



City of
Greater Geraldton
a vibrant future



CITY OF GREATER GERALDTON

LOCAL PLANNING SCHEME NO. 1

August 2014

City of Greater Geraldton

Local Planning Scheme No. 1

Scheme Amendments

NUMBER	GAZETTAL DATE	DETAILS
1.		
2.		
3.		

PREAMBLE

This Local Planning Scheme of the City of Greater Geraldton consists of this Scheme Text and the Scheme Maps. The Scheme Text should be read with the Local Planning Strategy for the City of Greater Geraldton.

Part 2 of the Scheme Text sets out the Local Planning Framework. At the core of this Framework is the Local Planning Strategy which sets out the long-term planning directions for the local government, applies State and regional planning policies and provides the rationale for the zones and other provisions of the Scheme. In addition to the Local Planning Strategy, the Framework provides for Local Planning Policies which set out the general policies of the local government on matters within the Scheme.

The Scheme divides the local government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.

SCHEME DETAILS

The City of Greater Geraldton

Local Planning Scheme No. 1

The City of Greater Geraldton under the power conferred by the *Planning and Development Act 2005* makes the following Local Planning Scheme.

<p><i>Notes: Advisory or explanatory notes are contained in boxes under the heading 'Notes' and do not form part of the Scheme.</i></p>

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PART 1 - PRELIMINARY

1.1 Citation

1.1.1 The City of Greater Geraldton Local Planning Scheme No. 1 (“the Scheme”) comes into operation on its Gazettal date.

1.1.2 The following Schemes are revoked:

Shire of Greenough Town Planning Scheme No. 1A (portion of this Scheme only)
Gazetted 30 May 1986

City of Greater Geraldton Local Planning Scheme No. 2 (Mullewa)
Gazetted 22 June 2012

City of Geraldton Town Planning Scheme No. 3
Gazetted 17 April 1998

City of Geraldton-Greenough Local Planning Scheme No. 5 District Scheme
(Greenough)
Gazetted 14 April 2010

1.2 Responsible Authority

1.2.1 The City of Greater Geraldton is the responsible authority for implementing the Scheme.

1.2.2 Reference to the local government in the Scheme means the City of Greater Geraldton.

1.3 Scheme Area

The Scheme applies to the Scheme Area which covers that part of the local government district of the City of Greater Geraldton as shown on the Scheme Map.

1.4 Contents of Scheme

1.4.1 The Scheme comprises:

- (a) The Scheme Text; and
- (b) The Scheme Map (sheets 1 – 22).

1.4.2 The Scheme is to be read in conjunction with the City of Greater Geraldton Local Planning Strategy.

1.5 Purposes of Scheme

The purposes of the Scheme are to:

- (a) Set out the local government’s planning aims for the Scheme Area, and implement the Local Planning Strategy;
- (b) Set aside land as reserves for public purposes;
- (c) Zone land within the Scheme Area in accordance with the aims of the Scheme and the Local Planning Strategy;
- (d) Control and guide land use and development in accordance with the aims of the Scheme and the objectives of the respective zones and reserves;

- (e) Make provision for the administration and enforcement of the Scheme where necessary to supplement the provisions in the *Planning and Development Act 2005*; and
- (f) Address other matters set out in the *Planning and Development Act 2005*.

1.6 The Aims of the Scheme

The aims of the Scheme are:

- (a) Provide for vibrant arts, culture and education.
- (b) Promote a sustainable built form and natural environment.
- (c) Facilitate a strong healthy community which is equitable, connected and cohesive.
- (d) Foster a dynamic, diverse and sustainable economy.
- (e) Support inclusive civic and community engagement and leadership.

1.7 Definitions

1.7.1 Unless the context otherwise requires, words and expressions used in the Scheme have the same meaning as they have:

- (a) In the *Planning and Development Act 2005*; or
- (b) If they are not defined in that Act:
 - (i) In the Dictionary of defined words and expressions in Schedule 1; or
 - (ii) In the Residential Design Codes.

1.7.2 If there is a conflict between the meaning of a word or expression in the Dictionary of defined words and expressions in Schedule 1 and the meaning of that word or expression in the Residential Design Codes:

- (a) In the case of a residential development, the definition in the Residential Design Codes prevails; and
- (b) In any other case the definition in the Dictionary prevails.

1.7.3 Notes and instructions printed in italics are not part of the Scheme.

1.8 Relationship with Local Laws

1.8.1 Where a provision of the Scheme is inconsistent with a local law, the provision of the Scheme prevails.

1.9 Relationship with other Schemes

1.9.1 By way of information, the following other Scheme of the City of Greater Geraldton is, at the gazettal date of the Scheme, complementary to the Scheme, but does not apply to the Scheme Area:

Shire of Greenough Town Planning Scheme No. 1A (portion of this Scheme)
Gazetted 30 May 1986

PART 2 - LOCAL PLANNING POLICY FRAMEWORK

2.1 Scheme determinations to conform with Local Planning Strategy

- 2.1.1 Except to the extent that the Local Planning Strategy is inconsistent with the Scheme, determinations of the local government under the Scheme are to be consistent with the Local Planning Strategy.

Notes: A Local Planning Strategy has been prepared and endorsed under the Town Planning Regulations 1967.

2.2 Local Planning Policies

- 2.2.1 The local government may prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme area so as to apply:
- (a) Generally or for a particular class or classes of matters; and
 - (b) Throughout the Scheme area or in one or more parts of the Scheme area, and may amend, add to or rescind the Policy.

2.3 Relationship of Local Planning Policies to Scheme

- 2.3.1 If a provision of a Local Planning Policy is inconsistent with the Scheme, the Scheme prevails.
- 2.3.2 A Local Planning Policy is not part of the Scheme and does not bind the local government in respect of any application for planning approval but the local government is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

Note: Local Planning Policies are guidelines used to assist the local government in making decisions under the Scheme. Although Local Planning Policies are not part of the Scheme they must be consistent with, and cannot vary, the intent of the Scheme provisions, including the Residential Design Codes. In considering an application for planning approval, the local government must have due regard to relevant Local Planning Policies as required under clause 10.2.

2.4 Procedure for making or amending a Local Planning Policy

- 2.4.1 If a local government resolves to prepare a Local Planning Policy, the local government:
- (a) Is to publish a notice of the proposed Policy once a week for two consecutive weeks in a newspaper circulating in the Scheme area, giving details of:
 - (i) Where the draft Policy may be inspected;
 - (ii) The subject and nature of the draft Policy; and
 - (iii) In what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made;
 - (b) May publish a notice of the proposed Policy in such other manner and carry out such other consultation as the local government considers appropriate.
- 2.4.2 After the expiry of the period within which submissions may be made, the local government is to:
- (a) Review the proposed Policy in light of any submissions made; and

- (b) Resolve to adopt the Policy with or without modification, or not to proceed with the Policy.
- 2.4.3 If the local government resolves to adopt the Policy, the local government is to:
 - (a) Publish a notice of the Policy once in a newspaper circulating in the Scheme area; and
 - (b) If, in the opinion of the local government, the Policy affects the interests of the Western Australian Planning Commission, forward a copy of the Policy to the Western Australian Planning Commission.
- 2.4.4 A Policy has effect on publication of a notice under clause 2.4.3(a).
- 2.4.5 A copy of each Local Planning Policy, as amended from time to time, is to be kept and made available for public inspection during business hours at the offices of the local government.
- 2.4.6 Clauses 2.4.1 to 2.4.5, with any necessary changes, apply to the amendment of a Local Planning Policy.

2.5 Revocation of Local Planning Policy

- 2.5.1 A Local Planning Policy may be revoked by:
 - (a) The adoption by a local government of a new Policy under clause 2.4 that is expressed to supersede the existing Local Planning Policy; or
 - (b) Publication of a notice of revocation by the local government once a week for two consecutive weeks in a newspaper circulating in the Scheme area.

2.6 Local Planning Policies made under the Previous Schemes

- 2.6.1 Where pursuant to the requirements of a revoked Scheme or Schemes and/or the *Local Government Act 1995*, a Local Planning Policy has been adopted and was operative at the date of the gazettal of this Scheme, the Local Planning Policy shall continue to have force and effect until such time as it is amended or revoked by actions taken by the local government in accordance with the provisions of this Part.

PART 3 - RESERVES

3.1 Reserves

3.1.1 Certain lands within the Scheme area are classified as Local Reserves:

- (a) Parks and Recreation
- (b) Conservation
- (c) Foreshore
- (d) Railways
- (e) Community and Public Purpose
- (f) Primary Distributor Road
- (g) District Distributor Road

3.2 Regional Reserves

3.2.1 There are no regional reserves in the Scheme Area.

3.3 Local Reserves

3.3.1 "Local Reserves" are delineated and depicted on the Scheme Map according to the legend on the Scheme Map.

3.4 Use and development of Local Reserves

3.4.1 A person must not:

- (a) Use a Local Reserve; or
- (b) Commence or carry out development on a Local Reserve,

without first having obtained planning approval under Part 9 of the Scheme.

3.4.2 In determining an application for planning approval the local government is to have due regard to:

- (a) The matters set out in clause 10.2; and
- (b) The ultimate purpose intended for the Reserve.

3.4.3 In the case of land reserved for the purposes of a public authority, the local government is to consult with that authority before determining an application for planning approval.

3.4.4 The local government may enter into arrangements with public authorities, to determine those proposals that should and those that need not form the subject of consultation for the purpose of clause 3.4.3.

PART 4 - ZONES AND THE USE OF LAND

4.1 Zones

4.1.1 Land within the Scheme Area, not set aside as Reserves under Part 3 of the Scheme, is classified into zones and depicted on the Scheme Map according to the legend on the Scheme Map.

4.2 City Centre Zone

4.2.1 Objectives:

- (a) Ensure that the City Centre continues as the largest multi-functional centre of activity, providing the most intensely concentrated development in the region, the greatest range of high order services and jobs and the largest commercial component of any activity centre.
- (b) Support the maturation of the City Centre into a diverse, intense and highly connected activity centre with high density residential.
- (c) Promote development of the City Centre as a focus for a wide range of retail, business, commercial, health, education, entertainment, cultural, recreational, community, tourism and public transport activities.

4.2.2 Site and Development Requirements:

Table 1 City Centre Zone Site and Development Requirements

Minimum Lot Size	Minimum Setbacks		
	Primary Street	Secondary Street / Side Boundary	Other / Rear
Variable	Variable		
R-Code	Maximum Plot Ratio	Maximum Building Height	Minimum Landscaping
R-AC3	Variable	Variable	Variable

4.3 Commercial Zone

4.3.1 Objectives:

- (a) Ensure activity centres provide for appropriate commercial, retail, office and entertainment uses that does not undermine the established and/or planned hierarchy of centres.
- (b) Provide for efficient, intense and compact centres with a diversity of activity appropriate to the purpose of the centre.

4.3.2 Site and Development Requirements:

Table 2 Commercial Zone Site and Development Requirements

Minimum Lot Size	Minimum Setbacks		
	Primary Street	Secondary Street / Side Boundary	Other / Rear
Variable	Variable Secondary Street / Side Boundary and Other / Rear – as per R-Codes where adjoining Residential Zone		

R-Code	Maximum Plot Ratio	Maximum Building Height	Minimum Landscaping
N/A	1.0	12 metres	10%

4.4 Mixed Use Zone

4.4.1 Objectives:

- (a) Provide for the establishment of a mix of high density residential development with small-scale retail and commercial businesses in a residential scale environment that provides an area of transition between centres and surrounding residential areas.
- (b) Provide for development that complements but does not compete with the established and/or planned hierarchy of centres.
- (c) Ensure that development is at a human-scale with buildings, facilities and uses that activate and address the street in a manner sympathetic to the desired urban character of the area.

4.4.2 Site and Development Requirements:

Table 3 Mixed Use Zone Site and Development Requirements

Minimum Lot Size	Minimum Setbacks		
	Primary Street	Secondary Street / Side Boundary	Other / Rear
Variable	2 metres	Variable As per R-Codes where adjoining Residential Zone	3 metres As per R-Codes where adjoining Residential Zone
R-Code	Maximum Plot Ratio	Maximum Building Height	Minimum Landscaping
R80	1.0	As per R80	10%

4.4.2.1 Prior to approving development or considering subdivision the local government may require Design Guidelines to be prepared and adopted as a Local Planning Policy pursuant to clause 2.2.

4.4.2.2 Where mixed use development incorporating a residential component is proposed in a building, the residential component should be restricted to above the ground floor level.

4.5 Service Commercial Zone

4.5.1 Objectives:

- (a) Provide for service commercial activities, including bulky goods, showroom and other large format retail.
- (b) Ensure development achieves relatively high amenity standards based on the level of exposure of the site and proximity to residential areas.

4.5.2 Site and Development Requirements:

Table 4 Service Commercial Zone Site and Development Requirements

Minimum Lot Size	Minimum Setbacks		
	Primary Street	Secondary Street / Side Boundary	Other / Rear
1,250m ²	12 metres	Variable As per R-Codes where adjoining Residential Zone	Variable As per R-Codes where adjoining Residential Zone
R-Code	Maximum Plot Ratio	Maximum Building Height	Minimum Landscaping
N/A	0.6	12 metres	10%

4.6 Tourism Zone

4.6.1 Objectives:

- (a) Provide for the diversification of the tourism industry and provide for the development of all forms of tourist related activities and accommodation in appropriate areas.
- (b) Provide for a range of uses compatible with, and not detrimental to, the amenity of adjacent areas and allow for uses associated with tourism development that are an integral part of the development.
- (c) Provide for the location of tourist facilities in areas that take advantage of existing infrastructure and other tourist attractions whether natural or man-made and where the development does not result in the degradation of environmental features.
- (d) Ensure that development, inclusive of buildings, facilities and uses contribute towards and are sympathetic to the desired character of the area.

4.6.2 Site and Development Requirements:

Table 5 Tourism Zone Site and Development Requirements

Minimum Lot Size	Minimum Setbacks		
	Primary Street	Secondary Street / Side Boundary	Other / Rear
1,000m ²	6 metres	Variable As per R-Codes where adjoining Residential Zone	5 metres
R-Code	Maximum Plot Ratio	Maximum Building Height	Minimum Landscaping
R80	Variable	Variable	Variable

4.6.2.1 The local government may approve a combination of tourism accommodation and permanent residential accommodation on the same site provided that it complies with the following:

- (a) The predominant use of the site remains for short-stay tourism, holiday accommodation and other tourism uses and provides for a high quality tourism outcome or tourism benefit.

- (b) The proposal is not in an isolated location and considers the broader planning and settlement context of the area.
- (c) Physical infrastructure and services are or will be available, including consideration of the urban infrastructure requirements of a permanent population where residential is proposed.
- (d) The scale and design of the site complements the surrounding landscape and character of the area, with the tourism component given priority in those areas of highest tourism amenity (e.g. the beachfront).
- (e) The residential component is integrated with both the tourism uses and management structure of the proposal.
- (f) Where tourism development and permanent residential accommodation are developed on the same site, the protection of residential amenity through careful design of both facilities and accommodation on the site shall occur in order to minimise disturbance and conflicts between land uses.

4.6.2.2 Where strata titling is proposed, appropriate management arrangements should be in place (e.g. via a management statement) that restricts the maximum length of stay to three months in any twelve month period applied for the tourism accommodation component.

4.7 Residential Zone

4.7.1 Objectives:

- (a) Provide for a variety of housing densities and typologies in appropriate locations within the Geraldton Urban Area, through the application of the Residential Design Codes.
- (b) Provide for residential intensification that is focused around activity centres to provide a more sustainable urban form, taking into consideration the unique layout, available or proposed infrastructure and services, and characteristics of the particular locality.
- (c) Retain the single house as the predominant form of residential development in the Mullewa townsite and Walkaway.
- (d) Provide for the establishment of non-residential uses which do not have a detrimental impact on the character and amenity of the locality.

4.7.2 The site and development requirements for non-residential uses shall be in accordance with the applicable Residential Design Code density.

4.8 Industry – General Zone

4.8.1 Objectives:

- (a) Provide for a wide range of industrial and associated activities which can be undertaken without undue constraints.
- (b) Provide for the aggregation of industrial, storage and distribution activities based on efficient use of infrastructure and synergies between uses.
- (c) Provide for appropriate buffer distances to avoid land use conflict.
- (d) Avoid the establishment of non-industry related uses which may constrain industrial activity, and that can be accommodated in other appropriate zones.

4.8.2 Site and Development Requirements:

Table 6 Industry – General Zone Site and Development Requirements

Minimum Lot Size	Minimum Setbacks		
	Primary Street	Secondary Street / Side Boundary	Other / Rear
2,000m ²	12 metres	5 metres (one side) As per R-Codes where adjoining Residential Zone	Nil As per R-Codes where adjoining Residential Zone
R-Code	Maximum Plot Ratio	Maximum Building Height	Minimum Landscaping
N/A	0.6	N/A	10%

4.9 Industry – Light and Service Zone

4.9.1 Objectives:

- (a) Provide for light and service industrial activities that do not require major freight requirements or accessibility to the strategic freight network.
- (b) Provide land for industrial development which will not adversely affect surrounding areas.
- (c) Ensure development achieves relatively high amenity standards based on the level of exposure of the site and proximity to residential areas.

