



# MANDOGALUP IMPROVEMENT SCHEME NO. 1

Western Australian Planning Commission

**GAZETTED DD MONTH YYYY**

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Consultation with the Western Australian Planning Commission should be made to view a legal version of the Scheme. Please advise the Department of Planning, Lands and Heritage of any errors or omissions in this document.

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# Mandogalup Improvement Scheme No. 1

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## Part 1 – Preliminary

### 1. Citation

This Improvement Scheme is the Mandogalup Improvement Scheme No. 1.

### 2. Commencement

Under section 87(4) and 122B of the Act, this Improvement Scheme comes into operation on the day on which it is published in the *Gazette*.

### 3. Terms used

- (1) Words and expressions defined by this Scheme are listed in **Schedule 1**.
- (2) A word or expression that is not defined in this Scheme —
  - (a) has the meaning it has in the *Planning and Development Act 2005*; or
  - (b) If it is not defined in that Act — has the same meaning as it has in the R-Codes.

### 4. Responsibility for Scheme

The Western Australian Planning Commission (the **Commission**) is the responsible authority for the enforcement and implementation of this Scheme.

### 5. Scheme area

This Scheme applies to the area shown on the Scheme Map.

### 6. Contents of Scheme

- (1) In addition to the provisions set out in this document (the *scheme text*), this Scheme includes the following —
  - (a) the Scheme Map.
- (2) This Scheme is to be read in conjunction with the Improvement Scheme Report (including appendices) for the Scheme area.

### 7. Purposes of Scheme

The purposes of this Scheme are to —

- (1) set out the Commission's planning aims and intentions for the Scheme area, as laid out under the Improvement Plan;
- (2) set aside land as local reserves for regional roads, drainage/waterways, and parks and recreation;
- (3) zone land within the Scheme area for the purposes defined in this Scheme;
- (4) control and guide development including processes and provisions for subdivision and development;

- (5) set out procedures for the preparation of structure plans and local development plans;
- (6) set out procedures for the preparation of policy instruments; and
- (7) make provision for the administration and enforcement of this Scheme.

## **8. Aims of Scheme**

The aims of this Scheme are to –

- (1) provide for a strategic land use framework that considers physical, social, economic and environmental factors;
- (2) provide a strategic planning framework to ensure adequate separation between industrial activity and sensitive land uses, and allow a gradual land use transition;
- (3) provide a statutory planning instrument through which to implement the strategic planning framework;
- (4) provide a statutory land use planning instrument to effectively guide the preparation of statutory plans, statutory referral documentation and policy (as may be required) to facilitate orderly and proper planning and development of the area; and
- (5) facilitate the provision of an effective, efficient, integrated and safe transport network.

## **9. Relationship with local laws**

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

## Part 2 — Planning Framework

### Division 1 — Improvement Scheme Report

#### 10. Improvement Scheme Report

The Improvement Scheme Report sets out the underlying assessments and data which informed the preparation of the Improvement Scheme. The Improvement Scheme Report (including appendices) should be read in conjunction with the *scheme text* and the *scheme map*.

### Division 2— Improvement Scheme policies

#### 11. Improvement Scheme policies

- (1) The Commission may prepare an Improvement Scheme policy in respect of any matter related to the planning and development of the Scheme area.
- (2) An Improvement Scheme 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) An Improvement Scheme 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 Commission may amend or repeal an Improvement Scheme policy.
- (5) In making a determination under this Scheme, the Commission must have regard to each relevant Improvement Scheme policy to the extent that the policy is consistent with this Scheme.

#### 12. Procedure for making Improvement Scheme policy

- (1) If the Commission resolves to prepare an Improvement Scheme policy the Commission must, advertise the proposed policy as follows —
  - (a) publish a notice of the proposed policy in accordance with the applicable requirements of clause 103, giving details of —
    - (i) the subject and nature of the proposed policy; and
    - (ii) the objectives of the proposed policy; and
    - (iii) the manner and form in which submissions may be made; and
    - (iv) the period for making submissions and the last day of that period;
  - (b) give notice of the proposed policy in any other way and carry out any other consultation the Commission considers appropriate.



- (2) The period for making submissions specified in a notice under subclause (1)(a)(iv) must not be less than the period of 21 days after the day on which the notice is first published under subclause (1)(a).
- (3) After the expiry of the period within which submissions may be made, the Commission must —
  - (a) review the proposed policy in the light of any submissions made; and
  - (b) resolve to —
    - (i) proceed with the policy with or without modification; or
    - (ii) not to proceed with the policy.
- (4) If the Commission resolves to proceed with the policy, the Commission must publish notice of the policy in a newspaper circulating in the Scheme area.
- (5) A policy has effect on publication of a notice under subclause (4).
- (6) The Commission —
  - (a) must ensure that an up-to-date copy of each Improvement Scheme policy made under this Scheme is kept and made available for public inspection during business hours at the offices of the Commission; and
  - (b) may publish a copy of each of those Improvement Scheme policies on the website of the Commission.

### **13. Procedure for amending Improvement Scheme policy**

- (1) Clause 12, with any necessary changes, applies to the amendment to an Improvement Scheme policy.
- (2) Despite subclause (1), the Commission may make an amendment to an Improvement Scheme policy without advertising the amendment if, in the opinion of the Commission, the amendment is a minor amendment.

### **14. Revocation of Improvement Scheme policy**

An Improvement Scheme policy may be revoked —

- (1) by a subsequent Improvement Scheme policy that —
  - (a) is prepared in accordance with this Part; and
  - (b) expressly revokes the Improvement Scheme policy;
 or
  - (c) by a notice of revocation —
    - (i) prepared by the Commission; and
    - (ii) published by the Commission in accordance with clause 104.

## Part 3 – Heritage protection

### 15. Terms used

In this Part –

*heritage list* means a heritage list established under clause 17;

*place* has the meaning given in the *Heritage Act 2018* section 7(1).

### 16. Heritage-protected places

- (1) A heritage-protected place is a place —
  - (a) that is entered in the State Register of Heritage Places under *the Heritage Act 2018* section 42; or
  - (b) that is under consideration for entry into the State Register of Heritage Places as described in subclause (2);
  - (c) that is the subject of an order under the *Heritage Act 2018* Part 4; or
  - (d) that is the subject of a heritage agreement that has been certified under the *Heritage Act 2018* section 90; or
  - (e) that is included on a heritage list as defined in clause 15; or
- (2) For the purposes of subclause (1)(b), a place is under consideration for entry into the State Register of Heritage Places if —
  - (a) the Heritage Council has made a preliminary determination under the *Heritage Act 2018* section 39(2) that the place warrants review under section 40(1) but the review has not commenced; or
  - (b) the Heritage Council has commenced but has not completed a review of the place under the *Heritage Act 2018* section 40(1); or
  - (c) the Heritage Council has made a recommendation under the *Heritage Act 2018* section 40(2) that the place be entered in the State Register of Heritage Places but the Minister for Heritage has not yet given a direction under section 41(1) of that Act in relation to that recommendation.

### 17. Heritage list

- (1) The following Table sets out places in the heritage list –

**Table 1 – Heritage List**

Place ID	Place Name
12087	Mandogalup Post Office
12100	Hall Reserve – Mandogalup
12123	Mandogalup School Cottage
12130	7 Mile Site (“Sevvy”)

12106	Lake Wattleup/Sayer Road Swamp
12111	Mandogalup School
12125	Mandogalup Townsite
12114	Jolly's Bridge
12129	6 Mile Site
12092	Soldier Settler Homes, Mandogalup

**18. Heritage assessment**

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

**19. Variations to improvement scheme provisions for heritage purposes**

- (1) The Commission may vary any site or development requirement specified in this Scheme to -
  - (a) facilitate the built heritage conservation of a place entered in the State Register of Heritage Places under the *Heritage Act 2018* section 42 or included in the heritage list.
- (2) A variation under subclause (1) may be unconditional or subject to any conditions the Commission considers appropriate.
- (3) If the Commission is of the opinion that the variation of site or development requirements is likely to affect any owners or occupiers in the locality of the place the Commission must -
  - (a) consult the affected parties by following one or more of the provisions of advertising under clause 81; and
  - (b) have regard to any views expressed prior to making its determination to vary the site or development requirements under this clause.

## Part 4 — Reserves

### 20. Reserves

(1) In this clause -

*Department of Main Roads* means the department principally assisting in the administration of the *Main Roads Act 1930*.

*Western Australian Road Hierarchy* means the document of that name available on the website maintained by the Department of Main Roads.

(2) Reserves are shown on the Scheme Map according to the legend on the Scheme Map.

(3) The objectives of the reserves are as follows –

**Table 2 - Reserves**

Reserve Name	Objectives
Parks and Recreation - Regional	<ul style="list-style-type: none"><li>To identify areas with biodiversity and conservation value, and to protect those areas from development and subdivision.</li><li>To set aside land for local parks, pedestrian access, landscaping, view corridors, and incidental essential services infrastructure.</li></ul>
Drainage/Waterway	<ul style="list-style-type: none"><li>To set aside land required for significant waterways and drainage.</li></ul>
Infrastructure Services	<ul style="list-style-type: none"><li>To set aside land required for a range of essential infrastructure purposes.</li></ul>
Primary Distributor Road (Primary Regional Road)	<ul style="list-style-type: none"><li>To set aside land required for a primary distributor road being a road classified as a Regional Distributor or Primary Distributor under the Western Australian Road Hierarchy.</li></ul>
District Distributor Road (Other Regional Road)	<ul style="list-style-type: none"><li>To set aside land required for a district distributor road being a road classified as a Distributor A or Distributor B or under the Western Australian Road Hierarchy.</li></ul>

### 21. Additional uses for reserves

There are no additional uses for land in reserves that apply to this Scheme.

## Part 5 — Zones, precincts and use of land

### Division 1 - Preliminary

#### 22. Relationship between planning documents

- (1) If there is an inconsistency between –
  - (a) the provisions of this Scheme including the primary controls set out in respect of the precinct and zone; and
  - (b) an approved Structure Plan and/or Local Development Planthe provisions of the Improvement Scheme prevail to the extent of the inconsistency.
- (2) If there is an inconsistency between an improvement scheme policy and an approved Local Development Plan, the approved Local Development Plan prevails to the extent of the inconsistency.

#### 23. Zones and precincts

- (1) Zones and precincts are shown on the Scheme Map according to the legend on the Scheme Map.
- (2) The objectives of each zone and precinct are as follows –

**Table 3 – Zones and precincts**

Zone Name	Objectives
Residential (Precinct G and J)	<ul style="list-style-type: none"><li>• To provide for housing to meet the needs of the community.</li><li>• To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.</li><li>• To provide for a limited range of non-residential uses, which are compatible with and complementary to residential development.</li><li>• To ensure compatibility of uses and integration of vehicular, pedestrian and cycle access with adjacent residential areas.</li></ul>
North-East Precinct (Precinct D)	<ul style="list-style-type: none"><li>• To designate land for potential future development, informed by identified environmental values, compatible with and complementary to adjacent residential uses.</li></ul>
Composite (Precinct H)	<ul style="list-style-type: none"><li>• To provide for retention of existing lot sizes in the range of 5,000m<sup>2</sup> to 2 ha.</li><li>• To ensure development is sited and designed to achieve an integrated and harmonious character.</li></ul>

	<ul style="list-style-type: none"> <li>• To provide for residential and ancillary land uses which are compatible with the existing land uses of the precinct.</li> <li>• To provide for ancillary uses whilst protecting the amenity, character, vegetation and/or conservation and landscape attributes of the precinct.</li> </ul>
Local Centre (Precinct E)	<ul style="list-style-type: none"> <li>• To designate land for future development as a town centre or activity centre.</li> <li>• To provide for the convenience and incidental needs of local communities.</li> <li>• To facilitate a broad range of employment to contribute towards the sub-region's employment self-sufficiency, consistent with the centre's level in the activity centre hierarchy.</li> </ul>
Service Commercial (Precinct C and Precinct I)	<ul style="list-style-type: none"> <li>• To accommodate commercial activities which, because of the nature of the business, require good vehicular access and/or large sites.</li> <li>• To provide for a range of wholesale sales, showrooms, trade and services which, by reason of their scale, character, operational or land requirements, are not generally appropriate in, or cannot conveniently or economically be accommodated in, the central area shops and offices or industrial zones.</li> </ul>
Light Industry (Precinct G)	<ul style="list-style-type: none"> <li>• To provide for a range of industrial uses and service industries generally compatible with urban areas, that cannot be located in commercial zones.</li> <li>• To provide for a range of lot sizes that support different types of light industrial activities.</li> <li>• To provide a high level of amenity to complement the land use transition.</li> <li>• To ensure that where any development adjoins zoned or developed residential properties, the development is suitably set back, screened or otherwise treated so as not to detract from the residential amenity.</li> <li>• To contain the impact area of industrial activities within the boundaries of the lot where appropriate and practical.</li> </ul>
General Industry (Precinct A and Precinct F)	<ul style="list-style-type: none"> <li>• To provide for a broad range of industrial, service and storage activities which, by the nature of their operations should be appropriately separated from residential and other sensitive land uses.</li> <li>• To provide for a range of lot sizes that support different types of industrial activities</li> </ul>

