

# SWAN VALLEY PLANNING

## Scheme No. 1

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Updated to include AMD 5 GG 11/10/2024

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Department of Planning,  
Lands and Heritage



Prepared by the  
Department of Planning, Lands and Heritage  
Original Planning Scheme Gazettal Date:  
6<sup>th</sup> August 2021

#### Disclaimer

This is a copy of the Local Planning Scheme produced from an electronic version of the Scheme held and maintained by the Department of Planning, Lands and Heritage. Whilst all care has been taken to accurately portray the current Scheme provisions, no responsibility shall be taken for any omissions or errors in this documentation.

Consultation with the respective local government authority 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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**SWAN VALLEY PLANNING SCHEME NO. 1 - AMENDMENTS**

AMD NO.	GAZETAL DATE	UPDATED		DETAILS
		WHEN	BY	
New Scheme	6/08/2021	6/8/2021	MLD	New Scheme
2 TPS/2923	24/03/2023	28/03/2023	GL	<p>Part 1 - Insert the words 'subdivision and' between the words 'requirements relating to' and 'development that are' under clause 37.1.</p> <p>Part 2 - Replace the word '(a)' with '1' under clause 37.2.</p> <p>Part 3 - Insert the words 'for applications for development approval' at the end of the heading for clause 39.</p> <p>Part 4 - Insert the new clause 39A</p> <p>Part 5 - Insert the new subdivision</p> <p>Part 6 - Insert the new requirements in Schedule 5, No.2, Priority Agriculture zone subdivision requirement 1.1 (b), and renumbering the remaining requirements accordingly:</p> <p>Part 7 - Replace Schedule 5, No.2, Priority Agriculture zone succession subdivision requirement 1.1 (c)(iv)</p> <p>Part 8 - Replace Schedule 5, No.2, Priority Agriculture zone succession subdivision requirement 1.1 (c)(vii)</p> <p>Part 9 - Delete Schedule 5, No.2, Priority Agriculture zone succession subdivision requirements 1.1(c)(viii) and 1.1(c)(ix).</p> <p>Part 10 - Replace Schedule 5, No.3, Swan Valley Rural zone succession subdivision requirement 1.2(iv)</p> <p>Part 11 - Replace Schedule 5, No.3, Swan Valley Rural zone succession subdivision requirement 1.2(vii)</p> <p>Part 12- Delete Schedule 5, No.3, Swan Valley Rural zone succession subdivision requirements 1.2(viii) and 1.2(ix).</p>
3 TPS/2924	24/03/2023	30/03/23	GL	Amend Schedule 4 – Special Use Zones by introducing a new Special Use (SU2) to Lot 501 (No.130) Hamersley Road, Caversham.
4 TPS/2953	06/10/2023	28/09/23	MLD	<p>Amend the Scheme Map to insert Additional Use No.15 (A15) over Lot 210 (No.3003) West Swan Road, Caversham</p> <p>Amending Schedule 1 by inserting into Land Use Terms the meaning of - Produce Store</p> <p>Amending Schedule 2 - Additional Uses to include the provisions relating to A15</p>
5 TPS/3097	11/10/24	21/10/24	MLD	<p>Deleting clause 1.3 of item 2, Schedule 5, and clause 1.4 of item 3, Schedule 5 that both state:</p> <p>'Any approval of succession subdivision must include a condition preventing the sale of either new lot for a minimum of five years from the date that the new titles are created via a deed of agreements between the owner and the WAPC or similar mechanism'.</p>

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## **PART 1 - PRELIMINARY**

### **1. Citation**

This planning scheme is the Swan Valley Planning Scheme No. 1 (Scheme).

### **2. Statutory Background**

1. The Scheme is subsidiary legislation made under the *Swan Valley Planning Act 2020* and is a planning scheme for the purposes of the *Planning and Development Act 2005*.
2. In accordance with section 40 of the *Swan Valley Planning Act 2020*, where the Scheme contains provisions from the *Planning and Development (Local Planning Schemes) Regulations 2015*, references to local government apply as if they were references to the Western Australian Planning Commission (Commission).

### **3. Commencement**

The Scheme comes into operation on the day on which it is published in the Government Gazette.

### **4. Notes do not form part of Scheme**

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

### **5. Responsibility for Scheme**

The Commission is responsible for the enforcement and implementation of the Scheme.

### **6. Scheme Area**

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

### **7. Contents of Scheme**

1. The Scheme comprises the provisions set out in this document (the Scheme Text) and the associated map (the Scheme Map).
2. The Scheme is to be read in conjunction with:
  - a. the *Swan Valley Planning Act 2020*; and
  - b. the Swan Valley planning strategy; and
  - c. any planning policy made under Part 2 of the Scheme.

### **8. Terms used**

The definitions for the terms used in the Scheme are included in Schedule 1.

## **9. Purposes of Scheme**

The purposes of the Scheme are to -

- (a) set out the planning aims and intentions for the Scheme area, consistent with the *Swan Valley Planning Act 2020*;
- (b) set aside land as reserves for public purposes; and
- (c) zone land within the Scheme area for the purposes defined in the Scheme; and
- (d) control and guide development including processes for the preparation of structure plans; and
- (e) set out procedures for the assessment and determination of development applications; and
- (f) set out procedures for contributions to be made for the costs of providing infrastructure in connection with development through development contribution plans; and
- (g) make provision for the administration and enforcement of this Scheme; and
- (h) address any other matters referred to in the *Planning and Development Act 2005* and the *Swan Valley Planning Act 2020*.

## **10. Aims of Scheme**

The aims of the Scheme are to -

- (a) secure long-term agricultural production in the Swan Valley through retention of existing lot sizes, quality soils and areas of existing and potential horticulture, especially viticulture; and
- (b) conserve the rich history and cultural heritage of the Swan Valley through protection of its unique natural landscape and rural character; and
- (c) ensure quality agricultural land in the Swan Valley is retained for horticulture and viticulture, with other rural land predominantly used for hobby farming, equestrian activities and associated rural land uses; and
- (d) ensure that the use and development of rural land is compatible with horticulture, viticulture, hobby farming, equestrian activities and the rural character of the Swan Valley; and
- (e) ensure all development is appropriately located, designed, scaled and landscaped and existing vegetation retained to enhance the unique rural landscape character of the Swan Valley; and
- (f) ensure tourism, hospitality and other non-rural development and land use is appropriately located, designed and of a scale that does not impact rural land use for agriculture and Swan Valley rural character and amenity; and
- (g) limit residential, commercial and light industrial uses to designated areas and ensure that they do not impact rural land uses or the rural character and amenity of the Swan Valley; and
- (h) ensure all residential development is contained within the Herne Hill townsite, except for single houses on single lots in keeping with the rural character of the Swan Valley; and

- (i) ensure land use and development in the Swan Valley enhances the natural environment of the Swan River catchment, protects native vegetation, wetlands and waterways and appropriately manages soils and water resources.

## 11. 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.

## 12. Relationship with other planning schemes

1. In accordance with section 9 of the *Swan Valley Planning Act 2020*, local planning schemes, region planning schemes and improvement planning schemes cease to apply to land covered by this Scheme.
2. Notwithstanding (1), in accordance with section 11 of the *Swan Valley Planning Act 2020*, as set out in Column 1 of the following table, the clauses of the Metropolitan Region Scheme (MRS) will apply to the land covered this Scheme, subject to any modifications set out in Column 2.

Column 1 MRS Clause No.	Column 2 Modifications to the Metropolitan Region Scheme
12 (1)	<p>Reservation of land is delineated in the following manner:</p> <ul style="list-style-type: none"> <li>• Conservation: Olive Green</li> <li>• Parks and Recreation: Mid Green</li> <li>• Public Purposes: Yellow</li> <li>• Waterway: Pale Blue</li> <li>• Regional Road: Red</li> <li>• District Road: Dark Blue</li> <li>• Railway: Grey</li> </ul>
16	<p>In this clause:</p> <p><b>“Bush Forever area”</b> means an area referred to in 28A of Column 1.</p> <p><b>“reserved land owned by or vested in a public authority”</b> includes reserved land in relation to which a public authority has an easement, right of way, right of occupation, or any other interest or right, privilege or concession.</p> <p><b>“permitted development”</b> means –</p> <ul style="list-style-type: none"> <li>(a) works on land reserved for Regional Road or District Road for the purpose of or in connection with a road within the meaning of the <i>Main Roads Acts 1930</i>;</li> <li>(b) works for the purpose of or in connection with the supply of water, electricity or gas, or the drainage or treatment of waste, water or sewerage;</li> <li>(c) works on land reserved for Railways for the purpose of or in connection with a railway, but this does not include the construction or alteration of a railway station or any related car parks, public transport interchange facilities, or associated means of pedestrian or vehicular access; and</li> <li>(d) works on land reserved for Parks and Recreation where the works are in accordance with a management plan endorsed by the Commission.</li> </ul>



Column 1 MRS Clause No.	Column 2 Modifications to the Metropolitan Region Scheme
	<p>Reserved land owned by or vested in a public authority may be used without the written approval of the Commission if the land is used:</p> <ul style="list-style-type: none"> <li>(a) for the purpose for which it is reserved under this Scheme;</li> <li>(b) for any purpose for which it was lawfully used before the coming into force of this Scheme; or</li> <li>(c) for any purpose for which the land may be lawfully used by the public authority.</li> </ul> <p>Development on reserved land owned by or vested in a public authority may be commenced or carried out without the written approval of the Commission if the development is:</p> <ul style="list-style-type: none"> <li>(a) permitted development that does not involve the clearing of regionally significant bushland in a Bush Forever area; or</li> <li>(b) expressly authorised under an Act to be commenced or carried out without the approval of the Commission.</li> </ul> <p>Reserved land owned by or vested in a public authority may be used or developed for any other purpose approved by the Commission with or without conditions.</p>
28A	Land identified as a Bush Forever area on the MRS map.
28	Application for planning approval is required to commence and carry out development within Bush Forever areas.
30A (2)	<p>Where an application for planning approval relates to:</p> <ul style="list-style-type: none"> <li>(a) a development on land comprised in a lot - <ul style="list-style-type: none"> <li>(i) any part of which is within the Swan development control area; or</li> <li>(ii) that is not in the Swan development control area but abuts waters that are in the Swan development control area;</li> </ul> </li> <li>or</li> <li>(b) a development - <ul style="list-style-type: none"> <li>(i) of land that abuts the Swan development control area; or</li> <li>(ii) that in the opinion of the Commission is likely to affect waters in the Swan development control area,</li> </ul> </li> </ul> <p>then, the Commission is to refer all applications to the relevant agency for the Swan River Trust (Trust) for a period of 28 days.</p> <p>Note: The Swan River Trust and the Swan development control area are defined in the <i>Swan and Canning Rivers Management Act 2006</i>.</p>
30A (4)	If the Trust fails to provide advice within 28 days, then the Commission may proceed with determination of an application.
30A (9)	The Trust may advise the Commission that a referral under Clause 30A(2) in Column 1 is not required.

## **PART 2 - SWAN VALLEY PLANNING FRAMEWORK**

### **13. Swan Valley planning strategy**

Where a planning strategy for the Scheme area has been prepared in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Part 3, the strategy sets out the long-term planning directions for the Scheme area.

### **14. Swan Valley planning policies**

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

### **15. Procedure for making a planning policy**

1. If the Commission resolves to prepare or amend a planning policy, the Commission is to advertise the proposed policy as follows -
  - a. publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of -
    - i. the subject and nature of the proposed policy; and
    - ii. the objectives of the proposed policy; and
    - iii. where the proposed policy may be inspected; and
    - iv. to whom, in what form and during what period submissions may be made;
  - 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 in relation to a planning policy must not be less than a period of 21 days commencing on the day on which the notice of the policy is published under subclause 1a.
3. After the expiry of the period within which submissions may be made, the Commission is to -
  - a. review the proposed policy in the light of any submissions made; and
  - b. resolve to proceed with the policy with or without modification, or not to proceed with the policy.

