL

Unless the local government waives any particular requirement every application for planning approval is to be accompanied by —

- (a) a plan or plans to a scale of not less than 1:500 showing —
 - (i) the location of the site including street names, lot numbers, north point and the dimensions of the site;
 - (ii) the existing and proposed ground levels over the whole of the land the subject of the application and the location, height and type of all existing structures, and structures and vegetation proposed to be removed;
 - (iii) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
 - (iv) the existing and proposed means of access for pedestrians and vehicles to and from the site;
 - (v) the location, number, dimensions and layout of all car parking spaces intended to be provided;

- (vi) 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;
- (vii) 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
- (viii) 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;
- (c) any specialist studies that local government may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies;
- (d) any other plan or information that the local government may require to enable the application to be determined;
- (e) details of sustainability principles demonstrated in the development should be included.

9.3 ADDITIONAL MATERIAL FOR HERITAGE MATTERS

Where an application relates to a place entered on the Heritage List or within a character retention area, the local government may require an applicant to provide one or more of the following to assist the local government 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) a detailed schedule of all finishes, including materials and colours of the proposed development and, unless the local government 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.

9.4 ADDITIONAL MATERIALS FOR COMMERCIAL DEVELOPMENTS

Where an application relates to commercial development, information relating to the potential employment generated through the economic activity of the development, and employment self-sufficiency and self-containment details are to be provided to assist the local government in its determination of the application.”

9.5 ADDITIONAL MATERIALS FOR AFFORDABLE HOUSING DEVELOPMENTS

Where an application relates to affordable housing development, details of housing agreements are to be provided to assist the local government in its determination of the application.

9.6 DESIGN ADVISORY COMMITTEE

9.6.1 The Local Government is to appoint a design advisory committee for the purpose of considering, and advising the Council with respect to, applications.

9.6.2 The Design Advisory Committee may be consulted on design matters relating to development.

9.6.3 The Design Advisory Committee is to operate in accordance with the guidelines outlined in the Terms of Reference relating to a Design Advisory Committee.

9.7 ADVERTISING OF APPLICATIONS

9.7.1 Where an application is made for planning approval to commence a use or commence or carry out development which involves a use which is —

- (a) an 'A' use as referred to in clause 4.3.2; or
- (b) a use not listed in the Zoning Table (unlisted use),

the local government is not to grant approval to that application unless notice is given in accordance with clause 9.7.3.

9.7.2 Despite clause 9.7.1, where application is made for a purpose other than a purpose referred to in that clause, the local government may require notice to be given in accordance with clause 9.7.3.

9.7.3 The local government may give notice or require the applicant to give notice of an application for planning approval in one or more of the following ways —

- (a) notice of the proposed use or development served on nearby owners and occupiers who, in the opinion of the local government, are likely to be affected by the granting of planning approval, stating that submissions may be made to the local government by a specified date being not less than 14 days from the day the notice is served;

- (b) notice of the proposed use or development published in a newspaper circulating in the Scheme area stating that submissions may be made to the local government by a specified day being not less than 14 days from the day the notice is published;
- (c) a sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than 14 days from the day the notice is erected.

9.7.4 The notice referred to in clause 9.4.3(a) and (b) is to be in the form prescribed in Schedule 8 with such modifications as are considered appropriate by the local government.

9.7.5 Any person may inspect the application for planning approval referred to in the notice and the material accompanying that application at the offices of the local government.

9.7.6 After the expiration of the specified period from the serving of notice of the application for planning approval, the publication of the notice or the erection of a sign or signs, whichever is the later, the local government is to consider and determine the application.

PART 10 – PROCEDURE FOR DEALING WITH APPLICATIONS

10.1 CONSULTATION WITH OTHER AUTHORITIES

10.1.1 In considering an application for planning approval the local government may consult with any other statutory, public or planning authority it considers appropriate.

10.1.2 In the case of land reserved under the Scheme for the purposes of a public authority, the local government is to consult that authority before making its determination.

10.2 MATTERS TO BE CONSIDERED BY LOCAL GOVERNMENT

The local government in considering an application for planning approval is to have due regard to such of the following matters as are in the opinion of the local government relevant to the use or development the subject of the application —

- (a) the aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area (including the Metropolitan Region Scheme);
- (b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;
- (c) any approved statement of planning policy of the Commission;
- (d) any approved environmental protection policy under the *Environmental Protection Act 1986*;
- (e) any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State;
- (f) any Local Planning Policy adopted by the local government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the local government under the Scheme;
- (g) in the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;
- (h) the conservation of any place that has been entered in the Register within the meaning of the *Heritage of Western Australia Act 1990*, or which is included in the Heritage List under clause 7.1, and the effect of the proposal on the character or appearance of a heritage area;