	<ul style="list-style-type: none"> <li>• To accommodate industry that would not otherwise comply with the performance standards of light industry.</li> <li>• To manage impacts such as noise, dust and odour within the boundaries of the lot where appropriate and practical or within the zone.</li> </ul>
<p>Private Clubs, Institutions and Places of Worship (Precinct J)</p>	<ul style="list-style-type: none"> <li>• To provide sites for privately owned and operated recreation, institutions and places of worship.</li> <li>• 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.</li> <li>• To ensure that the standard of development is in keeping with surrounding development and protects the amenity of the area.</li> </ul>

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## Division 2 – Land Use Permissibility

### 24. Zoning table

The zoning table for this Scheme is as follows —

**Table 4 – Zoning Table**

Land Uses	Zones							North-East Precinct
	Residential	Composite	Local Centre	Service Commercial	Light Industry	General Industry	Private Clubs, Institutions and Places of Worship	
Abattoir	X	X	X	X	X	X	X	Development and use of land is to be in accordance with an approved structure plan, where required by the Commission under Part 7 of the Scheme
Agriculture – Extensive	X	X	X	X	X	X	X	
Agriculture – Intensive	X	X	X	X	X	X	X	
Amusement Parlour	X	X	A	P	X	X	X	
Animal Establishment	X	X	X	X	X	X	X	
Animal Husbandry – Intensive	X	X	X	X	X	X	X	
Art Gallery	X	X	X	D	X	X	X	
Bed and Breakfast	X	X	X	X	X	X	X	
Betting Agency	X	X	A	D	X	X	X	
Brewery	X	X	X	D	D	P	X	
Bulky Goods Showroom	X	X	X	P	X	X	X	
Caravan Park	X	X	X	X	X	X	X	
Caretaker's Dwelling	X	X	X	X	X	X	D	
Car Park	X	X	D	P	P	D	D	
Child Care Premises	X	X	A	X	X	X	X	
Cinema/Theatre	X	X	X	X	X	X	X	
Civic Use	X	X	D	D	X	X	X	
Club Premises	X	X	X	A	X	X	D	
Commercial Vehicle Parking	X	X	X	D	P	P	X	



<b>Community Purpose</b>	X	X	D	D	X	X	D
<b>Consulting Rooms</b>	X	X	P	D	X	X	X
<b>Container Deposit Recycling Centre</b>	X	X	X	A	P	P	X
<b>Convenience Store</b>	X	X	P	D	D	X	X
<b>Corrective Institution</b>	X	X	X	X	X	X	X
<b>Educational Establishment</b>	X	X	X	X	X	X	X
<b>Exhibition Centre</b>	X	X	X	X	X	X	D
<b>Family Day Care</b>	A	X	X	X	X	X	X
<b>Fast Food Outlet</b>	X	X	P	D	X	X	X
<b>Freeway Service Centre</b>	X	X	X	X	X	X	X
<b>Fuel Depot</b>	X	X	X	X	A	P	X
<b>Funeral Parlour</b>	X	X	X	D	D	X	X
<b>Garden Centre</b>	X	X	D	P	D	X	X
<b>Grouped Dwelling</b>	D	X	X	X	X	X	X
<b>Holiday Accommodation</b>	X	X	X	X	X	X	X
<b>Holiday House</b>	X	X	X	X	X	X	X
<b>Home Business</b>	P	P	X	X	X	X	X
<b>Home Occupation</b>	P	P	X	X	X	X	X
<b>Home Office</b>	P	P	X	X	X	X	X
<b>Home Store</b>	P	P	X	X	X	X	X
<b>Hospital</b>	X	X	X	X	X	X	X
<b>Hotel</b>	X	X	X	X	X	X	X
<b>Independent Living Complex</b>	X	X	X	X	X	X	X
<b>Industry</b>	X	X	X	X	D	P	X
<b>Industry – Extractive</b>	X	X	X	X	A	A	X
<b>Industry – Light</b>	X	X	X	X	P	P	X
<b>Industry – Primary Production</b>	X	X	X	X	A	D	X

Liquor Store – Large	X	X	D	A	X	X	X
Liquor Store – Small	X	X	P	X	X	X	X
Lunch Bar	X	X	D	D	D	D	X
Marina	X	X	X	X	X	X	X
Marine Filling Station	X	X	X	X	D	D	X
Market	X	X	X	D	X	X	X
Medical Centre	X	X	D	D	X	X	X
Mining Operations	D	D	D	D	D	D	X
Motel	X	X	X	X	X	X	X
Motor Vehicle, Boat or Caravan Sales	X	X	X	D	D	X	X
Motor Vehicle Repair	X	D	X	A	D	P	X
Motor Vehicle Wash	X	X	A	P	P	P	X
Multiple Dwelling	D	X	X	X	X	X	X
Nightclub	X	X	X	X	X	X	X
Office	X	I	D	D	X	X	I
Park Home Park	X	X	X	X	X	X	X
Place of Worship	X	X	X	D	X	X	A
Reception Centre	X	X	X	X	X	X	A
Recreation – Private	X	X	A	D	X	X	X
Residential Aged Care Facility	X	X	X	X	X	X	X
Resource Recovery Centre	X	X	X	X	A	A	X
Restaurant/Café	X	X	P	X	X	X	I
Restricted Premises	X	X	A	D	X	X	X
Road House	X	X	X	X	X	X	X
Rural Home Business	X	D	X	X	X	X	X
Rural Pursuit/Hobby Farm	X	D	X	X	X	X	X

Serviced Apartment	X	X	X	X	X	X	X
Service Station	X	X	A	P	D	D	X
Shop	X	X	D	X	X	X	X
Single House	P	P	X	X	X	X	X
Small Bar	X	X	D	X	X	X	X
Tavern	X	X	X	X	X	X	X
Telecommunications Infrastructure	D	D	D	P	P	P	P
Tourist Development	X	X	X	X	X	X	X
Trade Display	X	X	X	D	P	P	X
Trade Supplies	X	X	X	D	P	P	X
Transport Depot	X	X	X	X	D	P	X
Tree Farm	X	A	X	X	X	X	X
Veterinary Centre	X	X	D	P	X	X	X
Warehouse/Storage	X	A	X	P	P	P	X
Waste Disposal Facility	X	X	X	X	X	A	X
Waste Storage Facility	X	X	X	X	A	D	X
Wind Farm	X	X	X	X	X	X	X
Winery	X	X	X	X	X	X	X
Workforce Accommodation	X	X	X	X	X	X	X

## 25. Interpreting the zoning table

- (1) The permissibility of uses of land in the various zones in the Scheme area is determined by cross reference between the list of use classes on the left hand side of the zoning table and the list of zones at the top of the zoning table.
- (2) The symbols used in the zoning table have the following meanings —
  - P means that the use is permitted if it complies with any relevant development standards and requirements of this Scheme;
  - I means that the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with any relevant development standards and requirements of this Scheme;

- D means that the use is not permitted unless the Commission has exercised its discretion by granting development approval;
- A means that the use is not permitted unless the Commission has exercised its discretion by granting development approval after giving notice in accordance with clause 81;
- X means that the use is not permitted by this Scheme.

Note:

1. The development approval of the Commission may be required to carry out works on land in addition to any approval granted for the use of land. In normal circumstances 1 application is made for both the carrying out of works on, and the use of, land.
  2. Under clause 77, certain works and uses are exempt from the requirement for development approval.
  3. Part 10 deals with the consideration of applications for development approval by the Commission. Under that Part, development approval cannot be granted for development that is a class X use in relation to the zone in which the development is located, except in certain circumstances where land is being used for a non-conforming use.
- (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 Commission may, in respect of a use that is not specifically listed 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 Commission; or
  - (b) determine that the use may be consistent with the objectives of a particular precinct or zone and give notice under clause 81 before considering an application for development approval for the use of the land; or
  - (c) determine that the use is not consistent with the objectives of a particular precinct or zone and is therefore not permitted in the zone.
- (5) If a use of land is identified in a zone as being a class P or class I use, the Commission may not refuse an application for development approval for that use in that zone but may require works that are to be undertaken in connection with that use to have development approval.
- (6) If the zoning table does not identify any permissible uses for land in a zone the Commission may, in considering an application for development approval for land within the zone, have due regard to any of the following that apply to the land —
- (a) objectives of the zone; and
  - (b) a structure plan; or
  - (c) a local development plan.

**26. Additional uses**

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

**Table 5 – Specified additional uses for zoned land in the 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.

**27. Special use zones**

There are no special use zones which apply to this Scheme.

**28. Non-conforming uses**

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

**29. Changes to non-conforming use**

- (1) A person must not, without development approval —
  - (a) alter or extend a non-conforming use of land; or
  - (b) erect, alter or extend a building used for, or in conjunction with, a non-conforming use; or
  - (c) repair, rebuild, alter or extend a building used for a non-conforming use that is destroyed to the extent of 75% or more of its value; or
  - (d) change the use of land from a non-conforming use to another use that is not permitted by the Scheme.
- (2) An application for development approval for the purposes of this clause must be advertised in accordance with clause 81.
- (3) The Commission may only grant development approval for a change of use of land referred to in subclause (1)(d) if, in the opinion of the Commission, 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 objectives of the zone in which the land is situated.

**30. Register of non-conforming uses**

- (1) The Commission 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 Commission 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 Commission prepares a register under subclause (1) the Commission —
  - (a) must ensure that the register is kept up-to-date; and
  - (b) must make a copy of the register available for public inspection during business hours at the offices of the Commission; and
  - (c) may publish a copy of the register on the website of the Commission.

- (4) An entry in the register in relation to land that is being used for a non-conforming use is evidence of the matters set out in the entry, unless the contrary is proved.

## **Part 6 — General development requirements**

### **Division 1 - Preliminary**

#### **31. R-Codes**

- (1) The R-Codes, modified as set out in clause 32, are to be read as part of this Scheme.
- (2) The Commission must ensure that the R-Codes are published in accordance with clause 104 of this Scheme.
- (3) Subclause (2) is an ongoing publication requirement for the purposes of clause 103(5)(a) of this Scheme.
- (4) The coding of land for the purposes of the R-Codes is shown by the coding number superimposed on a particular area contained within the boundaries of the area shown on the Scheme Map.
- (5) The R-Codes apply to an area if –
  - (a) the area has a coding number superimposed on it in accordance with subclause (4); or
- (6) a provision of this Scheme provides that the R-Codes apply to the area.

#### **32. Modification of R-Codes**

- (1) Development taken to comply with deemed-to-comply provision of R-Codes  
For the purposes of this Scheme, development is taken to comply with a deemed-to-comply provision of the R-Codes if the development complies with –
  - (a) a provision of a local development plan, structure plan or Improvement Scheme policy if the provision amends or replaces the deemed-to-comply provision; and
  - (b) for a provision of a local development plan or Improvement Scheme policy where the plan or policy is required to be approved by the Commission under the R-Codes – the plan or policy is approved by the Commission.

#### **33. Environmental conditions**

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

**Table 6 – Environmental conditions**

Scheme or amendment No.	Gazettal Date	Environmental Conditions
Mandogalup Improvement Scheme No. 1		There are no environmental conditions imposed by the Minister for the Environment which apply to the Scheme area.

- (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 Commission must ensure that all statements relating to this Scheme published under the *Environmental Protection Act 1986* Part IV Division 3 are published in accordance with clause 10404 of this Scheme.
- (4) Subclause (3) is an ongoing publication requirement for the purposes of clause 1044(5)(a) of this Scheme.

**34. Additional site and development requirements**

Divisions 2, 3 and 4 of Part 6 set out the additional site and development requirements.

**35. Variations to site and development requirements**

- (1) In this clause –  
*additional site and development requirements* means requirements set out in clause 34.
- (2) The Commission may approve an application for a development approval that does not comply with an additional site and development requirements.
- (3) An approval under subclause (2) may be unconditional or subject to any conditions the Commission considers appropriate.
- (4) If the Commission is of the opinion that the non-compliance with an additional site and development requirement will mean that the development is likely to adversely affect any owners or occupiers in the general locality or in an area adjoining the site of the development the Commission must –
  - (a) consult the affected owners or occupiers by following one or more of the provisions for advertising applications for development approval under clause 81 of this Scheme; and
  - (b) have regard to any expressed views prior to making its determination to grant development approval under this clause.
- (5) The Commission may only approve an application for development approval under this clause if the Commission is satisfied that –



- (a) approval of the proposed development would be appropriate having regard to the matters that the Commission is to have regard to in considering an application for development approval as set out in clause 87(2) of this Scheme;
- (b) the non-compliance with the additional site and development requirement will not have a significant adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

**36. Restrictive covenants**

- (1) A restrictive covenant affecting land in the Scheme area that would have the effect of limiting the number of residential dwellings which may be constructed on the land is extinguished or varied to the extent that the number of residential dwellings that may be constructed is less than the number that could be constructed on the land under this Scheme.
- (2) If subclause (1) operates to extinguish or vary a restrictive covenant —
  - (a) development approval is required to construct a residential dwelling that would result in the number of residential dwellings on the land exceeding the number that would have been allowed under the restrictive covenant; and
  - (b) the Commission must not grant development approval for the construction of the residential dwelling unless it gives notice of the application for development approval in accordance with clause 81.

