

# **HILLARYS STRUCTURE PLAN**

## **Structure Plan No. 20**

**This Structure Plan is prepared under the provisions of Part 9 of the City of  
Joondalup District Planning Scheme No. 2**

# Endorsement Page

IT IS CERTIFIED THAT THIS STRUCTURE PLAN WAS APPROVED BY RESOLUTION OF THE WESTERN AUSTRALIAN PLANNING COMMISSION ON:

**28 September 1999**

In accordance with Schedule 2, Part 4, Clause 28 (2) and refer to Part 1, 2. (b) of the Planning and Development (Local Planning Schemes) Regulations 2015.

Date of Expiry:

**19 October 2028**

## Record of Amendments made to the Agreed Hillarys Structure Plan

Amendment No	Description of Amendment	Endorsed by Council	Endorsed by WAPC
1	Delete Section 6.3 Cascade Residential and include provisions as 6.1.4 j-n. Include new Waterford and Sorrento precincts. Alter setbacks in Small Lot Residential to 1.5-6 front and allow zero on one side. Clarify Lot 475 height provisions.	12/10/99	8/3/00
2	Modify Clause 6.4.3 by the inclusion of item (m) to read: "as 6.2.3. (a) to (j) and (m)".	22/2/00	8/3/00
3	Modify Section '1.0 - PRECINCTS' & Plan 1 – Structure Plan Map by deleting reference to the "Unallocated" precinct and by replacing it with reference to the "Mixed Use" Precinct. Modify Plan 2 – 'Zoning Map' by relabelling it 'Land Use Map' and by introducing the "Mixed Use" zone and including the sites on the corner of Whitfords Avenue/Angove Drive and Hepburn Avenue/Whitfords Avenue within this zone. Delete Section "6.5 Unallocated Precinct" and insert new section "6.5 Mixed Use Precinct".	11/9/01	9/1/02

Amendment No	Description of Amendment	Endorsed by Council	Endorsed by WAPC
4	Modify reference to Residential Planning Codes to read: Residential Design Codes. Clarify overshadow provisions. Modify Section '6.1 – General Residential Precinct' by modifying provision 6.1.3(c) to permit zero lot setback to one boundary for those lots identified on Plan 5. Insert new map – "Plan 5: General Residential Precinct Lots Permitted Nil Side Setback".	23/7/02 29/4/03 8/7/03	9/9/03
5	Modify clauses 6.1.1, 6.2.1, 6.3.1, 6.4.1 and 6.6.1 Land Use to read: Land use permissibility and general provisions shall be the same as those within the Residential zone under the Scheme unless otherwise specified in this Structure Plan.	27/2/07	23 NOV 2009

## **OVERVIEW**

### **1 Statutory Basis**

Clause 9.8 of the City of Joondalup District Planning Scheme No. 2 (hereinafter called "the Scheme") provides, amongst other things that a provision, standard or requirement of a Structure Plan approved under Part 9 of the Scheme shall be given the same force and effect as if it was a provision, standard or requirement of the Scheme. It is hereby provided that such force and effect shall only be given to Part 1 of this Structure Plan. Part 2 of this Structure Plan is for explanatory purposes only, providing a descriptive analysis of the structure plan.

Subclause 9.8.3 (f) of the Scheme, states that, where, in the event of there being any inconsistency or conflict between any provision, requirement or standard of the Scheme and any provision, requirement or standard of an Agreed Structure Plan, the provision, requirement or standard of the Scheme shall prevail.

### **2. Summary**

This Structure Plan refers to two areas within the suburb of Hillarys which are Part Lot 7, Swan location 1370, with an area of 45.64 ha and Lot 475, Flinders Avenue, with an area of 1.19 ha. A small portion of the Structure Plan area, Part Lot 158 Swan location 1315 is located in the suburb of Sorrento on the southern side of Hepburn Avenue, north of Seaward Loop.

Part Lot 7 and part Lot 158 are zoned Urban Development Zone and are 'uncoded' and Lot 475 is zoned Residential under the Scheme with a R40 density coding.

This Structure Plan provides the framework for the progressive development of the subject land. The area is divided into six precincts with different design characters which accommodate predominantly residential land uses.