- (i) the compatibility of a use or development with its setting;
- (j) any social issues that have an effect on the amenity of the locality;
- (k) the cultural significance of any place or area affected by the development;
- (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (m) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- (n) the preservation of the amenity of the locality;
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (r) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
- (s) whether public utility services are available and adequate for the proposal;
- (t) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (u) whether adequate provision has been made for access by disabled persons;
- (v) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;

- (w) whether the proposal is likely to cause soil erosion or land degradation;
- (x) the potential loss of any community service or benefit resulting from the planning approval;
- (y) any relevant submissions received on the application;
- (z) the comments or submissions received from any authority consulted under clause 10.1.1;
- (za) any other planning consideration the local government considers relevant;
- (zb) whether the development provides employment opportunities and promotes employment self-sufficiency and self-containment within the City;
- (zc) whether the development addresses the key principles of sustainability; and
- (zd) whether the development provides affordable housing options;
- (ze) comments and / or recommendations received from the local governments Design Advisory Committee;
- (zf) any proposed activity centre structure plan where it is required for the proposed development;
- (zg) any approved local development plan that applies to the site.

10.3 DETERMINATION OF APPLICATIONS

10.3.1 In determining an application for planning approval the local government may —

- (a) grant its approval with or without conditions; or
- (b) refuse to grant its approval.

10.3.2 In determining a planning application for or involving demolition, the local government is to have regard to the matters listed in Clause 10.2 above 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 application;
and
- (ii) 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 local government; or
- (c) may refuse the application.

10.4 FORM AND DATE OF DETERMINATION

10.4.1 As soon as practicable after making a determination in relation to the application, the local government is to convey its determination to the applicant in the form prescribed in Schedule 9 and the date of determination is to be the date given in the notice of the local government's determination.

10.4.2 Where the local government refuses an application for planning approval the local government is to give reasons for its refusal.

10.5 TERM OF PLANNING APPROVAL

10.5.1 Where the local government grants planning approval for the development of land —

- (a) the development approved is to be substantially commenced within 2 years, or such other period as specified in the approval, after the date of the determination; and
- (b) the approval lapses if the development has not substantially commenced before the expiration of that period.

10.5.2 A written request may be made to the local government for an extension of the term of planning approval at any time prior to the expiry of the approval period in clause 10.5.1.

10.6 TEMPORARY PLANNING APPROVAL

Where the local government grants planning approval, the local government may impose conditions limiting the period of time for which the approval is granted.

Note: A temporary planning approval is where the local government grants approval for a limited period, for example, where the land may be required for some other purpose in the future, and is different to the term of the planning approval which is the period within which the development must commence.

10.7 SCOPE OF PLANNING APPROVAL

Planning approval may be granted —

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

10.8 APPROVAL SUBJECT TO LATER APPROVAL OF DETAILS

10.8.1 Where an application is for a development that includes the carrying out of any building or works, the local government may grant approval subject to matters requiring the subsequent planning approval of the local government. These matters may include the siting, design, external appearance of the buildings, means of access, landscaping, and such other matters as the local government thinks fit.

10.8.2 In respect of an approval requiring subsequent planning approval, the local government may require such further details as it thinks fit prior to considering the application.

10.8.3 Where the local government has granted approval subject to matters requiring the later planning approval of the local government, an application for approval of those matters must be made not later than 2 years after the date of the determination of the first approval, or such other period as is specified in the approval.

10.9 DEEMED REFUSAL

10.9.1 Subject to clause 10.9.2, an application for planning approval is deemed to have been refused if a determination in respect of that

application is not conveyed to the applicant by the local government within 60 days of the receipt of the application by the local government, or within such further time as is agreed in writing between the applicant and the local government.

10.9.2 An application for planning approval which is the subject of a notice under clause 9.4 is deemed to be refused where a determination in respect of that application is not conveyed to the applicant by the local government within 90 days of the receipt of the application by the local government, or within such further time as is agreed in writing between the applicant and the local government.

10.9.3 Despite an application for planning approval being deemed to have been refused, the local government may issue a determination in respect of the application at any time after the expiry of the period specified in clause 10.9.1 or 10.9.2, as the case requires, and that determination is as valid and effective from the date of determination as if it had been made before the period expired.

10.10 APPEALS

An applicant aggrieved by a determination of the local government in respect of the exercise of a discretionary power under the Scheme may apply for review to the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

PART 11 – ENFORCEMENT AND ADMINISTRATION

11.1 POWERS OF THE LOCAL GOVERNMENT

11.1.1 The local government in implementing the Scheme has the power to —

- (a) enter into an agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matter pertaining to the Scheme;
- (b) acquire any land or buildings within the Scheme area under the provisions of the Scheme or the *Planning and Development Act 2005*; and
- (c) deal with or dispose of any land which it has acquired under the provisions of the Scheme or 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.

