



Department of
Planning

Planning makes it happen:
phase two

DISCUSSION PAPER

Planning and Development (Local Planning Schemes) Regulations 2014

amending
Town Planning Regulations 1967
and associated Model Scheme Text

November 2014

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1 Introduction

Draft new proposed regulations entitled Planning and Development (Local Planning Schemes) Regulations 2014 (Local Planning Schemes Regulations) have been prepared by the Parliamentary Counsel's Office. These draft regulations propose to amend and replace the *Town Planning Regulations 1967* and associated Model Scheme Text.

These provisions will have a significant impact on how local planning schemes are prepared and amended.

The draft Local Planning Schemes Regulations have been prepared at the instruction of the Minister for Planning, assisted by the Western Australian Planning Commission (WAPC) and Department of Planning. The provisions were drafted in consultation with the Model Scheme Text Stakeholder Committee, the Regulatory Gatekeeping Unit of the Department of Finance, and other external and internal stakeholders.

The purpose of this discussion paper is to outline the background and context of the draft Local Planning Schemes Regulations, which are being released for consultation prior to finalisation. All submissions received during consultation will be assessed and considered, and the draft regulations revised as appropriate before being finalised for gazettal.

2 Background

2.1 Current framework of *Town Planning Regulations 1967* and Model Scheme Text

The *Town Planning Regulations 1967*, made under the *Planning and Development Act 2005* (Planning Act), govern the way in which local planning schemes are prepared, consolidated and amended. The regulations contain:

- Procedures for use by local governments in preparing, consolidating or amending a scheme, supplementing Part 5 of the Planning Act (principal regulations of the *Town Planning Regulations 1967*);
- Standard forms used when a scheme is prepared or amended (Appendix A);
- A template of model scheme provisions, being the Model Scheme Text (Appendix B);
- A common set of definitions, including general definitions and land use definitions (Schedule 1);
- Standard forms relating to uses (Schedules 2-5); and
- Standard forms relating to development approval (Schedule 6-10).

2.2 Need for change

The *Town Planning Regulations 1967* have been in operation for more than 40 years. They have been amended a number of times, most significantly as a result of amendments to the *Environmental Protection Act 1986*, which required the environmental assessment of schemes and amendments to schemes. The result is a document that needs updating and improvement, with a number of deficiencies needing to be addressed, including but not limited to the following:

- The *Town Planning Regulations 1967* contain a number of provisions that are extremely difficult to understand, by experts and lay readers alike, for example those guiding the amendment of a scheme under regulations 25 and 25AA.
- Many of the amendment and consolidation provisions are too cumbersome. For this reason, coupled with the significant costs imposed on local governments, many schemes have not been reviewed and updated as often as intended under the Planning Act.
- The Model Scheme Text currently promotes inefficient duplicate processes and procedures. In many circumstances, there would be benefits in achieving greater flexibility, such as multiple amendment streams and the introduction of single decision-makers.
- The Model Scheme Text no longer provides a sufficient template for many local governments in preparing or amending their schemes. As a result, there is now a wide variety of different approaches across different local governments.
- The Model Scheme Text has not kept pace with evolutions in the planning system. For example, there are no standardised provisions governing structure plans, even though they are now a significant and accepted component of the overall planning framework,

as found in many existing schemes. It is important that the State Government, with the assistance of the WAPC, promotes a more consistent approach across local governments in Western Australia.

The State Government recognises that an improved system will benefit stakeholders, local governments and members of the public more generally.

2.3 2010 Amendments to the *Planning and Development Act 2005*

In 2010, the *Planning and Development Act 2005* (Planning Act) was amended to facilitate further amendments to the *Town Planning Regulations 1967*. Critical legislative changes included the introduction of a head of power for model provisions and deemed provisions, which the Minister may prepare through regulations.

These changes involved amendments to sections 68(2), 69(3), 73(2A) and 256, together with the introduction of sections 257A and 257B. The Minister may prescribe model and deemed provisions to carry out any of the general objects of a scheme, or any of the matters set out in Schedule 7 of the Planning Act.

Model provisions operate so that when a local government prepares or adopts a scheme, any model provision prescribed in the regulations must also be included in the scheme. However, when approving a new or amended scheme, the Minister will retain discretion to exclude or vary a model provision.

Deemed provisions operate more directly, so that once prescribed in regulations, they have automatic effect and may be enforced as part of each scheme to which they apply. Significantly, and as a departure from previous processes, deemed provisions take effect immediately upon commencement in regulations, not merely when a local government next updates its scheme. If there is any inconsistency between a deemed provision and a scheme, the deemed provision prevails.

In most respects, model provisions will continue to operate in much the same way as the current Model Scheme Text provisions. Deemed provisions are primarily aimed at introducing uniform processes and procedures, such as standard forms and application processes.

2.4 Local Planning Schemes Regulations as part of planning reform

These draft Local Planning Schemes Regulations, as part of the Model Scheme Text and Regulations review, remain a project of significance to be completed as part of the State Government's Phase One planning reform initiatives.

In addition, elements of the recently announced Phase Two Reform Blueprint have now been incorporated into the Model Scheme Text and *Town Planning Regulations 1967* review, meaning that key aspects of four of the agreed reform initiatives will be implemented as soon as the new regulations come into effect, including:

- **Improve local planning scheme review process –**
 - Introduce deemed provisions to the Model Scheme Text for automatic inclusion in local planning schemes.
 - Review model provisions in the Model Scheme Text and the approval process for varying model provisions.
 - Review legislation to change scheme review requirements to five year audit and ten year major review.
- **Improve local planning scheme amendment process –**
 - Review legislation to introduce two tracks of local scheme amendment process – standard and complex, including definitions, advertising timeframes, and approval processes.
 - Investigate potential for local scheme minor modifications, such as changes to administrative text or cadastral mapping, to be approved by the WAPC.
- **Streamline structure plan process –**
 - Review Model Scheme Text to provide consistent structure plan preparation and approval process.
 - Review Model Scheme Text so that the WAPC is the default single decision-making authority for structure plans.
- **Planning approval exemptions –**
 - Include deemed provisions in the Model Scheme Text to exempt compliant single houses from requiring planning approval.
 - Include deemed provisions in the Model Scheme Text to exempt certain other classes of development from requiring planning approval.

2.5 Consultation to date

Reflecting the significance of the review project and the role of the Model Scheme Text and *Town Planning Regulations 1967* in Western Australia's planning framework, extensive consultation has been undertaken as the project has progressed, including but not limited to the following:

- Several discussion papers have been released, including: *'Building a Better Planning System: Consultation Paper'*, *'Discussion Paper: Review of the Town Planning Regulations 1967 and the Model Scheme Text'* and *'Review of the Town Planning Regulations 1967 and the Model Scheme Text: Report on Submissions'*.
- Several professional external consultants were engaged, with expertise in both planning and planning-law background and experience.
- A Stakeholder Committee was established, which includes representatives from both local government and industry.
- Consultation has occurred with a number of other State Government agencies including the Regulatory Gatekeeping Unit at the Department of Finance.



- The WAPC, as the State's premier planning body, has been consulted and continues to provide advice in accordance with its prescribed statutory functions.

Finally, all stakeholder comments and submissions received during the course of the project have been considered and have resulted in further updates and amendments to the draft Local Planning Schemes Regulations as appropriate.



3 Proposed Local Planning Schemes Regulations

3.1 Key themes of proposed procedural regulations

Risk-based tracking

A key objective of Phase Two Reform is the reformulation of the planning process to reflect a risk-based tracking approach to decision-making, and this approach can be applied to the local scheme amendment process.

Currently there is only one process option for all types of local scheme amendments, which fails to reflect the different levels of risk associated with complex and less complex local scheme amendments (such as the simple correction of a cadastral boundary over a single lot, compared with a major amendment of strategic importance affecting an entire district area).

To implement a risk-based tracking approach to local scheme amendments, it is proposed that the current single amendment process be replaced by three different amendment processes, or tracks:

- **The 'complex' amendment process:** This is equivalent to the current process, and will be used for significant or complex amendments.
- **The 'standard' amendment process:** This will be a new process to address scheme amendments of less strategic significance or complexity than those falling within the complex stream, and will involve fewer procedural steps than the current amendment process.
- **The 'basic' amendment process:** This will also be a new process, to expedite as quickly and inexpensively as possible the most basic and mainly administrative amendments.

The detail on these processes and the way they will be applied is contained in the draft Local Planning Schemes Regulations.

The changes will bring the local scheme amendment process more into line with the region scheme process, where two tracks currently exist – described as a 'major' and a 'minor' amendment process. As part of the Phase Two Reform process, the region scheme amendment process will also be modified to include the three tracks described above (complex, standard and basic), replacing the existing major and minor processes.

Procedural clarity and efficiency

Another statutory mechanism for streamlining current processes is to consolidate, where possible, dual approvals into one decision-maker. One of the agreed Phase Two Reform actions is that the WAPC will become the single formal decision-maker for structure plan applications.

Local governments will remain heavily involved in the process, being the point of initial contact and lodgement for applications; undertaking their own assessment of the application and receiving a fee for such assessment; and providing a recommendation to the WAPC on the merits of the application.

In addition, it is anticipated that the WAPC may delegate some of the decision-making responsibility back to local governments, in the same way it does for some development applications.

3.2 Framework of Local Planning Schemes Regulations

The Local Planning Schemes Regulations are set out in the following basic framework (with reference to the current comparable *Town Planning Regulations 1967* where relevant):

- **LPS Regulations**, which will continue to set out how schemes are prepared and amended. These provisions are broadly divided into the following parts:
 - **Part 1: Preliminary** (currently r.3, r.3A, r.6 and r.7);
 - **Part 2: Requirements for local planning scheme** (currently r.8, r.10 and r.11);
 - **Part 3: Local planning strategies** (r.12A, r.12B and r.12C);
 - **Part 4: Preparation or adoption of local planning scheme** (currently r.4, r.5, r.13 and r.15-r.24);
 - **Part 5: Amending local planning scheme** (currently r.25A);
 - **Part 6: Review and consolidation of local planning schemes** (new);
 - **Part 7: Development contribution plans** (new); and
 - **Part 8: Miscellaneous** (r.25AB, r.25B and r.26).
- **Schedule 1: Model provisions for local planning schemes**, which will broadly operate in the same way as the current Model Scheme Text. The model provisions will only apply when a local government next updates and amends its scheme, and there is scope for a local government to vary from the template provisions where such a variation can be justified. The proposed model provisions broadly include:
 - **Part 1: Preliminary** (currently Model Scheme Text 1);
 - **Part 2: Reserves** (currently Model Scheme Text 3);
 - **Part 3: Zones and the use of land** (currently Model Scheme Text 4);
 - **Part 4: General development requirements** (currently Model Scheme Text 5);
 - **Part 5: Special control areas** (currently Model Scheme Text 6);
 - **Part 6: Terms referred to in Scheme** (currently r.3 and Model Scheme Text 1); and
 - **Part 7: Legends used in Scheme** (new).
- **Schedule 2: Deemed provisions**, which will automatically apply on gazettal of the Local Planning Scheme Regulations, without a need to wait until local governments update their existing schemes. The proposed deemed provisions broadly include:
 - **Part 1: Preliminary** (currently r.3 and Model Scheme Text 1);
 - **Part 2: Local planning framework** (currently Model Scheme Text 2);
 - **Part 3: Heritage protection** (currently Model Scheme Text 7);
 - **Part 4: Structure plans** (new);
 - **Part 5: Local development plans** (new);
 - **Part 6: Requirement for development approval** (currently Model Scheme Text 3 and 8);
 - **Part 7: Applications for development approval** (currently Model Scheme Text 9);

- **Part 8: Procedure for dealing with development applications** (currently Model Scheme Text 10);
- **Part 9: Bush fire risk management** (new);
- **Part 10: Implementation of development control plans** (new);
- **Part 11: Enforcement and administration** (currently Model Scheme Text 11); and
- **Part 12: Forms referred to in this Schedule** (currently Schedules 6-10).

3.3 Proposed changes to *Town Planning Regulations 1967*

Some of the key changes to the current *Town Planning Regulations 1967* and Model Scheme Text, to be implemented through these proposed draft Local Planning Schemes Regulations include, but are not limited to, the following:

- ***New format and deemed provisions*** – introducing a new overall format, consisting of regulations for the preparation of new, amended and consolidated schemes (equivalent to the current *Town Planning Regulations 1967*); model provisions that provide a template for when a local government next updates its scheme but allows for local variation (equivalent to the current Model Scheme Text); and new deemed provisions, which introduce a range of standardised processes that apply automatically across all local government areas.
- ***Overall review and rewriting of existing provisions*** – incorporating an overall professional review and rewrite of existing provisions by Parliamentary Counsel.
- ***Streamlined processes for the preparation of a scheme*** – streamlining processes for the preparation of new schemes with the aim of removing some of the existing regulatory burden, including removing the requirement for a local government to inform the WAPC when it first resolves to prepare a new scheme; and simplifying the advertising and consultation requirements.
- ***Simplified amendment processes*** – simplifying current scheme amendment processes, including seeking to have the scheme amendment process set out in full, simplifying confusing wording; and simplifying the advertising and consultation requirements.
- ***New risk-based amendment tracks*** – allowing a more nuanced risk-based approach to scheme amendments, distinguishing ‘complex’, ‘standard’ and ‘basic’ procedural requirements.
- ***Single decision-maker*** – reducing the existing procedural and regulatory burden, by reducing the number of planning decision-makers where possible down to a single decision-maker (either the WAPC or the local government as delegate).
- ***New five year interim review of schemes*** – introducing a five year interim review of all schemes, in conjunction with forecasted changes to the consolidation procedures under the Planning Act, so as to promote improved reporting and strategic planning by local governments.
- ***New provisions concerning development contribution plans*** – standardising processes and implementation provisions concerning development contribution plans, giving legal effect to *State Planning Policy 3.6* (SPP 3.6) and associated model provisions (note that a review of SPP 3.6 is being undertaken by the Department of Planning concurrently with preparation of the Local Planning Schemes Regulations. Outcomes of the review will be incorporated in the final version of the regulations).

- **Additional uses for local reserves** – introducing the ability to include additional uses for local reserves, similar to the way additional uses have long been used in relation to land zoned under a scheme.
- **Reintroduction of “I” incidental uses** – reintroducing “I” incidental uses in zoning tables.
- **New optional local government register of non-conforming uses** – introducing new optional provisions that allow a local government to prepare a register of non-conforming uses, to help monitor and enforce the discontinuance of non-conforming uses.
- **Expanding local government powers regarding restrictive covenants** – changing existing provisions concerning restrictive covenants, including expanding the circumstances whereby a local government can, with the approval of the WAPC, discharge or modify a restrictive covenant, beyond one relating just to density; and clarifying that notwithstanding the local government’s discharge or modification, the landowner must still formally apply to Landgate under the *Transfer of Lands Act* to give legal effect to such a decision.
- **Clarification regarding development as works and use** – clarifying the definition of development, currently set out in an ambiguous manner by the Planning Act, to better illustrate the two sub-components of works (physical development) and use.
- **Clarification regarding variations to development requirements** – clarifying and expanding local governments ability to consider applications that vary development requirements; and clarifying the process to be followed when applying such discretion.
- **Clarification regarding Special Control Areas** – clarifying the operation of Special Control Areas, especially the concept that the provisions of Special Control Areas are in addition to the provisions that apply to any underlying zone or reserve.
- **New standardised provisions concerning structure plans** – introducing new standardised deemed provisions concerning the application, procedure and legal effect of structure plans, including triggers for when a structure plan may be prepared; who can prepare a structure plan; how a structure plan is prepared; the local government’s ability to reject a structure plan at the outset as an incomplete application (as opposed to a later refusal on the merits); advertising of a structure plan; a local government’s role in preparing a report for the WAPC on the proposed structure plan; the role of the WAPC (or local government as delegate) in determining the application; rights of review; and provisions governing the duration of an approved structure plan (a default period of ten years, which can be renewed or varied).
- **New standardised provisions concerning local development plans** – introducing new standardised deemed provisions concerning the application, procedure, content and effect of local development plans; and providing an exemption from future development approval where a local development plan has been approved.
- **New and amended land use and planning definitions** – introducing a range of new and amended land use and planning definitions.
- **New standardised legend** – introducing new standardised reserve and zoned classifications, prepared in consultation with the Department of Planning’s GeoSpatial Planning Support team.

- **Clarifications regarding local planning policies** – clarifying what legal effect and weight local planning policies have, the procedure for making them, and the ability to revoke such a policy.
- **Clarification regarding local heritage and municipal inventories** – clarifying the operation of local heritage, including clarification that municipal inventories are deemed to be local heritage lists.
- **Heritage conservation notices** – introducing ‘best practice’ provisions concerning heritage already found in some local planning schemes.
- **Expansion of circumstances where development does not require approval** – expanding and clarifying the circumstances where development does not require approval, including but not limited to where development is in accordance with a local development plan; developments involving a single dwelling that meet the deemed to comply provisions of the R-Codes; temporary works or uses less than 48 hours; temporary advertisements relating to elections; certain other advertisements; and as required or not required pursuant to new bushfire regulations.
- **Expansion of local government powers to amend or revoke development approval** – expanding certain local government powers, including expanding the circumstances where a local government can amend or revoke development approval, to bring scheme provisions into line with what is found under regulation 17 of the Development Assessment Panel Regulations; and the ability of a local government to waive or vary requirements concerning minor amendments to existing development approval.
- **Clarification regarding who is an ‘owner’ for signing a development application** – clarifying who is an ‘owner’ for the purposes of signing a development application form, to bring scheme provisions into line with similar provisions found within the building permit framework.
- **Expansion of local government powers and discretion concerning advertising** – expanding when and how local governments require advertising for a development application, including expanding a local government’s discretion when advertising requirements are required or may otherwise be waived or varied; and introduction of multiple alternative methods of advertising.
- **Clarification regarding applications under local schemes deemed to be decisions approved under a region scheme in some circumstances** – clarifying a current ‘legal fiction’ whereby local governments make development decisions under a local scheme without acknowledgment that such decisions are also a concurrent but distinct application under the relevant region scheme, where local governments act as delegates of the WAPC.
- **Clarification regarding the circumstances when approval may be subject to later details** – clarifying, given planning principles require a decision to be final and certain, that a local government can only impose a condition subject to later details being agreed, in circumstances where these details would not substantially change the development approved.
- **Removal of duplicate provisions concerning injurious affection** – deleting most provisions concerning injurious affection, in light of detailed provisions now being enshrined in Part 11 of the Planning Act itself, together with clarification of local government powers when dealing with such land.

- **Clarification regarding repair orders for signs** – clarifying that an order to repair a sign should be made to the owner and not the advertiser.
- **New standardised development application forms** – introducing new standardised forms, with clarifications distinguishing owners from applicants; and development for works from development for use, or development for both works and use.

3.4 Ability of local governments to vary, exclude or add provisions to their schemes

It is important to highlight that the proposed Local Planning Schemes Regulations will not prevent local governments from making further variations, exclusions or additions to their schemes. In particular:

- **Section 257A(3)** of the Planning Act empowers the Minister to approve any exclusions or variations to the model provisions (but not deemed provisions); and
- **Section 73(2A)** of the Planning Act allows a local planning scheme to include supplemental provisions (including to both model and deemed provisions), provided those supplemental provisions are consistent with or not already covered by these Local Planning Schemes Regulations.

4 Submissions and next steps

The Minister, on the advice of the WAPC and as assisted by the Department of Planning, now authorises the release of these draft Local Planning Schemes Regulations for public consultation.

Stakeholder and public comment can be:

emailed to lbsregulations@planning.wa.gov.au

by **30 January 2015**.

Pursuant to section 256(2) of the Planning Act, all submissions received will be considered and given due regard by the Minister before finalising the regulations for gazettal.

Given the importance of the new Local Planning Schemes Regulations, and the fact that the new provisions will impact the day-to-day operation of all local governments, the State Government recognises the importance of providing significant notice before the finalised regulations take legal effect.

The publication of these proposed regulations in a draft but otherwise completed format helps provide that notice. Formal gazettal is forecast for around **1 July 2015**, and it is anticipated that the regulations will be finalised and circulated to all key stakeholders before that date, along with supporting communication and training material.