## **PART 1**

### **STATUTORY PLANNING SECTION**

As provided for under the provisions of Clause 3.12 and part 9 of the Scheme, this part of the Structure Plan has the same force and effect as a provision, standard or requirement of the Scheme.

Part 1 of this Structure Plan has been endorsed by the Western Australian Planning Commission as a general guide to future subdivision, zoning and development of the land included in the Hillarys Structure Planning area.

#### **Subject Area**

The Structure Plan area comprises approximately 47 hectares of Part lot 7, Swan location 1370, Part lot 158, Swan Location 1315 and Lot 475, Flinders Avenue, Hillarys.

#### **1.0 PRECINCTS**

Plan 1: 'Structure Plan Map' indicates the Land Use Precincts for the subject land described in the text.

This map defines the following Precincts:

General Residential Precinct  
Small Lot Residential Precinct  
Waterford Residential Precinct  
Sorrento Small Lot Residential Precinct  
Mixed Use Precinct  
475 Residential Precinct

#### **2.0 DEFINITIONS**

The term used shall have the interpretations set out hereunder:

“GROUND LEVEL” means the finished level of lots recontoured as part of subdivisional works by the developer and as shown on a survey of the lot which is to be submitted together with a building application.

“STOREY” shall mean the vertical space extending from one habitable floor of a building to the floor above and for residential properties shall be deemed to be no more than 3.5 metres. The term shall not include any space within a roof, whether used for habitation or not.

“THE SCHEME” shall mean the City of Joondalup District Planning Scheme No 2 (as amended) gazetted 28 November 2000 or such amendments or modifications thereto that may be current.

“TOWER ELEMENT” means any building element that takes the form of an additional storey over and above the height limits that is permitted in certain precincts and is limited to:

- in the case of the additional wall height, not more than 3 metres higher than the maximum wall height; and
- in the case of the roof ridge, not greater than 3 metres higher than the maximum roof ridge height.

### **3.0 THE SCHEME**

Unless provided for by specific requirements in this Structure Plan, all requirements shall be in accordance with the City of Joondalup District Planning Scheme No 2 (as amended) gazetted 28 November 2000 or such amendments or modifications thereto that may be current.

### **4.0 RESIDENTIAL DENSITY CODING**

Residential land within the Structure Plan area shall be developed in conformity with the provisions of the Residential Design Codes, unless otherwise provided for by specific requirements in this Structure Plan. Pursuant to Clause 4.2.5 of the Scheme, the enclosed Plan 3: ‘Residential Code Map’ identifies the Residential Density Codes that apply to Part Lots 7 and 158.

### **5.0 TOWER ELEMENTS**

Tower elements may be permitted in the General Residential and Small Lot precincts but must be approved as the subject of a development application. The size of a tower element shall be as set out in the provisions for each precinct. The application for development approval shall be accompanied by an explanation of the likely impact of the height and location of the tower element on the amenity of surrounding areas and adjacent residential lots, having particular regard to:

- overshadowing and sunshading; and
- the protection of privacy for private outdoor areas and internal spaces.