4. If the Commission resolves to proceed with the policy, the Commission is to publish notice of the policy in a newspaper circulating in the Scheme area.
5. A planning policy has effect on publication of a notice under subclause 4.
6. The Commission must ensure that an up-to-date copy of each planning policy made under this Scheme is -
  - a. kept and made available for public inspection during business hours at the offices of the Commission; and
  - b. published on the website of the Commission.

**16. Procedure for amending a planning policy**

1. Clause 15, with any necessary changes, applies to the amendment to a planning policy.
2. Despite subclause 1, the Commission may make an amendment to a planning policy without advertising the amendment if, in the opinion of the Commission, the amendment is a minor amendment.

**17. Revocation of planning policy**

A planning policy may be revoked -

- a. by a subsequent planning policy that -
  - i. is prepared in accordance with this Part; and
  - ii. expressly revokes the planning policy; or
- b. by a notice of revocation -
  - i. prepared by the Commission; and
  - ii. published in a newspaper circulating in the Scheme area.

## PART 3 - RESERVES

### 18. Reserves

1. Reserves are shown on the Scheme Map according to the legend on the Scheme Map.
2. The objective of each reserve is as follows -

**Table 1 - Reserve objectives**

Reserve name	Objective
Conservation	To identify areas with biodiversity and conservation value and to protect those areas from development.
District Road	To set aside land required for a road classified as a District Distributor A or District Distributor B under the Western Australian Road Hierarchy.
Local Road	To set aside land required for a road classified as a Local Distributor or an Access Road under the Western Australian Road Hierarchy.
Parks and Recreation	To provide for a range of passive and active recreation uses including open parkland, recreation buildings and facilities, associated car parking and drainage.
Public Purposes	To provide for a range of essential physical and community infrastructure.
Railways	To set aside land required for freight and other rail services.
Regional Road	To set aside land required for a road classified as a Primary Distributor or a Regional Distributor under the Western Australian Road Hierarchy.
Waterways	To set aside land required for waterways and drainage.

### 19. Additional uses for reserves

There are no additional uses for reserves.

### 20. Use and development of reserves

1. Except as otherwise provided in clause 19, a person must not -
  - a. use a reserve; or
  - b. commence or carry out development on a reserve without first having obtained planning approval under Part 9 of the Scheme.
2. In determining an application for planning approval, the Commission is to have regard to -
  - a. the matters referred to in clause 63; and
  - b. the ultimate purpose intended for the reserve.

## PART 4 - ZONES AND THE USE OF LAND

### 21. Zones

1. Zones are shown on the Scheme Map according to the legend on the Scheme Map.
2. The objectives of each zone are as follows -

**Table 2 - Zone objectives**

Zone name	Objectives
Priority Agriculture	<ol style="list-style-type: none"> <li>1. To protect priority agricultural land in the Swan Valley including existing vineyards and other areas of horticulture from incompatible land use and development.</li> <li>2. To provide for long-term agricultural production in the Swan Valley by preventing further subdivision of land and protecting good quality soils from non-agricultural use and development.</li> <li>3. To limit hospitality and tourism development and land use to where it is incidental and complements agricultural production and does not detract from the rural character and amenity of the area.</li> <li>4. To ensure all land use and development enhances the cultural heritage, natural environment and protects the unique rural landscape character of the Swan Valley.</li> </ol>
Swan Valley Rural	<ol style="list-style-type: none"> <li>1. Seek to protect rural land in the Swan Valley from incompatible land use and development.</li> <li>2. To provide lots no smaller than four hectares to support a range of rural land uses including hobby farms and equestrian activities.</li> <li>3. To facilitate hospitality and tourism land use where it complements rural land uses, does not detract from rural character and amenity.</li> <li>4. To ensure land use and development respects the Swan Valley's cultural heritage and natural environment.</li> </ol>
Rural Residential	<ol style="list-style-type: none"> <li>1. To provide for rural residential lots as a transition between existing urban development and the Swan Valley rural area.</li> <li>2. To ensure subdivision and development is consistent with an approved structure plan and maintains the rural residential character of the locality.</li> <li>3. To provide opportunities for land uses that do not detract from rural character and amenity.</li> <li>4. To ensure land use and development respects the Swan Valley's cultural heritage and natural environment.</li> </ol>

Residential	<ol style="list-style-type: none"> <li>1. To maintain housing in Herne Hill at a density that meets the needs of the Swan Valley community.</li> <li>2. To encourage good quality design, built form and streetscapes throughout the residential area.</li> <li>3. To provide for a limited range of incidental land uses that are compatible with and complementary to the residential area.</li> <li>4. To ensure new development is consistent with the unique rural character of the Swan Valley.</li> </ol>
Village	<ol style="list-style-type: none"> <li>1. To provide for residential development and a range of uses, including limited retail, tourism and community uses, in a local centre.</li> <li>2. To ensure subdivision and development is consistent with an approved structure plan.</li> <li>3. To encourage good quality design, built form and streetscapes throughout the village area.</li> <li>4. To ensure land use and development is consistent with the unique rural character and amenity of the Swan Valley.</li> </ol>
Enterprise	<ol style="list-style-type: none"> <li>1. To provide for a range of light industrial services to assist agricultural and rural uses in the Swan Valley.</li> <li>2. To ensure subdivision and development is consistent with an approved structure plan.</li> <li>3. To coordinate subdivision, land use and development to achieve the desired character for an enterprise park in the Swan Valley.</li> <li>4. To ensure land use and development respects the Swan Valley's cultural heritage and natural environment.</li> </ol>

## 22. Land use permissibility table

The permissibility of land uses within each zone in the Scheme area is as follows –

**Table 3 - Land use permissibility table**

LAND USES	ZONES					
	Priority Agriculture	Swan Valley Rural	Rural Residential	Residential	Village	Enterprise
Abattoir	X	X	X	X	X	X
Aged or Dependant Persons Dwelling	X	X	X	D	D	X
Agriculture – Extensive	P	P	X	X	X	X
Agriculture – Intensive	P	P	X	X	X	X
Amusement Centre	X	X	X	X	A	X
Ancillary Dwelling	X	X	D	D	D	X
Ancillary Dwelling – Rural	D	D	X	X	X	X
Animal Establishment	A	A	X	X	X	D
Animal Husbandry	X	X	X	X	X	X
Aquaculture	X	X	X	X	X	X
Art Gallery	I	I	D	X	D	D
Bed and Breakfast	P	P	P	A	D	X
Betting Agency	X	X	X	X	X	X
Brewery, Cidery or Distillery	I	I	X	X	X	X
Bulky Goods Showroom	X	X	X	X	X	X
Cafe	I	D	X	X	D	X
Camping Ground	X	A	X	X	X	X
Car Park	X	X	X	X	X	X
Caravan Park	X	X	X	X	X	X
Caretaker's Dwelling	D	D	X	X	X	D
Child Care Premises	X	X	X	X	A	X
Cinema/Theatre	I	I	X	X	A	X
Civic Use	A	A	A	X	A	A
Club Premises	I	I	A	X	A	X
Commercial Vehicle Parking	D	D	D	X	X	D
Community Purpose	X	A	A	X	A	X
Consulting Rooms	X	I	D	X	D	I
Convenience Store	X	X	X	X	A	X
Corrective Institution	X	X	X	X	X	X
Educational Establishment	X	X	X	X	A	A
Equestrian Facility	D	D	A	X	X	X
Exhibition Centre	I	I	X	X	A	X
Family Day Care	P	P	P	P	D	X
Fast Food Outlet	X	X	X	X	X	X
Food and Beverage Production	D	D	X	X	X	D
Fuel Depot	X	X	X	X	X	X
Funeral Parlour	X	X	X	X	X	X
Garden Centre	I	I	A	X	X	D
Grouped Dwelling	X	X	X	D	X	X
Holiday Accommodation	I	I	A	X	X	X
Holiday House	D	D	D	X	X	X
Home Business	P	P	P	D	D	X
Home Occupation	P	P	P	P	P	X
Home Office	P	P	P	P	P	X

LAND USES	ZONES					
	Priority Agriculture	Swan Valley Rural	Rural Residential	Residential	Village	Enterprise
Home Store	D	D	D	X	D	X
Hotel	X	X	X	X	X	X
Independent Living Complex	X	X	X	X	A	X
Industry - Extractive	X	X	X	X	X	X
Industry - General	X	X	X	X	X	A
Industry - Light	X	X	X	X	X	P
Industry - Primary Production	D	D	X	X	X	D
Liquor Store - Large	X	X	X	X	X	X
Liquor Store - Small	X	X	X	X	A	X
Market	I	A	X	X	A	X
Medical Centre	X	X	X	X	D	X
Mining Operations	X	X	X	X	X	X
Motel	X	X	X	X	X	X
Motor Vehicle, Boat or Caravan Sales	X	X	X	X	X	X
Motor Vehicle Repair	X	X	X	X	X	D
Motor Vehicle Wash	X	X	X	X	X	D
Multiple Dwelling	X	X	X	X	A	X
Night Club	X	X	X	X	X	X
Office	X	X	X	X	D	I
Park Home Park	X	X	X	X	X	X
Place of Worship	X	X	X	X	A	X
Private Hospital	X	X	X	X	X	X
Reception Centre	I	I	X	X	X	X
Recreation - Private	I	A	A	X	A	X
Rehabilitation Centre	X	X	X	X	X	X
Resource Recovery Centre	X	X	X	X	X	X
Restaurant	I	A	X	X	X	X
Restricted Premises	X	X	X	X	X	X
Residential Aged Care Facility	X	X	X	X	A	X
Roadhouse	X	X	X	X	X	X
Rural Home Business	P	P	D	X	X	X
Rural Pursuit/Hobby Farm	P	P	D	X	X	X
Service Station	X	X	X	X	X	X
Serviced Apartment	X	X	X	X	X	X
Shop	X	X	X	X	A	X
Single Bedroom Dwelling	X	X	X	A	D	X
Single House	P	P	P	P	D	X
Small Bar	X	X	X	X	A	X
Storage Yard	X	X	X	X	X	A
Takeaway Outlet	X	X	X	X	D	D
Tavern	I	A	X	X	X	X
Telecommunications Infrastructure	D	D	D	A	A	D
Tourist Resort	X	X	X	X	X	X
Trade Display	X	X	X	X	X	D
Trade Supplies	X	X	X	X	X	D



LAND USES	ZONES					
	Priority Agriculture	Swan Valley Rural	Rural Residential	Residential	Village	Enterprise
Transport Depot	X	X	X	X	X	A
Tree Farm	X	D	X	X	X	X
Vehicle Wrecking	X	X	X	X	X	X
Veterinary Centre	X	A	X	X	D	D
Warehouse/Storage	X	X	X	X	X	D
Waste Disposal Facility	X	X	X	X	X	X
Waste Storage Facility	X	X	X	X	X	X
Wayside Stall	P	P	D	X	D	X
Wind Farm	X	X	X	X	X	X
Winery	P	P	A	X	X	X
Workforce Accommodation	X	X	X	X	X	X

### 23. Interpretation of the land use permissibility table

- 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 table and the list of zones at the top of the table.
- The symbols used in the land use permissibility table have the following meanings -
  - P means 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 60;
  - X means that the use is not permitted by this Scheme.

- Note:*
- 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 one application is made for both the carrying out of works on, and the use of, land. For development on land that does not require development approval see clause 55.*
  - In considering an application for development approval, the Commission will have regard to clause 56.*

3. A specific use class referred to in the land use permissibility 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 referred to in the land use permissibility table and that cannot reasonably be determined as falling within a use class referred to in the land use permissibility 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 zone and give notice under clause 60 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 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 a use of land is identified in a zone as being a class X use, the Commission must refuse an application for development approval for that use in that zone unless -
  - a. the development approval application relates to land that is being used for a non-conforming use;
  - b. the Commission considers that the proposed use of the land would be less detrimental than the non-conforming use.
7. If the land use permissibility 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 structure plan that applies to the land.