## Division 2 – Primary Controls

### 37. Primary controls

The primary controls for each zone is as follows –

**Table 7– Primary controls**

Primary Control	Zone						Private Clubs, Institutions and Places of Worship	North East Precinct
	Residential	Composite	Local Centre	Service Commercial	Light Industry	General Industry		
<b>SITE PLANNING</b>								
Minimum frontage	As per the R-Codes						50m	Site and development requirements are to be in accordance with:  (1) the objectives of the zone and precinct; and  (2) an approved structure plan where required by the Commission under Part 7 of the Scheme; and/or  (3) an approved local development plan, where required by the Commission under Part 8 of the Scheme.
Minimum site area					3000m <sup>2</sup>	3000m <sup>2</sup>	15,000m <sup>2</sup>	
Maximum net lettable area			1,500m <sup>2</sup>					
Minimum open space		80%						
Landscaping			5%	8%	5%	5%	10%	
Plot ratio				1.5	1.0	0.8		
Site coverage				70%	70%	65%		
<b>BOUNDARY SETBACKS</b>								
Minimum front setback	As per the R-Codes	7.5 m	6 m	9 m	9 m	15 m	15 m	
Minimum side setback		2 m	1.5 m	3 m	3 m	6 m	9 m	
Minimum rear setback		6 m	6 m	6 m	6 m	9 m	9 m	
Minimum secondary street		4.5 m	6 m	6 m	4.5 m	6 m	9 m	
<b>BUILDING HEIGHT</b>								
Maximum building height	As per the R-Codes	9 m	12 m	Maximum wall height of 9 metres on the boundary			Maximum wall height of 9 meters	
<b>CAR PARKING</b>								
Minimum car parking	As per the R-Codes	Refer Table 8 – Car parking requirements.						

### 38. Car parking requirements

- (1) Car parking spaces are to be provided in accordance with the requirements set out in the following Table –

**Table 8 – Car parking requirements**

Use	Parking requirements
Shop	1 for every 20m <sup>2</sup> gross floor area.
Industry, Warehouse/Storage	4 for up to the first 200m <sup>2</sup> gross floor area, and thereafter 1 for every additional 100m <sup>2</sup> gross floor area or part thereof.
Office	1 for every 50m <sup>2</sup> gross floor area.
Amusement Parlour, Art Gallery, Club Premises, Civic Use	As per Place of Worship – discretion may be considered where dual use of spaces is likely to occur in the case of mixed developments.
Restaurant/Café, Place of Worship	Where applicable to the particular use – (a) 1 for every 4 seats which an eating area is designed to provide; or 1 for every 4m <sup>2</sup> of eating area or part thereof, whichever produces the greater number of car parking spaces; (b) 1 for every 6 seats capable of being provided in assembly areas; or 1 for every 4.5m <sup>2</sup> of assembly area, whichever produces the greater number of car parking spaces.
Consulting Rooms, Medical Centre, Veterinary Centre	4 for every consulting room, up to 2 such rooms and 2 for every additional consulting room.
Funeral Parlour	Not less than 6 parking spaces.
Motor Vehicle Repair, Motor Vehicle Wash	6 for customers, plus 1 for each service bay, plus 1 for every person working on the site.
Trade Display, Trade Supplies	1 for every 200m <sup>2</sup> of display area or sales area.

## Division 3 – Subdivision requirements

### 39. Subdivision requirements

- (1) Subdivision should generally be in accordance with the Concept Plan, as contained within the Improvement Scheme Report.
- (2) Departure from, or alteration to, the Concept Plan, as contained in the Improvement Scheme Report, may be permitted if the Commission considers the proposed departure or alteration to be minor in nature and will not prejudice the future subdivision or development of the Scheme area, having regard to the objectives of the applicable zone.
- (3) The Table sets out the information requirements which must accompany all subdivision applications (as relevant) –

**Table 9 – Subdivision application requirements**

Design Element	Information/Detail Required
Lot layout	<ul style="list-style-type: none"> <li>• Lot size and variety</li> <li>• Land use description</li> <li>• Retention of existing vegetation</li> <li>• Number of lots/dwellings proposed</li> <li>• Contours/levels</li> </ul>
Movement network	<ul style="list-style-type: none"> <li>• Traffic volumes and street hierarchy</li> <li>• Connectivity of proposed street system (including with local centre)</li> <li>• Street cross-sections</li> <li>• Traffic management</li> <li>• Clear network based on function, traffic volumes, vehicle speed, type, public safety and amenity</li> <li>• Public transport</li> <li>• Provision for safe/convenient pedestrian, cyclist and vehicular access</li> <li>• Accessibility to public open spaces, shops, bus stops</li> </ul>
Public parkland	<ul style="list-style-type: none"> <li>• Size and distribution of public open space</li> <li>• Public open space schedule</li> <li>• On-going management arrangements and responsibilities</li> </ul>
Bushfire management	<ul style="list-style-type: none"> <li>• Bushfire Attack Level Assessment</li> <li>• Bushfire Management Plan</li> </ul>
Noise management	<ul style="list-style-type: none"> <li>• Noise Impact Assessment for land affected by road noise from Hammond Road, Anketell Road and/or Rowley Road.</li> <li>• Noise Management Plan (as required)</li> </ul>

<b>Design Element</b>	<b>Information/Detail Required</b>
Urban water management	<ul style="list-style-type: none"> <li>• Urban water management strategy (control of stormwater quality and/or quantity at source), consistent with the prevailing district and/or local water management strategy.</li> </ul>
Servicing	<ul style="list-style-type: none"> <li>• Details of proposed servicing arrangements, including a land capability assessment for onsite effluent disposal</li> <li>• Power, gas pipelines and/or easement(s)</li> <li>• Telecommunications infrastructure</li> </ul>

- (4) The Commission may request additional information to assist in its consideration of an application.

### **Division 4 – Precinct specific requirements**

#### **40. All Precincts**

- (1) Key street connections to surrounding areas should be optimised, as generally shown on the Scheme Map, to facilitate interconnection between planned residential areas, commercial areas, industrial areas and regional movement networks.
- (2) The precinct must be provided with an effective, efficient, integrated and safe movement network, generally in accordance with the Concept Plan, as contained within the Improvement Scheme Report.
- (3) Access from individual lots to Rowley Road or Mandogalup Road shall not be permitted. The use of minor or secondary roads for such access is desirable.

#### **41. Precinct A**

##### Subdivision and development

- (1) Subdivision and development in vicinity of the wetland must be designed and developed as to not detract from the environmental quality of the wetlands in respect of earthworks, stormwater and industrial effluent disposal.
- (2) The wetland and its 50 meter buffer must be protected.
- (3) Any existing landscape features, significant vegetation, and landform should be protected where practicable.
- (4) Where a vegetation corridor adjacent to Mandogalup Road, as generally shown on the Concept Plan, as contained within the Improvement Scheme Report, has been identified –
  - (a) A 40 meter corridor must be set aside for landscaping to minimise the visual impact of industrial development; and

- (b) the front setback and associated development must be oriented towards a local road; and
  - (c) a reduced minimum of 10 meter front setback to the local road may be considered.
- (5) Arrangements shall be made for the provision of land for a Sewer Pump Station to the specification of Water Corporation, as generally shown on the Concept Plan, as contained within the Improvement Scheme Report. Land required for the Sewer Pump Station is to be ceded free of cost at the time of subdivision as an Infrastructure Services (Sewer Pump Station) reserve.
  - (6) The lot layout should consider any easements required for services, with a view to maximising the use of the surface of those areas for such temporary purposes, such as car parking, storage or landscaping, whilst maintaining any necessary safety and security arrangements associated with the service corridor.
  - (7) For proposals on land identified as 'Restricted Use – Powerline Easement', the Commission shall have regard to any advice received from Western Power.
  - (8) Information on the nature and extent of any off-site impacts, which may include technical assessments and reports and/or proposed management plan must be provided to support proposals.

#### **42. Precinct B**

##### Subdivision and development

- (1) Any existing landscape features, significant vegetation, and landform should be protected where practicable.
- (2) The lot layout should consider any easements required for services, with a view to maximising the use of the surface of those areas for such temporary purposes, such as car parking, storage or landscaping, whilst maintaining any necessary safety and security arrangements associated with the service corridor.
- (3) Information on the nature and extent of any off-site impacts, which may include technical assessments and reports and/or proposed management plan to support proposals.
- (4) Car parking generally sited outside the front setback area wherever possible to enhance streetscape amenity.
- (5) Proposals for a Lunch Bar use must not exceed a maximum net lettable area of 300m<sup>2</sup>.
- (6) For proposals on land identified as 'Restricted Use – Powerline Easement', the Commission shall have regard to any advice received from Western Power.
- (7) The Tramway Corridor shall be protected as land reserved for Parks and Recreation, as generally shown on the Scheme Map and the Concept Plan, as contained within the Improvement Scheme Report.

#### 43. Precinct C

##### Subdivision and development

- (1) Any existing landscape features, significant vegetation, and landform should be protected, where practicable.
- (2) Proposals for Club Premises and/or Community Purposes must not exceed a ratio of 1 person per 10m<sup>2</sup> net lettable area (site or building area).
- (3) Proposals for a Recreation – Private must be contained to indoor leisure, recreation or sport, and must not exceed a ratio of 1 person per 10m<sup>2</sup> net lettable area (site or building area)
- (4) The Tramway Corridor shall be protected as land reserved for Parks and Recreation, as generally shown on the Scheme Map and the Concept Plan, as contained within the Improvement Scheme Report.

#### 44. Precinct D

- (1) Structure planning, subdivision and development should seek to ensure the protection of key environmental values, including and not limited to:
  - (a) threatened flora and associated habitat;
  - (b) threatened fauna habitat; and
  - (c) threatened ecological communities.
- (2) Structure planning, subdivision and development which is likely to impact the environmental values, should be subject to the outcomes of the Environmental Protection Authority's (EPA) consideration of a significant proposal, under Part IV of the *Environmental Protection Act 1986*.
- (3) In addition to 44(1) and 44(2), any potential future structure plan and subdivision layout should:
  - (a) connect well to existing, committed, or proposed development on adjacent sites;
  - (b) provide a minimum of 10 per cent public open space / parkland; and
  - (c) assist with urban water management.
- (4) For proposals on land identified as 'Restricted Use – Powerline Easement', the Commission shall have regard to any advice received from Western Power.
- (5) Should urban land uses be supported in the future, notifications shall be placed on titles of residential lots at subdivision stage advising of close proximity to existing industrial development, freight routes and semi-rural activities and has the potential to be affected by transport noise, vibration and dust which may be associated with the ongoing operation of those nearby activities (as relevant).

**45. Precinct E**

Subdivision and development

- (1) Arrangements shall be made to the specification of the Commission in consultation with the Department of Water and Environmental Regulation, for the provision of land for an Air Quality Monitor, as generally shown on the Scheme Map, at the time of subdivision and/or development.
- (2) Car parking should be sited outside the front setback area wherever possible to enhance streetscape amenity.
- (3) Proposals for a Child Care Premises use will only be supported where it has been demonstrated, to the satisfaction of the Commission, in consultation with the Department of Health, that the use is compatible, and the impacts from the surrounding areas can be avoided, mitigated or managed by the proponent.
- (4) Proposals for Community Purposes must not exceed a ratio of 1 person per 10m<sup>2</sup> net lettable area (site or building area).
- (5) Proposals for a Recreation – Private must be contained to indoor leisure, recreation or sport, and must not exceed a ratio of 1 person per 10m<sup>2</sup> net lettable area (site or building area).

**46. Precinct F**

Subdivision and development

- (1) The Tramway Corridor shall be protected as land reserved for Parks and Recreation, as generally shown on the Scheme Map and the Concept Plan, as contained within the Improvement Scheme Report.
- (2) Any existing landscape features, significant vegetation, and landform should be protected, where practicable.
- (3) Information on the nature and extent of any off-site impacts, which may include technical assessments and reports and/or proposed management plan must be provided to support proposals.

**47. Precinct G**

Subdivision and development

- (1) For proposals on land identified as ‘Restricted Use – DBNGP’, the Commission shall have regard to any advice received from the gas pipeline operator and the Land Access Minister.
- (2) Any existing landscape features, significant vegetation, and landform should be protected where practicable.
- (3) Arrangements shall be made for the provision of land for a Sewer Pump Station to the specification of Water Corporation, as generally shown on the Concept Plan, as contained within the Improvement Scheme Report. Land required for the Sewer Pump Station is to be ceded free of cost at the time of subdivision as an Infrastructure Services (Sewer Pump Station) reservation.



- (4) The lot layout should consider any easements required for services, with a view to maximising the use of the surface of those areas for such temporary purposes, such as car parking, storage or landscaping.
- (5) Information on the nature and extent of any off-site impacts, which may include technical assessments and reports and/or proposed management plan must be provided to support proposals.
- (6) Proposals for a Lunch Bar use must not exceed a maximum net lettable area of 300m<sup>2</sup>.