4.9.2 Site and Development Requirements:

Table 7 Industry – Light and Service Zone Site and Development Requirements

Minimum Lot Size	Minimum Setbacks		
	Primary Street	Secondary Street / Side Boundary	Other / Rear
1,500m ²	12 metres	5 metres (one side) As per R-Codes where adjoining Residential Zone	Nil As per R-Codes where adjoining Residential Zone
R-Code	Maximum Plot Ratio	Maximum Building Height	Minimum Landscaping
N/A	0.6	N/A	10%

4.10 Port Zone

4.10.1 Objectives:

- (a) Ensure that land and backup facilities are adequate for the appropriate function of the Port of Geraldton and that the land is effectively utilised for that purpose.
- (b) Provide for development associated with the operation of the Port of Geraldton having due regard for the amenity of the locality.

4.10.2 Site and Development Requirements:

Table 8 Port Zone Site and Development Requirements

Minimum Lot Size	Minimum Setbacks		
	Primary Street	Secondary Street / Side Boundary	Other / Rear
2,000m ²	12 metres	5 metres (one side) As per R-Codes where adjoining Residential Zone	5 metres As per R-Codes where adjoining Residential Zone
R-Code	Maximum Plot Ratio	Maximum Building Height	Minimum Landscaping
N/A	0.6	N/A	10%

4.11 Rural Living Zone

4.11.1 Objectives:

- (a) Provide for a variety of rural living and low density residential development in a rural setting, in which natural environmental values are conserved as far as possible for the enjoyment of residents as well as the maintenance of ecological, biodiversity and landscape values.
- (b) Provide for a range of compatible uses, consistent with the natural environment and visual landscape amenity of the locality.
- (c) Improve environmental outcomes through appropriate subdivision design and management of remnant vegetation.

4.11.2 Site and Development Requirements:

Table 9 Rural Living Zone Site and Development Requirements

Minimum Lot Size	Minimum Setbacks		
	Primary Street	Secondary Street / Side Boundary	Other / Rear
Range between 1 – 4 hectares As per applicable Structure Plan	20 metres	10 metres	10 metres
R-Code	Maximum Plot Ratio	Maximum Building Height	Minimum Landscaping
N/A	0.1	As per Residential Design Codes for residential development	N/A

4.11.2.1 Variations of up to 10% to the minimum lot size may be supported by the local government where it can be demonstrated that the subdivision will achieve a positive biodiversity conservation outcome or facilitate the orderly and proper planning of roads and infrastructure.

4.11.2.2 Stocking rates shall not exceed Department of Agriculture and Food standards.

4.11.2.3 Residential development shall be connected to a reticulated water service.

4.11.2.4 At subdivision stage, a local development plan shall be prepared and approved in accordance with clause 5.20 for each lot. A local development plan shall specifically address the following:

- (a) Identification of building envelopes and/or building exclusion areas;

- (b) Vegetation to provide for the visual screening of development;
- (c) Re-vegetation requirements; and
- (d) Bushfire management requirements.

4.11.2.5 At subdivision stage, a minimum of 3% of the lot area shall be re-vegetated, and thereafter maintained to the satisfaction of the local government, with a combination of trees, shrubs and ground covers consistent with the indigenous plant communities identified in the *Geraldton Regional Flora and Vegetation Survey*. The local government may accept a cash contribution in lieu of re-vegetation.

4.11.2.6 No clearing or destruction of any remnant native vegetation or re-vegetation shall be permitted except for:

- (a) Clearing to comply with the requirements of the *Bush Fires Act 1954*, the local government's Bush Fire Notice and/or any fire management plan endorsed by the local government;
- (b) Clearing as may reasonably be required to accommodate an approved building and curtilage, or vehicular access to an approved building or other land use approved by the local government;
- (c) Clearing as may be allowed under the Department of Environment Regulation Land Clearing Regulations; and/or
- (d) Trees that are assessed to be dead, diseased or dangerous.

4.11.2.7 Development shall not result in any net export of nutrients from the land to any wetland, water course or underground aquifer.

4.11.2.8 No development or land use activity shall impede in any way the natural water flow along any creek line or water/drainage course.

4.12 Rural Zone

4.12.1 Objectives:

- (a) Protect rural land from incompatible uses and minimise land use conflicts.
- (b) Provide for a wide range of rural land uses that can support primary production and value adding, natural resource management, small-scale tourism, biodiversity conservation and environmental and landscape protection.
- (c) Protect and provide for existing or planned key infrastructure, public utilities and renewable energy facilities.

4.12.2 Site and Development Requirements:

Table 10 Rural Zone Site and Development Requirements

Minimum Lot Size	Minimum Setbacks		
	Primary Street	Secondary Street / Side Boundary	Other / Rear
N/A	20 metres	10 metres	10 metres
R-Code	Maximum Plot Ratio	Maximum Building Height	Minimum Landscaping
N/A	N/A	As per Residential Design Codes for residential development	N/A

4.12.2.1 There is a general presumption against subdivision of rural land unless in accordance with State Planning Policy 2.5 *Land Use Planning in Rural Areas* in the following circumstances:

- (a) Significant physical divisions;
- (b) Public utilities and ancillary uses;
- (c) Property rationalisation to improve land management;
- (d) Conservation of heritage buildings and places;
- (e) Conservation of biodiversity and natural heritage; and
- (f) Homestead lots.

4.12.2.2 Existing lots zoned Rural in gazetted townsites shall not be further subdivided.

4.12.2.3 In considering planning applications the local government shall have regard to:

- (a) The Department of Agriculture and Food's studies into identification of high quality agricultural land, to protect the economic and agricultural viability of this land.
- (b) The need to protect the economic viability of the rural land use generally.
- (c) The need to preserve the rural character and a rural appearance of the area.
- (d) The need to ensure that the existing standard of roads, water and electricity supply and other services is sufficient for the additional demands that the proposed development would create.
- (e) The need to consider the existence of basic raw materials and the impact of the proposal on existing and potential extractive operations in the area.

4.13 Development Zone

4.13.1 Objectives:

- (a) Identify areas that require comprehensive planning in order to provide for the coordination of subdivision, land use and development.
- (b) Provide for the orderly and proper planning and development through a structure planning process.

4.13.2 Structure Plan Required:

4.13.2.1 The local government is not to:

- (a) Consider recommending subdivision; or
- (b) Approve development of land,

unless a structure plan in respect of the area the subject to the application, has been prepared and approved pursuant to clause 5.19, and the application shall be generally in accordance with the structure plan.

4.13.2.2 Notwithstanding clause 4.13.2.1 the local government may recommend subdivision or approve development without a Structure Plan, if in the opinion of the local

government, such development is of a minor nature and will not prejudice the future structure planning of the site or zone.

4.14 Zoning Table

4.14.1 The Zoning Table indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme Area in the various zones. The permissibility of any uses is determined by cross reference between the list of use classes on the left hand side of the Zoning Table and the list of zones at the top of the Zoning Table.

4.14.2 The symbols used in the cross reference in the Zoning Table have the following meanings:

‘P’ means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme.

‘D’ means that the use is not permitted unless the local government has exercised its discretion by granting planning approval.

‘A’ means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4.

‘X’ means a use that is not permitted by the Scheme.

4.14.3 A change in the use of land from one use to another is permitted if:

- (a) The local government has exercised its discretion by granting planning approval; or
- (b) The change is to a use which is designated with the symbol ‘P’ in the cross reference to that zone in the Zoning Table and the proposed use complies with all the relevant development standards and any requirements of the Scheme; or
- (c) The change is an extension of a use within the boundary of the lot which does not change the predominant use of the lot; or
- (d) The change is to an incidental use that does not change the predominant use of the land.

Notes:

1. *The planning approval of the local government is required for the development of land in addition to any approval granted for the use of land. In normal circumstances one application is made for both the use and development of land.*
2. *The local government will not refuse a ‘P’ use because of the unsuitability of the use for the zone but may impose conditions on the use of the land to comply with any relevant development standards or requirements of the Scheme, and may refuse or impose conditions on any development of the land.*
3. *In considering a ‘D’ or ‘A’ use, the local government will have regard to the matters set out in clause 10.2.*
4. *The local government must refuse to approve any ‘X’ use of land. Approval to an ‘X’ use of land may only proceed by way of an amendment to the Scheme.*

Zoning Table

Land Use	City Centre	Commercial	Mixed Use	Service Commercial	Tourism	Residential	Industry - General	Industry - Light and Service	Port	Rural Living	Rural	Development	Special Use
Aged or Dependent Persons Dwelling	D	X	D	X	A	D	X	X	X	X	X	Refer clause 4.13	Refer clause 4.18
Agriculture - Intensive	X	X	X	X	X	X	X	X	X	A	P		
Agroforestry	X	X	X	X	X	X	X	X	X	A	P		
Ancillary Dwelling	D	X	D	X	D	P	X	X	X	P	D		
Animal Establishment	X	X	X	X	X	X	X	X	X	X	D		
Animal Husbandry - Intensive	X	X	X	X	X	X	X	X	X	X	D		
Bed and Breakfast	P	X	D	X	D	A	X	X	X	D	D		
Café	P	P	P	D	P	A	X	X	X	X	D		
Car Park	P	P	D	P	D	X	P	P	P	X	X		
Caravan Park	X	X	X	X	P	X	X	X	X	X	X		
Caretaker's Dwelling	D	X	D	X	D	X	X	X	X	D	D		
Child Care Service	D	D	A	D	X	A	X	X	X	X	X		
Cinema / Theatre	P	D	D	X	X	X	X	X	X	X	X		
Civic Use	P	D	D	D	X	X	X	D	X	X	D		
Club Premises	D	D	A	D	D	A	X	D	X	X	D		
Community Purpose	P	P	D	D	D	A	X	D	X	X	A		
Consulting Room	P	D	D	D	X	A	X	X	X	X	X		
Convenience Store	P	P	D	D	D	A	D	D	D	A	D		
Discount Department Store	P	D	X	X	X	X	X	X	X	X	X		
Dry Cleaning Premises / Laundromat	P	P	D	D	X	X	X	D	X	X	X		
Educational Establishment	D	D	A	X	X	A	X	X	X	X	D		
Exhibition Centre	P	D	D	D	D	X	X	X	X	X	D		
Family Day Care	D	X	D	X	X	D	X	X	X	D	D		
Farmworkers Accommodation	X	X	X	X	X	X	X	X	X	X	P		
Fast Food Outlet	P	P	A	D	A	X	X	X	X	X	X		
Fuel Depot	X	X	X	X	X	X	P	D	P	X	A		
Funeral Parlour	D	D	D	D	X	X	X	D	X	X	X		
Garden Centre	X	D	X	D	X	X	P	P	X	X	D		
Grouped Dwelling	D	X	D	X	D	P	X	X	X	X	X		
Holiday Home	D	X	D	X	A	A	X	X	X	D	D		
Home Business	P	X	D	X	D	D	X	X	X	D	D		
Home Occupation	P	X	D	X	D	P	X	X	X	D	D		
Hotel	P	D	A	D	P	X	X	X	X	X	X		
Industry - Cottage	D	X	A	X	A	A	X	X	X	D	D		
Industry - Extractive	X	X	X	X	X	X	D	X	X	X	P		
Industry - General	X	X	X	X	X	X	P	X	D	X	X		
Industry - Hazardous	X	X	X	X	X	X	A	X	X	X	X		
Industry - Light	X	X	X	X	X	X	D	P	P	X	X		
Industry - Mining	X	X	X	X	X	X	X	X	X	X	P		
Industry - Noxious	X	X	X	X	X	X	A	X	A	X	A		
Industry - Rural	X	X	X	X	X	X	D	D	X	A	D		
Industry - Service	X	X	X	D	X	X	D	P	D	X	X		

Land Use	City Centre	Commercial	Mixed Use	Service Commercial	Tourism	Residential	Industry - General	Industry - Light and Service	Port	Rural Living	Rural	Development	Special Use
Liquor Store	D	A	A	A	A	X	X	X	X	X	X		
Machinery Sales	X	X	X	D	X	X	P	P	P	X	A		
Marina	P	X	X	X	X	X	X	X	P	X	X		
Market	P	P	D	D	D	X	X	X	X	X	D		
Medical Centre	P	P	A	D	X	A	X	X	X	X	X		
Motel	P	D	D	D	P	X	X	X	X	X	X		
Motor Vehicle Repair	X	X	X	D	X	X	P	D	D	X	X		
Motor Vehicle Wash	D	D	D	D	X	X	P	P	P	X	X		
Motor Vehicle Wreckers	X	X	X	X	X	X	P	D	D	X	X		
Motor Vehicle, Boat or Caravan Sales / Hire	X	X	X	P	X	X	P	P	X	X	X		
Multiple Dwelling	P	X	D	X	D	A	X	X	X	X	X		
Night Club	A	X	X	X	A	X	X	X	X	X	X		
Office	P	P	D	D	X	X	X	X	X	X	X		
Office - Small Scale	P	P	P	P	X	A	X	X	X	X	X		
Park Home Park	X	X	X	X	P	X	X	X	X	X	X		
Personal Services	P	P	D	D	D	A	X	X	X	A	X		
Place of Worship	D	A	D	A	X	A	X	X	X	X	X		
Produce Stall	P	P	D	X	D	A	X	X	X	D	D		
Reception Centre	P	D	X	D	D	X	X	X	X	X	A		
Recreation - Private	P	P	D	D	X	X	X	D	X	X	X		
Renewable Energy Facility	X	X	X	X	X	X	A	X	X	X	A		
Residential Building	D	X	A	X	A	A	X	X	X	X	X		
Restaurant	P	P	D	D	D	X	X	X	X	X	X		
Rural Pursuit	X	X	X	X	X	X	X	X	X	A	P		
Salvage Yard	X	X	X	X	X	X	P	D	D	X	A		
Service Station	X	D	D	D	D	X	P	P	P	X	X		
Serviced Apartment	P	D	A	X	P	A	X	X	X	X	X		
Shop	P	P	D	D	D	X	X	X	X	X	X		
Shopping Centre	P	P	X	X	X	X	X	X	X	X	X		
Short-Stay Accommodation	P	D	A	X	P	A	X	X	X	A	A		
Showroom	D	D	X	P	X	X	X	D	X	X	X		
Single House	D	X	D	X	D	P	X	X	X	P	P		
Small Bar	D	D	A	X	P	X	X	X	X	X	X		
Stockpiling	X	X	X	X	X	X	P	X	P	X	A		
Supermarket	P	P	A	D	A	X	X	X	X	X	X		
Tavern	P	P	X	A	A	X	X	X	X	X	X		
Telecommunications Infrastructure	A	D	A	D	A	A	D	D	D	A	A		
Tourist Resort	P	D	X	X	P	X	X	X	X	X	X		
Transient Workforce Accommodation	X	X	X	X	A	A	X	X	X	X	A		
Transport Depot	X	X	X	D	X	X	P	D	P	X	A		
Veterinary Centre	D	D	X	D	X	X	D	D	X	X	A		
Warehouse	X	X	X	P	X	X	P	P	P	X	A		
Winery	X	X	X	X	X	X	X	X	X	A	P		

Refer clause 4.13

Refer clause 4.18

4.15 Interpretation of the Zoning Table

- 4.15.1 Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.
- 4.15.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table or in an Additional Use area listed in Schedule 2 and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may:
- (a) Determine that the use may be consistent with the objectives of the particular zone and is therefore a 'D' discretionary use as defined in clause 4.14.2;
 - (b) Determine that the use may be consistent with the objectives of the particular zone and is not permitted unless special notice is given and is therefore an 'A' discretionary use as defined in clause 4.14.2; and
 - (c) Determine that the use is not consistent with the objectives of the particular zone and is therefore an 'X' not permitted use as defined in clause 4.14.2.

4.16 Additional Uses

Despite anything contained in the Zoning Table, the land specified in Schedule 2 may be used for the specific use or uses that are listed in addition to any uses permissible in the zone in which the land is situated subject to the conditions set out in Schedule 2 with respect to that land.

Note: An additional use is a land use that may be permitted on a specific portion of land in addition to the uses already permissible in that zone that applies to the land.

4.17 Restricted Uses

Despite anything contained in the Zoning Table, the land specified in Schedule 3 may only be used for the specific use or uses that are listed and subject to the conditions set out in Schedule 3 with respect to that land.

Note: A restricted use is the only use or uses that may be permitted on a specific portion of land and other uses that would otherwise be permissible in the zone are not permitted.

4.18 Special Use Zones

- 4.18.1 Special Use zones are set out in Schedule 4 and are in addition to the zones in the Zoning Table.
- 4.18.2 A person must not use any land, or any structure or buildings on land, in a Special Use zone except for the purpose set out against that land in Schedule 4 and subject to compliance with any conditions set out in Schedule 4 with respect to that land.

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

4.19 Non-conforming Uses

- 4.19.1 Except as otherwise provided in the Scheme, no provision of the Scheme is to be taken to prevent:
- (a) The continued use of any land for the purpose for which it was being lawfully used immediately prior to the Gazettal date;

- (b) The carrying out of any development on that land for which, immediately prior to the Gazettal date, an approval or approvals, lawfully required to authorise the development to be carried out, were duly obtained and are current; or
- (c) Subject to clause 11.2.1, the continued display of advertisements which were lawfully erected, placed or displayed prior to the Gazettal date.

Note: "Land" has the same meaning as in the Planning and Development Act 2005 and includes houses, buildings and other works and structures.