**24. Additional uses**

1. The Table set out in Schedule 2 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.
2. Despite anything contained in the zoning table, land that is specified in Schedule 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.

**25. Restricted uses**

1. The Table set out in Schedule 3 sets out -
  - a. restricted classes of use for specified land that apply instead of the classes of use that are permissible in the zone in which the land is located; and
  - b. the conditions that apply to that restricted use.

2. Despite anything contained in the zoning table, land that is specified in Schedule 2 may be used only for the restricted class of use set out in respect of that land subject to the conditions that apply to that use.

**26. Special use zones**

1. The Table set out in Schedule 4 sets out -
  - a. special use zones for specified land that are in addition to the zones in the zoning table; and
  - b. the classes of special use that are permissible in that zone; and
  - c. the conditions that apply in respect of the special uses.
2. A person must not use any land, or any structure or buildings on land, in a special use zone except for a class of use that is permissible in that zone and subject to the conditions that apply to that use.

**27. 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.

**28. 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 60.
- 3. The Commission may only grant development approval for a change of use of land referred to in subclause 1d. 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 purpose of the zone in which the land is situated.

**29. 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; and
  - b. a description of any building on the land; and
  - c. a description of the non-conforming use; and
  - 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 5 - DEVELOPMENT REQUIREMENTS**

### **30. R-Codes**

1. The R-Codes, modified as set out in clause 31, are to be read as part of this Scheme.
2. The Commission -
  - a. must make a copy of the R-Codes available for public inspection during business hours at the offices of the Commission; and
  - b. may publish a copy of the R-Codes on the website of the Commission.
3. The coding of land for the purposes of the R-Codes is shown by the coding number superimposed on a particular area contained within the boundaries of the area shown on the Scheme Map.
4. The R-Codes apply to an area if the area has a coding number superimposed on it in accordance with subclause 3.

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

There are no modifications to the R-Codes.

### **32. State Planning Policy 3.6 to be read as part of Scheme**

1. State Planning Policy 3.6 - Development Contributions for Infrastructure, modified as set out in clause 33, is to be read as part of this Scheme.
2. The Commission -
  - a. must make a copy of State Planning Policy 3.6 available for public inspection during business hours at the offices of the Commission; and
  - b. may publish a copy of State Planning Policy 3.6 on the website of the Commission.

### **33. Modification of State Planning Policy 3.6**

There are no modifications to State Planning Policy 3.6.

### **34. Other State planning policies to be read as part of Scheme**

There are no other State planning policies that are to be read as part of the Scheme.

### **35. Modification of State planning policies**

There are no modifications to a State planning policy that, under clause 34 are to be read as part of the Scheme.

### **36. Environmental conditions**

There are no environmental conditions imposed under the *Environmental Protection Act 1986* that apply to this Scheme.

**37. Additional site and development requirements**

*AMD 2 GG 24/03/2023*

1. Schedule 5 sets out requirements relating subdivision and development that are additional to those set out in planning codes and planning policies.
2. To the extent that a requirement referred to in subclause 1 is inconsistent with a requirement in a planning code or planning policy, the requirement referred to in subclause 1 prevails.

**38. Additional site and development requirements for areas covered by structure plans**

Schedule 6 sets out additional site and development requirements for areas covered by structure plans.

**39. Variations to site and development requirements for applications for development approval**

*AMD 2 GG 24/03/2023*

1. In this clause -  
  
additional site and development requirements means requirements set out in clauses 37 and 38.
2. The Commission may approve an application for a development approval that does not comply with an additional site and development requirement.
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 60; 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 referred to in clause 63; and
  - b. 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.

**39A. Variations to site and development requirements for applications for subdivision approval**

AMD 2 GG 24/03/2023

1. In this clause -  
additional site and development requirements means requirements set out in clauses 37 and 38.
2. The Commission may approve an application for a subdivision approval that does not comply with an additional site and development requirement.
3. Subclause 2 does not apply to minimum lot size requirements, which must not be varied.
4. An approval under subclause 1 may be unconditional or subject to any conditions the Commission considers appropriate.
5. The Commission may only approve an application for subdivision approval under this clause if the Commission is satisfied that -
  - a. approval of the proposed subdivision would be appropriate having regard to the following matters;
    - i. the aims of the Scheme and applicable zone objectives;
    - ii. whether the proposed subdivision will have a significant adverse effect on the rural character of the Swan Valley;
    - iii. whether enforcement of the additional site and development requirement would be contrary to the public interest;
    - iv. whether the proposed subdivision will facilitate the protection and conservation of a heritage building or place listed in the State Register of Heritage Places, the Aboriginal Sites Register or a Heritage List operating pursuant to clause 42;
    - v. whether the proposed subdivision will facilitate the conservation of significant environmental values;
    - vi. whether the proposed subdivision will facilitate the delivery of public infrastructure;
    - vii. whether the proposed lots are capable of accommodating development that satisfies the requirements of this Scheme and related policies;and
  - b) 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.'

**40. 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 60.



## **PART 6 - SPECIAL CONTROL AREAS**

### **41. Special control areas**

1. Special control areas are marked on the Scheme Map according to the legend on the Scheme Map and include:
  - a. Perth Airport Special Control Area; and
  - b. Flood Prone Special Control Area; and
2. The purpose, objectives and additional provisions that apply to each special control area is set out in Schedule 7.

## **PART 7 - HERITAGE PROTECTION**

### **42. Heritage Protection**

1. All provisions relating to heritage protection are as per Schedule 2 - Deemed Provisions for local planning schemes of the *Planning and Development (Local Planning Scheme) Regulations 2015*.
2. Where a heritage list is not prepared under this Scheme, the City of Swan Local Government Inventory and/or Heritage List (whichever is most current) is the relevant heritage list for the purpose of clause 8, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Scheme) Regulations 2015*.

## **PART 8 - STRUCTURE PLANS**

### **43. When a structure plan may be prepared**

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

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

### **44. 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 the topography of the area; and
    - ii. the planning context for the area covered by the plan and the neighbourhood and region within which the area is located; any major land uses, zoning or reserves proposed by the plan; and
    - iii. 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; and
    - iv. the population impacts that are expected to result from the implementation of the plan; and
    - v. the extent to which the plan provides for the coordination of key transport and other infrastructure; and
    - vi. the proposed staging of the subdivision or development covered by the plan; and
    - vii. any other information required within this Scheme.
- 2. The Commission may prepare a structure plan in the circumstances set out in clause 43.
- 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 43 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 3a.

**45. Action by Commission of 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 44; 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 to be 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 the applicant pays the fee.

**46. Advertising structure plan**

1. The Commission must, within 28 days of preparing a structure plan or accepting an application for a structure plan to be assessed and advertised -
  - a. advertise the proposed structure plan in accordance with subclause 2; and
  - b. seek comments in relation to the proposed structure plan from any local government, public authority or utility service provider that the Commission considers appropriate.
2. The Commission must advertise the structure plan in one or more of the following ways -
  - a. by giving notice of the proposed structure plan to owners and occupiers who, in the opinion of the Commission, are likely to be affected by the approval of the structure plan, including a statement that submissions may be made to the Commission by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is given to the person;
  - b. by publishing a notice of the proposed structure plan in a newspaper circulating in the Scheme area including a statement that submissions may be made to the Commission by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;
  - c. by publishing a notice of the proposed structure plan on the Commission's website including a statement that submissions may be made to the Commission by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;

- d. by erecting a sign or signs in a conspicuous place on the land the subject of the proposed structure plan giving notice of the proposed plan for a period of not less than 14 days and not more than 28 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the Commission by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the sign is erected.
3. The Commission –
  - a. must make a structure plan advertised under subclause 2 and the material accompanying it available for public inspection during business hours at the offices of the local government and Commission; and
  - b. may publish the structure plan and the material accompanying it on the website of the Commission.

#### **47. 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; and
  - 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 1d, the Commission must take any steps the Commission considers appropriate to advertise the proposed modification to the structure plan.

#### **48. 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 local government or 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 may not readvertise the structure plan on more than one occasion.

4. 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 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.
5. Despite subclause 4, the Commission may decide whether or not to approve a structure plan after the period applicable under subclause 4 has expired, and the validity of the decision is not affected by the expiry.
6. 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.

**49. Structure plan may provide for later approval of details of subdivision**

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 *Planning and Development Act 2005*.
2. The Commission may only approve a structure 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.

**50. 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.

**51. 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.

**52. 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 43 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.

**53. 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.

**54. 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 2, 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 9 - DEVELOPMENT OF LAND

### 55. 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) the development is of a type referred to in clause 56.

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

1. The provisions of Clause 61, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as amended from time to time, apply in respect to development for which approval is not required.
2. In the Priority Agriculture, Swan Valley Rural and Rural Residential zones, development approval by the Commission is not required for the following unless:
  - it is a heritage-protected place; or
  - approval is required by a Special Control Area;

provided it satisfies the provisions of Schedule 1 - Terms referred to in Scheme and Schedule 5 - Additional Site and Development Requirements:

- a) alterations or additions to a single house;
- b) erection or installation of, or alterations and additions to, any of the following on the same lot as a single house:
  - (i) an external fixture;
  - (ii) a patio;
  - (iii) a pergola;
  - (iv) a verandah;
  - (v) a deck;
  - (vi) a garage;
  - (vii) a carport;
  - (viii) shade sails;
  - (ix) a domestic swimming pool/spa;
  - (x) internal building alterations;
  - (xi) repairs and routine maintenance to an existing building;
  - (xii) retaining wall with a maximum height of 1 m above natural ground level that is not located in a flood prone area or located within any applicable setback area;
  - (xiii) water storage tank;
  - (xiv) horse shelter; or
  - (xv) rural structure.
- c) the following uses:
  - (i) family day care;
  - (ii) home occupation;
  - (iii) home office; or
  - (iv) rural pursuit/hobby farm (excluding Rural Residential zones)



- d) fence where it satisfies all following criteria (where relevant):
  - (i) constructed of post and wire or post and rail;
  - (ii) no higher than 1.8 m;
  - (iii) located within a 14 m visual truncation on a corner lot and is no higher than 1.2 m; and
  - (iv) located within a 3 m visual truncation to a vehicular accessway and is no higher than 1.2 m.
- e) one wayside stall per lot if –
  - (i) it has a maximum floor area of 10m<sup>2</sup>; and
  - (ii) it is situated within 20m of the front lot boundary; and
  - (iii) car parking is provided in accordance with any relevant planning policy;
- f) Where the number of livestock kept on the lot is equal to or less than the base (dry) stocking rate that applies to the land (as defined in the Agriculture Western Australia document titled “Stocking Rate Guidelines for Rural Smallholdings – Swan Coastal Plain and Darling Scarp”);
- g) parking of commercial vehicles where:
  - (i) the subject lot has a total area of 10,000m<sup>2</sup> or greater; and
  - (ii) the subject vehicle is rated a gross vehicle mass of less than or equal to 6.5 tonnes.

## **57. Bushfire risk management**

The provisions of Part 10A, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to bushfire risk management.

## **PART 10 – APPLICATIONS FOR DEVELOPMENT APPROVAL**

### **58. Form of application**

The provisions of the Clause 62, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to the form of applications.

### **59. Accompanying material**

The provisions of the Clause 63, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to accompanying material.

### **60. Advertising applications**

The provisions of the Clause 64, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to advertising applications.

### **61. Subsequent approval of development**

The provisions of the Clause 65, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to subsequent approval of development.

## **PART 11 – PROCEDURE FOR DEALING WITH APPLICATIONS FOR DEVELOPMENT APPROVAL**

### **62. Consultation with other authorities**

The provisions of the Clause 66, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to consultation with other authorities apart from the referral period in Clause 63(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015* which is reduced to 28 days.

### **63. Matters to be considered by Commission**

The provisions of the Clause 67, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to matters to be considered by the Commission.

### **64. Determination of applications**

The provisions of the Clause 68, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to the determination of applications.

### **65. Application not to be refused if development contribution plan not in place**

The provisions of the Clause 69, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to applications involving development contribution plans.