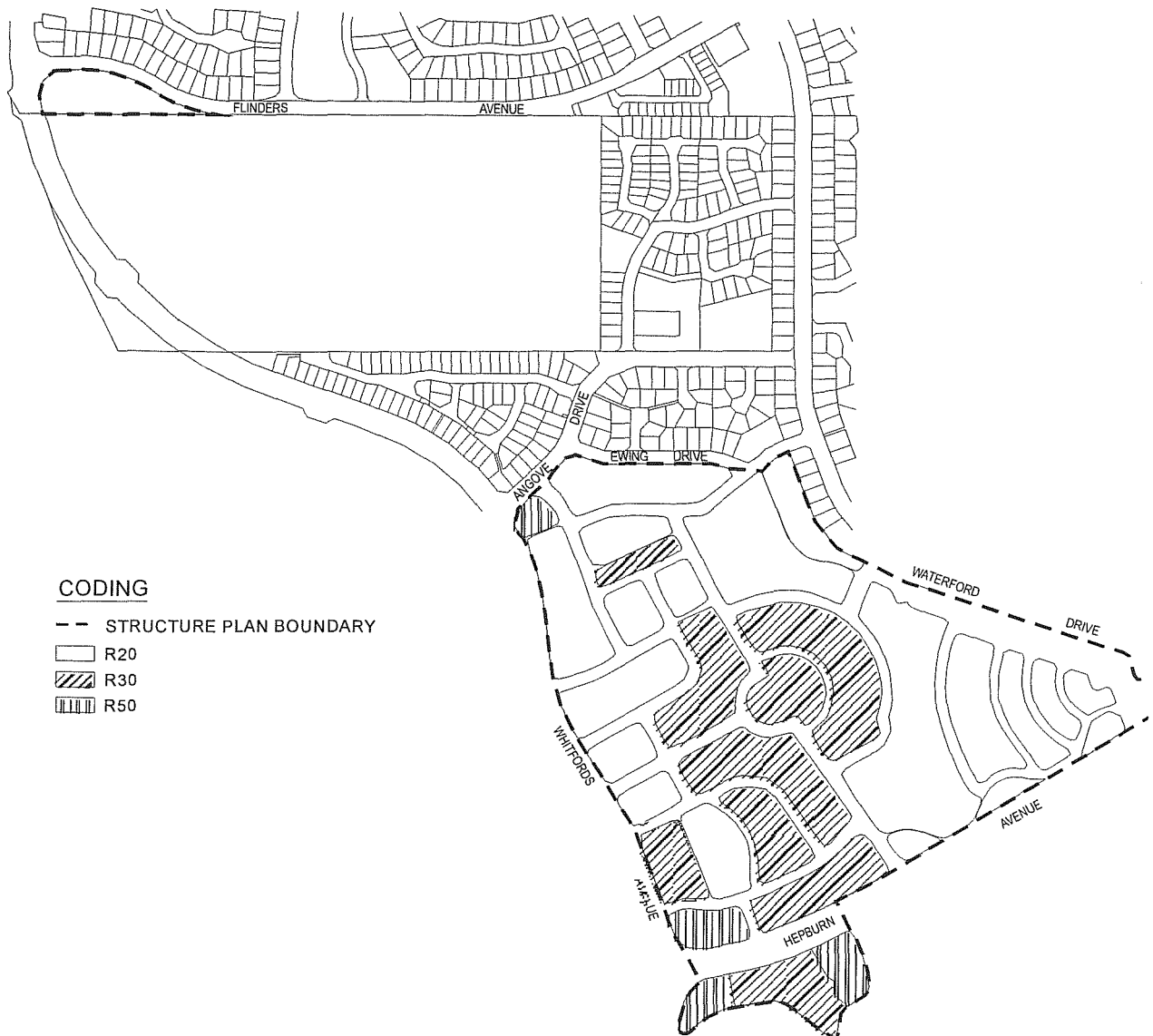
## PLAN 1 : STRUCTURE PLAN MAP



## PLAN 2 : LAND USE MAP

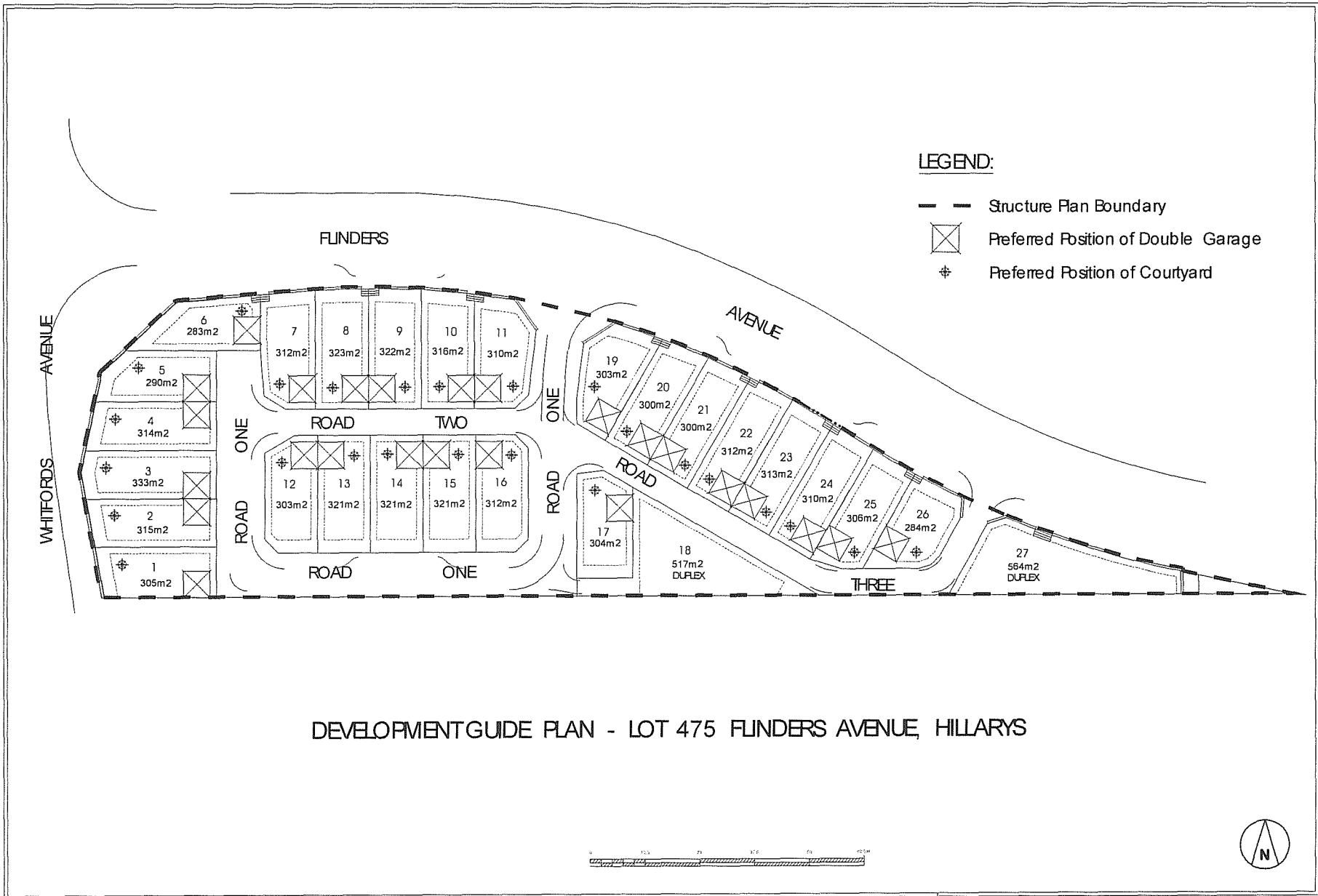


## PLAN 3 : RESIDENTIAL CODE MAP





PLAN 4 : LOT 475 STRUCTURE PLAN MAP



**PLAN 5: GENERAL RESIDENTIAL PRECINCT LOTS PERMITTED NIL SIDE  
SETBACK**

## 6.0 PROVISIONS

This document identifies five precincts, distinguished by their land use intent and built form character. Together they will provide a diversity of housing choice and lifestyle options supported by a viable amount of compatible commercial uses.

The provisions are divided into *objectives*, which describe in general terms the intentions to be addresses in each precinct; and *criteria*, which set out built form requirements (“shall..”) and preferred treatments (“should..”). These may be augmented by the preparation of Design Guidelines which detail specific planning, design and constructional requirements for each precinct or part of a precinct which are proposed to accommodate the desired uses and meet these criteria.

### 6.1 General Residential Precinct

#### 6.1.1 Land Use

The land use in this precinct shall be as shown in Plan 2, Land Use Map. Land use permissibility and general provisions shall be the same as those within the Residential zone under the Scheme unless otherwise specified in this Structure Plan.