4.20 Extensions and Changes to a Non-conforming Use

4.20.1 A person must not:

- (a) Alter or extend a non-conforming use;
- (b) Erect, alter or extend a building used in conjunction with or in furtherance of a non-conforming use; or
- (c) Change the use of land from a non-conforming use to another non-conforming use,

without first having applied for and obtained planning approval under the Scheme.

4.20.2 An application for planning approval under this clause is to be advertised in accordance with clause 9.4.

4.20.3 Where an application is for a change of use from an existing non-conforming use to another non-conforming use, the local government is not to grant its planning approval unless the proposed use is less detrimental to the amenity of the locality than the existing non-conforming use and is, in the opinion of the local government, closer to the intended purpose of the zone.

4.21 Discontinuance of Non-conforming Use

Where a non-conforming use of any land has been discontinued for a period of six months the land must not be used after that period otherwise than in conformity with the provisions of the Scheme.

4.22 Termination of a Non-conforming Use

The local government may effect the discontinuance of a non-conforming use by the purchase of the land, or by the payment of compensation to the owner or occupier or to both the owner and occupier of that land, and may enter into an agreement with the owner for that purpose.

Note: Section 190 and 191 of the Planning and Development Act 2005 enables the local government to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a Local Planning Scheme, subject to Part 9 of the Land Administration Act 1997, those sections and the Scheme.

4.23 Destruction of Non-conforming Use Buildings

If a building used for a non-conforming use is destroyed to 75% or more of its value in the opinion of the local government, the building is not to be repaired, rebuilt, altered or added to for the purpose of being used for a non-conforming use or in a manner not permitted by the Scheme, except with the planning approval of the local government.

PART 5 - GENERAL DEVELOPMENT REQUIREMENTS

5.1 Compliance with Development Standards and Requirements

Any development of land is to comply with the provisions of the Scheme.

5.2 Residential Design Codes

5.2.1 A copy of the Residential Design Codes is to be kept and made available for public inspection at the offices of the local government.

5.2.2 Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform with the provisions of those Codes.

5.2.3 The Residential Design Codes density applicable to land within the Scheme area is to be determined by reference to the Residential Design Codes density number superimposed on the particular areas contained within the borders shown on the Scheme Map or where such an area abuts another area having a Residential Design Code density, as being contained within the area defined by the centre-line of those borders.

5.3 Special Application of Residential Design Codes

5.3.1 If a subdivision of land will create lots at a lower density to the Residential Design Code density applicable to the land to avoid the need to provide reticulated sewerage, the local government may refuse to support the application, unless the local government is satisfied that the subdivision:

- (a) Will not undermine the broader planning of the locality; and
- (b) Does not represent an inefficient use of existing and planned infrastructure.

5.3.2 For land with a dual density code the local government may permit a variation to the lower density up to the higher density subject to:

- (a) The development being connected to reticulated sewerage;
- (b) The development being located close to services and facilities to the satisfaction of the local government; and
- (c) The proposal being advertised in accordance with clause 9.4 and the local government being satisfied the proposal, if implemented, will not have an adverse impact on local amenities.

5.3.3 For a single house or grouped dwelling with a density code of R60 or greater, the maximum building height shall be as per Category C of the Residential Design Codes.

5.3.4 Grouped and Multiple Dwellings

5.3.4.1 Notwithstanding the provisions of the Residential Design Codes, the local government may refuse to grant planning approval for a development involving grouped or multiple dwellings where the local government considers:

- (a) The proposed development would prejudice the potential road pattern for the area to serve the surrounding properties; or

- (b) The proposed development would circumvent the provision of normal subdivisional requirements such as road access, drainage, public open space and/or the provision of other infrastructure.

5.3.4.2 The local government may, alternatively, grant planning approval for such development subject to such conditions as may be necessary for satisfactory street access, drainage, public open space and/or other infrastructure, and in accordance with the provisions of the Residential Design Codes.

5.4 Variations to Site and Development Standards and Requirements

5.4.1 Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.

5.4.2 In considering an application for planning approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to:

- (a) Consult the affected parties by following one or more of the provisions for advertising uses under clause 9.4; and
- (b) Have regard to any expressed views prior to making its determination to grant the variation.

5.4.3 The power conferred by this clause may only be exercised if the local government is satisfied that:

- (a) Approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2; and
- (b) The non-compliance will not have an adverse effect upon the amenity of the locality.

5.5 Environmental Conditions

5.5.1 Environmental conditions to which the Scheme is, or amendments to the Scheme are, subject are incorporated into the Scheme by Schedule 11 of the Scheme.

5.5.2 Where appropriate, the environmental conditions are indicated on the Scheme Map by the symbol EC to indicate that environmental conditions apply to the land.

5.5.3 The local government is to:

- (a) Maintain a register of all relevant statements published under sections 48F and 48G of the *Environmental Protection Act 1986*; and
- (b) Make the statements available for public inspection at the offices of the local government.

5.5.4 There are no environmental conditions imposed by the Minister for Environment which apply to the Scheme.

Note: Environmental conditions are those required to be incorporated into a Scheme or an amendment to a Scheme following assessment under the Environmental Protection Act 1986.

5.6 Strata Development

The local government may vary any provisions of the Residential Design Codes and approve the creation of a survey strata lot or strata lot for an existing authorised grouped dwelling or multiple dwelling development, where, in the opinion of the local government, the objectives of the zone in which the development is located can be achieved.

5.7 Restrictive Covenants

5.7.1 Subject to clause 5.7.2, a restrictive covenant affecting any land in the Scheme area by which, or the effect of which is that, the number of residential dwellings which may be constructed on the land is limited or restricted to less than that permitted by the Scheme (including any covenant purporting to (i) limit or restrict subdivision or (ii) limit or restrict the maximum area occupied by a dwelling), is hereby extinguished or varied to the extent that it is inconsistent with the provisions of the Residential Design Codes which apply under the Scheme.

5.7.2 Where clause 5.7.1 operates to extinguish or vary a restrictive covenant the local government is not to grant planning approval to the development of the land which would, but for the operation of clause 5.7.1, have been prohibited unless the application has been dealt with as an 'A' use and has complied with all of the advertising requirements of clause 9.4.

5.8 New Street Alignments

5.8.1 The Scheme establishes new street alignments for the roads and streets listed in **Table 11** below.

Table 11 New Street Alignments

Road Name	Between	Width in Metres		New Alignments	
		Old	New	Side	Metres
Chapman Road	Cathedral Avenue and Durlacher Street	15.08m	20.0m	South East	2.46m
	Durlacher Street and Forrest Street	15.08m	20.0m	Both	2.46m
Durlacher Street	Marine Terrace and Chapman Road	15.08m	20.0m	North East	4.92m
	Chapman Road and Sanford Road	15.08m	25.0m	Both	4.96m
	Sanford Street and Waldeck Street	20.12m	30.0m	Both	4.96m
Eastward Road	North West Coastal Highway to Flores Road	20.12m	30.0m	North	9.88m
Eighth Street	Flores Road and Webberton Road	20.12m	30.0m	South	9.88m
Lester Avenue	Fitzgerald Street and Cathedral Avenue	15.08m	20.0m	North	4.92m
Sanford Street	Forrest Street and Durlacher Street	10.06m	15.0m	Both	2.47m
	Cathedral Avenue and Fitzgerald Street	15.08m	20.0m	South	4.92m
Shenton Street	Fitzgerald Street and Durlacher Street	15.08m	17.54m	South	2.46m

5.8.2 The local government may vary a new street alignment in **Table 11** either:

- (a) Following adoption of a road design by the local government or Main Roads WA; or
- (b) If consideration of site conditions in a particular case makes a variation desirable.

5.8.3 In granting planning approval to development of a lot affected by a new street alignment of **Table 11**, the local government may require the land area identified for road widening be set aside for future ceding free of cost as part of any subsequent

subdivision application or retained for future acquisition by the local government should subdivision not occur.

- 5.8.4 On a lot affected by a new street alignment in **Table 11**, building setbacks will be determined from the new street alignment so fixed, but the local government may vary the requirement of this clause if it considers that such building setbacks would be unduly prejudicial to the development of the lot. The land area identified for a new street alignment shall be maintained free of permanent structures or any other development (including advertisements and car parking) unless otherwise agreed to in writing from the local government.

5.9 Parking Requirements

- 5.9.1 The required number of car, bicycle and scooter / motorcycle parking spaces shall be provided in accordance with the Scheme as part of any development.
- 5.9.2 Parking spaces shall be calculated based on the GFA of the development. Where the calculation requires a fraction of a space, it shall be rounded up to the nearest higher whole number.
- 5.9.3 Where a development results in the likely demand for parking of trailers, caravans, buses and/or coaches, parking spaces for such vehicles may be integrated with the development.
- 5.9.4 Parking areas, including car parking bays, disabled bays, bicycle and scooter / motorcycle bays, loading bays, vehicle access, pedestrian circulation areas, landscaped areas adjacent to and within car parking areas, shall be designed and constructed in accordance with relevant Australian Standards, any applicable local planning policy or any other standard endorsed by the local government, and thereafter maintained.
- 5.9.5 A Travel Plan is required for the following types of development:
- (a) Office premises (including medical centre and the like) of 500m² GFA or more;
 - (b) Industrial premises of 1,000m² GFA or more;
 - (c) Retail premises of 1,000m² GFA or more;
 - (d) 20 or more tourist or short-stay accommodation units; or
 - (e) An extension to an existing development that increases the GFA or number of units as above.
- 5.9.6 Where a particular parking requirement for a use class is not specified in Schedule 5, the local government shall determine the number of car parking bays, scooter / motorcycle bays, bicycle parking areas and end of trip facilities, to be provided having regard to the:
- (a) Nature of the proposed development;
 - (b) Number of employees and visitors/clients to be associated with the development; and
 - (c) Location of the parking spaces on the site and their effect on the amenity of adjoining development.
- 5.9.7 When considering an application for planning approval, the local government shall have regard to, and may impose conditions on, the location and design of the required parking spaces. In particular, the local government shall take into account and may impose conditions concerning:

- (a) The extent to which car parking spaces are located within required building setback areas;
 - (b) The location of proposed public footpaths, vehicular crossing, or private footpaths within the lot, and the effect on both pedestrian and vehicular traffic movement and safety; and
 - (c) The suitability and adequacy of proposed screening or landscaping.
- 5.9.8 The local government may permit land uses to share or combine parking facilities, and may approve a reduction in the total parking requirement provided it is satisfied:
- (a) No conflict will occur as a result of the joint use of the parking facilities;
 - (b) The peak demands for parking bays from the individual land uses do not coincide; and
 - (c) The combined parking provision will provide an adequate level of service for the approved uses.
- 5.9.9 Where the local government permits the joint use of parking facilities, it shall require the landowners involved to prepare a suitable legal agreement registered on the property title to ensure reciprocal rights of access exist and the use of the parking facilities can be maintained.

5.10 Cash-in-Lieu for Parking Requirements

- 5.10.1 If the local government is satisfied that adequate parking exists or is to be provided in close proximity to a proposed development, notwithstanding requirements of the Scheme and any applicable local planning policy, it may accept a cash payment in lieu of the provision of any or all types of parking spaces as required under clause 5.9.
- 5.10.2 The cash-in-lieu payment shall be:
- (a) The estimated cost to the developer of providing and constructing parking spaces as required under clause 5.9; and
 - (b) 100% of the land value, as estimated by the local government based on valuation advice by a licensed valuer, of that total area of land which would have been occupied by the parking spaces as required under clause 5.9, or such lesser proportion of the land value as set out in any relevant local planning policy.
- 5.10.3 Payments under this clause shall be deposited into a parking fund to be used as expenditure on improvements towards car parking, public transport, pedestrian access, cycling facilities and infrastructure by the local government, especially where these will reduce the demand for parking.

5.11 Development of Lots Abutting Unconstructed Roads

- 5.11.1 Notwithstanding any other provisions of the Scheme, planning approval is required for development of land abutting an unconstructed road or a lot which does not have frontage to a constructed road.
- 5.11.2 In considering an application the local government shall, in addition to the general matters set out in clause 10.2, give particular consideration to:
- (a) Any alternative legal means of access to the lot;
 - (b) The quality of any unconstructed road access provided to the lot;

- (c) The costs and/or complexity involved in providing constructed road and/or legal road frontage; and
- (d) The type and quantity of traffic expected to be generated by the proposed development.

5.11.3 In considering such an application pursuant to clause 10.3 the local government is to either:

- (a) Refuse the application until the road has been constructed or access by means of a constructed road is provided as the case may be;
- (b) Grant the application subject to a condition requiring the applicant to pay a sum of money in or towards payment of the cost or estimated cost of construction of the road or part thereof; or
- (c) Require such other arrangements are made for permanent access to the satisfaction of the local government.

5.12 Development Height

5.12.1 Unless otherwise approved by the local government, no development shall be constructed to exceed the height limits of the Geraldton Airport Obstacle Limitation Surface or the Scheme.

5.12.2 In considering an application that proposes development to exceed height limits, the local government shall have regard to:

- (a) The practical need for development to exceed height limits;
- (b) Any conflict with the Geraldton Airport Obstacle Limitation Surface, having regard to consultation with the Civil Aviation Safety Authority; and
- (c) Whether the proposed development may have a detrimental effect on nearby/adjoining properties.

5.13 Home Business and Home Occupations

5.13.1 An approval to conduct a home business or home occupation is issued to a specific occupier of a particular parcel of land. It shall not be transferred or assigned to any other person and shall not be transferred from the land in respect of which it was granted. Should there be a change of the occupier of the land in respect of which a home business or home occupation approval is issued the approval is no longer valid.

5.14 Caretaker's Dwellings

5.14.1 A caretaker's dwelling shall be incidental to the predominant non-residential use of the site.

5.14.2 Only one caretaker's dwelling is permitted on a lot and shall be on the same lot as the associated non-residential use.

5.14.3 A caretaker's dwelling is to have a total floor area that does not exceed 100 square metres measured from the external face of walls.

5.14.4 Open verandahs must not be enclosed by any means unless the total floor area remains within the 100 square metres as per clause 5.14.3.

5.14.5 The use of a caravan as a caretaker's dwelling is not permitted.

- 5.14.6 A caretaker's dwelling shall be occupied by the owner, manager or an employee of the use that is established on the land.
- 5.14.7 The local government will not support the subdivision or development of land that will:
- (a) Allow a caretaker's dwelling to be sold separately from the predominant use of the land; or
 - (b) Restrict the future potential use of the land.

5.15 Landscaping

- 5.15.1 Landscaping shall be provided and thereafter maintained in accordance with the Scheme and any applicable local planning policy.
- 5.15.2 A landscape management plan, which details the retention of proposed landscaping and retention of remnant vegetation or trees, may be required as a condition of planning approval for development.

5.16 Development relating to Waterways, Creeks and other Watercourses

Notwithstanding any other provisions of the Scheme, developments the subject of an application for planning approval under the Scheme that:

- (a) Reduce or are likely to reduce the natural flow of any creek or watercourse; or
- (b) Direct any stormwater, other water or liquid from any source to any creek, watercourse or wetland,

will only be permitted where it can be demonstrated, to the satisfaction of the local government, that there will be no adverse impacts on the creek, watercourse or wetland and/or environment of the area within which the development is proposed.

5.17 Protection of Wetlands

- 5.17.1 The local government may require wetlands and their fringing vegetation to be preserved and protected from pollution, destruction and inappropriate use and management.
- 5.17.2 Any wetland which is identified for protection under a policy of the Environmental Protection Authority shall be preserved and protected in accordance with any conditions imposed by the local government or the Environmental Protection Authority.

5.18 Caravan Parks

The local government may require a Local Development Plan to be prepared and approved in accordance with clause 5.20 prior to determining an application for planning approval for, or within, a caravan park. The purpose of the Local Development Plan shall be to provide an overall development plan for the caravan park.

5.19 Structure Plans

- 5.19.1 Objectives:
- (a) To identify areas in any zone requiring comprehensive planning; and
 - (b) To coordinate subdivision and development in areas requiring comprehensive planning.

5.19.2 Subdivision and Development:

5.19.2.1 Subdivision and development should be generally in accordance with any approved structure plan that applies to the land.

5.19.2.2 The local government or the Western Australian Planning Commission may require the preparation of a structure plan prior to considering a subdivision or development proposal for any area or zone in the Scheme.

5.19.2.3 A departure from, or alteration to, a structure plan may be permitted if the local government or Western Australian Planning Commission considers the proposed departure or alteration to be minor in nature and it will not prejudice the future subdivision and development of the area.

5.19.3 Content and Form of a Proposed Structure Plan:

5.19.3.1 A proposed structure plan may be prepared by an applicant or the local government. Where prepared by an applicant, the proposed structure plan is to be submitted to the local government.