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

The provisions of the Clause 70, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to the form and date of determination.

### **67. Commencement of development under development approval**

The provisions of the Clause 71, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to the commencement of development under development approval.

### **68. Temporary development approval**

The provisions of the Clause 72, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to temporary development approval.

### **69. Scope of development approval**

The provisions of the Clause 73, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to the scope of a development approval.

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

The provisions of the Clause 74, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to approval subject to later approval of details.

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

The provisions of the Clause 75, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to timeframes for deciding applications for development approval.

**72. Review of decisions**

The provisions of the Clause 76, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to the review of decisions.

**73. Amending or cancelling development approval**

The provisions of the Clause 77, Schedule 2 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to amending or cancelling development approval.

## PART 12 - ENFORCEMENT AND ADMINISTRATION

- 74.** The provisions of Schedule 2, Part 10 – Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* apply in respect to the enforcement and administration of this Scheme.
- 75. Control of over stocking**
1. Where, in the opinion of the Commission, the keeping of livestock is causing adverse environmental, health or amenity impacts, the Commission may by written notice (giving clear reasons) require the landowner to:
    - a. take action to temporarily or permanently reduce the amount of stock kept on the land; or
    - b. remove all the stock from the land either temporarily or permanently; or
    - c. rectify the adverse impacts of the livestock keeping.
  2. For the purposes of this clause, any notice to be served on the owner of the livestock is to specify:
    - a. the livestock the subject of the notice; and
    - b. full details of the action or alternative courses of action to be taken by the owner to comply with the notice; and
    - c. the period, being not less than 60 days from the date of the Commission's determination, within which the action specified is to be completed by the owner.
  3. A person on whom notice is served under this clause may appeal under Part 14 of the *Planning and Development Act 2005* against the determination of the Commission.

## SCHEDULES

### SCHEDULE 1 – TERMS REFERRED TO IN SCHEME

#### 1. General definitions used in Scheme

1. If a word or expression used in this Scheme is listed in this clause, its meaning is as follows -

<b>advertisement</b>	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, accounting or directing, and includes:  (a) any hoarding or similar structure used, or adapted for use, for the display of advertisements; and (b) any airborne device anchored to any land or building used for the display of advertising; and (c) any vehicle or trailer or other similar object placed or located so as to serve the purpose of displaying advertising.
<b>amenity</b>	means all those factors which combine to form the character of an area and include the present and likely future amenity.
<b>building code</b>	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.
<b>building envelope</b>	means the area of land within which all buildings and effluent disposal facilities on a lot must be contained.
<b>building height</b>	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.
<b>commercial vehicle</b>	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.
<b>Commission</b>	means the Western Australian Planning Commission established by the <i>Planning and Development Act 2005</i> section 7(1) responsible for this Scheme .
<b>cultural heritage significance</b>	has the meaning given in the <i>Heritage Act 2018</i> section 5(1).
<b>development contribution plan</b>	means a development contribution plan, prepared in accordance with the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Part 7, that applies to land in the Scheme area .
<b>floor area</b>	has the meaning given in the Building Code.

<b>frontage</b>	<p>in relation to a building –</p> <p>(a) if the building is used for residential purposes, has the meaning given in the R-Codes; or</p> <p>(b) if the building is used for purposes other than residential purposes, means the road alignment at the front of a lot and, if a lot abuts 2 or more roads, the one to which the building or proposed building faces.</p>
<b>heritage list</b>	Has the meaning given in Part 3, Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .
<b>incidental use</b>	means a use of premises which is consequent on, or naturally attaching, appertaining or relating to, the predominant use.
<b>net lettable area or nla</b>	<p>means the area of all floors within the internal finished surfaces of permanent walls but does not include the following areas –</p> <p>(a) stairs, toilets, cleaner's cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;</p> <p>(b) lobbies between lifts facing other lifts serving the same floor;</p> <p>(c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;</p> <p>(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.</p>
<b>non-conforming use</b>	has the meaning given in the <i>Planning and Development Act 2005</i> section 172.
<b>outbuilding</b>	has the meaning given in the R-Codes Appendix 1, as amended from time to time.
<b>owner</b>	<p>in relation to land, means –</p> <p>(a) if the land is freehold land -</p> <ol style="list-style-type: none"> <li>i. a person whose name is registered as a proprietor of the land; and</li> <li>ii. the State, if registered as a proprietor of the land; and</li> <li>iii. a person who holds an interest as purchaser under contract to purchase an estate in fee simple in the land; and</li> <li>iv. a person who is the holder of a freehold interest in land vested in an executor or administrator under the <i>Administration Act 1903</i> section 8; and</li> </ol> <p>(b) if the land is Crown land -</p> <ol style="list-style-type: none"> <li>i. the State; and</li> <li>ii. a person who holds an interest as purchaser under a contract to purchase an estate in fee simple in the land.</li> </ol>
<b>planning code</b>	means a planning code prepared under the <i>Planning and Development Act 2005</i> Part 3A.
<b>planning policy</b>	means a planning policy prepared in accordance with Part 2 of this Scheme.
<b>predominant use</b>	means the primary use of premises to which all other uses carried out on the premises are incidental.

<b>premises</b>	means land, buildings or part of land or a building.
<b>primary street</b>	the sole or principal public road that provides access to the major entry (front door) to the dwelling
<b>retail</b>	means the sale or hire of goods or services to the public.
<b>R-Codes</b>	means the Residential Design Codes prepared by the Western Australian Planning Commission under section 26 of the <i>Planning and Development Act 2005</i> , as amended from time to time.
<b>reserve</b>	means land reserved under this Scheme for a public purpose.
<b>Scheme area</b>	means the area to which this Scheme applies.
<b>secondary street</b>	in the case of a site that has access from more than one public road, a road that is not the primary street but which intersects with or adjoins that road.
<b>short-term accommodation</b>	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.
<b>special control area</b>	means an area identified under this Scheme as an area subject to special controls set out in this Scheme.
<b>State planning policy</b>	means a State planning policy prepared under Part 3 of the <i>Planning and Development Act 2005</i> .
<b>structure plan</b>	means a plan for the coordination of future subdivision and zoning of an area of land.
<b>substantially commenced</b>	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.
<b>wall height</b>	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.
<b>Western Australian road hierarchy</b>	means the document of that name available on the website maintained by the State government department responsible for Main Roads.
<b>wholesale</b>	means the sale of goods or materials to be sold by others.



<b>works</b>	<p>in relation to land, means –</p> <ul style="list-style-type: none"> <li>(a) any demolition, erection, construction, alteration of or addition to any building or structure on the land; and</li> <li>(b) the carrying out on the land of any excavation or other works; and</li> <li>(c) in the case of a place to which a Conservation Order made under the <i>Heritage Act 2018</i> section 59 applies, any act or thing that - <ul style="list-style-type: none"> <li>i. is likely to damage the character of that place or the external appearance of any building; or</li> <li>ii. would constitute an irreversible alteration to the fabric of any building.</li> </ul> </li> </ul>
<b>zone</b>	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 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.

## 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 –

<b>abattoir</b>	means premises used commercially for the slaughtering of animals for the purposes of consumption as food products.
<b>aged or dependant persons dwelling</b>	has the meaning given in the R-Codes Appendix 1, as amended from time to time.
<b>agriculture – extensive</b>	means premises including outbuildings, rural structures and earthworks used for the raising of stock or crops, but does not include agriculture - intensive or animal husbandry - intensive.
<b>agriculture - intensive</b>	<p>means premises including outbuildings, rural structures and earthworks used for commercial production purposes associated with any of the following –</p> <ul style="list-style-type: none"> <li>(a) the production of grapes, vegetables, flowers, exotic or native plants, or fruit or nuts;</li> <li>(b) the establishment and operation of plant or fruit nurseries;</li> <li>(c) the development of land for irrigated fodder production or irrigated pasture (including turf farms).</li> </ul>
<b>aquaculture</b>	has the meaning given in the <i>Aquatic Resources Management Act 2016</i> .

<b>amusement centre</b>	means premises that are –  (a) open to the public; and (b) used predominantly for the playing and viewing of snooker, bowling, electronic games or any similar type of amusement, or to participate in or view karaoke.
<b>ancillary dwelling</b>	has the meaning given in the R-Codes Appendix 1, as amended from time to time.
<b>ancillary dwelling – rural</b>	means one self-contained dwelling with a maximum floor area of 100 m <sup>2</sup> excluding garage space, carports, verandahs and/or patios which is co-located with a single house on a rural lot.
<b>animal establishment</b>	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.
<b>animal husbandry – intensive</b>	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.
<b>art gallery</b>	means premises –  (a) that are open to the public; and (b) where artworks are displayed for viewing or sale.
<b>bed and breakfast</b>	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.
<b>betting agency</b>	means an office or totalisator agency established under the <i>Racing and Wagering Western Australia Act 2003</i> .
<b>brewery, cidery or distillery</b>	means premises the subject of a producer's licence authorising the production of beer, cider or spirits granted under the <i>Liquor Control Act 1988</i> and form part of an establishment open to the public for the consumption and tasting of produced beverages.

<b>bulky goods showroom</b>	<p>means premises -</p> <p>(a) used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes -</p> <ul style="list-style-type: none"> <li>i. automotive parts and accessories;</li> <li>ii. camping, outdoor and recreation goods;</li> <li>iii. electric light fittings;</li> <li>iv. animal supplies including equestrian and pet goods;</li> <li>v. floor and window coverings;</li> <li>vi. furniture, bedding, furnishings, fabrics, manchester and homewares;</li> <li>vii. household appliances, electrical goods and home entertainment goods;</li> <li>viii. party supplies;</li> <li>ix. office equipment and supplies;</li> <li>x. babies' and children's goods, including play equipment and accessories;</li> <li>xi. sporting, cycling, leisure, fitness goods and accessories;</li> <li>xii. swimming pools.</li> </ul> <p>or</p> <p>(b) used to sell goods and accessories by retail if -</p> <ul style="list-style-type: none"> <li>i. a large area is required for the handling, display or storage of the goods; or</li> <li>ii. vehicular access is required to the premises for the purpose of collection of purchased goods.</li> </ul>
<b>café</b>	means premises primarily used for the preparation, sale and serving of food and beverages for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the <i>Liquor Control Act 1988</i> , with a net lettable area of not more than 150 m <sup>2</sup> .
<b>camping ground</b>	means a camping ground as defined in the <i>Caravan Parks and Camping Grounds Act 1995</i> section 5(1).
<b>car park</b>	<p>means premises used primarily for parking vehicles whether open to the public or not but does not include –</p> <p>(a) any part of a public road used for parking or for a taxi rank; or</p> <p>(b) any premises in which cars are displayed for sale.</p>
<b>caravan park</b>	means a caravan park as defined in the <i>Caravan Parks and Camping Grounds Act 1995</i> section 5(1).
<b>caretaker's dwelling</b>	means a dwelling on the same site as a building, operation or plant, and occupied by a supervisor of that building, operation or plant.

<b>child care premises</b>	means premises where –  (a) an education and care service as defined in the <i>Education and Care Services National Law (Western Australia) Act 2012</i> 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 <i>Child Care Services Act 2007</i> section 4 is provided.
<b>cinema/theatre</b>	means premises where the public may view a motion picture or theatrical production.
<b>civic use</b>	means premises used by a government department, an instrumentality of the State or the local government for administrative, recreational or other purposes.
<b>club premises</b>	means premises used by a legally constituted club or association or other body of persons united by a common interest.
<b>commercial vehicle parking</b>	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.
<b>community purpose</b>	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, but does not include rehabilitation centre.
<b>consulting rooms</b>	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.
<b>convenience store</b>	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) with a net lettable area of not more than 300m <sup>2</sup> .
<b>corrective institution</b>	means premises used to hold and reform persons committed to it by a court, such as a prison or other type of detention facility.
<b>educational establishment</b>	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.
<b>equestrian facility</b>	means land and premises used for the commercial agistment, training or exercising of horses, or the training of riders, drivers, jockeys and others in the care of horses or horsemanship, and may include permanent employment of persons who are not members of the occupier's household.