In addition, the WAPC recommends that any local authority currently preparing a new scheme, or an amendment to an existing scheme, should use the draft Local Planning Schemes Regulations as a guide to the preferred content of those new schemes or amendments.

While the draft regulations are still subject to change as a result of public consultation, they represent more closely the intended procedural and substantive content of local schemes than do the existing *Town Planning Regulations 1967*, and should therefore replace the *Town Planning Regulations 1967* as a guiding document for new schemes or amendments.

This will help ensure consistency and clarity of State Government expectations for the content of new and amended schemes before actual gazettal of the new regulations, and will help avoid significant changes to newly prepared schemes being required at the point of final ministerial decision.

The Minister for Planning, on the advice of the WAPC, will have due regard to all submissions received when determining the form and content of the final version of the Local Planning Schemes Regulations.

Western Australia

Planning and Development (Local Planning Schemes) Regulations 2014

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Planning and Development (Local Planning Schemes) Regulations 2014

Made by the Minister under Part 15 Division 1 of the Act.

Part 1 — Preliminary

1. Citation

These regulations are the *Planning and Development (Local Planning Schemes) Regulations 2014*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette* (**gazettal day**);
- (b) regulation 75 and Schedule 2 Part 9 — on 1 May 2015;
[these are the provisions relating to bush fire risk management]
- (c) the rest of the regulations — on the day after gazettal day.

3. Terms used [TPR 3]

In these regulations —

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

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

development contribution plan means a plan prepared under regulation 65;

local planning scheme amendment or **amendment** means an amendment to vary a local planning scheme that has been approved and gazetted in accordance with section 87(4) of the Act;

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

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

scheme map means the map for a local planning scheme referred to in regulation 9(1).

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

4. Authorised persons [TPR 3A]

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

- (2) A person or body referred to in subregulation (1)(d), (e), (f) or (g) may not be appointed as an authorised officer for the purposes of regulation 28 or 43.
- (3) The designation is subject to any conditions, qualifications, limitations or exceptions specified in the notice.
- (4) The Minister may, by notice in writing, amend or revoke a designation made under this regulation.

5. Provision of documents to the Commission

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

6. Scheme in respect of Crown land [TPR 6]

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

7. Scheme by order of Minister [TPR 7]

These regulations, so far as consistent and applicable, apply to the preparation of a local planning scheme or an amendment to a local planning scheme ordered by the Minister under section 76 or 77A of the Act as though the local government had resolved to prepare the local planning scheme or the amendment to the local planning scheme.

Part 2 — Requirements for local planning scheme

8. Contents of local planning scheme [TPR 8(1) and new]

The documents that comprise a local planning scheme are the following —

- (a) the scheme map for the local planning scheme;
- (b) the local planning scheme text;
- (c) any supporting plans, maps, diagrams, illustrations and other material required by the Commission.

9. Defining area of local planning scheme [TPR 8 and 10]

- (1) The area to which a local planning scheme applies is to be set out in a map or set of maps designated as the scheme map.
- (2) Each scheme map must include —
 - (a) a base map of the scheme area; and
 - (b) any additional information map relating to the scheme required by the Commission.
- (3) Unless otherwise approved by the Commission a base map must be drawn to a scale —
 - (a) not smaller than 1:10 000 nor larger than 1:50 000; and
 - (b) that is appropriate to the size and character of the scheme area.
- (4) Unless otherwise approved by the Commission, each map that comprises the scheme map must be prepared —
 - (a) using the legends referred to in Schedule 1 clauses 34 and 35; and
 - (b) in a format that is suitable for electronic lodgment and publication.

10. Local planning scheme text [TPR 11 and new]

- (1) The provisions in Schedules 1 and 2 are prescribed for the purposes of section 256 of the Act.
- (2) The provisions in Schedule 1 are model provisions, being provisions to which section 257A of the Act applies.

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

- (3) In Schedule 1 —
clause, followed by a number, means the clause of that number in Schedule 1 as it is included in the local planning scheme;
deemed provisions means the provisions set out in Schedule 2;
Part, followed by a number, means the Part of that number in Schedule 1 as it is included in the local planning scheme;
this Scheme, when used in a provision, is to be taken to be a reference to the local planning scheme in which the provision is included.
- (4) The provisions in Schedule 2 are deemed provisions, being provisions to which section 257B of the Act applies, and are applicable to all local planning schemes.

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

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

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

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

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

Part 3 — Local planning strategies

11. Requirement for local planning strategy for local planning scheme [TPR 12A]

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

12. Certification of local planning strategy

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

13. Advertising and notifying local planning strategy
[TPR 12B(1) and (2)]

- (1) A local government must, as soon as reasonably practicable after being provided with certification that a local planning strategy complies with regulation 11(2), advertise the strategy as follows —
 - (a) publish a notice of the local planning strategy once a week for 2 consecutive weeks in a newspaper circulating in the area to which the strategy relates, giving details of —
 - (i) where the strategy may be inspected; and
 - (ii) to whom, in what form and during what period submissions may be made;
 - (b) give a copy of the local planning strategy to any person or public authority that the local government considers has a direct interest in the strategy and request the person or public authority to provide advice in relation to the strategy to the local government within a period specified by the local government;
 - (c) give notice in any other way the local government considers necessary.
- (2) The period for making submissions in relation to a local planning strategy must not be less than a period of 21 days commencing on the last day the notice of the strategy is published under subregulation (1)(a).
- (3) The period specified under subregulation (1)(b) for giving advice in relation to a local planning strategy must not be less than a period of 21 days commencing on the day the copy of the strategy is given to the person or public authority.
- (4) The notice of a local planning strategy required under subregulation (1) may be provided in conjunction with notification of the scheme to which it relates.

14. Consideration of submissions and advice [TPR 12B(3)]

After the expiry of the period within which submissions may be made or advice given in relation to a local planning strategy, the local government must —

- (a) review the local planning strategy in the light of any submissions made or advice received; and
- (b) adopt the local planning strategy with any modifications it thinks fit to give effect to the submissions and advice; and
- (c) submit to the Commission —
 - (i) a copy of the advertised local planning strategy; and
 - (ii) a schedule of the submissions and advice received; and
 - (iii) a copy of the local planning strategy as adopted by the local government.

15. Endorsement by Commission

On receipt of a copy of a local planning strategy adopted by a local government the Commission may —

- (a) endorse the strategy; or
- (b) require the local government to modify the strategy in the manner specified by the Commission before the strategy is resubmitted to the Commission for endorsement; or
- (c) refuse to endorse the strategy.

16. Notice of endorsed local planning strategy [TPR 12B(4) and (5)]

- (1) A local government must publish notice of the endorsement by the Commission of a local planning strategy in a newspaper circulating in the area to which the strategy relates.

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- (2) The local government must ensure that an up-to-date copy of each endorsed local planning strategy of a local government is kept and made available for public inspection during business hours at the offices of the local government and the Commission.

17. Amendment to local planning strategy [TPR 12C(1) and (3)]

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

18. Revocation of local planning strategy [TPR 12C(2)]

A local planning strategy may be revoked —

- (a) by a subsequent local planning strategy that —
 - (i) is prepared in accordance with this Part; and
 - (ii) expressly revokes the local planning strategy;
- or
- (b) with the approval of the Commission, by a notice of revocation —
 - (i) prepared by the local government; and
 - (ii) published once a week for 2 consecutive weeks in a newspaper circulating in the scheme area.

Part 4 — Preparation or adoption of local planning scheme

Division 1 — Proposal to prepare or adopt local planning scheme

19. Resolution to prepare scheme [TPR 4]

- (1) A resolution of a local government to prepare or adopt a local planning scheme must be in a form approved by the Commission.
- (2) The local government may refuse to adopt a local planning scheme requested by a landowner if the local government is not satisfied that there is in place an agreement for the local government to use any copyrighted material provided in support of the request —
 - (a) for the purpose of preparing and implementing the scheme; and
 - (b) for zero remuneration.

20. Notification of resolution [TPR 5]

- (1) A local government must, as soon as is reasonably practicable after passing a resolution to prepare or adopt a local planning scheme, advertise the resolution as follows —
 - (a) publish a notice in a form approved by the Commission in a newspaper circulating in the district of the local government;
 - (b) provide a copy of the published notice to the following —
 - (i) the local government of each district that adjoins the local government district;
 - (ii) each licensee under the *Water Services Act 2012* likely to be affected by the scheme;

- (iii) the chief executive officer of the department of the Public Service principally assisting in the administration of the *Conservation and Land Management Act 1984*;
- (iv) each other public authority likely to be affected by the scheme.

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

- (2) A local government must, on the provision of the published notice to a person or body referred to in subregulation (1)(b), request the person or body to forward to the local government particulars of any matters that in the opinion of the person or body should be considered during the preparation or adoption of the scheme.

Division 2 — Advertising local planning scheme

21. Resolution to proceed with local planning scheme [TPR 13]

- (1) On completion of the preparation of local planning scheme documents or the consideration of local planning scheme documents proposed by any owner of land in the scheme area, a local government must resolve —
 - (a) to proceed with the local planning scheme; or
 - (b) not to proceed with the local planning scheme.
- (2) If the local government decides to proceed with a local planning scheme the local government must submit a copy of the local planning scheme documents to the Commission.
- (3) The Commission must examine the documents submitted under subregulation (2) and advise the local government if the Commission considers that any modification to the documents is required before the local planning scheme is advertised for public inspection.

22. Advertisement of local planning scheme [TPR 15]

- (1) If the Commission is satisfied that a local planning scheme submitted by a local government is suitable to be advertised for public inspection, the Commission must —
- (a) publish a notice in the *Gazette* giving details of —
 - (i) the purpose of the local planning scheme; and
 - (ii) where the local planning scheme may be inspected; and
 - (iii) to whom and during what period submissions may be made;and
 - (b) forward to the local government a copy of the published notice.
- (2) On receipt of the copy of a published notice referred to in subregulation (1), a local government must, as soon as is practicable, advertise the local planning scheme for public inspection as follows —
- (a) publish the notice once in a newspaper circulating in the scheme area;
 - (b) display a copy of the notice in a prominent place in the offices of the local government for the period for making submissions set out in the notice;
 - (c) give a copy of the notice to each public authority that the local government considers is likely to be affected by the local planning scheme;
 - (d) advertise the scheme as directed by the Commission or in any other way the local government considers necessary.
- (3) The local government must ensure that arrangements are in place for the local planning scheme documents to be made available for inspection by the public during office hours —
- (a) at the office of the local government; and

- (b) at the office of the Commission; and
 - (c) at the office of each other local government affected by the local planning scheme.
- (4) The period for making submissions set out in the notice referred to in subregulation (1) must be not less than —
 - (a) a period of 2 months commencing on the day the notice is published in the *Gazette*; or
 - (b) if the local planning scheme does not involve the zoning or classification of land — a shorter period approved by the Commission.

23. Submissions on local planning scheme [TPR 16]

- (1) A submission on a local planning scheme in respect of which a notice has been published under regulation 22(1) must —
 - (a) be made to the local government in a form approved by the Commission; and
 - (b) identify the person making the submission; and
 - (c) include a statement about the capacity in which the person makes the submission.
- (2) A local government must acknowledge in writing the receipt of each submission received by it.

24. Consideration of submissions [TPR 17]

- (1) In this regulation —
consideration period, in relation to a local planning scheme, means the period ending on the latest of the following days —
 - (a) the day that is 6 months after the end of the submission period for the local planning scheme;
 - (b) the day that is 42 days after the receipt of a statement in respect of the local planning scheme delivered under section 48F(2)(a) of the EP Act;

- (c) the day that is 42 days after the receipt of a statement in respect of the local planning scheme delivered under section 48G(3) of the EP Act if that statement is in response to a request by the local government made under section 48G(1) of the EP Act before the later of the days set out in paragraphs (a) and (b);
- (d) a day approved by the Commission;

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

- (2) The local government —
 - (a) must consider all submissions made to it on a local planning scheme within the submission period; and
 - (b) may consider submissions made to it on a local planning scheme after the end of the submission period but before the end of the consideration period.
- (3) As soon as is practicable after the end of the consideration period for a local planning scheme, or if no submissions have been received within the submission period, after the end of the submission period, the local government must pass a resolution —
 - (a) to support the local planning scheme, with or without modification; or
 - (b) not to support the local planning scheme.

25. Incorporation of environmental conditions [TPR 17A]

If a local government receives a statement in respect of a local planning scheme delivered under section 48F(2) of the EP Act after passing a resolution to support the local planning scheme but before complying with regulation 26, the local government must amend the local planning scheme documents —

- (a) to incorporate the conditions set out in the statement; or

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

26. Local planning scheme to be provided to the Commission [TPR 18]

- (1) Within 21 days of passing a resolution under regulation 24(3) the local government must provide the advertised local planning scheme documents to the Commission together with the following —
 - (a) a schedule of submissions made on the local planning scheme;
 - (b) the response of the local government to the submissions;
 - (c) particulars of each modification to the planning scheme made in response to the submissions;
 - (d) a copy of the resolution passed under regulation 24(3);
 - (e) if that resolution was a resolution under regulation 24(3)(b), a summary of the reasons why the local government does not support the local planning scheme;
 - (f) any relevant maps, plans, specifications and particulars required by the Commission.
- (2) The schedule of submissions referred to in subregulation (1)(a) must contain —
 - (a) the name and address of the person making the submission; and
 - (b) where it is relevant, a description of the property that is the subject of the submission; and
 - (c) the submission or a summary of the submission.

27. Commission to submit local planning scheme to Minister [TPR 19]

The Commission must —

- (a) consider the documents provided to it under regulation 26(1); and
- (b) make any recommendations to the Minister in respect of the scheme that the Commission considers appropriate; and
- (c) submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.

28. Minister or authorised person may direct modified local planning scheme be advertised [TPR 20]

- (1) The Minister or an authorised person may direct the local government to readvertise a local planning scheme if —
 - (a) the scheme was modified after it was advertised under regulation 22; and
 - (b) the Minister or authorised person is of the opinion that the modification is significant.
- (2) If a local government is given a direction under subregulation (1) the local government must advertise the modification to a local planning scheme as follows —
 - (a) publish in a newspaper circulating in the scheme area a notice in a form approved by the Minister or authorised person giving details of —
 - (i) the modifications made to the advertised local planning scheme; and
 - (ii) where the modified local planning scheme may be inspected; and
 - (iii) to whom and during what period submissions may be made; and
 - (iv) the manner and form in which submissions may be made;

- (b) display a copy of the notice in a prominent place in the offices of the local government for the period the Minister or authorised person directs;
 - (c) take any other steps as the Minister or authorised person directs.
- (3) The period for making submissions set out in the notice referred to in subregulation (2) must be a period of 28 days commencing on the day the notice is published or a longer period approved by the Minister or authorised person.
- (4) A person may make a submission on a modification to a local planning scheme that has been advertised in accordance with subregulation (2) —
 - (a) in the manner and form specified in the notice; and
 - (b) within the period specified in the notice.
- (5) If a modification to a local planning scheme is advertised in accordance with this regulation, a local government —
 - (a) must consider all submissions on the modification made to the local government within the period specified in the notice; and
 - (b) may consider submissions on the modification made to the local government after the period specified in the notice; and
 - (c) must make a recommendation in respect of each submission considered; and
 - (d) must forward to the Commission the submissions and the recommendations.
- (6) A local government must comply with subregulation (5) —
 - (a) within the period of 3 months commencing on the expiry of the period for making submissions on the modification; or
 - (b) within a longer period approved by the Minister or an authorised person.

- (7) The Commission must, as soon as is reasonably practicable —
- (a) consider the documents provided to it under subregulation (5); and
 - (b) make any recommendations to the Minister in respect of the submissions on the modification that the Commission considers appropriate; and
 - (c) forward the documents and the recommendations to the Minister.

Division 3 — Giving effect to decision on local planning scheme

29. Giving effect to Minister's decision [TPR 21 and 22(1)]

- (1) If a local government is notified that the Minister has, under section 87(2) of the Act, refused to approve a local planning scheme, the local government must, as soon as is reasonably practicable, notify each person who made a submission in relation to the local planning scheme of that refusal.
- (2) Within 42 days of being notified that, under section 87(2) of the Act, the Minister requires the local government to modify the local planning scheme, or a longer period approved by the Minister or authorised person, the local government must —
 - (a) modify the scheme as required; and
 - (b) execute the modified local planning scheme documents; and
 - (c) resubmit to the Minister a copy of the executed documents.
- (3) Within 42 days of being notified that the Minister has, under section 87(2) of the Act, approved the local planning scheme, or a longer period approved by the Commission, the local government must forward to the Commission for endorsement copies of the local planning scheme as required by the Commission, including not less than 3 copies of the local planning scheme documents that have been executed by the local government.

30. Endorsement of local planning scheme [TPR 22]

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

31. Advertisement of approved local planning scheme [TPR 23]

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

32. Deposit of local planning scheme [TPR 24]

On the publication of the notice of a local planning scheme under section 87(3) of the Act —

- (a) the copy of the local planning scheme endorsed by the Minister is to be deposited with the Minister; and
- (b) a copy of the local planning scheme certified under regulation 30(2) is to be deposited with each of —
 - (i) the Commission; and

- (ii) the local government which prepared or adopted the scheme.

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Part 5 — Amending local planning scheme

Division 1 — Preliminary

33. Terms used

In this Part —

basic amendment means an amendment to a local planning scheme for any of the following purposes —

- (a) to correct an administrative error;
- (b) to amend the scheme so that it is consistent with the model provisions in Schedule 1 or with another provision of the local planning scheme;
- (c) to amend the scheme so that it is consistent with any other Act that applies to the scheme or the scheme area;
- (d) to amend the scheme so that it is consistent with a region planning scheme that applies to the scheme area if the amendment will have minimal effect on the scheme or landowners in the scheme area;

complex amendment means an amendment to a local planning scheme that is not a basic amendment or a standard amendment;

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

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

the scheme area, other than an amendment that is a basic amendment;

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

34. Resolution on amendment to local planning scheme

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

Division 2 — Process for complex amendments to local planning scheme

35. Resolution to proceed with complex amendment

- (1) On completion of the preparation of a complex amendment to a local planning scheme or the consideration of complex amendments to a local planning scheme proposed by any owner of land in the scheme area, the local government must resolve —

- (a) to proceed with the amendment to the local planning scheme; or
 - (b) not to proceed with the amendment to the local planning scheme.
- (2) If the local government resolves to proceed with a complex amendment to a local planning scheme the local government must submit 2 copies of the proposed amendment to the Commission.
- (3) If the local government resolves not to proceed with a complex amendment to a local planning scheme the local government must provide a copy of the resolution to the Commission.

36. Advertisement of complex amendment

- (1) Subject to sections 81 and 82 of the Act, if a local government resolves to proceed with a complex amendment to a local planning scheme the local government must prepare a notice in a form approved by the Commission giving details of —
- (a) the purpose of the amendment; and
 - (b) where the amendment may be inspected; and
 - (c) to whom and during what period submissions in respect of the amendment may be made.
- (2) On completion of the preparation of the notice, the local government must advertise the complex amendment to a local planning scheme for public inspection as follows —
- (a) publish the notice once in a newspaper circulating in the scheme area;
 - (b) display a copy of the notice in a prominent place in the offices of the local government for the period for making submissions set out in the notice;
 - (c) give a copy of the notice to each public authority that the local government considers is likely to be affected by the amendment to the local planning scheme;
 - (d) take any other steps it considers necessary.

- (3) The local government must ensure that the complex amendment to the local planning scheme is made available for inspection by the public during office hours at the office of the local government.
- (4) The period for submissions set out in a notice must be not less than a period of 42 days commencing on the day the notice is published in a newspaper circulating in the scheme area.