5.19.3.2 A structure plan is to contain such details as, in the opinion of the local government and Western Australian Planning Commission, is required to satisfy the planning requirements for the structure plan area, and should, where applicable, include the following details:

- (a) A set of maps and a report consistent with the Western Australian Planning Commission's *Structure Plan Preparation Guidelines*, describing the structure plan area and surrounding land uses;
- (b) Maps of a legible scale for the structure plan area;
- (c) Key opportunities and constraints of the structure plan area including landform, topography, hydrology, landscape, vegetation, soils, conservation and heritage values, ownership, land use, roads and services;
- (d) Conservation and environmental values including bushland, wetlands, streams and water courses, foreshore reserves and setbacks, environmental policy areas, and urban water management areas;
- (e) Sites and features of Aboriginal and European heritage value;
- (f) Movement network, including highways, district and neighbourhood roads, public transport routes, and cycle routes;
- (g) The planning context for the structure plan including the regional and neighbourhood structure, relevant strategies, Scheme provisions and policies and where appropriate, an indication of how the structure plan is to be integrated into the surrounding area;
- (h) Proposed major land uses, in particular, residential areas, public open space, education facilities, community and public purpose uses, commercial uses (including the location and hierarchy of commercial centres), tourism, industrial, rural residential and other development and uses;
- (i) The proposed indicative lot pattern and general location of any major buildings;
- (j) Estimates of future lots, dwellings, population, commercial and industrial floor space;

- (k) Provision for major infrastructure, including main drainage, sewerage, water supply and other key infrastructure services;
- (l) The timeframe and staging of subdivision and development, and the method of implementation, including any proposals for funding by development contributions;
- (m) Bushfire prone areas and bushfire management; and
- (n) Such other information as may be required by the local government.

5.19.4 Advertising of a Proposed Structure Plan:

5.19.4.1 Upon receiving a structure plan, the local government is to either:

- (a) Determine that the structure plan is satisfactory for advertising;
- (b) Determine that the structure plan is not to be advertised until further details have been provided or modifications undertaken; or
- (c) Determine that the structure plan is not satisfactory for advertising and give reasons for this to the applicant.

5.19.4.2 If within 60 days of receiving a proposed structure plan for approval for advertising, or such longer period as may be agreed in writing between the applicant and the local government, the local government has not made one of the determinations referred to in clause 5.19.4.1, the local government is deemed to have determined that the proposed structure plan is not satisfactory for advertising.

5.19.4.3 Where the applicant is aggrieved by a determination of the local government under clauses 5.19.4.1(b), 5.19.4.1(c) or clause 5.19.4.2, the applicant may request the local government, by notice in writing, to forward the proposed structure plan to the Western Australian Planning Commission.

5.19.4.4 Within 21 days of receiving a notice from the applicant under clause 5.19.4.3, the local government is to forward to the Western Australian Planning Commission:

- (a) A copy of the proposed structure plan;
- (b) Details of the local government's determination including any modifications to the proposed structure plan required by the local government; and
- (c) Any other information the local government considers may be relevant to the Western Australian Planning Commission's consideration of approval of the proposed structure plan for advertising.

5.19.4.5 Upon receiving a proposed Structure Plan in accordance with clause 5.19.4.4, the Western Australian Planning Commission is to make one of the determinations referred to in clause 5.19.4.1 and advise the local government and applicant accordingly.

5.19.4.6 If the Western Australian Planning Commission requires modifications to the proposed structure plan, the Western Australian Planning Commission is to consult with the local government prior to making its determination under clause 5.19.4.5

5.19.4.7 If within 60 days of receiving a proposed structure plan under clause 5.19.4.4 or such longer period as may be agreed in writing between the applicant and the Western Australian Planning Commission, the Western Australian Planning Commission has not made one of the determinations referred to in clause 5.19.4.1, the Western Australian Planning Commission is deemed to have determined that the proposed structure plan is not satisfactory for advertising.

5.19.4.8 When the local government has determined the structure plan to be suitable for advertising, the local government should advertise or require the applicant to advertise the proposed structure plan for public inspection by one or more of the methods of advertising proposals for development as set out in clause 9.4 of the Scheme for a minimum period of 21 days.

5.19.4.9 The local government shall advise affected landowners and relevant agencies in writing that the structure plan is available for public advertising.

5.19.4.10 Within 7 days of determining that a proposed structure plan is satisfactory for advertising, the local government is to forward a copy of the proposed structure plan to the Western Australian Planning Commission.

5.19.5 Adoption of a Proposed Structure Plan:

5.19.5.1 The local government is to consider all submissions received and within 60 days of the latest date specified in the notice under 5.19.4.8 is to either:

- (a) Adopt the proposed structure plan with or without modifications; or
- (b) Refuse to adopt the proposed structure plan and give reasons for this to the applicant.

5.19.5.2 If within the 60 day period, or such further time as may be agreed in writing between the applicant and the local government, the local government has not made one of the determinations referred to in clause 5.19.5.1, the local government is deemed to have refused to adopt the proposed structure plan.

5.19.5.3 Within 21 days of the local government making its determination under clause 5.19.5.1, or deemed refusal under clause 5.19.5.2, the local government is to forward to the Western Australian Planning Commission:

- (a) A summary of all submissions and comments received by the local government in respect of the proposed structure plan, and the local government's decisions or comments in relation to these;
- (b) The local government's recommendation to the Western Australian Planning Commission to approve, modify or refuse to approve the proposed structure plan; and
- (c) Any other information the local government considers may be relevant to the Western Australian Planning Commission's consideration of the proposed structure plan.

5.19.5.4 The Western Australian Planning Commission is to either:

- (a) Approve the proposed structure plan with or without modifications; or
- (b) Refuse to approve the proposed structure plan and give reasons for its decision to the applicant and the local government.

5.19.5.5 If within 60 days of receiving the information referred to in clause 5.19.5.3, or such further time as may be agreed in writing between the applicant and the Western Australian Planning Commission, the Western Australian Planning Commission has not made one of the determinations referred to in clause 5.19.5.4, the Western Australian Planning Commission is deemed to have refused to approve the proposed structure plan.

5.19.5.6 If the Western Australian Planning Commission approves the proposed structure plan, it is to notify the local government and the applicant of its decision within 14 days of the date of the Western Australian Planning Commission's decision.

- 5.19.5.7 If the Western Australian Planning Commission requires modifications to the proposed structure plan, the Western Australian Planning Commission is to consult with the local government prior to determining the proposed structure plan under clause 5.19.5.4.
- 5.19.5.8 If the local government, following consultation with the Western Australian Planning Commission, is of the opinion that any modification to the proposed structure plan is substantial, the local government may:
- (a) Readvertise the proposed structure plan; or
 - (b) Require the applicant to readvertise the proposed structure plan; and
 - (c) Thereafter, the procedures set out in clause 5.19.4 onwards are to apply.
- 5.19.5.9 As soon as practicable after receiving notice of the approval of the structure plan modified by the Western Australian Planning Commission pursuant to clause 5.19.5.4, the local government is to adopt the structure plan and forward a copy of the structure plan to:
- (a) The applicant;
 - (b) The Western Australian Planning Commission; and
 - (c) Any other appropriate person or public authority which the local government thinks fit.
- 5.19.6 A structure plan is to be kept at the local government's offices, is to be made available for inspection by any member of the public during office hours, and may be reproduced for the local government's website.
- 5.19.7 Operation of a Structure Plan:
- 5.19.7.1 A structure plan commences operation when it is adopted by the local government and approved by the Western Australian Planning Commission.
- 5.19.7.2 If a structure plan imposes a classification on the land included in it by reference to reserves, zones, or Residential Design Codes then:
- (a) The provisions of the structure plan apply to the land as if its provisions were incorporated into the Scheme and it is binding and enforceable in the same way as corresponding provisions incorporated in the Scheme;
 - (b) Provisions in the Scheme applicable to land in those classifications under the Scheme apply to the structure plan area; and
 - (c) If there is any conflict or inconsistency between the provisions of a structure plan and the Scheme which is not an expressed variation of the Scheme by the structure plan, the provisions of the Scheme shall prevail.
- 5.19.8 Proposed Amendment to a Structure Plan:
- 5.19.8.1 A proposed amendment to a structure plan may be prepared by an applicant and shall be submitted to the local government.
- 5.19.8.2 A structure plan may, subject to the approval of the Western Australian Planning Commission, be amended or revoked by the local government.
- 5.19.8.3 Upon receipt of a proposed amendment to a structure plan, the local government shall:

- (a) If, in the opinion of the local government, the proposed amendment does not materially alter the intent of the structure plan, determine that it is a 'minor amendment', waive the requirement for public advertising and follow the procedures set out in clause 5.19.5 onwards; or
- (b) If, in the opinion of the local government, the proposed amendment is not of a minor nature and materially alters the intent of the structure plan, determine that it is an 'amendment' to the structure plan and follow the procedures set out in clause 5.19.4 onwards.

5.20 Local Development Plans

- 5.20.1 The local government or the Western Australian Planning Commission may, by notice in writing, require a person to prepare and submit to the local government a Local Development Plan within the time specified in the notice.
- 5.20.2 A person may prepare and submit to the local government a Local Development Plan.
- 5.20.3 A Local Development Plan is to relate to a particular lot or lots and may be prepared and submitted:
- (a) To enhance, elaborate or expand on the details or provisions contained in a proposed structure plan or a structure plan;
 - (b) As a condition of subdivision approval;
 - (c) In place of a development approval required to comply with the Residential Design Codes; or
 - (d) For any other planning purpose.
- 5.20.4 The local government is to:
- (a) Approve with or without conditions; or
 - (b) Refuse to approve,
- the Local Development Plan.
- 5.20.5 Subject to clause 5.20.4(a), and pursuant to the requirements of the Residential Design Codes, within 10 days of making its determination the local government may forward the Local Development Plan to the Western Australian Planning Commission for approval.
- 5.20.6 If within 60 days of receiving a Local Development Plan under clause 5.20.2, or such longer period as may be agreed in writing between the person and the local government, the local government has not made one of the determinations referred to in clause 5.20.4, the local government is deemed to have refused to approve the Local Development Plan.
- 5.20.7 The local government's refusal to approve a Local Development Plan under clause 5.20.4 is not a valid reason for the local government to refuse to adopt or the Western Australian Planning Commission to refuse to approve a proposed structure plan under clause 5.19.5.
- 5.20.8 Subject to clause 5.20.4, once approved by the local government, the Local Development Plan is to be used as the basis for:
- (a) Making recommendations to the Western Australian Planning Commission on subdivision applications; and

- (b) Determining land use and development applications, with respect to the land subject to the Local Development Plan.

5.20.9 A Local Development Plan may include details as to:

- (a) Building envelopes;
- (b) Distribution of land uses within a lot;
- (c) Private open space;
- (d) Services;
- (e) Vehicular access, parking, loading and unloading areas, storage yards and rubbish collection enclosures;
- (f) The location, orientation and design of buildings and the space between buildings;
- (g) Advertising signs, lighting and fencing;
- (h) Landscaping, finished site levels and drainage;
- (i) Protection of sites of heritage, conservation or environmental significance;
- (j) Development controls and guidelines;
- (k) Bushfire prone areas and bushfire management; and
- (l) Such other information considered relevant by the local government.

5.20.10 Modification or Variation to Local Development Plan:

- (a) An approved Local Development Plan may be modified or varied with the approval of the local government, but where there is a related Structure Plan, such modifications or variations are to conform with the intent of any related Structure Plan.
- (b) Pursuant to clause 5.20.10(a) and the requirements of the Residential Design Codes, within 10 days of making its determination the local government may forward the modified or varied Local Development Plan to the Western Australian Planning Commission for approval.

5.20.11 A person who has submitted a Local Development Plan under clause 5.20 may make application for review under the *Planning and Development Act 2005*, any decision made by the local government under clause 5.20.

5.21 Transitional Provisions

Outline Development Plans, Subdivision Guide Plans, Structure Plans, Detailed Area Plans and other similar plans prepared, adopted and in operation under the provisions of any revoked Scheme continue in operation under the Scheme and shall be applied to the relevant land as if they were prepared, adopted and approved as Structure Plans pursuant to the provisions of the Scheme.

PART 6 - SPECIAL CONTROL AREAS

6.1 Operation of Special Control Areas

6.1.1 The following special control areas (SCA) are shown on the Scheme Maps:

- (a) Moresby Range (SCA 1);
- (b) Narngulu Wastewater Treatment Plant (SCA 2);
- (c) Geraldton Airport (SCA 3);
- (d) Meru Waste Disposal Facility (SCA 4);
- (e) Greenough Flats (SCA 5);
- (f) Flood Prone (SCA 6);
- (g) South Greenough to Cape Burney Coastal Planning Strategy (SCA 7).

6.1.2 In respect of a special control area, the provisions applying to the special control area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme.

6.1.3 All development / land use in a special control area, shall be subject to a requirement for planning approval and shall be subject to the discretion of the local government, notwithstanding that the use may be designated a 'P' use under the Scheme.

6.2 Moresby Range (SCA 1)

6.2.1 Purpose and Objectives:

The Moresby Range is a prominent feature in the Geraldton region. It has high landscape values and forms a significant landscape backdrop to the Geraldton Urban Area. Indigenous and non-indigenous cultures have recognised the importance of the range's conservation value and its potential to become a unique recreational and environmental asset to the region. Objectives are therefore to:

- (a) Protect, conserve and enhance the natural and cultural values of the range.
- (b) Improve public access and recreational opportunities.
- (c) Ensure that land use, development and infrastructure are sited and designed to complement the landscape qualities of the range and reduce their overall impact.
- (d) Ensure that buildings and both public and private roads are sited and designed to have minimal impact on views of the range.
- (e) Minimise and manage the impact of mineral extraction, infrastructure and service corridors on the landscape, visual and conservation values of the range.

6.2.2 Relevant Considerations:

6.2.2.1 In considering any application for planning approval, scheme amendment request, structure plan or subdivision application, and in addition to matters listed in clause 10.2 the local government shall have regard to:

- (a) The *Moresby Range Management Strategy*;

- (b) The *Moresby Range Management Plan*; and
- (c) The *Visual Landscape Planning in Western Australia* manual.

6.2.2.2 There is a presumption against the rezoning of land within SCA 1 for more intensive land uses unless identified in strategic documents endorsed by the local government or the Western Australian Planning Commission.

6.2.2.3 Subdivision applications for land within SCA 1 will generally not be supported by the local government, unless in accordance with State Planning Policy 2.5 *Land Use Planning in Rural Areas*, or the land is appropriately zoned and development is in accordance with a structure plan approved under clause 5.19 of the Scheme.

6.3 Narngulu Wastewater Treatment Plant (SCA 2)

6.3.1 Purpose and Objectives:

Buffers to treatment plants, in addition to providing protection to treatment plants, can also provide opportunities for locating a range of land uses that provide multiple economic, environmental and social benefits. Objectives are therefore to:

- (a) Minimise land use conflict.
- (b) Provide for compatible and beneficial land uses within the buffer.

6.3.2 Relevant Considerations:

In considering any application for planning approval, scheme amendment request, structure plan or subdivision application, and in addition to matters listed in clause 10.2 the local government shall have regard to:

- (a) The Water Corporation's advice in relation to compatible and beneficial land uses for buffers; and
- (b) The potential odour impact of the Wastewater Treatment Plant and whether the proposal is compatible with the existing and proposed future use of the Plant.

6.4 Geraldton Airport (SCA 3)

6.4.1 Purpose and Objectives:

The Geraldton Airport is an essential component of regional transport infrastructure and an integral part of the State aviation infrastructure network. Objectives are therefore to:

- (a) Protect against developments that are incompatible with continuing airport operations.
- (b) Control noise sensitive development that has the potential to impact on the capacity of the Airport.

6.4.2 Relevant Considerations:

6.4.2.1 In considering any application for planning approval, scheme amendment request, structure plan or subdivision application, and in addition to matters listed in clause 10.2 the local government shall have regard to:

- (a) The Geraldton Airport Master Plan;
- (b) The general presumption against rezoning of land for incompatible land uses unless identified in the Local Planning Strategy;

- (c) Subdivision applications will not be supported by the local government that create the potential for additional residential development and intensification of incompatible land use unless in accordance with a structure plan or the Local Planning Strategy;
- (d) The requirements of the Obstacle Height Limitation Surface Area;
- (e) The local government may require the preparation of a plan containing building envelopes or building exclusion areas at either the development or subdivision stage for lots that are partly located within SCA 3, requiring that habitable buildings shall only be located outside SCA 3;
- (f) The local government will require at either the development or subdivision stage that lots within, or partly within, SCA 3, shall have appropriate notifications lodged on the titles to advise people that the lot(s) are in the vicinity of the Geraldton Airport and may now, or in the future, be affected by aircraft noise; and
- (g) Any proposed development is required to address noise attenuation in accordance with the relevant Australian Standard.

6.5 Meru Waste Disposal Facility (SCA 4)

6.5.1 Purpose and Objectives:

The Meru Waste Disposal Facility is a Class III landfill site and as such is capable of accepting contaminated soil wastes. Objectives are therefore to:

- (a) Avoid conflict between sensitive land uses.
- (b) Provide for the provision of essential infrastructure in a way that maximises amenity, minimises environmental and health impacts and takes account of risk to nearby sensitive land uses.

6.5.2 Relevant Considerations:

There is a need to protect the Facility from encroachment by those uses that would be sensitive to impacts and adversely impact the efficient operations.

6.6 Greenough Flats (SCA 5)

6.6.1 Purpose and Objectives:

The Greenough 'Front' Flats comprises the floodplain of the Greenough River and is defined by the flat agricultural landscape, bounded by the coastal (Quindalup) dunes and the back (Tamala) dunes. The landscape features inclusive of the heritage places, cleared agricultural setting and vegetation (including the leaning trees) are highly valued by the community and contribute to the visual character. Objectives are therefore to:

- (a) Retain the rural, cultural and heritage character of the area.
- (b) Ensure that development is located and designed in such a way as to maintain the general rural character and retain the prominence of heritage structures and the integrity of their settings.
- (c) Retain and where possible enhance, the experience of travelling along Brand Highway and being able to view the dune face in a continuous manner as a natural feature that dominates the landscape.