#### 6.1.2 Objectives

*Objectives intended for the General Residential Precinct:*

- a) *Encourage a variety of single residential housing types, with the addition of duplex dwellings where lot size permits;*
- b) *Promote layouts that provide for pedestrian-friendly streetscapes with passive surveillance of the public streets and open spaces such as parks;*
- c) *Encourage the creation of a maritime form and character for Harbour Rise buildings through the consistent use and combination of appropriate colours and material;*
- d) *Ensure that development has regard for the amenity of adjacent lots and surrounding areas.*

#### 6.1.3 Criteria

Criteria to be satisfied in this precinct are:

- a) Notwithstanding the provisions of the Residential Design Codes, the main facades of buildings shall be set back a minimum of 3m from the primary street, allowing views out from main living spaces. Garages shall be set back a minimum of 4.5 m, allowing onsite parking in front except that a single storey side loading garage may be set back a minimum of 1.5m from the front boundary.
- b) Each house must provide at least two covered carbays on site.
- c) Notwithstanding the provisions of the Residential Design Codes, buildings constructed to the boundary (Zero lot line development) will not be permitted, with the exception of the lots identified on Plan 5, for which a nil setback will be permitted on one side only subject to the following conditions:
  - 1. No development shall cause more than 50% of an adjoining lot to be in shadow at noon 21 June: and
  - 2. That a zero lot setback is not permitted on a boundary that abuts an adjoining property where a zero lot setback to a side boundary is not permitted.

- d) Buildings on corners shall address each street frontage and the corner with equal importance.
- e) Buildings shall be designed to have active frontages with no blank facades fronting the street or public open space.
- f) Advertising, signage or hoardings will not be permitted except in conformity with the provisions of the City of Joondalup Signs Local Law for a residential area.
- g) Roofs: Where pitched, roofs shall be greater than 25 degrees. Minor projections such as verandahs and canopies may have shallower pitches. Curved roofs and flat roofs concealed by parapets shall also be permitted.
- h) Utility areas such as bin and service areas shall be screened from view from streets and public open spaces.
- i) New retaining walls are to be constructed in the same materials as existing estate retaining walls.
- j) The provisions of City of Joondalup Policy 3.1.9, "Height and Scale of Buildings within a Residential Area" shall not apply.
- k) The maximum Building Height measured from Ground Level shall be as follows:
 

Two Storey	Wall Height	6.5 metres
	Roof Ridge	9.5 metres
Single Storey	Wall Height	3.5 metres
	Roof Ridge	6.5 metres
- l) Notwithstanding the provisions of the Residential Design Codes, the minimum open space shall not be less than 35% of each individual lot.
- m) Tower elements with plan dimensions no greater than 6 metres by 6 metres may exceed the building height requirements but air conditioners, solar panels and satellite dishes may not. A tower element must contribute to the landmark quality of the building. This can take the form of towers, roof lanterns, widows walks, lookouts etc.
- n) Dual frontage lots shall be accessed from the higher level road as follows:
  - Lots 57-65m from Midi Terrace
  - Lots 156-161 from Var Terrace; and
  - Lots 152-155 from The Corniche

## **6.2 Small Lot Residential Precinct**

### **6.2.1 Land Use**

The land use in this precinct shall be as shown in Plan 2, Land Use Map. Land use permissibility and general provisions shall be the same as those within the Residential zone under the Scheme unless otherwise specified in this Structure Plan.

### **6.2.2 Objectives**

*General objectives intended for the Small Lot Residential Precinct:*

- a) *As 6.1.2 (a)*
- b) *Encourage a diversity of housing types, including single residential, grouped dwellings, town and terrace houses;*
- c) *Encourage a strong sense of architectural identity at special locations, such as opposite public open space;*
- d) *Ensure that development has regard for the amenity of adjacent lots and surrounding areas.*

### 6.2.3 Criteria

Criteria to be satisfied in this precinct are:

- a) Notwithstanding the provisions of the Residential Design Codes, the main façade of the buildings should be setback as follows:
  - Front: 1.5m minimum; 6m maximum
  - 5m minimum for garages
  - 1.5m minimum for single storey side loading garages
  - Side: Nil - on one side only in conformity with Clause (b) below;
- b) Zero lot line development will be permitted as set out in Clause (a) above, provided that no development shall cause more than 50% of an adjoining lot to be in shadow at noon 21 June.
- c) Carparking shall be accessed from rear lanes where they are provided. Each house must provide two onsite car parking spaces; at least one is to be covered. Notwithstanding the provisions of the Residential Design Codes, a rear setback of 0m is permitted. Allowance must be made for a 1.5m sight truncation and setback at sides of garage openings at ground floor level to enable vehicular access to garages and carports.
- d) Where small lots directly adjoin public open space and notwithstanding the provisions of the Residential Design Codes, the dwelling shall be set back as follows:
  - To the open space boundary minimum 4 metres
- e) Buildings on corners shall address each street frontage and the corner with equal importance.
- f) Buildings shall be designed to have active frontages with no blank facades fronting the street or public open space.
- g) Advertising, signage or hoardings will not be permitted except in conformity with the provisions of the City of Joondalup Signs Local Law for a residential area.
- h) Roofs: Where pitched, roofs shall be greater than 25 degrees. Minor projections such as verandahs and canopies may have shallower pitches. Curved roofs and flat roofs concealed by parapets shall also be permitted.
- i) Utility areas such as bin and service areas shall be screened from view from streets and public open spaces.
- j) New retaining walls are to be constructed in the same materials as existing estate retaining walls.
- k) The provisions of City of Joondalup Policy 3.1.9 “Height and Scale of Buildings within a Residential Area” shall not apply.
- l) The maximum Building Height measured from Ground Level shall be as follows:
 

Two Storey	Wall Height	6.5 metres
	Roof Ridge	9.5 metres
Single Storey	Wall Height	3.5 metres
	Roof Ridge	6.5 metres
- m) Notwithstanding the provisions of the Residential Design Codes, the minimum open space shall not be less than 35% of each individual lot.
- n) Tower elements with plan dimensions no greater than 3 metres by 3 metres may exceed the building height requirements but air conditioners, solar panels and satellite dishes may not. A tower element must contribute to the landmark quality of the building. This can take the form of towers, roof lanterns, widows walks, lookouts etc.

### **6.3 Waterford Residential Precinct**

#### **6.3.1 Land Use**

The land use in this precinct shall be as shown in Plan 2, Land Use Map. Land use permissibility and general provisions shall be the same as those within the Residential zone under the Scheme unless otherwise specified in this Structure Plan.

#### **6.3.2 Objectives**

*Objectives intended for Waterford Residential Precinct shall be the same as for the General Residential Precinct*

a) As 6.1.2

#### **6.3.3 Criteria**

Criteria to be satisfied in this precinct are:

- a) As 6.1.3 (a) to (i) and (l)
- b) The building envelope provisions of City of Joondalup Policy 3.1.9, “Height and Scale of Buildings within a Residential Area” shall apply.

### **6.4 Sorrento Small Lot Residential Precinct**

#### **6.4.1 Land Use**

The land use in this precinct shall be as shown in Plan 2, Land Use Map Land use permissibility and general provisions shall be the same as those within the Residential zone under the Scheme unless otherwise specified in this Structure Plan.

#### **6.4.2 Objectives**

*Objectives intended for the Sorrento Residential Precinct shall be the same as for the Small Lot Residential Precinct*

a) As 6.2.2

#### **6.4.3 Criteria**

Criteria to be satisfied in this precinct are:

- a) As 6.2.3 (a) to (j) and (m)
- b) The building envelope provisions of City of Joondalup Policy 3.1.9, “Height and Scale of Buildings within a Residential Area” shall apply.

## **6.5 Mixed Use Precinct**

### **6.5.1 Land Use**

The Mixed Use precinct allows for residential, home occupation and limited retail and commercial uses. The uses permitted within this precinct are the same as those which apply to the relevant Zone (i.e. Mixed Use) in the Scheme unless otherwise specified below.

For the purposes of this Structure Plan, a Convenience Store shall not include the sale of petrol.

The following land uses are not permitted within the precinct:

- Car Park
- Civic Building
- Communication Antenna
- Education Establishment
- Hall
- Kindergarten
- Lunch Bar
- Nursing Home
- Place of Assembly
- Place of Worship
- Private Recreation
- Reception Centre
- Recreation Centre
- Retirement Village

In addition to the land uses which are, or may be, permitted in the Mixed Use zone, the following land uses may be approved by Council after following the procedures laid down by subclause 6.6.2 of the City's District Planning Scheme No. 2:

Shop

The floor area of the following land uses shall be included as part of the retail floor area for the site:

- Art Gallery
- Bakery
- Convenience Store
- Corner Store
- Shop

The floor area of the following land uses shall be included as part of the office floor area for the site:

- Bank
- Consulting Rooms
- Office

The retail net lettable area shall be limited to that shown in Schedule 1 below:

### Schedule 1 – Retail

Location	Maximum Net Lettable Area
Cnr Whitfords Ave/Angove Drive	200m <sup>2</sup>
Cnr Hepburn Ave/Whitfords Avenue	350m <sup>2</sup>

The office net lettable area shall be limited to that shown in Schedule 2 below.