37. Land owner may be required to pay costs of publication [TPR 25A]

The local government may require a person to pay the cost of the publication of a notice under regulation 36 if —

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

38. Submissions on complex amendment

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

39. Consideration of submissions on complex amendments

- (1) In this regulation —

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

- (a) the day that is 42 days after the end of the submission period for the amendment to the local planning scheme;
- (b) the day that is 21 days after the receipt of a statement in respect of the amendment to the local planning scheme delivered under section 48F(2)(a) of the EP Act;
- (c) the day that is 21 days after the receipt of a statement in respect of the amendment to the local planning scheme delivered under section 48G(3) of the EP Act if that statement is in response to a request by the local government made under section 48G(1) of the EP Act before the later of the days set out in paragraphs (a) and (b);
- (d) a day approved by the Commission;

submission period, in relation to a complex amendment to a local planning scheme, means the period for making submissions specified in the notice in respect of the amendment to the local planning scheme referred to in regulation 36(1).

- (2) The local government —
 - (a) must consider all submissions in relation to a complex amendment to a local planning scheme made to the local government within the submission period; and
 - (b) may consider submissions in relation to the amendment after the end of the submission period but before the end of the consideration period.
- (3) As soon as is practicable after the end of the consideration period for a complex amendment to a local planning scheme, or if no submissions have been received within the submission period, after the end of the submission period, the local government must pass a resolution —
 - (a) to support the amendment to the local planning scheme with or without modification; or

- (b) not to support the amendment to the local planning scheme.

40. Incorporation of environmental conditions [TPR 17A]

If a local government receives a statement in respect of a complex amendment to a local planning scheme delivered under section 48F(2) of the EP Act after passing a resolution to support the amendment but before complying with regulation 41, the local government must amend the amendment documents —

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

41. Complex amendment to be provided to the Commission

- (1) Within 21 days of passing a resolution to proceed with a complex amendment to a local planning scheme under regulation 39(3) the local government must provide the advertised amendment to the local planning scheme to the Commission together with the following —
 - (a) a schedule of submissions made on the amendment;
 - (b) the response of the local government in respect of the submissions;
 - (c) particulars of each modification to the amendment made in response to the submissions;
 - (d) a copy of the resolution passed under regulation 39(3);
 - (e) if that resolution was a resolution under regulation 39(3)(b), a summary of the reasons why the local government does not wish to support the local planning scheme;

- (f) any relevant maps, plans, specifications and particulars required by the Commission.
- (2) The schedule of submissions referred to in subregulation (1)(a) must contain the following —
 - (a) the name and address of the person making the submission;
 - (b) where it is relevant, a description of the property that is the subject of the submission;
 - (c) the submission or a summary of the submission.

42. Commission to submit complex amendment to Minister

The Commission must —

- (a) consider the documents provided to it under regulation 41(1); and
- (b) make any recommendations to the Minister in respect of the amendment that the Commission considers appropriate; and
- (c) submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.

43. Minister or authorised person may direct modified complex amendment be advertised

- (1) The Minister or an authorised person may direct the local government to readvertise a modification to a complex amendment to a local planning scheme if —
 - (a) the amendment was modified after the scheme was advertised under regulation 36; and
 - (b) the Minister or authorised person is of the opinion that the modification to the amendment is significant.
- (2) If a local government is given a direction under subregulation (1) the local government must advertise the modification to the amendment to the local planning scheme as follows —

- (a) publish in a newspaper circulating in the scheme area a notice in a form approved by the Minister or authorised person giving details of —
 - (i) the modifications made to the amendment to the local planning scheme; and
 - (ii) where the modified amendment may be inspected; and
 - (iii) to whom and during what period submissions may be made; and
 - (iv) the manner and form in which submissions may be made;
 - (b) display a copy of the notice in a prominent place in the offices of the local government for the period the Minister or authorised person directs;
 - (c) take any other steps directed by the Minister or authorised person.
- (3) The period for making submissions set out in the notice referred to in subregulation (2) must be a period of 28 days commencing on the day the notice is published or a longer period approved by the Minister or authorised person.
- (4) A person may make a submission on a modification to a complex amendment to a local planning scheme that has been advertised in accordance with subregulation (2) —
- (a) in the manner and form specified in the notice; and
 - (b) within the period specified in the notice.
- (5) If a modification to an amendment to a local planning scheme is advertised in accordance with this regulation, a local government —
- (a) must consider all submissions on the modifications made to the local government within the period specified in the notice; and

- (b) may consider submissions on the modification made to the local government after the period specified in the notice; and
 - (c) must make a recommendation in respect of each submission considered; and
 - (d) must forward to the Commission the submissions and the recommendations.
- (6) A local government must comply with subregulation (5) —
- (a) within the period of 42 days commencing on the expiry of the period for making submissions on the modification; or
 - (b) within a longer period approved by the Minister or an authorised person.
- (7) The Commission must —
- (a) consider the documents provided to it under subregulation (6); and
 - (b) make any recommendations to the Minister in respect of the submission on the modification to the amendment that the Commission considers appropriate; and
 - (c) forward the documents and the recommendations to the Minister.

Division 3 — Process for standard amendments to local planning scheme

44. Advertisement of standard amendment

- (1) Subject to sections 81 and 82 of the Act, if a local government resolves to prepare a standard amendment to a local planning scheme, the local government must prepare a notice in a form approved by the Commission giving details of —
- (a) the purpose of the amendment; and
 - (b) where the amendment may be inspected; and

- (c) to whom and during what period submissions in respect of the amendment may be made.
- (2) On completion of the preparation of the notice, the local government must advertise the standard amendment to a local planning scheme for public inspection as follows —
- (a) publish the notice once in a newspaper circulating in the scheme area;
 - (b) display a copy of the notice in a prominent place in the offices of the local government for the period for making submissions set out in the notice;
 - (c) give a copy of the notice to each public authority that the local government considers is likely to be affected by the amendment to the local planning scheme;
 - (d) take any other steps it considers necessary.
- (3) The local government must ensure that the standard amendment to the local planning scheme is made available for inspection by the public during office hours at the office of the local government.
- (4) The period for submissions set out in a notice must be not less than a period of 21 days commencing on the day the notice is published in a newspaper circulating in the scheme area.

45. Land owner may be required to pay costs of publication [TPR 25A]

The local government may require a person to pay the cost of the publication of a notice under regulation 36 if —

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

46. Submissions on standard amendment

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

47. Consideration of submissions on standard amendments

- (1) In this regulation —

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

 - (a) the day that is 21 days after the end of the submission period for the amendment to the local planning scheme;
 - (b) the day that is 14 days after the receipt of a statement in respect of the amendment to the local planning scheme delivered under section 48F(2)(a) of the EP Act;
 - (c) the day that is 14 days after the receipt of a statement in respect of the amendment to the local planning scheme delivered under section 48G(3) of the EP Act if that statement is in response to a request by the local government made under section 48G(1) of the EP Act before the later of the days set out in paragraphs (a) and (b);
 - (d) a day approved by the Commission;

submission period, in relation to a standard amendment to a local planning scheme, means the period for making submissions specified in the notice in respect of the amendment to the local planning scheme referred to in regulation 44(1).

- (2) The local government —
 - (a) must consider all submissions in relation to a standard amendment to a local planning scheme made to the local government within the submission period; and
 - (b) may consider submissions in relation to the amendment after the end of the submission period but before the end of the consideration period.
- (3) As soon as is practicable after the end of the consideration period for a standard amendment to a local planning scheme, or if no submissions have been received within the submission period, after the end of the submission period, the local government must pass a resolution —
 - (a) to support the amendment to the local planning scheme with or without modification; or
 - (b) not to support the amendment to the local planning scheme.

48. Incorporation of environmental conditions [TPR 17A]

If a local government receives a statement in respect of a standard amendment to a local planning scheme delivered under section 48F(2) of the EP Act after passing a resolution to prepare or adopt the amendment but before complying with regulation 49, the local government must amend the amendment documents —

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

49. Standard amendment to be provided to the Commission

- (1) Within 21 days of passing a resolution to prepare or adopt a standard amendment to a local planning scheme under

regulation 34(1) the local government must provide the advertised amendment to the local planning scheme to the Commission together with the following —

- (a) a schedule of submissions made on the amendment;
 - (b) the response of the local government in respect of the submissions;
 - (c) particulars of each modification to the amendment made in response to the submissions;
 - (d) a copy of the resolution passed under regulation 47(3);
 - (e) if that resolution was a resolution under regulation 47(3)(b), a summary of the reasons why the local government does not wish to support the local planning scheme;
 - (f) any relevant maps, plans, specifications and particulars required by the Commission.
- (2) The schedule of submissions referred to in subregulation (1)(a) must contain the following —
- (a) the name and address of the person making the submission;
 - (b) where it is relevant, a description of the property that is the subject of the submission;
 - (c) the submission or a summary of the submission.

50. Commission to submit amendment to Minister

The Commission must —

- (a) consider the documents provided to it under regulation 49(1); and
- (b) make any recommendations to the Minister in respect of the amendment that the Commission considers appropriate; and
- (c) submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.

51. Minister or authorised person may direct modified standard amendment be advertised

- (1) The Minister or an authorised person may direct the local government to readvertise a modification to a standard amendment to a local planning scheme if —
 - (a) the amendment was modified after the scheme was advertised under regulation 44; and
 - (b) the Minister or authorised person is of the opinion that the modification to the amendment is significant.
- (2) If a local government is given a direction under subregulation (1) the local government must advertise the modification to the amendment to the local planning scheme as follows —
 - (a) publish in a newspaper circulating in the scheme area a notice in a form approved by the Minister or authorised person giving details of —
 - (i) the modifications made to the amendment to the local planning scheme; and
 - (ii) where the modified amendment may be inspected; and
 - (iii) to whom and during what period submissions may be made; and
 - (iv) the manner and form in which submissions may be made;
 - (b) display a copy of the notice in a prominent place in the offices of the local government for the period the Minister or authorised person directs;
 - (c) take any other steps directed by the Minister or authorised person.
- (3) The period for making submissions set out in the notice referred to in subregulation (2) must be a period of 14 days commencing on the day the notice is published or a longer period approved by the Minister or authorised person.

- (4) A person may make a submission on a modification to a standard amendment to a local planning scheme that has been advertised in accordance with subregulation (2) —
- (a) in the manner and form specified in the notice; and
 - (b) within the period specified in the notice.
- (5) If a modification to an amendment to a local planning scheme is advertised in accordance with this regulation, a local government —
- (a) must consider all submissions on the modifications made to the local government within the period specified in the notice; and
 - (b) may consider submissions on the modification made to the local government after the period specified in the notice; and
 - (c) must make a recommendation in respect of each submission considered; and
 - (d) must forward to the Commission the submissions and the recommendations.
- (6) A local government must comply with subregulation (5) —
- (a) within the period of 21 days commencing on the expiry of the period for making submissions on the modification; or
 - (b) within a longer period approved by the Minister or an authorised person.
- (7) The Commission must —
- (a) consider the documents provided to it under subregulation (6); and
 - (b) make any recommendations to the Minister in respect of the submission on the modification to the amendment that the Commission considers appropriate; and
 - (c) forward the documents and the recommendations to the Minister.

Division 4 — Process for basic amendments

52. Incorporation of environmental conditions [TPR 17A]

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

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

53. Basic amendment to be provided to the Commission

Within 14 days of passing a resolution to prepare or adopt a basic amendment to a local planning scheme under regulation 34(1) the local government must provide the amendment to the local planning scheme to the Commission together with any relevant maps, plans, specifications and particulars required by the Commission.

54. Commission to submit basic amendment to Minister

The Commission must —

- (a) consider the documents provided to it under regulation 53; and
- (b) make any recommendations to the Minister in respect of the amendment that the Commission considers appropriate; and
- (c) submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.

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

55. Giving effect to Minister's decision

- (1) If a local government is notified that the Minister has, under section 87(2) of the Act, refused to approve an amendment to a local planning scheme, the local government must, as soon as is reasonably practicable, notify each person who made a submission in relation to the amendment of that refusal.
- (2) Within 42 days of being notified that, under section 87(2) of the Act, the Minister requires the local government to modify the amendment to the local planning scheme, the local government must —
 - (a) modify the amendment as required; and
 - (b) execute the modified amendment to the local planning scheme; and
 - (c) resubmit to the Minister a copy of the executed documents.
- (3) Within 42 days of being notified that the Minister has, under section 87(2) of the Act, approved the amendment to the local planning scheme, or a longer period as the Commission allows, the local government must forward to the Commission for endorsement copies of the amendment as required by the Commission, including not less than 3 copies of the amendment documents that have been executed by the local government.

56. Endorsement of amendment to local planning scheme

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

57. Advertisement of approved amendment to local planning scheme

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

58. Deposit of amendment to local planning scheme

On the publication of the notice of an amendment to a local planning scheme under section 87(3) of the Act —

- (a) the copy of the amendment to the local planning scheme endorsed by the Minister is to be deposited with the Minister; and
- (b) a copy of the amendment to the local planning scheme certified under regulation 56(2) is to be deposited with —
 - (i) the Commission; and
 - (ii) the local government which prepared or adopted the amendment.

Part 6 — Review and consolidation of local planning schemes

Division 1 — Review of local planning scheme

59. Review of local planning scheme

- (1) A local government must carry out a review of each local planning scheme prepared by the local government after every 5th anniversary of the day the scheme is approved by the Minister under section 87 of the Act.
- (2) For the purposes of subregulation (1), a local planning scheme that was approved more than 5 years before the commencement of this regulation is to be taken to have been approved by the Minister on the day that is 5 years before the day this regulation comes into operation.
- (3) The review must consider whether the local planning scheme is up-to-date and complies with these regulations.

60. Report of review

- (1) The local government must, no later than 6 months after the requirement to carry out the review of a local planning scheme arises under regulation 59 —
 - (a) prepare a report of the review; and
 - (b) approve the report by resolution; and
 - (c) provide the approved report to the Commission.
- (2) The report must be prepared in the manner and form approved by the Commission and must include the following information —
 - (a) the date the local planning scheme was published in the *Gazette* in accordance with section 87(3) of the Act;
 - (b) the date when each amendment made to the scheme was published in the *Gazette* in accordance with section 87(3) of the Act;

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

61. Decision of Commission

- (1) On receipt of a report of a review of a local planning scheme, the Commission must consider the report and —
 - (a) decide whether the Commission agrees or disagrees with the recommendations in the report; and
 - (b) notify the local government who prepared the report of the Commission's decision.

- (2) Following receipt of notification of the Commission's decision on a report of a review of a local planning scheme the local government must —
 - (a) publish the report and notice of the Commission's decision on the website of the local government or in any other manner approved by the Commission; and
 - (b) make the report and notice of the Commission's decision available for inspection at the office of the local government.
- (3) A local government must not, without the approval of the Commission, take any steps to amend a local planning scheme if a period of 5 years has elapsed since the latest of the following days —
 - (a) the day on which the scheme was published in the *Gazette* in accordance with section 87(3) of the Act;
 - (b) the day on which a consolidation of the scheme was published in the *Gazette* in accordance with section 91(1) or 92(2) of the Act;
 - (c) the day on which the report of a review of the scheme was published in accordance with subregulation (2).

Division 2 — Consolidation of local planning scheme

62. Consolidation of local planning schemes [TPR 25AB]

- (1) These regulations, to the extent applicable, apply in respect of the preparation of a consolidation of a local planning scheme under Part 5 Division 5 of the Act.
- (2) A local government may not, under regulation 24(3)(b), make a resolution not to proceed with the consolidation of a local planning scheme.

Part 7 — Development contribution plans

[This Part contains those parts of the State Planning Policy 3.6 that relate to preparation of development contribution plans as the plans themselves are part of the scheme. Provisions relating to the implementation of the plans are included in the model scheme provisions.]

63. Terms used

In this Part —

administrative costs means the costs reasonably incurred in preparing and implementing a development contribution plan;

development contribution area means an area of land identified under regulation 64(1);

infrastructure means any of the following to the extent reasonably required in relation to a proposed development —

- (a) land for public open space, foreshore reserves, schools and roads;
- (b) provision of public utilities and roads;
- (c) community infrastructure including recreational facilities, community centres, library or cultural facilities and child care and afterschool facilities.

64. Development contribution area

- (1) A local government may identify an area of land within a scheme area as a development contribution area if development or subdivision of the land would require the provision of infrastructure or facilities in the area to support the development or subdivision.
- (2) The purpose of identifying a development contribution area is to ensure —
 - (a) that the infrastructure reasonably required in connection with the development or subdivision of the land is identified; and

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- (b) that there is an equitable sharing of the costs of providing the infrastructure and associated administrative costs between the owners of land in the area; and
 - (c) the coordination of the provision of the infrastructure for the area.
- (3) A development contribution area must be shown on the scheme map for the local planning scheme.

65. Requirement for development contribution plan

- (1) A local government must prepare a development contribution plan for each area identified in a local planning scheme as a development contribution area.
- (2) The development contribution plan must be prepared in accordance with the following principles —
 - (a) there should be a demonstrated need for the infrastructure identified in the plan and a demonstrated connection between the proposed development and that need;
 - (b) the method for calculating the development contributions to be made under the plan and the manner in which the requirement for the contribution is to be applied should be clear, transparent and simple to understand and administer;
 - (c) development contributions under the plan should be required in respect of all developments and subdivisions within the development contribution area and be based on the extent to which each development contributes to the need for the infrastructure;
 - (d) the development contributions to be made under the plan should be identified and the method of accounting for cost adjustments should be determined at the commencement of the development;

- (e) there should be no over-recovery of costs based on the whole of life capital costs of providing the infrastructure identified in the plan;
- (f) there should be consultation with owners of land in the development contribution area and an avenue of independent review if an owner disputes the amount of contribution required under the plan;
- (g) there should be accountability of the expenditure of the contributions made under the plan.

66. Contents of development contribution plan

- (1) A development contribution plan must set out the following —
 - (a) the development contribution area to which it applies;
 - (b) the infrastructure and administrative items to be funded through the plan;
 - (c) the method of determining the contribution of each owner of land in the development contribution area;
 - (d) the priority and timing for the provision of the infrastructure;
 - (e) whether costs of providing infrastructure and administrative items are to be reviewed annually and if so, the method proposed for the annual review of the costs;
 - (f) the term for which the plan is to have effect.
- (2) A development contribution plan must be attached as a schedule to the scheme text.

67. Preparation of development contribution plan not to be taken into account in certain local government decisions

A local planning scheme must not make any provision to the effect that the preparation or approval of a development contribution plan is a factor that the local government may take into account in making a decision whether to support a

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subdivision or strata-subdivision, or to grant development approval, in respect of land in a development contribution area.

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Part 8 — Miscellaneous

68. Expenses of environmental review [TPR 25B]

(1) In this regulation —

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

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

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

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

(2) A local government may, under section 82(6) of the Act, recover in a court of competent jurisdiction, as a debt due to the local government, any amount due and owing under this regulation in respect of review expenses.

(3) The owner of affected land is liable to pay an amount in respect of review expenses if local planning scheme or amendment documents —

- (a) provide that the owner is liable for review expenses; and
- (b) set out a method of calculation for the amount that is to be payable by each owner.

(4) The methods of calculation for the purposes of this regulation are as follows —

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

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

where —

A area of the affected land owned by the person;

T total area of affected land;

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

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

where —

V value of the affected land owned by the person;

T total value of affected land;

- (c) another method of calculation approved by the Minister or an authorised person.
- (5) Unless the local government and the owner of affected land have agreed in writing that the review expenses may be recovered at an earlier time, review expenses must not be recovered from the owner until the local planning scheme or amendment has come into force and —
- (a) the affected land owned by the person is sold or subdivided; or
- (b) in the case of an amendment that changed the zoning of affected land, the local government grants approval for the development of affected land owned by the person that could not have been granted under the local planning scheme prior to the amendment coming into force.

- (6) A local government must not seek to recover review expenses from a land owner unless the local government has kept separate records setting out details of —
- (a) the review expenses incurred and recovered; and
 - (b) the affected land; and
 - (c) any agreements of the type referred to in subregulation (5).

69. Compensation [TPR 26]

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

70. Transitional arrangements for replacement local planning schemes

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

Part 9 — Repeal and transitional provisions

71. Terms used

In this Part —

commencement day means the day regulation 72 comes into operation;

planning instrument means any of the following instruments —

- (a) an amendment to a local planning scheme;
- (b) a consolidation of a local planning scheme;
- (c) a development contribution plan;
- (d) a local planning scheme;
- (e) a local planning strategy;
- (f) a structure plan;

repealed regulations means the *Town Planning Regulations 1967*.