6.6.2 Relevant Considerations:

In considering any application for planning approval, scheme amendment request, structure plan or subdivision application, and in addition to matters listed in clause 10.2 the local government shall have regard to:

- (a) The rural character, heritage values and management requirements for listed heritage places;
- (b) The Design Guidelines and Key Findings for Managing Landscape Character sections of the *Dongara to Cape Burney Visual Landscape Assessment* (WAPC 2011);
- (c) The general presumption against rezoning of land for more intensive land uses. The local government may consider supporting subdivision applications within SCA 5 in accordance with clause 4.12; and
- (d) Development within SCA 5 may be subject to increased setbacks from Brand Highway and listed heritage places.

6.7 Flood Prone Area (SCA 6)

6.7.1 Purpose and Objectives:

The Department of Water produces floodplain mapping of rivers and major watercourses that are affected by a 100 year average recurrence interval (ARI) flood. The 100 year ARI flood level is expected to occur, on average, once every 100 years. Floods higher than this level will occur but, on average, will be less frequent. Objectives are therefore to:

- (a) Protect future development from major flooding.
- (b) Ensure land use minimises flood risk and damage costs.
- (c) Ensure that proposed floodplain development has adequate flood protection and does not impact on the existing flood regime of the area.

Note: The designation of particular parts of the district as Flood Prone Areas should not be interpreted to imply that areas outside the designated areas are necessarily free from risk associated with flood or extreme rainfall events.

6.7.2 Relevant Considerations

In considering any application for planning approval, scheme amendment request, structure plan or subdivision application, and in addition to matters listed in clause 10.2 the local government shall have regard to:

- (a) Any detailed hydraulic modelling of development scenarios for assessment by the Department of Water; and
- (b) Building levels within the floodplain achieving the recommended minimum floor level of at least 500 mm above the relevant 100 year ARI flood level for the location having regard to advice from the Department of Water.

6.8 South Greenough to Cape Burney Coastal Planning Strategy (SCA 7)

6.8.1 Purpose and Objectives:

This part of the coastline is rich in ecological, socio-economic and heritage values with its sandy beaches, high dune ridges and productive farmland. It is under increasing pressure from human activity, conflicting user demands and accelerated climate change. Objectives are therefore to:

- (a) Conserve and enhance the natural environment, biological diversity and distinctive landscape of the coast.
- (b) Enhance the area as a place to live and visit, promote low key and low-scale development that complements the landscape of the area, and encourage a range of tourism accommodation options.
- (c) Provide appropriate access to the coast that reduces human impact to the fragile coastal environment.
- (d) Enable the economic potential of appropriate tourism and agriculture production of the coast through future planned land use change.

6.8.2 Relevant Considerations:

In considering any application for planning approval, scheme amendment request, structure plan or subdivision application, and in addition to matters listed in clause 10.2 the local government shall have regard to:

- (a) The *South Greenough to Cape Burney Coastal Planning Strategy*; and
- (b) The Design Guidelines and Key Findings for Managing Landscape Character sections of the *Dongara to Cape Burney Visual Landscape Assessment* (WAPC 2011).

PART 7 - HERITAGE PROTECTION

7.1 Heritage List

7.1.1 The local government is to establish and maintain a Heritage List to identify those places within the Scheme area which are of cultural heritage significance and worthy of conservation under the provisions of the Scheme, together with a description of each place and the reasons for its entry.

7.1.2 In the preparation of the Heritage List the local government is to:

- (a) Have regard to the Municipal Inventory prepared by the local government under section 45 of the *Heritage of Western Australia Act 1990*; and
- (b) Include on the Heritage List such of the entries on the Municipal Inventory as it considers to be appropriate.

For the purpose of this part, the Heritage List means the Municipal Inventory, as amended from time to time, prepared in accordance with section 45 of the *Heritage of Western Australia Act 1990*, or such parts thereof described in the Heritage List.

7.1.3 In considering a proposal to include a place on the Heritage List the local government is to:

- (a) Notify in writing the owner and occupier of the place and provide them with a copy of the description proposed to be used under clause 7.1.1 and the reasons for the proposed entry;
- (b) Invite submissions on the proposal from the owner and occupier of the place within 21 days of the day the notice is served;
- (c) Carry out such other consultations as it thinks fit; and
- (d) Consider any submissions made and resolve to enter the place on the Heritage List with or without modification or reject the proposal after consideration of the submissions.

7.1.4 Where a place is included on the Heritage List, the local government is to give notice of the inclusion to the Western Australian Planning Commission, the State Heritage Office and to the owner and occupier of the place.

7.1.5 The local government is to keep a copy of the Heritage List with the Scheme documents for public inspection.

7.1.6 The local government may remove or modify the entry of a place on the Heritage List by following the procedures set out in clause 7.1.3.

Notes:

1. *The purpose and intent of the heritage provisions are:*
 - (a) *to facilitate the conservation of places of heritage value; and*
 - (b) *to ensure as far as possible that development occurs with due regard to heritage values.*
2. *A "place" is defined in Schedule 1 and may include works, buildings and contents of buildings.*

7.2 Designation of a Heritage Area

7.2.1 If, in the opinion of the local government, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area, the local government may, by resolution, designate that area as a Heritage Area.

7.2.2 The local government is to:

- (a) Adopt for each Heritage Area a Local Planning Policy which is to comprise:
 - (i) A map showing the boundaries of the Heritage Area;
 - (ii) A record of places of heritage significance; and
 - (iii) Objectives and guidelines for the conservation of the Heritage Area; and
- (b) Keep a copy of the Local Planning Policy for any designated Heritage Area with the Scheme documents for public inspection.

7.2.3 If a local government proposes to designate an area as a Heritage Area, the local government is to:

- (a) Notify in writing each owner of land affected by the proposed designation and provide the owner with a copy of the proposed Local Planning Policy for the heritage area;
- (b) Advertise the proposal by:
 - (i) Publishing a notice of the proposed designation once a week for two consecutive weeks in a newspaper circulating in the Scheme area;
 - (ii) Erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
 - (iii) Such other methods as the local government considers appropriate to ensure widespread notice of the proposal; and
- (c) Carry out such other consultation as the local government considers appropriate.

7.2.4 Notice of a proposal under clause 7.2.3(b) is to specify:

- (a) The area subject of the proposed designation;
- (b) Where the proposed Local Planning Policy which will apply to the proposed heritage area may be inspected; and
- (c) In what form and in what period (being not less than 21 days from the day the notice is published or the sign is erected, as the case requires) submissions may be made.

7.2.5 After the expiry of the period within which submissions may be made, the local government is to:

- (a) Review the proposed designation in the light of any submissions made; and
- (b) Resolve to adopt the designation with or without modification, or not to proceed with the designation.

7.2.6 If the local government resolves to adopt the designation, the local government is to forward a copy of the designation to the Heritage Council of Western Australia, the

Western Australian Planning Commission and each owner of land affected by the designation.

7.2.7 The local government may modify or revoke a designation of a Heritage Area as if it were a Local Planning Policy in accordance with clauses 2.4 and 2.5.

7.2.8 Clauses 7.2.3 to 7.2.6 apply, with any necessary changes, to the amendment of a designation of a heritage area.

7.3 Heritage Agreements

The local government may, in accordance with the *Heritage of Western Australia Act 1990*, enter into a Heritage Agreement with an owner or occupier of land or a building for the purpose of binding the land or affecting the use of the land or building insofar as the interest of that owner or occupier permits.

Notes:

1. *A Heritage Agreement may include a covenant intended to run with the land relating to the development or use of the land or any part of the land.*
2. *Detailed provisions relating to Heritage Agreements are set out in the Heritage of Western Australia Act 1990.*

7.4 Heritage Assessment

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

7.5 Variations to Scheme Provisions for a Heritage Place or Heritage Area

The local government may vary any site or development requirement specified in the Scheme or the Residential Design Codes by following the procedures set out in clause 5.4 in order to achieve objectives for preservation of buildings or trees of heritage or landscape significance as listed in the Municipal Inventory, where desirable to:

- (a) Facilitate the conservation of a Heritage Place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the Heritage List under clause 7.1.1; or
- (b) Enhance or preserve heritage values in a Heritage Area designated under clause 7.2.1.

PART 8 - DEVELOPMENT OF LAND

8.1 Requirement for Approval to Commence Development

Subject to clause 8.2, all development on land zoned and reserved under the Scheme requires the prior approval of the local government. A person must not commence or carry out any development without first having applied for and obtained the planning approval of the local government under Part 9.

Notes:

1. *The planning approval of the local government is required for both the development of land (subject of this Part) and the use of land (subject of Part 4).*
2. *Development includes the erection, placement and display of any advertisements.*

8.2 Permitted Development

Except as otherwise provided in the Scheme, for the purposes of the Scheme the following development does not require the planning approval of local government:

- (a) The use of land in a reserve, where such land is held by the local government or a public authority:
 - (i) For the purpose for which the land is reserved in the Scheme; or
 - (ii) For any purpose for which such land may be lawfully used by that authority;
- (b) The carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is:
 - (i) Located in a place that has been entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*;
 - (ii) The subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*; or
 - (iii) Included on the Heritage List under clause 7.1 of the Scheme;
- (c) The erection on a lot of a single house including any extension, ancillary outbuildings and swimming pools, in a zone where a single house is designated as a 'P' permitted use in the zoning table, except where:
 - (i) The proposal requires the exercise of discretion by the local government under the Scheme to vary the provisions of the Residential Design Codes or a Local Development Plan;
 - (ii) The proposal is for a second or subsequent dwelling on a lot in any zone;
 - (iii) The proposal is subject to Design Guidelines;
 - (iv) The proposal requires access from an unconstructed road;
 - (v) Is situated on a lot which has no access to a gazetted road;
 - (vi) The development utilises relocated buildings;
 - (vii) The development is located within a designated bushfire prone area;

- (viii) The development will be located within a Special Control Area designated under Part 6 of the Scheme; or
 - (ix) The development will be located in a Heritage Area designated under Part 7 the Scheme;
- (d) The demolition of any building or structure except where the building or structure is:
- (i) Located in a place that has been entered in the Register of Places under the *Heritage of Western Australia Act 1990*;
 - (ii) The subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*;
 - (iii) Included on the Heritage List under clause 7.1 of the Scheme; or
 - (iv) Located within a heritage area designated under the Scheme;
- (e) A home office;
- (f) Any works which are temporary and in existence for less than 48 hours or such longer time as the local government agrees;
- (g) The carrying out of any works on, in, over or under a street or road by a public authority acting pursuant to the provisions of any Act;
- (h) The carrying out of works urgently necessary for public safety or for the safety or security of plan or equipment or for the maintenance of essential services; and
- (i) Any of the exempted classes of advertisements listed in Schedule 6 except in respect of a place included in the Heritage List or in a Heritage Area.

Note: Development carried out in accordance with a subdivision approval granted by the Commission is exempt under section 157 of the Planning and Development Act 2005.

8.3 Amending or Revoking a Planning Approval

The local government may, on written application from the owner of land in respect of which planning approval has been granted, revoke or amend the planning approval, prior to the commencement of the use or development subject of the planning approval.

8.4 Unauthorised Existing Developments

8.4.1 The local government may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.

8.4.2 Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of planning approval.

Notes:

1. *Applications for approval to an existing development are made under Part 9.*
2. *The approval by the local government of an existing development does not affect the power of the local government to take appropriate action for a breach of the Scheme or the Act in respect of the commencement or carrying out of development without planning approval.*

PART 9 - APPLICATIONS FOR PLANNING APPROVAL

9.1 Form of Application

9.1.1 An application for planning approval is required for one or more of the following:

- (a) A use or commencement of development on a Local Reserve under clause 3.4;
- (b) Commencement of a 'P' use which does not comply with all relevant development standards and requirements of the Scheme as referred to in clause 4.14.2;
- (c) Commencement of a 'D' use or an 'A' use as referred to in clause 4.14.2;
- (d) Commencement of a use not listed in the Zoning Table under clause 4.15;
- (e) Alteration or extension of a non-conforming use under clause 4.20;
- (f) A change of a non-conforming use under clause 4.20;
- (g) Continuation of a non-conforming use under clause 4.21;
- (h) Variation of a site or development requirement under clause 5.4;
- (i) Commencement of development under clause 8.1;
- (j) Continuation of development already commenced or carried out under clause 8.4;
- (k) A subsequent planning approval pursuant to an approval under clause 10.8; and
- (l) The erection, placement or display of an advertisement,

is, subject to clause 9.1.2, to be made in the form prescribed in Schedule 7 and is to be signed by the owner, and accompanied by such plans and other information as is required under the Scheme.

9.1.2 An application for the erection, alteration, placement or display of an advertisement is to be accompanied by the additional information set out in the form prescribed in Schedule 8.

9.2 Accompanying Material

Unless the local government waives any particular requirement every application for planning approval is to be accompanied by:

- (a) A copy of documentation relating to any relevant easements or encumbrances affecting the subject land;
- (b) A plan or plans at an appropriate scale that clearly shows:
 - (i) The location of the site including street names, lot numbers, north point and the dimensions of the site;
 - (ii) The existing and proposed ground levels over the whole of the land the subject of the application and the location, height and type of all existing structures, and structures and vegetation proposed to be removed;

- (iii) The existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
 - (iv) The existing and proposed means of access for pedestrians and vehicles to and from the site;
 - (v) The location, number, dimensions and layout of all car parking spaces intended to be provided;
 - (vi) The location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
 - (vii) The location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the same; and
 - (viii) The nature and extent of any open space and landscaping proposed for the site.
- (c) Plans, elevations and sections of any building proposed to be erected or altered and of any building it is intended to retain;
 - (d) Any specialist studies that the local government may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies; and
 - (e) Any other plan or information that the local government may require to enable the application to be determined.

9.3 Additional Material for Heritage Matters

Where an application relates to a place entered on the Heritage List or within a Heritage Area, the local government may require an applicant to provide one or more of the following to assist the local government in its determination of the application:

- (a) Street elevations drawn to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application, and drawn as one continuous elevation;
- (b) A detailed schedule of all finishes, including materials and colours of the proposed development and, unless the local government exempts the applicant from the requirement or any part of it, the finishes of the existing developments on the subject lot and on each lot immediately adjoining the subject lot.

9.4 Advertising of Applications

9.4.1 Where an application is made for planning approval to commence a use or commence or carry out development which involves a use which is:

- (a) An 'A' use as referred to in clause 4.14.2; or
- (b) A use not listed in the Zoning Table referred to in clause 4.15,

the local government is not to grant approval to that application unless notice is given in accordance with clause 9.4.3.

- 9.4.2 Despite clause 9.4.1, where application is made for a purpose other than a purpose referred to in that clause, the local government may require notice to be given in accordance with clause 9.4.3.
- 9.4.3 The local government may give notice or require the applicant to give notice of an application for planning approval in one or more of the following ways:
- (a) Notice of the proposed use or development served on nearby owners and occupiers who, in the opinion of the local government, are likely to be affected by the granting of planning approval, stating that submissions may be made to the local government by a specified date being not less than 14 days from the day the notice is served;
 - (b) Notice of the proposed use or development published in a newspaper circulating in the Scheme area stating that submissions may be made to the local government by a specified day being not less than 14 days from the day the notice is published; or
 - (c) A sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than 14 days from the day the notice is erected.
- 9.4.4 The notice referred to in clause 9.4.3(a) and (b) is to be in the form prescribed in Schedule 9 with such modifications as are considered appropriate by the local government.
- 9.4.5 Any person may inspect the application for planning approval referred to in the notice and the material accompanying that application at the offices of the local government.
- 9.4.6 Pursuant to clause 9.4.5, the local government may make plans available during the public submissions period specified in the notice given pursuant to clause 9.4.3, which may include:
- (a) The reproduction and communication of plans on the local government's website; and
 - (b) The reproduction and communication of plans to nearby owners or occupiers, or other interested parties, that were notified pursuant to clause 9.4.3(a).
- 9.4.7 After the expiration of the specified period from the serving of notice of the application for planning approval, the publication of the notice or the erection of a sign or signs, whichever is the later, the local government is to consider and determine the application.

PART 10 - PROCEDURE FOR DEALING WITH APPLICATIONS

10.1 Consultation with Other Authorities

- 10.1.1 In considering an application for planning approval the local government may consult with any other statutory, public or planning authority it considers appropriate.
- 10.1.2 In the case of land reserved under the Scheme for the purposes of a public authority, the local government is to consult that authority before making its determination.
- 10.1.3 In the case of foreshore reserves the local government may consult with the Department of Water, Department of Parks and Wildlife and/or Department of Environment Regulation before making its determination.
- 10.1.4 In respect of development on or adjacent to a primary distributor road alignment shown upon the Local Planning Strategy Map, the local government may consult with Main Roads WA before making its determination.