### Schedule 2 – Office

Location	Maximum Net Lettable Area
Cnr Whitfords Avenue/Angove Drive	150m <sup>2</sup>
Cnr Hepburn Avenue/Whitfords Avenue	800m <sup>2</sup> (500m <sup>2</sup> on ground floor & 300m <sup>2</sup> on upper floor/s)

The restaurant net lettable area is additional to the retail floorspace and shall be limited to that shown in Schedule 3 below.

### Schedule 3 – Restaurant

Location	Maximum Net Lettable Area
Cnr Whitfords Avenue/Angove Drive	150m <sup>2</sup>
Cnr Hepburn Avenue/Whitfords Avenue	150m <sup>2</sup>

## 6.5.2 Objectives

General objectives intended for the Mixed Use Precinct:

- Encourage a diversity of land uses and a diversity of housing types;
- Emphasise the landmark significance of the site on the corner of Hepburn Ave/Whitfords Ave as an active focus for the community by means of associated commercial uses;
- Maintain a high level of pedestrian amenity; and,
- To encourage development which is human in scale and which provides an interesting and pedestrian friendly streetscape.

## 6.5.3 Criteria

Criteria to be satisfied in this precinct are:

- In terms of residential development, the R50 density coding provisions of the Residential Design Codes shall apply, unless otherwise specified below.
- Minimum Setbacks shall be as follows:  
Front – Nil



Side – Nil, except where 3m vehicle access is required

Rear – 6m.

With the respect to the site on the corner of Hepburn Avenue and Whitfords Avenue, the front boundaries shall be those abutting Hepburn Avenue and Whitfords Avenue. With respect to the site on the corner of Whitfords Avenue and Angove Drive, the front boundaries shall be those abutting Whitfords Avenue and Angove Drive.

- c) The Mixed Use site on the corner of Hepburn Ave and Whitfords Ave should be developed so as to form a landmark. On both Mixed Use sites building heights should be a minimum and maximum of 2 storeys and should develop a substantial urban façade to the street boundary. Where the City considers that a quality landmark is to be developed, it may allow building heights on the site on the corner of Hepburn Avenue and Whitfords Ave to be a maximum of 3 stories. Tower elements are not permitted.
- d) Utility areas such as bins and service area, material storage and services such as air conditioners, compressors and other machinery shall be concealed from streets and public areas by an enclosure in the style and material of the building. On sites that adjoin residential properties, such areas shall not abut the common boundary.
- e) Carparking requirements for non-residential development shall be in accordance with Table 2 of the Scheme, predominantly located at the rear of lots and accessed from laneways where provided. They shall be designed to not dominate the street and provide good pedestrian movement towards buildings. Landscaping shall be in accordance with Clause 4.12 of the Scheme.
- f) Buildings shall be designed to have active frontages with no blank facades fronting the street or public open space. Public frontages should have continuous awnings and/or colonnades to give pedestrian protection.
- g) Signage should be simple in format, integrated with buildings and appropriate to the scale and character of the street and adjacent buildings. Signage should comply with the City's Signs Local Laws and any Council policies. Free standing signage shall be limited to identifying the premises on the site and shall be constructed in materials that complement the building. No pylon signage shall be permitted.
- h) Buildings and parking areas shall be well lit to encourage safe use after hours.
- i) Commercial uses in public spaces such as alfresco dining and flower/fruits stalls may be permitted at the discretion of Council.
- j) Notwithstanding the provisions of the Residential Design Codes, the maximum plot ratio shall be 0.8.
- k) All development shall possess a residential component.
- l) Development shall consist of a number of individual facades however the resultant streetscape should be cohesive.
- m) The character of each building should be compatible with neighbouring buildings and public spaces.