11.1.2 An employee of the local government authorised by the local government may, at all reasonable times and with such assistance as may be required, enter any building or land for the purpose of ascertaining whether the provisions of the Scheme are being observed.

11.2 REMOVAL AND REPAIR OF EXISTING ADVERTISEMENTS

11.2.1 Where an existing advertisement at, or at any time after, the coming into force of the Scheme, is, in the opinion of the local government, in conflict with the amenity of the locality, the local government may by written notice (giving clear reasons) require the advertiser to remove, relocate, repair, adapt or otherwise modify the advertisement.

11.2.2 Where, in the opinion of the local government, an advertisement has deteriorated to a point where it is in conflict with the aims of the Scheme or it ceases to be effective for the purpose for which it was erected or displayed, the local government may by written notice require the advertiser to —

- (a) repair, repaint or otherwise restore the advertisement to a standard specified by the local government in the notice; or
- (b) remove the advertisement.

11.2.3 For the purpose of clauses 11.2.1 and 11.2.2 any notice is to be served on the advertiser and is to specify —

- (a) the advertisement the subject of the notice;
- (b) full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice; and
- (c) the period, being not less than 60 days from the date of the local government's determination, within which the action specified is to be completed by the advertiser.

11.2.4 A person on whom notice is served under this clause may apply for a review of the determination of the local government to the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

11.3 DELEGATION OF FUNCTIONS

11.3.1 The local government may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or the CEO, within the meaning of those expressions under the *Local Government Act 1995*, the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.

11.3.2 The CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under clause 11.3.1.

11.3.3 The exercise of the power of delegation under clause 11.3.1 requires a decision of an absolute majority as if the power had been exercised under the *Local Government Act 1995*.

11.3.4 Sections 5.45 and 5.46 of the *Local Government Act 1995* and the regulations referred to in section 5.46 apply to a delegation made under this clause as if the delegation were a delegation under Division 4 of Part 5 of that Act.

11.4 PERSON MUST COMPLY WITH PROVISIONS OF SCHEME

A person must not —

- (a) contravene or fail to comply with the provisions of the Scheme;
- (b) use any land or commence or continue to carry out any development within the Scheme area —
 - (i) otherwise than in accordance with the Scheme;

- (ii) unless all approvals required by the Scheme have been granted and issued;
- (iii) otherwise than in accordance with any conditions imposed upon the grant and the issue of any approval required by the Scheme; and
- (iv) otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or determined by the local government under the Scheme with respect to that building or that use.

Note: Section 218 of the *Planning and Development Act 2005* provides that a person who —

- (a) contravenes or fails to comply with the provisions of a planning scheme;
- (b) commences, continues to carries out any development in any part of a region the subject of a region planning scheme or any part of an area the subject of a local planning scheme otherwise than in accordance with the provisions of the planning scheme;
- (c) commences, continues or carries out any such development which is required to comply with a planning scheme otherwise in accordance with any condition imposed under this Act or the scheme with respect to the development, or otherwise fails to comply with any such condition, commits an offence.

Penalty: \$50 000, and a daily penalty of \$5 000.

11.5 COMPENSATION

11.5.1 A person whose land or property is injuriously affected by the making or amendment of the Scheme may make a claim for compensation under section 173 of the *Planning and Development Act 2005*

- (a) in any case, within 6 months of the date of publication of notice of the approval of the Scheme or the amendment, as the case requires, in accordance with the *Town Planning Regulations 1967*; or
- (b) where the land has been reserved for a public purpose and —
 - (i) an application made under the Scheme for approval to carry out development on the land is refused; or
 - (ii) an application made under the Scheme for approval to carry out development on the land is granted subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a public purpose, not later than 6 months after the application is refused or the permission granted.

11.5.2 A person whose land or property is injuriously affected by the making of a Scheme may not claim compensation for that injurious affection more than once under clause 11.5.1.

- Note:
1. A claim for compensation in respect of the refusal of planning approval or the imposition of conditions on land reserved under the Metropolitan Region Scheme should be made under the *Planning and Development Act 2005*.
 2. A claim for compensation under section 173 (1) of the *Planning and Development Act 2005* may be made in the Form No. 7 in Appendix A of the *Town Planning Regulations 1967*.

11.6 PURCHASE OR TAKING OF LAND

11.6.1 If, where compensation for injurious affection is claimed under the *Planning and Development Act 2005* the local government elects to purchase or take the land compulsorily the local government is to give written notice of that election to the claimant within 3 months of the claim for compensation being made.