10.2 Matters to be Considered by Local Government

The local government in considering an application for planning approval is to have due regard to such of the following matters as are in the opinion of the local government relevant to the use or development the subject of the application:

- (a) The aims and provisions of the Scheme and any other relevant local planning schemes operating within the Scheme area;
- (b) The requirements of orderly and proper planning including any relevant proposed new local planning scheme or amendment, which has been granted consent for public submissions to be sought;
- (c) Any approved State Planning Policy of the Western Australian Planning Commission;
- (d) Any approved environmental protection policy under the *Environmental Protection Act 1986*;
- (e) Any relevant policy or strategy of the Western Australian Planning Commission and any relevant policy adopted by the Government of the State;
- (f) The local government's adopted Local Planning Strategy;
- (g) Any Local Planning Policy adopted by the local government under clause 2.4.3, any heritage policy statement for a designated Heritage Area adopted under clause 7.2.2, and any other plan or guideline adopted by the local government under the Scheme;
- (h) In the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;
- (i) The conservation of any place that has been entered in the Register within the meaning of the *Heritage of Western Australia Act 1990*, or which is included in the Heritage List under clause 7.1, and the effect of the proposal on the character or appearance of a heritage area;
- (j) The compatibility of a use or development with its setting;
- (k) Any social issues that have an effect on the amenity of the locality;

- (l) The cultural significance of any place or area affected by the development;
- (m) The likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (n) Whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- (o) The preservation of the amenity of the locality;
- (p) The relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (q) Whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (r) The amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (s) Whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;
- (t) Whether public utility services are available and adequate for the proposal;
- (u) Whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (v) Whether adequate provision has been made for access by disabled persons;
- (w) Whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (x) Whether the proposal is likely to cause soil erosion or land degradation;
- (y) The potential loss of any community service or benefit resulting from the planning approval;
- (z) Any relevant submissions received on the application;
- (aa) The comments or submissions received from any authority consulted under clause 10.1.1; and
- (bb) Any other planning consideration the local government considers relevant.

10.3 Determination of Applications

In determining an application for planning approval the local government may:

- (a) Grant its approval with or without conditions; or
- (b) Refuse to grant its approval.

10.4 Form and Date of Determination

10.4.1 As soon as practicable after making a determination in relation to the application, the local government is to convey its determination to the applicant in the form

prescribed in Schedule 10 and the date of determination is to be the date given in the notice of the local government's determination.

- 10.4.2 Where the local government refuses an application for planning approval the local government is to give reasons for its refusal.

10.5 Term of Planning Approval

- 10.5.1 Where the local government grants planning approval for the development of land:
- (a) The development approved is to be substantially commenced within 2 years, or such other period as specified in the approval, after the date of the determination; and
 - (b) The approval lapses if the development has not substantially commenced before the expiration of that period.
- 10.5.2 A written request may be made to the local government for an extension of the term of planning approval at any time prior to the expiry of the approval period in clause 10.5.1.

10.6 Temporary Planning Approval

Where the local government grants planning approval pursuant to clause 10.3, the local government may impose conditions limiting the period of time for which the approval is granted.

Note: A temporary planning approval is where the local government grants approval for a limited period, for example, where the land may be required for some other purpose in the future, and is different to the term of the planning approval which is the period within which the development must commence.

10.7 Scope of Planning Approval

Planning approval may be granted:

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

10.8 Annual Renewal of Planning Approval

- 10.8.1 Where local government grants planning approval pursuant to clause 10.3, the local government may impose conditions requiring the annual renewal of the planning approval.
- 10.8.2 An annual renewal of planning approval continues in force for a period of one year from the date on which it is granted.
- 10.8.3 An annual renewal of a planning approval shall be submitted to the local government no later than 14 days before the expiry of the planning approval or applicable annual renewal.
- 10.8.4 An annual renewal of planning approval shall be granted by the local government, unless:
- (a) The application is not substantially the same as those details of the application of the planning approval;

- (b) The planning approval to which the annual renewal relates (including any condition of that planning approval) has not been complied with;
 - (c) There have been changes in the local planning framework that applies to the application; or
 - (d) The local government considers that, in the interests of orderly and proper planning or the preservation of the amenity of the relevant locality, the use to which the relevant planning approval relates should not continue.
- 10.8.5 An annual renewal may be granted subject to further conditions of the planning approval.
- 10.8.6 The local government must give the applicant written notice of the grant of, or refusal to grant, an annual renewal of planning approval.
- 10.8.7 A planning approval expires where no annual renewal of planning approval has been granted by the local government. The further approval for an expired planning approval shall be lodged in the form of a new application under Part 9.

10.9 Approval subject to later Approval of Details

- 10.9.1 Where an application is for a development that includes the carrying out of any building or works, the local government may grant approval subject to matters requiring the subsequent planning approval of the local government. These matters may include the siting, design, external appearance of the buildings, means of access, landscaping, and such other matters as the local government thinks fit.
- 10.9.2 In respect of an approval requiring subsequent planning approval, the local government may require such further details as it thinks fit prior to considering the application.
- 10.9.3 Where the local government has granted approval subject to matters requiring the later planning approval of the local government, an application for approval of those matters must be made not later than 2 years after the date of the determination of the first approval, or such other period as is specified in the approval.

10.10 Deemed Refusal

- 10.10.1 Subject to clause 10.10.2, an application for planning approval is deemed to have been refused if a determination in respect of that application is not conveyed to the applicant by the local government within 60 days of the receipt of the application by the local government, or within such further time as is agreed in writing between the applicant and the local government.
- 10.10.2 An application for planning approval which is the subject of a notice under clause 9.4 is deemed to be refused where a determination in respect of that application is not conveyed to the applicant by the local government within 90 days of the receipt of the application by the local government, or within such further time as is agreed in writing between the applicant and the local government.
- 10.10.3 Despite an application for planning approval being deemed to have been refused, the local government may issue a determination in respect of the application at any time after the expiry of the period specified in clause 10.10.1 or 10.10.2, as the case requires, and that determination is as valid and effective from the date of determination as if it had been made before the period expired.

10.11 Right of Review

- 10.11.1 An applicant aggrieved by a determination of the local government in respect of the exercise of a discretionary power under the Scheme may apply for review under Part 14 of the *Planning and Development Act 2005*.

PART 11 - ENFORCEMENT AND ADMINISTRATION

11.1 Powers of the Local Government

11.1.1 The local government in implementing the Scheme has the power to:

- (a) Enter into an agreement with any owner, occupier or other person having an interest in land affected by the provisions of the Scheme in respect of any matter pertaining to the Scheme;
- (b) Acquire any land or buildings within the Scheme area under the provisions of the Scheme or the *Planning and Development Act 2005*; and
- (c) Deal with or dispose of any land which it has acquired under the provisions of the Scheme or the *Planning and Development Act 2005* in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.

11.1.2 An employee of the local government authorised by the local government may, at all reasonable times and with such assistance as may be required, enter any building or land for the purpose of ascertaining whether the provisions of the Scheme are being observed.

11.2 Removal and Repair of Existing Advertisements

11.2.1 Where an existing advertisement at, or at any time after, the coming into force of the Scheme, is, in the opinion of the local government, in conflict with the amenity of the locality, the local government may by written notice (giving clear reasons) require the advertiser to remove, relocate, repair, adapt or otherwise modify the advertisement.

11.2.2 Where, in the opinion of the local government, an advertisement has deteriorated to a point where it is in conflict with the aims of the Scheme or it ceases to be effective for the purpose for which it was erected or displayed, the local government may by written notice require the advertiser to:

- (a) Repair, repaint or otherwise restore the advertisement to a standard specified by the local government in the notice; or
- (b) Remove the advertisement.

11.2.3 For the purpose of clauses 11.2.1 and 11.2.2 any notice is to be served on the advertiser and is to specify:

- (a) The advertisement the subject of the notice;
- (b) Full details of the action or alternative courses of action to be taken by the advertiser to comply with the notice; and
- (c) The period, being not less than 60 days from the date of the local government's determination, within which the action specified is to be completed by the advertiser.

11.2.4 A person on whom notice is served under this clause may apply for a review of the determination of the local government to the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

11.3 Delegation of Functions

- 11.3.1 The local government may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or the CEO, within the meaning of those expressions under the *Local Government Act 1995*, the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.
- 11.3.2 The CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under clause 11.3.1.
- 11.3.3 The exercise of the power of delegation under clause 11.3.1 requires a decision of an absolute majority as if the power had been exercised under the *Local Government Act 1995*.
- 11.3.4 Sections 5.45 and 5.46 of the *Local Government Act 1995* and the regulations referred to in section 5.46 apply to a delegation made under this clause as if the delegation were a delegation under Division 4 of Part 5 of that Act.
- 11.3.5 The local government may delegate, to the CEO or any other officer of the local government, all or any of the powers and duties that the local government has under Part 5 of the *Planning and Development Act 2005*.

Note: Part 5 of the Planning and Development Act 2005 deals with local planning schemes, including the making, amendment and review of local planning schemes.

11.4 Person must Comply with Provisions of Scheme

A person must not:

- (a) Contravene or fail to comply with the provisions of the Scheme;
- (b) Use any land or commence or continue to carry out any development within the Scheme area:
 - (i) Otherwise than in accordance with the Scheme;
 - (ii) Unless all approvals required by the Scheme have been granted and issued;
 - (iii) Otherwise than in accordance with any conditions imposed upon the grant and the issue of any approval required by the Scheme; and
 - (iv) Otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or determined by the local government under the Scheme with respect to that building or that use.

Note: Section 218 of the Planning and Development Act 2005 provides that a person who:

- (a) *Contravenes the provisions of a planning scheme; or*
- (b) *Commences, continues or carries out any development in any part of the region the subject of a region planning scheme or any part of an area the subject of a local planning scheme otherwise than in accordance with the provisions of the planning scheme; or*
- (c) *Commences, continues or carries out any such development which is required to comply with a planning scheme otherwise than in accordance with any condition imposed under this Act or the scheme with respect to the development, or otherwise fails to comply with any such condition,*

commits an offence.

11.5 Compensation

11.5.1 A person whose land or property is injuriously affected by the making or amendment of the Scheme may make a claim for compensation under Part 11 of the *Planning and Development Act 2005*:

- (a) In any case, within 6 months of the date of publication of notice of the approval of the Scheme or the amendment, as the case requires, in accordance with the *Town Planning Regulations 1967*; or
- (b) Where the land has been reserved for a public purpose and:
 - (i) An application made under the Scheme for approval to carry out development on the land is refused; or
 - (ii) An application made under the Scheme for approval to carry out development on the land is granted subject to conditions that have the effect of permitting the land to be used or developed for no purpose other than a public purpose,

not later than 6 months after the application is refused or the permission granted.

11.5.2 A person whose land or property is injuriously affected by the making of a Scheme may not claim compensation for that injurious affection more than once under clause 11.5.1.

<i>Note:</i> A claim for compensation under Part 11 of the <i>Planning and Development Act 2005</i> may be made in the Form No. 7 in Appendix A of the <i>Town Planning Regulations 1967</i> .
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11.6 Purchase or Taking of Land

11.6.1 Where compensation for injurious affection is claimed under clause 11.5.1, the local government may, at its option, elect to acquire the land so affected instead of paying compensation.

11.6.2 Where the local government elects to acquire the land in respect of which the claim for compensation for injurious affection is made, the local government is to give notice of that election to the claimant by notice in writing within 3 months of the claim for compensation being made.

11.6.3 Where the local government elects to acquire land as provided in clause 11.6.1, if the local government and the owner of the land are unable to agree as to the price to be paid for the land by the local government, the price at which the land may be acquired by the local government is to be the value of the land determined in accordance with clause 11.6.4.

11.6.4 The value of the land referred to in clause 11.6.3 is to be the value thereof on the date that the local government elects to acquire the land and that value is to be determined:

- (a) By arbitration in accordance with the *Commercial Arbitration Act 1985*; or
- (b) By some other method agreed upon by the local government and the owner of the land,

and the value is to be determined without regard to any increase or decrease, if any, in value attributable wholly or in part to the Scheme.

11.6.5 The local government may deal with or dispose of land acquired for a Local Reserve or under clause 11.6.4 upon such terms and conditions as it thinks fit

provided the land is used for, or preserved for, a use compatible with the use for which it was reserved.

PART 12 - SCHEDULES

Schedule 1	Dictionary of defined words and expressions
	General definitions
	Land use definitions
Schedule 2	Additional Uses
Schedule 3	Restricted Uses
Schedule 4	Special Use Zones
Schedule 5	Parking Requirements
Schedule 6	Exempted Advertisements
Schedule 7	Form of Application for Planning Approval
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Schedule 9	Notice of Public Advertisement of Planning Proposal
Schedule 10	Notice of Determination on Application for Planning Approval
Schedule 11	Environmental Conditions

SCHEDULE 1 — DICTIONARY OF DEFINED WORDS AND EXPRESSIONS

1. General definitions

In the Scheme:

advertisement means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and includes any hoarding or similar structure used, or adapted for use, for the display of advertisements. The term includes any airborne device anchored to any land or building and any vehicle or trailer or other similar object placed or located so as to serve the purpose of advertising.

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

aquaculture, in relation to agriculture - intensive, means any fish farming operation for which a fish farm licence issued pursuant to the provisions of Part V of the *Fisheries Act 1905* and the *Fisheries Regulations 1938* is required.

artificial waterway means any artificial channel, lake, harbour or embayment for use or intended for use by vessels for navigation purposes and which may also be used for ornamental and recreational purposes. The term includes any access channel or connecting channel, any addition to or alteration of any waterway within the meaning of this definition and any system of waterways within the meaning of this definition provided in any development of land. The term also includes any other waterway designed for other purposes such as drainage, but which is capable of use as a waterway as herein defined.

artificial waterway structures means any structures on, in or over the artificial waterway, and includes jetties, launching ramps, bridges, moorings and water control structures.

boat harbour means an area of protected navigable waters where boats can shelter and where boat-to-shore (and vice versa) transfers of people or goods can be made. Includes the associated land, breakwaters and dredged waterways.

Building Code of Australia means the *Building Code of Australia* produced by the Australian Building Codes Board.

building envelope means an area of land within a lot marked on a plan approved by the responsible authority within which all buildings and effluent disposal facilities on the lot must be contained.

buffer has the same meaning as Buffer Area in State Planning Policy 4.1 *State Industrial Buffer*.

bushfire means uncontrolled fire in vegetation and includes wildfire.

bushfire management means a range of measures taken to mitigate against the hazards of bushfire as may be contained in publications associated with bushfire risk management.

bushfire prone area means a designated area by the Fire and Emergency Services Commissioner or designated as such in a legislative instrument.

chart datum means a permanently established surface from which soundings or tide heights are established, and are the theoretical level of water in any tidal area during the lowest possible astronomical tide as defined in the Australian National Tide Tables.

conservation in Part 7 (Heritage Protection) has the same meaning as in the *Heritage of Western Australia Act 1990*.

cultural heritage significance has the same meaning as in the *Heritage of Western Australia Act 1990*.

day means a calendar day, including weekends and public holidays.

design guidelines mean a planning document prepared and adopted under Part 2 of the Scheme that provides development and design guidance for specified lots or land.

design life means the period over which a structure or a structural element remains fit for use for its intended purpose with appropriate maintenance.

development has the same meaning given to it in the *Planning and Development Act 2005*.

development (as it applies to bushfire prone areas) includes the construction or use, or construction and use, of any habitable building or specified building.

development site means the land on which a building that is subject of development stands or is to be constructed/erected.

end of trip facilities mean infrastructure and dedicated facilities that cater for the needs of persons at their destination to utilise as part of a journey and includes safe and convenient access, secure bicycle parking, change rooms, showers and lockers.

environment has the same meaning given to it in the *Environment Protection Act 1986*.

floodplain means the extent of flooding in a 1 to 100-year flood event for a particular watercourse, which includes the high and low hazard floodplain areas:

- (a) The **high hazard floodplain** means the area of land that would be affected by river flooding in a 1 to 100-year flood event for a particular watercourse, where development and land uses should be limited to those which would not affect the flow of floodwaters.
- (b) The **low hazard floodplain** means the area of land that would be affected by river flooding in a 1 to 100-year flood event, where development would normally be permitted subject to a specified minimum habitable floor level above the relevant 1 in 100-year flood level to provide adequate flood protection.

floor area has the same meaning as in the *Building Code of Australia* published by the Australian Building Codes Board.

foreshore reserve means a reserve established for the management and protection of the foreshore of a natural waterway.

frontage, when used in relation to a building that is used for:

- (a) residential purposes, has the same meaning as in the Residential Design Codes; and

- (b) 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.

Gazettal date, in relation to a Scheme, means the date on which the Scheme is published in the *Government Gazette* under the *Planning and Development Act 2005*.

Geraldton Urban Area has the same meaning as the Geraldton Urban Area described and shown as land within the 'Urban Growth Boundary' in the Local Planning Strategy.

gross floor area (GFA) means the gross floor area of each storey (including mezzanine floors) measured over the enclosing walls, if any, and includes the portion of party walls forming part of the building, but does not include a car park.

height when used in relation to a building that is used for:

- (a) residential purposes, has the same meaning as in the Residential Design Codes; or
- (b) purposes other than residential purposes, means the maximum vertical distance between the ground level and the finished roof height directly above.

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

industry means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes premises on the same land used for:

- (a) the storage of goods;
- (b) the work of administration or accounting;
- (c) the selling of goods by wholesale or retail; or
- (d) the provision of amenities for employees, incidental to any of those industrial operations.

landscape, landscaping or landscaped has the same meaning as that given to it for the purposes of the Residential Design Codes.

local government means the City of Greater Geraldton.

