

Attachment 2

Part 7 — Planning controls

159. Meaning of “planning scheme” in this Part

In this Part, unless the contrary intention appears —

“**planning scheme**” means —

- (a) a town planning scheme under the *Town Planning and Development Act 1928*;
- (b) a redevelopment scheme under —
 - (i) the *Armada Redevelopment Act 2001*;
 - (ii) the *East Perth Redevelopment Act 1991*;
 - (iii) the *Midland Redevelopment Act 1999*; or
 - (iv) the *Subiaco Redevelopment Act 1994*; or
- (c) a master plan under the *Hope Valley-Wattleup Redevelopment Act 2000*.

160. Existing planning schemes varied

- (1) Each existing planning scheme —
 - (a) is to be read, and has effect, as if the clause set out in Schedule 3 were part of the planning scheme; and
 - (b) is to be implemented accordingly.
- (2) If a clause of an existing planning scheme is inconsistent with the clause set out in Schedule 3, the clause set out in Schedule 3 prevails to the extent of the inconsistency.
- (3) In this section —
“**existing planning scheme**” means a planning scheme in force on the day on which this Part comes into operation.

161. Prostitution control under planning schemes

- (1) Before making or amending a planning scheme after the coming into operation of this Part it is to be ensured that the planning scheme will provide for the use of land for the purpose of prostitution in a manner that gives effect to, and is consistent with, the clause set out in Schedule 3.
- (2) Nothing in this section is to be construed as precluding or restricting the making or amending of a provision relating to prostitution if to do so would not be inconsistent with the clause set out in Schedule 3.

162. Public release day for certain planning concessions

The Minister, by order published in the *Gazette*, is to specify as the public release day for the purposes of the clause set out in Schedule 3 the day on which the Minister made available to the public a proposed Bill for an Act to regulate and control prostitution, to establish a board with licensing and other functions relating to prostitution, to repeal the *Prostitution Act 2000* and amend certain other Acts, and for related purposes.

Schedule 3 — Clause implied in planning schemes

1. Use of land for prostitution purposes

- (1) The use of land in a residential zone or precinct for the purpose of a brothel, or an attended prostitution agency office, is a use that is not permitted by the scheme.
- (2) The use of land in an industry zone or precinct for the purpose of a brothel or an attended prostitution agency office is a use permitted by the scheme if, at the time the relevant brothel business or prostitution agency business commences to be carried on, the land is not within 300 metres of an educational establishment, a place of worship, child care premises, community purpose premises, an hotel, or land in a residential zone or precinct.
- (3) The use of land other than land referred to in subclause (1) or (2) for the purpose of a brothel or an attended prostitution agency office is a use not permitted by the scheme unless planning approval has been given under the scheme, and planning approval is not to be given unless the person giving the approval is satisfied that the land is not within 300 metres of an educational establishment, a place of worship, child care premises, community purpose premises, an hotel, or land in a residential zone or precinct.
- (4) In applying subclause (2) or (3) —
- (a) land is to be regarded as being within 300 metres of an educational establishment, a place of worship, child care premises, community purpose premises, or an hotel (the “**relevant premises**”) if the shortest distance between the lot in which the relevant land is included and the lot on which the relevant premises are situated is 300 metres or less; and
- (b) land is to be regarded as being within 300 metres of land in a residential zone or precinct (the “**residential land**”) if the shortest distance between the lot in which the relevant land is included and any lot that is part of the residential land is 300 metres or less.
- (5) Land that may be used as a dwelling may be used for the purpose of carrying on business as a self-employed sole prostitute without approval being obtained for that additional use and the land is not, by reason of that additional use, to be regarded as being used for the purpose of a home occupation within the meaning of the scheme.
- (6) A prostitution booking office is an office within the meaning of the scheme but an attended prostitution agency office is not.
- (7) If, immediately before the public release day, land was used for the purpose of a brothel or an attended prostitution agency office and the land has continued to be used for that purpose until the commencement of the *Prostitution Control Act 2002* section 160(1), despite anything in subclause (1), (2), or (3) the use of the land for that purpose is a use permitted by the scheme until —
- (a) the person who was carrying on the brothel business or prostitution agency business immediately before the public release day —
- (i) ceases to carry on the business; or
- (ii) for a continuous period of 6 months does not carry on the business;
- (b) the buildings used as the business premises are totally destroyed or their value is reduced to less than 25% of their former value;
- (c) the buildings used as the business premises are extended or otherwise altered, except as necessary for carrying out repairs or maintenance, without obtaining any planning approval that is required; or
- (d) any buildings other than those that were being used immediately before the public release day are used as, or as part of, the business premises.
- (8) In this clause —
- “**attended prostitution agency office**” means a prostitution agency office at or outside which persons who act as prostitutes or prostitution drivers for the prostitution agency business carried on from that office attend in person;
- “**child care premises**” means premises that are kept for the provision of a child care service, as defined in the *Community Services Act 1972* section 3 —

- (a) under a licence or permit referred to in 17A of that Act; or
- (b) under an exemption given under section 17D of that Act.

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

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

“hotel” means premises to which a hotel licence under the *Liquor Licensing Act 1988* applies;

“industry zone or precinct” means a zone or precinct, however described, in which the predominant uses are —

- (a) manufacturing industries and the storage and distribution of goods; or
- (b) light and service industries and associated uses, except that it does not include land in a strategic industry zone or precinct;

“lot” has the meaning given to that term in the *Town Planning and Development Act 1928* section 2;

“place of worship” means land used for religious activities, and includes land used for a church, chapel, mosque, synagogue, or temple;

“premises” means land, and includes any building or structure on the land;

“prostitution booking office” means a prostitution agency office that —

- (a) is not a brothel or an attended prostitution agency office; and
- (b) is not used as a place where any business or activity other than the prostitution agency business is carried on;

“public release day” means the day specified under the *Prostitution Control Act 2002* section 162 as the public release day for the purposes of this clause;

“residential zone or precinct” means a zone or precinct, however described, in which the predominant use is residential;

“strategic industry zone or precinct” means a zone or precinct, the land in which is an industrial area of State significance, that is intended to accommodate higher order industrial uses, which may include the use of land for offensive or potentially hazardous industrial or storage facilities.

(9) A term used in this clause that is given a meaning by the *Prostitution Control Act 2002* has the same meaning in this clause.