11.6.2 The local government may deal with or dispose of land acquired by it for the purpose of a Local Reserve upon such terms and conditions as it thinks fit but the land must be used, and preserved, for a use compatible with the purpose for which it is reserved.

- Note: Sections 190 & 191 of the *Planning and Development Act 2005* empowers the local government to purchase or compulsorily acquire land comprised in a scheme.

11.7 NOTICE FOR REMOVAL OF CERTAIN BUILDINGS

11.7.1 Under section 214 of the *Planning and Development Act 2005*, 28 days written notice is prescribed as the notice to be given for the removal of a building or other work referred to in that subsection.

11.7.2 The local government may recover expenses under section 215 (2) of the *Planning and Development Act* in a court of competent jurisdiction.

SCHEDULES

Schedule 1 Dictionary of defined words and expressions

General definitions

Land use definitions

Schedule 2 Additional uses

Schedule 3 Restricted uses

Schedule 4 Special use zones

Schedule 5 Exempted advertisements

Schedule 6 Form of application for planning approval

Schedule 7 Additional information for advertisements

Schedule 8 Notice of public advertisement of planning proposal

Schedule 9 Notice of determination on application for planning approval

Schedule 10 Environmental conditions

Schedule 11 Special Control Areas

Schedule 12 Development Contribution Areas

**SCHEDULE 1 DICTIONARY OF DEFINED WORDS AND
EXPRESSIONS**

1. GENERAL DEFINITIONS

In the Scheme —

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 purposes of, advertisement, announcement or direction, and includes any hoarding or similar structure used, or adapted for use, for the display of advertisements. The term includes any airborne device anchored to any land or building and any vehicle or trailer or other similar object placed or located so as to serve the purpose of advertising;

affordable housing means dwellings which households on low-to-moderate incomes can afford, while meeting other essential living costs. It includes public housing, not-for-profit housing, other subsidised housing under the National Rental Affordability Scheme together with private rental and home ownership options for those immediately outside the subsidised social housing system;

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

basement means the part of a building that is at least 50 percent or more below the natural ground level and does not include a storey;

boundary wall means a wall to a building that is either on the boundary or any point closer than that 0.75 metres and the boundary;

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 disposal facilities on the lot must be contained;

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

conservation has the same meaning as in the *Heritage of Western Australia Act 1990*;

cultural heritage significance has the same meaning as in the *Heritage of Western Australia Act 1990*;

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

floor area has the same meaning as in the *National Construction Code Series* published by the Australian Building Codes Board;

frontage, when used in relation to a building that is used for —

- (a) residential purposes, has the same meaning as in the Residential Design Codes; and
- (b) purposes other than residential purposes, means the road alignment at the front of a lot and, if a lot abuts 2 or more roads, the one to which the building or proposed building faces;

Gazettal date, in relation to a Scheme, means the date on which the Scheme is published in the *Gazette* under section 87(4) of the Planning and Development Act 2005;

height when used in relation to a building that is used for —

- (a) residential purposes, has the same meaning as in the Residential Planning Codes; or
- (b) purposes other than residential purposes, means the maximum vertical distance between the natural ground level and the finished roof height directly above;

incidental use means a use of premises which is ancillary and subordinate to the predominant use;

Local government means the City of Vincent;

Local Planning Strategy means the Local Planning Strategy in respect of the Scheme, as endorsed by the Commission under regulation 12B of the *Town Planning Regulations 1967* and amended from time to time

Lot has the same meaning as in the *Planning and Development Act 2005* but does not include a strata or survey strata lot;

Low income households means households with incomes between 50% and 80% of the median household income;

Median income means the middle income in the range of household incomes such that 50% of households have an income less than the median figure and 50% have a higher income;

Moderate income households means households with incomes between 80% and 120% of the median household income;

National Rental Affordability Scheme (NRAS) is a Commonwealth initiative – supported and co-funded by the State Government – which offers incentives to investors who develop affordable rental housing for low and moderate income households. Rents typically reflect 80% of the market rate;

net lettable area (nla) 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 as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;
- (d) areas set aside for the provision of facilities or services to the floor or building where such facilities are not for the exclusive use of occupiers of the floor or building;

non-conforming use has the same meaning as it has in section 172 of the *Planning and Development Act 2005*;

Not-for-profit housing means housing that is owned and/or managed by tax-exempt organisations which can be private, community-based or charitable bodies. Surpluses generated from this type of housing are returned to the organisation to help fund other activities and growth, rather than being distributed as profits or dividends to shareholders;