Local Planning Strategy means the Local Planning Strategy in respect of the Scheme, as endorsed by the Western Australian Planning Commission under the *Town Planning Regulations 1967* and amended from time to time.

lot has the same meaning as in the *Planning and Development Act 2005* but does not include a strata or survey strata lot.

marina means a discrete set of facilities operating under one management body within a boat harbour which provides safe permanent moorings and other boat related services for a group of small craft. There may be more than one marina operating within a single boat harbour.

minerals has the same meaning as in the *Mining Act 1978*.

month means a calendar month.

natural water body means the water body adjacent to a proposed canal estate that will be used to provide the source water for natural flushing.

navigable waters means rivers, lakes, inlets and other waters on which any vessel or any type of marine craft can be navigated.

non-conforming use has the same meaning as it has in the *Planning and Development Act 2005*.

obstacle limitation surface means a horizontally and vertically defined airspace boundary in the vicinity of an airport that has been specified and/or endorsed by the airport operator as representing the maximum desirable height above Australian Height Datum of any building, antenna, other structure or natural feature on land directly underneath the surface.

owner, in relation to any land, includes the Crown and every person who jointly or severally whether at law or in equity:

- (a) is entitled to the land for an estate in fee simple in possession;
- (b) is a person to whom the Crown has lawfully contracted to grant the fee simple of that land;
- (c) is a lessor or licensee from the Crown; or
- (d) is entitled to receive or is in receipt of, or if the land were let to a tenant, would be entitled to receive, the rents and profits from the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise; and
- (e) in the context of clause 6.9 of the Scheme, means an owner of land that is located within a Development Contribution Area.

place, in Part 7 (Heritage Protection) has the same meaning as it has in the *Heritage of Western Australia Act 1990*.

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

plot ratio, in the case of residential dwellings has the same meaning as in the Residential Design Codes; or in all other cases, shall mean the ratio of the gross total of all floor areas of buildings on a site to the area of land within the lot boundaries.

precinct means a definable area where particular planning policies, guidelines or standards apply.

predominant use means the primary use of premises to which all other uses carried out on the premises are subordinate, incidental or ancillary.

premises means land or buildings.

Residential Design Codes means State Planning Policy 3.1 *Residential Design Codes*.

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

short-stay means occupation by any person of premises is limited to a maximum of three months in any 12-month period, or as determined by the local government.

sensitive use has the same meaning as it has in State Planning Policy 4.1 *State Industrial Buffer* (as amended from time to time).

structure plan means a structure plan that has come into effect in accordance with clause 5.19 of the Scheme.

substantially commenced means that work or development the subject of planning approval has been begun by the performance of some substantial part of that work or development.

travel plan means a long-term management strategy for an occupier, or a site, that seeks to deliver more sustainable transport objectives through positive action and is articulated in a document, that is regularly reviewed, for a development.

waterway banks means all natural or constructed boundaries to the waters, extending from the waterway bed to the upper level of the flood and wave affected waterway shore. This upper level shall be defined with respect to a 1: 100-year flood event.

waterway bed means land below the water of the artificial waterway.

waterway management authority means the authority responsible for managing a natural waterway.

waterways manager means the agency (normally local government) responsible for the management, monitoring and maintenance works within the boundaries of the water bodies of an artificial waterway and its entrance channel.

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

zone means a portion of the Scheme area shown on the map by distinctive colouring, patterns, symbols, hatching or edging for the purpose of indicating the restrictions imposed by the Scheme on the use and development of land, but does not include a reserve or special control area.

2. Land use definitions

In the Scheme:

aboriginal settlement means a discrete place that is not contiguous with a gazetted town, is inhabited or intended to be inhabited wholly or principally by persons of Aboriginal descent, and which has no less than five residential dwellings and/or is supported by essential services that are provided by one or more state agency(s).

aged or dependant persons dwelling has the same meaning as that given to it for the purposes of the Residential Design Codes.

agriculture - intensive means premises used for trade or commercial purposes, including outbuildings and earthworks, associated with the following:

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

agroforestry means land used commercially for tree production, agriculture where trees are planted in blocks of more than one hectare.

ancillary dwelling has the same meaning as that given to it for the purposes of the Residential Design Codes.

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

animal husbandry - intensive means premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) and other livestock in feedlots.

bed and breakfast means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast.

café means premises similar to those of a restaurant but from which only light meals and drinks are served and includes premises commonly referred to as tearooms.

car park means premises used primarily for parking vehicles whether open to the public or not but does not include any part of a public road used for parking or for a taxi rank, or any premises in which cars are displayed for sale.

caravan park means an area of land on which caravans, or caravans and camps, are situated for habitation.

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

child care service means premises providing education and care on a regular basis to children.

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

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

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

community purpose means land or premises used primarily for the provision of facilities or services by public or private organisations for community benefit and excludes those uses more specifically defined elsewhere.

consulting room means premises used by no more than 2 health consultants for the investigation or treatment of human injuries or ailments and for general outpatient care.

convenience store means premises:

- (a) used for the retail sale of convenience goods commonly sold in supermarkets or newsagents and the sale of takeaway food (in a form ready to be consumed without further preparation); and
 - (b) with a maximum floor area of 300m².
- but does not include a fast food outlet.

discount department store means large retail premises selling a wide variety of different goods organised into various departments.

dry cleaning premises / laundromat means premises used for the commercial cleaning of clothes and laundry either in a self-service or serviced manner.

educational establishment means premises used for the purposes of education and includes a school, tertiary institution, business college, academy or other educational centre.

exhibition centre means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature, and includes a museum or art gallery.

family day care means a child care service that is delivered in residences.

farmworkers accommodation means a single house or residential building providing accommodation for workers involved with agricultural activities on that lot (including accommodation for family members involved in the operation of the agricultural enterprise).

fast food outlet means premises used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises, but does not include a convenience store.

fuel depot means premises used for the storage and sale in bulk of solid or liquid or gaseous fuel, but does not include a service station.

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

garden centre means premises used for the display and sale of garden products, including garden ornaments, plants, seeds, domestic garden implements and motorised implements and the display but not manufacture of prefabricated garden structures.

grouped dwelling has the same meaning as that given to it for the purposes of the Residential Design Codes.

holiday home means a residential building used to provide accommodation for short-stay guests, rather than permanent residency, and excludes those uses more specifically defined elsewhere.

home business means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which:

- (a) does not employ more than 2 people not members of the occupier's household;
- (b) will not adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 50m²;
- (d) does not involve the retail sale or display of goods of any nature;
- (e) in relation to vehicles and parking:
 - (i) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood;
 - (ii) does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight or in excess of 8 metres in length; and
 - (iii) provides an area behind the street setback line for the storage of vehicles or vessels associated with the business that is fully screened from the primary or secondary street; and
- (f) does not involve the use of an essential service of greater capacity than normally required in the zone.

home occupation means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which:

- (a) does not employ any person not a member of the occupier's household;
- (b) will not adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 20m²;
- (d) does not display a sign exceeding 0.2m²;
- (e) does not involve the retail sale, display or hire of goods of any nature;
- (f) in relation to vehicles and parking:
 - (i) does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volumes in the neighbourhood;

- (ii) does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight or in excess of 6 metres in length; and
- (iii) does not include provision for the fuelling, repair or maintenance of motor vehicles; and
- (g) does not involve the use of an essential service of greater capacity than normally required in the zone.

hotel means licensed premises providing accommodation and may include a betting agency on those premises, but does not include a tavern, small bar or motel.

industry - cottage means a trade or light industry producing or manufacturing arts and crafts goods which does not fall within the definition of a home occupation and which:

- (a) does not adversely affect the amenity of the neighbourhood;
- (b) where operated in a residential zone, does not employ any person other than a member of the occupier's household;
- (c) is conducted in an outbuilding which is compatible with the principal uses to which land in the zone in which it is located may be put;
- (d) does not occupy an area greater than 50m²; and
- (e) does not display a sign exceeding 0.2m² in area.

industry - extractive means an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar material from the land and includes the treatment, storage or manufacture of products from those materials on, or adjacent to, the land from which the materials are extracted, but does not include industry - mining.

industry - general means an industry not more specifically defined elsewhere.

industry - hazardous means an industry which by reason of the processes involved or the method or manufacture or the nature of the materials used or produced requires isolation from other buildings, but does not include a nuclear activity.

industry - light means an industry:

- (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises do not adversely affect the amenity of the locality; and
- (b) the establishment or conduct of which does not, or will not, impose an undue load on any existing or proposed service for the supply or provision of essential services.

industry - mining means land used commercially to extract and process minerals from the land.

industry - noxious means an industry in which the processes involved constitute an offensive trade.

industry - rural means:

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

industry - service means:

- (a) an industry - light carried out from premises which has a retail shop front and from which goods manufactured on the premises may be sold; or
- (b) premises having a retail shop front and used as a depot for receiving goods to be serviced.

liquor store means premises licensed for the sale of packaged liquor for consumption off premises only.

machinery sales means premises used for the display and/or sale of agricultural or transport machinery and equipment.

marina means premises at which berths or pens, and fuelling, servicing, repairing, storage (including storage on land and supply of liquid fuels and lubricants for marine craft) and other facilities for boats are provided, with or without the sale of boating gear and equipment, and includes all jetties, piers, embankments, quays and moorings and all offices and storerooms used in connection with the marina.

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

medical centre means premises, other than a hospital, used for the investigation or treatment of human injuries or ailments and for general outpatient care (including preventative care, diagnosis, medical and surgical treatment, and counselling).

motel means premises used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the accommodation of patrons with motor vehicles.

motor vehicle, boat or caravan sales / hire means premises used to sell or hire motor vehicles, boats or caravans and may include the servicing of motor vehicles, boats or caravans sold from the site.

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

- (a) electrical and mechanical repairs, or overhauls, to vehicles; and
- (b) repairs to tyres, panel beating, spray painting and chassis reshaping.

motor vehicle wash means premises where the predominant use is the washing of motor vehicles.

motor vehicle wreckers 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.

multiple dwelling has the same meaning as that given to it for the purposes of the Residential Design Codes.

night club means licensed premises used for entertainment with or without eating facilities.

office means premises used for administration, clerical, technical, professional or other like business activities.

office - small scale means a stand-alone office premises with a maximum floor area of 200m².

park home park means a caravan park at which park homes, but not any other caravans or camps, are situated for habitation.

personal services means premises used for the provision of services of a personal nature and includes a hairdresser, day-spa, beauty therapist and the like but does not include a medical centre.

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

produce stall means a stall used to sell produce grown or made locally.

reception centre means premises used for functions on formal or ceremonial occasions but not for unhosted use for general entertainment purposes.

recreation - private means premises used for indoor or outdoor leisure, recreation, physical exercise or sporting activities which are not usually open to the public without charge.

renewable energy facility means premises used to generate energy by a renewable resource and includes any building or other structure used in, or in connection with, the generation of energy by a renewable resource. It does not include a renewable energy facility principally used to supply energy for a domestic property or existing use of premises.

residential building has the same meaning as that given to it for the purposes of the Residential Design Codes.

restaurant means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons.

rural pursuit means premises used for:

- (a) the rearing or agistment of animals;
 - (b) the stabling, agistment or training of horses;
 - (c) the growing of trees, plants, shrubs or flowers for replanting in domestic, commercial or industrial gardens; or
 - (d) the sale of produce grown solely on the lot.
- but does not include agriculture - intensive.

salvage yard means land or premises used for the storage and sale of materials salvaged from the demolition or renovating of buildings or machinery.

service station means premises used for:

- (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental/convenience retail nature; and may include
 - (b) the carrying out of minor mechanical repairs to motor vehicles;
- but does not include premises used for a transport depot, motor vehicle repair or motor vehicle wreckers.

serviced apartment means a complex where all units or apartments provide for self-contained accommodation for short-stay guests, and where integrated reception and recreation facilities may be provided.

shop means retail premises used to sell or hire goods and excludes those uses more specifically defined elsewhere.

shopping centre means a group of retail shops and other incidental commercial establishments that is planned and managed as a single complex, typically with on-site parking provided.

short-stay accommodation means a building, or group of buildings forming a complex, designed for the accommodation of short-stay guests and which provides on-site facilities for the convenience of guests and for management of the development, and excludes those uses more specifically defined elsewhere.

showroom means large premises with a minimum floor area of 300m² used to display, sell or hire goods of a bulky or non-bulky nature that are not normally purchased on a daily basis.

single house has the same meaning as that given to it for the purposes of the Residential Design Codes.

small bar means licensed premises used for sale of liquor for consumption on the premises, but not including the sale of packaged liquor, and with the number of persons who may be on the licensed premises limited to a maximum of 120.

stockpiling means the temporary storage of raw or manufactured materials for a given purpose in an enclosed or an open environment.

supermarket means large retail premises selling primarily food products and other incidental goods to meet daily needs organised into aisles.

tavern means licensed premises used to sell liquor for consumption on the premises.

telecommunications infrastructure means any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit, or other structure used, or for use, in or in connection with a telecommunications network.

tourist resort means integrated, purpose-built premises for short-stay guests comprising accommodation units and on-site tourism facilities such as reception, restaurant and leisure facilities like swimming pool, gymnasium and tennis courts.

transient workforce accommodation means buildings or dwellings used exclusively for the temporary accommodation of transient workers, and may include incidental facilities such as catering, sporting and recreational facilities.

transport depot means premises used for the garaging of motor vehicles used for carrying goods or persons for hire or reward, or for the transfer of goods or persons from one such motor vehicle to another of such motor vehicles and includes maintenance of the vehicles used, but not of other vehicles.

veterinary centre means premises used to diagnose, treat or prevent animal diseases or disorders and may include accommodation of animals during or after such treatment.

warehouse means premises used to store or display goods and may include sale by wholesale.

winery means premises used for the production of viticultural produce and may include sale of the produce.

SCHEDULE 2 — ADDITIONAL USES

Clause 4.16

No	Description of Land	Additional Use	Conditions
A1	Lot 3 (No. 239) Hall Road, Waggrakine Scheme Map 1	Caravan Park 'D' use	As determined by the local government.
A2	Lot 43 (No. 620) Chapman Road, Glenfield Scheme Map 2	Service Station 'D' use	As determined by the local government.
A3	Lot 70 (No. 62) Lawley Street, Spalding Scheme Map 2	Fast Food Outlet 'D' use	As determined by the local government.
A4	Lot 1 (No. 381) Chapman Road, Bluff Point Scheme Map 2	Service Station 'D' use	As determined by the local government.
A5	Lot 760 (No. 370) Chapman Road, Bluff Point Scheme Map 2	Liquor Store 'A' use Shop 'D' use	As determined by the local government.
A6	Lots 40, 42, 43, 1 and 3 (No. 180) Chapman Road / Urch Street, Beresford Scheme Map 3	Showroom 'D' use	As determined by the local government.
A7	Lot 12 (No. 299) Marine Terrace, Geraldton Scheme Map 3	Industry – Service 'D' use	As determined by the local government.
A8	Lot 41 (No. 339) Marine Terrace, Geraldton Scheme Map 3	Motor Vehicle, Boat or Caravan Sales / Hire 'D' use	As determined by the local government.
A9	Lot 20 (No. 9) Cunningham Street, Geraldton Scheme Map 3	Motor Vehicle, Boat or Caravan Sales / Hire 'D' use	As determined by the local government.
A10	Lot 49 (No. 5) Rifle Range Road, Rangeway Scheme Map 3	Recreation – Private 'D' use	As determined by the local government.
A11	Lot 140 (No. 30) Blencowe Road, Rangeway Scheme Map 3	Garden Centre 'D' use	As determined by the local government.

No	Description of Land	Additional Use	Conditions
A12	Lot 2 (No. 753) Geraldton-Mt. Magnet Road, Moonyoonooka Scheme Map 7	Service Station 'D' use	As determined by the local government.
A13	Land zoned "Industry – Light" outside of SCA 4 and north-west of Barrie Court, Narngulu Scheme Map 7	Caretaker's Dwelling 'D' use	As determined by the local government.
A14	Lot 6 (No. 27) Company Road, South Greenough Scheme Map 9	Caravan Park 'D' use	As determined by the local government.
A15	Land zoned "Industry – General", Mullewa Scheme Map 17	Caretaker's Dwelling 'D' use	As determined by the local government.
A16	Land zoned "Commercial", Mullewa Scheme Map 17	Ancillary Dwelling 'D' use Bed and Breakfast 'D' use Caretaker's Dwelling 'D' use Family Day Care 'D' use Grouped Dwelling 'D' use Holiday Home 'D' use Home Business 'D' use Home Occupation 'D' use Industry – Cottage 'A' use Multiple Dwelling 'D' use Residential Building 'A' use Single House 'D' use	As determined by the local government.

SCHEDULE 3 — RESTRICTED USES

Clause 4.17

No	Description of Land	Restricted Use	Conditions
R1	Portion of Lot 47 (No 60) Horwood Road, Utakarra Scheme Maps 3 and 7	Café Club Premises Convenience Store Fast Food Outlet Hotel Market Motel Motor Vehicle, Boat or Caravan Sales / Hire Motor Vehicle Repair Motor Vehicle Wash Restaurant Service Station Shop Supermarket Tavern Are 'X' Uses	Development should be sited to ensure existing landscaping on the corner of Edward Road and Horwood Road is maintained to the approval of the local government.
R2	Land zoned "Industry – General" Deepdale Road, Narngulu Scheme Map 7	Industry – Extractive Industry – Hazardous Industry – Noxious Are 'X' uses	Prior to any subdivision a structure plan shall be prepared and endorsed by both the local government and the Western Australian Planning Commission and subdivision shall be in accordance with this plan.