<b>exhibition centre</b>	means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature including a museum.
<b>family day care</b>	means premises where a family day care service as defined in the <i>Education and Care Services National Law (Western Australia) Act 2012</i> is provided.
<b>fast food outlet</b>	means premises, including a facility for drive-through service, used for the preparation, sale and serving of food and beverages to customers in a form ready to be consumed without further preparation, primarily off the premises, but does not include a takeaway outlet.
<b>food and beverage production</b>	means premises – (a) in which food or beverages are manufactured or processed; and (b) in the opinion of the Commission, does not affect the rural amenity of the locality by the emission of noise, odours or other waste, the generation of vehicular traffic or visual intrusion; and (c) includes an area for the sale, sampling and consumption of these foods or beverages, to a maximum of 25% or 250m <sup>2</sup> net lettable area.
<b>fuel depot</b>	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.
<b>funeral parlour</b>	means premises used – (a) to prepare and store bodies for burial or cremation; (b) to conduct funeral services.
<b>garden centre</b>	means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens.
<b>grouped dwelling</b>	has the meaning given in the R-Codes Appendix 1, as amended from time to time.
<b>hazardous industry</b>	means an industry which, when in operation and when all measures proposed to minimise its impact on the locality have been employed (including measures to isolate the industry from existing or likely future development on other land in the locality), would pose a significant risk in relation to the locality, to human health, life or property, or to the biophysical environment. Examples of such industry include oil refineries and chemical plants but would generally exclude light, rural or service industries.
<b>holiday accommodation</b>	means 1 or more self-contained units designed for rural holiday purposes on a lot for short term accommodation of guests.

<b>holiday house</b>	means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast.
<b>home business</b>	<p>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 –</p> <ul style="list-style-type: none"> <li>(a) does not involve employing more than 2 people who are not members of the occupier's household; and</li> <li>(b) will not cause injury to or adversely affect the amenity of the neighbourhood; and</li> <li>(c) does not occupy an area greater than 50 m<sup>2</sup>; and</li> <li>(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</li> <li>(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</li> <li>(f) does not involve the presence, use or calling of a vehicle more than 4.5 tonnes tare weight; and</li> <li>(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.</li> </ul>
<b>home occupation</b>	<p>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 –</p> <ul style="list-style-type: none"> <li>(a) does not involve employing a person who is not a member of the occupier's household; and</li> <li>(b) will not cause injury to or adversely affect the amenity of the neighbourhood; and</li> <li>(c) does not occupy an area greater than 20 m<sup>2</sup>; and</li> <li>(d) does not involve the display on the premises of a sign with an area exceeding 0.2 m<sup>2</sup>; and</li> <li>(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</li> <li>(f) does not -</li> <li>(g) require a greater number of parking spaces than normally required for a single dwelling; or</li> <li>(h) result in an increase in traffic volume in the neighbourhood; and</li> <li>(i) does not involve the presence, use or calling of a vehicle more than 4.5 tonnes tare weight; and</li> <li>(j) does not include provision for the fuelling, repair or maintenance of motor vehicles; and</li> <li>(k) 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.</li> </ul>
<b>home office</b>	<p>means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation –</p> <ul style="list-style-type: none"> <li>(a) is solely within the dwelling; and</li> <li>(b) does not entail clients or customers travelling to and from the dwelling; and</li> <li>(c) does not involve the display of a sign on the premises; and</li> <li>(d) does not require any change to the external appearance of the dwelling.</li> </ul>

<b>home store</b>	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.
<b>horse shelter</b>	means a shelter for horses of an area less than 20 m <sup>2</sup> with no more than 6 horse shelters per 4 ha; no more than 1 horse shelter per paddock; each horse shelter should be separated from other horse shelters by a radius of at least 30m.
<b>hotel</b>	means premises with short stay accommodation, the subject of a hotel licence other than a small bar or tavern licence granted under the <i>Liquor Control Act 1988</i> including any betting agency on the premises.
<b>independent living complex</b>	means a development with self-contained, independent dwellings for aged or dependent persons together with communal amenities and facilities for residents and staff that are incidental and ancillary to the provision of such accommodation, but does not include a development which includes these features as a component of a residential aged care facility.
<b>industry - extractive</b>	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.
<b>industry - general</b>	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. excluding hazardous and noxious industries including concrete batching plant, and bitumen material manufacturing uses.
<b>industry - light</b>	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.
<b>industry - primary production</b>	means premises used to carry out primary production business, including - (a) cultivating or propagating plants, fungi or their products or parts (including seeds, spores, bulbs and similar things) in any physical environment; (b) manufacturing dairy produce from raw material; or (c) a workshop servicing plant or equipment used in primary production businesses.

<b>liquor store - large</b>	means premises the subject of a liquor store licence granted under the <i>Liquor Control Act 1988</i> with a net lettable area of more than 300 m <sup>2</sup> .
<b>liquor store - small</b>	means premises the subject of a liquor store licence granted under the <i>Liquor Control Act 1988</i> with a net lettable area of not more than 300 m <sup>2</sup> .
<b>market</b>	means premises used for the display and sale of goods from stalls by independent vendors.
<b>medical centre</b>	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.
<b>mining operations</b>	means premises where mining operations, as that term is defined in the <i>Mining Act 1978</i> section 8(1), is carried out.
<b>motel</b>	means premises, which may be licensed under the <i>Liquor Control Act 1988</i> - (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.
<b>motor vehicle, boat or caravan sales</b>	means premises used to sell or hire motor vehicles, boats or caravans.
<b>motor vehicle repair</b>	means premises used for or in connection with - (a) electrical and mechanical repairs, or overhauls, to vehicles other than panel beating, spray painting or chassis reshaping of vehicles; or (b) repairs to tyres other than recapping or retreading of tyres.
<b>motor vehicle wash</b>	means premises primarily used to wash motor vehicles.
<b>motor vehicle wrecking</b>	means premises used for the storage, breaking up or dismantling of motor vehicles and includes the sale of second-hand motor vehicle accessories and spare parts.
<b>multiple dwelling</b>	has the meaning given in the R-Codes Appendix 1, as amended from time to time.
<b>nightclub</b>	means premises the subject of a nightclub licence granted under the <i>Liquor Control Act 1988</i> .
<b>noxious industry</b>	means any industry which causes premises to be defined as "Prescribed Premises" or "Premises Subject to Registration" under the <i>Environment Protection Act 1986</i> .
<b>office</b>	means premises used for administration, clerical, technical, professional or similar business activities.
<b>park home park</b>	means a park home park as defined in the <i>Caravan Parks and Camping Grounds Regulations 1997</i> Schedule 8.
<b>place of worship</b>	means premises used for religious activities such as a chapel, church, mosque, synagogue or temple.



<b>private hospital</b>	means a private hospital as defined in the <i>Private Hospitals and Health Services Act 1927</i> section 2(1) but does not include a nursing home.
<b>private recreation</b>	means premises that are - (a) used for indoor or outdoor leisure, recreation or sport; and (b) not usually open to the public without charge.
<b>Produce store</b> <i>Amd 4 GG 6/10/23</i>	means any land or building wherein fodders, fertilizers, local fruit/vegetables or grains are displayed and offered for sale.
<b>resource recovery centre</b>	means premises other than a waste disposal facility used for the recovery of resources from waste.
<b>reception centre</b>	means premises used for hosted functions on formal or ceremonial occasions.
<b>rehabilitation centre</b>	means premises used or designed wholly or principally for a rehabilitation centre or home for alcoholics and drug addicts or other persons requiring treatment as provided by such a centre.
<b>residential aged care facility</b>	means a residential facility providing personal and/or nursing care primarily to people who are frail and aged or dependent persons which, as well as accommodation, includes: (a) appropriate staffing to meet the nursing and personal care needs of residents (b) meals and cleaning services (c) furnishings, furniture and equipment. This may consist of multiple components that include communal amenities and facilities for residents and staff that are incidental and ancillary to the provision of such accommodation, residential respite (short-term) care, and/or an independent living complex, but does not include a hospital, rehabilitation or psychiatric facility
<b>restaurant</b>	means premises primarily used for the preparation, sale and serving of food and beverages for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the <i>Liquor Control Act 1988</i> , with a net lettable area of more than 150 m <sup>2</sup> .
<b>restricted premises</b>	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 <i>Classification (Publications, Films and Computer Games) Act 1995</i> (Commonwealth); and (b) materials, compounds, preparations or articles which are used or intended to be used primarily in or in connection with any form of sexual behaviour or activity; or (c) smoking-related implements.

<b>road house</b>	<p>means premises that have direct access to a State road other than a freeway and may provide any of the following facilities or services -</p> <ul style="list-style-type: none"> <li>(a) service station facilities;</li> <li>(b) restaurant, cafe or fast food services;</li> <li>(c) take-away food retailing;</li> <li>(d) public ablution facilities;</li> <li>(e) parking for passenger and freight vehicles;</li> <li>(f) outdoor rest stop facilities such as picnic tables and shade areas;</li> <li>(g) a full range of automotive repair services;</li> <li>(h) transport depot facilities;</li> <li>(i) short-term accommodation for guests;</li> <li>(j) facilities for being a muster point in response to accidents, natural disasters and other emergencies.</li> </ul>
<b>rural home business</b>	<p>means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a rural business, service or profession if the carrying out of the business, service or occupation -</p> <ul style="list-style-type: none"> <li>i. does not involve employing more than 2 people who are not members of the occupier's household; and</li> <li>ii. will not cause injury to or adversely affect the amenity of the neighbourhood; and</li> <li>iii. does not occupy an area greater than 200 m<sup>2</sup>; and</li> <li>iv. 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</li> <li>v. does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and</li> <li>vi. does not involve the presence, use or calling of more than 3 vehicles at any one time or of a vehicle more than 30 tonnes gross weight.</li> </ul>
<b>rural pursuit/hobby farm</b>	<p>means any premises, other than premises used for agriculture (extensive or 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 -</p> <ul style="list-style-type: none"> <li>(a) the rearing, agistment, stabling or training of animals;</li> <li>(b) the keeping of bees;</li> <li>(c) the sale of produce grown solely on the premises.</li> </ul>
<b>rural structure</b>	<p>means part or whole of a roofed structure not enclosed by walls on all sides used for the storage of farm machinery, equipment or agricultural produce related to the rural use of the land.</p>
<b>serviced apartment</b>	<p>means a group of units or apartments providing -</p> <ul style="list-style-type: none"> <li>(a) self-contained short-stay accommodation for guests; and</li> <li>(b) any associated reception or recreational facilities.</li> </ul>
<b>service station</b>	<p>means premises that are used for -</p> <ul style="list-style-type: none"> <li>(a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; or</li> <li>(b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles.</li> </ul>

<b>shop</b>	means premises, other than a bulky goods showroom or a liquor store (small or large), used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.
<b>single house</b>	has the meaning given in the R-Codes Appendix 1, as amended from time to time.
<b>small bar</b>	means premises the subject of a small bar licence granted under the <i>Liquor Control Act 1988</i> , with a net lettable area of not more than 120 m <sup>2</sup> .
<b>storage yard</b>	means premises used for the storage of goods, equipment, plant or materials.
<b>takeaway outlet</b>	means premises without a facility for drive-through service, used for the preparation and sale of food in a form ready to be consumed without further preparation, primarily off the premises, with a net lettable area of not more than 100 m <sup>2</sup> .
<b>tavern</b>	means premises, without accommodation (short or long-term), that is the subject of a tavern licence granted under the <i>Liquor Control Act 1988</i> authorising the sale and supply of liquor for consumption on the premises, with a net lettable area of not more than 200 m <sup>2</sup> .
<b>telecommunications infrastructure</b>	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.
<b>tourist resort</b>	means a building, or 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.
<b>trade display</b>	means premises used for the display of trade goods and equipment for the purpose of advertisement.
<b>trade supplies</b>	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 any of 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.