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;
- (b) is a person to whom the Crown has lawfully contracted to grant the fee simple of that land;
- (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 from the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise;

place in Part 7 (Heritage Protection) has the same meaning as it has in the *Heritage of Western Australia Act 1990*;

plot ratio as defined by the Residential Design Codes;

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

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

premises means land or buildings;

public authority has the same meaning given to the term in and for the purposes of the Planning and Development Act 2005;

Public housing is subsidised housing that is owned and operated by the Department of Housing. It is only available to people on low incomes with rents currently set to ensure payments are no more than 25% of a tenant's gross income;

Region Scheme means a regional planning scheme made under the *Planning and Development Act 2005*, as amended from time to time

Region Scheme - Metropolitan means the Metropolitan Region Scheme within the meaning of the *Planning and Development Act 2005*

Residential Design Codes means the Residential Design Codes in State Planning Policy 3.1;

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

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

substantially commenced means that work or development the subject of planning approval has been begun by the performance of some substantial part of that work or development;

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

Worthy of Retention An original dwelling, which is indicative of the era in which the Precinct/Suburb was developed and generally contributes to the character of the street, as it is consistent and

contributory in terms of architectural style, primary street setback, building height, bulk and scale, lot width and side setbacks, and has evidenced minimal alterations and additions visible from the street.

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 or special control area.

2. LAND USE DEFINITIONS

In the Scheme —

In the Scheme —

amusement centre means premises open to the public, where the predominant use is for amusement by means of amusement machines and where there are more than 2 amusement machines operating within the premises;

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

auction mart means a premises used for the sale of goods by public or private auction;

bank means any land or building used for banking purposes;

bed and breakfast means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast;

betting agency means an office or totalisator agency established under the *Racing and Wagering Western Australia 2003*;

caravan park has the same meaning as in the *Caravan Parks and Camping Grounds Act 1995*, which means an area of land on which caravans, or caravans and camps, are situated for habitation;

caretaker's dwelling means a dwelling on the same site as a building, operation, or plant, and occupied by a supervisor of that building, operation or plant;

carpark means premises 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 taxi rank, or any premises in which cars are displayed for sale;

catering premises means a premises used for the cooking and preparation of food in a central kitchen, to be transported for consumption to an off-site location;

Child care premises means premises from which a child care service, which has the same meaning as in the *Child Care Services Act 2007* is provided, which means the provision of a service for the casual, part-time or day-to-day care of a child or children under

13 years of age (or such other age as may be prescribed for the purposes of the Act) that is provided:

- (a) for payment or reward, whether directly or indirectly through payment or reward for some other service;
- (b) as a benefit of employment; or
- (c) as an ancillary service to a commercial or recreational activity

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

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

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

commercial 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;

community purpose means the use of premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit;

consulting rooms means premises used by no more than 2 health consultants for the investigation or treatment of human injuries or ailments and for general outpatient care;

convenience store means premises —

- (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents, or the retail sale of petrol and those convenience goods;
- (b) operated during hours which include, but may extend beyond, normal trading hours;
- (c) which provide associated parking; and

- (d) the floor area of which does not exceed 300 square metres net lettable area

corrective institution means premises used to hold and reform persons committed to it by a court, such as a prison or other type of detention facility;

dry-cleaning premises means any land or buildings used for the cleaning of garments and other fabrics by chemical processes;

educational establishment means premises used for the purposes of education and includes a school, tertiary institution, business college, academy or other educational centre;

exhibition centre means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature, and includes a museum or art gallery;

fast food outlet means premises used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises, but does not include a lunch bar;

family day care has the same meaning as provided in the *Child Care Services Act 2007* which means a child care service provided at a place where —

- (a) the person providing the service lives; and
- (b) none of the children to whom the service is provided live

fuel depot means premises used 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 a vehicle for final use of such fuel from the premises;

funeral parlour means premises used to prepare and store bodies for burial or cremation;

home business means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which —

- (a) does not employ more than 2 people not members of the occupier's household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;

- (c) does not occupy an area greater than 50 square metres;
- (d) does not involve the retail sale, display or hire of goods of any nature;
- (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and
- (f) does not involve the use of an essential service of greater capacity than normally required in the zone

home occupation means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which -

- (a) does not employ any person not a member of the occupier's household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 20 square metres;
- (d) does not display a sign exceeding 0.2 square metres;
- (e) does not involve the retail sale, display or hire of goods of any nature;
- (f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and
- (g) does not involve the use of an essential service of greater capacity than normally required in the zone

home office means a home occupation limited to a business carried out solely within a dwelling by a resident of the dwelling but which does not —

- (a) entail clients or customers travelling to and from the dwelling;
- (b) involve any advertising signs on the premises; or