SCHEDULE 4 — SPECIAL USE ZONES

Clause 4.18

No	Description of Land	Special Use	Conditions
SU1	<p>'Glenfield Composite Business/Residential Area'</p> <p>Chapman Road, Glenfield</p> <p>Scheme Map 2</p>	<p><u>Residential Uses:</u></p> <p>Ancillary Dwelling 'D' use</p> <p>Family Day Care 'D' use</p> <p>Home Business 'D' use</p> <p>Home Occupation 'P' use</p> <p>Single House 'P' use</p> <p><u>Industrial Uses:</u></p> <p>Garden Centre – 'A' use</p> <p>Industry – Cottage 'D' use</p> <p>Industry – Light 'A' use</p> <p>Industry – Service 'A' use</p> <p>Machinery Sales 'A' use</p> <p>Produce Stall 'D' use</p> <p>Salvage Yard 'A' use</p> <p>Transport Depot 'A' use</p> <p>Warehouse 'A' use</p> <p><u>Other Uses:</u></p> <p>Car Park 'D' use</p> <p>Child Care Service 'A' use</p> <p>Community Purpose 'A' use</p> <p>Consulting Room 'A' use</p> <p>Office – Small Scale 'A' use</p> <p>Personal Services 'A' use</p> <p>Telecommunications Infrastructure 'D' use</p>	<p>Objective:</p> <p>To provide for larger single residential lots that can be complimented by larger home based business, minor industrial pursuits and other compatible uses.</p> <p>Subdivision:</p> <p>(a) Minimum lot size shall be 1,250m².</p> <p>(b) Subdivision that would result in the severance of a dwelling from an industrial use shall not be supported by the local government.</p> <p>(c) Prior to any subdivision a structure plan shall be prepared and endorsed by both the local government and the Western Australian Planning Commission and subdivision shall be in accordance with this plan.</p> <p>Residential Uses/Development:</p> <p>Shall be in accordance with the R10 density code and associated provisions and standards prescribed in the Residential Design Codes.</p> <p>Industrial Uses/Development:</p> <p>(a) Industrial uses will only be permitted where a single house is erected first and forms an integral part of the development of the lot.</p> <p>(b) The industry must demonstrate to the satisfaction of the local government that it can operate compatibly with residential uses and with minimal impact on the adjoining properties.</p> <p>(c) The industry should be located at the rear of the single house and is essentially a family operation that is not reliant on attracting passing trade.</p> <p>(d) All industrial activities shall operate within reasonable business hours as prescribed by the local government.</p> <p>(e) A maximum of one industrial use shall only be permitted from each lot.</p> <p>(f) A separate vehicle accessway with a minimum width of 5 metres for the industrial use shall be provided.</p> <p>(g) Development shall be in accordance with the provisions prescribed in the Scheme and any applicable local planning policy. Where no relevant provisions are prescribed development shall be as determined by the local government.</p> <p>Other Uses/Development:</p> <p>(a) Other uses may be permitted in the absence of a single house where demonstrated to the satisfaction of the local government that it can operate compatibly with residential uses and with minimal impact on the adjoining properties.</p> <p>(b) Development shall be in accordance with the provisions prescribed in the</p>

No	Description of Land	Special Use	Conditions
			Scheme and any applicable local planning policy. Where no relevant provisions are prescribed development shall be as determined by the local government.
SU2	Reserve 25459 Marine Terrace, West End (Point Moore Cottages) Scheme Map 3	Recreation and leasing of cottages 'P' use	(a) In accordance with applicable lease. (b) In considering an application for planning approval the R30 density code and associated provisions and standards prescribed in the Residential Design Codes shall apply.
SU3	Lot 9000 (on Plan 57632) African Reef Boulevard, Greenough Scheme Map 8	Ancillary Dwelling 'P' use Bed and Breakfast 'D' use Holiday Home 'D' use Single House 'P' use	(a) All special uses shall be situated within a building envelope approved by the local government. (b) No person shall clear any vegetation outside of the building envelope except for: (i) Clearing to comply with the requirements of the <i>Bush Fires Act 1954</i> , the local government's Bush Fire Notice and/or any fire management plan endorsed by the local government; (ii) Clearing as may reasonably be required to accommodate an approved building and curtilage, or vehicular access to an approved building or other land use approved by the local government; (iii) Clearing as may be allowed under the Department of Environment Regulation Land Clearing Regulations; and/or (iv) Trees that are assessed to be dead, diseased or dangerous.
SU4	Lot 3 (No. 2140) Carnarvon-Mullewa Road, Mullewa (Wandanooka) Scheme Map 14	Aboriginal Settlement 'P' use	Land use and development to be in accordance with a Layout Plan.

SCHEDULE 5 — PARKING REQUIREMENTS

Clause 5.9

Use Class Category / Land Use in Zoning Table	Minimum Number of Car Parking Spaces ¹⁾	Minimum Number of Visitor / Patron Bicycle Parking Spaces ¹⁾	Minimum Number of Motorcycle / Scooter Parking Spaces
City Centre Zone			2 for every 15 car parking spaces
All development (EXCLUDING permanent residential accommodation)	1 per 35m ²	1 for every 10 car parking spaces (minimum of 2)	
Residential Uses			
Permanent Residential Accommodation (Aged or Dependent Persons Dwelling, Ancillary Dwelling, Caretaker's Dwelling, Family Day Care, Grouped Dwelling, Holiday Home, Home Occupation, Multiple Dwelling, Residential Building, Single House)	As per R-Codes	As per R-Codes	
Home Based (Bed and Breakfast, Home Business)	As per R-Codes plus 1 bay	Nil.	
Commercial Uses			
Entertainment (Night Club, Small Bar, Tavern)	1 per 4 patrons	1 per 500m ² (minimum of 2)	
Health Care and Medical (Consulting Room, Medical Centre, Veterinary Centre)	5 per consulting room	1 per 4 consulting rooms	
Child Care Service	1 per staff member plus 4	2	
Office (Office, Office – Small Scale)	1 per 50m ²	1 per 800m ²	
Commercial (Dry Cleaning Premises / Laundromat, Garden Centre, Machinery Sales, Motor Vehicle Wash, Motor Vehicle, Boat or Caravan Sales / Hire, Showroom)	1 per 50m ²	Nil.	
Retail Uses			
Shopping (Convenience Store, Discount Department Store, Liquor Store, Market, Shop, Shopping Centre, Supermarket)	1 per 20m ²	1 per 200m ²	
Food & Beverage (Café, Reception Centre, Restaurant, Winery)	1 per 4 patrons	2	
Fast Food Outlet	1 per 4 patrons plus (if applicable) 10 drive-through stack bays	2	
Personal Services	1 per 20m ²	1 per 500m ²	

Note:

- 1) Parking ratios shall be calculated based on the GFA of the development. Where parking ratios require a fraction of a space, it must be rounded up to the nearest higher whole number.

Use Class Category / Land Use in Zoning Table	Minimum Number of Car Parking Spaces	Minimum Number of Visitor / Patron Bicycle Parking Spaces	Minimum Number of Motorcycle / Scooter Parking Spaces
Tourism Uses			2 for every 15 car parking spaces
Accommodation <i>(Hotel, Motel, Serviced Apartment, Short-Stay Accommodation, Tourist Resort)</i>	1 per unit plus (if applicable) 1 per 4 patrons	1 per 30 units	
Civic, Cultural and Community Uses			
Exhibition and Entertainment <i>(Cinema / Theatre, Club Premises, Exhibition Centre, Place of Worship, Recreation – Private)</i>	1 per 4 patrons	1 per 500m ² (minimum of 2)	
Industrial Uses			
General Industry <i>(Fuel Depot, Industry – General, Industry – Hazardous, Industry – Noxious, Industry – Rural, Salvage Yard, Transport Depot)</i>	1 per 100m ²	Nil.	
<i>Industry – Cottage</i>	1 per 50m ² plus 1 per staff member	Nil.	
Light and Service Industry <i>(Funeral Parlour, Industry – Light, Industry – Service, Motor Vehicle Repair, Motor Vehicle Wreckers, Service Station, Warehouse)</i>	1 per 50m ²	Nil.	
Resources Industry <i>(Industry – Extractive, Industry – Mining)</i>	1 per staff member	Nil.	
Rural Uses			
Agricultural <i>(Agriculture – Intensive, Agroforestry, Animal Establishment, Animal Husbandry – Intensive, Rural Pursuit)</i>	1 per staff member	Nil.	
<i>Farmworkers Accommodation</i>	1 per 2 bedrooms	Nil.	
Other Uses			
Other uses not listed	As determined by the local government	As determined by the local government.	

Note:

- 1) *Parking ratios shall be calculated based on the GFA of the development. Where parking ratios require a fraction of a space, it must be rounded up to the nearest higher whole number.*

SCHEDULE 6 — EXEMPT ADVERTISEMENTS

Clause 8.2

Use Class Category / Land Use in Zoning Table	Exemption
Residential Uses	
Permanent Residential Accommodation (Aged or Dependent Persons Dwelling, Ancillary Dwelling, Caretaker's Dwelling, Family Day Care, Grouped Dwelling, Holiday Home, Home Occupation, Multiple Dwelling, Residential Building, Single House)	1 sign containing details of the development with an area of 0.2m ²
Home Based (Bed and Breakfast, Home Business)	
Commercial Uses	
Entertainment (Night Club, Small Bar, Tavern)	Any sign(s) affixed to the walls of the building not projecting above the eaves, roof or ridge line or 6m above ground floor level with a total combined area of 10m ²
Health Care and Medical (Consulting Room, Medical Centre, Veterinary Centre)	
Child Care Service	
Office (Office, Office – Small Scale)	
Commercial (Dry Cleaning Premises / Laundromat, Garden Centre, Machinery Sales, Motor Vehicle Wash, Motor Vehicle, Boat or Caravan Sales / Hire, Showroom)	
Retail Uses	
Shopping (Convenience Store, Discount Department Store, Liquor Store, Market, Shop, Shopping Centre, Supermarket)	Any sign(s) affixed to the walls of the building not projecting above the eaves, roof or ridge line or 6m above ground floor level with a total combined area of 10m ²
Food and Beverage (Café, Reception Centre, Restaurant, Winery)	
Fast Food Outlet	
Personal Services	
Tourism Uses	
Accommodation (Hotel, Motel, Serviced Apartment, Short-Stay Accommodation, Tourist Resort)	Any sign(s) affixed to the walls of the building not projecting above the eaves, roof or ridge line or 6m above ground floor level with a total combined area of 10m ²
Civic, Cultural and Community Uses	
Exhibition and Entertainment (Cinema / Theatre, Club Premises, Exhibition Centre, Place of Worship, Recreation – Private)	Any sign(s) affixed to the walls of the building not projecting above the eaves, roof or ridge line or 6m above ground floor level with a total combined area of 10m ²
Industrial Uses	
General Industry (Fuel Depot, Industry – General, Industry – Hazardous, Industry – Noxious, Industry – Rural, Salvage Yard, Transport Depot)	Any sign(s) affixed to the walls of the building not projecting above the eaves, roof or ridge line or 6m above ground floor level with a total combined area of 10m ²
Industry – Cottage	1 sign containing details of the development with an area of 0.2m ²
Light and Service Industry (Funeral Parlour, Industry – Light, Industry – Service, Motor Vehicle Repair, Motor Vehicle Wreckers, Service Station, Warehouse)	Any sign(s) affixed to the walls of the building not projecting above the eaves, roof or ridge line or 6m above ground floor level with a total combined area of 10m ²
Resources Industry (Industry – Extractive, Industry – Mining)	1 sign containing details of the development with an area of 5m ²

Use Class Category / Land Use in Zoning Table	Exemption
Rural Uses	
Agricultural <i>(Agriculture – Intensive, Agroforestry, Animal Establishment, Animal Husbandry – Intensive, Rural Pursuit)</i>	1 sign containing details of the development with an area of 1m ²
<i>Farmworkers Accommodation</i>	1 sign containing details of the development with an area of 0.2m ²
Other Uses	
Other uses not listed	1 sign containing details of the development with an area of 0.2m ²
Internal Advertisements	
All uses	All signs placed or displayed within buildings which cannot ordinarily be seen by a person outside of those buildings
Recreation and sporting ground / facility	All signs provided they are not visible from the outside of the ground or facility either from private/public land or streets
Temporary Advertisements	
Sale of goods or livestock provided the land is not normally used for that purpose	1 sign containing details of the sale with an area of 2m ²
Property transactions for a single house	1 sign per street frontage containing details of the property transaction with an area of 2m ²
Property transactions for grouped / multiple dwellings, commercial, rural and industrial projects	1 sign per street frontage containing details of the property transaction with an area of 5m ²
Property transactions for large developments/complexes, buildings in excess of 4 storeys	1 sign per street frontage containing details of the property transaction with an area of 10m ²
Display home	1 sign containing details of the development with an area of 5m ²
Notes	
Exemption is for non-illuminated signs, located entirely within the property boundary and associated with the approved use of the building/property.	

Notes: Exempted classes of advertisements listed in Schedule 6 require planning approval in respect of a place included in the Heritage List or in a Heritage Area under Part 7.

SCHEDULE 7 — FORM OF APPLICATION FOR PLANNING APPROVAL

City of Greater Geraldton

Local Planning Scheme No. 1

Application for Planning Approval

Owner details	
Name:	
Address:	
Postcode:	
Phone: (work): (home): (mobile):	E-mail: Fax:
Contact person:	
Signature of owner:	Date:
Signature of owner:	Date:
<i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature.</i>	

Applicant details	
Name:	
Address:	
Postcode:	
Phone: (work): (home): (mobile):	Email: Fax:
Contact person for correspondence:	
Signature of applicant:	Date:

Property details		
Lot No:	House No & Street Name:	Suburb:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Title encumbrances (e.g. easements, restrictive covenants):		
Nearest street intersection:		
Existing building/land use:		
Description of proposed development and/or use:		
Nature of any existing buildings and/or use:		
Approximate cost of proposed development:		
Estimated time of completion:		
OFFICE USE ONLY		
Acceptance Officer's initials:	Date received:	
Local government reference no:		

SCHEDULE 8 — ADDITIONAL INFORMATION FOR ADVERTISEMENTS

Clause 9.1.2

Note: to be completed in addition to the Application for Planning Approval form

1.	Description of property upon which advertisement is to be displayed including full details of its proposed position within that property:
2.	<p>Details of proposed sign:</p> <p>(a) Type of structure on which advertisement is to be erected (i.e. freestanding, wall mounted, other):</p> <p>(b) Height: Width: Depth:</p> <p>(c) Colours to be used:</p> <p>(d) Height above ground level:</p> <ul style="list-style-type: none"> • (to top of advertisement): • (to underside): <p>(e) Materials to be used:</p> <p>.....</p> <p>Illuminated: Yes / No</p> <p>If yes, state whether steady, moving, flashing, alternating, digital, animated or scintillating and state intensity of light source:</p>
3.	<p>Period of time for which advertisement is required:</p>
4.	<p>Details of signs (if any) to be removed if this application is approved:</p> <p>Note: This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed detailed in 4 above.</p> <p>Signature of advertiser(s):</p> <p>(if different from land owners)</p> <p>Date:</p>

SCHEDULE 9 — NOTICE OF PUBLIC ADVERTISEMENT OF PLANNING PROPOSAL

Clause 9.4.4

Planning and Development Act 2005
City of Greater Geraldton

Notice of Public Advertisement of Planning Proposal

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

Lot No.: Street: Suburb:

Proposal:

.....

.....

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

Signed:

Dated:

.....

for and on behalf of the City of Greater Geraldton

SCHEDULE 10 — NOTICE OF DETERMINATION ON APPLICATION FOR PLANNING APPROVAL

Clause 10.4.1

Planning and Development Act 2005
City of Greater Geraldton

Determination on Application for Planning Approval

Location:	
Lot:	Plan/Diagram:
Vol. No.:	Folio No.:
Application date:	Received on:
Description of proposed development:	
.....	
The application for planning approval is:	
<input type="checkbox"/> granted subject to the following conditions:	
<input type="checkbox"/> refused for the following reasons(s):	
Conditions/reasons for refusal:	
.....	
.....	
.....	
Note 1:	If the development the subject of this approval is not substantially commenced within a period of two years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
Note 2:	Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.
Note 3:	If an applicant is aggrieved by this determination there is a right of review under the <i>Planning and Development Act 2005</i> .
Signed:	Dated:
.....
for and on behalf of the City of Greater Geraldton.	

SCHEDULE 11 — ENVIRONMENTAL CONDITIONS

Scheme or Amendment No.	Gazettal Date	Environmental Conditions

Adopted by Resolution of the Council of the City of Greater Geraldton at the meeting of the Council held on the day of 20 .

.....
MAYOR

.....
CHIEF EXECUTIVE OFFICER

FINAL APPROVAL

1. Adopted by Resolution of the Council of the City of Greater Geraldton at the meeting of the Council held on the day of 20 and pursuant to that Resolution the Seal of the Municipality was herunto affixed in the presence of:

.....
MAYOR

.....
CHIEF EXECUTIVE OFFICER

This Scheme Text is to be read in conjunction with the approved maps of the Scheme and to which formal approval was given by the Minister for Planning on the date shown below.

2. RECOMMENDED / SUBMITTED FOR FINAL APPROVAL

.....
CHAIRPERSON, WESTERN AUSTRALIAN PLANNING COMMISSION

.....
DATE

3. FINAL APPROVAL GRANTED

.....
MINISTER FOR PLANNING

.....
DATE