<b>transport depot</b>	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.
<b>tree farm</b>	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 <i>Carbon Rights Act 2003</i> section 5 excluding blue gum and pine crops.
<b>veterinary centre</b>	means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders.
<b>warehouse</b>	means premises including indoor or outdoor facilities used for (a) the storage of goods, equipment, plant or materials; or (b) the display or the sale by wholesale of goods.
<b>waste disposal facility</b>	means premises used - (a) for the disposal of waste by landfill; or (b) the incineration of hazardous, clinical or biomedical waste.
<b>waste storage facility</b>	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.
<b>wayside stall</b>	means a stand, vehicle or other temporary structure located on private land which offers for sale to the general public produce or commodity grown and produced on the land.
<b>wind farm</b>	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.
<b>winery</b>	means premises used for the production of viticultural produce and associated sale of wine produced and grown onsite.
<b>workforce accommodation</b>	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.

**SCHEDULE 2 - ADDITIONAL USES**

No.	Description of land	Additional use	Conditions
1	Lot 7 on D55984 (No. 5691) West Swan Road (cnr Harrow Street), West Swan	'P' - Auction Mart	<ol style="list-style-type: none"> <li>1. The auctioneering and storage of items associated with the Auction Mart is to be confined within the 360m<sup>2</sup> shed identified on the approved plan.</li> <li>2. No more than 12 auctions are to be carried out within any twelve month period.</li> <li>3. All car parking associated with the activity is to be contained on site.</li> <li>4. The additional use is limited to the period of the ownership of Lot 7 West Swan Road by the owner registered on the Certificate of Title as of July 5, 1994.</li> </ol>
2	Lot 131 on P3598 (No. 255) Lefroy Avenue, Herne Hill	'P' - Cattery	<ol style="list-style-type: none"> <li>1. The maximum number of felines to be accommodated within the cattery at any one time is twenty (20).</li> <li>2. The cattery be setback a minimum of twenty (20) metres from the southern side boundary.</li> <li>3. The cattery shall not include the sale or breeding of cats.</li> <li>4. At the time a development application is lodged, the proposal will be assessed in accordance with the relevant scheme provisions and issues such as effluent disposal, odour and noise will need to be addressed to the satisfaction of Commission.</li> </ol>
3	Lot 1 on P2962 (No. 950) West Swan Road (cnr Hamersley Road), Caversham	'P' - Light Industry (Timber Craft Work - Manufacture, Restoration, Display and Sales)	<p>Limited to three buildings:</p> <p>- open workshop, display room, work shed which are 110m<sup>2</sup>, 50m<sup>2</sup> and 37m<sup>2</sup> respectively, and a car parking area serving these buildings.</p>
4	Western portion only of Lot 18 on D75099 (No. 510) Great Northern Highway, Middle Swan	'P' - Wooden Furniture Making	Restricted to an area of 990m <sup>2</sup> .

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No.	Description of land	Additional use	Conditions
5	Lot 25 on D74305 (No. 1084) Great Northern Highway (cnr Haddrill Road), Baskerville	<p>'P' - Local Shop being limited to:</p> <ul style="list-style-type: none"> <li>i. General Store</li> <li>ii. Newsagency</li> <li>iii. Hardware</li> <li>iv. Liquor Store</li> <li>v. Butcher</li> </ul> <p>'D' - Produce Store;</p> <ul style="list-style-type: none"> <li>- Office;</li> <li>- Fuel Sales</li> </ul> <p>'A' - Bulk Fuel Supplies</p>	<ul style="list-style-type: none"> <li>1. Limited to the following approximate retail floor areas: <ul style="list-style-type: none"> <li>i. General Store and Liquor Store (475m<sup>2</sup>)</li> <li>ii. Newsagency and Butcher (75m<sup>2</sup> each)</li> <li>iii. Offices (100m<sup>2</sup> each).</li> </ul> </li> <li>2. The total floor space for all retail (excluding office and produce store) uses on the site is to be limited to 625m<sup>2</sup> GLA.</li> <li>3. A maximum of five (5) fuel pumps are permitted on the site.</li> </ul>
6	Part of Lot 5 on D13130 (No. 754) Great Northern Highway, Herne Hill	'D' - Oenological and Viticultural Equipment and Products Showroom	<ul style="list-style-type: none"> <li>1. The additional use may only be established within the existing building.</li> <li>2. External display of items for sale is not permitted.</li> <li>3. If the existing building is removed the additional use must cease.</li> <li>4. Notwithstanding point 3. above Commission may consider approving the additional use within a new building subject to it being restricted to 219m<sup>2</sup> in total floor area and if it is considered compatible with the objectives of the Swan Valley Planning Act.</li> <li>5. Notwithstanding point 3. above, Commission when considering a development for a new building shall not support: <ul style="list-style-type: none"> <li>• an encroachment into the Primary Regional Road reservation under the Metropolitan Region Scheme;</li> <li>• more than one driveway onto Great Northern Highway;</li> <li>• street or verge parking;</li> <li>• earthworks or stormwater drainage being discharged on to the Great Northern Highway.</li> </ul> </li> </ul>
7	Lot 3 on D47901 (No. 777) Great Northern Highway, Herne Hill	<p>'D' - Local Shop;</p> <ul style="list-style-type: none"> <li>- Fuel Sales;</li> <li>- Lunch Bar;</li> <li>- Shop and being limited to:</li> </ul>	<ul style="list-style-type: none"> <li>1. The total floor space for all uses on the site is limited to 350 square metres Gross Leasable Area (GLA).</li> <li>2. A maximum of two (2) fuel pumps are permitted on site.</li> </ul>

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No.	Description of land	Additional use	Conditions
		i. Cafe; ii. Arts and Crafts Shop; and/or iii. Tourist Information - Service Office.	3. The display and sale of Arts, Crafts and Tourism Information is to predominantly relate to and/or be produced in the Swan Valley to the satisfaction of Commission.  4. The design and siting of buildings, landscaping and signage is to be in keeping with the traditional rural character of the Swan Valley to the satisfaction of Commission.
8	Lots 71 and 72 on P22111 (No. 1239 and 1235) Great Northern Highway, Upper Swan	'D' - Equestrian Facility	
9	Lot 14 on D77199 (No. 6639) West Swan Road, West Swan	'P' - Convenience Store	
10	Lot 1 on D70533 (No. 2131) West Swan Road, Caversham	'P' - Service Station	
11	Eastern portion only of Lot 634 (No. 733) Great Northern Highway, Herne Hill	'A' - Motor Vehicle Repair	1. Any workshop/shed used for the purpose of 'Motor Vehicle Repair' shall not exceed 4.7m in height and 26.5m in length.  2. A Landscaping Plan shall be required to be prepared and implemented, to effect screening of any workshop/shed as viewed from the abutting lots to the north, to the satisfaction of Commission.  3. Any acoustic report from a suitably qualified and experienced consultant is to be provided, to demonstrate that the proposed 'Motor Vehicle Repair' workshop/shed is capable of complying with the Environmental Protection (Noise) Regulations 1997, to the satisfaction of Commission.
12	Lot 280 (No. 543) Campersic Road, Millendon	'P' - Farm Supply Centre	1. The Shop being limited to a Farm Supply Centre meaning land or buildings used for the handling, processing, packing, storage and/or sale of any rural products by retail and includes incidental administration. Rural products include stockfeed (hay bales, rolls, chaff or packaged feed), vitamins, minerals, supplements, horse tack (horseshoes, hoof oil etc.) or other rural supplies (stable sawdust, hay nets etc.).

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No.	Description of land	Additional use	Conditions
			<p>2. The maximum Gross Leasable Area (GLA) used for small item display, office and sale of rural products being limited to 100m<sup>2</sup>.</p> <p>3. Storage and pallet shelving of bulky items and packing/ processing area limited to 350m<sup>2</sup> GLA.</p> <p>4. The 'Shop - Farm Supply Centre' being accommodated within a building that is sympathetic to the Swan Valley, to the satisfaction of Commission.</p> <p>5. No development or commencement of use shall be permitted on the site until a planning approval has been obtained from Commission.</p>
13	Lot 115 (No. 381) Great Northern Highway, Middle Swan (Swan Christian College)	'D' – Educational Establishment	
14	Lot 211 (No. 2931) West Swan Road, Caversham	'D' – Food and Beverage Production	<p>1. Incidental to existing restaurant use.</p> <p>2. Building envelope of 800m<sup>2</sup> or less, located west of existing restaurant and north of existing dwelling.</p> <p>3. Development to be designed and constructed to be sympathetic to Swan Valley rural character.</p> <p>4. Development to be landscaped to screen from West Swan Road.</p>
A15	<p>Lot 210 (No. 3003) West Swan Road, Caversham</p> <p>AMD 4 GG 6/10/23</p>	<p>Either:</p> <p>'D' – Café</p> <p>or</p> <p>'D' – Produce Store</p> <p>(not both)</p>	<p>1. Retail floor area for either use is limited to 150m<sup>2</sup> NLA.</p> <p>2. Landscape, drainage and access management plans to be prepared and submitted with any development application and shall be implemented for the life or the approval.</p>



**SCHEDULE 3 - RESTRICTED USES**

<b>No.</b>	<b>Description of land</b>	<b>Restricted use</b>	<b>Conditions</b>
1	Lot 4 on D48761 (No. 6581) West Swan Road, West Swan	Caravan Park	
2	Lot 50 on D98581 (No. 87) Benara Road, Caversham	Caravan Park	
3	Part Lot 3 Campersic Road, Herne Hill	Cement and Concrete Product Manufacture	
4	Lot 295 (No. 1) Hardwick Road, Millendon	Poultry Farm	
5	Lot 99 (No. 44) Park Street, Henley Brook	Poultry Farm	
6	Lot 167 (No. 217) Padbury Avenue, Millendon	Poultry Farm	
7	Lot 32 (No. 171) Oakover Road, Herne Hill	Poultry Farm	

**SCHEDULE 4 - SPECIAL USE ZONES**

No.	Description of land	Special use	Conditions
1	Lots 2983-2987 Harper Street, Caversham	'P' - Manufacture and Sale of Building Products and Associated Activities including Clay Extraction	
2	Lot 501 (No.130) Hamersley Road, Caversham  <i>AMD 3 GG 24/03/2023</i>	Art Gallery (P) Brewery, Cidery or Distillery (D) Café (D) Caretaker's Dwelling (D) Cinema / Theatre (A) Civic Use (A) Club Premises (A) Community Purpose (D) Educational Establishment (D) Exhibition Centre (D) Food and Beverage (D) Production (D) Market (A) Office (D) Reception Centre (A) Recreation – Private (A) Restaurant (A) Shop (I) Small Bar Tavern(A)	Schedule 5 subdivision requirements for the Priority Agriculture zone apply to the land, along with subdivision requirements applicable to all zones

**SCHEDULE 5 - ADDITIONAL SITE AND DEVELOPMENT REQUIREMENTS**

No.	Description of Land	Requirement
1	All zones	<p>1. Subdivision</p> <p>1.1. The subdivision of land will not be permitted unless it complies with all relevant Scheme requirements including minimum lot size for the relevant zone.</p> <p>1.2. Where a minimum lot size is required for the relevant zone, the minimum lot size requirement does not apply to the following: <i>AMD 2 GG 24/03/2023</i></p> <ul style="list-style-type: none"> <li>a. Land required for infrastructure and/or public purposes; and</li> <li>b. Land required for the protection of areas with biodiversity and conservation value; and</li> <li>c. Land required to 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 on the heritage list; and</li> <li>d. A lot that is smaller than the minimum lot size as a result of removing land referred to in points a through d above; and</li> <li>e. A succession subdivision lot.</li> </ul> <p>1.3. Each lot must have direct access to a gazetted public road, and the construction of the road may be required as a condition of subdivision.</p> <p>1.4. Each lot must be connected to essential infrastructure services including reticulated water and electricity supply.</p> <p>1.5. Each lot must be connected to reticulated sewerage or be able to accommodate on-site effluent disposal in accordance with the Government Sewerage Policy.</p> <p>1.6. Each lot must be able to accommodate bushfire protection requirements in accordance with Commission policy.</p> <p>2. Development</p> <p>2.1. No more than one dwelling/single house (excluding ancillary dwellings and caretaker's dwellings) is permitted on any lot in any zone, except in the Residential zone subject to compliance with all relevant Scheme requirements.</p> <p>2.2. All development is to minimise impacts on native vegetation and include adequate buffers from bushland, wetlands and waterways, in accordance with any relevant planning policies and State planning policies.</p>