#### **48. Precinct H**

##### Subdivision and development

- (1) Further subdivision will not be supported, unless no additional lots are created.
- (2) Arrangements shall be made for the provision of land for a Sewer Pump Station to the specification of Water Corporation, as generally shown on the Concept Plan, as contained within the Improvement Scheme Report. Land required for the Sewer Pump Station is to be ceded free of cost at the time of development as an Infrastructure Services (Sewer Pump Station) reservation.
- (3) For proposals on land identified as 'Restricted Use – DBNGP', the Commission shall have regard to any advice received from the gas pipeline operator and Land Access Minister.
- (4) Despite any use which may be permitted, as set out in Table 1 – Zoning Table, the following provisions apply–
  - (a) any building and/or use of land shall be incidental and/or ancillary to a predominant residential use;
  - (b) any incidental and/or ancillary building and/or use of land shall be setback appropriately from the residential dwelling;
  - (c) where there is an incidental and/or ancillary use of the land, the dwelling shall not to be occupied by any person other than the owner or manager or an employee of the incidental and/or ancillary use;
  - (d) any industrial and/or business use shall not exceed a total of 2,500m<sup>2</sup>, including open storage buildings, yards, vehicle movement areas; and
  - (e) no more than one ancillary use should operate from each lot.
- (5) The Commission may impose conditions on development approval including, but not limited to –
  - (a) the siting of the dwelling to provide a residential aspect to the primary street;
  - (b) the siting, landscaping and fencing of the ancillary use to minimise the visual impact to abutting roads and properties.

- (6) Information on the nature and extent of any off-site impacts, which may include technical assessments and reports and/or proposed management plan may be required to be provided to support proposals.

#### 49. Precinct I

##### Subdivision and development

- (1) Any existing landscape features, significant vegetation, and landform should be protected, where practicable.
- (2) Proposals for Club Premises and/or Community Purposes must not exceed a ratio of 1 person per 10m<sup>2</sup> net lettable area (site or building area).
- (3) Proposals for a Recreation – Private must be contained to indoor leisure, recreation or sport, and must not exceed a ratio of 1 person per 10m<sup>2</sup> net lettable area (site or building area)

#### 50. Precinct J

##### Subdivision and development

- (1) Street connections to existing areas should be maximised to facilitate interconnection between the new and existing communities. Street connections to existing areas should ensure that the traffic volumes on connected local residential streets are commensurate with the design.
- (2) The subdivision layout should provide well-distributed parkland, equal to 10 per cent of the gross subdivisible area, to protect and enhance the natural amenity of the Peel Main Drain and to provides for a range of uses and activities, is cost-effective to maintain and assists with urban water management.
- (3) The layout should be oriented to front the Peel Main Drain and associated parklands and natural areas to enhance amenity while contributing to passive surveillance, where possible.
- (4) Notifications shall be placed on titles of residential lots at subdivision stage advising of close proximity to existing industrial development, freight routes, semi-rural activities and places of worship and has the potential to be affected by noise, vibration and dust which may be associated with the ongoing operation of those nearby activities (as relevant).
- (5) Within the Private Clubs, Institutions and Places of Worship zone, any development application for a land use designated as a 'D', 'A' or 'I' use as set out in Table 1 – Zoning Table, must be:
  - (a) associated and incidental to the predominant use of the site as a 'Place of Worship'; and
  - (b) be supported by a noise impact assessment and noise management plan (if required) that demonstrates how the proposal will comply with the *Environmental Protection Act 1986* and *Environmental Protection (Noise) Regulations 1997*.

## Part 7 — Structure plans

### 51. When structure plan may be prepared

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

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

### 52. Preparation of structure plan

- (1) A structure plan must —
  - (a) be prepared in a manner and form approved by the Commission; and
  - (b) include any maps, information or other material required by the Commission; and
  - (c) unless the Commission otherwise agrees, set out the following information –
    - (i) the key attributes and constraints of the area covered by the plan including the natural environment, landform and topography;
    - (ii) the planning context for the area covered by the plan and the neighbourhood and region within which the area is located;
    - (iii) any major land uses, zoning or reserves proposed by the plan;
    - (iv) estimates of the future number of lots in the area covered by the plan and the extent to which the plan provides for dwellings, retail floor space or other land uses;
    - (v) the population impacts that are expected to result from the implementation of the plan;
    - (vi) the extent to which the plan provides for the coordination of transport and other infrastructure;
    - (vii) arrangements for the management of services for the subdivision and development covered by the plan;
    - (viii) any other information required within this Scheme.
- (2) The Commission may prepare a structure plan in the circumstances set out in clause 51.
- (3) A person may make an application to the Commission for a structure plan prepared by the person in the circumstances set out in clause 51 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 subclause (a).

### 53. Action by Commission on receipt of application

- (1) On receipt of an application for a structure plan to be assessed and advertised, the Commission —

- (a) must consider the material provided by the applicant and advise the applicant in writing —
    - (i) if the structure plan complies with clause 52(1); or
    - (ii) if further information from the applicant is required before the structure plan can be accepted for assessment and advertising
 and
  - (b) must give the applicant an estimate of the fee for dealing with the application in accordance with the *Planning and Development Regulations 2009* regulation 48.
- (2) The structure plan is taken to have been accepted for assessment and advertising if the Commission has not given written notice to the applicant of its decision by the latest of the following days —
- (a) 28 days after receipt of an application;
  - (b) 14 days after receipt of the further information requested under subclause (1)(a)(ii);
  - (c) if the Commission has given the applicant an estimate of the fee for dealing with the application — the day on which the applicant pays the fee.

#### **54. Advertising structure plan**

- (1) The Commission must advertise the structure plan by —
- (a) seeking comments in relation to the proposed local development plan from any public authority or utility service that the Commission considers appropriate; and
  - (b) by giving notice of the proposed structure plan to owners and occupiers who, in the opinion of the Commission, are likely to be affected by the approval of the structure plan; and/or
  - (c) erecting a sign or signs in a conspicuous place on the land the subject of the proposed local development plan giving notice of the proposed local development plan;
  - (d) by publishing a notice of the proposed structure plan in a newspaper circulating in the Scheme area; and/or
  - (e) by publishing a notice of the proposed structure plan on the Commission's website.
- (2) The period for making submissions on a proposed structure plan is —
- (a) the period of 42 days after the day on which the notice is first published under subclause (1); or
  - (b) a longer period approved by the Commission
- (3) The Commission —
- (a) must make a structure plan advertised under subclause 1, and the material accompanying it available for public inspection during

business hours at the offices of the local government and Commission, and

- (b) may publish the structure plans and the material accompanying it on the website of the Commission.
- (4) A notice published or given under subclause (1) in relation to a proposed structure plan must specify —
  - (a) the period under subclause (2) for making submissions and the last day of that period.

**55. Consideration of submissions**

- (1) The Commission –
  - (a) must consider all submissions made to the Commission within the period specified in a notice advertising the structure plan; and
  - (b) may consider submissions made to the Commission after that time; and
  - (c) may request further information from a person who prepared the structure plan;
  - (d) may advertise any modifications proposed to the structure plan to address issues raised in submissions.
- (2) If the Commission makes a decision under subclause (1)(d), the Commission must take any steps the Commission considers appropriate to advertise the proposed modification to the structure plan.

**56. Decision of Commission**

- (1) The Commission must consider a report on a proposed structure plan, any submissions received, local government and agency comments and may –
  - (a) approve the structure plan; or
  - (b) require the person who prepared the structure plan to –
    - (i) modify the plan in the manner specified by the Commission; and
    - (ii) resubmit the modified plan to the Commission for approval; or
  - (c) refuse to approve the structure plan.
- (2) Before making a decision under subclause (1), the Commission may, if the Commission considers that major modifications have been made to the structure plan since it was advertised, readvertise the structure plan in the manner specified by the Commission.
- (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 –
  - (a) 120 days of the day on which the structure plan is taken to have been accepted for assessment; or

- (b) a longer period agreed in writing between the Commission and the person who prepared the proposed structure plan.
- (4) Despite subclause 3, the Commission may decide whether or not to approve a structure plan after the period applicable under subclause 3 has expired, and the validity of the decision is not affected by the expiry.
- (5) The Commission must give the person who prepared the proposed structure plan written notice of its decision to approve or to refuse to approve a structure plan.

**57. Structure plan may provide for later approval of details of subdivision or development**

- (1) The Commission may approve a structure plan that provides for further details of a proposed subdivision included in the plan to be submitted to, and approved by, the Commission before the subdivision is approved under Part 10 of the Act.
- (2) The Commission may approve a structure plan that provides for further details of development included in the plan to be submitted to, and approved by, the Commission for the purposes of the plan before development approval is granted or, if development approval is not required, before development commences.
- (3) The Commission may only approve a structure plan referred to in subclause (1) or (2) if the Commission is satisfied that the further matters that are to be approved would not result in a substantial departure from the plan.

**58. Review**

- (1) 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.

**59. Publication of structure plan approved by Commission**

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

**60. Effect of structure plan**

- (1) The Commission, as the decision-maker for an application for development approval or subdivision approval in an area that is covered by a structure plan, is to have due regard to, but is not bound by, the structure plan when deciding the application.
- (2) The Commission, as the decision-maker for an application for development approval or subdivision approval in an area referred to in clause 51 for which a structure plan may be prepared, but for which no structure plan has been approved, may approve the application if the decision-maker is satisfied that –
  - (a) the proposed development or subdivision does not conflict with the principles of orderly and proper planning; and

- (b) the proposed development or subdivision would not prejudice the overall development potential of the area.

**61. Duration of approval**

- (1) The approval of a structure plan has effect for a period of 10 years commencing on the day on which the Commission approves the plan, or another period determined by the Commission, unless –
  - (a) the Commission earlier revokes its approval; or
  - (b) an amendment to the Scheme that covers the area to which the structure plan relates takes effect in accordance with section 87 of the *Planning and Development Act 2005*.
- (2) The Commission may extend the period of approval of a structure plan if there are no changes to the terms of the plan or the conditions attached to the approval.
- (3) The Commission may revoke its approval of a structure plan if the Commission considers that the structure plan cannot be effectively implemented because of a legislative change or a change in a State planning policy

**62. Amendment of structure plan**

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

## Part 8 — Local development plans

### 63. Term used: local development plan

In this Part —

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

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

### 64. When local development plan may be prepared

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

- (a) the Commission has identified the preparation of a local development plan as a condition of approval of a plan of subdivision of the area; or
- (b) the Commission considers that a local development plan is required for the purposes of orderly and proper planning.

### 65. Preparation of local development plan

- (1) A local development plan must —
  - (a) be prepared in a manner and form approved by the Commission; and
  - (b) include any maps or other material considered by the Commission to be necessary; and
  - (c) set out the following information —
    - (i) the standards to be applied for the buildings, other structures and works that form part of the development to which it applies; and
    - (ii) details of the arrangements to be made for vehicles to access the area covered by the plan.
- (2) The Commission may prepare a local development plan in the circumstances set out in clause 64.
- (3) A person may make an application to the Commission for a local development plan prepared by the person in the circumstances set out in clause 64 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).



**66. Action by Commission on receipt of application**

- (1) On receipt of an application for a local development plan to be assessed and advertised, the Commission —
  - (a) must consider the material provided by the applicant and advise the applicant in writing —
    - (i) if the local development plan complies with clause 65(1); or
    - (ii) if further information from the applicant is required before the local development plan can be accepted for assessment and advertising;
  - and
  - (b) must give the applicant an estimate of the fee for dealing with the application in accordance with the *Planning and Development Regulations 2009* regulation 48.
- (2) The local development plan is taken to have been accepted for assessment and advertising if the Commission has not given written notice to the applicant of its decision by the latest of the following days –
  - (a) 14 days after receipt of an application;
  - (b) 7 days after receipt of the further information requested under subclause (1)(a)(ii);
  - (c) if the Commission has given the applicant an estimate of the fee for dealing with the application — the day on which the applicant pays the fee.

**67. Advertising of the local development plan**

- (1) The Commission must, within 28 days of preparing a local development plan or accepting an application for a local development plan to be assessed and advertised —
  - (a) advertise the proposed local development plan in accordance with subclause (2); and
  - (b) seek comments in relation to the proposed local development plan from any public authority or utility service that the Commission considers appropriate; and
- (2) The Commission must advertise the local development plan by –
  - (a) giving notice of the proposed local development plan to owners and occupiers who, in the opinion of the Commission, are likely to be affected by the approval of the local development plan; and/or
  - (b) erecting a sign or signs in a conspicuous place on the land the subject of the proposed local development plan giving notice of the proposed local development plan;
  - (c) publishing a notice of the proposed structure plan in a newspaper circulating in the Scheme area; and/or

- (d) by publishing a notice of the proposed structure plan on the Commission's website.
- (3) The period for making submissions on a proposed local development plan is –
  - (a) the period of 14 days after the day on which the notice is first published under subclause (1); or
  - (b) a longer period approved by the Commission
- (4) The Commission –
  - (a) must make a local development plan advertised under subclause 1, and the material accompanying it available for public inspection during business hours at the offices of the Commission, and
  - (b) may publish the structure plans and the material accompanying it on the website of the Commission.
- (5) A notice published or given under subclause (1) in relation to a proposed structure plan must specify –
  - (a) the period under subclause (2) for making submissions and the last day of that period.
- (6) Despite subclause (1) the Commission may decide not to advertise a local development plan if the Commission is satisfied that the plan is not likely to adversely affect any owners or occupiers within the area covered by the plan or an adjoining area.