72. *Town Planning Regulations 1967* repealed

The *Town Planning Regulations 1967* are repealed.

73. Planning instruments continued

A planning instrument made under the Act before commencement day and in accordance with the repealed regulations or a State planning policy continues in force as a planning instrument of the same type made under the Act in accordance with these regulations.

74. Planning instruments in course of preparation

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

75. *Planning and Development (Bushfire Risk Management) Regulations 2014 repealed*

The *Planning and Development (Bushfire Risk Management) Regulations 2014* are repealed.

[This provision is based on the Planning and Development (Bushfire Risk Management) Regulations 2014 (the bush fire regulations) being made before these regulations. If the bush fire regulations have been made, the provisions relating to bush fire risk management in those regulations will be transferred to Schedule 2 of these regulations. If the bush fire regulations have not been made this regulation will be deleted.]

Schedule 1 — Model provisions for local planning schemes

[r. 10(2)]

Part 1 — Preliminary

1. Citation [MST 1.1.1]

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

2. Commencement [MST 1.1.1]

Under section 87(5) of the Act, this local planning scheme comes into operation on the day it is published in the *Gazette*.

3. Scheme revoked [MST 1.1.2]

The following local planning scheme(s) is (are) revoked —

Name	Gazettal date
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(Insert (where applicable) existing local planning schemes revoked by the Scheme.)

4. Notes do not form part of Scheme [MST Appendix B]

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

5. Responsibility for Scheme [MST 1.2]

The City/Town/Shire of is the local government responsible for the enforcement of this Scheme and the execution of any works required to be executed under this Scheme.

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

6. Scheme area [MST 1.3]

This Scheme applies to the area shown on the Scheme Map which comprises sheets 1 — x set out in Appendix 1.

Note: The Scheme area (or part) is also subject to the Region planning scheme (see clause 12) and other local planning schemes (see clause 11).

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

7. Contents of Scheme [MST 1.4]

(1) This Scheme includes —

- (a) the Scheme Map (sheets 1 — x); and
- (b) the following plans, maps, diagrams, illustrations or materials —

(Insert after paragraph (b) a paragraph describing any supporting plans, maps, diagrams, illustrations or materials which form part of the Scheme.)

(2) This Scheme is to be read in conjunction with any local planning strategy for the Scheme area.

8. Purposes of Scheme [MST 1.5]

The purposes of this Scheme are to —

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

9. Aims of Scheme [MST 1.6]

The aims of this Scheme are —

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

10. Relationship with local laws [MST 1.8]

Where a provision of this Scheme is inconsistent with a local law, the provision of this Scheme prevails to the extent of the inconsistency.

11. Relationship with other local planning schemes [MST 1.9]

The following local planning schemes of the City/Town/Shire of also apply in the Scheme area —

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

12. Relationship with region planning scheme [MST 1.10]

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

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

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

Part 2 — Reserves

13. Regional Reserves [MST 3.2]

- (1) Regional reserves are marked on the Scheme Map according to the legend on the Scheme Map.

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

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

Part 3 — Zones and use of land

16. Zones [MST 4.1 and 4.2]

(1) Zones are shown on the Scheme Map according to the legend set out in clause 35.

(2) The objectives of each zone are as follows —

(List the objectives of each zone contained in the Scheme by reference to the possible objectives of the zone set out in clause 35).

17. Zoning table

The zoning table for this Scheme is as follows —

(Insert zoning table.)

18. Interpreting zoning table [MST 4.3 and 4.4]

(1) The permissibility of uses of land in the various zones in the Scheme area is determined by cross-reference between the list of use classes on the left hand side of the zoning table and the list of zones at the top of the zoning table.

(2) The symbols used in the zoning table have the following meanings —

P means that the use is permitted if it complies with any relevant development standards or requirements of this Scheme;

I means that the use is permitted if it is incidental, ancillary or subordinate to the predominate use of the land and it complies with any relevant development standards or requirements of this 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 development approval after giving special notice in accordance with clause 41 of the deemed provisions;

X means that the use is not permitted by this Scheme.

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

- Note:
1. The development approval of the local government may be required to carry out works on land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the carrying out of works on, and the use of, land. For works on land that do not require development approval see clause 36 of the deemed provisions.
 2. In considering a D or A use, the local government will have regard to the matters set out in clause 45 of the deemed provisions.
 3. 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 carried out in accordance with the Act.

- (3) A specific use class referred to in the zoning table is excluded from any other use class described in more general terms.
- (4) The local government may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table —
 - (a) determine that the use is consistent with the objectives of a particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the local government; or
 - (b) determine that the use may be consistent with the objectives of a particular zone and give notice under clause 41 of the deemed provisions before considering an application for planning approval for the use of the land; or
 - (c) determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted in the zone.

19. Additional uses [MST 4.5]

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

Table

Specified additional uses for zoned land in Scheme area

No.	Description of land	Additional use	Conditions

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

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

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

20. Restricted uses [MST 4.6]

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

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

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

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

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

22. Non-conforming uses [MST 4.8, 4.10 and 4.11]

- (1) Unless specifically provided, this Scheme does not prevent —
- (a) the continued use of any land, or any structure or building on land, for the purpose for which it was being lawfully used immediately before the commencement of this Scheme; or
 - (b) the carrying out of development on land if —
 - (i) before the commencement of this Scheme, the development was lawfully approved; and
 - (ii) the approval has not expired or been cancelled.
- (2) Subclause (1) does not apply if —
- (a) the non-conforming use of the land is discontinued; and
 - (b) a period of 6 months, or a longer period approved by the local government, has elapsed since the discontinuance of the non-conforming use.
- (3) Subclause (1) does not apply in respect of a non-conforming use of land if, under Part 11 of the Act, the local government —
- (a) purchases the land; or
 - (b) pays compensation to the owner of the land in relation to the non-conforming use.

23. Changes to non-conforming use [MST 4.9 and 4.12]

- (1) A person must not, without development approval —
- (a) alter or extend a non-conforming use of land; or

- (b) erect, alter or extend a building used for, or in conjunction with, a non-conforming use; or
 - (c) repair, rebuild, alter or extend a building used for a non-conforming use that is destroyed to the extent of 75% or more of its value; or
 - (d) change the use of land from a non-conforming use to another non-conforming use.
- (2) An application for development approval for the purposes of this clause must be advertised in accordance with clause 41 of the deemed provisions.
- (3) A local government may only grant development approval for a change of use of land referred to in subclause (1)(d) if, in the opinion of the local government, the proposed use —
- (a) is less detrimental to the amenity of the locality than the existing non-conforming use; and
 - (b) is closer to the intended purpose of the zone in which the land is situated.

24. Register of non-conforming uses

- (1) The local government may prepare a register of land within the Scheme area that is being used for a non-conforming use.
- (2) A register prepared by the local government must set out the following —
- (a) a description of each area of land that is being used for a non-conforming use;
 - (b) a description of any building on the land;
 - (c) a description of the non-conforming use;
 - (d) the date on which any discontinuance of the non-conforming use is noted.
- (3) If the local government prepares a register under subclause (1) the local government must —
- (a) ensure that the register is kept up-to-date; and
 - (b) make a copy of the register available for public inspection during business hours at the offices of the local government.

Part 4 — General development requirements

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

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

25. R-Codes [MST 5.2 and new]

- (1) The R-Codes, modified as set out in clause 26, are to be read as part of this Scheme.
- (2) The local government must make a copy of the R-Codes available for public inspection during business hours at the offices of the local government.
- (3) The coding of land for the purposes of the R-Codes is shown by the coding number superimposed on a particular area contained within boundaries shown on the Scheme Map.

26. Modification of R-Codes [MST 5.3]

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

27. Restrictive covenants [MST 5.4]

- (1) The local government may, with the approval of the Commission, agree to the discharge or modification of a restrictive covenant affecting land in the Scheme area.
- (2) The discharge or modification of a restrictive covenant in respect of land does not affect the requirements of this Scheme for development approval to be obtained for development of the land.

Note: The owner of land affected by a restrictive covenant must apply under the *Transfer of Land Act 1893* for a memorandum of the discharge or modification of the restrictive covenant to be entered on the certificate of title for the land.

**28. Variations to site and development standards and requirements
[MST 5.5]**

- (1) In this clause —
- site and development standards* means requirements relating to works that are —
- (a) to be read as part of this Scheme in accordance with clause 25(1); or
 - (b) set out in clause 30.
- (2) The local government may approve an application for a development approval that does not comply with a site and development standard if the application is in relation to non-residential development.
- (3) An approval under subclause (2) may be unconditional or subject to any conditions the local government thinks fit.
- (4) If the local government is of the opinion that the non-compliance with a site and development standard will mean that the development is likely to adversely affect any owners or occupiers in the general locality or adjoining the site of the development the local government must —
- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 41 of the deemed provisions; and
 - (b) have regard to any expressed views prior to making its determination to grant development approval under this clause.
- (5) The local government may only approve an application for development approval under this clause if the local government is satisfied that —
- (a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 45 of the deemed provisions; and

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

29. Environmental conditions [MST 5.6]

- (1) The conditions set out in the Table are environmental conditions that apply to this Scheme as a result of an assessment carried out under the *Environmental Protection Act 1986* Part IV Division 3.

Table

Environmental conditions that apply to land in Scheme area

Scheme or amendment no.	Gazettal date	Environmental conditions

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

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

If no environmental conditions apply, insert the words “There are no environmental conditions imposed under the Environmental Protection Act 1986 that apply to this Scheme.”.)

30. Site and development standards

(To be inserted if there are requirement relating to works that are additional to those that are to be read as part of the Scheme in accordance with clause 25(1). If no additional requirements are to

apply, insert the words “There are no additional requirements relating to works that apply to this Scheme.”.)

Part 5 — Special control areas

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

31. Special control areas [MST 6.1]

(1) Special control areas are marked on the Scheme Map according to the legend on the Scheme Map.

(2) The purpose of each special control area is as follows —

(Set out the purposes of each special control area.)

(3) The additional provisions that apply in respect of each special control area are set out in

(Identify where the additional provisions for each special control area are located.)

(4) The additional provisions that apply in respect of a special control area are in addition to the provisions that apply to any underlying reserve zone or reserve and to the general provisions of this Scheme.

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

Part 6 — Terms referred to in Scheme

Division 1 — General definitions used in Scheme

32. Terms used

- (1) If a word used in this Scheme is listed in this clause the meaning of the word is as set out below —

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

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

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

- (a) a utility, van, truck, tractor, bus or earthmoving equipment; and
- (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a);

floor area has meaning given in the Building Code;

frontage, in relation to a building —

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

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

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

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

- (a) stairs, toilets, cleaner's cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;
- (b) lobbies between lifts facing other lifts serving the same floor;

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

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

plot ratio, in relation to residential dwellings, has the meaning given in the R-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;

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

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

- (2) If there is a conflict between the meaning of a word or expression in subclause (1) and the meaning of that word or expression in the R-Codes —
 - (a) in the case of a residential development, the definition in the R-Codes prevails; and
 - (b) in any other case the definition in subclause (1) prevails.

Division 2 — Land use terms used in Scheme

33. Land use terms used

If this Scheme refers to a category of land use that is listed in this provision the meaning of that land use is as set out below —

abattoir means premises used commercially for the slaughtering of animals for the purposes of consumption as food products;

agriculture — extensive means premises used for the raising of stock or crops but does not include agriculture — intensive or animal husbandry — intensive;

agriculture — intensive means premises used for trade or commercial purposes, including outbuildings and earthworks, associated with any of the following —

- (a) the production of grapes, vegetables, flowers, exotic or native plants, or fruit or nuts;
- (b) the establishment and operation of plant or fruit nurseries;
- (c) the development of land for irrigated fodder production or irrigated pasture (including turf farms);
- (d) aquaculture;

amusement parlour means premises —

- (a) that are open to the public; and
- (b) that are used predominantly for amusement by means of amusement machines; and
- (c) where there are 2 or more amusement machines;

animal establishment means premises used for the breeding, boarding, training or caring of animals for commercial purposes but does not include animal husbandry — intensive or veterinary centre;

animal husbandry — intensive means premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) or other livestock in feedlots, sheds or rotational pens;

art gallery means premises where artworks are displayed for viewing or sale;

bed and breakfast means a dwelling —

- (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and
- (b) containing not more than 2 guest bedrooms and one guest bathroom;

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

bulky goods showroom means premises used to sell goods and accessories if —

- (a) a large area is required for the handling, display or storage of the goods; or
- (b) vehicular access to the premises is required for the purpose of collection of purchased goods;

cabin means a dwelling forming part of a tourist facility that is —

- (a) an individual unit other than a chalet; and
- (b) designed to accommodate short-term guests with no guest accommodated for periods totalling more than 3 months in any 12 month period;

caravan park means premises that are a caravan park as defined in the *Caravan Parks and Camping Grounds Act 1995* section 5(1);

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

car park means premises used primarily for parking vehicles whether open to the public or not but does not include —

- (a) any part of a public road used for parking or for a taxi rank; or
- (b) any premises in which cars are displayed for sale;

chalet means a dwelling forming part of a tourist facility that is —

- (a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and
- (b) designed to accommodate short-term guests with no guest accommodated for periods totalling more than 3 months in any 12 month period;

child care premises means premises where —

- (a) an education and care service as defined in the *Education and Care Services National Law (Western Australia)* section 5(1), other than a family day care service as defined in that section, is provided; or
- (b) a child care service as defined in the *Child Care Services Act 2007* section 4 is provided;

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

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

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

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

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

convenience store means premises —

- (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents, or the retail sale of petrol and those convenience goods; and
- (b) operated during hours which include, but may extend beyond, normal trading hours; and
- (c) which provide associated parking; and
- (d) the floor area of which does not exceed 300 m² net lettable area;

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

educational establishment means premises used for the purposes of providing education including premises used for a school, higher education institution, business college, academy or other educational institution;

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

family day care means premises where a family day care service as defined in the *Education and Care Services National Law (Western Australia)* is provided;

fast food outlet means premises other than a lunch bar used for the preparation, sale and serving of food to customers in a form ready to be eaten —

- (a) without further preparation; and
- (b) primarily off the premises;

fuel depot means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel but does not include premises used —

- (a) as a service station; or
- (b) for the sale of fuel by retail into a vehicle for use by the vehicle;

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

garden centre means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens;

guest house means a dwelling or part of a dwelling occupied by a person but containing rooms used to accommodate short-term guests for hire or reward;

holiday accommodation means 2 or more dwellings on one lot used to provide accommodation for holiday or temporary purposes for persons other than the owner of the lot;

holiday house means a single dwelling on one lot used to provide short-term accommodation for not more than 6 persons but does not include a bed and breakfast, a chalet, a guest house or a short-term accommodation unit;

holiday house — large means a single dwelling on one lot used to provide short-term accommodation for between 7 and 12 persons but does not include a bed and breakfast, a chalet, a guest house or a short-term accommodation unit;

home business means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or occupation that —

- (a) does not involve employing more than 2 people who are not members of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 50 m²; and
- (d) does not involve the retail sale, display or hire of any goods; and
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and

- (f) does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and
- (g) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;

home occupation means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation that —

- (a) does not involve employing a person who is not a member of the occupier's household; and
 - (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
 - (c) does not occupy an area greater than 20 m²; and
 - (d) does not involve the display on the premises of a sign with an area exceeding 0.2 m²; and
 - (e) does not involve the retail sale, display or hire of any goods; and
 - (f) does not —
 - (i) require a greater number of parking spaces than normally required for a single dwelling; or
 - (ii) result in an increase in traffic volume in the neighbourhood;
- and
- (g) does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight; and
 - (h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and
 - (i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;

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

- (a) is solely within the dwelling; and
- (b) does not entail clients or customers travelling to and from the dwelling; and

- (c) does not involve the display of a sign on the premises; and
- (d) does not require any change to the external appearance of the dwelling;

home store means a shop attached to a dwelling that —

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

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

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

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

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

industry — cottage means premises, other than premises used for a home occupation, that are used by the occupier of the premises for the purpose of carrying out a trade or light industry producing arts and crafts goods if the carrying out of the trade or light industry —

- (a) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (b) if the premises is located in a residential zone — does not employ any person other than a member of the occupier's household; and
- (c) is compatible with the principal uses to which land in the zone in which the premises is located may be put; and
- (d) does not occupy an area greater than 50 m²; and
- (e) does not involve the display on the premises of a sign with an area exceeding 0.2 m²;

industry — extractive means premises, other than premises used for industry — mining, that are used for an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar material from the land substances and includes facilities on or adjacent to the premises for either of the following purposes —

- (a) the treatment and storage of the materials;
- (b) the manufacture of products from the materials;

industry — general means premises used for an industry not specified as a separate category of land use;

industry — light means premises used for an industry if the carrying on of the industry that —

- (a) does not cause any injury to or adversely affect the amenity of the locality; and
- (b) does not require the supply or provision of essential services that would impose an undue load on any existing or proposed essential services in the area in which the premises is located;

industry — mining means land used commercially to extract minerals from the land;

industry — rural means premises used —

- (a) to carry out an industry handling, treating, processing or packing rural products; or
- (b) for a workshop servicing plant or equipment used for rural purposes;

industry — service means premises with a retail shop front —

- (a) from which goods manufactured on the premises are sold; or
- (b) used as a depot for receiving goods to be serviced;

liquor store — large means premises the subject of a liquor store licence granted under the *Liquor Control Act 1988* with a net lettable area of more than 300 m²;

liquor store — small means premises the subject of a liquor store licence granted under the *Liquor Control Act 1988* with a net lettable area of not more than 300 m²;

lunch bar means premises or part of premises within an industrial or commercial area used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation;

marina means —

- (a) premises used for providing mooring, fuelling, servicing, repairing, storage and other facilities for boats, including the associated sale of any boating gear or equipment; and
- (b) all jetties, piers, embankments, quays, moorings, offices and storerooms used in connection with the provision of those services;

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

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

medical centre means premises other than a hospital used by 3 or more health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care;

motel means premises, which may be licensed under the *Liquor Control Act 1988* —

- (a) used to accommodate guests in a manner similar to a hotel; and
- (b) with specific provision for the accommodation of guests with motor vehicles;

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

motor vehicle repair means premises used for or in connection with —

- (a) electrical and mechanical repairs, or overhauls, to vehicles other than panel beating, spray painting or chassis reshaping of vehicles; or
- (b) repairs to tyres other than recapping or retreading of tyres;

motor vehicle wash means premises primarily used to wash motor vehicles;

nightclub means premises the subject of a nightclub licence granted under the *Liquor Control Act 1988*;

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

park home park means premises used as a park home park as defined in the *Caravan Parks and Camping Grounds Regulations 1997* Schedule 8;

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

reception centre means premises used for hosted functions on formal or ceremonial occasions;

recreation — private means premises that are —

- (a) used for indoor or outdoor leisure, recreation or sport; and
- (b) not usually open to the public without charge;

residential building means a building or part of a building used to provide —

- (a) short-term accommodation for 2 or more persons; or
- (b) long-term accommodation for 7 or more persons who are not part of the same family;

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

restaurant means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the *Liquor Control Act 1988*;

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

- (a) publications that are classified as restricted under the *Classification (Publications, Films and Computer Games) Act 1995* (Commonwealth); and
- (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;

rural home business means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or occupation —

- (a) does not involve employing more than 2 people who are not members of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 200 m²; and
- (d) does not involve the retail sale, display or hire of any goods; and
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
- (f) does not involve the presence, use or calling of more than 3 vehicles at any one time or of a vehicle more than 30 tonnes gross weight;

rural pursuit means any premises, other than premises used for agriculture — extensive or agriculture — intensive, that are used for —

- (a) the rearing or agistment of animals; or
- (b) the keeping of bees; or
- (c) the stabling, agistment or training of horses; or
- (d) the growing of trees, plants, shrubs or flowers for replanting in domestic, commercial or industrial gardens; or
- (e) the sale of produce grown solely on the premises;

serviced apartment means a group of units or apartments providing —

- (a) self-contained accommodation for short-stay guests with no guest accommodated for periods totalling more than 3 months in any 12 month period; and
- (b) any associated reception or recreational facilities;

service station means premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for —

- (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; or

- (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles;

shop means premises other than a showroom used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services;

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

small bar means premises the subject of a small bar licence granted under the *Liquor Control Act 1988*;

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

tavern means premises the subject of a tavern licence granted under the *Liquor Control Act 1988*;

telecommunications infrastructure means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network;

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

trade supplies means premises used to sell by wholesale or retail, or to hire, materials, tools, equipment, machinery or other goods used for any of the following purposes —

- (a) automotive repairs and servicing;
- (b) building;
- (c) commerce;
- (d) industry;
- (e) landscape gardening;
- (f) provision of medical services;
- (g) primary production;
- (h) government departments or agencies, including local government;

transport depot means premises used primarily for the parking or garaging of 3 or more commercial vehicles including —

- (a) any ancillary maintenance or refuelling of those vehicles; and
- (b) any ancillary storage of goods brought to the premises by those vehicles; and
- (c) the transfer of goods or persons from one vehicle to another;

tree farm means land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the *Carbon Rights Act 2003* section 5;

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

warehouse means premises used for the purposes of storage, display or the sale by wholesale of goods;

waste disposal facility means premises used —

- (a) for the disposal of waste by landfill; or
- (b) the incineration of hazardous, clinical or biomedical waste;

waste storage facility means premises used to collect, consolidate, temporarily store or sort waste before transfer to a waste disposal facility or a resource recovery facility on a commercial scale;

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

winery means premises used for the production of viticultural produce and associated sale of the produce;

workforce accommodation means premises, which may include modular or relocatable buildings, used —

- (a) primarily for the temporary accommodation of workers engaged in construction, resource, agricultural or other industries; and
- (b) for any associated catering, sporting and recreation facilities for the occupants and authorised visitors.