No.	Description of Land	Requirement
1	All Zones	<p>2.3. All development is to be consistent with the rural character of the Swan Valley, in accordance with any relevant Scheme provisions and planning policies.</p> <p>2.4. All development must include landscaping, fencing, access and car parking in accordance with relevant planning policies or may be conditioned as part of development approval.</p> <p>2.5. On-site effluent disposal is to be in accordance with the Government Sewerage Policy, including any buffers to the Swan-Canning Development Control Area and special requirements for nutrient management within sewage sensitive areas.</p> <p>2.6. Transportable buildings and sea containers (unless fully enclosed within a building) are not permitted in any zone without development approval, subject to the following requirements:</p> <ul style="list-style-type: none"> <li>a. no more than two sea containers on any lot; and</li> <li>b. to be situated behind the primary street setback or the minimum setback of existing buildings on site, whichever is greater; and</li> <li>c. not to be visible from primary or secondary streets through location, design, appropriate screening with vegetation or other mechanisms; and</li> <li>d. screened so as not to be visible from adjoining side and rear properties through landscaping, decorative panels or other treatments.</li> </ul> <p>3. Keeping of Livestock</p> <p>An application for approval to commence development shall be required where within the rural zones where it is proposed to keep livestock at stocking rates or in a manner contrary to:</p> <ul style="list-style-type: none"> <li>a. the recommendations of the Department Primary Industries and Regional Development (Agriculture and Food);</li> <li>b. any local law of the City of Swan;</li> <li>c. any requirements specified in Schedule of this Scheme;</li> <li>d. any planning policy of this Scheme; or</li> <li>e. if required by any other requirement of the Scheme.</li> </ul>

No.	Description of Land	Requirement
2	Priority Agriculture zone	<p>1. Subdivision</p> <p>1.1. Subdivision is prohibited in the Priority Agriculture zone unless it is:</p> <ul style="list-style-type: none"> <li>a. An amalgamation of existing lots where an agricultural and/or land management benefit is demonstrated; or</li> <li>b. A boundary realignment between existing lots where an agricultural and/or land management benefit is demonstrated; or</li> <li>c. A subdivision necessary to acquire or set aside land for infrastructure and/or public purposes, protect areas with biodiversity and/or conservation value, or facilitate built heritage conservation of a place entered in the State Register of Heritage Places or included on the heritage list; or' <i>AMD 2 GG 24/03/2023</i></li> <li>d. A succession subdivision where all of the following criteria are satisfactorily demonstrated: <ul style="list-style-type: none"> <li>i. A subdivision application lodged within five years of the date of gazettal of this Scheme; and</li> <li>ii. The subject land must have remained in the same/current ownership since at least 18 September 1995; and</li> <li>iii. The subject land must have continually operated as a family-run grape growing business since at least 18 September 1995; and</li> <li>iv. The proposed subdivision and subsequent development must not reduce the area of land that has been historically used for grape growing on the original parent lot since 18 September 1995; and <i>AMD 2 GG 24/03/2023</i></li> <li>v. The subdivision and subsequent development must not negatively impact the Swan Valley rural landscape character; and</li> <li>vi. The proposed lots are each capable of accommodating a new or existing single dwelling that satisfies the requirements of this Scheme and related policies; and</li> <li>vii. The subdivision and subsequent development must not significantly impact native vegetation. <i>AMD 2 GG 24/03/3023</i></li> </ul> </li> </ul>

No.	Description of Land	Requirement
2	Priority Agriculture zone cont'd	<p>e. listed below and therefore shall be permissible</p> <p>i. Lot 210 (No. 3003) West Swan Road, Caversham into two lots, of no less than 1 hectare each in area. The two lots must be created into a traditional battle-axe form. Only the western most lot is permitted to accommodate a single house. No single house shall be permitted on the eastern lot – this lot shall only accommodate a café or produce store.</p> <p style="text-align: right;"><i>AMD 4 GG 6/10/23</i></p> <p>1.2. A maximum of one succession lot may be created per family-run grape growing business, including where a business operates over multiple lots.</p> <p>2. Development</p> <p>2.1. No development may occur within the Priority Agriculture zone without development approval of the Commission (unless exempted under Clause 56 of this Scheme).</p> <p>2.2. All applications for development approval must satisfactorily demonstrate how the proposed development is consistent with the aims of the Scheme, objectives of the zones, any other relevant provisions of the Scheme, planning codes and planning policies.</p> <p>2.3. All outbuildings and rural structures are to comply with the following:</p> <p>a. Floor area not to exceed 200 m<sup>2</sup> for an individual building or structure, or a total of 300 m<sup>2</sup> on the lot for non-commercial uses, hobby farms, lifestyle properties and similar uses;</p> <p>b. Floor area of outbuildings and rural structures for commercial rural uses to be at the discretion of the Commission based on satisfactory demonstration of commercial justification as part of a development application.</p> <p>c. Location, design and landscaping to be in accordance with any relevant planning policy.</p> <p>2.4. An ancillary dwelling - rural is to be located behind the single house and screened from view from primary and secondary (where applicable) streets, in accordance with any relevant planning policy.</p>

No.	Description of Land	Requirement			
2	Priority Agriculture zone cont'd	2.5. Development associated with non-rural uses such as tourism and hospitality must be located and designed so as to avoid impacts or interruption to existing or possible future use of rural land for agriculture. Adequate buffers and/or management plans may be required as conditions of approval to prevent land use conflict.			
		2.6. All development is to be in accordance with the minimum setbacks, maximum site coverage and maximum building height outlined in Table 1, unless otherwise specified in a planning policy prepared under this Scheme.			
		<b>Table 1: Minimum setbacks, maximum site coverage and maximum building height in Priority Agriculture zone</b>			
		Minimum setbacks	Lots up to and including 2000 m <sup>2</sup>	Primary street setback	7.5 m
				Secondary street setback	3 m
				Side and rear boundary setbacks	1m
			Lots greater than 2000 m <sup>2</sup>	Primary street setback	30 m
				Secondary street setback	20 m
				Side and rear boundary setbacks	15 m
		Maximum site coverage	Aggregate total building footprint	Domestic building footprint	Agricultural building footprint
		Lots up to and including 2000 m <sup>2</sup>	30% of lot area	N/A	N/A
		Lots greater than 2000 m <sup>2</sup> and less than 5000 m <sup>2</sup>	20% of lot area	N/A	N/A
		Lots of 5000 m <sup>2</sup> or greater	N/A	10% of lot area or 500 m <sup>2</sup> , whichever is the lesser	300 m <sup>2</sup> floor area OR Greater than 300 m <sup>2</sup> at the discretion of the Commission, having regard for: a) Existing and approved development on the lot; b) Impact of the proposed development on land under vines or orchards;

No.	Description of Land	Requirement			
					c) Purpose for which the proposed agricultural building is proposed; d) any other matters the Commission deems relevant.
		Maximum building height	Wall height (pitch roof above) – 6 m Wall height (roof concealed) – 7 m Roof pitch height – 9 m		
3	Swan Valley Rural Zone	<p>1. Subdivision</p> <p>1.1. In addition to subdivision requirements applicable to all zones, the subdivision of land in the Swan Valley Rural zone may only be approved if:</p> <ul style="list-style-type: none"><li>a. The proposed subdivision is for a demonstrated rural purpose; and</li><li>b. The minimum area of each proposed lot is 4 hectares; and</li><li>c. Each proposed lot can accommodate a new or existing dwelling (single house) that satisfies the requirements of this Scheme and any relevant planning policies and codes;</li><li>d. The proposed lot is not of battle-axe configuration;</li><li>e. The minimum street frontage is 100 metres; and</li><li>f. It responds to any other matter deemed relevant by the Commission.</li></ul> <p>or</p> <p>1.2. A succession subdivision where all of the following criteria are satisfactorily demonstrated:</p> <ul style="list-style-type: none"><li>i. A subdivision application lodged within five years of the date of gazettal of this Scheme; and</li><li>ii. The subject land must have remained in the same/current ownership since at least 18 September 1995; and</li><li>iii. The subject land must have continually operated as a family-run grape growing business since at least 18 September 1995; and</li><li>iv. The proposed subdivision and subsequent development must not reduce the area of land that has been historically used for grape growing on the original parent lot since 18 September 1995; and</li></ul>			

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No.	Description of Land	Requirement
3	Swan Valley Rural Zone cont'd	<p>v. The subdivision and subsequent development must not negatively impact the Swan Valley rural landscape character; and</p> <p>vi. The proposed lots are each capable of accommodating a new or existing single dwelling that satisfies the requirements of this Scheme and related policies; and</p> <p>vii. The subdivision and subsequent development must not significantly impact native vegetation.</p> <p style="text-align: right;"><i>AMD 2 GG 24/03/2023</i></p> <p>1.3 A maximum of one succession lot may be created per family-run grape growing business, including where a business operates over multiple lots.</p> <p>2. Development</p> <p>2.1. All applications for development approval must satisfactorily demonstrate how the proposed development is consistent with the aims of the Scheme, objectives of the zones, any other relevant provisions of the Scheme, planning codes and planning policies.</p> <p>2.2. All outbuildings and rural structures are to comply with the following:</p> <p>a. Floor area not to exceed 200 m<sup>2</sup> for an individual building or structure, or a total of 300 m<sup>2</sup> on the lot for non-commercial uses, hobby farms, lifestyle properties and similar uses;</p> <p>b. Floor area of outbuildings and rural structures for commercial rural uses to be at the discretion of the Commission based on satisfactory demonstration of commercial justification as part of a development applications; and</p> <p>c. Location, design and landscaping to be in accordance with any relevant planning policy.</p> <p>2.3. An ancillary dwelling - rural is to be located behind the single house and screened from view from primary and secondary (where applicable) streets, in accordance with any relevant planning policy.</p> <p>2.4. Development associated with non-rural uses such as tourism and hospitality must be located and designed so as to avoid impacts or interruption to existing or possible future use of rural land for agriculture. Adequate buffers and/or management plans may be required as conditions of approval to prevent land use conflict.</p> <p>2.5. All development is to be in accordance with the minimum setbacks, maximum site coverage and maximum building height outlined in Table 2, unless otherwise specified in a planning policy prepared under this Scheme.</p>

No.	Description of Land	Requirement			
3	Swan Valley Rural Zone cont'd	<b>Table 2: Minimum setbacks, maximum site coverage and maximum building height in Swan Valley Rural zone</b>			
		Minimum setbacks	Lots up to and including 1500 m <sup>2</sup>	Primary street setback	7.5 m
				Secondary street setback	3 m
				Side and rear boundary setbacks -	1 m
			Lots greater than 1500 m <sup>2</sup>	Primary street setback	30 m
				Secondary street setback	20 m
				Side and rear boundary setbacks	15 m
		Maximum site coverage	Aggregate total building footprint	Domestic building footprint	Agricultural building footprint
		Lots up to and including 2000 m <sup>2</sup>	30% of lot area	N/A	N/A
		Lots greater than 2000 m <sup>2</sup> and less than 5000 m <sup>2</sup>	20% of lot area	N/A	N/A
		Lots of 5000 m <sup>2</sup> or greater	N/A	10% of lot area or 500 m <sup>2</sup> , whichever is the lesser	300 m <sup>2</sup> floor area  OR  Greater than 300 m <sup>2</sup> at the discretion of the Commission, having regard for: a) Existing and approved development on the lot; b) Impact of the proposed development on land under vines or orchards; c) Purpose for which the proposed agricultural building is proposed; d) any other matters the Commission deems relevant.
		Maximum building height	Wall height (pitch roof above) – 6 m Wall height (roof concealed) – 7 m Roof pitch height – 9 m		