**68. Consideration of submissions**

- (1) The Commission –
  - (a) must consider all submissions made to the Commission within the period specified in a notice advertising the local development plan; and
  - (b) may consider submissions made to the Commission after that time.

**69. Decision of Commission**

- (1) The Commission must consider any submissions received, local government and agency comments and may –
  - (a) approve the local development plan; or
  - (b) require the person who prepared the local development plan to –
    - (i) modify the plan in the manner specified by the Commission; and
    - (ii) resubmit the modified plan to the Commission for approval; or
  - (c) refuse to approve the local development plan.
- (2) The Commission is to be taken to have refused to approve a local development plan if the Commission has not made a decision under subclause (1) within –
  - (a) 60 days of the day on which the local development is taken to have been accepted for assessment; or

- (b) a longer period agreed in writing between the Commission and the person who prepared the proposed local development plan.
- (3) Despite subclause 2, the Commission may decide whether or not to approve a local development plan after the period applicable under subclause 2 has expired, and the validity of the decision is not affected by the expiry.
- (4) The Commission must give the person who prepared the proposed local development plan written notice of its decision to approve or to refuse to approve a local development plan.

**70. Local development plan may provide for later approval of details of development**

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

**71. Review**

- (1) 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 Commission not to approve the local development plan.

**72. Publication of local development plan approved by Commission**

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

**73. Effect of local development plan**

- (1) A decision-maker for an application for development approval in an area that is covered by a local development plan that has been approved by Commission must have due regard to, but is not bound by, the local development plan when deciding the application.
- (2) A decision-maker for an application for development approval in an area referred to in clause 64 as being an area for which a local development plan may be prepared, but for which no local development plan has been approved by the Commission, may approve the application if the decision-maker is satisfied that
  - (a) the proposed development does not conflict with the principles of orderly and proper planning; and
  - (b) the proposed development would not prejudice the overall development potential of the area.

**74. Duration of approval**

- (1) The approval of a local development plan has effect for a period of 10 years commencing on the day on which the Commission approves the plan, or another period determined by the Commission, unless the Commission earlier revokes its approval.
- (2) The Commission may extend the period of approval of a local development plan if there are no changes to the terms of the plan or the conditions attached to the approval.

**75. Amendment of local development plan**

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

## Part 9 — Requirement for development approval

### 76. Requirement for development approval

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

- (a) the person has obtained the development approval of the Commission under Part 10; or
- (b) development approval is not required for the development under clause 77.

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

### 77. Development for which development approval not required

- (1) Development approval is not required for works if —
  - (a) the works are of a class specified in Column 1 of an item in the Table; and
  - (b) if conditions are set out in Column 2 of the Table opposite that item — all of those conditions are satisfied in relation to the works.

**Table 10 – Development approval not required**

	<b>Column 1 Works</b>	<b>Column 2 Conditions</b>
1.	The demolition or removal of any of the following – <ul style="list-style-type: none"> <li>(a) a single house;</li> <li>(b) an ancillary dwelling;</li> <li>(c) an outbuilding;</li> <li>(d) an external fixture;</li> <li>(e) a boundary wall or fence;</li> <li>(f) a patio;</li> <li>(g) a pergola;</li> <li>(h) a verandah;</li> <li>(i) a deck;</li> <li>(j) a garage;</li> <li>(k) a carport;</li> <li>(l) a swimming pool;</li> <li>(m) shade sails.</li> </ul>	The works are not located in a heritage-protected place.

	<b>Column 1 Works</b>	<b>Column 2 Conditions</b>
2.	The demolition of a building that is not a single house, ancillary dwelling, multiple dwelling or grouped dwelling.	(a) The building does not share a common wall with another building. (b) The works are not located in a heritage-protected place.
3.	The demolition or removal of a cubbyhouse.	The works are not located in a heritage-protected place.
4.	The demolition or removal of a flagpole.	The works are not located in a heritage-protected place of a kind referred to in clause (16)(1)(a) to (e).
5.	Internal building work that does not materially affect the external appearance of the building.	Either – (a) neither the building nor any part of it is located in a heritage-protected place of a kind referred to in clause (16)(1)(a) to (e); or (b) the building, or a part of it, is located in a heritage-protected place of a kind referred to in clause (16) (1)(a), (c), (d) or (e), but the interior of the building is specified as not being of cultural heritage significance in the relevant register, order, agreement or list referred to in that clause.
6.	The erection of, or alterations or additions to, a single house on a lot.	(a) The R-Codes apply to the works. (b) The works comply with the deemed-to-comply provisions of the R-Codes. (c) The works are not located in a heritage-protected place.
7.	The erection or installation of, or alterations or additions to, any of the following on the same lot as a single house or a grouped dwelling – (a) an ancillary dwelling; (b) an outbuilding; (c) an external fixture; (d) a boundary wall or fence; (e) a patio; (f) a pergola; (g) a verandah; (h) a deck;	(a) The R-Codes apply to the works. (b) The works comply with the deemed-to-comply provisions of the R-Codes. (c) The works are not located in a heritage-protected place.

	<b>Column 1 Works</b>	<b>Column 2 Conditions</b>
	(i) a garage; (j) a carport.	
8.	The installation of, or alterations or additions to, any of the following on the same lot as a single house or a grouped dwelling – (a) a swimming pool; (b) shade sails.	The works are not located in a heritage-protected place.
9.	The temporary erection or installation of an advertisement.	(a) The advertisement is erected or installed in connection with an election, referendum or other poll conducted under the <i>Commonwealth Electoral Act 1918</i> (Commonwealth), the <i>Referendum (Machinery Provisions) Act 1984</i> (Commonwealth), the <i>Electoral Act 1907</i> , the <i>Local Government Act 1995</i> or the <i>Referendums Act 1983</i> . (b) The primary purpose of the advertisement is for political communication in relation to the election, referendum or poll. (c) The advertisement is not erected or installed until the writ or writs have been issued or, for an election, referendum or poll under the <i>Local Government Act 1995</i> , until the 36 <sup>th</sup> day before the day on which the election, referendum or poll is to be held. (d) The advertisement is removed no later than 48 hours after the election, referendum or poll is conducted. (e) The advertisement is not erected or installed within 1.5 m of any part of a crossover or street truncation.
10.	The erection or installation of a sign of a class specified in an Improvement Scheme policy or local development plan that applies to the works as not requiring development approval.	(a) The sign complies with any requirements specified in the Improvement Scheme policy or local development plan in relation to the exemption from the requirement for development approval. (b) The sign is not erected or installed within 1.5 m of any part of a crossover or street truncation. (c) The works are not located in a heritage-protected place.

	<b>Column 1 Works</b>	<b>Column 2 Conditions</b>
11.	Works to change an existing sign that has been erected or installed on land.	<ul style="list-style-type: none"> <li>(a) The erection or installation of the existing sign was the subject of development approval or was exempt from the requirement for development approval.</li> <li>(b) The changes do not alter the size or location of the existing sign or result in the sign containing any illumination, animation, movement or reflective, retro-reflective or fluorescent materials.</li> <li>(c) The sign is not used for advertising (other than the advertising of a business operated on the land).</li> <li>(d) The works are not located in a heritage-protected place.</li> </ul>
12.	The installation of a water tank.	<ul style="list-style-type: none"> <li>(a) The water tank is not installed in the street setback area of a building.</li> <li>(b) The volume of the water tank is no more than 5000 L.</li> <li>(c) The height of the water tank is no more than – <ul style="list-style-type: none"> <li>(i) for a tank fixed to a building – the height of the eaves of the building; or</li> <li>(ii) for a tank that is not fixed to a building and is more than 1 m from each boundary of the lot – 2.4 m; or</li> <li>(iii) for a tank that is not fixed to a building and is 1 m or less from a boundary of the lot – 1.8 m.</li> </ul> </li> <li>(d) The works are not located in a heritage-protected place.</li> </ul>
13.	The erection or installation of a cubbyhouse.	<ul style="list-style-type: none"> <li>(a) The cubbyhouse is not erected or installed in the front setback area of a building.</li> <li>(b) The floor of the cubbyhouse is no more than 1 m above the natural ground level.</li> <li>(c) The wall height of the cubbyhouse is no more than 2.4 m above the natural ground level.</li> <li>(d) The building height of the cubbyhouse is no more than 3 m above the natural ground level.</li> </ul>



	Column 1 Works	Column 2 Conditions
		<p>(e) The area of the floor of the cubbyhouse is no more than 10m<sup>2</sup>.</p> <p>(f) The cubbyhouse is not erected or installed within 1 m of more than 1 boundary of the lot.</p>
14.	The erection or installation of a flagpole.	<p>(a) The height of the flagpole is no more than 6 m above the natural ground level.</p> <p>(b) The flagpole is no more than 200mm in diameter.</p> <p>(c) The flagpole is not used for advertising.</p> <p>(d) There is no more than 1 flagpole on the lot.</p> <p>(e) The works are not located in a heritage-protected place.</p>
15.	The installation of solar panels on the roof of a building.	<p>(a) The solar panels are parallel to the angle of the roof.</p> <p>(b) The works are not located in a heritage-protected place.</p>
16.	Maintenance and repair works.	<p>Either –</p> <p>(a) the works are not located in a heritage-protected place; or</p> <p>(b) the maintenance and repair works are of a kind referred to in the <i>Heritage Regulations 2019</i> regulation 41(1)(b) to (i).</p>
17.	Temporary works.	The works are in existence for less than 48 hours, or a longer period agreed by the Commission, in any 12-month period.
18.	<p>Works that are urgently necessary for any of the following –</p> <p>(a) public safety;</p> <p>(b) the safety or security of plant or equipment;</p> <p>(c) the maintenance of essential services;</p> <p>(d) the protection of the environment.</p>	The works are not located in a heritage-protected place of a kind referred to in clause 16(1)(a), (b), or (d).

	<b>Column 1 Works</b>	<b>Column 2 Conditions</b>
19.	Works specified in an Improvement Scheme policy or local development plan that applies to the works as works that do not require development approval (other than works referred to in item 10).	The works comply with any requirements specified in the Improvement Scheme planning policy or local development plan in relation to the exemption from the requirement for development approval.
20.	Works of a type identified elsewhere in this Scheme as works that do not require development approval.	The works comply with any requirements specified in this Scheme in relation to the exemption from the requirement for development approval.

Notes for this subclause:

1. Section 157 of the Act applies in respect of the carrying out of works necessary to enable the subdivision of land if the Commission has approved a plan of subdivision.
  2. Section 6 of the Act applies in respect of the carrying out of public works.
  3. Clause **Error! Reference source not found.** sets out circumstances in which development is taken to comply with a deemed-to-comply provision of the R-Codes.
- (2) Development approval of the Commission is not required for the following uses —
- development that is a class P use in relation to the zone in which the development is located, if —
    - (i) the development has no works component; or
    - (ii) development approval is not required for the works component of the development;
  - (b) development that is an exempt class D use under subclause (3) in relation to the zone in which the development is located, if —
    - (i) the development has no works component; or
    - (ii) development approval is not required for the works component of the development;
  - (c) the use of premises as a home office;
  - (d) the use of premises as a drop-off refund point if —
    - (i) the premises are otherwise used as a shop; or or
    - (ii) the premises are not in a residential zone and the use of the premises as a drop-off refund point is an incidental use of the premises;

- (e) temporary use that is in existence for less than 48 hours, or a longer period agreed by the Commission, in any 12-month period;
  - (f) any other use specified in an Improvement Scheme policy or local development plan that applies to the development as a use that does not require development approval;
  - (g) use of a type identified elsewhere in this Scheme as use that does not require development approval.
- (3) For the purposes of subclause (2)(b), a use of land is an exempt class D use in relation to the zone in which the land is located if –
- (a) the use is a class D use in relation to the zone; and
  - (b) the use is of a class set out in Column 1 of an item in the Table; and
  - (c) the zone is of a class set out in Column 2 of the Table opposite that item; and
  - (d) if conditions are set out in Column 3 of the Table opposite that item – all of those conditions are satisfied in relation to the use.

**Table 11 – Development approval not required for class D uses**

	<b>Column 1 Use</b>	<b>Column 2 Zones</b>	<b>Column 3 Conditions</b>
1.	Shop	Local Centre	Net lettable area is no more than 300m <sup>2</sup> .
2.	Convenience store	Service Commercial; Light Industry	Store is not used for the sale of petroleum products.
3.	Consulting rooms	Service Commercial	No more than 60% of the glass surface of any window on the ground floor of the consulting rooms is obscured glass.
4.	Office	Local Centre, Service Commercial	Office is not located on the ground floor of a building.
5.	Small bar	Local Centre	(a) The lot on which the small bar is located does not directly adjoin a residential zone or property.