- (c) require any external change to the appearance of the dwelling

home store means any shop contained within a residential dwelling but not exceeding a total of 25% of the total dwelling floor space and which is operated by a person resident in the dwelling;

hospital means premises in which persons are admitted and lodged for medical treatment or care and includes a maternity hospital;

hotel means premises providing accommodation the subject of a hotel licence under the Liquor Control Act 1988, and may include a betting agency on those premises, but does not include a tavern, or motel

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

- (a) the storage of goods;
- (b) the work of administration or accounting;
- (c) the selling of goods by wholesale or retail; or
- (d) the provision of amenities for employees, incidental to any of those industrial operations;

industry - cottage means a trade or light industry producing arts and crafts goods which does not fall within the definition of a home occupation and which -

- (a) does not cause injury to or adversely affect the amenity of the neighbourhood;
- (b) where operated in a residential zone, does not employ any person other than a member of the occupier's household;
- (c) is conducted in an out-building which is compatible with the principal uses to which land in the zone in which it is located may be put;
- (d) does not occupy an area in excess of 50 square metres; and
- (e) does not display a sign exceeding 0.2 square metres in area

industry - general means an industry other than a cottage, light, or service industry;

industry - light means an industry —

- (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises do not cause any injury to or adversely affect the amenity of the locality;
- (b) the establishment or conduct of which does not, or will not, impose an undue load on any existing or proposed service for the supply or provision of essential services;

industry - service means —

- (a) an industry - light carried out from premises which may have a retail shop front and from which goods manufactured on the premises may be sold; or
- (b) premises having a retail shop front and used as a depot for receiving goods to be serviced;

land has the same meaning given to the term in and for the purposes of the *Planning and Development Act 2005*;

lunch bar means premises or part of premises used for the sale of takeaway food (in a form ready to be consumed without further preparation) within industrial or commercial areas;

marina means premises at which berths or pens, and fuelling, servicing, repairing, storage (including storage on land) and other facilities for boats are provided, with or without the sale of boating gear and equipment, and includes all jetties, piers, embankments, quays and moorings and all offices and storerooms used in connection with the marina;

marine filling station means premises used for the storage and supply of liquid fuels and lubricants for marine craft;

market means premises used for the display and sale of goods from stalls by independent vendors

medical centre means premises, other than a hospital, used by one or more health consultant(s) for the investigation or treatment of human injuries or ailments and for general outpatient care (including preventative care, diagnosis, medical and surgical treatment, and counselling);

motel means premises used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the accommodation of patrons with motor vehicles and may comprise premises licensed under the *Liquor Control Act 1988*;

motor vehicle, boat or caravan sales means premises used to sell or hire motor vehicles, boats or caravans

motor vehicle, boat or caravan repairs means premises used for or in connection with —

- (a) electrical and mechanical repairs, or overhauls, to vehicles; or
- (b) repairs to tyres, but does not include premises used for recapping or retreading of tyres, panel beating, spray painting or chassis reshaping;

motor vehicle wash means premises where the primary use is the washing of motor vehicles;

night club means premises -

- (a) used for entertainment with or without eating facilities; and
- (b) licensed under the *Liquor Control Act 1988*;

office means premises used for administration, clerical, technical, professional or other like business activities;

open air display means the use of land for the display, sale or hire of goods or equipment in the open air (including a plant nursery);

park home park has the same meaning as in the *Caravan Parks and Camping Grounds Regulations 1997*;

place of worship means premises used for religious activities such as a church, chapel, mosque, synagogue or temple;

plantation has the same meaning as in the *Code of Practice for Timber Plantations in Western Australia* (1997) published by the Department of Conservation and Land Management and the Australian Forest Growers;

public utilities 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 and includes a substation;

reception centre means premises used for functions on formal or ceremonial occasions but not for unhosted use for general entertainment purposes;

recreation - private means premises used for indoor or outdoor leisure, recreation or sport which are not usually open to the public without charge

residential building has the same meaning as in the Residential Design Codes;

restaurant means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the *Liquor Control Act 1988*;

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

- (a) publications that are classified as restricted under the *Classification (Publications, Films and Computer Games) Enforcement Act 1996*;
- (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity;

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

service station means premises used for —

- (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental/convenience retail nature; and
- (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles, but does not include premises used for a transport depot, panel beating, spray painting, major repairs or wrecking;

shop means premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser, or beauty therapist) but does not include a showroom or fast food outlet;

short term accommodation - means the provision of accommodation, lodging or boarding within a residential property for a maximum of six (6) persons, exclusive of the family of the keeper thereof, for a period less than six (6) months within any twelve month period, and includes:

- (a) bed and breakfast establishments;

- (b) apartments within residential developments and whole residential developments leased or rented for periods less than 6 months; and
- (c) serviced apartments where self-contained units are used for transient accommodation

showroom means premises used to display, sell by wholesale or retail, or hire goods of a bulky nature such as automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools and the like;

small bar: means premises licensed as a small bar under the *Liquor Control Act 1988*, and used to sell liquor for consumption on the premises, but not including the sale of packaged liquor; and with the number of persons who may be on the licensed premises limited to a maximum of 120;

storage means premises used for the storage of goods, equipment, plant or materials;

tavern means premises licensed as a tavern under the *Liquor Control Act 1988* and used to sell liquor for consumption on the premises;

telecommunications infrastructure means land used to accommodate any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use in or in connection with, a telecommunications network;

trade display means premises used for the display of trade goods and equipment for the purpose of advertisement;

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;

veterinary centre means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders;

warehouse means premises used to store or display goods and may include sale by wholesale;

SCHEDULE 2 ADDITIONAL USES

No.	Description of land	Special use	Conditions
1.	Lot 200 (71) Edward Street, Perth	Concrete Batching Plant	1. The additional use will expire 16 October 2017.
2.	Lot 1001 (120) Claisebrook Road, Perth	Concrete Batching Plant	1. The additional use will expire 16 October 2017.

SCHEDULE 3 RESTRICTED USES

There are no restricted uses which apply to the Scheme.

SCHEDULE 4 SPECIAL USE ZONES

No.	Description of land	Special use	Conditions
1.	No. 51 (Lot 192) Albert Street, North Perth	Hall and Non Residential Club Childcare Premises	Nil
2.	Nos. 169-173 (Lot 99) Scarborough Beach Road (Coogee Street frontage), Mount Hawthorn	Car Park	Nil
3.	Nos. 50-52 (Lots 4 & 5) Flinders Street, Mount Hawthorn	Car Park	Nil
4.	69 (Lot) Albert Street, North Perth	Place of Worship	Nil
5.	399 Lord Street, Mount Lawley	Community Use	Nil
6.	148 – 158 (Lot 31) Scarborough Beach Road, Mount Hawthorn (part lot)	Car Park	Nil

SCHEDULE 5 EXEMPTED ADVERTISEMENTS

Where the Local Government is satisfied that an exempted advertisement use exists, it is to record, in a register of exempted advertisement, details of each exempted advertisement. A register of exempted advertisement in the City can be found in the City's Planning Policy Manual.

SCHEDULE 6 FORM OF APPLICATION FOR PLANNING APPROVAL**Application for planning approval**

Owners Details		
Name:		
Address:		Postcode:
Phone: (work): (home): (mobile):	Fax:	Email:
Contact person:		
Signature:		Date:
Signature:		Date:
<i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature.</i>		

Applicant Details		
Name:		
Address:		Postcode:
Phone: (work): (home): (mobile):	Fax:	Email:
Contact person for correspondence:		
Signature:		Date:

Property Details		
Lot No:	House/Street No:	Location No:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Title encumbrances (e.g. easements, restrictive covenants):		
Street name:		Suburb:
Nearest street intersection		

Existing building/land use:

Description of proposed development and/or use:

Nature of any existing buildings and/or use:
--

Approximate cost of proposed development:

Estimated time of completion:

<i>OFFICE USE ONLY</i>

Acceptance Officer's initials:

Date received:

Local government reference no:

SCHEDULE 7 ADDITIONAL INFORMATION FOR ADVERTISEMENTS

1.	Description of property upon which advertisement is to be displayed including full details of its proposed position within that property:
2.	Details of proposed sign: (a) Type of structure on which advertisement is to be erected (ie. Freestanding, wall mounted, other): (b) Height: Width: Depth: (c) Colours to be used: (d) Height above ground level – <ul style="list-style-type: none"> • (to top of advertisement): • (to underside): (e) Materials to be used: Illuminated: Yes/No If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source:
3.	Period of time for which advertisement is required:
4.	Details of signs (if any) to be removed if this application is approved:

.....
.....

Note: This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed detailed in 4 above.

Signature of advertiser(s):

.....

(if different from land owners)

.....

Date:

SCHEDULE 8 NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL

Planning and Development Act 2005

City of Vincent

Notice of public advertisement of planning proposal

The local government has received an application to use and/or develop land for the following purpose and public comments are invited.

Lot No.: Street: Suburb:

Proposal:

.....
.....

Details of the proposal are available for inspection at the local government officer. Comments on the proposal may be submitted to the local government in writing on or before the day of

Signed:

Dated:

.....

for and on behalf of the City of Vincent.