Part 7 — Legends used in Scheme

Division 1 — Reserve legends used in Scheme

34. Reserve legend used in Scheme

If land is reserved under this Scheme the name of the reserve, the way in which it is represented on the Scheme Map and the description and possible objectives of the reserve are to be selected from the Table.

Table

Reserve name	Appearance	Description	Possible objectives
Public Open Space	 <p>Dark green hatched RGB Colours FILL: Red: 43 Green: 255 Blue: 43</p> <p>Style: Hatch Angle -45.00° Separation 1.27mm Width 0.035mm</p>	s. 152 sites, usually vested with LG	<ul style="list-style-type: none"> • To set aside areas for public open space, particularly those established under the <i>Planning and Development Act 2005</i> s. 152. • To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage.

Reserve name	Appearance	Description	Possible objectives
Conservation	 <p>Light green hatched RGB Colours FILL: Red: 153 Green: 237 Blue: 179</p> <p>Style: Hatch Angle -45.00° Separation 1.27mm Width 0.035mm</p>	National & State parks, vested in the Crown	<ul style="list-style-type: none"> • To set aside areas with conservation and/or landscape value, and to protect those areas from development and subdivision. • To identify and protect those areas of conservation significance particularly within existing National Parks and other conservation reserves.
State Forest	 <p>Dark yellow hatched RGB Colours FILL: Red: 255 Green: 214 Blue: 92</p> <p>Style: Hatch Angle -45.00° Separation 1.27mm Width 0.035mm</p>		<ul style="list-style-type: none"> • To identify areas of State Forest.

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Reserve name	Appearance	Description	Possible objectives
Civic and Community	 <p>Orange hatched RGB Colours FILL: Red: 255 Green: 110 Blue: 0</p> <p>Style: Hatch Angle -45.00° Separation 1.27mm Width 0.035mm</p>	Vested usually with State, management order with LG	<ul style="list-style-type: none"> • To provide for a range of community facilities which are compatible with surrounding development. • To provide for public facilities such as halls, theatres, art galleries, educational, health and social care facilities, accommodation for the aged, and other services by organisations involved in activities for community benefit.
Public Purposes	 <p>Light yellow hatched RGB Colours FILL: Red: 255 Green: 255 Blue: 77</p> <p>Style: Hatch Angle -45.00° Separation 1.27mm Width 0.035mm</p> <p>BLACK LABEL FOR SPECIFIC PURPOSE. E G. HS – High School</p>		<ul style="list-style-type: none"> • To provide for a range of essential physical and community infrastructure.

Reserve name	Appearance	Description	Possible objectives
Drainage / Waterway	 <p>Light blue hatched RGB Colours FILL: Red: 219 Green: 255 Blue: 255</p> <p>Style: Hatch Angle -45.00° Separation 1.27mm Width 0.035mm</p>	Vested with Crown (Water) Rivers, creeks, sumps, drainage swales	<ul style="list-style-type: none"> To set aside land required for significant waterways and drainage.
Railways	 <p>Grey hatched RGB Colours FILL: Red: 204 Green: 204 Blue: 204</p> <p>Style: Hatch Angle -45.00° Separation 1.27mm Width 0.035mm</p>	Crown land, vested with PTA. Passenger rail and freight lines	<ul style="list-style-type: none"> To set aside land required for passenger rail and rail freight services.

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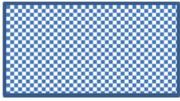
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Reserve name	Appearance	Description	Possible objectives
Primary Distributor Road	 Red hatched RGB Colours FILL: Red: 255 Green: 0 Blue: 0 Style: Hatch Angle -45.00° Separation 1.27mm Width 0.035mm		<ul style="list-style-type: none">• To set aside land required for a primary distributor road.
District Distributor Road	 Dark blue hatched RGB Colours FILL: Red: 0 Green: 82 Blue: 255 Style: Hatch Angle -45.00° Separation 1.27mm Width 0.035mm		<ul style="list-style-type: none">• To set aside land required for a district distributor road.

Reserve name	Appearance	Description	Possible objectives
Local Distributor Road	 <p>Pink hatched RGB Colours FILL: Red: 253 Green: 143 Blue: 179</p> <p>Style: Hatch Angle -45.00° Separation 1.27mm Width 0.035mm</p>		<ul style="list-style-type: none"> To set aside land required for a local distributor road.
Local Road	 <p>White RGB Colours FILL: Red: 255 Green: 255 Blue: 255</p>		<ul style="list-style-type: none"> To set aside land required for a local road.
Port	 <p>Grey RGB Colours FILL: Red: 204 Green: 204 Blue: 204</p>	Vested with port authority and/or DoT	<ul style="list-style-type: none"> To set aside land required for port or marine facilities.

Reserve name	Appearance	Description	Possible objectives
Special Purpose Reserve	 <p>Blue and white check RGB Colours FILL: Red: 68 Green: 101 Blue: 137</p> <p>Style: Crosshatching Angle 1 -45.00° Angle 2 +45.00° Separation 1.27 mm Width 0.035mm</p>	Gas pipeline, multiple use e.g. conservation & drainage & POS	<ul style="list-style-type: none"> To set aside land for a special purpose.

Division 2 — Zone legends used in Scheme

35. Zone legend used in Scheme

If land is zoned under this Scheme the name of the zone, the way in which it is represented on the Scheme Map and the description and possible objectives of the zone are to be selected from the Table.

Table

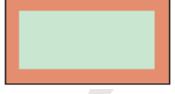
Zone name	Appearance	Description	Possible objectives
Residential	 <p>Light orange RGB Colours FILL: Red: 255 Green: 222 Blue: 179</p>		<ul style="list-style-type: none"> • To provide for a range of housing and a choice of residential densities to meet the needs of the community. • To facilitate and encourage high quality design, built form and streetscapes throughout residential areas. • To provide for a range of non-residential uses, which are compatible with and complementary to residential development.
Urban Development	 <p>Light yellow with pink border RGB Colours Border: Red: 235 Green: 122 Blue: 110 Width: 0.7mm Position: Along inside edge of feature FILL: Red: 255 Green: 255 Blue: 199</p>		<ul style="list-style-type: none"> • To provide an intention of future land use and a basis for more detailed structure planning in accordance with the provisions of this Scheme. • To provide for a range of residential densities to encourage a variety of residential accommodation. • To provide for the progressive and planned development of future urban areas for residential purposes and for commercial and other uses normally associated with residential development.

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Part 7 Legends used in Scheme

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Zone name	Appearance	Description	Possible objectives
Special Residential	 <p>Light orange with red border</p> <p>RGB Colours Border: Red: 255 Green: 0 Blue: 0 Width: 0.7mm Position: Along inside edge of feature</p> <p>FILL: Red: 255 Green: 222 Blue: 179</p>		<ul style="list-style-type: none"> • To provide for a lot sizes in the range of 2 000 m² and 1 ha. • To ensure development is sited and designed to achieve an integrated and harmonious character. • To set aside areas where the retention of vegetation and landform or other features which distinguish the land, warrant a larger residential lot size than that expected in a standard residential zone.
Rural Residential	 <p>Light green with pink border</p> <p>RGB Colours Border: Red: 235 Green: 122 Blue: 110 Width: 0.7mm Position: Along inside edge of feature</p> <p>FILL: Red: 201 Green: 255 Blue: 201</p>		<ul style="list-style-type: none"> • To provide for lot sizes in the range of 1 ha to 4 ha. • To provide opportunities for a range of limited rural and related ancillary pursuits on rural-residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land. • To set aside areas for the retention of vegetation and landform or other features which distinguish the land.

Zone name	Appearance	Description	Possible objectives
Rural Smallholdings	 <p>Light green with yellow border</p> <p>RGB Colours Border: Red: 255 Green: 255 Blue: 77 Width: 0.7mm Position: Along inside edge of feature</p> <p>FILL: Red: 201 Green: 255 Blue: 201</p>		<ul style="list-style-type: none"> • To provide for lot sizes in the range of 4 ha to 40 ha. • To provide for a limited range of rural land uses where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land. • To set aside areas for the retention of vegetation and landform or other features which distinguish the land.
Rural Home Business	 <p>Light green with purple border</p> <p>RGB Colours Border: Red: 191 Green: 128 Blue: 255 Width: 0.7mm Position: Along inside edge of feature</p> <p>FILL: Red: 201 Green: 255 Blue: 201</p>	Composite blocks - likely to be used mostly in country areas	<ul style="list-style-type: none"> • Provide for a range of light industrial land uses on lots where people can work and live on the same property. • To provide for lot sizes in the range of 1 ha to 4 ha. • To require careful design and lot layout within the zone so as to maximise both residential amenity, operation of light industry and high quality built form.

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Zone name	Appearance	Description	Possible objectives
Rural Townsite Zone	 <p>Light green with dark blue border</p> <p>RGB Colours Border: Red: 51 Green: 199 Blue: 240 Width: 0.7mm Position: Along inside edge of feature</p> <p>FILL: Red: 201 Green: 255 Blue: 201</p>	Would be used for very small towns to provide maximum flexibility	<ul style="list-style-type: none"> • To provide for a range of land uses that would typically be found in a small country town.
Rural	 <p>Light green</p> <p>RGB Colours FILL: Red: 201 Green: 255 Blue: 201</p>		<ul style="list-style-type: none"> • To manage land use changes so that the specific local rural character of the zone is maintained or enhanced. • To protect broad acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they are compatible with the primary use.

Zone name	Appearance	Description	Possible objectives
			<ul style="list-style-type: none">• Maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage.• Provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone.• Provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.

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Zone name	Appearance	Description	Possible objectives
Rural landscape and bushland protection	 <p>Light green with dark green border RGB Colours Border: Red: 43 Green: 255 Blue: 43 Width: 0.7mm Position: Along inside edge of feature</p> <p>FILL: Red: 201 Green: 255 Blue: 201</p>		<ul style="list-style-type: none"> • To provide for limited development opportunities where there is a demonstrated environmental benefit as a result. • To establish environmental controls that protect environmental assets in perpetuity.
Conservation	 <p>Olive RGB Colours FILL: Red: 62 Green: 85 Blue: 9</p>		<ul style="list-style-type: none"> • To recognise land set aside for conservation purposes and privately owned.

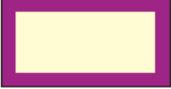
Zone name	Appearance	Description	Possible objectives
Light Industry	 <p>Dark pink RGB Colours FILL: Red: 240 Green: 97 Blue: 240</p>		<ul style="list-style-type: none"> • To provide for a range of industrial uses and service industries generally compatible with urban areas, that cannot be located in commercial zones. • Ensure that where any development adjoins zoned or developed residential properties, the development is suitably set back, screened or otherwise treated so as not to detract from the residential amenity.
General Industry	 <p>Maive RGB Colours FILL: Red: 191 Green: 128 Blue: 255</p>		<ul style="list-style-type: none"> • To provide for a broad range of industrial, service and storage activities which, by the nature of their operations, should be isolated from residential and other sensitive land uses. • To accommodate industry that would not otherwise comply with the performance standards of light industry. • Seek to manage impacts such as noise, dust and odour within the zone.

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Zone name	Appearance	Description	Possible objectives
Industrial Development	 <p>Light yellow with purple border RGB Colours Border: Red: 191 Green: 128 Blue: 255 Width: 0.7mm Position: Along inside edge of feature</p> <p>FILL: Red: 255 Green: 255 Blue: 199</p>		<ul style="list-style-type: none"> • To designate land for future industrial development. • To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme.
Strategic Industry	 <p>Dark pink with red border RGB Colours Border: Red: 255 Green: 0 Blue: 0 Width: 0.7mm Position: Along inside edge of feature</p> <p>FILL: Red: 240 Green: 97 Blue: 240</p>		<ul style="list-style-type: none"> • To designate industrial sites of State or regional significance.

Zone name	Appearance	Description	Possible objectives
Commercial	 <p>Mid blue hatched RGB Colours FILL: Red: 77 Green: 255 Blue: 255</p> <p>Style: Hatch Angle -45.00° Separation 1.27mm Width 0.035mm</p>		<ul style="list-style-type: none"> • To provide for a range of shops, offices, restaurants and other commercial outlets in defined townsites or activity centres. • To maintain the compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades. • To ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality.

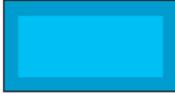
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Zone name	Appearance	Description	Possible objectives
Mixed Use	 <p>Mid blue RGB Colours FILL: Red: 77 Green: 255 Blue: 255</p>		<ul style="list-style-type: none">• To provide for a wide variety of active uses on street level which are compatible with residential and other non-active uses on upper levels.• To allow for the development of a mix of varied but compatible land uses such as housing, offices, showrooms, amusement centres, eating establishments and appropriate industrial activities which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents.

Zone name	Appearance	Description	Possible objectives
Service Commercial	 <p>Mid blue with dark blue border RGB Colours Border: Red: 51 Green: 199 Blue: 240 Width: 0.7mm Position: Along inside edge of feature</p> <p>FILL: Red: 77 Green: 255 Blue: 255</p>	Bulky goods retail	<ul style="list-style-type: none"> • Accommodate commercial activities which, because of the nature of the business, require good vehicular access and/or large sites. • Provide for a range of wholesale sales, showrooms, trade and services which, by reason of their scale, character, operational or land requirements, are not generally appropriate in, or cannot conveniently or economically be accommodated in, the central area, shops and offices or industrial zones.
Centre	 <p>Light orange with mid blue border RGB Colours Border: Red: 77 Green: 255 Blue: 255 Width: 0.7mm Position: Along inside edge of feature</p> <p>FILL: Red: 255 Green: 222 Blue: 179</p>		<ul style="list-style-type: none"> • To designate land for future development as a town centre or activity centre. • To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme.

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cl. 35

Zone name	Appearance	Description	Possible objectives
Tourism	 <p>Mid blue with light orange border RGB Colours Border: Red: 255 Green: 222 Blue: 179 Width: 0.7mm Position: Along inside edge of feature</p> <p>FILL: Red: 77 Green: 255 Blue: 255</p>		<ul style="list-style-type: none">• Promote and provide for tourism opportunities.• Provide for a variety of holiday accommodation styles and associated uses, including retail and service facilities where those facilities are provided in support of the tourist accommodation and are of an appropriate scale where they will not impact detrimentally on the surrounding or wider area.• Allow limited residential uses where appropriate.• Encourage the location of tourist facilities so that they may benefit from existing road services, physical service infrastructure, other tourist attractions, natural features and urban facilities.

Zone name	Appearance	Description	Possible objectives
Private clubs, institutions and churches	 <p>Light green RGB Colours FILL: Red: 153 Green: 255 Blue: 51</p>	Similar to the POS and Civic and Cultural Reserves, but where the sites are privately owned and operated e.g. golf clubs, sports clubs, churches.	<ul style="list-style-type: none"> • To provide sites for privately owned and operated recreation, institutions and churches. • To integrate private recreation areas with public recreation areas wherever possible. • To separate potentially noisy engine sports from incompatible uses. • To provide for a range of privately owned community facilities, and uses that are incidental and ancillary to the provision of those facilities, which are compatible with surrounding development. • To ensure that the standard of development is in keeping with surrounding development and protects the amenity of the area.

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Zone name	Appearance	Description	Possible objectives
Canal	 <p>White with mid blue border RGB Colours Border: Red: 77 Green: 255 Blue: 255 Width: 0.7mm Position: Along inside edge of feature</p> <p>FILL: Red: 255 Green: 255 Blue: 255</p>		<ul style="list-style-type: none"> To provide for the canal development that have a high standard of amenity and have minimal impacts on the environmental qualities of the area.
Marina	 <p>Light blue with light green border RGB Colours Border: Red: 153 Green: 255 Blue: 51 Width: 0.7mm Position: Along inside edge of feature</p> <p>FILL: Red: 219 Green: 255 Blue: 255</p>		<ul style="list-style-type: none"> To provide for public marina uses, tourist, commercial and residential components for the local and visiting community, which has strong links to the existing cultural and town precincts, in recognition of the strategic location of the site in its local regional context.

Zone name	Appearance	Description	Possible objectives
Oceans	 <p>Light blue RGB Colours FILL: Red: 219 Green: 255 Blue: 255</p>		<ul style="list-style-type: none"> To identify those areas which are geographically covered by an ocean, sea, river and/or associated inlets.
No Zone	 <p>White RGB Colours FILL: Red: 255 Green: 255 Blue: 255</p>		<ul style="list-style-type: none"> To identify those areas that do not have a zone or reservation assigned to them by this Scheme. To provide an intermediate transitional zone following the lifting of a Region Scheme Reservation.

Planning and Development (Local Planning Schemes) Regulations 2014

Schedule 1 Model provisions for local planning schemes

Part 7 Legends used in Scheme

cl. 35

Zone name	Appearance	Description	Possible objectives
Special Use Zone	 <p>White with red border RGB Colours Border: Red: 255 Green: 0 Blue: 0 Width: 0.7mm Position: Along inside edge of feature</p> <p>FILL: Red: 255 Green: 255 Blue: 255</p> <p>BLACK LABEL FOR SPECIFIC PURPOSE, E.G. CP – Caravan Park</p>		<ul style="list-style-type: none">• To facilitate special categories of land uses which do not sit comfortably within any other zone.• To enable the Council to impose specific conditions associated with the special use.

Schedule 2 — Deemed provisions for local planning schemes

[r. 10(4)]

Part 1 — Preliminary

1. Terms used

In this Scheme —

Act means the *Planning and Development Act 2005*;

advertisement means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not used wholly or partly for the purposes of advertisement, announcement or direction, and includes —

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

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

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

building height, in relation to a building —

- (a) if the building is used for residential purposes, has the meaning given in the R-Codes; or
- (b) if the building is used for purposes other than residential purposes, means the maximum vertical distance between the natural ground level and the finished roof height directly above;

CEO means the chief executive officer of the local government;

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

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

development contribution area means an area of land identified in a development contribution plan as an area to which the plan applies;

development contribution plan means a development contribution plan prepared in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2014* Part 7 that applies to land in the Scheme area;

local government means the local government responsible for this Scheme;

local planning strategy means the local planning strategy for this Scheme prepared under the *Planning and Development (Local Planning Schemes) Regulations 2014* Part 3, as amended from time to time;

owner, in relation to land, means —

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

and

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

premises means land or buildings;

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

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

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

Scheme area means the area to which this Scheme applies;

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

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

wall height, in relation to a wall of a building, means the vertical distance from the natural ground level of the boundary of the property that is closest to the wall to the point where the wall meets the roof or parapet;

works, in relation to land, means —

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

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

Part 2 — Local planning framework

Division 1 — Local planning strategy

2. Local planning strategy

Where a local planning strategy for the Scheme area has been prepared by the local government in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2014* Part 3 the local planning scheme sets out the long-term planning directions for the Scheme area.