- (4) Subclause (2) has effect despite the zoning Table for this Scheme.
- (5) Despite subclause (1) and (2), an exemption under those subclauses does not apply to development if –

- (a) the development is undertaken in an area identified in the Scheme Map as “Restricted Use – Powerline Easement” and/or “Restricted Use – DBNGP” and the special provisions that apply to that area under this Scheme provide that development approval is required for the development; or
  - (b) the development is undertaken on land designated by an order made under the *Fire and Emergency Services Act 1998* section 18P as a bush fire prone area and development approval is required under Part 12 for the development.
- (6) An exemption from the requirement for development approval that applies under this clause (other than an exemption under item 10 or 19 in the Table to subclause (1)) is not affected by any provision of an Improvement Scheme, policy or local development plan.
- (7) If development consists of both works and use of land –
  - (a) subject to subclause (2)(a)(ii) and (b)(ii), any exemption under subclause (1) that applies to the works does not affect whether development approval is required for the use; and
  - (b) any exemption under subclause (2) that applies to the use does not affect whether development approval is required for the works.

## Part 10 — Applications for development approval

### 78. Form of application

- (1) An application for development approval must be –
  - (a) made in the form of the “Application for development approval” set out in clause 103; and
  - (b) signed by the owner of the land on which the proposed development is to be located; and
  - (c) accompanied by any fee for an application of that type set out in the *Planning and Development Regulations 2009* or prescribed under the *Local Government Act 1995*; and
  - (d) accompanied by the plans and information specified clause 79
- (2) For the purposes of subclause (1)(b), a person or body may sign an application for development approval as the owner of freehold land if the person or body is one of the following –
  - (a) a person who is referred to in the definition of **owner** in respect of freehold land;
  - (b) a strata company that –
    - (i) is authorised to make an application for development approval in respect of the land under scheme by-laws registered under the *Strata Titles Act 1985*; and
    - (ii) if the land is held under a leasehold scheme, has the written consent of the owner of the leasehold scheme to make the application;
  - (c) a community corporation for a community titles scheme that is authorised to make an application for development approval in respect of the land under scheme by-laws registered for the community titles scheme under the *Community Titles Act 2018*;
  - (d) a person who is authorised under another written law to make an application for development approval in respect of the land;
  - (e) an agent of a person referred to in paragraph (a).

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

- (3) A term has the same meaning in subclause (2)(b) as is given in the *Strata Title Acts 1985* section 3(1).
- (4) A term has the same meaning as subclause (2)(c) as is given in the *Community Titles Act 2018* section 3(1).
- (5) An application for development approval for the erection, placement or display of an advertisement must be accompanied by sufficient information to determine

the application in the form of the “Additional information for development approval for advertisements” set out in clause 103(2).

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

## 79. Accompanying material

- (1) An application for development approval must be accompanied by –
- (a) a plan or plans in a form approved by the Commission showing the following –
    - (i) the location of the site including street names, lot numbers, north point and the dimensions of the site;
    - (ii) the existing and proposed ground levels over the whole of the land the subject of the application;
    - (iii) the location, height and type of all existing structures and environmental features, including watercourses, wetlands and native vegetation on the site;
    - (iv) the structures and environmental features that are proposed to be removed;
    - (v) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
    - (vi) the existing and proposed means of access for pedestrians and vehicles to and from the site;
    - (vii) the location, number, dimensions and layout of all car parking spaces intended to be provided;
    - (viii) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
    - (ix) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the open storage or trade display area;
    - (x) the nature and extent of any open space and landscaping proposed for the site;

and

  - (b) plans, elevations and sections of any building proposed to be erected or altered and of any building that is intended to be retained; and
  - (c) a report on any specialist studies in respect of the development that the Commission requires the applicant to undertake such as site surveys or traffic, heritage, environmental, engineering or urban design studies; and

- (d) any other plan or information that the Commission reasonably requires.
- (2) The Commission may waive or vary a requirement set out in subclause (1).
- (3) Where an application relates to a place entered on a heritage list prepared in accordance with this Scheme, the Commission may require the application to be accompanied by one or more of the following –
  - (a) street elevations drawn as one continuous elevation to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application;
  - (b) a detailed schedule of all finishes, including materials and colours of the proposed development;
  - (c) a description of the finishes of the existing developments on the subject lot and on each lot immediately adjoining the subject lot.

#### **80. Action by Commission on receipt of application**

- (1) On receipt of an application for development approval, the Commission must —
  - (a) consider whether the application and accompanying material comply with clauses 78 and 79; and
  - (b) within 7 days after the day on which the application is received, advise the applicant by written notice —
    - (i) if the Commission is satisfied that the application and accompanying material comply with clauses 78 and 79 — that the application has been accepted for assessment; or
    - (ii) otherwise — that the applicant must amend the application, or provide further accompanying material, before the application can be accepted for assessment.
- (2) If the Commission does not give advice under subclause (1)(b) within the 7-day period referred to in that subclause, the application is taken to be accepted for assessment on the day after the end of that period.
- (3) If the Commission gives advice under subclause (1)(b)(ii) and the applicant amends the application or provides further accompanying material as required, this clause applies again in respect of the application as amended or as accompanied by the further material as if references to the receipt of the application were to the receipt of the amendment or the further material.

#### **81. Advertising applications**

- (1) The Commission –
  - (a) must advertise a complex application for development approval in accordance with subclause (3); and

- (b) must advertise an application for development approval in accordance with subclause (4) if the application is not a complex application and —
    - (i) relates to development that is a class A use in relation to the zone in which the development is located; or
    - (ii) relates to the extension of a non-conforming use; or
    - (iii) relates to development that does not comply with the requirements of this Scheme; or
    - (iv) is of a kind identified elsewhere in this Scheme as an application that is required to be advertised; and
  - (c) may advertise any other application for development approval in accordance with subclause (4).
- (2) Subclause (1)(b)(iii) does not apply if the Commission is satisfied that the non-compliance with the requirements of this Scheme is of a minor nature.
- (3) For the purposes of subclause (1)(a), a complex application is advertised by doing all of the following —
- (a) publishing in accordance with clause 1044 —
    - (i) a notice of the proposed development in the form set out in clause 103(3); and
    - (ii) the application for development approval; and
    - (iii) any accompanying material in relation to the application that the Commission considers should be published;
  - (b) giving notice of the proposed development —
    - (i) to the owners and occupiers of every property that is within 200 m of the proposed development; and
    - (ii) to any other owners and occupiers of properties in the vicinity of the proposed development who, in the opinion of the Commission, are likely to be affected by the granting of development approval;
  - (c) erecting, in the manner and form approved by the Commission, a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed development in the form set out in clause 103(3).

Note for this sub-clause:

Under clause 1055, the Commission may approve varied requirements that apply if it is not practicable for the Commission to comply with subclause (3)(b) or (c).



- (4) For the purposes of subclause (1)(b) or (c), an application that is not a complex application is advertised by doing any or all of the following, as determined by the Commission —
- (a) publishing in accordance with clause 104 —
    - (i) a notice of the proposed development in the form set out in clause 103(3); and
    - (ii) the application for development approval; and
    - (iii) any accompanying material in relation to the application that the Commission considers should be published;
  - (b) giving notice of the proposed development to owners and occupiers of properties in the vicinity of the development who, in the opinion of the Commission, are likely to be affected by the granting of development approval;
  - (c) erecting, in the manner and form approved by the Commission, a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed development in the form set out in clause 103(3).
- (5) A notice published or given, or on a sign erected, in accordance with subclause (3) or (4) in relation to an application for development approval must specify —
- (a) the manner and form in which submissions may be made; and
  - (b) the applicable period under subclause (6) or (7) for making submissions and the last day of that period.
- (6) The period to be specified in a notice published or given, or on a sign erected, in accordance with subclause (3) in relation to a complex application is —
- (a) the period of 28 days after the day on which the notice of the application is first published under subclause (3)(a); or
  - (b) a longer period agreed in writing between the applicant and the Commission.
- (7) The period to be specified in a notice published or given, or on a sign erected, in accordance with subclause (4) in relation to an application that is not a complex application is —
- (a) the period of 14 days after the day on which the notice of the application is first published or given, or the sign is first erected, as the case requires; or
  - (b) a longer period agreed in writing between the applicant and the Commission.

**82. Applicant for development approval may be required to pay costs of advertising or erect signs**

- (1) The Commission may require an applicant for development approval to pay the costs of the Commission advertising the application for development approval under clause 81.
- (2) The Commission may, instead of erecting signs under clause 81(3)(c) or 81(4)(c), require the applicant for development approval to erect those signs.

**83. Subsequent approval of development**

The procedures relating to applications for development approval set out in, Part 11 and this Part apply, with any modifications necessary, to an application for development approval for development already commenced or carried out.

Note:

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

## **Part 11 — Procedure for dealing with applications for development approval**

### **84. Commission may request additional information or material**

- (1) If an application for development approval has been accepted for assessment, the Commission may, by written notice given to the applicant, request the applicant to provide any further information or material that the Commission reasonably requires to determine the application.
- (2) A request under subclause (1) may be made whether or not the Commission gave the applicant advice under clause 80(1)(b)(ii) in relation to the application before it was accepted for assessment.
- (3) A request under subclause (1) must state the period within which the further information or material must be provided, which must be a period of at least 21 days after the day on which the request is made.
- (4) Only 1 request under subclause (1) can be made in relation to an application for development approval unless —
  - (a) the application is a complex application; or
  - (b) the application is required to be advertised under clause 81(1)(b); or
  - (c) a copy of the application is required to be provided to a statutory, public or planning authority under clause 86; or
  - (d) after the application was accepted for assessment, the applicant, on their own initiative, submitted further information or material relevant to the application to the Commission and the request relates to that further information or material.

### **85. Applicant may agree to or refuse request for additional information or material**

- (1) If a request under clause 84(1) is made to an applicant for development approval, the applicant may, by written notice given to the Commission within 7 days after the day on which the request is made, agree to or refuse the request.
- (2) If the applicant does not agree to or refuse the request within the 7-day period referred to in subclause (1), the applicant is taken to have refused the request.
- (3) If an applicant agrees to a request under clause 84(1), the period set out in subclause (4) is not to be counted for the purposes of determining when the application for development approval must be determined under clause 944(1).
- (4) For the purposes of subclause (3), the period —
  - (a) begins on the day on which the applicant agrees to the request; and
  - (b) ends on the earlier of the following —
    - (i) the day on which the applicant gives the information or material specified in the request to the Commission;

- (ii) the last day of the period stated in the notice of request under clause 85(3).
- (5) If an applicant refuses a request under clause 85(1) —
  - (a) The Commission must not refuse to determine the application for development approval merely because the applicant has refused the request; and
  - (b) the making of the request does not affect when the application for development approval must be determined under clause 94(1).

**86. Consultation with other authorities**

- (1) When, in the opinion of the Commission, an application for development approval may affect any other statutory, public or planning authority, the Commission is to provide a copy of the application to the authority for objections and recommendations.
- (2) If an application for development approval relates to proposed development on land that is reserved under this Scheme for a public purpose and vested in a public authority, the Commission must provide a copy of the application to that authority for objections and recommendations before making a decision on the application.
- (3) A statutory, public or planning authority receiving a copy of an application may, within 42 days of receiving the application or within such longer period as the Commission allows in accordance with subclause (4), provide to the Commission a memorandum in writing containing any objections to, or recommendations in respect of the whole or part of the proposed development.
- (4) The Commission may extend the 42-day period referred to in subclause (3) once only by a period of not more than 14 days.
- (5) If a statutory, public or planning authority does not provide a memorandum within the time allowed under subclause (3), the Commission may determine that the authority is to be taken to have no objections or recommendations to make.

**87. Consideration of application by Commission**

- (1) Development approval cannot be granted on an application for approval of —
  - (a) development that is a class X use in relation to the zone in which the development is located, unless —
    - (i) the development relates to land that is being used for a non-conforming use; and
    - (ii) the Commission considers that the proposed use of the land would be less detrimental than the non-conforming use;
  - or
  - (b) development that otherwise does not comply with a requirement of this Scheme, unless —

- (i) this Scheme gives the Commission discretion to waive or vary the requirement or to grant development approval despite non-compliance with the requirement; or
  - (ii) the development is permitted under a provision of this Scheme in relation to non-conforming uses.
- (2) In considering an application for development approval (other than an application on which approval cannot be granted under subclause (1)), the Commission is to have due regard to the following matters to the extent that, in the opinion of the Commission, those matters are relevant to the development the subject of the application —
- (a) the aims and provisions of this Scheme;
  - (b) the requirements of orderly and proper planning including any proposed amendment to this Scheme that has been advertised under the *Planning and Development (Local Planning Schemes) Regulations 2015* or any other proposed planning instrument that the Commission is seriously considering adopting or approving;
  - (c) any approved State planning policy;
  - (d) any environmental protection policy approved under the *Environmental Protection Act 1986* section 31(d);
  - (e) any policy of the Commission;
  - (f) any policy of the State;
  - (g) any strategy for this Scheme endorsed by the Commission;
  - (h) any planning policy for the Scheme area;
  - (i) any structure plan or local development plan that relates to the development;
  - (j) any report of the review of this Scheme that has been published under the *Planning and Development (Local Planning Schemes) Regulations 2015*;
  - (k) 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;
    - (l) the built heritage conservation of any place that is of cultural significance;
    - (m) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
    - (n) the compatibility of the development with its setting, including —
      - (i) the compatibility of the development with the desired future character of its setting; and

- (ii) 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;
- (o) 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;
  - (p) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;
  - (q) 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;
  - (r) 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;
  - (s) the suitability of the land for the development taking into account the possible risk to human health or safety;
  - (t) 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;
  - (u) 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;
  - (v) the availability and adequacy for the development of the following —
    - (i) public transport services;
    - (ii) public utility services;
    - (iii) storage, management and collection of waste;
    - (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
    - (v) access by older people and people with disability;
  - (w) 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;

- (x) the history of the site where the development is to be located;
  - (y) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
  - (z) any submissions received on the application;
  - (aa) the comments or submissions received from any authority consulted under clause 86;
  - (bb) any other planning consideration the Commission considers appropriate.
- (3) Subclause (1) has effect despite the zoning table for this Scheme.