No.	Description of Land	Requirement			
4	Rural Residential Zone (refer to annotations on Scheme map for boundaries of Rural Residential areas RRA to RRE)	1. Subdivision 1.1 Subdivision may only occur where consistent with the provisions for each Rural Residential area (RRA to RRE).			
		2. Development 2.1 Development in Rural Residential areas RRB and RRE is to be in accordance with the minimum setbacks, maximum site coverage and maximum building height in Table 3.			
		2.2 All outbuildings and rural structures are to be located behind the single house and are to be screened from view from primary and secondary (where applicable) streets.			
		2.3 All development must comply with any relevant policy prepared under Part 2 of this Scheme.			
		<b>Table 3: Minimum setbacks, maximum site coverage and maximum building height in Rural Residential zone (RR-B and RRE)</b>			
		Minimum setbacks	Lots up to and including 4000m <sup>2</sup>	Primary street setback - 15 m Secondary street setback - 7.5 m Side and rear boundary setbacks - 7.5 m	
			Lots greater than 4,000m <sup>2</sup>	Primary street setback - 20 m Secondary street setback - 10 m Side and rear boundary setbacks - 10 m	
		Maximum site coverage	Lots up to and including 4000 m <sup>2</sup>	10% of lot area	
			Lots greater than 4000 m <sup>2</sup>	5% of lot area	
Maximum building height	Wall height (pitch roof above) - 6 m Wall height (roof concealed) - 7 m Roof pitch height - 9 m				
<b>RRA: Belhus</b>					
		1. Subdivision 1.1 The minimum lot size in RRA is 2 hectares.			

No.	Description of Land	Requirement	
4	Rural Residential Zone (refer to annotations on Scheme map for boundaries of Rural Residential areas RRA to RRE) cont'd	2. Development	
		2.1 All development in RRA is to be in accordance with the minimum setbacks, maximum site coverage and maximum building height in Table 4.	
		<b>Table 4: Minimum setbacks, maximum site coverage and maximum building height in Rural Residential zone (RRA)</b>	
		Minimum setbacks	Primary and secondary street setbacks - 30 m or consistent with adjacent lot dwelling setbacks or the average of the locality (whichever is the greatest) Side and rear boundary setbacks – 10 m
		Maximum site coverage	5% of lot area
		Maximum building height	Wall height (roof above) – 6 metres Wall height (roof concealed) – 7 metres Roof pitch height – 9 metres
		<b>RRB: Henley Brook</b>  1. Subdivision 1.1 The minimum lot size in RRB is 2 hectares.  2. Development  2.1 All development in RRB to be consistent with Table 4 above.	
		<b>RRC: Dayton East</b>  1. The minimum lot size in RRC is 1 hectare.  2. Development is to comply with the deemed to comply provisions of the R-Codes and the R2 density coding.	

No.	Description of Land	Requirement
4	Rural Residential Zone (refer to annotations on Scheme map for boundaries of Rural Residential areas RRA to RRE) cont'd	<b>RRD: West Swan</b> <ol style="list-style-type: none"> <li>The minimum lot size in RRD is 4000 m<sup>2</sup>.</li> <li>Development in RRD is to comply with R-Codes provisions for R2.5 coded land.</li> </ol>
		<b>RRE: Caversham West</b> <ol style="list-style-type: none"> <li>The minimum lot size in RRE is 2000 m<sup>2</sup>.</li> <li>Further subdivision of the following lots will not be supported:               <ol style="list-style-type: none"> <li>Lot 35 (No.6) Cattlegate Mews, Caversham;</li> <li>Lot 31 (No.26) Smallbrook Retreat, Caversham;</li> <li>Lot 1 (No.1) Smallbrook Retreat, Caversham; and</li> <li>Lot 2 (No.3) Smallbrook Retreat, Caversham.</li> </ol> </li> <li>Development in RRE is to comply with R-Codes provisions for R5 coded land.</li> </ol>
5	Residential Zone	<ol style="list-style-type: none"> <li>The minimum lot size in the Residential zone is 450 m<sup>2</sup>.</li> <li>Development in the Residential zone is to comply with R-Codes provisions for R20 coded land.</li> </ol>
6	Village Zone	<ol style="list-style-type: none"> <li>Subdivision and development within the Village zone is to be in accordance with an approved structure plan.</li> <li>In the absence of an approved structure plan, the development of a new single dwelling or development incidental to an existing single house or minor alterations or extensions to existing development may be approved by the Commission.</li> <li>Matters to be addressed by the Structure Plan for the Village zone include, but are not limited to:               <ol style="list-style-type: none"> <li>proposed land uses consistent with the land use permissibility table;</li> </ol> </li> </ol>

No.	Description of Land	Requirement
		<ul style="list-style-type: none"> <li>b. provision of essential infrastructure (water, electricity, sewerage);</li> <li>c. building setbacks, heights and scale, in the context of Swan Valley rural character;</li> <li>d. location, design and landscaping in accordance with relevant planning policies;</li> <li>e. traffic movement, roads, access and car parking;</li> <li>f. retention of existing trees;</li> <li>g. integration with existing private recreation and public reserves;</li> <li>h. integration and connectivity with the adjoining Residential zone;</li> <li>i. local water management in accordance with Commission policy;</li> <li>j. bushfire protection in accordance with State planning policy;</li> <li>k. interface and buffers to agricultural and rural land;</li> <li>l. Aboriginal and European cultural heritage; and</li> <li>m. any other matters that the Commission reasonably requires to be addressed.</li> </ul>
7	Enterprise Zone	<ul style="list-style-type: none"> <li>1. Subdivision and development within the Enterprise zone is to be in accordance with an approved structure plan.</li> <li>2. Matters to be addressed by the Structure Plan for the Enterprise zone include, but are not limited to: <ul style="list-style-type: none"> <li>a. proposed land uses consistent with the land use permissibility table;</li> <li>b. provision of essential infrastructure (water, electricity, onsite sewerage and wastewater treatment);</li> <li>c. traffic movement, roads, access and car parking;</li> <li>d. district and local water management in accordance with Commission policy;</li> <li>e. protection of Bush Forever sites, native vegetation, wetlands and waterways;</li> <li>f. public access to bushland, wetlands and waterways for recreation purposes;</li> <li>g. effluent treatment and disposal in accordance with the Government Sewerage Policy;</li> <li>h. development within flood prone areas;</li> <li>i. building setbacks, heights and scale, in the context of Swan Valley rural character;</li> <li>j. location, design and landscaping in accordance with relevant planning policies;</li> <li>k. interface and buffers to sensitive land uses;</li> <li>l. bushfire protection in accordance with State planning policy;</li> <li>m. Aboriginal and European cultural heritage; and</li> <li>n. any other matters that the Commission reasonably requires to be addressed.</li> </ul> </li> </ul>

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No.	Description of Land	Requirement
7	Enterprise Zone (cont'd)	3. Minor alterations, extensions and maintenance of existing development may be considered for development approval in the absence of an approved structure plan, provided it enhances the rural character of the Swan Valley and does not intensify existing non-rural land uses.

**SCHEDULE 6 - STRUCTURE PLAN AREAS**

No.	Description of land	Conditions
Nil	Nil	There are currently no structure plans within the Scheme area



**SCHEDULE 7 - SPECIAL CONTROL AREAS**

Name of area	Purpose	Objectives	Additional provisions
Perth Airport Special Control Area	To support the implementation of State Planning Policy 5.1 – Land Use Planning in the Vicinity of Perth Airport	<ol style="list-style-type: none"> <li>1. To promote the long term viability of the Perth Airport so as to enable it on-going development and operation.</li> <li>2. To prevent unreasonable encroachment of incompatible (noise sensitive) land uses and those activities affected or potentially impacted upon by aircraft noise.</li> <li>3. To provide for appropriately designed and constructed development of low to medium density residential uses within suitable locations within the Special Control Area.</li> <li>4. To minimise the impact of aircraft noise on existing and future communities within the Special Control Area.</li> </ol>	<ol style="list-style-type: none"> <li>1. The Perth Airport Special Control Area is defined on the Scheme Map in accordance with the Australian Noise Exposure Forecast (ANEF) for Perth Airport in 2020.</li> <li>2. The development of a single house between the 20 and 25 ANEF Contours of the Perth Airport Special Control Area requires development approval if no notification relating to aircraft noise is on the land title.</li> <li>3. The development of a single house above the 25 ANEF Contour of the Perth Airport Special Control Area requires development approval.</li> <li>4. Development applications for residential development above the 25 ANEF contour must be accompanied by a statement or report which demonstrates that the development achieves all of the relevant policy measures under the State Planning Policy 5.1 – Land Use Planning in the Vicinity of Perth Airport.</li> <li>5. Applications for development approval in the Perth Airport Special Control Area may be referred to the Perth Airport Pty. Ltd. for comment and advice in accordance with State Planning Policy 5.1 – Land Use Planning in the Vicinity of Perth Airport.</li> <li>6. The Commission may impose a condition of development approval requiring the registration of a notification on title advising of the potential for increased noise as a result of Perth Airport operations, consistent with State Planning Policy 5.1 – Land Use Planning in the Vicinity of Perth Airport.</li> </ol>

Name of area	Purpose	Objectives	Additional provisions
Flood Prone Special Control Area	To minimise the potential for flood damage resulting from decisions relating to land use and development on defined river floodplains	<ol style="list-style-type: none"> <li>1. To identify land within the Scheme area at risk of being affected by flooding consistent with the 1 in 100 (or 1%) Annual Exceedance Probability (AEP) flood levels defined by mapping shown on the Department of Water and Environmental Regulation Western Australian floodplain mapping tool.</li> <li>2. To assist in the protection of life, property and community infrastructure from flood hazard.</li> <li>3. To assist the natural flood carrying capacity of floodplains by ensuring any use or development maintains the free passage and temporary storage of flood waters.</li> <li>4. To protect water quality and waterways as natural resources in accordance with State Planning Policy No. 2 - Environment and Natural Resources Policy.</li> </ol>	<ol style="list-style-type: none"> <li>1. The Flood Prone Special Control Area is defined on the Scheme Map in accordance with the 1 in 100 (1%) AEP flood levels defined by the Department of Water and Environmental Regulation.</li> <li>2. In addition to development which otherwise requires planning approval under the Scheme, development approval of the Commission is required for any development within the Flood Prone Special Control Area, which includes the construction or extension of any building or earth works, but does not include demolition of buildings.</li> <li>3. Such development is to be subject to the discretion of the Commission, notwithstanding that the use may be designated as 'P' in the Zoning Table.</li> <li>4. The Commission may refuse any application for planning approval or impose conditions on any development approval so as to: <ol style="list-style-type: none"> <li>a. constrain the location or level of development;</li> <li>b. require the registration of notifications on title advising of the potential risk associated with flood events.</li> </ol> </li> </ol>

Under the *Swan Valley Planning Act 2020* (the Act), the Western Australian Planning Commission, in compliance with Clause 43 of the Act, submits to the Minister for Planning the first proposed scheme for the 'Area of the Swan Valley' as detailed in Clause 4 of the Act, for approval.

The Chairman, Western Australian Planning Commission hereby requests the Minister for Planning approve *Swan Valley Planning Scheme No.1* and direct its publication in the *Government Gazette*.

WESTERN AUSTRALIAN PLANNING COMMISSION ENDORSEMENT OF SWAN VALLEY PLANNING SCHEME NO.1:

D. CADDY

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CHAIRMAN, WESTERN AUSTRALIAN PLANNING COMMISSION

3 AUGUST 2021

DATE .....

APPROVAL GRANTED

R. SAFFIOTI

.....

MINISTER FOR PLANNING

3 AUGUST 2021

DATE .....