Division 2 — Local planning policies

3. Local planning policies [MST 2.2 and 2.3]

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

4. Procedure for making or amending local planning policy [MST 2.4]

- (1) If the local government resolves to prepare a local planning policy the local government must advertise the proposed policy as follows —

- (a) 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) the subject and nature of the proposed policy; and
 - (ii) the objectives of the proposed policy; and
 - (iii) where the proposed policy may be inspected; and
 - (iv) to whom, in what form and during what period submissions in relation to the proposed policy may be made;
 - (b) if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;
 - (c) give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.
- (2) The period for making submissions in relation to a local planning policy must not be less than a period of 21 days commencing on the last day the notice of the policy is published under subclause (1)(a).
- (3) After the expiry of the period within which submissions may be made, the local government must —
- (a) review the proposed policy in the light of any submissions made; and
 - (b) resolve to —
 - (i) adopt the policy with or without modification; or
 - (ii) not to proceed with the policy.
- (4) If the local government resolves to adopt the policy, the local government must publish notice of the policy once in a newspaper circulating in the Scheme area.
- (5) A policy has effect on publication of a notice under subclause (4).
- (6) The local government must ensure that an up-to-date copy of each local planning policy made under this Scheme is kept and made available for public inspection during business hours at the offices of the local government.

- (7) Subclauses (1) to (6), with any necessary changes, apply to the amendment to a local planning policy.

5. Revocation of local planning policy [MST 2.5]

A local planning policy may be revoked —

- (a) by a subsequent local planning policy that —
- (i) is prepared in accordance with this Part; and
 - (ii) expressly revokes the local planning policy;
- or
- (b) by a notice of revocation —
- (i) prepared by the local government; and
 - (ii) published once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area.

Part 3 — Heritage protection

6. Terms used

In this Part —

heritage area means an area designated as a heritage area under clause 8;

heritage list means a heritage list established under clause 7(1);

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

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

7. Heritage list [MST 7.1]

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

- (b) be available, with the Scheme documents, for public inspection during business hours at the offices of the local government.
- (3) Unless otherwise provided in this Scheme, an inventory compiled by the local government under the *Heritage of Western Australia Act 1990* section 45 is the heritage list for the Scheme area.
- (4) The local government must not enter a place in, or remove a place from, the heritage list or modify the entry of a place in the heritage list unless the local government —
 - (a) notifies in writing each owner and occupier of the place and provides each of them with a description of the place and the reasons for the proposed entry; and
 - (b) invites each owner and occupier to make submissions on the proposal within 21 days of the day the notice is served; and
 - (c) carries out any other consultation the local government considers appropriate; and
 - (d) following any consultation and consideration of the submissions made on the proposal, resolves that the place be entered in the heritage list with or without modification, or that the place be removed from the heritage list.
- (5) If the local government enters a place in the heritage list or modifies an entry of a place in the heritage list the local government must give notice of the entry or modification to —
 - (a) the Heritage Council of Western Australia; and
 - (b) each owner and occupier of the place.

8. Designation of heritage areas [MST 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 to which this Scheme applies, the local government may, by resolution, designate that area as a heritage area.
- (2) If the local government designates an area as a heritage area the local government must adopt for the area a local planning policy that sets out the following —
 - (a) a map showing the boundaries of the heritage area;

- (b) a record of places of heritage significance in the heritage area;
 - (c) the objectives and guidelines for the conservation of the heritage area.
- (3) The local government must not designate an area as a heritage area unless the local government —
 - (a) notifies in writing each owner of land affected by the proposed designation and provides the owner with a copy of the proposed local planning policy for the heritage area; and
 - (b) advertises the proposed designation by —
 - (i) publishing a notice of the proposed designation once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area; and
 - (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
 - (iii) any other methods the local government considers appropriate to ensure widespread notice of the proposal;
 - and
 - (c) carry out any other consultation as the local government considers appropriate.
- (4) Notice of a proposed designation under subclause (3)(b) must specify —
 - (a) the area subject of the proposed designation; and
 - (b) where the proposed local planning policy for the proposed heritage area may be inspected; and
 - (c) to whom, in what form and in what period submissions may be made.
- (5) The period for making submissions in relation to the designation of an area as a heritage area must not be less than a period of 21 days commencing on the last day the notice of this Scheme is published under subclause (3)(b).
- (6) After the expiry of the period within which submissions may be made, the local government must —

- (a) review the proposed designation in the light of any submissions made; and
 - (b) resolve to adopt the designation with or without modification, or not to proceed with the designation.
- (7) If the local government designates an area as a heritage area the local government must give notice of the designation to —
 - (a) the Heritage Council of Western Australia; and
 - (b) each owner of land affected by the designation.
- (8) The local government may modify or revoke a designation of a heritage area.
- (9) Subclauses (3) to (7) apply, with any necessary changes, to the amendment to a designation of a heritage area.

9. Heritage assessment [MST 7.4]

Despite any existing assessment on record, the local government may require a heritage assessment to be carried out prior to the approval of any development proposed in a heritage area or in respect of a place listed on a heritage list.

10. Variations to local planning scheme provisions for heritage purposes [MST 7.5]

- (1) The local government may vary any site or development requirement specified in this Scheme to —
 - (a) facilitate the conservation of a place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in a heritage list; or
 - (b) enhance or preserve heritage values in a heritage area.
- (2) A variation under subclause (1) may be unconditional or subject to any conditions the local government thinks fit.
- (3) If the local government is of the opinion that the variation of site or development requirements is likely to affect any owners or occupiers in the general locality of the place or the heritage area the local government must —

- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 41; and
- (b) have regard to any expressed views prior to making its determination to vary the site or development requirements under this clause.

11. Heritage conservation notice

- (1) In this clause —

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

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

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

- (a) the structural integrity of the heritage place; or
 - (b) an interior or exterior element of the heritage place that is integral to the character of the heritage place.
- (2) If the local government forms the view that a heritage place is not being properly maintained the local government may give to a person who is the owner or occupier of the heritage place a written notice requiring the person to carry out specified repairs to the heritage place by a specified time, being a time that is not less than 60 days after the day on which the notice is given.
- (3) If a person fails to comply with a heritage conservation notice, the local government may enter the heritage place and carry out the repairs specified in the notice.
- (4) The expenses incurred by the local government in carrying out repairs under subclause (3) may be recovered as a debt due from the person to whom the notice was given in a court of competent jurisdiction.
- (5) The local government may —
- (a) vary a heritage conservation notice to extend the time for carrying out the specified repairs; or
 - (b) revoke a heritage conservation notice.

Part 4 — Structure plans

12. Terms used

In this Part —

approved structure plan means a structure plan approved by the Commission under clause 18 as varied from time to time under this Part;

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

13. When structure plan may be prepared

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

- (a) the area is identified in this Scheme as an area requiring a structure plan to be prepared before any future subdivision or development is undertaken; or
- (b) a State planning policy requires a structure plan to be prepared for the area; or
- (c) the Commission considers that a structure plan for the area is required for the purposes of orderly and proper planning.

14. Preparation of structure plan

(1) A structure plan must —

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

- (iii) the major land uses proposed by the structure plan;
 - (iv) estimates of the future number of lots in the area covered by the structure plan and the extent to which the plan provides for dwellings, retail floor space or other land uses;
 - (v) the expected population and employment impacts of the plan;
 - (vi) the extent to which the plan provides for the coordination of key transport and other infrastructure;
 - (vii) the extent to which the plan is consistent with the Scheme and requirements for development approval in the Scheme area.
- (2) The local government may prepare a structure plan in the circumstances set out in clause 13.
- (3) A person may make an application to the local government for a structure plan prepared by the person in the circumstances set out in clause 13 to be assessed and advertised if the person is —
- (a) a person who is the owner of any or all of the land in the area to which the plan relates; or
 - (b) an agent of a person referred to in paragraph (a).
- (4) An application for a structure plan to be assessed and advertised must be accompanied by the fee for the application prescribed under the *Planning and Development Regulations 2009*.

15. Local government consideration of application

- (1) On receipt of an application for a structure plan to be assessed and advertised, the local government must —
- (a) forward a copy of the application and all accompanying material to the Commission within 14 days of receipt;
 - (b) consider the material provided by the applicant and advise the applicant in writing if —
 - (i) the structure plan complies with clause 14(1); or
 - (ii) further information is required from the applicant before the structure plan can be accepted for assessment and advertising.

- (2) If the local government has not provided written advice to the applicant within 7 days of receipt of an application the structure plan is to be taken to have been accepted for assessment and advertising.

16. Advertising structure plan

- (1) If the local government prepares a structure plan or accepts an application for a structure plan to be assessed and advertised, the local government must —
- (a) advertise the structure plan in accordance with subclause (2); and
 - (b) seek comments in relation to the structure plan from any public authority or utility service provider that the local government considers appropriate.
- (2) The local government must advertise the structure plan in one or more of the following ways —
- (a) by giving notice of the proposed structure plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the structure plan, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days from the day the notice is given to the person;
 - (b) by publishing a notice of the proposed structure plan in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days from the day the notice is published;
 - (c) by publishing a notice of the proposed structure plan by electronic means in a form approved by the CEO including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days from the day the notice is published;
 - (d) by erection of a sign or signs in a conspicuous place on the land the subject of the proposed structure plan giving notice

of the proposed plan for a period of not less than 14 days and not more than 28 days from the day the sign is erected.

- (3) The local government must make a structure plan advertised under subclause (2) and the material accompanying it available for public inspection during business hours at the offices of the local government.

17. Local government report to Commission

- (1) The local government —
- (a) must consider all submissions made to the local government within the period specified in a notice advertising a proposed structure plan; and
 - (b) may consider submissions made to the local government after that time; and
 - (c) must prepare a report on the proposed structure plan including a list of the submissions considered by the local government and the local government's recommendations in respect of those submissions.
- (2) The local government must endorse the report on the proposed structure plan no later than 90 days after the end of the period for making submissions or at a later time agreed by the Commission.
- (3) Within 7 days of endorsing a report on a proposed structure plan the local government must provide the report to the Commission.
- (4) The report on the proposed structure plan must be in a form approved by the Commission.

18. Decision of Commission

- (1) On receipt of a report on a proposed structure plan, the Commission must consider the proposed structure plan and the report and —
- (a) approve the structure plan; or
 - (b) require the person who prepared the structure plan to, within 28 days or a longer period specified by the Commission —
 - (i) modify the plan in the manner specified by the Commission; and

- (ii) resubmit the modified plan to the Commission for approval;
 - or
 - (c) refuse to approve the structure plan.
- (2) If the Commission is not given a report on a proposed structure plan in accordance with clause 17, the Commission may make a decision on the proposed structure plan under subclause (1) in the absence of the report.
- (3) The Commission is to be taken to have refused to approve a structure plan if the Commission has not made a decision under subclause (1) within 90 days of the day on which the local government provides the report to the Commission or a longer period agreed in writing between the Commission, the local government and, if relevant, the person who prepared the proposed structure plan.
- (4) Despite subclause (3), the Commission may decide whether or not to approve a structure plan, and may give to the person who prepared the structure plan written notice of its decision, after the period applicable under subclause (3) has expired, and the validity of the decision is not affected by the expiry.

19. Further services from local government

- (1) The Commission may, at any time after a copy of an application is received by the Commission under clause 15(1)(a), direct the local government to give to the Commission either or both of the following services in connection with the application —
- (a) technical advice and assistance;
 - (b) information in writing.
- (2) The direction must be in writing and must specify —
- (a) the services required; and
 - (b) the time within which the local government must comply with the direction.
- (3) If a local government fails to comply with a direction given to it under subclause (1), the Commission may take reasonable steps to obtain the services referred to in the direction on its own behalf.

- (4) All costs incurred by the Commission in the exercise of the power conferred by subclause (3) may be recovered from the local government as a debt due to the Commission.

20. Review

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

21. Publication of approved structure plan

If the Commission approves a structure plan the Commission must publish the structure plan in any manner the Commission considers appropriate.

22. Effect of approved structure plan

A decision maker for an application for development approval or subdivision approval in respect of an area that is covered by an approved structure plan is to take into account the structure plan when deciding the application to the extent that the structure plan is consistent with this Scheme.

23. Duration of approval

- (1) The approval of a structure plan has effect for a period of 10 years commencing on the day the Commission approves the plan, or another period determined by the Commission, unless —
- (a) the Commission earlier revokes its approval; or
 - (b) a new local planning scheme that covers the area to which the structure plan relates takes effect in accordance with section 87 of the Act.
- (2) The Commission may, in accordance with this Part, approve a structure plan in the same terms as a structure plan for which the approval has expired under subclause (1).
- (3) Despite subclause (2), the local government may decide not to advertise a structure plan that is in the same terms as a structure plan for which the approval has expired under subclause (1).

24. Variation of approved structure plan

- (1) An approved structure plan may be varied by the Commission at the request of the local government or a person who owns land in the area covered by the plan.
- (2) This Part, with any necessary changes, applies in respect of a variation to an approved structure plan.
- (3) Despite subclause (2), the local government may decide not to advertise a variation to an approved structure plan if, in the opinion of the local government, the variation is of a minor nature.

Part 5 — Local Development Plans

25. Terms used

In this Part —

approved local development plan means a local development plan approved under clause 29 as varied from time to time under this Part;

local development plan means a plan setting out specific and detailed guidance for a development or subdivision.

26. When local development plan may be prepared

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

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

27. Preparation of local development plan

- (1) A local development plan must —
 - (a) be prepared in a manner and form approved by the Commission; and

- (b) include any maps or other material required by the local government; and
 - (c) set out the following information —
 - (i) the standards to be applied for the buildings, other structures and works that form part of the development or subdivision to which it applies;
 - (ii) arrangements for the management of services for the development or subdivision;
 - (iii) the provisions to be made for vehicles to access the area covered by the local development plan;
 - (iv) the extent to which the plan is consistent with this Scheme and requirements for development approval in the Scheme area.
- (2) A local development plan may be prepared by —
- (a) the local government; or
 - (b) a person who is the owner of any or all of the land in the area to which the plan relates; or
 - (c) an agent of a person referred to in paragraph (b).

28. Advertising of local development plan

- (1) The local government must advertise a local development plan in one or more of the following ways —
- (a) by giving notice of the proposed plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the plan, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day the notice is given to the person;
 - (b) by publishing a notice of the proposed plan in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day the notice is published;
 - (c) by publishing a notice of the proposed plan by electronic means in a form approved by the CEO including a statement that submissions may be made to the local government by a

specified day being a day not less than 14 days from the day the notice is published;

- (d) by erection of a sign or signs in a conspicuous place on the land the subject of the proposed plan giving notice of the proposed plan for a period of not less than 14 days from the date the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the sign is erected.
- (2) Despite subclause (1) the local government may, by resolution, decide not to advertise a local development plan if the local government is satisfied that the plan is not contentious or if the likely effect of the plan on the amenity of owners or occupiers is minimal.
- (3) The local government must make a local development plan advertised under subclause (1) and the material accompanying it available for public inspection during business hours at the offices of the local government.
- (4) The local government —
 - (a) must consider all submissions in relation to a local development plan made to the local government within the period specified in a notice advertising a proposed local development plan; and
 - (b) may consider submissions in relation to a local development plan made to the local government after that time.

29. Decision of local government

- (1) Following consideration of a proposed local development plan, including any amendments made to the plan to address matters raised in submissions, the local government must —
 - (a) approve the local development plan; or
 - (b) require the person who prepared the local development plan to modify the plan in the manner specified by the local government before the plan is resubmitted to the local government for approval; or
 - (c) refuse to approve the plan.

- (2) The local government is to be taken to have refused to approve a local development plan if the local government has not made a decision under subclause (1) —
- (a) if the plan was advertised — within the period of 60 days of the closing day for submissions to be made in relation to the plan; or
 - (b) if the plan was not advertised — within the period of 60 days after the resolution not to advertise the plan was made by the local government; or
 - (c) if the plan has been prepared by a person other than the local government — a longer period agreed in writing between the local government and the person.
- (3) Despite subclause (2), the local government may decide whether or not to approve a local development plan, and may give to the person who prepared the local development plan written notice of its decision, after the period applicable under subclause (2) has expired and the validity of the decision is not affected by the expiry.

30. Review

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

31. Publication of approved local development plan

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

32. Effect of approved local development plan

Development approval is not required for development that is in accordance with an approved local development plan.

33. Duration of approval

- (1) The approval of a local development plan has effect for a period of 10 years commencing on the day the local government approves the

plan, or another period determined by the local government, unless the local government earlier revokes its approval.

- (2) The local government may, in accordance with this Part, approve a local development plan in the same terms as a local development plan for which the approval has expired under subclause (1).
- (3) Despite subclause (2), the local government may decide not to advertise a local development plan that is in the same terms as a local development plan for which the approval has expired under subclause (1).

34. Variation of approved local development plan

- (1) An approved local development plan may be varied by the local government.
- (2) A person who owns land in the area covered by the plan may request the local government to vary the plan.
- (3) This Part, with any necessary changes, applies in respect of a variation to an approved local development plan.
- (4) Despite subclause (3), the local government may decide not to advertise a variation to a local development plan if, in the opinion of the local government, the variation is of a minor nature.

Part 6 — Requirement for development approval

35. Requirement for development approval [MST 3.4 and 8.1]

A person must not commence or carry out any works on, or use, land that is zoned or reserved under this Scheme unless —

- (a) the person has obtained the development approval of the local government under Part 7; or
- (b) the development is of a type referred to in clause 36.

Note: 1. Development includes the erection, placement and display of advertisements.

- 2. Approval to commence development may also be required from the Commission if the land is subject to a region planning scheme.

36. Development for which development approval not required
[MST 3.4 and 8.2]

(1) Unless otherwise provided in this Scheme, development approval of the local government is not required for the following —

- (a) development on a regional reserve under a region planning scheme;

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

- (b) development that is in accordance with a local development plan that applies to the development;
- (c) the carrying out of internal building work which does not materially affect the external appearance of the building unless the work is on a building that is —

- (i) located in a place that is entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or

- (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or

- (iii) included on a heritage list prepared in accordance with this Scheme; or

- (iv) located within an area designated under the Scheme as a heritage area;

- (d) the erection or extension of a single dwelling, ancillary dwelling, outbuilding, external fixture, patio, pergola, veranda or swimming pool on a lot if the development satisfies the deemed-to-comply requirements of the R-Codes unless the development is located in a place that is —

- (i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or

- (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or

- (iii) included on a heritage list prepared in accordance with this Scheme; or

- (iv) within an area designated under the Scheme as a heritage area;

- (e) the demolition of any building or structure except where the building or structure is —
 - (i) located in a place that is entered in the Register of Places under the *Heritage of Western Australia Act 1990*; or
 - (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
 - (iii) included on a heritage list prepared in accordance with this Scheme; or
 - (iv) located within an area designated under this Scheme as a heritage area;
- (f) the use of premises as a home office;
- (g) temporary works or a use which is in existence for less than 48 hours or a longer period agreed by the local government;
- (h) the temporary erection or installation of an advertisement if —
 - (i) the advertisement is erected or installed in connection with an election, referendum or other poll conducted under the *Commonwealth Electoral Act 1918* (Commonwealth), the *Electoral Act 1907* or the *Local Government Act 1995*; and
 - (ii) the primary purpose of the advertisement is for political communication in relation to the election, referendum or poll;
- (i) the erection or installation of an advertisement of a class approved in writing by the local government unless the advertisement is to be erected or installed —
 - (i) on a place included on a heritage list prepared in accordance with this Scheme; or
 - (ii) on land located within an area designated under this Scheme as a heritage area;
- (j) any other development specified in writing by the local government.

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

- (2) Despite subclause (1) development approval may be required for certain works carried out in a bushfire prone area.