## **6.6 475 Residential Precinct**

### **6.6.1 Land Use**

The land use in this precinct shall be as shown in Plan 2, Land Use Map. Land use permissibility and general provisions shall be the same as those within the Residential zone under the Scheme unless otherwise specified in this Structure Plan.

### **6.6.2 Objectives:**

*General objectives intended for the 475 Residential Precinct:*

- a) *Encourage a diversity of housing styles and types.*
- b) *Maintain an attractive and pleasing facade to Flinders Avenue.*
- c) *Promote and maintain a high standard of building design and aesthetics*

### 6.6.3 Criteria

Criteria to be satisfied in this precinct are:

- a) **Setbacks-**  
Dwellings must address the main streets; Flinders Avenue or Road 1 as appropriate. Notwithstanding the provisions of the Residential Design Codes, the following street and rear setbacks shall apply:  
Flinders Avenue street setback: Minimum 3.0m, except as otherwise indicated on the Structure Plan Map  
Roads 1 & 3 Street Setback: Lots 1-6 - Minimum 1.5m  
Lots 12-16 - Minimum 3.0 m  
Lots 17-18 - Minimum 1.5m  
Rear Setback: Minimum 3m setback on ground floor  
Average - 4.5m  
Garages: Minimum 1.5m  
Side Setbacks: Other than where a zero lot line is permitted, the minimum side setback for a habitable room shall be 1.0m at the ground floor. Other side boundary setbacks shall be in accordance with the Residential Design Codes.  
Except in the case of lots 1, 18 and 27, a zero lot line setback shall only be approved for a garage unless the adjoining owner approves the development in writing.  
A nil setback (zero lot line) may be permitted on lots 1, 18 and 27 on the southern boundary. The length (or accumulated lengths) of the wall on the identified boundary shall not exceed 2/3 of the length of that boundary.
- b) **Building Height Limits:** All buildings shall be a maximum of two storeys high and shall have pitched roofs. The building envelope provisions of Policy 3.1.9, Height and Scale of Buildings within a Residential area shall apply.
- c) In order that crossovers and walls are consistent with adjoining buildings the levels of the ground floor of the main dwelling and the garage shall be maintained within 200 mm of the level at the centre point of the appropriate lot boundary.
- d) The provision of a cellar or habitable room below the ground floor level is permissible.
- e) **Site Coverage:** The maximum site cover shall be 65%.
- f) **Courtyards:** A courtyard should be located generally in accordance with the Structure Plan Map (Plan 4) and where appropriate to provide ventilation and natural light to habitable rooms.  
At least one such courtyard shall have a minimum area of 24m<sup>2</sup> with a minimum dimension of 4m and be accessible from a living room.
- g) **Garages:** Where a lot is serviced by a rear road or laneway, vehicle access to that lot shall only be permitted from the rear road or laneway. Except for lot 27, no direct vehicular access will be permitted to a lot from Flinders Avenue.  
All garages shall be located in accordance with the Structure Plan Map.  
Notwithstanding the provisions of the Residential Design Codes, the minimum setback of a garage to the rear laneway shall be 1.5m, unless otherwise indicated on the Structure Plan Map.
- h) **Fencing:** Front: shall not be built forward of the building unless constructed substantially of the same materials and finishes as the dwelling and in any case the maximum height of any fence forward of the building line shall not exceed 1.0m.  
Internal Side: shall be built substantially of the same materials as the adjoining

fences on the same lot and shall be a maximum of 1.8m high.

External Rear and Side: fences facing an internal road or laneway shall be built substantially of the same materials and finishes as the dwelling and shall be a maximum of 1.8m high.

Rear fences shall be set back 1.2m to provide for bin pads and shall allow for a 1.5m visibility splay at 45 degrees to garage entrances.

- i) Garbage Bins: Where there is a rear laneway, Council rubbish collection will not be undertaken from the road.

One bin pad measuring 1.2 x 2.4m for rubbish and recycling collection shall be provided for each dwelling on the rear lane within the lot and in other locations as indicated by Council. A rubbish bin storage area shall be provided within the lot in a position convenient to the dwelling and screened from view from the street or laneway.

- j) Storage Area: Each dwelling is to be provided with a secure covered storage area of at least 4 m<sup>2</sup> in area which is substantially constructed of the same materials as the dwelling and is accessible from outside the dwelling.