SCHEDULE 9 NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL

Planning and Development Act 2005

City of Vincent

Determination on application for planning approval

Location:			
Lot:		Plan/Diagram:	
Vol. No.:		Folio No.:	
Application date:		Received on:	
Description	of	proposed	development:
.....			
.....			
The application for planning approval is:			
<input type="checkbox"/> granted subject to the following conditions:			
<input type="checkbox"/> refused for the following reason(s):			
Conditions/reason for refusal:			
.....			
.....			
.....			
Note 1:	If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.		
Note 2:	Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.		
Note 3:	If an applicant is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the <i>Planning and Development Act 2005</i> . An application must be made within 28 days of the determination.		
Signed:		Dated:	
.....			
for and on behalf of the City of Vincent.			

SCHEDULE 10 ENVIRONMENTAL CONDITIONS

There are no environmental conditions imposed by the Minister for Environment which apply to the Scheme

SCHEDULE 11 SPECIAL CONTROL AREAS

The following special control areas are shown on the Scheme Map:

- (a) Development areas shown on Scheme Map 1 as marked as DA 1 and included in Schedule 12

SCHEDULE 12 DEVELOPMENT (STRUCTURE PLAN) 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 5.9 of the Scheme.

SCHEDULE 13 DEVELOPMENT CONTRIBUTION AREAS

There are no Development Contribution Areas that apply to the Scheme.

SCHEDULE 14 STATUTORY STATIC FEASIBILITY ASSESSMENT MODEL

<i>Gross realisation</i>			
<i>Net lot yield @ average market value per lot</i>	\$		(1)
<i>"X" lots @ "\$Y" per lot</i>			
<i>Less GST @ standard / normal rates</i>			
<i>(1) Multiplied by GST rate/(100+GST rate)</i>	\$		(2)
<i>(1-2)</i>		\$	(3)
<i>Less selling, marketing, advertising & settlement fees</i>			
<i>@ market % multiplied by (1)</i>	\$		(4)
<i>Add back Input Tax Credit on selling fees</i>	\$		(5)
<i>(4) Multiplied by GST rate/(100+GST rate)</i>		\$	(6)
<i>(4-5)</i>			
<i>Balance after selling costs etc. & Input Tax Credit (3-6)</i>		\$	(7)
<i>Less adjusted profit & risk allowance as per SPP 3.6</i>			
<i>Market determined profit & risk allowance</i>			(8)
<i>Less fixed profit allowance per SPP 3.6</i>			(9)
<i>10%</i>			
<i>Risk rate applied (8-9)</i>			(10)
<i>= %</i>			
<i>EXPLANATION: (10) to be expressed as a whole number eg. 15%=15</i>			
<i>ie Risk = (7) multiplied by (10)/((10)+(100))</i>		\$	(11)
<i>Balance after profit & risk factor (7-11)</i>		\$	(12)
<i>Less development costs @ "X" lots multiplied by "\$Z" per lot</i>	\$		(13)
<i>Add back Input Tax Credit on (13)</i>			
<i>(13) Multiplied by GST rate/(100+GST rate)</i>	\$		(14)
<i>Development cost after Input Tax Credit (13-14)</i>	\$		(15)
<i>Add interest on net development costs (15)</i>			

<i>For 1/2 development and 1/2 selling term</i>		
<i>@ Applicable market rates</i>		
<i>(15) Multiplied by % rate</i>	\$	<i>(16)</i>
<i>(15+16)</i>		\$ <i>(17)</i>
<i>Balance after deduction of development costs & interest (12-17)</i>		\$ <i>(18)</i>
 <i>Less interest on land value, rates & taxes and stamp duty</i>		
<i>Assessed over 1/2 development and 1/2 selling term</i>		
<i>@ Applicable market rates</i>		
<i>(18) Multiplied by % rate/(100+%rate)</i>		\$ <i>(19)</i>
<i>Balance after interest on the land (18-19)</i>		\$ <i>(20)</i>
 <i>Less rates & taxes</i>		\$ <i>(21)</i>
<i>Balance after rates & taxes (20-21)</i>		\$ <i>(22)</i>
 <i>Less Stamp Duty @ current statutory rates</i>		
<i>(22) Multiplied by stamp duty rate/(100+stamp duty rate)</i>		\$ <i>(23)</i>
<i>Residual Land Value prior to GST considerations (22-23)</i>		\$ <i>(24)</i>
 <i>Add GST (24) + GST at prevailing statutory rate</i>		\$ <i>(25)</i>
 ASSESSED STATUTORY CONTRIBUTION PER SPP 3.6 (22+23)	\$	

The Static Feasibility Model is based upon:

- (j) 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.*