## **88. Determination of applications**

- (1) If an application for approval of development is advertised under clause 81, the Commission must not determine the application until after the end of —
- (a) for a complex application advertised in accordance with clause 81(3) — the period for making submissions that applies under clause 81(6); or
  - (b) for an application advertised in accordance with clause 81(4) — each period for making submissions specified in a notice published or given, or on a sign erected, in accordance with that clause.
  - (c) If a copy of an application for approval of development has been provided to a statutory, public or planning authority under clause 86, the Commission must not determine the application until after the end of each period for providing a memorandum to the Commission that applies under clause 86(3).
- (2) The Commission may determine an application for development approval by —
- (a) granting development approval without conditions; or
  - (b) granting development approval with conditions; or
  - (c) refusing to grant development approval.

## **89. Form and date of determination**

- (1) As soon as practicable after determining an application for development approval, the Commission must give the applicant written notice of the determination in the form of the “Notice of determination on application for development approval” set out in clause 103(2).
- (2) The determination has effect on the day on which the notice of determination is given to the applicant.

**90. Commencement of development under development approval**

- (1) If development approval is granted under clause 88 —
- (a) the development must be substantially commenced —
    - (i) if no period is specified in the approval — within the period of 2 years commencing on the date on which the determination is made; or
    - (ii) if a period is specified in the approval — within that period; or
    - (iii) in either case — within a longer period approved by the Commission on an application made under clause 96(1)(a);
- and
- (b) the approval lapses if the development has not substantially commenced within the period determined under paragraph (a)

*Note for this clause: Under the Planning and Development (Development Assessment Panels) Regulations 2011 regulation 16A(2), for an application determined by a Development Assessment Panel the period within which development must be substantially commenced is 4 years.*

**91. Temporary development approval**

- (1) The Commission may impose conditions limiting the period of time for which development approval is granted.

*Note: A temporary development approval is where the Commission grants approval for a limited period. It does not have any effect on the period within which the development must commence.*

**92. Scope of development approval**

- (1) 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.

**93. Approval subject to later approval of details**

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

**94. Time for deciding application for development approval**

- (1) The Commission must determine an application for development approval —



- (a) if the application is advertised in compliance with a requirement under clause 81(1)(a) or (b) or a copy of the application is provided to a statutory, public or planning authority under clause 87 — within 90 days after the day on which the application is accepted for assessment; or
  - (b) otherwise — within 60 days after the day on which the application is accepted for assessment; or
  - (c) in either case — within a longer time agreed in writing between the applicant and the Commission.
- (2) If the Commission has not made a determination in the time referred to in subclause (1) the Commission is to be taken to have refused to grant the development approval.
  - (3) Despite subclause (2), the Commission may determine whether or not to grant the development approval after the period applicable under subclause (1) has expired and the validity of the determination is not affected by the expiry.
  - (4) The Commission must give the applicant written notice of its decision to grant or refuse to grant development approval.

**95. Review of decisions**

- (1) In this clause —
  - affected person*, in relation to a reviewable determination, means —
    - (a) the applicant for development approval; or
    - (b) the owner of land in respect of which an application for development approval is made;
  - reviewable determination* means a determination by the Commission to —
    - (a) refuse an application for development approval; or
    - (b) to grant development approval subject to conditions; or
    - (c) to refuse to amend or cancel a development approval on an application made under clause 96.
- (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

**96. Amending or cancelling development approval**

- (1) An owner of land in respect of which development approval has been granted by the Commission may make an application to the Commission requesting the Commission to do any or all of the following —
  - (a) to amend the approval so as to extend the period within which any development approved must be substantially commenced;

- (b) to amend or delete any condition to which the approval is subject;
  - (c) to amend an aspect of the development approved which, if amended, would not substantially change the development approved;
  - (d) to cancel the approval.
- (2) An application under subclause (1) —
- (a) is to be made in accordance with the requirements in Part 10 and dealt with under this Part as if it were an application for development approval; and
  - (b) may be made during or after the period within which the development approved must be substantially commenced.
- (3) Despite subclause (2), the Commission may waive or vary a requirement in Part 10 or this Part in respect of an application if the Commission is satisfied that the application relates to a minor amendment to the development approval
- (4) The Commission may determine an application made under subclause (1) by —
- (a) approving the application without conditions; or
  - (b) approving the application with conditions; or
  - (c) refusing the application.

## Part 12 – Bushfire risk management

### 97. Bushfire risk management - Deemed Provisions to be read as part of Scheme

- (1) Clause 78A to 78G, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply.
- (2) Any reference to local government within the Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* is taken to be reference to the Commission.
- (3) Any reference to local planning scheme, or an amendment to a local planning scheme within the Deemed Provisions is taken to be reference to this Scheme, or an amendment to this Scheme.

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## **Part 13 – Exemptions from planning requirements for state of emergency or COVID-19 declaration**

### **98. Exemptions from planning requirements for state of emergency or COVID-19 declaration**

- (1) Clause 78H to 78J, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply.
- (2) Any reference to local government within the Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* is taken to be reference to the Commission.
- (3) Any reference to local planning scheme, or an amendment to a local planning scheme within the Deemed Provisions is taken to be reference to this Scheme, or an amendment to this Scheme.

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## **Part 14 – Enforcement and administration**

### **Division 1 — Powers of Commission**

#### **99. Powers of Commission**

- (1) Clause 78 to 80, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply.
- (2) Any reference to local government within the Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* is taken to be reference to the Commission.
- (3) Any reference to local planning scheme, or an amendment to a local planning scheme within the Deemed Provisions is taken to be reference to this Scheme, or an amendment to this Scheme.

#### **100. Delegation**

- (1) The Commission may, in accordance with its powers in section 16 of the *Planning and Development Act 2005* delegate any of its functions or powers under this Scheme.

### **Division 2 – Miscellaneous**

#### **101. Agreement to use of material provided for Scheme purposes**

The Commission may refuse to accept an application made under this Scheme if the Commission is not satisfied that there is in place an agreement for the Commission 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.

#### **102. Fees**

Fees payable for applications made under this Improvement Scheme are imposed as if the application was an equivalent application of a type referred to in Part 7 of the *Planning and Development Regulations 2009*.

## Part 15 — Forms referred to in this Scheme

### 103. Forms referred to in this Scheme

- (1) The form of an application for development approval referred to in clause 78(1)(a) is as follows —

#### Application for development approval

Owner details		
Name:		
ABN (if applicable):		
Address: .....		
.....		Postcode: .....
Phone:	Fax:	Email:
Work: .....	.....	.....
Home: .....		
Mobile: .....		
Contact person for correspondence:		
Signature:		Date:
Signature:		Date:
The signature of the owner(s) is required on all applications. This application will not proceed without that signature. For the purposes of signing this application an owner includes the persons referred to in Part 10, clause 78(2).		
Applicant details (if different from owner)		
Name:		
Address: .....		
.....		Postcode: .....
Phone:	Fax:	Email:
Work: .....	.....	.....
Home: .....		
Mobile: .....		
Contact person for correspondence:		
The information and plans provided with this application may be made available by Commission for public viewing in connection with the application. <input type="checkbox"/> Yes <input type="checkbox"/> No		

Signature:		Date:
<b>Property details</b>		
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:		

<b>Proposed development</b>	
Nature of development:	<input type="checkbox"/> Works <input type="checkbox"/> Use <input type="checkbox"/> Works and use
Is an exemption from development claimed for part of the development? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, is the exemption for:	<input type="checkbox"/> Works <input type="checkbox"/> Use
Description of proposed works and/or land use: .....	
Description of exemption claimed (if relevant):	
Nature of any existing buildings and/or land use:	
Approximate cost of proposed development:	
Estimated time of completion:	

<b>OFFICE USE ONLY</b>	
Acceptance Officer's initials:	Date received:
Commission 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 78(5) is as follows —

**Additional information for development approval for advertisements**

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

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



- (3) The form of a notice of public advertisement of a planning proposal referred to in clause 81 is as follows —

***Planning and Development Act 2005***

**Mandogalup Improvement Scheme**

**Notice of public advertisement of planning proposal**

The Commission 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 Commission's office. Comments on the proposal may be submitted to the Commission in writing on or before the ..... day of .....		
Signed:	Dated:	
.....		
for and on behalf of the Western Australian Planning Commission		

- (4) The form of a notice of determination on an application for development approval referred to in clause 89 is as follows —

***Planning and Development Act 2005***

**Mandogalup Improvement Scheme**

**Notice of determination on application for development approval**

Location:	
Lot:	Plan/Diagram:
Vol. No:	Folio No:
Application date:	Received on:
Description of proposed development: .....	
.....	
The application for development approval is:	
<input type="checkbox"/> Approved subject to the following conditions	
<input type="checkbox"/> Refused for the following reason(s)	
Conditions/reasons for refusal:	
.....	
.....	
Date of determination: .....	
If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect.	
Where an approval has so lapsed, no development must be carried out without the further approval of the Commission having first been sought and obtained.	
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.	
Signed:	Dated:
.....	.....
for and on behalf of the Western Australian Planning Commission	

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

## Part 16 – Miscellaneous

### 104. Requirements for making documents available to public

- (1) This clause applies if under a provision of this Scheme the Commission is required to publish in accordance with this clause a notice, plan, application or other document (the *document*).
- (2) The Commission must make the document available in accordance with the applicable requirements of subclause (3) to (5).

Note –

Under clause 1055, the Commission may approve varied requirements that apply if it is not practicable for the Commission to publish documents in accordance with subclause (3) to (5).

- (3) For all documents, the Commission must –
  - (a) publish on the website of the State government –
    - (i) the document; or
    - (ii) a hyperlink to a webpage on which the document is published;
  - and
  - (b) if it is reasonably practicable to do so – make a copy of the document available for public inspection at the offices of the Commission during normal business hours.
- (4) If the document is a notice and the Commission considers that it is appropriate in the circumstances for the notice to be published in a newspaper, the Commission must also ensure that the notice is published in a newspaper circulating in the relevant locality in the Scheme area.
- (5) The Commission must ensure that the document remains published under subclause (3)(a) and (if applicable) available for public inspection under subclause (3)(b) –
  - (a) if the document is published in compliance with a requirement that is expressed to be an ongoing publication requirement – at all times that the document is in effect; or
  - (b) if the document is published in compliance with a requirement to advertise for submissions under this Scheme – during the whole of the period within which submissions may be made; or
  - (c) if paragraphs (a) and (b) do not apply – during a period that the Commission considers is reasonable.

### 105. Commission may approve varied requirements for publication of documents and advertising of complex applications

- (1) In this clause –

*complex application notice and signage requirements* means the requirements of clause 81(3)(b) and (c) in relation to advertising complex applications;

*document* has the meaning given in clause 10404(1);

*publication requirements* means the requirements of clause 104(3) to (5) in relation to making documents available to the public.

- (2) If the Commission considers that it is not practicable for the Commission to comply with any of the publication requirements in relation to documents that it is or may become required to publish, the Commission may give written notice approving varied requirements that apply in relation to the Commission making documents available to the public.
- (3) If a notice under subclause (2) is in effect, the Commission is taken to comply with the applicable publication requirements in relation to a document if the Commission complies with those requirements as varied by the notice.
- (4) If the Commission considers that it is not practicable for the Commission to comply with any of the complex notice and signage requirements in relation to complex applications it is or may become required to advertise, the Commission may give written notice approving varied requirements that apply in relation to the Commission advertising complex applications.
- (5) If a notice under subclause (4) is in effect, a complex application made to the Commission is taken to be advertised in compliance with the complex application notice and signage requirements if it is advertised in compliance with those requirements as varied by the notice.
- (6) A notice under subclause (2) or (4) –
  - (a) must state whether it has effect indefinitely or for a period specified in the notice; and
  - (b) takes effect when it is given to the Commission; and
  - (c) ceases to be in effect;
    - (i) if the Commission gives a further written notice revoking it; or
    - (ii) at the end of the period (if any) specified under paragraph (a).
    - (iii)

#### **106. Excluded holiday period days not counted in time periods**

For the purposes of this Scheme, an excluded holiday period day is not to be counted in calculating a period of time that is expressed as a number of days, business days or working days.