37. Amending or revoking development approval

- (1) An owner of land in respect of which planning approval has been granted by the local government may apply for the local government to do any or all of the following —
- (a) to amend the approval so as to extend the period within which any development approved must be substantially commenced;
 - (b) to amend or delete any condition to which the approval is subject;
 - (c) to amend an aspect of the development approved which, if amended, would not substantially change the development approved;
 - (d) to cancel the approval.
- (2) An application under subclause (1)(b) or (c) may be made during or after the period within which the development approved must be substantially commenced.
- (3) This Part applies to an application under subclause (1)(a), (b) or (c) as if the application were an application for development approval.
- (4) Despite subclause (3), the local government may waive or vary a requirement in this Part in respect of an application if the local government is satisfied that the application relates to a minor amendment to the development approval.
- (5) The local government may determine an application under subclause (1) by —
- (a) approving the application with or without conditions; or
 - (b) refusing the application.

Part 7 — Applications for development approval

38. Term used: owner

In this Part —

owner, in relation to freehold land, means —

- (i) the location of the site including street names, lot numbers, north point and the dimensions of the site;
 - (ii) the existing and proposed ground levels over the whole of the land the subject of the application;
 - (iii) the location, height and type of all existing structures, and structures and vegetation proposed to be removed;
 - (iv) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
 - (v) the existing and proposed means of access for pedestrians and vehicles to and from the site;
 - (vi) the location, number, dimensions and layout of all car parking spaces intended to be provided;
 - (vii) 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;
 - (viii) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the open storage or trade display area;
 - (ix) the nature and extent of any open space and landscaping proposed for the site;
- and
- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building that is intended to be retained; and
 - (c) a report on any specialist studies in respect of the development that the local government requires the applicant to undertake such as traffic, heritage, environmental, engineering or urban design studies; and
 - (d) any other plan or information that the local government reasonably requires.
- (2) The local government may waive or vary a requirement set out in subclause (1).

being a day not less than 14 days from the day the notice is given to the person;

- (b) by publishing a notice of the proposed use or development in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day the notice is published;
 - (c) by publishing a notice of the proposed use or development by electronic means in a form approved by the CEO including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day the notice is published;
 - (d) by erection of a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed use or development for a period of not less than 14 days from the day the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the sign is erected.
- (4) Notice referred to in subclause (3) must be in the form of the “Notice of public advertisement of planning proposal” set out in clause 68(3) unless the local government specifies otherwise.
- (5) If an application for development approval is advertised under this clause, the local government must make the application and the material accompanying it available for public inspection during business hours at the offices of the local government.
- (6) A local government must not make a decision on an application for development approval that is advertised under this clause until each period for making submissions to the local government specified in a notice referred to in subclause (3) has expired.

42. Application taken to be application under region planning scheme

- (1) An application for development approval made under this Part is to be taken to be an application for approval required by a region planning scheme that has effect in relation to the area to which the application relates if the Commission has delegated to the local government the

function of determining the application under the region planning scheme.

- (2) Despite subclause (1) an application that is taken to be an application for approval under a region planning scheme —
- (a) must be determined in accordance with the requirements of the region planning scheme; and
 - (b) any condition of an approval granted in relation to the application must specify whether the condition is imposed under this Scheme or the region planning scheme.

43. Retrospective approval of development [Note under MST 8.4]

This Part applies, with any modifications necessary, to an application for development approval for development already commenced or carried out.

Part 8 — Procedure for dealing with applications for development approval

44. Consultation with other authorities

- (1) In considering an application for development approval the local government may consult with any other statutory, public or planning authority it considers appropriate.
- (2) If an application for development approval relates to proposed development on land reserved under this Scheme for the purposes of a public authority, the local government must consult that authority before making a decision on the application.

45. Matters to be considered by local government [MST 10.2]

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

- (a) the aims and provisions of this Scheme and any other relevant local planning scheme operating within the Scheme area;
- (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this

Planning and Development (Local Planning Schemes) Regulations 2014

Schedule 2 Deemed provisions for local planning schemes

Part 8 Procedure for dealing with applications for development approval

cl. 45

Scheme that has been advertised under the *Planning and Development (Local Planning Schemes) Regulations 2014*;

- (c) any approved State planning policy;
- (d) any environmental protection policy approved under the *Environmental Protection Act 1986* section 31(d);
- (e) any policy of the Commission;
- (f) any relevant policy of the State;
- (g) any local planning policy for the Scheme area;
- (h) any report of the review of the local planning scheme that has been published under the *Planning and Development (Local Planning Schemes) Regulations 2014*;
- (i) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;
- (j) the conservation of any place that —
 - (i) has been entered in the Register within the meaning of the *Heritage of Western Australia Act 1990*; or
 - (ii) is included in a heritage list prepared in accordance with this Scheme;
- (k) the effect of the proposal on the character or appearance of an area designated under this Scheme as a heritage area;
- (l) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- (m) the amenity of the locality including the following —
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;
- (n) the likely effect of the development on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (o) 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;
- (p) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;
 - (q) the adequacy of—
 - (i) the proposed means of access to and egress from the site; and
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;
 - (r) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
 - (s) the availability and adequacy for the development of the following—
 - (i) public transport services;
 - (ii) public utility services;
 - (iii) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
 - (iv) access by disabled persons;
 - (t) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;
 - (u) the history of the site where the development is to be located;
 - (v) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
 - (w) any relevant submissions received on the application;
 - (x) the comments or submissions received from any authority consulted under clause 44;
 - (y) any other planning consideration the local government considers relevant.
-

46. Determination of applications [MST 10.3]

The local government may determine an application for development approval by —

- (a) granting development approval with or without conditions; or
- (b) refusing to grant development approval.

47. Form and date of determination [MST 10.4]

As soon as practicable after determining an application for development approval, the local government must give the applicant written notice of the determination in the form of the “Notice of determination on application for planning approval” set out in clause 68(4).

48. Duration of planning approval [MST 10.5]

If development approval is granted under clause 46 —

- (a) the development must be substantially commenced —
 - (i) if no period is specified in the approval — within the period of 2 years commencing on the date of the determination; or
 - (ii) if a period is specified in the approval — within that period; or
 - (iii) in either case — within a longer period approved by the local government on an application made under clause 37(1)(a);

and

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

49. Temporary development approval [MST 10.6]

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

Note: A temporary development 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 development approval which is the period within which the development must commence.

50. Scope of planning approval [MST 10.7]

Development approval may be granted —

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

51. Approval subject to later approval of details [MST 10.8]

- (1) Development approval for a development that includes the carrying out of building or works may be granted subject to a condition that further details are required to be agreed between the local government and the holder of the development approval in respect of any of the following matters —
 - (a) the siting, design or external appearance of the buildings included in the development;
 - (b) means of access to the land on which the development is located;
 - (c) landscaping of the land on which the development is located;
 - (d) any other matter that the local government specifies in the approval.
- (2) The local government may only impose a condition referred to in subclause (1) if the local government is satisfied that the further matters that are to be agreed would not substantially change the development approved.

52. Time for deciding application for development approval [MST 10.9]

- (1) The local government must determine an application for development approval —
 - (a) if, under clause 41, the application is advertised — within 90 days of receipt of the application; or

- (b) otherwise — within 60 days of the receipt of the application;
or
 - (c) in either case — within a longer time agreed in writing
between the applicant and the local government.
- (2) If the local government has not made a determination in the time referred to in subclause (1) the local government is to be taken to have refused to grant the development approval.
- (3) Despite subclause (2), the local government may determine whether or not to grant the development approval, and may give the applicant written notice of its decision, after the period applicable under subclause (1) has expired and the validity of the determination is not affected by the expiry.

53. Review of decisions [MST 10.10]

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

Part 9 — Bush fire risk management

[The procedures relating to bush fire risk management that are to be deemed provisions for local planning are currently being prepared as the Planning and Development (Bushfire Risk Management) Regulations 2014. Consultation is currently occurring in relation to a draft of those regulations. It is intended that the provisions in Schedule 1 of those regulations, when they have been finalised, will be included in this Part.]

Part 10 — Implementation of development contribution plans

54. Land excluded for calculating contributions

For the purposes of calculating the area of an owner's land and the total area of land in a development contribution area the following areas of land are excluded —

- (a) areas designated as primary or regional roads under a region planning scheme that applies to the area;
- (b) areas that are public open space at the time the development contribution area is designated;
- (c) areas used for the purposes of government primary or secondary schools at the time the development contribution area is designated;
- (d) any other land specified in the development contribution plan for the development contribution area.

55. Reporting contributions to owners

- (1) The local government must, for each development contribution plan, prepare and adopt a development contribution plan report and cost apportionment schedule setting out the calculation of the cost contribution for each owner of land in the development contribution area —
 - (a) based on the methodology provided in the plan; and
 - (b) taking into account the proposed staging of the development.
- (2) The local government must, within 90 days of a development contribution plan coming into effect, provide to each owner of land within a development contribution area a copy of the report and the cost apportionment schedule.

56. Cost contributions based on estimates

- (1) If expenditure for infrastructure costs or administrative costs has not been incurred, a development contribution plan report and cost apportionment schedule may use the latest estimated cost available to the local government.
- (2) The local government must arrange for an estimate of costs included in a development contribution plan report or cost apportionment

schedule to be certified by a suitably qualified person who is independent of the local government.

- (3) If a development contribution plan report and cost apportionment schedule uses an estimate of the costs, the local government must —
 - (a) review the estimated cost at least once in each 12 month period and adjust the estimate of the costs based on the value of any land to be acquired and the latest estimated cost available to the local government; and
 - (b) arrange for any adjustment of the estimated costs to be certified by a suitably qualified person who is independent of the local government; and
 - (c) adjust the contribution of each owner of land in the development control area as a result of any change in estimated cost and advise the owner of the adjusted contribution.
- (4) The local government must, if requested by an owner who has been notified under subclause (3)(c) of a change in the owner's cost contribution, provide to the owner a copy of the new estimated costs and the calculation of the adjustment payable by the owner.
- (5) The owner of land in a development contribution area may enter into an agreement with the local government to pay a cost contribution based on the estimated costs as the final cost contribution payable by the owner in respect of any infrastructure costs or administrative costs specified in the agreement.
- (6) The owner of land in a development contribution area who objects to the amount of a cost contribution payable by the owner may, within 28 days of being notified by the local government of the amount of the cost contribution, request that a review of the decision be carried out —
 - (a) by a suitably qualified person agreed by the owner and the local government; and
 - (b) at the expense of the owner.
- (7) If, after a review carried out under subclause (6), the owner still objects to the amount of the cost contribution —

- (a) the amount is to be determined in a manner agreed between the owner and the local government; or
- (b) if no manner is agreed, the owner may elect for the amount to be determined —
 - (i) by arbitration under the *Commercial Arbitration Act 2012*, with the costs of any arbitration to be shared equally between the owner and the local government; or
 - (ii) by a review of the amount of the cost contribution by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14.

57. Valuation of land

- (1) In this clause —

fair market value, in relation to land, means the capital sum that an unencumbered estate in fee simple of the land might reasonably be expected to realise if —

 - (a) the land was offered for sale on terms and conditions that a bona fide seller would reasonably require; and
 - (b) there were no buildings, fences or other like improvements on the land; and
 - (c) any rezoning for the purpose of the development of the land had come into force; and
 - (d) the value added by improvements to the land not referred to in paragraph (b) has been taken into account.
- (2) The valuation of land to be acquired in connection with a development contribution plan is to be the fair market value of the land as determined —
 - (a) by a valuer agreed by the owner of the land and the local government; or
 - (b) if there is no agreement between the owner and the local government, by a valuer appointed by the President of the Western Australian Division of the Australian Property Institute.
- (3) The owner of land in a development contribution area who objects to the valuation of land to be acquired in connection with a development

contribution plan may, within 28 days of being notified by the local government of the valuation of the land, request that a review of the valuation be carried out —

- (a) by a valuer or other suitably qualified person agreed by the owner and the local government; and
 - (b) at the expense of the owner.
- (4) If, after a review carried out under subclause (3), the owner still objects to the valuation of the land —
- (a) the value is to be determined in a manner agreed between the owner and the local government; or
 - (b) if the manner is agreed, the owner may apply to the State Administrative Tribunal for a review of the valuation in accordance with the *Planning and Development Act 2005* Part 14.

58. Payment of cost contribution

- (1) The liability of the owner of land in a development contribution area for cost contribution is determined in accordance with the development contribution plan for the area and this Part.
- (2) The owner must pay the cost contribution to the local government on occurrence of the earliest of the following events —
 - (a) the Commission endorsing its approval on the deposited plan or strata plan of the subdivision of the land;
 - (b) the commencement of any development on the land, other than the construction of one single dwelling and associated outbuildings on an existing lot;
 - (c) the approval by the local government or the Commission of a strata plan on the land;
 - (d) the approval or extension by the local government of a use of the land.
- (3) The owner of land in a development contribution area may —
 - (a) pay the owner's cost contribution in any manner agreed between the owner and the local government; and
 - (b) request the local government to provide certification that the owner's liability for cost contribution has been discharged.

- (b) if it is not reasonably practicable to identify the contributing land owners, apply the excess amounts to the provision of additional infrastructure in the area.
- (7) The local government must publish on the website of the local government an audited annual statement of the reserve account for each development contribution area as soon as is reasonably practicable after the statement is prepared.

Part 11 — Enforcement and administration

Division 1 — Powers of local government

60. Powers of local government [MST 11.1 and 11.6.2]

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

61. Entry powers [MST 11.1]

- (1) The CEO may, by instrument in writing, designate an officer of the local government as an authorised officer for the purposes of this clause.
- (2) An authorised officer may, for the purpose of monitoring whether the local planning scheme is being complied with, at any reasonable time and with any assistance reasonably required, enter any building or land in the Scheme area.

- (3) The delegation must be in writing and may be general or as otherwise provided in the instrument of delegation.

65. CEO may delegate powers [MST 11.3]

- (1) 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 functions under this Scheme other than this power of delegation.
- (2) A delegation under this clause must be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) Subject to any conditions imposed by the local government on its delegation to the CEO under clause 64, this clause extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under that clause.

66. Other matters relevant to delegations under this Division

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

Division 3 — Miscellaneous

67. Agreement to use of material provided for Scheme purposes

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

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

Part 12 — Forms referred to in this Scheme

68. Forms referred to in this Scheme

- (1) The form of an application for planning approval referred to in clause 39(1)(a) is as follows —

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

Proposed development:
Nature of development: <input type="checkbox"/> Works <input type="checkbox"/> Use <input type="checkbox"/> Works and use
Description of proposed works and/or land use:
Nature of any existing buildings and/or land 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:	

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

- (2) The form for providing additional information for development approval for advertisements referred to in clause 39(2) is as follows —

Additional information for development approval for advertisements

Note: to be completed in addition to the Application for development approval form

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:

(3) The form of a notice of public advertisement of a planning proposal referred to in clause 41(4) is as follows —

Notice of public advertisement of planning proposal

Planning and Development Act 2005

City/Town/Shire of

Notice of public advertisement of planning proposal

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

Lot No.: Street: Suburb:

Proposal:

.....

.....

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

.....

<p>Note 3: If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the <i>Planning and Development Act 2005</i> Part 14. An application must be made within 28 days of the determination.</p> <p>Signed: _____ Dated: _____</p> <p>.....</p> <p>for and on behalf of the City/Town/Shire of:</p> <p><i>(The content of the determination notice must conform to this form but minor variations may be permitted to the format.)</i></p>
--

Clerk of the Executive Council.

Planning and Development (Local Planning Schemes) Regulations 2014

General

The City supports many of the changes proposed in the draft regulations; however comments have been provided on areas where further clarification is needed or where changes are recommended.

The detailed review and comments on the draft regulations are provided below. The City has requested clarification in a number of areas and due to the significance of the proposed regulations, it is requested that either a revised set of the draft regulations be readvertised for comment or alternatively the State Government release the final regulations at least six months prior to their operation commencing to allow local government to develop policies and develop the appropriate delegations to ensure the changes do not affect the quality or processing times of planning assessments.

Planning and Development (Local Planning Schemes) Regulations 2014

Regulation No.	Draft Regulation's Proposal	City Comment
Part 3	Local planning strategies	
12.	<p>Certification of local planning strategy (2) On receipt of a copy of a local planning strategy the Commission must assess the strategy for compliance with regulation 11 (2).</p>	<p>No timeframes are set for the Commission to assess and certify or require modifications to the local planning strategy. Without specific timeframes, significant delays are possible in progressing the local planning strategy and scheme review. It is considered essential that timeframes also be set for Commission determinations if a streamlined planning process is to be delivered by this reform.</p> <p>Recommendation: Introduce a timeframe in regulation 12 within which the Commission must assess and certify or require modifications to the local planning strategy.</p>
15.	<p>Endorsement by Commission On receipt of a copy of a local planning strategy adopted by a local government the Commission may – (a) endorse the strategy; or (b) require the local government to modify the strategy in the manner specified by the Commission before the strategy is resubmitted to the Commission for</p>	<p>No timeframes are set for the Commission to endorse the local planning strategy. Without specific timeframes, significant delays are possible in finalising the local planning strategy and progressing the scheme review. It is considered essential that timeframes also be set for Commission determinations if a streamlined planning process is to be delivered by this reform.</p> <p>Recommendation:</p>

	endorsement; or (c) refuse to endorse the strategy.	Introduce a timeframe in regulation 15 within which the Commission must endorse the strategy.
Part 4	Preparation or adoption of local planning scheme	
21.	Resolution to proceed with local planning scheme (3) The Commission must examine the documents submitted under subregulation (2) and advise the local government if the Commission considers that any modification to the documents is required before the local planning scheme is advertised for public inspection.	No timeframes are set for the Commission to examine the local planning scheme and advise the local government of any modifications required before advertising can commence. It is considered essential that timeframes also be set for Commission determinations if a streamlined planning process is to be delivered by this reform. Recommendation: Introduce a timeframe in regulation 21 (3) within which the Commission must examine the scheme documents and advise the local government of any modifications required before advertising can commence.
27.	Commission to submit local planning scheme to Minister The Commission must — (a) consider the documents provided to it under regulation 26(1); and (b) make any recommendations to the Minister in respect of the scheme that the Commission considers appropriate; and (c) submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.	No timeframes are set for the Commission to consider the local planning scheme and associated documents and make a recommendation to the Minister. It is considered essential that timeframes also be set for Commission determinations if a streamlined planning process is to be delivered by this reform. Recommendation: Introduce a timeframe in regulation 27 within which the Commission must consider the scheme and make a recommendation to the Minister.
Part 5	Amending local planning scheme	
24 (2) (b) 39 (2) (b) 47 (2) (b)	Consideration of submissions on a local planning scheme, complex and standard amendment The Local Government may consider submissions in relation to the amendment after the end of the submission period but before the end of the consideration period.	This appears to allow an optional extension of the submission period for up to 42 days in the case of a complex amendment and 21 days in the case of a standard amendment. Though this provides certainty around late submissions, the wording is unclear and potentially sets an expectation that late submissions will be considered, despite the use of the term 'may'. It would be preferable to simply allow local governments the discretion to consider late submission, as is the current situation. In addition, if this provision is to remain, the wording should be consistent with that of 39 (2) (a) for clarity purposes. Recommendation: Remove subregulation 39 (2) (b) and 47 (2) (b)