## Schedule 1 –

### Division 1– General definitions used in Scheme

(1) In this Scheme –

*Act* means the *Planning and Development Act 2005*;

*activity centre* means –

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

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

- (c) any hoarding or similar structure used, or adapted for use, for the display of advertisements; and
- (d) any airborne device anchored to any land or building used for the display of advertising;  
and

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

*building height*, in relation to a building —

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

*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);

*container* has the meaning given in the WARR Act section 47C(1);

**container collection cage** means a cage or other structure in which members of the public may place empty containers for the purposes of the container deposit scheme, without receiving payment of the refund amount in exchange;

**container deposit recycling centre** means a refund point that has or can accommodate facilities for the consolidation or sorting of empty containers pending collection for the purposes of the container deposit scheme;

**container deposit scheme** means the scheme established by the WARR Act Part 5A;

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

**deemed-to-comply provision**, of the R-Codes, means a provision of the R-Codes described in the R-Codes as a deemed-to-comply provision or a deemed-to-comply requirement;

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

**drop-off refund point** means a refund point that —

- (a) is located in a building; and
- (b) is not a container deposit recycling centre;

**excluded holiday period day** means a day that is in —

- (a) a period commencing on 25 December in a year and ending on the next 1 January; or
- (b) a period of 7 days commencing on Good Friday in a year;

**floor area** has meaning given in the Building Code;

**frontage**, in relation to a building —

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

**grouped dwelling** has the meaning given in the R-Codes;

**heritage-protected place** is a place —

- (a) that is entered in the State Register of Heritage Places under the *Heritage Act 2018* section 42; or
- (b) that is under consideration for entry into the State Register of Heritage Places as described in subclause (2); or
- (c) that is the subject of an order under the *Heritage Act 2018* Part 4; or

- (d) that is the subject of a heritage agreement that has been certified under the *Heritage Act 2018* section 90; or
- (e) that is included on a heritage list as defined in clause 15; or
- (f) that is within a heritage area as defined in clause 15.

a place is under consideration for entry into the State Register of Heritage Places if –

- (a) The Heritage Council has made a preliminary determination under the *Heritage Act 2018* section 39(2) that the place warrants review under section 40(1) but the review has not commenced; or
- (b) the Heritage Council has commenced but has not completed a review of the place under the *Heritage Act 2018* section 40(1); or
- (c) the Heritage Council has made a recommendation under the *Heritage Act 2018* section 40(2) that the place be entered into the State Register of Heritage Places but the Minister for Heritage has not yet given a direction under section 41(1) of that Act in relation to that recommendation.

***Improvement Scheme area*** means the area to which this Scheme applies;

***Improvement Scheme report*** means the report referred to in clause 11, as amended from time to time;

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

***maintenance and repair works*** means work that –

- (a) are carried out to maintain or repair any building, structure or land or otherwise to prevent any building, structure or land from deteriorating or falling into a state of disrepair; and
- (b) do not result in any material alteration to the building, structure or land, including any material alteration to the material used in or on, or the design or specifications of, the building, structure or land;

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

***Minister for Heritage*** means the Minister who administers the *Heritage Act 2018*;

***multiple dwelling*** has the same meaning given in the R-Codes;

***natural ground level***, in relation to land subject to development, means —

- (a) the ground level specified in either of the following that applies to the land (or, if both of the following apply to the land, the more recent of the following) —
  - (i) a condition on an approval of a plan of subdivision that specifies a ground level;
  - (ii) a previous development approval for site works on the land that specifies a ground level; or

- (b) if paragraph (a) does not apply — the level of the land before any disturbance to the land relating to the development;

**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 section 172 of the Act;

**owner**, in relation to land, means —

- (a) if the land is freehold land —
- (i) (i) a person whose name is registered as a proprietor of the land; and
  - (ii) (ii) the State, if registered as a proprietor of the land; and
  - (iii) (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;

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

**precinct** means a definable area where Improvement Scheme policies, guidelines or standards apply;

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

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

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

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



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

***single house*** has the meaning given in the R-Codes;

***site works*** means works that affect the ground level, whether by excavation or filling;

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

***street setback area***, of a building, means the area between the building and the boundary of a road reserve that abuts the lot, and if the lot abuts 2 or more road reserves, means the area between the building and boundary of the road reserve to which the building faces;

***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 —

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

***WARR Act*** means the *Waste Avoidance and Resource Recovery Act 2007*;

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

***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 protection order made under the *Heritage Act 2018* Part 4 Division 1 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.

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

- (a) has the meaning is has in the *Planning and Development Act 2005*; or
- (b) if it is not defined in that Act – has the same meaning as it has in the R-Codes.

## Division 2— Land use terms used in Scheme

If this Scheme refers to a category of land use that is listed in this provision, the meaning of that land use is as follows —

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

**agriculture — extensive** means premises used for the raising of stock or crops including outbuildings and earthworks, but does not include agriculture — intensive or animal husbandry — intensive;

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

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

**amusement parlour** means premises —

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

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

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

**art gallery** means premises —

- (a) that are open to the public; and
- (b) where artworks are displayed for viewing or sale;

**bed and breakfast** means a dwelling —

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

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

**brewery** means premises the subject of a producer's licence authorising the production of beer, cider or spirits granted under the *Liquor Control Act 1988*;

**bulky goods showroom** means premises —

- (a) used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes —
  - (i) automotive parts and accessories;
  - (ii) camping, outdoor and recreation goods;
  - (iii) electrical fittings;
  - (iv) animal supplies including equestrian and pet goods;
  - (v) floor and window coverings;
  - (vi) furniture, bedding, furnishings, fabrics, manchester and homewares;
  - (vii) household appliances, electrical goods and home entertainment goods;
  - (viii) party supplies;
  - (ix) office equipment and supplies;
  - (x) babies' and children's goods, including play equipment and accessories;
  - (xi) swimming pools;or
- (b) used to sell by retail goods and accessories by retail if —
  - (i) a large area is required for the handling, display or storage of the goods; or
  - (ii) vehicular access is required to the premises for the purpose of collection of purchased goods.

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

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

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

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

**child care premises** means premises where —

- (a) an education and care service as defined in the *Education and Care Services National Law (Western Australia)* section 5(1), other than a family day care service as defined in that section, is provided; or
- (b) a child care service as defined in the *Child Care Services Act 2007* section 4 is provided; cinema/theatre means premises where the public may view a motion picture or theatrical production;

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

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

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

- (a) any part of a public road used for parking or for a taxi rank; or
- (b) parking of commercial vehicles incidental to the predominant use of the land;

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

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

**convenience store** means premises —

- (a) used for the retail sale of convenience goods commonly sold in supermarkets, delicatessens or newsagents; and
- (b) operated during hours which include, but may extend beyond, normal trading hours; and
- (c) the floor area of which does not exceed 300 m<sup>2</sup> 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, including premises with a facility for drive-through service, used for the preparation, sale and serving of food to customers in a form ready to be eaten —

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

**freeway service centre** means premises that has direct access to a freeway and which provides all the following services or facilities and may provide other associated facilities or services but does not provide bulk fuel services —

- (a) service station facilities;

- (b) emergency breakdown repair for vehicles;
- (c) charging points for electric vehicles;
- (d) facilities for cyclists;
- (e) restaurant, cafe or fast food services;
- (f) take-away food retailing;
- (g) public ablution facilities, including provision for disabled access and infant changing rooms;
- (h) parking for passenger and freight vehicles;
- (i) outdoor rest stop facilities such as picnic tables and shade areas;

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

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

***funeral parlour*** means premises used —

- (a) to prepare and store bodies for burial or cremation;
- (b) to conduct funeral services;

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

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

***holiday house*** means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast;

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

- (a) does not involve employing more than 2 people who are not members of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 50 m<sup>2</sup> ; and
- (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
- (f) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
- (g) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;

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

- (a) does not involve employing a person who is not a member of the occupier's household; and
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (c) does not occupy an area greater than 20 m<sup>2</sup>; and
- (d) does not involve the display on the premises of a sign with an area exceeding 0.2 m<sup>2</sup>; and
- (e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
- (f) does not —
  - (i) require a greater number of parking spaces than normally required for a single dwelling; or
  - (ii) result in an increase in traffic volume in the neighbourhood; and
- (g) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
- (h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and
- (i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;

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

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

**home store** means a shop attached to a dwelling that —

- (a) has a net lettable area not exceeding 100 m<sup>2</sup>; and
- (b) is operated by a person residing in the dwelling;

**hospital** means premises used as a hospital as defined in the *Health Services Act 2016* section 8(4);

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

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

- (a) the storage of goods;
- (b) the work of administration or accounting;

- (c) the selling of goods by wholesale or retail;
- (d) the provision of amenities for employees;
- (e) incidental purposes;

**industry — extractive** means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any of the following purposes —

- (a) the processing of raw materials including crushing, screening, washing, blending or grading;
- (b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration;

**industry — light** means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed; industry — primary production means premises used —

- (a) to carry out a primary production business as that term is defined in the *Income Tax Assessment Act 1997 (Commonwealth)* section 995-1; or
- (b) for a workshop servicing plant or equipment used in primary production businesses;

**liquor store — large** means premises the subject of a liquor store licence granted under the *Liquor Control Act 1988* with a net lettable area of more than 300m<sup>2</sup>;

**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 300m<sup>2</sup>;

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

**marina** means —

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

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

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

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

**mining operations** means premises where mining operations, as that term is defined in the *Mining Act 1978* section 8(1) is carried out;

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

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

**motor vehicle, boat or caravan sales** means premises used to sell or hire motor vehicles, boats or caravans; motor vehicle repair means premises used for or in connection with —

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

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

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

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

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

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

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

**recreation — private** means premises that are —

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

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

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

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

- (a) publications that are classified as restricted under the *Classification (Publications, Films and Computer Games) Act 1995* (Commonwealth); or
- (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity; or
- (c) smoking-related implements;



**road house** means premises that has direct access to a State road other than a freeway and which provides the services or facilities provided by a freeway service centre and may provide any of the following facilities or services —

- (a) a full range of automotive repair services;
- (b) wrecking, panel beating and spray painting services;
- (c) transport depot facilities;
- (d) short-term accommodation for guests;
- (e) facilities for being a muster point in response to accidents, natural disasters and other emergencies;

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

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

**rural pursuit/hobby farm** means any premises, other than premises used for agriculture — extensive or agriculture — intensive, that are used by an occupier of the premises to carry out any of the following activities if carrying out of the activity does not involve permanently employing a person who is not a member of the occupier's household —

- (a) the rearing, agistment, stabling or training of animals;
- (b) the keeping of bees;
- (c) the sale of produce grown solely on the premises;

**serviced apartment** means a group of units or apartments providing —

- (a) self-contained short stay accommodation for guests; and
- (b) any associated reception or recreational facilities;

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

- (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; or
- (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles;

**shop** means premises other than a bulky goods showroom, a liquor store — large or a liquor store — small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services;

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

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

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

**tourist development** means a building, or a group of buildings forming a complex, other than a bed and breakfast, a caravan park or holiday accommodation, used to provide —

- (a) short-term accommodation for guests; and
- (b) onsite facilities for the use of guests; and
- (c) facilities for the management of the development;

**trade display** means premises used for the display of trade goods and equipment for the purpose of advertisement; **trade supplies** means premises used to sell by wholesale or retail, or to hire, assemble or manufacture any materials, tools, equipment, machinery or other goods used for the following purposes including goods which may be assembled or manufactured off the premises —

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

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

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

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

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

**warehouse/storage** means premises including indoor or outdoor facilities used for —

- (a) the storage of goods, equipment, plant or materials; or
- (b) the display or sale by wholesale of goods;

**waste disposal facility** means premises used —

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

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

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

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

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

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

WESTERN AUSTRALIAN PLANNING COMMISSION RESOLUTION TO ADVERTISE  
MANDOGALUP IMPROVEMENT SCHEME NO. 1.

Adopted by resolution Western Australian Planning Commission at the Meeting held on DD MM  
YYYY

\_\_\_\_\_  
Chairperson  
Western Australian Planning Commission

\_\_\_\_\_  
Secretary  
Western Australian Planning Commission

\_\_\_\_\_  
WESTERN AUSTRALIAN PLANNING COMMISSION RESOLUTION TO SUPPORT SCHEME  
FOR APPROVAL

Western Australian Planning Commission resolved to support approval of Mandogalup Improvement  
Scheme No. 1 at its meeting on DD MM YYYY.

The Common Seal of the Western  
Australian Planning Commission was  
hereunto in the presence of:

\_\_\_\_\_  
Chairperson  
Western Australian Planning Commission

\_\_\_\_\_  
Secretary  
Western Australian Planning Commission

\_\_\_\_\_  
Approval granted.

\_\_\_\_\_  
Minister for Planning

Date: \_\_\_\_\_