42 43(7) 50 51(7) 54	Consideration of complex, standard and basic scheme amendments by the Commission and recommendation to the Minister	No timeframes are set for the Commission to consider the scheme amendment and make a recommendation to the Minister. Without specific timeframes, significant delays are possible in progressing scheme amendments. It is considered essential that timeframes also be set for Commission determinations if a streamlined planning process is to be delivered by this reform. Recommendation: Introduce timeframes in regulations 42, 43(7), 50, 51(7) and 54 within which the Commission must consider the scheme amendment and make a recommendation to the Minister.
43 51	Minister or authorised person may direct modified complex and standard amendment be advertised (1) The Minister or an authorised person may direct the local government to readvertise a modification to a complex amendment to a local planning scheme if — (a) the amendment was modified after the scheme was advertised under regulation 36; and (b) the Minister or authorised person is of the opinion that the modification to the amendment is significant.	The ability for a modified scheme amendment to be readvertised is supported. However, it is essential that readvertising occur early in the process, ideally when the submissions are considered by the local government and modifications made. It is therefore necessary for provisions to be included after regulation 39 allowing the local government to readvertise a modified scheme amendment. Recommendation: Insert an additional regulation after regulation 39 and 47 allowing a local government to readvertise a modified scheme amendment.
Division 3 Division 4	Process for standard and basic amendments to local planning scheme	These divisions require provisions which outline the process for accepting, preparing or adopting a standard or basic scheme amendment, similar to regulation 35 in Division 2. Recommendation: Insert additional provisions before regulations 44 and 52 outlining what a local government must do when it receives or wants to prepare a standard and basic scheme amendment respectively.
44	Advertisement of standard amendment (4) The period for submission set out in a notice must be not less than a period of 21 days commencing on the day the notice is published in a newspaper circulating in the scheme area.	The City supports the minimum 21 day advertising period for standard amendments.
45.	Land owner may be required to pay costs of publication The local government may require a person to pay the	This provision refers to regulation 36 rather than regulation 44. Recommendation:

	cost of a publication of a notice under regulation 36 if -	Replace reference to ‘regulation 36’ with reference to ‘regulation 44’
Division 4	Process for basic amendments	The City supports the introduction of the basic amendment process particularly where the amendment is to make the scheme consistent with the region scheme. The City agrees that a basic amendment should not be required to be advertised or ‘initiated’ by Council.
60.	<p>Report of review</p> <p>(3) The report must make recommendations as to –</p> <p>(a) whether the scheme –</p> <p>(i) is satisfactory in its existing form; or</p> <p>(ii) should be amended; or</p> <p>(iii) is due to be consolidated under Part 5 Division 5 of the Act; or</p> <p>(iv) should be repealed and a new scheme prepared in its place;</p> <p>and</p> <p>(b) whether a new local planning strategy for the scheme should be prepared or a review of the local planning strategy for the scheme should be carried out.</p>	<p>Under the Subclause 88(2)(a) of the <i>Planning and Development Act 2005</i>, the local government must consolidate the scheme in the fifth year after approval, therefore options (i) and (ii) are not options as the scheme can only be consolidated or a new one prepared.</p> <p>The City supports the ability to review the local planning strategy after five years.</p>
61.	<p>Decision of Commission</p> <p>(1) On receipt of a report of a review of a local planning scheme, the Commission must consider the report and —</p> <p>(a) decide whether the Commission agrees or disagrees with the recommendations in the report;</p> <p>(b) notify the local government who prepared the report of the Commission’s decision.</p> <p>(3) A local government must not, without the approval of the Commission, take any steps to amend a local planning scheme if a period of 5 years has elapsed since the latest of the following days –</p> <p>(a) the day on which the scheme was published in the Gazette ...;</p> <p>(b) the day on which a consolidation of the scheme was published in the Gazette ...;</p> <p>(c) the day on which the report of a review of the scheme</p>	<p>No timeframes are set for the Commission to review the report. It is considered essential that timeframes also be set for Commission determinations if a streamlined planning process is to be delivered by this reform.</p> <p>Recommendation: Introduce a timeframe in regulation 61(1) which gives the Commission a maximum of 6 months in which to consider the report.</p> <p>The Minister already has the ability to reject a scheme amendment proposed by a local government and as such this subregulation is unnecessary. In addition, as there are no timeframes for the Commission to consider the new scheme, this time restriction for new schemes or a reviewed scheme is not supported.</p> <p>Recommendation: Remove subregulation 61 (3).</p>

was published in accordance with subregulation (2).

Schedule 1 – Model provisions for local planning schemes

Clause	LPS Regulations Proposal	City Comment
14	Local reserves (2) The objectives of the local reserve are as follows –	The City supports the standardisation of the reserves that may be applied to the Scheme area and the proposal to have different types of reserves which will be used for different purposes. The ability to have objectives for reserves is also supported as it will provide clarification as to the purpose of the different reserves.
15.	Additional uses for local reserves	It is suggested that instead of having a table that sets out the additional uses which may be carried out on a reserve, an actual land use table for all uses on all reserves is included in the Scheme. This would make it clearer as to what uses can and cannot be conducted on a reserve rather than presuming that a use is in accordance with the objectives and purposes of that reserve. Recommendation: Include a land use table for local reserves.
16.	Zones	The City supports the standardisation of the zones that may be applied to the Scheme area.
18.	Incidental land uses (2) 'I' means that the use is permitted if it is incidental, ancillary or subordinate to the predominate use of the land and it complies with any relevant development standards or requirements of this Scheme;	It is unclear from this definition how incidental uses are proposed to be assessed and interpreted. For example, currently it is accepted that a warehouse in a service industrial area can have an incidental office, provided it is associated with the business and does not take up a large floor area. It is unclear if such an office will now need to be approved as an incidental use or not. It is also unclear, due to the use of the term 'ancillary' in the definition, if this office could be rented out to a third party, even though offices are not permitted in the service industrial area. It would also be beneficial if the term could be clarified further to state the maximum proportional area that an incidental use can occupy. Recommendation: Revise the definition of incidental use to remove the term ancillary and state the maximum proportional area that an incidental use can occupy. Provide further explanation on the intent and application of incidental uses.
27.	Restrictive covenants (1) The local government may, with the approval of the	The City supports the ability to discharge or modify restrictive covenants which relate to matters besides the number of residential dwellings that may be

	<p>Commission, agree to the discharge or modification of a restrictive covenant affecting land in the Scheme area.</p>	<p>constructed on the land. However, this should be restricted to scheme matters such as dwelling numbers, dwelling height or dwelling size, not detailed development matters such as roof or house colour. Developers often apply restrictive covenants on the land to control a wide variety of matters that the local governments are not responsible for and it is not appropriate to allow local government the power to discharge or modify restrictive covenants that are not controlled by the scheme or associated local planning policies.</p> <p>Recommendation: Include the words ‘controlling matters covered by the scheme or a local planning policy’ at the end of subclause 27(1).</p> <p>Requiring the Commission’s approval for the removal of a restrictive covenant that relates to a matter covered by the scheme or a local planning policy is not considered necessary. This additional layer in the in the approval process for the removal of restrictive covenants is not supported by the City. In addition, no timeframes are set for the Commission to approve the discharge or modification of the restrictive covenant.</p> <p>Recommendation: Remove the words ‘with the approval of the Commission’ from subclause 27 (1).</p>
<p>Part 6</p>	<p>Terms referred to in Scheme</p> <p>Bed and Breakfast</p>	<p>No definition is included in part 6 for ‘display home’ or ‘place of assembly’. These are important land uses that are not adequately covered by any of the proposed definitions.</p> <p>Recommendation: Include definitions for ‘display home’ and ‘place of assembly’.</p> <p>The City’s bed and breakfast policy allows up to 6 guests to be accommodated in a ‘bed and breakfast’ where as this definition restricts the use to 4 adult persons or one family. It is not considered appropriate to use the land use definition to set limits on the number of persons accommodated when this is more appropriate dealt with through a detailed policy.</p> <p>Recommendation:</p>

	<p>Bulky goods showroom Shop</p> <p>Liquor store – large Liquor store – small</p>	<p>Remove the restrictions on number of guests, bedrooms and bathrooms from the definition.</p> <p>The definition of ‘bulky goods showroom’ is different to that of ‘showroom’ in State Planning Policy 4.2: Activity Centres (SPP 4.2) as it no longer includes specific reference to particular land uses. This change means that some of the land uses listed under SPP 4.2, such as party supplies, would not be considered a ‘bulky goods showroom’ as a large area is not required for the handling, display or storage most party supplies. The definition of ‘showroom’ is considered more appropriate than the proposed ‘bulky good showroom’ definition. In addition, the definition of ‘shop’ refers to the land use ‘showroom’ when currently no such definition exists.</p> <p>Recommendation: The definition of ‘bulky goods showroom’ be removed and the land use and definition ‘showroom’ be included as set out in State Planning Policy 4.2: Activity Centres.</p> <p>The City supports the change to the definition of liquor store and the splitting it into large and small premises.</p>
Part 7	Legends used in the Scheme	<p>The legends proposed are unsuitable when reproduced on maps, particularly at a large scale. The hatching and borders are difficult to distinguish. The hatching alters the interpretation of the base colour and is visually difficult to read. At a large scale, the border for a zone may cover the entire lot making it difficult to determine the actual zone of the lot.</p> <p>Recommendation: The proposed legends need to be re-examined and a variety of different colours used to distinguish the different zones and reserves rather than hatching and borders.</p>

Schedule 2 – Deemed provisions for local planning schemes

Clause	LPS Regulations Proposal	City Comment
Part 1	Preliminary Building height	The definition of building height for a non-residential building refers to the top of the finished roof height where as the City’s definition refers to the top of the eaves, parapet or flat roof. The City has no objection to the proposed definition of height.

3.	<p>Local planning policies (3) A local planning policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.</p>	<p>The City supports the inclusion of this clause. It is agreed that a local planning policy (LPP) should be based on sound town planning principles.</p>
4.	<p>Procedures for making or amending local planning policy (1)(b) if in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;</p>	<p>The City does not object to submitting a copy of a proposed LPP to the Commission.</p>
7.	<p>Heritage list (3) Unless otherwise provided in this Scheme, an inventory compiled by the local government under the <i>Heritage of Western Australia Act 1990</i> section 45 is the heritage list for the Scheme area.</p>	<p>The City does not support the proposal that the municipal inventory become the heritage list. This proposal seems to remove that ability of local government to have a non statutory heritage inventory. Although the regulations state 'Unless otherwise provided in this Scheme...' it is unclear where in the scheme wording would go to prevent the municipal inventory becoming the heritage list.</p> <p>Recommendation: Reword to make it clear that it is optional to make the municipal inventory the heritage list.</p>
Part 4	<p>Structure plans</p>	<p>Whilst the City agrees with the intent of streamlining the structure planning approval process, removing the local government from most of the preparation, assessment and approval process is not considered appropriate. It is recommended that a similar process to the local planning scheme preparation and adoption process be followed. Local governments need to be given an opportunity to assess structure plans before they are advertised and make a determination on the structure plan as a whole, rather than simply making recommendations on the submissions.</p> <p>Recommendation: The structure plan provisions be modified to reflect the local planning scheme preparation and adoption process.</p> <p>Currently local government is able to determine Activity Centre Structure Plans for District Centres with a floorspace of less than 20,000m². The proposed changes to the structure plan process remove this ability and requires that the Commission determines these structure plans. Although the discussion paper states that the</p>

		<p>WAPC may delegate some of the decision making responsibility back to the local government, this should be done up front, rather than at a later stage.</p> <p>Recommendation: The Commission advises of any decision making delegations now so local government can provide comment before finalisation of the regulations.</p> <p>The nature of the proposed planning framework is also unclear, particularly in regard to the appropriate place for development and subdivision provisions. The City considers that the appropriate place for such provisions is in structure plans so that a third layer, in the form of local development plans, is not required to be added to the planning process.</p> <p>Recommendation: The Commission clarify the proposed planning framework and not require an additional layer, in the form of local development plans, to be added to the planning system.</p>
13.	<p>When a structure plan may be prepared A structure plan in relation to an area of land in the Scheme area may be prepared if – (a) the area is identified in this Scheme as an area requiring a structure plan to be prepared before any future subdivision or development is undertaken; or (b) a State planning policy requires a structure plan to be prepared for the area; or (c) the Commission considers that a structure plan for the area is required for the purposes of orderly and proper planning.</p>	<p>These provisions do not allow the local government to require a structure plan where deemed necessary. The City's current scheme allows the local government to require a structure plan prior to any application to rezone land, subdivide land or a development application. Under the proposed provisions, if the scheme or a State planning policy does not require a structure plan, then the local government cannot require one. Only the Commission will have the power to require a structure plan to be prepared. Given local governments are responsible for approval of development, it is essential that they be given the ability to require a structure plan where deemed necessary for orderly and proper planning.</p> <p>Recommendation: Subclause 13 (c) should be modified to include the ability for local governments to require a structure plan.</p>
15.	<p>Local government consideration of application (1) On receipt of an application for a structure plan to be assessed and advertised the local government must – (b) consider the material provided by the applicant and advise the applicant in writing if –</p>	<p>The local government no longer has the ability to decide not to proceed with a structure plan as it is no longer able to assess and consider the structure plan prior to being sent to the Commission. The structure plan is sent to the Commission regardless of whether or not it is complete and can be accepted for assessment and advertising. It would be better to assess the structure plan for completeness first</p>

	<p>(i) the structure plan complies with clause 14 (1); or (ii) further information is required from the applicant before the structure plan can be accepted for assessment and advertising. (2) If the local government has not provided written advice to the applicant within 7 days of receipt of an application the structure plan is to be taken to have been accepted for assessment and advertising.</p>	<p>then send to the Commission if it is complies with subclause 14 (1).</p> <p>Seven days is not sufficient time to assess whether a structure plan is complete and contains all the information requested under subclause 14(1). For example it does not give the local government enough time to meet with their internal departments such as engineering to determine whether the transport information is sufficient. If a local government had a clear local planning policy outlining the detailed information that was required to be included in a structure plan, a period of 21 days may be adequate for a complete check to undertaken.</p> <p>Recommendation: The local government should have at least 21 days to determine the structure plan is complete at which point the structure plan is sent to the Commission.</p>
16.	Advertising structure plans	<p>The proposal to advertise structure plans immediately upon lodged is supported, as this will help to streamline the approval process. However, this process removes the ability for Council to up front determine the appropriateness of a structure plan to ensure a version as close to the final version is advertised to the public. As such, it is necessary for the applicants to be required to prepare structure plans in consultation with local government. It is also essential that further guidance be provided on the requirements for structure plans as the current guidelines are unclear and the preferred framework of the Commission unpublished.</p> <p>Recommendation: Clause 14 be amended to require that if a person prepares a structure plan, they must first consult with the local government regarding the structure plan. The Commission releases revised structure plan guidelines making it clear what level of detail is required to be included in different types of structure plans following gazettal of these regulations.</p>
17.	<p>Local government report to Commission (1) The local government – (c) must prepare a report on the proposed structure plan including a list of the submissions considered by the local government and the local government’s recommendations</p>	<p>Local governments need to be given an opportunity to make a determination on the structure plan as a whole, rather than simply making recommendations on the submissions.</p> <p>Recommendation:</p>

	<p>in respect of those submissions.</p> <p>(2) The local government must endorse the report on the proposed structure plan no later than 90 days after the end of the period for making submissions or at a later time agreed by the Commission.</p>	<p>The structure plan provisions be modified to reflect the local planning scheme preparation and adoption process.</p>
19.	<p>Further services from local government</p> <p>(1) The Commission may, at any time after a copy of an application is received by the Commission under clause 15(1) (a), direct the local government to give to the Commission either or both of the following services in connection with the application —</p> <p>(a) technical advice and assistance;</p> <p>(b) information in writing.</p>	<p>The City does not support the proposal to allow the Commission to direct the local government to provide additional technical advice or information on a structure plan and to seek reimbursement costs from the local government where this information is not provided. The majority of structure plans are lodged by land owners and the applicant should be responsible for providing additional information requested by the Commission.</p> <p>Recommendation: The Commission should seek additional information and any associated costs directly from the applicant not the local government (if the local government is not the applicant).</p>
Part 5	Local Development Plans	
26.	<p>When local development plan may be prepared</p> <p>A local development plan in relation to an area of land in the Scheme area may be prepared if –</p> <p>(c) the local government considers that a local development plan is required for the purposes of orderly and proper planning.</p>	<p>The ability of the local government to request a local development plan for any area of land within the City for the purposes of orderly and proper planning is supported. Under the City's current Scheme, a local development plan can only be prepared for land that is covered by a structure plan. This will assist the redevelopment of existing urban areas such as local centres which are not covered by a structure plan, by allowing the local government to require a local development plan for the purposes of orderly and proper planning.</p>
29.	Decision of local government	<p>The City supports the ability to determine local development plans.</p>
32.	<p>Effect of approved local development plan</p> <p>Development approval is not required for development that is in accordance with an approved local development plan.</p>	<p>It is agreed that it will streamline the development approval process if a development application is not required for exempt development that is in accordance with an approved LDP. However, it is not appropriate for all development to be exempt where it complies with a local development plan. This would require all local development plans to contain the same level of detail as development applications, which is completely inappropriate given the stage of the planning process a local development plan is proposed.</p> <p>Recommendation:</p>

		That the exemption for developments that comply with local development plans be extended to development exempt from the need for planning approval under clause 36.
34.	Variation to approved local development plan	<p>This clause does not adequately detail the process which must be followed in order to vary a local development plan and makes no mention of the fact that the local government may not consider it appropriate to vary the local development plan. The process must be provided for clearly in this part.</p> <p>Recommendation: A clear local development plan amendment process be included in part 5.</p>
Part 6	Requirement for development approval	
36.	<p>Development for which development approval not required</p> <p>Unless otherwise provided in this Scheme, development approval of the local government is not required for the following –</p> <p>(a) development on a regional reserve under a region planning scheme</p> <p>(b) development that is in accordance with a local development plan that applies to the development;</p> <p>(d) the erection or extension of a single dwelling, ancillary dwelling, outbuilding, external fixture, patio, pergola, verandah or swimming pool on a lot if the development satisfies the deemed-to-comply requirement of the R-Codes unless the development is located in a place that is-</p>	<p>The City agrees that compliant single houses do not need development approval. However, reference should also be made to satisfying the requirements of endorsed local development plan and local planning policies. As is outlined above the exemption for all development that complies with a local development plan is inappropriate.</p> <p>Recommendation: Subclause 36 (1) (b) be removed. Subclause 36 (1) (d) be modified to included the words ‘, any applicable local development plan any applicable local planning policies’ after the term ‘R-Codes’.</p>
37.	<p>Amending or revoking development approval</p> <p>(1) An owner of land in respect of which planning approval has been granted by the local government may apply for the local government to do any or all of the following – ...</p> <p>(2) An application under subclause (1)(b) or (c) may be made during or after the period within wich the development approved must be substantially commenced.</p> <p>(3) This part applies to an application under subclause (1) (a), (b) or (c) as if the application were an application for</p>	<p>The City supports the ability to extend the approval period in which the development must be substantially commenced, however this should only apply to a current approval, not an expired approval.</p> <p>Recommendation: The words ‘or after the period’ be removed from the subclause 37 (2).</p>

	development approval. (4) Despite subclause (3), the local government may waive or vary a requirement in this part in respect of an application if the local government is satisfied that the application relates to a minor amendment to the development approval.	The City supports this clause as it will allow the local government to make minor amendments to a development approval where the development has already commenced and where the minor amendment will have no impact.
Part 7	Applications for development approval	
41.	Advertising applications (2) The local government may waive a requirement for an application to be advertised in the circumstance set out in subclause (1)(c) if the local government is satisfied that the departure from the requirements of this Scheme is of a minor nature	The City agrees with this clause and the ability to waive advertising.
45.	Matters to be considered by local government (m) the amenity of the locality including the following – (i) environmental impact of the development; (ii) the character of the locality; (iii) social impacts of the development (t) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses; (v) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;	<p>The expansion of the meaning of amenity is supported as providing some guidance to its practical use.</p> <p>The clarification that loss of community service or benefit that may result from market competition is not a matter to be considered by local government in determining an application is supported.</p> <p>The specification that local government can consider the impact of development on the community as a whole is supported.</p> <p>In addition, it should be clarified that the loss of property values is also not a valid planning consideration.</p> <p>Recommendation: The loss of property values should be included as a matter that the local government does not need to consider in determining a development application.</p>

67.	<p>Agreement to use of material provided for Scheme purposes</p> <p>The local government may refuse to accept an application made under this Scheme if the local government is not satisfied that there is in place an agreement for the local government to use any copyrighted material provided in support of the application –</p> <p>(a) for the purposed of advertising the application or implementing a decision on the application; and</p> <p>(b) for zero remuneration.</p>	<p>This clause is supported as it would allow the local government to publish development application plans on their website for the public to access.</p>
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